national highways

Lower Thames Crossing

9.213 Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8

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1 Introduction

1.1 Introduction

1.1.1 A number of Interested Parties provided comments on the draft Development Consent Order (DCO) at Deadline 8. As these comments were provided across a number of submissions, the Applicant has reviewed all the comments and provided a response to them in this document for ease of reference.

1.1.2 This document responds to:

a. Glenroy Estates [**REP8-176**]

b. Gravesham Borough Council (GBC) [**REP8-130**], [**REP8-131**]

c. London Borough of Havering (LBH) [**REP8-150**], [**REP8-151**]

d. HS1 Limited [**REP8-178**]

e. Medebridge Solar Limited [**REP8-181**]

f. Kent County Council (KCC) [**REP8-136**]

g. Natural England (NE) [**REP8-154**]

h. Port of London Authority (PLA) [**REP8-160**]

i. Port of Tilbury London Limited (PoTLL) (on behalf of itself, DP World and Thurrock Council) [**REP8-164**]

j. Thurrock Council (TC) [**REP8-165**], [**REP8-166**], [**REP8-167**]

k. Transport for London (TfL) [**REP8-172**]

l. Environment Agency (EA) [**REP8-124**], [**REP8-125**]

m. Thames Crossing Action Group (TCAG) [**REP8-191**]

n. Marine Management Organisation (MMO) [**REP8-152**]

o. Essex & Suffolk Water (ESW) [**REP8-158**]

p. Warley Green Limited (WGL) [**REP8-193**]

q. Emergency Services and Safety Partnership Steering Group (ESSP SG) [**REP8-192**]

1.1.3 These are responded to in turn below. The Applicant has also prepared a "composite" of responses to Interested Parties' responses to the Examining Authority's (ExA's) commentary on the draft DCO, and these are not repeated in the stakeholder-specific sections below.

1.1.4 The Applicant appreciates the guidance provided by the ExA that written submissions should not be unhelpfully repeated, or copied and pasted, and so the Applicant would request that this document is read alongside its post-hearing submissions in respect of ISH2 [**REP1-184**] and [**AS-089**], ISH7 [**REP4-183**], and ISH14 [**REP8-114**], as well as its responses to comments on the dDCO at Deadline 1 [**REP2-077**], Deadline 2 [**REP3-144**], Deadline 3 [**REP4-212**], Deadline 4 [**REP5-089**], Deadline 5 [**REP6-085**], Deadline 6 [**REP7-190**], Deadline 7 [**REP8-116**], and Deadline 8. The Applicant would also highlight its initial submissions on the ExA's commentary are contained in [**REP8-116**].

2 Response to Joint Submission on Local Highway Authority Protective Provisions

2.1 Introduction

2.1.1 The Applicant notes the submission from London Borough of Havering, on behalf of all of the local highway authorities (the **Second Joint Response**). This follows the Applicant's response in [REP7-190] to the first joint submission (the **First Joint Response**). Before tacking the matters of detailed drafting the Applicant wishes to make two general submissions.

2.1.2 First, the Applicant wishes to address the comment regarding the Applicant's preferred Protective Provision when it is itself an Interested Party on other (third party) DCOs. The Applicant considers there is no comparison to be made in general terms between private sector developers having powers to interfere with or carry out works on the local or strategic road network, and a highway authority, necessarily a public sector body, which already has duties, functions and responsibilities under the Highways Act 1980 and, in the case of the Applicant, the Infrastructure Act 2015. The suggestion that the Applicant should be subject to the same limitations and requirements as a private sector developer, in the case of this Project, should therefore be rejected. The Applicant would reiterate that its position is supported by the fact that only two strategic road network (SRN) DCOs have Protective Provisions for Local Highway Authorities, and neither of these supports the First nor Second Joint Response.

2.1.3 Second, the Applicant wishes to highlight that it has agreed, in deference to the local highway authorities, to the inclusion of Protective Provisions in the dDCO. This position goes well beyond all but two SRN DCO precedents and the Applicant has now sought to accommodate as many of the suggestions in the Second Joint Response as possible. The position of the Applicant therefore reflects a substantial compromise. In that context, while the Applicant welcomes the acknowledgement in the Second Joint Response that many of the requests in the First Joint Response were inappropriate, the Applicant does not consider that this acknowledgement means that further amendments to the Applicant's drafting are required on the (incorrect) assumption that the Second Joint Response reflects a further compromise.

2.2 Design input

2.2.1 It is welcome that the Second Joint Response accepts "*the concern of the Applicant with regard to the potential for a protracted process*". The main differences outstanding relate to the provision of 15 working days, rather than 10 working days. The Applicant notes the following process is secured:

Table 2.1 Applicant's proposed process for design input for LHAs

Stage	Applicant's approach
Design meetings	Included. 10 business days' notice for design meetings
Design meeting feedback	Included, responses to be provided in 10 business days.
Detailed information provided	Included, responses to be provided in 10 business days.
Due regard, and response to representations in writing by Applicant	Included.
Arbitration preventing commencement of works	Not included.

2.2.2 The Applicant's approach is consistent with the much toted (two) SRN precedents, and in the case of many goes beyond it. It is important to stress that as a preliminary scheme would be 'fixed', the detailed design process is circumspect in what it seeks to achieve. As noted in the table above, a number of matters will also be appropriately addressed as part of the Traffic Management Plan and Traffic Management Forum secured under Requirement 10. Temporary diversions, for example, will be subject to their own engagement and approval by the Secretary of State, giving rise to a concern about conflicting decisions with approvals granted by the Secretary of State even leaving aside the additional time and public expense incurred. To reiterate, the scope and purpose of the detailed design process is to refine the preliminary design (as presented in the Engineering Drawings and Sections [**Document Reference 2.9 Volume A (6), Volume B (6), Volume C (2), Volume D (2), Volume E (5), Volume F (3), Volume G (2), Volume H (2)**] and the General Arrangement Plans [**Document Reference 2.5 Volume A (5), Volume B (5), Volume C (6)**]), and provide more definition of its component parts (such as specific materials, planting species, interfaces and details).In that context, the Applicant considers a further week to be disproportionate.

2.2.3 The Applicant notes that that the Government in Getting Great Britain building again: Speeding up infrastructure delivery (DLUHC, 2023) laments "*the delivery of big infrastructure projects in our country could be much better. It is too slow. Too bureaucratic. Too uncertain.*" It goes onto state "*the system responds with more process, but longer processes are not leading to better outcomes. All these factors detract from the focus we need on delivery. We need to speed up every part of the process,… and hardwire a focus on delivery into every part of the system.*" Any suggestions that would protract the process, particularly in light of the substantial, and in many cases, unprecedented commitments and controls already provided, should therefore be rejected by the Examining Authority.

2.3 Maintenance and defects

2.3.1 It is welcome that the Second Joint Response accepts that a request for a 12 year latent defects period is no longer being progressed. The only remaining issues in relation to maintenance and final certificate are that the Second Joint Response seeks to curtail the determination of the Applicant in respect of the safety measures which would be implemented.

2.3.2 The Applicant does not accept this, and notes that the Applicant is the strategic highways authority in England. It has ample experience in conducting road safety audits, and there is an explicit requirement for the auditor to be "*appropriately qualified*". Local highway authority involvement is already secured because measures must be carried out "*to the reasonable satisfaction of the local highway*" authority. The measures, under the Applicant's drafting, must be carried out where necessary (with a requirement that the Applicant acts reasonably in that context). Appropriate protection is therefore in place. Moreover, given the Applicant's functions and licence, it is not clear that the proposals in the Second Joint Response meet the test of necessity for a provision to be so included. The Applicant would highlight that under the Applicant's licence, it must "*have due regard to the need to protect and improve the safety of the network as a whole for all road users*" and ensure "*that protecting and improving safety is embedded into its business decision-making processes and is considered at all levels of operations*".

2.3.3 The Applicant does not consider a requirement for private sector developers to agree to a curtailment of the powers to determine which safety measures are necessary is relevant in this context. The Applicant further notes that the much-cited and limited SRN precedents do not include this suggested wording: the A303 Sparkford to Ilchester Order uses the same drafting as the Applicant, namely "*Any works which the undertaker considers are required to be*", and the M25 Junction 28 Order contains no requirement in relation to road safety audits at all – and for completeness, as the Applicant has explained in detail all other SRN DCOs contain no requirements in this context at all.

2.4 Commuted sums

2.4.1 The Applicant does not consider anything in the Second Joint Response relating to commuted sums affects the Applicant's position set out in Section 10.1 of the Applicant's response to Interested Parties' comments on the dDCO at D5 [**REP6-085**] and Section 9.1 of the Applicant's response to Interested Parties' comments on the dDCO at D7 [**REP8-116**].

2.4.2 The Applicant notes that the Second Joint Response distinguishes between the Local Highway Authorities within and outside London, on the basis that those in London do not benefit from funding via the standard maintenance formula that applies to other Local Highway Authorities. The Applicant notes, however, that while London is not covered by the Highways Maintenance Block, the Government does provide funding for TfL in relation to highways maintenance (to be divided between TfL and the London boroughs, including LB Havering). In particular, the Government has set out that it is providing £2.8 billion for local authorities in the East of England, South East, South West and, importantly, London. Table 2: Local Authority Allocations, shows maintenance funding for

local highways in London between 2023 and 2034 of at least £235,804,000 (Department for Transport (DfT), 2023). The Applicant therefore confirms that its position that commuted sums should not be paid applies to all of the Local Highway Authorities, whether in London or not.

2.4.3 The Applicant considers the attempt to rely on private sector development DCOs is inappropriate for the reasons described above. In addition, the Applicant would note that whilst other private sector development DCOs relied upon may have more general public benefits, the specific betterment being provided in the case of the Project is to the local road network. The Applicant does consider there has been any fundamental challenge to that principle. The Applicant notes that the proposed commuted sum provision does not include any requirement to offset the betterment provided by any sum which would be payable in the form of a commuted sum.

2.5 Costs and indemnities

2.5.1 Contrary to the claim in paragraphs 5.5 to 5.8 of the Second Joint Response (and the claim in the table in Section 6 that these matters have not been addressed), the Applicant rejects the payment of costs not just because of the prospect of section 106 agreements being reached, but also because of its principled position in relation to the payment of local highway costs as set out and signposted in paragraphs 2.4.1 and 2.4.2 of the Applicant's response to Interested Parties' comments on the dDCO at D6 [**REP7-190**]. In short, the funding of local highway authority costs in these circumstances is a matter for the Department for Transport, not the strategic highway company.

2.5.2 The fact that the Applicant is also a highway authority also explains why the PPs for statutory undertakers and non-highway authorities deal with financial matters differently from the proposed PPs for local highway authorities: those other bodies are not ordinarily funded from highways budgets but the Applicant and the local highway authorities are. Those budgets, rather than bespoke indemnities, remain the best way of dealing with financial matters for the respective highway authorities. Contrary to the claim that the Second Joint Response is based on relevant precedents, the Applicant would highlight that all but one of the SRN DCOs made to date contain no such a provision (and even the one which does – the A303 Sparkford - not extend this to costs, nor does the indemnity go as far).

2.6 Other comments

2.6.1 The LBH submission also contains a table of further amendments sought. These are addressed in Table 2.2 below.

Table 2.2 Further responses to Second Joint Response

Matter raised in Second Joint Response	Applicant's response
Throughout – change references to relevant local highway authority.	The Applicant has made this change as requested.
Definition of "as built" drawings	The Applicant's position is unchanged. Going beyond all the SRN precedents, the Applicant has inserted a

Matter raised in Second Joint Response	Applicant's response
	definition which includes "drawings showing the as constructed local highways in an appropriate format". This allows an appropriate degree of flexibility for the Applicant to choose an appropriate form of drawing at the appropriate time, and avoids being tied to particular proprietary software which may have been superseded by the time of completion. If the local highway authority does not consider the drawings provided by the Applicant meet its needs then it may request further information as reasonably required under paragraph 153(1)(e). this Project, which goes significantly beyond the relatively limited. The Second Joint Response seeks to rely on the Applicant's submissions on the Hinckley Rail Freight project, but this is not a relevant precedent for a DCO being promoted by a strategic highway company and relates to the certainty required in respect of the specific assets being delivered on that scheme (as well as the timing of the provision of such assets).
Definition of "detailed information"	The Applicant is required by its licence to utilise standards, including DMRB (see paragraph 5.31 of the Applicant's statutory licence). The proposed reference in subparagraph (d) is therefore unnecessary, and again, in some cases the works will be subject to different principles and standards in line with the Design Principles so an excessively prescriptive definition is not appropriate in the case of this Project. This can be contrasted with the third party DCOs prayed in aid by LBH, whose promoters are not bound by the Applicant's licence, and so need to secure the relevant standards directly. So far as measures relating to traffic management are concerned, these are included, and appropriate provision is made in the outline TMP for Construction so new sub-paragraph (i) is also redundant. Again, unlike private sector developments, the Project dDCO includes a robust Traffic Management Forum based on the unparalleled experience the Applicant has in implementing DCOs.
Definition of works	Amended as requested.
Throughout changing "will" to "must"	Amended as requested.
Reinstatement provision – add in other powers of the Order	Amended as requested.
Local operating agreements	The Second Joint Response again seeks to insert matters which are already addressed in the substantive part of the Protective Provisions. Handover arrangements and the issue of final certificates are dealt with under the explicit terms of paragraphs 148 to 153, and 155.

Matter raised in Second Joint Response	Applicant's response
	The Applicant also notes the request – contrary to much toted A303 Sparkford to Ilchester Order –to amend the requirement to enter into a local operating agreement from "reasonable endeavours" to "best endeavours". This is unacceptable and has the potential to introduce significant delays in to the delivery of the Project, and runs a serious risk of cutting across the Applicant's licence obligations to ensure value for money in accordance with its statutory licence under the Infrastructure Act 2015. The Applicant considers suggestions such as these are unbalanced taking into account the substantial compromise of the Applicant in including Protective Provisions – contrary to all but one SRN DCO (and, as noted, even that SRN DCO doesn't go this far).
Inspection and testing – amendments to ensure clarity	Amended as requested.
Road Safety Audits – request to add Stage 4	The Applicant refers to its comments above under maintenance and defects.
Warranties – the Second Joint Response drops the request for warranties	This is welcomed.
Final certificate – insertion of "incomplete works"	Amended as requested.
Final certificate – reference to traffic management and construction traffic	As drafted, any traffic management measures, whether imposed by the Applicant under the DCO or the LHA under its own powers, would prevent issue of a final certificate. Similarly, use of an otherwise completed local road by a single construction traffic vehicle related to any part of the authorised development would prevent the issue of a final certificate, despite the road being a highway available for public use. These are inappropriate additions to a provision that otherwise deals with the issue of whether local highway works are physically complete and of a suitable standard for handover to the LHA, as they do not relate to physical completion.
Commuted sums	Please see above.
Indemnity	Please see above.
Arbitration – amendment to subparagraph (3)	Amended as requested.

3 Glenroy Estates

3.1 Signposting for Glenroy Estates

3.1.1 At Deadline 8, Glenroy Estates made a submission which restates their position that their land should be subject to the compulsory acquisition of rights, not the outright acquisition of land. The Applicant has addressed this matter in Section 3.1 of [**REP7-190**] and does not consider anything raised affects its precedented approach.

3.1.2 As set out, the Applicant considers that its case for the acquisition of land is compelling. The reason why the land is proposed for outright acquisition is because the land is proposed as ancient woodland compensation. This requires ongoing monitoring and management in accordance with the outline Landscape and Ecology Management Plan [**Document Reference 6.7 (7)**] (secured under Requirement 5). The level of interference is such that outright acquisition is appropriate. The situation is not comparable to a situation where mitigation is placed on land which minimally affects the land, or does not require the same management regime (e.g. land required for bat boxes only). The Applicant notes the approach adopted for the Project is heavily precedented.

3.1.3 The sole new item raised in the Deadline 8 submissions is the unsubstantiated claim that "*The level of interference is not significant*" and therefore the acquisition of rights is sufficient. With respect, the establishment of ancient woodland compensation for a significant number of years, subject to ongoing maintenance and management, is a significant interference with a landowners' interest. Glenroy Estates appear to take the view that because the "*initial interference*" is planting and thereafter a "*few visits*", that the level of interference is not significant. This is without merit: the restrictions associated with the compensation, management, maintenance, and establishment would, together, on any plain definition constitute a significant interference which justified outright acquisition. That is precisely why the approach adopted is so heavily precedented.

4 Gravesham Borough Council

4.1 Introduction

4.1.1 In addition to Gravesham Borough Council's (GBC) responses to the ExA's commentary on the dDCO (see Section 14 of this document) [REP8-130], GBC set out a number of suggested amendments to the dDCO as an appendix to that submission. To assist the ExA, the outstanding areas of disagreement with GBC are also set out below. These are set out in the table below alongside the Applicant's response.

Table 4.1 Signposting for GBC

Matter raised	Applicant's response
Article 2 (interpretation)	GBC consider that article 2(10) should be removed from the dDCO, citing the potential for unintended consequences, on the basis that a reduction in an adverse effect may have other adverse effects. The Applicant has set out its position in relation to this matter in [AS-089] (see Table A.1), [REP2-077] (see within Table 4.1), [REP4-212] (see with Table 2.1), [REP5-089] (at Section 5.1, in response to similar comments raised by the London Borough of Havering), [REP6-085] (see para 3.4.6) and [REP8-116] (see Table 3.1 in response to similar comments raised by the London Borough of Havering). The Applicant would also refer to the detailed explanation for this provision set out in the Explanatory Memorandum at paras 5.16 – 5.21 [REP8-008]. The Applicant would emphasise the point made throughout its submissions, that it does not consider the concern raised by GBC could arise, since a reduction in an adverse effect (effect A) which itself gives rise to other adverse effects (effect B) would not be permissible given the condition that the exercise of a relevant Order power must not give rise to materially new or materially different environmental effects. This is because effect B would not benefit from the carve-out in article 2(10) irrespective of whether effect A does. The Applicant does not therefore agree with GBC's suggestion to remove article 2(10) from the dDCO. Indeed, in the Explanatory Memorandum, the Applicant cites specific evidence, and specific Government policy which supports its approach.
Article 3 (development consent, etc. granted by Order)	GBC submits that article 3(3) should be modified so as to replace the words "*within, adjoining or sharing a common boundary with the Order limits*" with the words "*within the Order limits or land adjacent to*". The Applicant has set out its response to this matter in [AS-089] (within Table A.1 under item 3) [REP2-077] (within Table 4.2) and [REP4-212] (within Table 2.1). In summary, the Applicant disagrees with GBC's interpretation of the drafting proposed in article 3(3) of the dDCO and considers that, substantively, the drafting has the same legal effect as GBC's proposal. The drafting included in the dDCO was inserted at the request of the PLA and follows the Silvertown Tunnel Order 2018. The Applicant does not therefore consider the change sought by GBC is necessary.
Article 6 (limits of deviation)	GBC proposes amendments to article 6 relating to the limits of deviation for the Chalk Park landforms (Works Nos. OSC4(a) and OSC4(b)). The Applicant does not consider this amendment is necessary as it is plain and obvious

Matter raised	Applicant's response
	what the references to the relevant mounds are. These should also be seen in the context of the Design Principles, also secured under Requirement 3 and 5, which add further controls and details about the laying out of Chalk Park.
Article 23 (felling or lopping of trees and removal of hedgerows)	GBC proposes that article 23 should be modified to include an additional requirement, as article 23(2)(c), that the undertaker must, in carrying out activity permitted by this article, take steps to avoid a breach of the Wildlife and Countryside Act 1981. The Applicant has previously responded to this suggestion in [**REP4-212**] (within Table 2.1). The Applicant does not consider the drafting necessary, given the wide ranging controls already secured via the REAC under Requirements 4 and 5 of the dDCO, as well as the provision made for pre-construction survey work to establish the presence of European or nationally protected species under Requirement 7 of the dDCO. The Applicant has also proposed a robust outline Landscape and Ecology Management Plan which will be subject to further consultation and approval under Requirement 5. The amendment is therefore superfluous and the Applicant notes it is not widely precedented, thereby supporting the Applicant's submissions.
Article 27 (timescale for exercise of compulsory powers)	GBC contends that the period for exercise of compulsory powers should be reduced from eight years to five years (and that this period should start from the day on which the Order is made). The Applicant's position was set out in full in response to QD29 and QD47 of the Applicant's response to the ExA's commentary on the dDCO [**REP8-117**]. Those responses also signposted to further submissions made by the Applicant during the course of the examination in relation to this matter. The Applicant would highlight that it is has made amendments to the definition of 'start date' in article 27 of the dDCO at Deadline 8 [**REP8-006**] and will consider any comments from GBC or other IPs on this drafting at Deadline 9.
Article 35 (temporary use of land for carrying out the authorised development	GBC has suggested that article 35(5) of the dDCO should be modified to include a requirement for the relevant local planning authority to be consulted in relation to the restoration of land of which temporary possession has been taken under article 35, where that land is green belt land or is in an area of outstanding natural beauty. The Applicant notes that article 35(5) requires reinstatement of land subject to temporary possession. The Applicant considers that provision is sufficient to assure GBC that temporary works will be removed. These clear obligations are further supplemented in the REAC by reinstatement requirements in GS012, GS014, CH006, LV002, RDWE009, RDWE021, TB020, TB021. Further measures requiring reinstatement, including in relation to sensitive sites, in the Design Principles (see Design Principles with Clause No. S1.01, S1.12, S3.05, S3.16 and LSP.05). As noted, the Applicant appreciates that there is an exemption to removing temporary works under article 35(5), but the amendment made at Deadline 8 to ensure this only applies where planning permission is in place, provides comfort that no temporary works will remain in place. Introducing a separate requirement for consultation is therefore unnecessary, disproportionate and may in fact delay the reinstatement of the relevant land. The Applicant notes that no precedent is offered to support this novel suggestion, and should therefore be rejected.

Matter raised	Applicant's response
Articles 4, 46 and 47 – road user charging	GBC restates its view that residents of Gravesham should be entitled to a discount in respect of both LTC and the Dartford Crossing. To this end, GBC sets out suggested drafting for a new article 47 of the dDCO, which would modify the charging regime in respect of the Dartford Crossing under the A282 Trunk Road (Dartford-Thurrock Crossing Charging Scheme) Order 2013. The Applicant has set out in full its position regarding the operation of payments for local residents during the course of the examination in [**REP1-184**] (including Annex B of that submission), [**REP2-077**] and [**REP4-212**]. The Applicant does not agree with the drafting proposals put forward by GBC, for the reasons set out in those submissions.
Article 58 (defence to proceedings in respect of statutory nuisance	GBC expresses the view that this article should be narrowed in scope so as: (a) to reduce the number of statutory nuisances within the scope of section 79 of the Environmental Protection Act 1990 in relation to which a defence might be available under the Order (if made); and (b) to remove article 58(2) of the dDCO, which confirms that compliance with the controls set out in the Code of Construction Practice or management plans approved under Requirement 4 would be sufficient to show that an alleged nuisance could not reasonably be avoided for the purposes of article 58(1). The Applicant does not regard the drafting amendments proposed by GBC to be appropriate and has set out in detail the justification for the drafting proposed in article 58. In particular, the rationale for and response to GBC's comments on articles 58(2) and 58(3) can be found in [**AS-089**], [**REP2-077**] and [**REP4-212**]. The Applicant would emphasise that GBC has failed to grapple with the point that the Planning Act 2008 already provides a broad exemption, and the purpose of the article is to narrow down the relevant defences applicable under section 82.
Article 61(stakeholder actions and commitments register)	GBC propose amendments to article 61, the effect of which would be to require the Applicant, before entering a measure on the stakeholder actions and commitments register, to notify the person(s) with the benefit of the measure of the effect of article 61(1)(b) (this provision provides for the revocation, suspension or variation of a measure entered on the register with the Secretary of State's approval). The Applicant has provided a response to GBC's drafting suggestion in [**REP2-077**] and [**REP4-212**]. The Applicant regards GBC's proposal as unnecessary, given that the wording of article 61(1)(b) is a matter before the examination and IPs, including those with the benefit of a measure entered on the register, have had an opportunity to comment on the effect of the provision. In addition, article 61(1)(b) specifically requires consultation by the undertaker with the person(s) with the benefit of the measure and other persons considered appropriate before an application for revocation, suspension or variation is submitted to the Secretary of State. The process is, therefore, open and transparent.
Article 62 (certification of documents, etc)	GBC suggests that a new paragraph (9) should be added to article 62, which would require the Applicant to make copies of the certified plans and documents publicly available in an electronic form to the public. The Applicant updated the dDCO [**REP8-006**] to include a requirement in substantially the same terms sought by GBC at article 62(9). The Applicant therefore considers this matter resolved but will review any submissions in relation to the proposed drafting at D9.

Matter raised	Applicant's response
Article 65 (appeals to the Secretary of State)	GBC suggest minor amendments to article 65 which it considers would represent "*drafting improvements*". In addition, GBC argues for the deletion of article 65(1)(e), which provides an appeal mechanism to the Secretary of State in the event a local authority were to issue a notice further to sections 60 or 61 of the Control of Pollution Act 1974. The Applicant has set out in detail the justification for the appeal process under article 65(1)(e) in the Explanatory Memorandum [**REP8-008**], as well as [**AS-089**], [**REP2-077**] and [**REP4-212**] and does not consider the deletion sought by GBC to be appropriate in that context. The Applicant has set out in detail the justification for the appeal process under article 65(1)(e) in the Explanatory Memorandum [**REP8-008**], as well as [**AS-089**], [**REP2-077**] and [**REP4-212**] and does not consider the deletion sought by GBC to be appropriate in that context. As regards GBC's minor drafting suggestions, the Applicant has considered them but does not regard them to be necessary, nor does it consider they would materially enhance the meaning or legal effect of the dDCO. The Applicant does not therefore propose to make the amendments suggested by GBC.
Schedule 1 (authorised development)	GBC suggests that the ability to carry out ancillary works or related development should be restricted geographically to land which is within the Order limits. The Applicant has set out its position in full within [**AS-089**] (see responses to issues or questions raised against items 2 and 12 of Annex A to the ExA's agenda for ISH2), [**REP1-184**] (see paras 1.3.15 – 1.3.17), [**REP2-077**] (within Tables 4.1 and 4.2) [**REP4-212**] (within Tables 2.1 and 2.2) and [**REP6-085**] (see Section 3.4). Indeed, the drafting already makes reference to the Order limits, is precedented and for the reasons explained in the aforementioned submissions, comprises necessary flexibility and entails no detriment or prejudice to landowners (because the compulsory acquisition and temporary possession powers are limited to the Order limits). These submissions reflect the Applicant's full and settled position in respect of this matter. The Applicant objects in the strongest possible terms to GBC's drafting suggestion.
Schedule 2 (Requirements), Requirement 2	GBC submits that the reference to "begin" in Requirement 2 of the dDCO should be amended to "commence". The Applicant would refer to its responses to QD13 to QD16 of its response to the ExA's commentary on the dDCO [**REP8-117**], which set out in detail the Applicant's rationale for using the terms "begin" or "commence" to address specific scenarios within Schedule 2. The Applicant's position is merely replicating the effect of section 154 and 155 of the Planning Act 2008. The Applicant does not therefore agree with GBC's drafting proposal.
Requirement 8 (surface and foul water drainage)	GBC considers that the requirement for written details of the surface and foul water drainage system proposals referred to in Requirement 8 should be extended to include details relating to the management of flood risk. The Applicant provided a response to this matter in [**REP7-190**], which set out the reasons why it was not necessary for Requirement 8 to make provision for matters pertaining to flood risk, given the range of controls already contained in the Code of Construction Practice [**REP8-044**] and the REAC which forms part of it (as well as the fact that Requirement 4(2) covers flood risk management). GBC has not provided a response to the Applicant's submissions in this regard.

Matter raised	Applicant's response
Requirement 22 (details of consultation)	GBC submits that the period for comments to be provided by bodies in response to consultation on documents to be submitted for approval under the Requirements should be increased from 28 days to 42 days. The Applicant would refer to its comments at Section 14 of this document, specifically those relating to GBC's and Kent County Council's response to QD12 of the ExA's commentary on the dDCO. For the reasons stated in Section 14 the Applicant does not consider that an increase in the consultation period under Requirement 22 is justified.
Schedule 2 - new "Silvertown" requirement	GBC states its preference for the draft requirement in relation to the implementation of a network management group proposed by the Port of Tilbury in [**REP6-160**], over the provision proposed by the Applicant on a without prejudice basis in [**REP6-092**]. GBC also seeks assurances that it would be one of the parties included in any such Network Management Group (LTNMG, or LTCIG in the Port of Tilbury's draft requirement). As set out in [**REP7-190**], the Applicant considers the without prejudice proposal submitted at Deadline 6 to be appropriate and does not regard the Port of Tilbury's proposal to be proportionate or necessary. The Applicant can confirm that GBC would be one of the parties to any LTNMG. However, the Applicant would stress, for the reasons set out in paragraph 4.2.3 of [**REP6-092**], that it does not consider the inclusion of any network management group requirement to be necessary or appropriate. For the same reasons, the Applicant does not consider the new requirement proposed by GBC at Deadline 8 entitled 'construction phase local traffic monitoring', which it puts forward as an alternative to the Silvertown requirement if that is not accepted, to be necessary or appropriate.
Schedule 2 – new Blue Bell Hill requirement	GBC seeks a requirement to ensure that local traffic impacts at Blue Bell Hill are addressed before LTC opens. The Applicant does not regard the inclusion of such a requirement to be appropriate, as set out in the Joint Position statement: Blue Bell Hill submitted at Deadline 5 [**REP5-083**]. With specific regard to the proposed Requirement, the Applicant notes that as the decision on delivery or otherwise of the A229 improvement works would remain the decision of the Secretary of State, this proposed Requirement would seem to add no additional security to the delivery of that project and simply duplicates the existing process put in place by Government.
Schedule 2 – new monitoring and mitigation requirement	GBC seeks a requirement for a post-construction planting monitoring and mitigation plan. The Applicant does not consider such a requirement is necessary. Requirement 5 of the draft DCO already requires landscape and ecology management plans to be approved by the Secretary of State for each stage of the authorised development. GBC has not said how its own proposal would achieve anything which Requirement 5 does not already.
Schedule 2 – new Gravesham accommodation resilience scheme	GBC submits that a new requirement for a Gravesham accommodation resilience scheme to be prepared and submitted to the Secretary of State for approval should be included in the dDCO. The Applicant provided a response to this in [**REP8-116**], and would highlight its submissions on this matter given in its post-hearing submissions in ISH14 [**REP8-114**] which explains how the specific impacts forecast do not justify going beyond the

Matter raised	Applicant's response
	robust and precautionary measures proposed in the Framework Construction Travel Plan.

4.1.2 The Applicant notes that GBC seeks to make a point that "the Applicant has very recently (at D7) accepted one of the Council's most important amendments, despite more than once rejecting it as unnecessary at an earlier stage" and it asks the ExA to bear this in mind the Applicant's resistance to further amendments. The amendment being referenced is the amendment to change taking "all reasonable steps" to a stronger requirement to "implement" the measures in the SAC-R under Article 61. With respect, this point is misconceived. The Applicant's amendment to Article 61 was made because – and only following – the movement of the SEE Strategy to the SAC-R. Those measures are different in nature, and the Applicant therefore made the aforementioned amendment. Moreover, as is plainly evidenced by the Schedule of Changes to the dDCO, the Applicant has made amendments where they are necessary and in response to stakeholder feedback. The Applicant's pro-active response should not be held against its position in the manner implied by GBC.

4.1.3 For the avoidance of doubt, the amendment made to Article 61 is without prejudice to the Applicant's position that the use of "*taking all reasonable steps*" is appropriate in the absence of a wide ranging and robust SEE Strategy and Community. A contrary conclusion would require holding that the Secretary of State's own practice in the context of HS2 is inappropriate or misconceived which the Applicant considers should be given no weight.

5 London Borough of Havering

5.1 Introduction

5.1.1 For ease of reference, the Applicant has updated the signposting table provided at Deadline 7 to address the outstanding areas of disagreement with London Borough of Havering.

Table 5.1 Responses to LBH positions at Deadlines 7 and 8

Provision	LBH position at Deadline 7 (summary)	Applicant's response
Article 2(10)	*"This issue is unresolved and, on the basis of the Applicant's latest response, will remain so. LBH see no reason why the additional words proposed by LBH cannot be added for the avoidance of any doubt."*	The Applicant has explained why the suggested amendment was not appropriate in Section 5.1 of Applicant's responses to IPs comments made on the dDCO at Deadline 4 [REP5-089]. LBH have not responded to the Applicant's point in relation to the Explanatory Memorandum, but the Applicant nonetheless updated the Explanatory Memorandum to make clear that the drafting does not have the effect of enabling a variation which gives rise to an additional materially worse environmental effect. As noted above, LBH's Deadline 7 submission does not appear to reference or extract the Applicant's response on this point. To summarise, though, the Applicant would emphasise the point made throughout its submissions that it does not consider the concern raised by LBH would arise in practice, since a reduction in an adverse effect (effect A) which itself gives rise to other adverse effects (effect B) would not be permissible having regard to the condition that the exercise of a relevant Order power must not give rise to materially new or materially different environmental effects. This is because effect B would not benefit from the carve-out in article 2(10) irrespective of whether effect A does.
Article 8	*"To properly secure the position, it is suggested there should be some drafting included in Article 8 of the dDCO to ensure that those obligations apply to any successor undertaker given*	LBH refers to Sizewell C Nuclear Power Station as a precedent for its suggestion that a section 106 agreement should be secured under the terms of the DCO. The distinction is that on that scheme the land was not owned by the promoter. In this case, there is clearly land which the section 106 Agreement can bind to. The

Provision	LBH position at Deadline 7 (summary)	Applicant's response
	the very limited role of the land concerned."	section 106 will be secured, either by agreement or unilateral undertaking, and there is no suggestion the Applicant would not fulfil its legal obligations under either of those mechanisms.
Protective Provisions for Local Highway Authorities (Articles 10, 11)	See the Second Joint Response above.	Please see Section 2 of this document above, which provides a response to the Second Joint Response.
Article 53	LBH makes an unprecedented suggestion to include local authorities in the scope of article 53(7).	Article 53(7) (now Article 53(8)) is only intended for the benefit of those bodies who have or may have specific powers under the proposed Order to ensure that the exercise of such powers would not prejudice the relevant body's related statutory duties and powers. This will include the Secretary of State and, for the purposes of Article 8 dDCO (Transfer of benefit), the statutory undertakers. As previously stated, this is not intended for local highway authorities and, therefore, no amendment is considered necessary or appropriate. The Applicant further notes that the powers of local authorities under the New Roads and Street Works Act 1991 are in fact modified (under article 9 and so it would introduce new confusion to include local highway authorities in the scope of article 53(7)).
Article 61	LBH object to the use of the phrase "*take all reasonable steps*" in article 61(1).	The Applicant amended this provision at Deadline 7 so that it requires the Applicant to "implement" the measures, thereby strengthening the requirement.
Article 62	LBH objects to the process which enables the correction of plans.	No new matters have been raised by LBH, and the Applicant's position is set out in page 87 of [**REP4-212**].
Article 65	LBH objects to the 10 day period.	No new matters have been raised by LBH and the Applicant's position is set out on page 90 of [**REP4-212**].
New Requirement: "Implementation Group" / Wider Network Impacts / Requirement 14	LBH proposes a Silvertown Tunnel-type implementation group	The Applicant's position on this matter is set out in its Wider Network Impacts Position Paper. The Applicant's without prejudice provision would secure a Network Management Group.

Provision	LBH position at Deadline 7 (summary)	Applicant's response
Requirement 2	LBH objects to the use of the term "begin" in Requirement 2	No new matters have been raised by LBH, the Applicant's position is set out in [AS-089], [REP1-184] and [REP2-077]. The Applicant further refers to its response to Action Point 1 of ISH7 in the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089]. This matter was also raised in the Examining Authority's commentary on the dDCO, and the Applicant refers to its responses to QD13 to QD16 on this matter submitted at Deadline 8 (shown in section 14 below).
Requirement 4	LBH desires the EMP (Third Iteration) to be subject to approval.	It is not appropriate for the EMP3 to be subject to approval. The Applicant is a strategic highways authority appointed by the Secretary of State, and operational matters fall within its day to day operational responsibilities. Insofar as the road is a local highway, this will be handed back to the relevant highway authority. The position adopted is consistent with a long line of precedents (see Requirement 4(6) of the M42 Junction 6 Development Consent Order 2020, Requirement 4(4) of the A63 (Castle Street Improvement, Hull) Development Consent Order 2020, Requirement 4(5) of the A585 Windy Harbour to Skippool Highway Development Consent Order 2020, Requirement 4(16) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023). The Project does not give rise to any materially distinguishing features which justify departing from that precedented approach.
Requirement 6(2)	LBH objects to the precedented position that under the provision, the undertaker determines whether or not remediation of contaminated land not previously identified is required.	No new matters are raised by LBH, and the Applicant's position is set out in Section 4.2 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [REP6-085]. For the avoidance of doubt, the Applicant has never suggested that any person other than the undertaker would make the determination. Instead, it has referenced a number of overlapping controls which provide comfort in relation to the issue of contaminated land (e.g. under the REAC, the Contractors would provide ground investigation method statements for acceptance of National Highways in consultation with the Environment Agency and relevant Local

Provision	LBH position at Deadline 7 (summary)	Applicant's response
		Authorities prior to commencement of the works).
Requirement 9	LBH maintains its objection to 14 day period in this provision.	As explained on page 107 of [**REP4-212**], the 14 day period is considered appropriate given the discrete nature of the considerations involved and the need for the Project to be delivered expeditiously. It is highly precedented (see The A19/A184 Testo's Junction Alteration Development Consent Order 2018, The A19 Downhill Lane Junction Development Consent Order 2020, The A63 (Castle Street Improvement, Hull) Development Consent Order 2020, The A1 Birtley to Coal House Development Consent Order 2021, The A57 Link Roads Development Consent Order 2022, The M54 to M6 Link Road Development Consent Order 2022, The A47 Wansford to Sutton Development Consent Order 2023).
Various	LBH maintains its objection in relation to the use of "substantially in accordance with" drafting	No new matters are raised and the Applicant refers to its response in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [**REP6-085**].
Paragraph 18 / 20	LBH "*prefers its drafting*" in relation to notification of a deemed consent where consultation is carried out under Schedule 2 and the drafting in relation to the period provided for consultation	The Applicant notes LBH does not identify that the Applicant's drafting achieves the effect which LBH seeks to achieve. No amendment is therefore considered necessary, and the Applicant considers its drafting is clear that the deemed consent provision will be notified to consultees and that 28 days at minimum will be provided.
Schedule 12	LBH wants the local residents discount extended to LBH residents.	No new matters have been raised by LBH, and the Applicant would reiterate that the discounts offered in relation to the Project reflect Government policy, and the Government has confirmed this (see Annex B of [**REP1-184**] in which the Department for Transport endorses, in its capacity as the charging authority, that "*this would offer the same type of discount arrangements as are offered on the Dartford Crossing LRDS scheme. It would be aligned with the Dartford LRDS by being offered to residents of the boroughs in which the tunnel portals would be situated (Gravesham and Thurrock for LTC, Dartford and Thurrock for the Dartford Crossing)*". The Applicant notes

Provision	LBH position at Deadline 7 (summary)	Applicant's response
		the unsubstantiated position that charging discounts were not provided at Dartford because this is not where construction occurred for the Dartford Crossing.

6 HS1

6.1 Signposting for HS1

6.1.1 The Applicant notes that at Deadline 8, HS1 submitted a Position Statement in which they confirmed that the Protective Provisions are agreed subject to two issues. The first relates to consent, and the second relates to an indemnity. Both of these matters are addressed in Section 3 of the Deadline 9 Hearing Actions document submitted at Deadline 9 [**Document Reference 9.222**].

7 Medebridge Solar Limited

7.1 Response on article 56(3)

7.1.1 At Deadline 8, Medebridge Solar Limited note condition 10 of their planning permission (for a solar farm development) which relates to the provision of ecological compensation. MSL seeks comfort from the Applicant that the Project will not have adverse impacts for the solar farm in terms of compliance with condition 10 of the planning permission.

7.1.2 The Applicant has been engaging with the promoters of Medebridge Solar Farm for several years and advised of changes to the Project prior to periods of consultation so that the solar farm could maximise the area of solar panels to be installed. The promoters submitted a planning application for the solar farm and permission was granted in full knowledge of the Project and its permanent acquisition land requirements.

7.1.3 The Applicant can confirm that it is anticipated that article 56(3) will ensure that no enforcement action is taken against Medebridge Solar Limited insofar as any non-compliance arises from the Project. The Applicant notes Medebridge Solar Limited's concern that "*this may not be included in the LTC DCO (if granted)*". The Applicant considers this underscores the necessity of including Article 56(3) in any made Order. The Applicant has highlighted to Medebridge Solar Limited that the provisions in article 56(3) find precedent in article 3(3) of the Lake Lothing (Lowestoft) Third Crossing Order 2020, made by the Secretary of State for Transport. Further, local authorities, including Thurrock Council, have expressed their support for the inclusion of this provision (see paragraph 5.253 of the Explanatory Memorandum [**REP8-008**]).

7.1.4 The Applicant further notes concerns about the time in which it would come into effect. The drafting of article 56(3) ensures that it comes into effect where a conflict or inconsistency arise.

7.1.5 Nonetheless, in the event that the DCO is made in a form which does not include article 56(3), then it would still be open to Medebridge Solar Limited to seek redress for any particular consequences arising from the acquisition by the Applicant of the Medebridge Solar Farm land in accordance with the Compensation Code, noting in particular the well-established rules for assessing compensation set down in section 5 of the Land Compensation Act 1961.

7.1.6 The Applicant is in active negotiations with Medebridge Solar Farm and is in the advanced stages of agreeing a legal agreement to address the interfaces between the two projects, including access requirements for the possible replacement of the 132kv transformer. The Applicant continues to discuss these matters with Medebridge Solar Limited in order to explain and assure them on the effect of article 56(3).

8 Kent County Council

8.1 Signposting for Kent County Council

8.1.1 At Deadline 9, all but a one of Kent County Council's comments on the dDCO ae contained in their response to the ExA's commentary on the dDCO. Those relating the commentary are addressed below.

8.1.2 In relation to Requirement 9, KCC states "To help ensure the security of the process we ask that the wording of Requirement 9 clarifies that the Secretary of State will approve documents, such as the AMS-OWSI and subsequent documents such as EMP2 and Site Specific Written Schemes of Investigation, in consultation with the Relevant Planning Authority". The Applicant is unclear on this request as Requirements 4 and 9 secure the documents cited. In relation to Requirement 9 specifically, the provision is clear and sets out:

"No part of the authorised development is to commence until for that part a site-specific written scheme for the investigation of areas of archaeological interest, reflecting the relevant mitigation measures set out in the AMS-OWSI, has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority and Historic England on matters related to their respective functions."

8.1.3 This is further confirmed in the draft Archaeological Mitigation Strategy itself in Section 2:

"…the individual Site Specific Written Schemes of Investigation (SSWSIs) will be prepared by the relevant Archaeological Contractor(s) and approved by the Secretary of State following consultation with the relevant planning authority (through the relevant Local Authority Archaeological Advisors) and Historic England."

9 Natural England

9.1 Passive Provision for Tilbury Link Road

9.1.1 At Deadline 8, Natural England suggests amendments to Requirement 17 which relates to the passive provision for the Tilbury Link Road. In particular, they say "*that passive provision with the Lower Thames Crossing must necessarily exclude some options for effective provision to be made.*" Their concern, in short, is that by providing passive provision, the optioneering for the proposed Tilbury Link Road will in some way be prejudiced.

9.1.2 The Applicant finds these concerns misconceived. The passive provision necessarily does not entail taking steps outside of the works powers provided under the dDCO. The passive provision being provided as part of the Project necessarily falls within the scope of the reasonable worst case scenario for the Project. In circumstances where development consent is granted, the Secretary of State will have satisfied themselves that the effects of the Project are acceptable. The Tilbury Link Road would be subject to its own environmental assessment, and its own route selection appraisal. The suggested amendments from Natural England are therefore unnecessary. The Applicant understands that the Port of Tilbury London Limited objects to any such amendment, and the Applicant agrees that such an amendment would mean that passive provision would not be provided.

10 Port of London Authority

10.1 Paragraph 99/100 of Schedule 14

10.1.1 By way of context, the PLA had raised concerns that (1) construction-related risks were not considered as part of the processes secured under their protective provisions in relation to the construction of the tunnels; (2) that there was an "automatic" referral to arbitration in the event of a disagreement; and (3) there should be notice and engagement provisions at the start and end (and during the course) of construction works. The Applicant has adopted all of the amendments requested by the PLA in relation to these matters, and the Applicant is pleased that the provisions of paragraphs 99 and 100 are agreed with the exception of the matter described below.

10.1.2 For context, the Protective Provisions with the PLA secure, amongst other things, the following:

a. **Absolute Requirement:** There is an absolute requirement to ensure the agreed depths are secured in the detailed design and, in addition, the detailed design and construction must be provided, and that must "*take into account the need to protect the existing and future use of the river Thames, including reasonable mitigation of risks to the river Thames and the functions of the PLA during construction of the tunnelling works and operation of the authorised development.*"

b. **Step 1:** The undertaker must consult with the PLA when preparing the detailed design and construction methodology of the tunnelling works under the river Thames, on—

   i. the construction methodology for those works insofar as relevant to the existing and future use of the river Thames and the PLA's functions;

   ii. the measures to be taken in connection with those works, including in respect of unexploded ordnance in the river Thames having regard to the need to protect the existing and future use of the river Thames; and

c. **Step 2**: The undertaker must have reasonable regard to any representations made provide a written account of how any such representations made by the PLA under paragraph have been taken into account.

d. **Step 3:** Where the PLA are not reasonably satisfied with the written account and dispute the Applicant's approach, a senior meeting must be held.

e. **Step 4:** If the PLA remain unsatisfied, they can refer the matter to arbitration.

f. **Step 5:** If, and only if a matter is referred to arbitration, the Applicant is restricted from carrying out the works in dispute until the arbitration is determined.

10.1.3 The steps above are all agreed. The sole matter in dispute between the Applicant and the PLA and the Port of Tilbury in relation to paragraph 99 and 100 is the text in paragraph 99(5) and (6) shown in red below:

"(5) Unless subparagraph (6) applies, in the event that a matter is referred to arbitration under paragraph (4), the undertaker must not begin any tunnelling work to which a dispute under paragraph (4) relates until such arbitration is settled by the arbitrator (and where subparagraph (6) applies, the arbitrator must ensure its decision does not conflict with the Secretary of State's decision under that subparagraph).

(6) This subparagraph applies where the undertaker provides the Secretary of State with PLA's representations, and the written account required under subparagraph (3) and agrees any tunnelling work to which a dispute under paragraph (4) relates can begin."

10.1.4 At Deadline 8, the PLA reiterates its objection to the wording in red above, and argues that these provisions "*effectively allows for jurisdiction shopping by the Applicant*" and that they can see "*can see no justification for this novel approach being applied to the PLA.*" The Applicant's position is set out in Section 6 of Applicant's response to Interested Parties' comments on the dDCO at D7 [**REP8-116**]. The Applicant would note that, it is necessary to ensure that the Project can be commenced in circumstances where the arbitration becomes protracted or is delayed. Arbitration may impose a delay involving significant time and cost at public expense. In the Applicant's view, the Secretary of State for Transport, as the Government department responsible for regulating both ports and highways, is competent to discharge this function. Indeed, UK-wide maritime transport policy is managed by the Department for Transport. Any suggestion that the Secretary of State for Transport (whose functions relating to ports include appointment of several members of the PLA board) is not competent should be rejected by the Examining Authority, as contrary to the clear functions of the Secretary of State. The requirement for Secretary of State approval (and a requirement to provide the PLA's representations) ensures appropriate safeguards are in place in the case of a dispute.

10.1.5 In the Applicant's submission, it is appropriate for the Secretary of Transport – who as mentioned above is charged with the functioning of the operation of the Government Department responsible for both highways and ports – to make a competent and technical decision. At Deadline 8, the PLA puts forward its proposed arbitration rules which should apply. The Applicant objects in the strongest possible terms to the inclusion of the process suggested. The PLA's proposal would apply to any arbitration, and not just an arbitration relating to paragraph 99 of Schedule 14. The basis for the Applicant's objection is:

a. Under the proposal, all arbitration would be subject to a prescribed timescales unless an exemption was agreed or determined by an Arbitrator. The default position would be to introduce up to a 3 month period for determining disputes (and potentially more). The default position would

also require "statements of claim" and "Statements of Defence", and allow a hearing to be held. This level of fixity and prescription on the form of documents is not appropriate for all disputes, and the insertion of such a protracted process has the ability to prolong, rather than expedite and provide certainty, in relation to disputes. Such timescales would be disproportionate, costly (in terms of delay) and contrary to the public interest in the timely delivery of critical national infrastructure. Such delay would be wholly inconsistent with Government policy – see further paragraphs 12.2.3-12.2.4 below on this point.

b. The Applicant notes that no SRN DCOs include such an arbitration process, and in the absence of a definite need, it would be unnecessary to adopt such arbitration rules. The Applicant is targeting, in its preferred version of paragraph 99(5) and (6) a specific concern that that arbitration may become protracted in relation to an integral and critical part of the Project, whilst incorporating appropriate safeguards (i.e., the independent decision making of the Secretary of State) and identifying persons who have the relevant competence (i.e., the Secretary of State who as explained above is competent in this context).

c. The PLA highlights that it has drawn on a number of energy DCOs. In that commercial context, where there are private sector developers promoting private developments, it is more appropriate for private arbitration to be utilised. The Applicant is seeking a proportionate ability to go to the Secretary of State on a matter for which they have competence, and which is of wider public, not private, importance.

d. The reference to the Applicant's approach being unprecedented in the PLA's Deadline 8 submissions is misconceived: the whole host of protections offered go above and beyond, and importantly there was no requirement to stop works under the Silvertown Tunnel Order.

e. The PLA, in justifying their alternative, state that *"the Applicant's argument appears to be that referring a matter to the SoS rather than an arbitrator would make for a faster process. The PLA does not believe that there is any evidence for this, unless there has been commitment made by the SoS on this subject of which the PLA is unaware*." The Applicant has spoken, in depth, about the arrangements in place between the Applicant in National Highways (see Section 6.3 of the Explanatory Memorandum [**REP8-008**]) and considers those are effective, fair and expeditious processes.

f. As noted at Deadline 8, under section 60 of the Port of London Authority Act 1968 – which relates to dredging – the Secretary of State for Transport is given an approval function in connection with "*material …deposited below*

the level of mean high water springs".[1] Under section 69, it is the Secretary of State who determines any appeal in relation to a refusal, variation or revocation of a river works licence. Various other provisions engage the Secretary of State for Transport in connection with works in the river Thames (e.g. sections 76, 78, 79, and 88).

10.2 Signposting for the PLA

10.2.1 At Deadline 8, the PLA also raise a number of other issues relating to the dDCO. These are all addressed in Table 5.1 of Applicant's response to Interested Parties' comments on the dDCO at D7 [**REP8-116**].

[1] Section 60 gives this power to the "Board of Trade" but as the PLA's notes under that section make clear, "*the powers of the Board of Trade are now exercised by and all references to the Board of Trade are now to be construed as a reference to the Secretary of State for Transport.*"

11 Port of Tilbury London Limited (on behalf of itself, DP World and Thurrock Council)

11.1 Requirement 18 (Orsett Cock Roundabout)

11.1.1 As requested by the ExA, the Applicant engaged with Port of Tilbury London Limited (PoTLL), DP World and Thurrock Council on the drafting of Requirement 18 to narrow the gaps further. The Applicant has updated the dDCO to reflect the discussions and the productive suggestions specifically made by PoTLL and DP World.

11.1.2 At Deadline 8, the PoTLL confirmed that if the dDCO was made with the Requirement in the Applicant's proposed form, "*PoTLL would not go as far as to move to an outright 'in-principle' objection*". The Applicant welcomes this confirmation, and considers that the benefits provided to port connectivity mean that this is the only reasonable conclusion to draw.

11.1.3 PoTLL however go onto state that notwithstanding this confirmation, "the Requirement as currently drafted does not ensure that the Secretary of State is given enough information to enable him/her to make that judgement." The Applicant disagrees. The proposed requirement secures a clear process of consultation, as well as specific objectives – which are clearer than those proposed by PoTLL – which the Secretary of State will consider. Paragraph 22 requires provision of and consideration of consultation responses, ensuring that if any stakeholders consider there are deficiencies, the Secretary of State will have the information required. In addition, paragraph 21 allows the Secretary of State to request further information in connection with the requirement.

11.1.4 On the objectives, as noted at ISH14, the proposed requirement requires the scheme to include reasonably necessary measures not just to minimise traffic delays, but to go further and optimise the operation of the roundabout. At Deadline 8, the Applicant inserted an interpretive provision to provide further definition of "optimisation" which makes clear that this extends to improving and enhancing journey times, having due regard to port journeys and operations. At Deadline 9, the Applicant has amended the interpretive provision which seeks to ensure impacts on Orsett Village are considered. The Applicant therefore considers the Requirement is appropriate, and ensures the Secretary of State has appropriate information to make a judgment – which is precisely what is required given the potentially counter-vailing interests not just of the ports and the local authority, but also of the residents of Orsett Village – on the appropriateness of the scheme submitted.

11.2 Requirement for Asda Roundabout

11.2.1 PoTLL reiterates its request for a bespoke and distinct requirement for the Asda Roundabout. The Applicant sets out its position on how the construction traffic impacts at Asda Roundabout could be reduced in [**REP6-123**]. In particular, that document sets out how operational controls developed during the detailed design stage would be sufficient to appropriately mitigate any adverse impacts. In addition, Table 4.2 of that document sets out how the requests from the Port

of Tilbury London Limited are already accounted for, and safeguarded, in the outline Traffic Management Plan for Construction.

11.2.2 The Applicant would stress that usability, and ensuring there are no 'gaps' between the relevant controls weighs strongly in favour of resisting such a Requirement. A construction traffic management plan for part which may include the Asda roundabout, as well as a bespoke Asda roundabout plan, would introduce confusion and ambiguity into the discharge process.

11.2.3 At Deadline 8, PoTLL appears to acknowledge this fundamental issue and proposes an amendment to Requirement 10 so that any traffic management plan must also consider a plan "*which incorporates where relevant the scheme of construction traffic mitigation for Work Nos. CA5 and CA5A approved under* [the Asda Roundabout requirement]." Leaving aside the point that such a requirement is not necessary because of the measures already included in the oTMPfC, this does not overcome the usability issues. This is because:

a. It assumes that the Asda Roundabout requirement would be discharged first. However, as is plainly shown in [**REP6-123**], traffic management measures which are at some distance from the Asda roundabout (or indeed, connected to CA5 and CA5A) may have implications on the traffic flows as the Asda Roundabout and if the plan for those comes forward, the usability issues, giving rise to confusion, would still apply.

b. Even if the Asda roundabout requirement is discharged first, it does not account for the temporal element of Traffic Management Plans, which may mean that different phases – unrelated to CA5 and CA5A – may have implications on the Asda Roundabout.

c. The Applicant's view is that salami-slicing and disaggregating the Project in this way undermines the cohesive and coherent consideration of the Project as a whole as part of Requirement 10. The connectivity between the works across the Project militates strongly against a bespoke requirement. Asda Roundabout, and its importance, are already considered as part of that process. As is shown in Table 6.1 of [**REP6-123**], there is no element proposed in PoTLL's requirement which is not already directly addressed.

11.2.4 The only other new submission from PoTLL on this matter is to acknowledge there is a material ambiguity in the unhelpful phrase "material worsening" so they suggest amending the definition of that term to cover the "*creation of unreliable, unsafe or inefficient journeys through the Asda roundabout, having regard in particular to traffic going to and coming from the Port of Tilbury, environmental impacts in the town of Tilbury, the need to minimise delays to all traffic using the Asda roundabout and the need to ensure that highway safety is not compromised*". These objectives are specifically accommodated in the oTMPfC (see, in particular, paragraphs 2.4.9, 2.4.20, 2.4.21, Table 2.3, 4.4.3, 4.5). PoTLL is a consultee and would be given a further opportunity to comment on the measures proposed in a Traffic Management Plan. The Applicant can therefore see no merit in PoTLL's suggested provision. Sub-paragraph (1) states that "*No part of Work Nos. CA5 and CA5A is to be commenced until a*

scheme of construction traffic mitigation for Work Nos. CA5 and CA5A has been prepared in accordance with the provisions of this paragraph". This drafting does not allow for a staged development of the works CA5 and CA5A. Given the scale of works there may be early works that are necessary in advance of the full work being developed to a point sufficient to allow for provision of such a proposed scheme. Requirement 10 of the Applicant's draft DCO [**REP8-006**] has been carefully drafted to allow for a staged process of development, both through the consideration of the preliminary works, and through the application of the requirement to a part of the authorised development, rather than a specific and full work.

11.2.5 Sub-paragraph (2) stipulates that the applicant should set thresholds, which would then be linked to a definition of material worsening and, though sub-paragraphs (3), (4) and (5) to a scheme of mitigation. The Applicant has set out elsewhere that a defined threshold is not an appropriate approach to the provision of highways mitigation in the context of operational impacts on highways networks (Applicant's comments on Interested Parties' submissions regarding Wider Network Impacts at D7 [**REP8-123**]). In relation to construction impacts, this is also the case. Construction is necessarily a dynamic situation, but also allows a significant increase in the available tools that can be implemented, as set out in the outline Traffic Management Plan for Construction [**REP8-086**], and narrated in the above referenced response on the Asda roundabout. A threshold approach would be restrictive on the dynamic approach to controls that is required. The Applicant welcomes the recognition from PoTLL that the Protocols included within the Framework Agreement, currently the subject of negotiation, are appropriate.

11.3 Requirement 17 (Tilbury Link Road)

11.3.1 PoTLL confirm their view, at Deadline 8, their view that Requirement 17 should refer to regulation 19, not regulation 26, of the local plan regulations with the effect that emerging proposals included in the Thurrock Local Plan should be considered as the proposed Tilbury Link Road. As the Applicant explained at ISH14, the Applicant's view is that something should have gone through the process of a local plan in order to meet the definition of a proposed Tilbury Link Road. The Applicant noted the comments from PoTLL that proposals in an emerging plan are given limited weight in the NPPF. That is precisely why the reference to regulation 19 documentation is not appropriate: such proposals may be found to be unsound, and the definition in Requirement 17 does not allow "limited weight" but requires "full weight" be given to the proposals (i.e., PoTLL's suggestion would require the Applicant to consider any proposal as the proposed Tilbury Link Road with no ability to disregard it if, for example, the proposal in the documentation was not accepted as the proposed Tilbury Link Road). Nonetheless, a regulation 19 proposal could be reasonably considered to constitute the Tilbury Link Road and Requirement 17 did not preclude such a proposal from being considered the proposed Tilbury Link Road under paragraph 17(3)(d) of the dDCO.

11.3.2 PoTLL, who has agreed their preferred provision with Thurrock Council, further echo the request for an amendment to Requirement 17(3)(d). This is addressed in response to Thurrock Council above.

11.4 Protective Provisions

11.4.1 The Applicant remains hopeful, like PoTLL, of an agreement being reached before the end of the examination. PoTLL set out a number of concerns in relation to the Protective Provisions. The Applicant continues to discuss these with PoTLL and has made some important amendments in the latest submission of the draft Development Consent Order [**Document Reference 3.1 (11)**]:

a. The Applicant has introduced a requirement to seek approval of the proposed terms of any specified easement from PoTLL prior to such an easement being granted or acquired

b. The Applicant has introduced consultation on a number of plans prepared in response to control plan requirements, in respect of any matters or measures within them that may affect the Port.

c. The Applicant can also confirm that the form of indemnity is now agreed with PoTTL, this was one of the key outstanding issues between the Applicant and PoTTL. Issues relating to consent over land powers remains outstanding, but the Applicant's position is unchanged, and considers the changes provided in relation to "specified easements" provides yet further assurance and militates against any further changes to PoTTL's Protective Provisions.

11.4.2 The Applicant would highlight that in relation comments on the disputes process, the Applicant considers that it is entirely appropriate for the Secretary of State to be the arbiter in relation to the use of article 12, noting that the Secretary of State in question is the Secretary of State for Transport, and as such is the Secretary of State with accountability for highways and ports. This matter is not agreed with PoTLL.

12 Thurrock Council

12.1 Signposting to previous responses on the dDCO

12.1.1 In its Deadline 8 submissions, Thurrock Council has repeated (in most cases across multiple documents as well as sections within the same document), with no elaboration or new arguments, its position on a number of points. In respect of these identified matters, the Applicant is mindful that, given the scale and complexity of the Project, there is a need for information submitted into the examination to be provided in a manner which is proportionate and accessible for interested parties, the Examining Authority and the Secretary of State, to allow for appropriate consideration.

12.1.2 In that spirit, the Applicant has carefully considered the Deadline 8 submission and for all of the identified matters, the Applicant has provided responses which it considers addresses the matters. The Applicant has previously provided specific signposting to assist Thurrock Council. In particular, please see the signposting tables on page 19 of the Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [**REP6-085**] and page 25 of the Applicant's responses to Interested Parties' comments on the draft DCO at Deadline 6 [**REP7-190**].

12.1.3 The Council claims that the Applicant has failed to engage or address matters. This unsubstantiated claim is easily refuted by reference to the signposting referred to above. Below we have highlighted the multiple suggestions that there has been a failure to engage – some of which derive from text submitted at Deadline 1 and 3 – to show why no weight should be given to these claims. To reinforce the Applicant's position, further and specific signposting is provided below notwithstanding this duplicates comments comprehensively addressed.

Table 12.1 Response to Items in Section 3 of Thurrock Council Comments on Applicant's Submissions at Deadlines 6A and 7

Issue	Applicant's position
"Substantially in accordance with" – Thurrock Council repeats its previous submissions but adds that the phrase "i*n accordance… still leaves the applicant with a degree of flexibility, as explained by the Supreme Court in the Hillside Parks case and would not unlawfully (or as a matter of fact) fetter the applicant's discretion*"	The Applicant has justified its use of "substantially in accordance with" in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [**REP6-085**]. No new matters are raised except the reference to the *Hillside* judgment. The Applicant does not consider the *Hillside* judgment affects its position. The Applicant would note that a number of SRN DCOs – made after the *Hillside* judgment – continue to utilise "*substantially in accordance*". Indeed, the Applicant's reliance on the Secretary of State's decision letter for the A47 Wansford – in which the Secretary of State confirmed that changing "substantially in accordance with" to "*in accordance with*" would inappropriately fetter their discretion – came *after* the *Hillside* judgment. The Applicant also highlight the case of *Swire v Canterbury City Council* [2022] EWHC 390 (Admin) – a case more concerned with the use of the words "*in accordance*" vs. "*substantially in accordance*" in planning

Issue	Applicant's position
	conditions. In that case, the judge held that "*the degree of conformity required by condition 6 depends upon a combination of inter-related factors: the meaning and effect of the words "in accordance with", the nature of the parameter plans to which condition 6 relates, and how condition 6 sits with other conditions*". The judge accepted that using the phrase "strictly" would connote a stronger requirement for conformity thereby accepting that the particular drafting has a bearing on interpreting the degree of conformity required. In the Applicant's submission, the specific features of the relevant plans – i.e., that they are outline management plans or documents – justifies the use of the phrase "*substantially in accordance*". Where the Applicant is certain about conformity, it has necessarily used different drafting (e.g., Article 61 requires the undertaker to "implement" the measures in the SAC-R, the preliminary works must be carried out "in accordance" with the final iterations of the preliminary works EMP / TMP under Requirement 4(1) and 10(1)). The Applicant therefore considers it has appropriately considered each document, and each obligation, in order to reach a balance without fettering the Secretary of State's discretion or acting in a way which would clearly be contrary to the Secretary of State's explicit confirmation in the A47 Wansford to Sutton decision letter.
Requirement 17 – Passive Provision for the Tilbury Link Road – Thurrock Council requests an amendment to paragraph 3(d) so that the Secretary of State's approval is required.	The Applicant has explained – including at ISH14 – that the addition of an administrative step is unnecessary and disproportionate. The fundamental question is whether the Applicant – as the strategic highways authority in England – is in a position to reasonably consider and determine whether any proposal constitutes the proposed Tilbury Link Road. It is the Applicant's submission that it plainly is in a position to do so. No evidence has been produced to the contrary. The Applicant notes its statutory functions under its licence which require cooperation and ensuring the efficient and safe operation of the road network in this context. Adding an administrative step also leads to potentially perverse results. As noted, passive provision has been limited to consideration prior to the Design Review Panel (see Requirement 17(1)). By introducing a requirement that a formal step must be undertaken, it potentially means that, in its absence, nothing other than a formal determination by the Secretary of State could be considered. This runs contrary to the intention of the Applicant to – as a result of stakeholder feedback – provide passive provision for the Tilbury Link Road. The Applicant notes that in other instances where passive provision is provided – e.g. the Thurrock Flexible Generation Plant Development Consent Order 2020, the Galloper Wind Farm Order 2013 – there is no such administrative step.

Issue	Applicant's position
Requirement 18 – Orsett Cock & Wider Network Impacts (New Requirement) – Thurrock have jointly put forward a revised requirement.	The Applicant refers to its response to the Port of Tilbury at Section 11.1 above.
Protective Provisions for Local Highway Authorities	See response to the Joint Submission on LHA Protective Provisions at Section 2 above.
Discharging authority – Thurrock Council repeats its objection to the Secretary of State as the discharging authority.	The Applicant's position on this matter is set out in Section 6.3 of the Explanatory Memorandum [**REP8-008**]. No new matters, except citing a consultation by the Secretary of State on the A66 project, are raised by Thurrock. The Applicant does not consider a consultation letter on a different project affects the Project-specific reasons put forward in the Explanatory Memorandum. The Applicant would emphasise that no weight should be placed on a consultation letter, which is necessarily subject to reviewing responses and a final decision by the Secretary of State. The Applicant has confirmed its position regarding the discharging authority in response to the Secretary of State, and would note that, without prejudice to that position, this particular Project is in any event distinct (e.g. because it affects a greater number of local authorities where works traverse multiple local authority boundaries). The request on the A66 is made in relation to specific viaducts. It does not extend more generally. In the case of the Project dDCO, the design of significant assets (including project enhanced structures) is subject to an enhanced level of design input and approval (via Article 10 and the Protective Provisions for Local Highway Authorities, as well as the ground breaking design principle PRO0.07). In addition, unlike the A66, the Project has committed to using the local authority permit schemes – including those in Thurrock – which secures further approval (subject to the standard and precedented modifications in Article 9).
Signposting responses – Swansea Tidal Lagoon case and the use of "begin" vs. "commence" in Requirement 2 The Council alleges that the Applicant is apparently failing to address that "*it is difficult to see how the approach proposed by the Applicant is in the public interest.*"	No new matters are raised, the Applicant refers to Section 2.2 of the Applicant's responses to IP's comments on the dDCO at Deadline 4 [**REP5-089**]. It is in the public interest for a material operation – whether a preliminary work or not – to discharge the Time Limits requirement. As the Applicant has explained at great length in response to Action Point 1 of ISH7, the position is no different from the general operation of section 154/155. The suggestion that the "default" position, endorsed by Parliament, is somehow not in the public interest is wholly without merit, and it would be inappropriate to conclude that such a position could not be applied. The Applicant notes that Thurrock Council appear to have fundamentally misunderstood the use of the word begin. They state "*the applicant could preserve the DCO with very minor preliminary works being undertaken, which is*

Issue	Applicant's position
	contrary to the purpose and intention being the primary legislation". This is not correct. The definition of "begin" is: *"to carry out any material operation (as defined in section 56(4) (time when development begun) of the 1990 Act) forming part of the authorised development including preliminary works"* There must be a "material operation". This is why the use of "begin" leads to an outcome which is no different from the standard operation of section 154/155. The definition merely acknowledges the fact that a material operation could be a preliminary work, not that all preliminary works are sufficient to discharge the requirement.
Signposting responses – Article 6(3). Thurrock Council repeats with no elaboration its position on article 6(3).	The Applicant refers to pages 134 to 135 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [**REP4-212**] and Section 9.2 of the applicant's responses to IP's comments on the dDCO at Deadline 4 [**REP5-089**]. In short, the Applicant considers the proviso that there be no new materially new or materially different environmental effects, as well as the position that compulsory acquisition and temporary possession is limited to land inside the Order limits, justifies the use of the widely precedented provision (and the omission of the reference to "order limits" in an article which relates to *works* not land use). The Applicant notes the Council's submission that "the applicant has failed to comment on the Council's suggestion that this power be limited to the Order Limits, or for the following clarification around the meaning of '*materially new or materially different environmental effects*'". The Applicant appreciates that this text may have been copied and pasted from previous submissions but this statement is telling as that is plainly what the documents signposted above are addressing. The Applicant would request that the ExA specifically look at the signposting provided in which this claim is specifically addressed. The Applicant also specifically responded to the request for defining the well-understood, widely used and precedented phrase "environmental effects" on page 25 of the Applicant's responses to Interested Parties' comments on the draft DCO at Deadline 6 [**REP7-190**]. The Applicant considers that this example justifies the approach adopted by the Applicant to signposting and is a clear example that unsubstantiated assertion that the Applicant fails to consider the Council's response should not be given any weight. For completeness, the Applicant has never assumed that the Council are requesting a definition to be inserted into the dDCO.
Requirement 3 – Thurrock Council repeats its objection and makes an assertion that "*applicant fails to*	No new matters are raised, and despite the claim that a "*non-material amendment procedure*" is somehow being proposed, this well-precedented drafting is justified and

Issue	Applicant's position
grapple with the fact that what they are proposing is effectively a modified non-material amendment procedure"	the specific claim is responded to in Section 9.2 of the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089]. The Applicant notes that the Council has copy and pasted the same questions in relation to "materially new or materially different" under this heading. For completeness, these are addressed in the column directly above.
Signposting responses – Schedule 16. Thurrock Council repeats its objection about certified documents.	The Applicant's position is set out on page 143 of [REP4-212]. The Council claims this does not "*address the Council's detailed concerns, regarding why some of the documents are in the Schedule 16 and why some are not*". The Applicant has explained that it has sought to secure the relevant documents under the relevant Requirements. That is appropriate for this Project. Please also see the Applicant's response to Action Point 3 of ISH12 (Part 2) in the Deadline 9 Hearing Actions, submitted at Deadline 9 [**Document Reference 9.222**]. The Applicant would add that this was the subject of detailed explanation and justification in the pre-application period. The Applicant notes that the Council has previously asked for documents to be secured where they are not realistically capable of being secured (e.g., the request to "secure" the Book of Reference or Crown Land Plans).
Requirement 13	The Applicant notes agreement between Thurrock Council and the Applicant on this provision was reached in full prior to Deadline 8.
Air Quality (New Requirement)	Please see Section 8.5 of [REP7-190].

12.2 Thurrock Council's "rationalisation" of comments on the dDCO

12.2.1 Thurrock Council in Appendix B of Thurrock Council Comments on Applicant's Submissions at Deadline D6A and D7 set out that "*it would help the ExA if our key issues were reduced/combined and restated*". Appendix B therefore contains a repetition of the Council's previous submissions. The Applicant has reviewed these, and can confirm no new matters are raised. To assist the ExA, the Applicant has not copied and pasted its position, but has provided the signposting below so that the ExA can be assured these have been seriously considered by the Applicant.

Table 12.2 Further signposting for Thurrock Council in relation to Appendix B of Thurrock Council Comments on Applicant's Submissions at Deadlines 6A and 7

Matter raised in Appendix B	Signposting
Discharging authority	Please see Section 6.3 of the Explanatory Memorandum [REP8-008]. No new matters raised, and the reference to the A66 project is addressed in the table above.

Matter raised in Appendix B	Signposting
Deemed consent	Please see Section 6.3 of the Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**]. No new comments raised.
Article 9 / Traffic Management Forum	In relation to Article 9, please see page 141 to 144 of the Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**]. The disapplications of NRWSA appear in every transport DCO granted to the Applicant. Since these submissions, the Applicant has inserted Protective Provisions for Local Highway Authorities which go ever further in ensuring relevant input into traffic management matters. In relation to the generalised and unparticularised claims about the Traffic Management Forum, please see the Applicant's position on this in Section 1.2 of the Post-event submissions, including written submission of oral comments, for ISH2 [**REP1-184**]. The Applicant's approach in respect of the Traffic Management Forum generally is also set out in its post-hearing submissions for ISH12 [**REP8-111**]. The Applicant's approach is underpinned by its unparalleled experience in delivering nationally significant infrastructure projects and the detail provided goes above and beyond precedents.
"Materially new or materially different"	The Applicant refers to pages 134 to 135 of the Applicant's responses to IP's comments on the dDCO at Deadline 3 [**REP4-212**] and Section 9.2 of the applicant's responses to IP's comments on the dDCO at Deadline 4 [**REP5-089**]. Please see commentary in the table directly above as well.
Time limits for CPO	The Applicant's position on this is set out in its response to the ExA's commentary on the dDCO (see response to QD30 in [**REP8-117**]). The highly novel suggestion that time limits be provided on a plot by plot basis is addressed specifically on page 155 of Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**]. The Applicant strongly objects to this – it would be exceptionally onerous, is therefore disproportionate, and would set a very unwelcome precedent that would be contrary to the public interest in the efficient and cost

Matter raised in Appendix B	Signposting
	effective delivery of nationally significant infrastructure.
Article 35 – returned land	No new matters raised. Please see Section 8.2 of Applicant's responses to Interested Parties' comments on the draft DCO at Deadline 6 [**REP7-190**]. For completeness, the Applicant has inserted a requirement for planning permission to be in place in connection with article 35(5)(g). The council's suggested drafting is not considered appropriate as it does not account for the full circumstances in which planning permission could be in place.
Article 35 – notice period	Please see page 57 of [**AS-089**] as well as Section 5.167 of the Explanatory Memorandum [**REP8-008**]. A 3 month notice period is not appropriate or proportionate for the Project. The Applicant notes that complex projects such as the A14 Cambridge to Huntingdon project have provided 14 days (which the dDCO is doubling). The 28 days period must be seen in the context that landowners and occupiers have been consulted on land use over numerous consultations; have had an opportunity to take part in the examination process; and National Highways will be required to publish a notice under section 134 of the Planning Act 2008 if the Order is made. The Applicant does not think a 3 month period is consistent with the government's desire to ensure nationally significant infrastructure projects are expeditiously delivered. In addition, the Applicant would highlight the presence of requirements relating to Community Engagement in the Code of Construction Practice, as well as the existence of various forums which will ensure the local community – and Thurrock Council – are proportionately sighted on the proposals.
Article 39(2) - compensation	No new matters raised in relation to this highly novel suggestion. Please see page 166 of Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**].
Article 40 – special category land	No new matters raised. Please see page 35 to 39 of [**AS-089**]. The Applicant refers to the Planning Statement – Open Space Addendum which specifically responds to the suggestion that any delay to the delivery of replacement land is somehow unacceptable in principle.

Matter raised in Appendix B	Signposting
EMP3 – consultation and approval	No new matters raised. Please see page 83 to 84 of 9.63 Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**] as well as the Applicant's commentary on this matter in its post-hearing submissions for ISH12.
"Substantially in accordance with" / "reflect"	The Applicant has justified its use of "substantially in accordance with" in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [**REP6-085**]. The use of the word "reflect" is highly precedented and the Applicant's position on this is set out in Annex C.5 of the 9.188 Post-event submissions, including written submission of oral comments, for ISH12.
Article 65 – appeals to the Secretary of State (time period for responses)	Please see page 173 of – 9.63 Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**].
Article 66 – securing of documents	The Applicant's position is set out on page 143 of [**REP4-212**]. Please also see the Applicant's response provided above.

12.2.2 The Applicant notes that Thurrock Council has copied and pasted, or otherwise duplicated, its submissions in Annex 1 to Appendix B of its Deadline 8 submission, as well as its separate post-hearing submissions submitted at Deadline 8. In order to ensure there is proportionate information before the examination, and to reduce the burden on the Examining Authority and Interested Parties (some of whom are operating at taxpayers' expense), the Applicant has not repeated its responses and would simply rely on the signposting above, and its responses to the comments on the ExA's commentary on the dDCO below.

12.2.3 The Applicant considers that the Examining Authority has sufficient information to understand the Applicant's position on the matters raised, but the Applicant remains open to answering any queries from the Examining Authority on any matters relating to the dDCO. The Applicant wishes to make clear that the outstanding suggestions from Thurrock Council are highly novel, and would be damaging not just to the delivery of this nationally significant infrastructure project, but the delivery of UK infrastructure generally (and on that basis, wholly inconsistent with Government policy identified in the Explanatory Memorandum in Sections 5.18 and 5.19) [**REP8-008**].

12.2.4 The Applicant notes the concern expressed by the Government in Getting Great Britain building again: Speeding up infrastructure delivery (DLUHC, 2023) that "*the delivery of big infrastructure projects in our country could be much better. It is too slow. Too bureaucratic. Too uncertain.*" It goes onto state "*the system responds with more process, but longer processes are not leading to better outcomes. All these factors detract from the focus we need on delivery. We need to speed up every part of the process,… and hardwire a focus on delivery into every part of the system.*" With respect, Thurrock Council's proposals

present a material risk of exacerbating these issues by adding processes and administrative burdens at every juncture of construction, thereby increasing costs (at taxpayers' expense), and protracting construction to the detriment of local communities. -, The Applicant considers that this approach is at odds with Government policy in this context. Further, the Applicant considers its ample experience in delivering NSIPs, and its public duties and licence obligations, reinforce the case for resisting Thurrock Council's novel and bureaucratic proposals, and instead relying on the Project-specific robust controls put in place by the Applicant.

13 Transport for London

13.1 Signposting for TfL

13.1.1 At Deadline 8, TfL provided responses to the ExA's commentary on the dDCO [REP8-172]. The Applicant has set out a response to these in Section 14 of this document below.

13.1.2 In addition to TfL's responses to the ExA's commentary on the dDCO, TfL provided further comments on the dDCO in its comments on the Applicant's submissions at Deadline 7 [REP8-171]. The Applicant's response to those comments is below.

13.2 Wider Network Impacts

13.2.1 TfL states that it "… considers that the proposed requirement put forward by the Port of Tilbury London Ltd at Deadline 6 in Appendix 6 of its post-hearing submissions (REP6-163) as being suitable at securing mitigation of adverse impacts of the Project on the wider highway network. This proposed requirement strikes the right balance in ensuring that the Applicant does not become responsible for mitigation that is not directly caused by the Project, giving the Applicant responsibility for developing the mitigation in consultation with an Implementation group, and ensuring the opening of the Project is not delayed, while still ensuring the Applicant is held responsible for mitigation any adverse impacts directly caused by the Project that arise".

13.2.2 As set out in response to TfL's response to QD3 of the ExA's commentary on the dDCO (see Section 14 of this document), the Applicant has set out why it considers that replicating the Silvertown Tunnel approach to wider network impacts would be inappropriate in its post-hearing submissions in respect of ISH4 [REP4-180] and ISH7 [REP4-183] (see paragraphs 1.3.60 onwards of the latter submission) as well as the Wider Network Impact Position Paper [REP6-092] and the responses to comments on that document [REP8-123]. The Applicant does not therefore agree with TfL's (or other IPs') suggestion of replicating the Silvertown Tunnel approach to wider network impacts.

13.3 Commuted sums and costs

13.3.1 TfL reiterates its view that the protective provisions for the protection of local highway authorities should include provision for a commuted sum to cover the increased costs of maintenance on its highway network resulting from it taking responsibility for assets delivered by the Project.

13.3.2 The Applicant has set out its response to this matter in Section 2.4 of this document above. The Applicant has also provided a direct response to TfL in relation to this matter in its post-event submissions for ISH [REP4-183], Section 10 of [REP6-085] and Section 9 of [REP8-116]. TfL's submissions at Deadline 8 do not alter the Applicant's view that it would be inappropriate for the dDCO to make provision for the payment of commuted sums.

13.3.3 As regards TfL's suggestion that the protective provisions for highway authorities should include provision for the payment of TfL's costs and expenses incurred in relation to the Project (in addition to any commuted sums),

the Applicant refers to its comments at Section 2.5 of this document. These confirm why the Applicant does not consider it would be appropriate for the protective provisions to include provision for the payment of local highway authorities', including TfL's, costs in these circumstances.

14 Responses to comments on the ExA's commentary on the dDCO

14.1.1 The Applicant's responses to IP's comments on the ExA's Commentary on the dDCO has been set out below. To aid the ExA, the Applicant has summarised the position of each IP in the penultimate column, and set out its responses in the final column.

Table 14.1 Responses to comments on the ExA's commentary on the dDCO

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
QD1	Title of dDCO	Do any IPs have any submissions to make on the title of the dDCO?	The Applicant shares the ExA's view that the title of the dDCO [**Document Reference 3.1 (11)**] is a clear and accurate description of the purpose of the dDCO.	**Kent County Council** KCC confirmed it has no objection. **GBC** GBC confirmed it has no comments. **Environment Agency** The EA confirmed it has no objection. **Thames Crossing Action Group** TCAG object to the reference of the A122 on the basis they believe the road is a "*smart motorway by stealth.*"	The Applicant is grateful for the confirmations provided. In response to TCAG, the Applicant has comprehensively explained why the claim the proposed A122 is a motorway is incorrect as a matter of policy,

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				TfL TfL confirmed it has no concerns.	guidance and law (see [REP1-196]).
QD2	General	Do any IPs have any submissions to make on the structure or broad function of the provisions in the dDCO?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments made by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed they have no comments. **GBC** GBC confirmed it has no comments. **PLA** The PLA confirm "*no substantive comments on the structure or broad function of the provisions in the dDCO*" but they highlight a number of "house-keeping" corrections **Marine Management Organisation** The MMO confirms it has no comments.	The Applicant is grateful for the confirmations provided. The Applicant has updated the house-keeping comments to address all comments raised.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				TfL TfL confirmed it was broadly content with the structure of the dDCO, but noted there were outstanding matters still to be agreed in relation to the protective provisions for the benefit of local highway authorities.	In response to TfL's comments, the Applicant would refer to Section 2 of this document, which sets out its response to the Joint Submission on local highway authority protective provisions.
QD3	Schedule 16 (documents to be certified)	Are there any documents that have been submitted to the Examination that should be certified but are not recorded in the dDCO?	Having reviewed, the Applicant considers that the list of documents included in Schedule 16 to the dDCO [REP7-090] is complete but proposes to (1) include the Mitigation Route Map [REP4-203]; (2) amend the title of the Code of Construction Practice to improve the visibility of the REAC and (3) remove the Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes [APP-550]. As set out in the Explanatory Memorandum (EM) [REP7-092], the purpose of Schedule 16 and the certification process under article 62 of the dDCO is to identify the plans and	**Kent County Council** KCC requested confirmation that the Wider Network Impact Monitoring and Mitigation Plan is included in Schedule 16, as it was not included within the agenda for ISH12. **GBC** GBC expressed a preference for the REAC to be certified, if it is to be separated from (or duplicated in) the Code of Construction Practice.	The Applicant confirms that the Wider Network Impact Monitoring and Management Plan is included in Part 3 of Schedule 16 of the DCO. In response to GBC's comment, the Applicant amended the definition of the CoCP in the dDCO at Deadline 8 [REP8-006] to give greater visibility to the REAC. The REAC remains part of the CoCP, however, and

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			documents to be certified as true copies if the Order is made by the Secretary of State. This is so that there can be no doubt about which document or plan was correct, should a question arise to that effect later. As the ExA notes, the list of documents in Schedule 16 comprises plans and documents identifying the land and works forming part of the Project, as well as those which secure mitigation for the effects of the Project, or which are relevant to the assessment of those effects. Broadly, these are the criteria which have been applied by the Applicant in selecting the documents and plans for inclusion in Schedule 16. In relation to the Mitigation Route Map [**REP4-203**] referred to specifically by the ExA, the document was submitted to assist the ExA and IPs in understanding how mitigation relied upon in the Environmental Statement (ES) and related documents is secured by the dDCO [**REP7-090**]. As set out in paragraph 1.2.1 of the Mitigation Route Map, the document does not	**Environment Agency** The EA requested the inclusion of the Coalhouse Fort Flood Risk Assessment. **Thurrock Council** TC raise two comments: that the mitigation route map should be certified and secured. Second, that the Construction Plans are purportedly note secured. **Marine Management Organisation** The MMO confirms it has no comments and agrees there are no superfluous documents.	the CoCP (including the REAC) are certified documents under Schedule 16 to the dDCO. In response to the EA's request, the Applicant has added this assessment to Schedule 16. The Applicant has included the Mitigation Route Map as a certified document in Schedule 16 but given that document is an explanation of the control framework which is already secured, it is not appropriate to secure that document. As noted, a number of matters are signposted in that document, or replicated for ease of explanation. Such a proposal would lead to

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			have a formal status. In particular, it does not secure mitigation for the effects of the Project, nor does it speak to the assessment of the Project's effects which is addressed in the ES. Nonetheless, the Applicant does propose to list the Mitigation Route Map in Schedule 16 to the dDCO in order to ensure it is part of the suite of documents which interested parties may find helpful and which is proposed to be certified. As noted, the Applicant is content more broadly that the list of documents and plans in Schedule 16 is accurate and complete.	**TfL** TfL considered that the dDCO should include "*a more robust approach to mitigation*" of wider network impacts, citing the Monitoring and Mitigation Strategy included as a certified document in the Silvertown Tunnel Order 2018.	confusion about which document had the relevant obligation. In relation to Construction Logistics Plans, these are clearly required and set out under the CoCP, which is secured under Requirement 4(2). In response to TfL's comments, the Applicant set out why it considered that replicating the Silvertown Tunnel approach would be inappropriate in its post-hearing submissions in respect of ISH4 [**REP4-180**] and ISH7 [**REP4-183**] (see paragraphs 1.3.60 onwards of the latter submission) as well as the Wider Network Impact Position Statement [**REP6-092**]

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					and the responses to comments on that document [REP8-123]. The Applicant does not therefore agree with TfL's suggestion.
QD4	Schedule 16 (documents to be certified)	Are there any documents recorded in the dDCO as to be certified but which are superfluous?	The Applicant does not consider that any of the documents included in the dDCO [REP7-090] are superfluous and / or should be removed with the exception of the Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes [APP-550]. The list has been and will continue to be kept under review until the close of the Examination to ensure that all version references are correct. The Applicant, therefore, agrees with the ExA's proposal not to delete any documents from the proposed set of certified documents and control documents.	**Kent County Council** KCC confirmed they had not identified any superfluous documents. **GBC** GBC confirmed there were no documents which it had concerns about. **TfL** TfL confirmed it did not consider any of the certified documents to be superfluous. **Thurrock Council** TC make the repeated assertion that various documents should be secured.	The Applicant is grateful for the confirmations provided. The Applicant's position is set out on page 143 of [REP4-212]. The Applicant has explained that it has sought to secure the relevant documents under the

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					relevant Requirements. That is appropriate for this Project. Please also see the Applicant's response to Action Point 3 of ISH12 (Part 2) in the Deadline 9 Hearing Actions, submitted at Deadline 9 [**Document Reference 9.222**]. The Applicant would add that this was the subject of detailed explanation and justification in the pre-application period. The Applicant notes that the council has previously asked for documents to be secured where they are not realistically capable of being secured (e.g., the request to "secure" the Book of Reference or Crown Land Plans). Please see the specific response to TC on this matter in the document above at Section 12.

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QD5	Schedule 16 (documents to be certified)	Should Schedule 16 be restructured to set out the proposed certified documents in functional groupings?	The Applicant has considered the ExA's suggested functional grouping at paragraph 3.3.7 of its commentary on the dDCO [**PD-047**] and has reflected this in the revised dDCO submitted at Deadline 8 [**REP8-006**].	**Kent County Council** KCC agree with the ExA's proposed restructuring. **GBC** GBC commented that the ExA's proposed restructuring could assist the reader if undertaken in a logical way. **Thurrock Council** TC agree with the ExA's proposed restructuring. **Marine Management Organisation** The MMO confirms it has no comments. **TfL** TfL considered the restructuring of Schedule 16 would have value in terms of improved document accessibility / visibility	In response to all IP comments, the Applicant adopted the ExA's proposed restructuring in the dDCO submitted at Deadline 8 [**REP8-006**].

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QD6	Schedule 16 (documents to be certified)	Should the REAC be individually identified in Schedule 16 (certified documents)?	Notwithstanding the Applicant's view that the approach previously proposed was clear and accurate, the Applicant has modified the dDCO at Deadline 8 to improve the visibility of the Register of Environmental Actions and Commitments (REAC) in Schedule 16 to the dDCO [**REP8-006**].	**Kent County Council** KCC agreed that the REAC should be individually identified in Schedule 16 and also suggested the Landscape and Environmental Management Plan (LEMP) should be a free-standing Control Document outside of the REAC. **GBC** GBC commented that it would be helpful for the REAC to be identified individually in Schedule 16 to the dDCO. **LBH** LBH supports increased visibility of the REAC. **Environment Agency** The EA note that the REAC should be	In response to IP comments advocating that the REAC should be individually identified in Schedule 16, the Applicant amended the definition of the Code of Construction Practice in the dDCO at Deadline 8 [**REP8-006**] to give greater visibility to the REAC. The REAC remains part of the CoCP, however, and the CoCP (including the REAC) is a certified document under Schedule 16 to the dDCO. The Applicant has adopted this approach to avoid any unintended consequences which may arise from a disaggregation as a result of other documents referencing the CoCP as it currently stands. The Applicant also notes that its approach is consistent,

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				individually identified as a certified document. **Essex & Suffolk Water** ESW support the suggestion that the REAC should be individually identified as a certified document. **The PLA** The PLA note that the REAC should be individually identified as a certified document. **Marine Management Organisation** The MMO confirms it has no comments. **TfL** TfL supported the REAC being included as a standalone document in Schedule 16.	and required by, LA120 (DMRB). In response to KCC, the Applicant notes that the oLEMP is already a stand-alone document outside of the REAC.

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				Warley Green Ltd WGL support the individual certification of the REAC.	
QD7	Schedule 16 (documents to be certified)	Should the Mitigation Road Map be included as part of the REAC, as a separate CD or certified document or not at all?	See the Applicant's response to QD3. The Applicant proposes to include the Mitigation Route Map [REP4-203] in Schedule 16 to the dDCO [REP7-090]. It should be noted that the Mitigation Route Map refers to all of the controls which exist to secure environmental mitigation. The REAC is one important aspect of this. However, mitigation is contained in a number of other control documents, as detailed in Plate 2.1 and throughout the Mitigation Route Map. To append the Mitigation Route Map to the REAC in the manner suggested could therefore be misleading, and lead to unintended consequences thereby increasing confusion about what measures are secured, and under which provision.	**GBC** GBC commented that it would be helpful for the Mitigation Road Map to be a separate certified document but not form part of the REAC. **Kent County Council** KCC suggests that the Mitigation Road Map should be included within the REAC. **Thurrock Council** TC agree it should be certified, and though not asked by the ExA, should also be secured. **TfL** TfL considered this document has value to include as a certified document.	In response to GBC's, Kent County Council's, TfL's and Thurrock Council's comments, the Applicant updated Schedule 16 to the dDCO at Deadline 8 [REP8-006] to include reference to the Mitigation Road Map. The Applicant agrees with GBC and TfL's view that the Mitigation Road Map need not form part of the REAC, for the reasons set out in the Applicant's response to the ExA at Deadline 8 [REP8-117]. The Applicant has included the Mitigation Route Map as a certified document in Schedule 16 but given that document is an explanation of the control framework

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				Environment Agency The EA confirmed it has no comment. **Marine Management Organisation** The MMO confirms it has no comments.	which is already secured, it is not appropriate to secure that document itself. As noted, a number of matters are signposted in that document, or replicated for ease of explanation. Such a proposal would lead to confusion about which document had the binding obligation. The Applicant has had a well-trodden path of securing, establishing relevant processes, and implementing the existing framework and is concerned about the risk of unintended consequences by introducing an "overarching" secured document – originally provided merely to signpost, summarise and explain – into the process. The Applicant notes there is no SRN, nor transport DCO, as far as it is aware, that

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					has secured such a signposting document. In liaison with members of the team who worked on Thames Tideway (including senior members who were unaware of its existence), the Applicant confirms there is nothing from that project which affects its position.
QD8	Schedule 16	Do any IPs have any further submissions to make on the manner in which certified documents and specifically CDs are recorded in the dDCO?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments made by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it had no comments to make. **TfL** TfL confirmed it has no further comments on this matter. **Environment Agency** The EA confirmed it has no comment. **GBC** GBC expressed the view that there should be a requirement for the	The Applicant is grateful for the confirmations provided by Kent County Council, TfL and the EA. In response to GBC's comments, the Applicant updated the

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				REAC and the stakeholder actions and commitments register, and the other certified documents, to be made available to the public in one central location electronically. **Thurrock Council** TC is "*is broadly happy with the manner in which most of the certified documents and Control documents are secured*" but objects to the use of the phrase "reflect" and "substantially in accordance." **Marine Management Organisation**	dDCO at Deadline 8 [**REP8-006**] to include a requirement in substantially the same terms sought by GBC at article 62(9). The Applicant therefore considers this matter resolved but will review any submissions in relation to the proposed drafting at D9. The Applicant has justified its use of "substantially in accordance with" in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [**REP6-085**]. Please see further the response to Thurrock Council above on this issue at Section 12.

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				The MMO confirms it has no comments. **Thames Crossing Action Group** TCAG make comments about the use of precedent and state all the provision need to be as "*extensive and effective*" as possible.	The Applicant's position on the use of precedent is set out in Section 8.2 of [REP4-212]. The Applicant considers the provisions are extensive, and effective, for the reasons set out in the Explanatory Memorandum.
QD9	General	Are there any further matters that have been raised in the Examination that should be provided for in an Article but which are not? If so, please provide reasons and evidence for your position.	The Applicant does not consider that there are further matters which should be provided for in an article of the dDCO and considers that all matters raised have been addressed comprehensively through the iterative updates made to the dDCO during the course of the Examination. These are set out in detail in the schedule of updates to the dDCO, the latest version of which is submitted at Deadline 8 [REP8-106] alongside the revised dDCO [REP8-006].	**Kent County Council** KCC confirmed they had not identified any matters that require an additional article to the DCO. **GBC** GBC referred to the list of amendments submitted at Deadline 8 [REP8-131] alongside its response to the ExA's commentary on the draft DCO.	The Applicant is grateful to Kent County Council for its confirmation. For responses to GBC's list of proposed drafting amendments submitted at Deadline 8, see Section 4 of this document above.

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				Marine Management Organisation The MMO confirms it has no comments. **TfL** TfL confirmed it did not see the need for further article unless it was considered necessary to secure the mitigation of traffic impacts associated with the Project. TfL referred to article 66 of the Silvertown Tunnel Order 2018 by way of example.	In response to TfL's comments, the Applicant does not consider there is a need for further articles to be included relating to the traffic impacts of the Project. Requirement 14 of the dDCO requires the Applicant to submit written details of an operational traffic impact monitoring scheme, substantially in accordance with the wider network impact management and monitoring plan, for the approval of the Secretary of State before the tunnel area is open for traffic. The Applicant considers this approach to be

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					appropriate and proportionate for the reasons set out in Section 4 of [**REP4-180**]. The Applicant further refers to its comments in the Wider Network Impact Position Statement [**REP8-123**].
				LBH LBH states that Article 8 need to be amended to ensure s106 agreement is passed on.	The Applicant notes that the s106 Agreement is now signed with LBH, and understands this concern is no longer held. The Applicant notes that the s106 binds to land and does not share the concern. The Applicant notes that the sole example LBH raise relates to a scheme where the promoter did not own any relevant land. The extent of land in this context is not relevant and the Applicant considers the s106 is appropriately secured.

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				LBH also set out that they are concerned that Article 61 is being used to secure the SEE Strategy and Community Fund. LBH have a specific concern that the Secretary of State can consent to a variation.	The Applicant moved the SEE Strategy and the Community Fund in response to comments from local authorities, including LBH, that s106 was not an appropriate vehicle. As for the concern about a variation, section 106 agreements can too be varied under section 106A of the Town and Country Planning Act 1990. Indeed, the provisions of Article 61 are based on s106A. The Applicant considers the suggestion that the "*safe and expeditious delivery of the*" Project should not be a relevant consideration to be unreasonable and it would note that consideration must also be given to the necessity for any measure.

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				Article 62 – LBH state that the provision of this article should not be included as they claim they circumvent the processes under the Planning Act 2008 Article 62(2)(d) – LBH requests the 10 day period be extended in relation to the appeals process.	In relation to article 62, no new matters are raised and the Applicant has responded to this misconceived view, please see page 87 to 89 of [**REP4-212**]. In relation to article 62(2)(d), no new matters have been raised by LBH and the Applicant's position is set out on page 90 of [**REP4-212**]. In short, given the limited nature of an appeal, as well as the significant and substantial consultation which will have been carried out, a 10 period is considered appropriate. The Applicant notes this position is extremely well precedented (see page 90 of [**REP4-212**]).

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				Thurrock Council TC confirms that no additional articles are required but requests it is made clear that that consultation and engagement applies to all subsequent iterations of the associated document or process	In relation to the comment about consultation, consultation is already secured under the relevant provisions.
QD10	General	Are there any matters provided for in an Article which are superfluous? If so, please provide reasons and evidence for your position.	The Applicant does not consider that there are any matters provided for in an article of the dDCO [REP7-090] which are superfluous. The justification and need for each article of the dDCO is set out in detail in the EM [REP7-092], which has been supplemented during the course of the Examination in response to the ExA's and IPs' observations on the dDCO.	**Kent County Council** KCC confirmed they had not identified any superfluous articles. **GBC** GBC referred to the list of amendments submitted at Deadline 8 [REP8-131] alongside its response to the ExA's commentary on the draft DCO. **TfL** TfL confirmed it did not consider any of the dDCO articles to be superfluous.	The Applicant is grateful for Kent County Council's and TfL's confirmations. For responses to GBC's list of proposed drafting amendments submitted at Deadline 8, see Section 4 of this document above.

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QD11	General	Are there Articles that the ExA has not yet commented on in respect of which a change in drafting is sought? If so, please provide reasons and evidence your position.	The Applicant understands this question is directed primarily to Interested Parties and does not therefore propose to comment substantively at this stage. The Applicant would, however, note that it has responded in detail during the course of the Examination to IPs' submissions and suggestions in relation to the dDCO. The Applicant would refer in this regard to [REP2-077], [REP3-144], [REP4-212], [REP5-089] and [REP6-085] as well as its equivalent submission at Deadline 8.	**Kent County Council** KCC confirmed they are not seeking any additional drafting changes. **GBC** GBC refers to the list of amendments submitted at Deadline 8 [REP8-131] alongside its response to the ExA's commentary on the draft DCO. **Environment Agency** The EA refers to their note submitted at Deadline 8 [REP8-123] related to Article 68. **Thurrock Council** TC confirms that it has not identified any Articles which are superfluous.	The Applicant is grateful for Kent County Council's and TfL's confirmations. For responses to GBC's list of proposed drafting amendments submitted at Deadline 8, see Section 4 of this document above. In response to the EA's comments, the Applicant updated the dDCO at Deadline 8 [REP8-006] to include an Article 68 which was agreed with the EA. The Applicant therefore considers this matter resolved.

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				TfL TfL confirmed it was not seeking a change in drafting for any other articles which the ExA has not commented on. **Thames Crossing Action Group** TCAG request that "*articles include a way of ensuring The Wilderness being added to the Ancient Woodland Inventory is recognised and secured within the dDCO*".	It is not appropriate for a dDCO to provide this. The Applicant has secured appropriate mitigation in respect of the Wilderness and this is secured under Requirements 3, 4 and 5 contained in Schedule 2.
QD12	General	All prospective consenting bodies subject to deemed consent provisions with a time-limit are asked to consider the appropriateness of a provision for deemed consent and of the time limit. If these are not considered to be appropriate then they	The Applicant notes that this question is directed specifically to consenting bodies subject to deemed consent provisions under the dDCO and so does not propose to respond substantively on this point at this stage. The Applicant would, however, refer to its response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**], which sets out in	**Essex & Suffolk Water** ESW refers to the protective provisions they submitted at Deadline 7 [**REP7-224**] as the version they would like in the DCO.	In response to ESW, the Applicant continues to negotiate the terms of protective provisions and is hopeful that agreement will be reached. The Applicant has set out its final position in relation to negotiations at Deadline 9 [**Document Reference 9.3 (5)**].

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		are asked to explain why and how these provisions might be varied.	detail the Applicant's position regarding the widely precedented approach to the use of deemed consent provisions.	**Kent County Council** KCC does not consider the 28-day period of deemed consent to be long enough for informed consent to be granted in specific cases. They propose a 60-day period instead. **GBC** GBC raised no objection to the terms of the deemed consent provision in article 19(8) of the dDCO. GBC did however object to the period for consultation specified in Requirement 22(1)(a), which GBC considered should be 42 days rather than 28 days, and the additional discretionary period should be a minimum of 56 rather than 28 days. GBC also reiterated its suggestion for a running future timetable of applications and	In response to KCC and GBC, the Applicant considers the time periods currently set out in Requirement 22(1)(a) are appropriate in the context of this application and has provided submissions in relation to this matter during the course of the examination in [REP1-184] and [REP4-212]. The Applicant would stress that the timescales for consultation under Requirement 22 were amended so as to enable the 28 day period to be extended to 42 days, with the Applicant's consent (not to be unreasonably withheld), in response to stakeholder comments on the dDCO during the pre-application stage. Given the extent of engagement which will precede formal

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				consultations under the Requirements.	consultation with relevant bodies on plans and documents under the Requirements, the Applicant considers the base position of 28 days to be appropriate, with provision made for extensions to be approved in appropriate circumstances. As regards GBC's suggestion of a running timetable of applications and consultations under the Requirements, the Applicant reiterates its position that, under Requirement 23 of the dDCO, the Applicant will already be required to establish and maintain a register of Requirements. This register must set out, in relation to each requirement, the status of the requirement. The Applicant therefore

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				Thurrock Council TC objects to deemed consent provisions **Marine Management Organisation** The MMO confirms it has no comments. **Thames Crossing Action Group** TCAG object to a 28 day period.	considers that the timetable sought by GBC is already secured by Requirement 23. In response to TC and TCAG, please see Section 6.3 of the Applicant's response to IP comments made on the draft DCO at Deadline 1 [REP2-077] which justifies the use of the well-precedented deemed consent provisions. The Applicant notes that TC are suggesting a 3 month period for extension. No DCO contains such a protracted process and the Applicant considers such a period for extension would detract from making expeditious decisions to the detriment of the local community, as well as to the Applicant's requirement to ensure taxpayers

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					money is used in a manner consistent with value for money. An application could simply be refused if the relevant authority is not content, and the Applicant would have to re-submit the relevant application or utilise the appeal process. TC makes the unsubstantiated that this is route is "less efficient" on the mistaken belief that an application could not be determined sooner than the 28 day period in the event of a re-application.
				TfL TfL confirmed it was seeking an increase in the time limits within which applications for approval would need to	The Applicant has provided a response to TfL's comments on the time periods specified in articles 12, 17 and 19 in Section 12 of [REP2-077]. For the reasons given in that response, the Applicant maintains

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				be determined under articles 12, 17 and 19 of the dDCO from 28 days to 42 days. TfL cited the changes made to Requirement 22(2) of the dDCO, which would enable the Applicant to consent to an extension of the 28 day consultation period in Requirement 22(1) upon request.	that the time periods specified are appropriate. The Applicant does not consider it appropriate to extend the ability to grant an extension under Requirement 22 so that it applies to articles 12, 17 and 19. The self-contained nature of the matters to be determined under those articles makes them distinguishable from the matters to be determined under the Requirements. If the local authority is not satisfied, it could simply refuse the application. The Applicant considers an explicit requirement to allow for extension would distract from considering the Application itself. Furthermore, article 9(8) of the dDCO confirms that any local

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					permit schemes made under Part 3 of the Traffic Management Act 2004 will apply to the construction and maintenance of the authorised development. This means that the timescales applicable to applications for permits under those schemes would need to be observed by the Applicant, such that local authorities will be well apprised of matters at the point an application for consent comes forward under articles 12, 17 or 19.
QD13	Article 2 (interpretation)	The Applicant is requested to explain more fully the inter-relationship between this provision, A27, Schedule 2 R1 and R2. Is there an argument for a simplified and harmonised approach to the	As the ExA notes, the Applicant has incorporated two distinct definitions for "begin" (defined in article 2,) and "commence" (defined in Requirement 1) in the dDCO [**REP7-090**]. The key distinction between the two is that "begin" includes material operations, including the preliminary works (defined in the dDCO), and "commence" does not.	**GBC** GBC noted that it will provide comments if necessary, at D9. **PLA** The PLA consider the term "commence", not "begin" should be used as it would mean "even	The Applicant will consider any comments submitted by GBC at D9. The Applicant's position is that the use of "begin" in Schedule 2 is appropriate, and justified for the reasons which have been the

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		relevant time limits for development and for CA?	On the face of the dDCO, the Applicant has used the word "commence" and "begin" in relation to specific Requirements. To be clear, the time limits for the exercise of authority to acquire land compulsorily under article 27 are subject to separate timescales. The definitions of "begin" in article 2 (now Requirement 2) and "commence" in Requirement 1 do not apply in that context. The justification for those time limits is set out in the EM [**REP7-092**] and is further articulated in response to QD29 and QD30 below. In relation to the term "begin", that term is used on two occasions in Schedule 2, in circumstances where it would not be appropriate for the pre-commencement requirements applicable to the discharge of Requirements more generally under Schedule 2 to be engaged. Those instances are Requirements 2 and 7, because the Applicant considers that, for the purposes of Requirement 2, the carrying out of a material operation – whether it relates to a preliminary work or not – should be sufficient for the purposes of	minor works" would allow the discharge of the provisions. **Thurrock Council** TC repeats its position that "commence" should be used in Requirement 2.	subject of significant examination, and explained in [**REP1-184**], [**AS-089**], and its response to Action Point 1 of ISH7 in the Applicant's responses to IP's comments on the dDCO at Deadline 4 [**REP5-089**]. This matter was also raised in the Examining Authority's commentary on the dDCO, and the Applicant refers to its responses to QD13 to QD16 on this matter submitted at Deadline 8 (as shown in coumn 4). The Applicant would note that it is simply not correct to say that "minor works" would discharge the relevant requirement – please see the Applicant's response to Thurrock Council above at Section 12.

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			discharging the requirement on time limits. The Applicant explained its position in this regard in its post-event submissions, including written submission of oral comments, for ISH2 [**REP1-184**]. The term "begin" is also used in Requirement 7 as a way of ensuring that prior to carrying out any works – whether they are preliminary works or not – pre-construction surveys must be carried out. On the other hand, "commence" is used in Schedule 2 where a Requirement must be discharged before the relevant works can commence. The term "commence" is employed in relation to Requirements 4(2), 8, 9, 10(2), 11, 13, 16 and 18. The Applicant does not agree that there is scope for interpretational uncertainty due to the use of the terms "begin" and "commence" in the manner proposed in the dDCO. In fact, in *Tidal Lagoon (Swansea Bay) Plc v Secretary of State for Business, Energy and Industrial Strategy* [2022] EWCA Civ 1579, it was in essence because those two terms had not been employed in		

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			the manner proposed in the dDCO that litigation subsequently ensued, with delay and uncertainty created for all parties as a result. The Applicant's position on that case is set out in response to Action Point 1 of ISH7 contained in [**REP5-089**]. It should be noted that there is a further scenario: where preliminary works are carried out, they are caught by the Preliminary Works EMP / REAC under Requirement 4(1), and the preliminary traffic management plan under Requirement 10(1). Whilst the concept of a "preliminary works EMP" which is secured at the point of the Order being made is precedented (see e.g. M42 Junction 6 DCO, A303 Stonehenge DCO), the Applicant's approach to securing a "preliminary works" Traffic Management Plan goes above and beyond the precedented strategic road network DCOs. This approach of being able to carry out preliminary works without having to discharge the Requirements is, in the Applicant's view, appropriate in light of the relative significance of		

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			the works, and the fact that the controls are secured. This is explained in greater detail in the Applicant's post-event submissions, including written submission of oral comments, for ISH2 [REP1-184]. Where the term "commence" is used in Requirements 4(2), 8, 9, 10(2), 11, 13, 16 and 18, the Applicant must have submitted and received approval for the relevant control plan required. In contrast to the preliminary works, these are comparatively more significant works; management plans would accordingly need to be produced based on outline documents and therefore it is appropriate that these are subject to a 'pre-commencement' condition preventing the works from starting. In the Applicant's view, the drafting is clear in using "begin" where preliminary works should be considered (because it is sufficient for the development to have carried out a material operation to satisfy the time limit requirement), and "commence", which excludes the preliminary works, where controls must be secured prior to		

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			starting the relevant works. The Applicant has also, in connection with the preliminary works, ensured that appropriate controls are in place. The Applicant therefore considers that the relationship between the definitions of "begin" and "commence" in the dDCO is clear and appropriate. The Applicant does not consider the definitions are at odds with each other but instead believes that they operate in a complementary way to ensure that the Schedule 2 requirements can function in a coherent manner. The Applicant does not therefore propose to modify the dDCO in relation to this aspect of the drafting.		
QD14	Article 2 (interpretation)	The Applicant is asked to explain more fully why it is necessary to employ a definition of 'begin' as opposed to the more conventional approach of defining 'commence' with a carve-out for 'preliminary works'	The Applicant refers to its response to QD13. The term "begin" should be considered specifically in the context of Requirements 2 and 7 of the dDCO [**REP7-090**] and has been included to ensure that those provisions can operate in the intended manner. A definition of "commence", which includes a standard carve-out for preliminary works, has also been included and	**GBC** GBC noted that it will provide comments if necessary, at D9 but signposted to its written submissions on this matter following ISH7.	The Applicant has made extensive submissions in relation to this matter during the course of the examination, most recently in response to QD13 above at Deadline 8 [**REP8-117**]. The Applicant has no further comments to make in support of the

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			applies to many of the Schedule 2 Requirements, such that where those requirements are engaged commencement would be contingent on the production of detailed management plans for the approval of the Secretary of State.		drafting approach adopted in the dDCO.
QD15	Article 2 (interpretation)	The Applicant is requested to review the basis for and the relationship between the definitions of 'begin' in A2 and 'commence' and 'preliminary works' in Schedule 2 R1, to assure the ExA that apparent circularity has been removed. Could re-basing these definitions on s155 PA2008 assist this task?	The Applicant refers to its response to QD13. The Applicant does not consider that there is circularity between the respective definitions, each of which has been77ncludeed to fulfil a specific purpose. The Applicant would note that utilising the definition in the Town and Country Planning Act 1990 provides further specificity in relation to the works which would constitute "beginning" development. This is heavily precedented across the Applicant's DCO.	**GBC** GBC noted that it will provide comments if necessary at D9 but signposted to its submissions made during the course of the examination regarding the definitions of "begin" and "commence".	The Applicant has provided extensive submissions in relation to this matter during the course of the examination, most recently in response to QD13 above at Deadline 7. The Applicant has no further comments to make in support of the drafting approach adopted in the dDCO.
QD16	Article 2 (interpretation)	What would be the effect for the Proposed Development of a return to the more conventional drafting approach of defining 'commence' with a carve-out for	The Applicant would first note that the definition of "commence" in Requirement 1 already includes a carve-out for preliminary works. Nevertheless, the primary effect of the ExA's suggestion would be to link Requirement 2 and Requirement 7 of Schedule 2 to	**Kent County Council** KCC supports the conventional drafting approach and purports that the use of "begin" and "commence" potentially creates	In response to KCC's and GBC's comments, the Applicant has set out in detail in response to QD13 above at Deadline 8 why it considers the use of two separate terms to address different

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		'preliminary works' in A2, with all subsequent references in the dDCO amended as necessary?	the commencement of the authorised development as opposed to beginning the authorised development. This approach would undermine the Applicant's intention that the carrying out of any material operation should be sufficient to satisfy the time limits in Requirement 2 and by doing so, avoid the scenario which arose in the *Tidal Lagoon* case referred to above. The effect of this would be a risk that the requirement would not be discharged notwithstanding that material operations had been carried out. Similarly, this approach would also conflict with the Applicant's intention that final pre-construction survey work should be required under Requirement 7 before any material operation is carried out over land. If commencement was instead the trigger under Requirement 7, then the preliminary works would in principle be authorised in the absence of such surveys. This would erode the protections which the Applicant has sought to build into the dDCO.	confusion and runs the risk of developing a circularity in the definitions as well as allowing for the DCO to be kept alive by preliminary works. **GBC** GBC adopted the view that the drafting approach suggested by the ExA would not remove confusion about the use of the different terms ("begin" and "commence") in the dDCO.	scenarios is appropriate in the context of the dDCO. The Applicant's position is that the use of "begin" in Schedule 2 is appropriate, and justified for the reasons which have been the subject of significant examination, and explained in [REP1-184], [AS-089], and its response to Action Point 1 of ISH7 in the Applicant's responses to IP's comments on the dDCO at Deadline 4 [REP5-089]. This matter was also raised in the Examining Authority's commentary on the dDCO, and the Applicant refers to its responses to QD13 to QD16 on this matter submitted at Deadline 8 (as shown in column 4). The Applicant has no further comments to make in support of its drafting approach.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				TfL TfL confirmed it had no comments on the definitions and use of 'begin' and 'commence'	The Applicant is grateful to TfL for its confirmation.
QD17	Article 2 (interpretation)	The Applicant, the Environment Agency (EA) and other water environment and industry stakeholders are asked to consider whether a more specific group of definitions of a watercourse would be justified and the possible drafting benefits of making such a change.	The Applicant considers that the term "watercourse" – which as the ExA notes is well precedented – is appropriately defined in article 2 of the dDCO [**REP7-090**]. The definition relates to the Applicant's powers in relation to watercourses under articles 18, 19 and 21 of the dDCO and is intended to ensure that the Applicant can implement the Project insofar as it relates to or requires measures to be taken in relation to any watercourses that might be encountered on a scheme of this scale. The Applicant does not consider that an alternative grouping or categorisation of watercourses which would fall within the definition would change the scope or meaning of those powers. For example, it is not the Applicant's intention that the powers should operate in one way for certain	**Kent County Council** KCC confirmed it was broadly content with the existing definition of watercourse. For the purposes of the DCO, KCC suggests ponds should be included. **Environment Agency** The EA notes that it would have no objection to the definition of watercourse in the DCO simply cross referring to s72(1) Land Drainage Act 1991. **Thurrock Council** TC confirms it has no concerns.	Given the overarching contentment of the interested parties, the Applicant considers the definition of "watercourse" to be sufficient as drafted for the reasons set out in its response to the Examining Authority's commentary on the dDCO. The extension of the definition to ponds is not appropriate as the purpose of defining "watercourse" is to protect the flow of water/drainage of land, so the definition focuses on features through which water passes, rather than static bodies of water like lakes and ponds.

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			watercourses and in another way for others. To the extent that water quality and biodiversity considerations are relevant to any watercourse which would be subject to the exercise of these powers, those considerations are addressed by other mechanisms in the dDCO, including the REAC. The Applicant would also specifically highlight article 19(10) of the dDCO, which provides that *"… nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) … of the Environmental Permitting (England and Wales) Regulations 2016"*. For these reasons, the Applicant does not consider that an alternative definition of the term would be justified or that there would be benefits in making such a change.	**Marine Management Organisation** The MMO confirms it has no comments and defers to the EA.	
QD18	Article 6 (limits of deviation)	The Applicant and relevant statutory undertakers are asked to consider the effect of the remaining 'limitless' downwards vertical limits of deviation.	The Applicant does not consider such a caveat to be necessary. As set out in paragraph 2.2.21 of Environmental Statement Chapter 2 – Project Description [APP-140]: *"This ES and the assessments within it are based on the works proposed in the DCO application*	**Kent County Council** Asserts that a deviation limit should be specified. **GBC** GBC stated that it was neutral on this issue but	The Applicant notes KCC's position and considers this is addressed in its response to the Examining Authority's commentary on the dDCO.

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		Should these be subject to a caveat limiting the materially adverse effects of downward variation to that assessed within the ES?	*and the Order Limits (i.e., the maximum area of land anticipated as likely to be required, taking into account the LOD proposed for the Project and the flexibility of detailed design provided for in the DCO"* (*emphasis added*). Therefore, where any of the works set out in article 6 of the dDCO [**REP7-090**] are subject to 'limitless' downwards vertical limits of deviation, which is the case for the works described in articles 6(2)(f), 6(2)(g), 6(2)(h) and 6(2)(i) of the dDCO, the implications of this have already been considered by the Applicant and the Applicant has then satisfied itself through the assessment process that the ability to carry out those works to an as yet unspecified and (theoretically) unlimited depth would not give rise to effects which have not been assessed in the ES. To caveat the operation of article 6 in the manner suggested by the ExA would not therefore materially change the effect of the provision and is therefore considered to be unnecessary. Leaving aside the Project-specific justification provided above, the	signposted to its separate comments regarding the vertical limits of deviation. **Marine Management Organisation** The MMO advise that the Project must "*not give rise to environmental effects materially more adverse than those assessed in the ES*".	In addition to the detailed justification provided in response to this question at Deadline 8, the Applicant notes that GBC has raised no concerns regarding this specific aspect of article 6. The Applicant has provided a response to GBC's comments in relation to the vertical limits of deviation at Chalk Park in Section 4 of this document above. In response to the MMO, the Applicant can confirm that Article 6, together with article 2(10), ensure no "materially more adverse" effects could arise.

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			Applicant would further note this approach in relation to utilities assets is precedented (see, for example, the Thorpe Marsh Gas Pipeline Order 2016 and the River Humber Gas Pipeline Replacement Order 2016 in connection with gas pipeline works, and the National Grid (Richborough Connection Project) Development Consent Order 2017 in connection with overhead line works).	**TfL** TfL considered that a caveat was required under article 6 for works with limitless downwards limits of deviation, so as to limit materially adverse effects to the extent assessed in the Environmental Statement.	As regards TfL's comments, the Applicant does not consider that such a caveat is necessary. As set out in the Applicant's response to QD19 (see third column), the Applicant has satisfied itself through the environmental assessment process that the ability to carry out certain works to a (theoretically) unlimited depth would not give rise to adverse effects which have not been assessed in the ES. The position is therefore distinguishable from works with defined (and limited) downwards limits of deviation, where the assessment conclusions relate only to those defined depths.

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QD19	Article 6 (limits of deviation)	The Applicant and the PLA are asked to clarify the latest position on the drafting of the upwards limits of deviation for tunnelling beneath the Thames.	Paragraph 99 and 100 of Schedule 14 to the dDCO [**REP7-090**] secure the agreed depths. Paragraph 99 is cross-referred to in the relevant parts of article 6. The Applicant is pleased to confirm that these paragraphs are agreed with the PLA, with the exception of one outstanding matter (paragraph 99(6)). The Applicant's position on this is set out in the Applicant's responses to comments on the dDCO at Deadline 7, which is submitted at Deadline 8 [**REP8-116**].	**PLA** The PLA confirm that in relation to article 6(2)(p), matters are now agreed and that substantive agreement (with the exception of the arbitration provision) is also agreed.	The Applicant is grateful for the confirmation on agreement with the PLA on article 6 and paragraph 99. In relation to arbitration, please see Section 10 above.
QD20	Article 10 (construction and maintenance of new, altered or diverted streets and other structures)	Are the Local Highway Authorities content that A10 adequately provides for the maintenance of Green Bridges? If full agreement has yet to be reached then final submissions on drafting for comment between the parties should be made.	The Applicant notes that this question is addressed to the local highway authorities. The Applicant would nevertheless highlight for clarity that specific provision is made for green bridges in article 10 of the dDCO [**REP7-090**]. In particular, article 10(8) confirms that so much of each bridge as comprises highway within the meaning of the Highways Act 1980, would be maintained by the local highway authority in accordance with the general provision for the maintenance of new streets under article 10 of the dDCO. However,	**Kent County Council** KCC confirmed their contentment with the drafting of Article 10(8). and noted that precise details will be clarified at the detailed design stage. **GBC** GBC noted that it had a real interest that the green elements of the bridge will be maintained in the long term and therefore may comment at D9.	In response to GBC's comments, the Applicant is hopeful that the clarification provided in response to this question at D8 will satisfy any concerns it may otherwise have had. The Applicant will, however, consider any comments provided by GBC at D9.

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			the planting and vegetation on either side of the highway would be maintained by the undertaker in accordance with the provisions of a landscape and ecology management plan approved under Requirement 5 of Schedule 2 to the dDCO.	**Thurrock Council** TC confirms it is content. **TfL** TfL confirmed it had no comments.	
QD21	Article 12 (temporary closure, alteration and restriction of use of streets and private means of access)	The Applicant is asked to explain more fully why this power needs to apply to streets outside the Order limits. Could the power be limited to land within the Order limits and what would the effect of such a change be?	The Applicant will need to take access to streets within and outside the Order Limits in order to access the authorised development for the purposes of construction. A "street" in this context includes any highway (see the definition in section 48 of the New Roads and Street Works Act 1991, to which article 2 of the dDCO [**REP7-090**] refers), so would encompass the wider road network in the area which will be used by construction vehicles to access construction work sites. The power in article 12, therefore, ensures that a mechanism exists pursuant to which the Applicant can effectively respond to challenges which may arise on the wider road network which could present a danger to road users and / or impede the delivery of the	**GBC** GBC noted that it will provide comments if necessary at D9.	The Applicant will consider any comments submitted by GBC at D9.

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			authorised development. This could, for example, include a temporary restriction on the type of vehicles using a given street. If the power were not included in the dDCO, the Applicant would need to resort to existing statutory regimes, such as the Road Traffic Regulation Act 1984, to seek the powers instead. The Applicant considers it is preferable and more appropriate to include the powers in the dDCO, given the Project's national significance and that the overarching purpose of the Planning Act 2008 was to provide a one stop shop for the consenting of Nationally Significant Infrastructure Projects. The Applicant's Response to Issue Specific Hearing (ISH) 2 draft DCO [**AS-089**] explained the safeguards which are drafted into article 12 of the dDCO to ensure that the exercise of the power is subject to appropriate controls. Notably, this includes the need to seek the consent of the relevant street authority under article 12(5)(b). The application of this provision to streets located outside the Order Limits is well precedented and has		

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			been approved by the Secretary of State on a number of occasions. Recent examples include the A47 Wansford to Sutton Development Consent Order 2023 (see article 16) and the A57 Link Roads Development Consent Order 2022 (see article 14). Accordingly, the Applicant does not consider that it would be appropriate to limit the application of the provision to streets and private means of access located within the Order Limits.		
QD22	Article 12 (temporary closure, alteration and restriction of use of streets and private means of access)	IPs who are street authorities are asked whether a 28-day deemed consent provision in A12(8) is reasonable. If not, please propose and justify an appropriate alternative provision.	The Applicant notes that this question is directed to street authorities. The Applicant would, however, refer the ExA to paragraph 5.72 of the EM [**REP7-092**], which sets out the justification for the inclusion of a deemed consent provision and the extensive precedent which exists in support of this approach.	**LBH** LBH is content with the deemed consent provision. **Kent County Council** KCC asserts that a 28-day period for deemed consent is too short and a 12-week period ought to be inserted for prohibitions and restrictions. **Thurrock Council** TC suggests the "standard" 3-month period.	Please see the Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**] which justifies the use of the well-precedented deemed consent provisions. The Applicant notes that TC and KCC are suggesting a 3 month period for extension. No DCO contains such a protracted process and the Applicant considers such a period for extension would detract

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				TfL TfL considered that a 42-day deemed consent provision would be more appropriate than 28 days.	from making expeditious decisions to the detriment of the local community, as well as to the Applicant's requirement to ensure taxpayers money is used in a manner consistent with value for money. An application could simply be refused if the relevant authority is not content, and the Applicant would have to re-submit the relevant application or utilise the appeal process. In relation to TfL's suggestion of a 42-day deemed consent period, the Applicant refers to Table 12.1 of [REP2-077] and Table 4 of [REP4-212] (in response to equivalent submissions made by LBH), which sets out the justification for the 28 day deemed

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					consent period in article 12.
QD23	Article 17 (traffic regulation – local roads)	Traffic authorities and emergency services bodies (consultees) are asked whether the deemed consent period of 28 days in A17(11) is appropriate and, if not, to propose and justify and appropriate alternative provision.	The Applicant notes that this question is directed to traffic authorities and emergency services bodies. The Applicant would, however, refer the ExA to its response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**], which set out the Applicant's response to the London Borough of Havering's concern that the period of 28 days in article 12 was too short. The Applicant remains of the view that the period of 28 days is appropriate in the context of this Order.	**LBH** LBH is content with the deemed consent provision. **Kent County Council** KCC asserts that A17(5) should be amended to provide a 12-week period of notice. **Emergency Services and Safety Partnership Steering Group** The ESSP SG are content with the 28 day consent period, although request that provision is made for this to be extended to 42 days by written agreement between the parties in exceptional circumstances.	In response to KCC, TfL and TC, please see directly above. In relation to the ESSPSG request, please see the response provided in relation to QD12 above.

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				Thurrock Council TC have copy and pasted the same response to QD22. **TfL** TfL considered that a 42-day deemed consent provision would be more appropriate than 28 days.	
QD24	Article 18 (powers in relation to relevant navigations or watercourses)	The Port of London Authority (PLA), Port of Tilbury London Ltd (PoTLL), DP World London Gateway Port (LPG) and any other IP operating vessels on the Thames are asked for final positions on this drafting.	The Applicant notes that this question is directed to Interested Parties and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable. The Applicant would note that the provision is now agreed with the PLA following amendments made to this provision.	**PLA** The PLA confirms that it "*is content that the drafting of Article 18 is appropriate*".	The Applicant is grateful for the confirmation from the PLA in relation to Article 18.
QD25	Article 18 (powers in relation to relevant	The Applicant is asked to identify whether this power actually does or	Whilst it is the Applicant's position that article 18 could apply to a houseboat mooring, the Applicant would stress there is no evidence	**PLA** The PLA confirms there are no houseboats, and	The Applicant agrees with the submissions of the PLA at ISH14 that

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	navigations or watercourses)	could apply to a houseboat mooring. Could a caveat to the power be added to limit its effect on a residential mooring and what would the effect of such a change be?	of any houseboat mooring being located within the Order Limits. The PLA confirmed at ISH14 that such an eventuality is extremely unlikely given the environment of the river in this location. The Applicant would further note that the PLA has confirmed that they would not grant a mooring licence in this location. To the extent it were to prove necessary to remove such a mooring in connection with the carrying out or maintenance of the authorised development under article 18, compensation would be payable to any person who suffers loss or damage as a result in accordance with the Land Compensation Act 1961.	that the area is subject to significant tidal range.	there is no prospect of a house boat being moored.
QD26	Article 19 (discharge of water)	The Applicant is asked whether the consenting power under A19 should include seeking consent from or consulting the appropriate drainage authority.	Article 19(3) already requires the Applicant to seek the consent of the owner of any watercourse, public sewer or drain. This article is also well precedented in Strategic Road Networks DCOs and the Secretary of State has not required further consent or consultation, nor is the Applicant aware that the drainage authorities have previously sought this. The drainage authorities also benefit from the Protective Provisions in		N/A

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			Schedule 14 Part 3 of the draft DCO [REP7-090].		
QD27	Article 19 (discharge of water)	The Applicant and any prospective consenting bodies are asked whether the deemed discharge consent period of 28 days under A19 is appropriate and, if not, what an appropriate period might be.	The Applicant's position regarding the 28-day period specified in article 19 is set out in the EM [REP7-092]. The Applicant considers the period to be appropriate and proportionate given the scale of pre-application engagement with parties and is necessary to ensure the Project can be delivered in a timely fashion. The deemed consent provision should also be read alongside the safeguard included at article 19(9).	**Kent County Council** KCC asserts that a 28-day period for deemed consent is too short and a 12-week (60-day) period ought to be inserted. **Environment Agency** The EA say 28 days may not be sufficient time to determine whether consent should be given and our preference is for deemed refusal rather than deemed consent. **Thurrock Council** TC request a different period for construction and operational matters.	In response to the EA, KCC and TC, please see response to QD27. The Applicant is dismayed at the statement that there should be an amendment to "*allow more time to assess Discharge Consent applications*" given the council are in fact suggesting a 3 month period. Suggestions

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					such as these are in the Applicant's view wholly inconsistent with clear Government policy (see Getting Great Britain Building Again (DLUHC, 2023)).
				TfL TfL considered that a 42-day deemed consent provision would be more appropriate than 28 days.	In response to TfL's comments, see QD22 and QD23 above.
QD28	Article 21 (authority to survey and investigate the land)	The Applicant and any prospective consenting bodies are asked whether the deemed trial hole consent period of 28 days under A21 is appropriate and, if not, what an appropriate period might be.	The Applicant's position regarding the 28-day period specified in article 21 is set out in the EM [**REP7-092**] and the Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**]. The Applicant considers the period is appropriate and proportionate given the scale of pre-application engagement with parties and is necessary to ensure the Project can be delivered in a timely fashion. The deemed consent provision should also be	**LBH** LBH is content with the deemed consent provision **Kent County Council** KCC consider the 28-day deemed consent period to be adequate for this matter. However, in the interest in consistency throughout the DCO, the Examining Authority may wish to consider	The Applicant is grateful for the confirmation that the Interested Parties are content with this Article.

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			read alongside the safeguard included at article 21(8).	extending all time-limited deemed consent periods to a 12-week (60 day) period. **PLA** The PLA confirms that it has no issue with the deemed consent provision which apply to it.	
QD29	Article 27 (time limit for exercise of authority to acquire land compulsorily)	The Applicant is asked to provide a full justification for the extended time period of 8 years. What would be the effect of returning this to the standard 5 year period? Alternatively, if the scale and complexity of the project justifies an extended period for CA, should this be harmonised with the time limit for the authorised development to begin of 5 years, set in Schedule 2 R2?	The eight-year time limit reflects the scale of the development and is precedented for other significant, complex and large linear schemes (cf. article 45 of the Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014 which includes a 10-year period, and article 21 of the National Grid (Hinkley Point C Connection Project) Order 2016 which permits an eight-year period). The Applicant initially proposed a 10-year period but following discussions with stakeholders, reduced the period to eight years. As set out in the EM [REP7-092], an extension to this time period is precedented in DCOs of comparable complexity.	**GBC** GBC expressed concern about the eight year time limit on the exercise of authority to acquire land compulsorily under article 27. GBC also reiterated its concern with regards to the start date being tied to the date on which any legal challenge is finally determined.	The Applicant has set out its position in relation to this matter fully during the course of the examination: see in particular [AS-089], [REP2-077], [REP4-212] and most recently the Applicant's response to QD29 of the ExA's commentary on the dDCO. The Applicant has no further comments to make in response to GBC's submissions at D8. As regards GBC's comments on the definition of 'start date' in article 27, at

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			The Applicant notes that the "*Planning Act 2008: Guidance related to procedures for compulsory acquisition*" recognises that, for long linear schemes, the acquisition of many separate plots of land may not always be practicable by agreement. The construction period of the Project is approximately six years. This includes establishing 18 site compounds, 15 Utility Logistics Hubs, building new structures and making changes to existing ones (including two tunnels, bridges, buildings, tunnel entrances and viaducts) and the diverting of three gas high-pressure pipelines and an overhead power line diversion that qualify as NSIPs in their own right. The complexity of these works necessitates the eight-year limit for the acquisition of land proposed. As a public body, the Applicant considers maximising public benefit in its decisions and ensuring value for public money. The Applicant considers the proposed extended time limit a method in which to accord with these principles. Imposing the standard five-year limit for the	**TfL** TfL confirmed it considered that a 28-day deemed consent provision was appropriate.	Deadline 8 the Applicant provided revised drafting in relation to the definition of the term 'start date' in article 27 [REP8-006] and will consider any comments from Interested Parties on this drafting following D9. The Applicant is grateful to TfL for its confirmation.

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			acquisition of land would negatively impact the public. The extended time period ensures the Applicant is able to identify areas of opportunity to reduce the amount of permanent acquisition land required. It would also allow General Vesting Declarations to be served based upon the actual land required once this is known, as various elements of the Project are completed, enabling a reduction in permanent land take, rather than acquiring land early. This would also ensure that public money is being spent in the most effective way possible, achieving value for money. The Applicant does not consider it necessary to amend the time frame in Schedule 2, Requirement 2 to eight years. This requirement sets out that the authorised development must begin no later than the expiration of five years beginning with the date that this Order comes into force. The Applicant is confident that this is achievable and refers the ExA to the justification provided in relation to Article 2 which sets out the definition of "begin".		

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			The Applicant does not consider it necessary to loosen this requirement to an eight-year period. The Applicant considers that the certainty provided to the public with this shorter time frame is appropriate in this context.		
QD30		The Applicant is asked to provide a full justification for re-basing the start of this period to the end of any legal challenge period or the end of any legal challenge. What would be the effect of returning this to the standard provision where time runs from the making of the Order?	The Applicant acknowledges that this article differs from other DCOs as it sets out that the eight-year period starts to run from the later of the expiry of the legal challenge period under section 118 of the Planning Act 2008, or the final determination of any legal challenge under that provision. The Applicant has considered the ExA's concern. The Applicant remains of the view that the possibility of legal challenge should be incorporated into this article but has made some amendments to the drafting of article 27 to ensure that there is a higher level of certainty in relation to when the eight-year period starts to run. The amended article retains the principle that where no challenge to the Order is made, the eight-year period starts the day after the period for legal challenge expires. In the event of a legal challenge,	**GBC** GBC restated its concerns regarding the start date for the purposes of article 27 being tied to the date on which any legal challenge is finally determined.	At Deadline 8, the Applicant provided revised drafting in relation to the definition of the term 'start date' in article 27 [REP8-006] and will consider any comments from Interested Parties on this drafting following D9.

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			the Applicant has amended the dDCO so that the eight-year time period commences at the earlier of either the day after final determination of the legal challenge or the day after the one-year anniversary of the date of the expiry of the period for legal challenge. This amendment ensures that there is certainty as to when the eight-year period starts and ends. This amendment is set out in detail in the schedule of updates to the dDCO, the latest version of which is submitted at Deadline 8 [**REP8-106**] alongside the revised dDCO [**REP8-006**]. The delaying of the start of the CA powers period to reflect any judicial review challenge brought by a third party is necessary following recent experience of legal challenges to made DCOs, which may delay the exercise of compulsory acquisition powers and in so doing reduce the length of time within which those powers may be exercised, if the period relates (as it does usually) to the date on which the Order is made.		

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			If the standard provision is used, instead of the Applicant's proposed wording, the risk of inefficient use of public money is increased. With the standard wording, the trigger for the eight-year period would be when the DCO was initially made. If judicial review proceedings are brought, the time period would not be paused. This increases the probability that the Applicant would need to apply for a change to the DCO to extend the eight-year time period, following the completion of any post-decision proceedings. The Applicant considers this to be an unnecessary risk to public funds. A change to the dDCO for this reason would needlessly take resources from the Planning Inspectorate and the Applicant. As a public body, National Highways must seek to ensure value for public money. It is therefore considered appropriate that the time period for the exercise compulsory acquisition powers should begin once the legal challenge period has expired or the earlier of either the day after final determination of the legal challenge or the day after the one-		

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			year anniversary of the date of the expiry of the period for legal challenge.		
QD31	Article 28 (Compulsory acquisition of rights and imposition of restrictive covenants)	The Applicant is asked to provide a full justification for the broad extent of this power, or alternatively to find a means of limiting it to more precisely defined locations. What would be the effects of removing this power?	This article allows for rights/restrictive covenants over land to be acquired as well as (or instead of) the land itself, and also for new rights to be created over land. It provides for such rights and restrictive covenants as may need to be acquired by the Applicant over land which it is authorised to acquire under article 25 (compulsory acquisition of land). The Applicant has considered the ExA's request to limit this power to more precise defined locations and does not consider any further limitations to be in the public benefit. The Applicant has sought to identify all of the plots which are to be subject to the acquisition or creation of rights and has set these out in the Book of Reference [**Document Reference 4.2 (8)**], Land Plans [**Document Reference 2.2 (8)**] and Schedule 8 of the Order [**REP7-090**].However, the flexibility of this Article maximises public benefit, as it ensures that	**GBC** GBC confirmed that it was neutral in on the drafting of this provision. **Thurrock Council** TC says that this is a valid question to ask.	In addition to the detailed justification provided in response to this question at Deadline 8, the Applicant notes that GBC has raised no concerns regarding the approach to the drafting of this provision.

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			the Applicant retains the flexibility to acquire or create rights/restrictive covenants over land where that land might otherwise have to be acquired outright. The Applicant considers that there are sufficient caveats to this power within the Article. The general power is subject to paragraph (2) which limits the power of acquisition to only acquire rights and impose restrictive covenants over the land listed in Schedule 8, and shown in blue on the land plans for the purposes stated in that Schedule. When taken together with article 28(2), the power to acquire rights or impose restrictive covenants under article 28(1) is limited to land which the Applicant seeks authorisation to acquire outright and ("pink land" in the land plans). This power to acquire rights or impose restrictive covenants over the "pink land" is justified on this Project because it may be the case that the Applicant could achieve its aim through an alternative means, through the exercise of a lesser power to acquire rights or impose		

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			restrictive covenants, instead of acquiring the "pink land" outright and depriving the owners of that land wholly and permanently. Such a determination cannot be made at this juncture because of the stage of design development. As the Project is designed in further detail, there may be scope to delineate the rights and restrictions that it could acquire instead of outright acquisition. Having the flexibility to exercise its powers in this way, and to offer an alternative strategy to landowners where appropriate, would allow the Applicant to take this proportionate approach should the opportunity arise. The general power in article 28(1) would enable this more proportionate exercise of powers as an alternative to acquisition at a later date. Without this provision the Applicant would have no alternative but to acquire the land outright if an alternative agreement could not be reached by agreed private treaty. Alternatively, the Applicant would have to acquire the land outright, and then re-sell it back to the owner subject to the necessary rights and restrictive covenants		

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			leading to an administrative burden. This approach would also benefit preserving public funds in connection with the Project. Paragraphs (3) and (4) provide for the exercise of the powers in paragraph (1) by statutory undertakers with the Applicant's prior written consent. These provisions provide a mechanism allowing those persons to benefit from the rights acquired for their benefit. The intention behind the drafting is that the liability to pay compensation to the owners and occupiers of the land burdened by the new rights or restrictive covenants would remain with the Applicant, notwithstanding that the benefit of the rights acquired would be enjoyed by parties other than the Applicant. There are particular circumstances which justify following this approach in the Project dDCO: for example, subject to detailed design the Applicant may seek to acquire only the land required to accommodate a viaduct but impose restrictions necessary to protect the viaduct embankments, together with the necessary rights		

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			to access the embankment for maintenance purposes, over the land on the surface that is crossed by the viaduct. This very approach is identical to the approach endorsed by the Secretary of State in the A47/A11 Thickthorn Junction Development Consent Order 2022, the Lake Lothing (Lowestoft) Third Crossing Order 2020 and the Great Yarmouth Third River Crossing Development Consent Order 2020 (all of which are Orders which have been made following the M4 Junctions 3-12 project).		
QD32	Articles 53 (disapplication of legislative provisions, etc) and 55 (application of local legislation, etc)	Does any IP have any concern that the draft provisions unreasonably or inappropriately seek to disapply or modify other applicable legislative provisions? If so, what changes are sought to this provision or the dDCO more generally and why?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no concerns in relation to this matter and are not seeking any changes. **Environment Agency** The EA confirmed it has no concerns in relation to this matter. **PLA** The PLA notes agreement has been reached.	The Applicant welcomes the confirmation from KCC, the EA, GBC, the PLA and TfL that there are no outstanding issues or comments on this provision.

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				GBC GBC confirmed that it had no concerns with this provision. **Thurrock Council** TC confirms it "*does not have any concerns*". **Marine Management Organisation** The MMO confirms it has no comments. **TfL** TfL confirmed it had no comments on this provision.	
QD33	Article 58 (defence to proceedings in statutory nuisance)	Does any IP have any concern that the proposed defence unreasonably seeks to safeguard the undertaker against poor or inappropriate practices or insufficient mitigation in either construction or operation? If so,	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no concerns in relation to this matter and are not seeking any changes. **GBC** GBC reiterated its view that article 58(2) should be removed from the dDCO and that the	The Applicant is grateful for KCC's and TfL's confirmation. In response to GBC's and TC's comments, the Applicant has set

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		what changes are sought to this provision and why?		matters provided for in article 58(3) should be narrowed in scope. **Thurrock Council** TC objects to Article 58 and considers it too broad. **Marine Management Organisation** The MMO confirms it has no comments. **TfL** TfL confirmed it had no comments on this provision.	out in detail the justification for the provisions contained in article 58 of the dDCO. In particular, the rationale for and response to GBC's comments on articles 58(2) and 58(3) can be found in [AS-089], [REP2-077] and [REP4-212]. The Applicant would note that TC have fundamentally misunderstood the effect of the provision – there is already an exemption against statutory nuisance in the Planning Act 2008, the effect of Article 58 is to in fact curtail its application in relation to claims under section 82. The Applicant has repeatedly provided a detailed justification to TC for this provision and has only ever received the same text back.

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QD34	Articles 64 (arbitration) and 65 (appeals to the Secretary of State)	Does any statutory body with formal decision-making powers have any concern that the proposed arbitration mechanism unduly affects their statutory role or powers? If so, what changes are sought and why?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no concerns in relation to this matter and are not seeking any changes. **GBC** GBC reiterated its concerns regarding article 65(1)(e) and the appeal process to the Secretary of State in respect of the Control of Pollution Act 1974. **Environment Agency** The EA confirmed it has no comments in relation to this matter. **Thurrock Council** TC confirms that "*the exercise of statutory powers should be resolved by the Secretary of State, rather than an arbitrator*".	The Applicant is grateful for KCC's and TfL's confirmation. In relation to GBC's comments on article 65(1)(e), the Applicant has set out in detail the justification for the appeal process under article 65(1)(e) in the Explanatory Memorandum [**REP8-008**], as well as [**AS-089**], [**REP2-077**] and [**REP4-212**]. GBC states that "*no real evidence*" of delays has been put forward by the Applicant, yet the Applicant has referred in the submissions referenced above to Law Society data showing the extent of the backlogs currently being

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				Marine Management Organisation The MMO confirms it has no comments. **TfL** TfL confirmed it had no comments on this provision.	experienced in the Magistrates' Court.
QD35	Articles 64 (arbitration) and 65 (appeals to the Secretary of State)	What does the undertaker do if the SoST refuses to grant the discharge of a Requirement and there is no means of dispute resolution? One answer is that the decision of the SoST is final and that must suffice, but is that the intended position?	Article 64 governs what happens when two parties disagree in the implementation of any provision of the Order except where this is expressly provided for (e.g., Schedule 12 relating to the road user charge). The ExA is correct to say that a decision of the Secretary of State, under this Article, will be final and will not be subject to arbitration but would be reviewable on normal public law grounds. The Applicant would also stress that it has not required a matter to be referred to arbitration to reach agreement with Secretary of State in respect of the discharge of a requirement on any of its previous schemes.	**Kent County Council** KCC set out their understanding that the Applicant would need to amend their proposal until they are acceptable to the Secretary of State. **GBC** GBC confirmed that it may respond at D9 but	The Applicant confirms that KCC is correct, the Applicant would need to amend their proposals to gain approval if the Secretary of State refused to discharge a Requirement. A decision of the Secretary of State, under this Article, will be final and will not be subject to arbitration but would be reviewable on normal public law grounds. As regards GBC's comments, the Applicant's position

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			Article 65 establishes an appeal process in relation to article 12, 17, 21, Requirement 13, permit schemes or under the documents secured under article 61 or Schedule 2 (i.e., provisions where a local authority has an approval role) and where a local authority issues a notice under section 60, or does not grant consent or grants conditional consent under section 61, of the Control of Pollution Act 1974. Under this article, the Secretary of State must appoint a person to consider the appeal. The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.	reasserted its position that it should be the discharging authority for the Requirements. **Environment Agency** The EA confirmed it has no comments in relation to this matter. **Marine Management Organisation** The MMO confirms it has no comments.	regarding the appropriate discharging authority has been set out fully during the course of the examination: see in particular the Explanatory Memorandum [REP8-008] and [REP1-184].
QD36	Article 66 (power to override easements and other rights)	The Applicant is asked to provide a full justification for the broad extent of this power, or alternatively to find a means of limiting it to more precisely defined locations.	The Applicant's detailed and full rationale for including this provision is set out in its response to ISH 2 on the draft DCO [AS-089]. The Applicant does not consider that it would be appropriate to remove or otherwise restrict the operation of this article, which is (as set out in document [AS-089]) intended to	**GBC** GBC noted it was neutral on this issue but may comment on the Applicant's response at D9.	The Applicant will consider any comments provided by GBC at D9.

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		What would be the effects of removing or reducing the scope of this power?	address a lacuna that would not be filled by other provisions of the dDCO.	**Marine Management Organisation** The MMO confirms it has no comments.	
QD37	Schedules	Are there any further matters that have been raised in the Examination that should be provided for in a Schedule but which are not? If so, please provide reasons and evidence for your position.	The Applicant would refer to its response to QD10 of the ExA's commentary on the dDCO above. The Applicant does not consider that there are matters raised during the course of the Examination which are required to be provided for in an additional Schedule to the dDCO. All relevant Schedules are already included in the dDCO and the justification for their inclusion is set out in the EM [REP7-092].	**Kent County Council** KCC strongly suggest that a Requirement relating to Blue Bell Hill should be added to the DCO. KCC consider this necessary to ensure funding for those improvements, in the event that central government does not fully fund them. **GBC** GBC provided draft wording for a number of proposed new Requirements for inclusion in Schedule 2 to the dDCO. **Thurrock Council** TC confirms it "*does not consider that there are further matters that*	In response to KCC's request, the Applicant has set out its position in the Joint Position statement: Blue Bell Hill [REP5-083]. The Applicant maintains that a commitment to fund works at Blue Bell Hill would not be appropriate, as it would bypass the existing processes through which the Secretary of State makes decisions (and is already considering) regarding the funding of road improvements there. Kent County Council received approval on 27 October 2023 from the DfT to progress to the Outline Business Case stage.

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				should be provided for in a Schedule". **<u>Marine Management Organisation</u>** The MMO signpost to QD41, QD43, QD44, QD46 and QD82. **<u>TfL</u>** TfL reiterated its view that the dDCO should include a new requirement to secure the mitigation of traffic and associated environmental impacts of the Project. TfL also submitted that commuted sums for new highway assets which are proposed to become the maintenance responsibility of the relevant local highway authority should be	The Applicant considers that this demonstrates the process working appropriately. The Applicant's response to GBC's proposed Requirements is set out in Section 4 above. In relation to TfL's comments, the Applicant refers to its response to TfL's response to QD3 above. In relation to commuted sums, see Section 2.4 of this document.

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				provided for in protective provisions for the protection of local highway authorities.	
QD38	Schedules	Are there any matters provided for in a Schedule which are superfluous? If so, please provide reasons and evidence for your position.	The Applicant does not consider that there are any matters provided for in a Schedule to the dDCO which are superfluous. The justification and need for each Schedule to the dDCO [**REP7-090**] is set out in the EM [**REP7-092**]. To remove any of the Schedules would undermine the operation of the dDCO as a coherent whole.	**Kent County Council** KCC confirmed it had not identified any superfluous Schedules. **GBC** GBC confirmed that it has nothing to note in respect of this question. **Thurrock Council** TC confirm they are not aware of any superfluous matters. **TfL** TfL confirmed it did not believe there were superfluous schedules.	The Applicant is grateful for the confirmations provided by IPs.
QD39	Schedules	Are there Schedules that the ExA has not yet commented on in respect of which a change in drafting is sought? If so, please	The Applicant understands this question is directed primarily to IPs and does not, therefore, propose to comment substantively at this stage but will if appropriate provide a further response at Deadline 9.	**LBH** LBH seeks a Wider Network Impacts Requirement.	The Applicant's position on the Wider Network Impacts is set out in its Wider Network Impacts Position Paper, and it does not consider any

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		provide reasons and evidence for your position.			requirement is necessary.
				LBH raises a concern about the use of the phrase "substantially in accordance"	In relation to the use of "substantially in accordance with", the Applicant refers to its response in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5 [**REP6-085**] as well as its response (above) to Thurrock Council on this matter.
				LBH states that the period of 14 days in Requirement 9(5) should be extended.	In relation to Requirement 9(5), As explained on page 107 of [**REP4-212**], the 14-day period is considered appropriate given the discrete nature of the considerations involved and the need for the Project to be delivered expeditiously. It is also highly precedented (see The A19/A184

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					Testo's Junction Alteration Development Consent Order 2018, The A19 Downhill Lane Junction Development Consent Order 2020, The A63 (Castle Street Improvement, Hull) Development Consent Order 2020, The A1 Birtley to Coal House Development Consent Order 2021, The A57 Link Roads Development Consent Order 2022, The M54 to M6 Link Road Development Consent Order 2022, and The A47 Wansford to Sutton Development Consent Order 2023).
				LBH state that Requirement 10 and 11 should be amended to include 'from time to time'	As explained at ISH14, this is not necessary. The relevant control documents secure updates where required, and

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					Requirement 19 allows for variations. The relevant obligation attaches to implementing a TMP or Travel Plan approved so where a plan is updated and approved, the obligation will bite. "Part" is both temporary and spatial. No such drafting has been included on any SRN DCOs.
				LBH request the definition of "local resident" in Schedule 12 extends to LBH residents so that they can obtain a residents discount for the charge to use the A122.	No new matters have been raised by LBH, and the Applicant would reiterate that the discounts offered in relation to the Project reflect Government policy, and the Government has confirmed this (see Annex B of [REP1-184] in which the Department for Transport (DfT) endorses, in its capacity as the charging authority, that

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					"*this would offer the same type of discount arrangements as are offered on the Dartford Crossing LRDS scheme. It would be aligned with the Dartford LRDS by being offered to residents of the boroughs in which the tunnel portals would be situated (Gravesham and Thurrock for LTC, Dartford and Thurrock for the Dartford Crossing)*"). Please see above which responds to the Second Joint Response.
				LBH note amendments sought to the Protective Provisions for LHAs as part of its joint response with other LHAs. **<u>Kent County Council</u>** KCC confirmed it is not seeking any additional changes to Schedules.	

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				GBC GBC did not raise specific comments on this question but instead referred to its response to QD41 below. **Marine Management Organisation** The MMO signpost to QD41, QD43, QD44, QD46 and QD82. **TfL** TfL confirmed its view that the Examination had covered all relevant aspects.	
QD40	Schedule 1 – suggested minor drafting amendments	Does the Applicant agree?	The Applicant agrees with the ExA's suggestion and has made this change in the revised dDCO submitted at Deadline 8 [REP8-006].	**GBC** GBC did not raise specific comments on this question but instead referred to its response to QD41 below.	

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QD41		Do IPs have any further and final observations on the drafting of this Schedule including on the description of the individual numbered Works and their relationship with the Works Plans?	The Applicant understands that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no further observations. **GBC** GBC referred to item 11 of its D4 submission [REP4-302], in which it recommended that reference to the Thong Lane Car Park and	The Applicant is grateful for KCC's and TfL's confirmations. The Applicant can confirm that the references to Thong Lane Car Park and its associated access were

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				access should be removed from the description of Work No. 1 in Schedule 1 to the dDCO. GBC also restated its view that the ancillary works referred to in Schedule 1 should be limited to works within the Order limits. **Marine Management Organisation** The MMO has no comments.	removed from the dDCO at Deadline 7 [REP7-090]. As regards GBC's comments on the geographical scope of the ancillary works, the Applicant has set out its position in full within [AS-089] (see responses to issues or questions raised against items 2 and 12 of Annex A to the ExA's agenda for ISH2), [REP1-184] (see paras 1.3.15 – 1.3.17), [REP2-077] (within Tables 4.1 and 4.2) [REP4-212] (within Tables 2.1 and 2.2) and [REP6-085] (see Section 3.4). These submissions reflect the Applicant's full and settled position in respect of this matter.

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					The Applicant objects in the strongest possible terms to this suggestion.
				PLA The PLA suggest that the specified work definition in their Protective Provisions should be amended to include dredging.	In relation to the PLA's request, a change was made at Deadline 8 to confirm the wet cofferdam excavation fell within the definition of specified works. The Applicant considers this matter to be resolved.
				Marine Management Organisation The MMO has no comments.	
				Thurrock Council TC request changes to Work No. 7 because they consider the relevant works are not included to secure a WCH crossing at on the Rectory Road junction. The council also repeats their comment that the Temporary Works Plans should be included in Schedule 1.	The Applicant disagrees. The ancillary works, which can be carried out in connection with Work No. 7, include the relevant works. In addition, Schedule 1 should not be looked at

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				TfL TfL confirmed it had no comments on Schedule 1.	in isolation. The relevant works to the roundabout are secured under Requirement 3 by reference to the General Arrangements, and Design Principles (see in particular, Design Principle Clause S.11.14). The council's suggestion is therefore superfluous. In relation to the temporary works plans, these are deliberately not secured – please see responses to Thurrock Council on Schedule 16 above and below.
QD42	Schedule 1 – re-provision of a travellers' site and associated landscaping	The Applicant is requested to provide legal submissions on this point.	The Applicant has prepared a note in response to this question, which is appended as **Error! Reference source not found.** to this document.	**Marine Management Organisation** The MMO has no comments.	
QD43	Schedule 2 – security for the REAC	Local Planning and Highway Authorities, Port Authorities and Operators, Natural England, the Environment Agency and the Marine	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage, however the Applicant is firmly of the view that the REAC commitments are sufficiently and appropriately secured by the	**Kent County Council** KCC confirmed that it considers the REAC commitments to be sufficiently secured.	The Applicant is grateful for the confirmations provided.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
		Management Organisation as asked whether the REAC commitments are sufficiently secured. If not, what specific additional references to the REAC are required in any of the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?	dDCO, principally via Requirement 4 [REP7-090]. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**GBC** GBC confirmed that it considers the REAC commitments were sufficiently secured by Requirement 4. In the event the REAC were to be made a separate document, GBC requested early sight of the drafting. **Environment Agency** The EA confirmed that it has no comments in relation to this matter. **Thurrock Council** Thurrock Council does not consider the REAC needs to be referenced further but objects to the use of the word "reflect". **LBH** LBH considers that the commitments contained within the REAC are sufficiently secured.	As regards GBC's comments on the REAC, the Applicant amended the definition of the Code of Construction Practice in the dDCO submitted at D8 [REP8-044] in order to give greater visibility to the REAC. The Applicant will consider any comments which GBC may have on this approach at D9. In relation to "reflect", The use of the word "reflect" is highly precedented and the Applicant's position on this is set out in Annex C.5 of the 9.188 Post-event submissions, including written submission of oral comments, for ISH12. "Reflect" does not mean any lesser level of security, and merely reflects the fact that

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				PLA The PLA confirmed that it has no comments in relation to this matter. **Marine Management Organisation** The MMO signposts to its response to QD82.	specific measures may not be relevant to all of the relevant works. Indeed, TC's own suggested noise requirement (in QD44) uses the word "reflect". The Applicant stresses that the relevant plans will be the subject of consultation so if a stakeholder considers something has not been incorporated, it will be appropriately considered and subject to independent approval from the Secretary of State.

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				TfL TfL expressed the view that it did not have any major concerns about the REAC commitments being insufficiently secured. However, TfL considered that more extensive reference to the REAC in the Requirements could be helpful to ensure there is no lack of clarity about where the actions and commitments in the REAC are relevant.	In response to TfL's comments, the Applicant considers the REAC is sufficiently secured by the dDCO and does not consider that further references to the REAC in the Requirements are necessary and/or would provide further clarity.
QD44	Schedule 2 – security for other CDs	Local Planning and Highway Authorities, Port Authorities and Operators, Natural England, the Environment Agency and the Marine Management Organisation as asked whether the other CDs are sufficiently secured? If not, what specific additional references	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage, however the Applicant is firmly of the view that the REAC commitments are sufficiently and appropriately secured by the dDCO, principally via Requirement 4 [**REP7-090**]. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this	**Kent County Council** KCC asserts that, for all control documents the phrase 'substantially in accordance with' should be amended to 'in accordance with'. **GBC** GBC referred to its response to QD50 below.	The Applicant is grateful for the confirmations provided. As regards Kent County Council's and TfL's comments, the Applicant refers to its response in Section 4.3 of Applicant's Responses to IP's comments on the draft DCO at Deadline 5

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
		to specific CDs are required in any of the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?	question, at Deadline 9 in the Examination timetable.	**Environment Agency** The EA confirmed that it considers the requirements to be sufficiently secured. **PLA** The PLA confirmed that it has no comments in relation to this matter **Thurrock Council** Thurrock Council has duplicated its comments on the Construction Logistics Plan and also set out its request for a noise requirement. **Marine Management Organisation** The MMO has no comments and defers to IPs. **TfL** Like KCC, TfL considered that the phrase 'substantially in accordance with' should	[REP6-085]. The use of the phrase is not only well precedented, but appropriate for the specific circumstances of the Project. The Applicant further refers to its response to Thurrock Council (above) on this matter in this document. In relation to the Construction Logistics Plan, please see the response on QD4 above. In relation to the noise requirement, the Applicant already has appropriate noise-related measures in the REAC. The Applicant notes that the specific matters covered (e.g. low noise surfacing and acoustic barriers) are already secured. No other IP has requested this provision, and the

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				be amended to 'in accordance with'.	Applicant considers it to be wholly superfluous.
QD45	Schedule 2 – interpretation of "commence" and "preliminary works"	The Applicant is requested to review and harmonise its responses to each of the questions in relation to A2 with reference to this provision also. What if any drafting changes are necessary to simplify and harmonise the drafting on interpretation and definitions?	The Applicant refers to its response to QD13 – QD16. As noted in those responses, the distinction made between the terms "begin" and "commence" throughout the dDCO is deliberate and serves to ensure that each of the Schedule 2 Requirements is subject to the appropriate trigger event. The Applicant does not consider that changes are necessary to simplify and harmonise the dDCO drafting.	**GBC** GBC referred to its response to QD46 below.	
QD46		What approach do other IPs consider should be taken to these definitions and why?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC reiterates that the Council's preference would be for a more conventional drafting approach of a single defining word for the commencement of the scheme with a "carve-out" for preliminary works. **GBC** GBC reiterated its view that the word "begin" in	In response to the comments of both Kent County Council, TCAG, TC and GBC, the Applicant refers to its response to QD13 – QD16 above. As noted in those responses, the distinction made between the terms "begin" and "commence" throughout the dDCO is deliberate and serves to ensure that each of the

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				Requirement 2 should be replaced by "commence". **Thurrock Council** TC repeats its objection to use of the word "commence". **Marine Management Organisation** The MMO agree with a desire for consistency. **Thames Crossing Action Group** TCAG state that they "*have no confidence in NH doing the right thing*" and appear to agree with concerns about the use of "begin" in Requirement 2. **TfL** TfL confirmed it had no comments on the definition and use of the terms 'begin' and 'commence'.	Schedule 2 Requirements is subject to the appropriate trigger event. The Applicant does not consider that changes are necessary. The Applicant's position on this matter is no different from the usual operation of section 154/155 of the Planning Act – please see further the Applicant's response to Action Point 1 of ISH7, as well as its further commentary in response to Thurrock Council in Section 12 above.

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QD47	Requirement 2 – time limits (for the authorised development)	Should time limits applicable to beginning/ commencing the Proposed Development and time limits for the exercise of CA powers be harmonised?	As set out in response to related questions within the ExA's commentary, the Applicant would stress that there is no particular relationship between the time periods applicable to the compulsory acquisition of land under article 27 of the dDCO and the time limits for development to begin under Requirement 2. The purpose of the former is to ensure that persons with an interest in land affected by the Project can be certain that no land can be taken by compulsion beyond the relevant date, which in this case is eight years following the "start date" defined in article 27(3) of the dDCO. The Applicant has set out in detail why the period of eight years provided for in article 27 is specifically justified in this case. This can be found in the EM [**REP7-092**], the Applicant's response to Issue Specific Hearing (ISH) 2 draft DCO [**AS-089**] and the Applicant's response to IP comments made on the draft DCO at Deadline 1 [**REP2-077**]. The purpose of the latter – the time limits under Requirement 2 – is to ensure that the Applicant must	**Kent County Council** KCC agrees with the harmonisation of the time limits, particularly in the interests of clarity and limiting the period of uncertainty for all who are subject to compulsory acquisition. **GBC** GBC confirmed that it had no particular comment on whether commencement under Requirement and the CA time limits under article 27 should be harmonised. However, GBC restated its view that the time period for CA powers to be exercised should be reduced from 8 years to 5 years.	In response to KCC's comments, the Applicant is hopeful that the clarification provided at D8 in response to the ExA's Commentary on the dDCO will satisfy any concerns it may otherwise have had. The Applicant will, however, consider any comments provided by KCC at D9. In response to GBC's and TC's comments, the Applicant has set out its position in relation to the appropriateness of and justification for the CA time period under article 27 in response to QD29 above. The Applicant has no further submissions to make in this regard.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
			take certain steps towards the implementation of the Project within the relevant period, which in this case is five years, failing which the development consent granted by the Order will lapse. The period of five years is very widely precedented in DCOs. The Applicant considers the period is appropriate in this case and is not seeking consent for a longer period in line with the precedents cited by the ExA. The provision ensures the powers to carry out the development do not endure indefinitely, which would otherwise create uncertainty for all those potentially affected by the Project. This is quite separate to the compulsory acquisition of land. Indeed, it would theoretically be possible for the Applicant to comply with the time limits under Requirement 2 of the dDCO but then for its powers to acquire land compulsorily under article 27 to elapse. For these reasons, the Applicant has not approached the drafting of these provisions with the objective of harmonising the time periods applicable in each case. There is a	**Thurrock Council** TC repeats its suggestion that the time limit should be harmonised. **TfL** TfL confirmed it had no comments on the time limits applicable to beginning or commencing the authorised development.	

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
			separate and distinct justification for each, and the Applicant considers that the correct balance has been achieved.		
QD48		Is there a justification for time limits of longer than 5 years? What is that justification?	The Applicant understands this question relates to Requirement 2 of the dDCO. However, the Applicant is not seeking time limits of longer than five years under Requirement 2, nor does it consider there would be a compelling justification for longer time limits. This is, as noted in response to QD48, a separate matter to the time limits applicable to the compulsory acquisition of land under article 27 of the dDCO [**REP7-090**].	**Kent County Council** KCC suggests that the Applicant should be required to provide a compelling reason for a period of longer than 5 years. **GBC** GBC stated that it would oppose any commencement period of longer than five years. GBC also restated its view that the time period for CA powers to be exercised should be reduced to 5 years from 8 years. **Thurrock Council** TC object to the 8 year period. **TfL**	In response to KCC's, GBC's and TC's comments on the CA time period under article 27, the Applicant has set out its position in relation to the appropriateness of and justification for that time period in response to QD29. The Applicant has no further submissions to make in this regard.

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				TfL confirmed it had no comments to make on the time limits.	
QD49	Requirement 3 – detailed design	Are the design principles guiding the Proposed Development adequately secured and do any of the principles need to be amended? If amendments are sought, why are they required?	The Applicant considers the Design Principles [**Document Reference 7.5 (7)**] are appropriately secured by Requirement 3 of the dDCO, which provides that *"the authorised development must be … carried out in accordance with the design principles document …"*. The Design Principles are listed in Schedule 16 (documents to be certified) of the dDCO and will be certified in accordance with the process set out in article 62 of the dDCO [**REP7-090**]. The Applicant has introduced amendments to the Design Principles as the Examination has progressed. As regards the suggested amendments to the Design Principles put forward by Gravesham Borough Council at Deadline 6 [**REP6-135**], the Applicant set out why it did not consider this to be necessary in its responses to Interested Parties' comments on the dDCO at Deadline 6 [**REP6-085**].	**Kent County Council** KCC requests that the Kent Design Guide are referenced within the design principles. **GBC** GBC confirmed that it considered the design principles were adequately secured. GBC also referred to specific comments in relation to design principle PRO.01 made at Deadline 6. **Environment Agency** The EA confirmed that it has no comments in relation to this matter. **Thurrock Council** Thurrock Council repeats its objection to the use of the phrase "reflect" but confirms that it "*is*	The Applicant considers appropriate standards and guidance are already provided. In addition, works to the Local Highway Network will be subject to agreement with the relevant Highway Authority thereby securing further input. In addition, the design principles go further in PRO.07 which secures unprecedented input. The Applicant is grateful for GBC's confirmation in relation to the design principles. As regards GBC's specific comments on design principle PRO.01, the Applicant's

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				generally satisfied" with the Design Principles. **TfL** TfL confirmed it no amendments to propose.	position is set out in [REP7-190] (see Table 4.1). The issue of using "reflect" is addressed above. On the Design Principle, relevant standards are already referenced so no further change is required.
QD50	Requirement 4 – construction and handover environmental management plans	Is the iteration and approval process sufficiently clear? Does it provide adequate security for initial stage commitments and for the REAC? If amendments are sought, why are they required?	The Applicant considers that Requirement 4, which follows a standard and widely precedented format, is appropriate and sufficient to ensure that the three iterations of the Environmental Management Plan (EMP) are appropriately secured. As regards the requirement under Requirement 4(1) for all preliminary works to be carried out in accordance with the preliminary works EMP, the Applicant notes	**Kent County Council** KCC confirms this requirement is sufficiently clear. **GBC** GBC expressed the view that the reference in paragraph 2.3.6 of the Code of Construction Practice to the requirement for contractors to engage	The Applicant is grateful to Kent County Council, the MMO and TfL for their confirmations. In response to GBC's comments, the Applicant can confirm that this amendment was made to paragraph 2.3.6 in the version of the Code of

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			the ExA's observation that there is no reference to the REAC in that context. The Applicant does not consider that the inclusion of such a reference is necessary. This is because references to the "preliminary works EMP" in Requirement 4(1) are to be construed in accordance with Requirement 2, which defines that document as "*… Annex C of the Code of Construction Practice and includes the preliminary works REAC*" (emphasis added). In the context of Requirement 4(1), therefore, reference should be made to the preliminary works REAC, which is secured by virtue of its inclusion within the definition of the preliminary works EMP under Requirement 2.	with stakeholders when the third iteration of the EMP is prepared should be amended so as to provide for a requirement for consultation with those stakeholders, to reflect comments made by the Applicant at ISH12. **Environment Agency** The EA confirms this requirement is sufficiently clear. **Thurrock Council** TC suggest that the third iteration should be subject to approval by the Secretary of State and repeats its comments about consultation on revisions to plans.	Construction Practice submitted at Deadline 8 [REP8-044]. The Applicant therefore considers this matter resolved. In relation to EMP3, the Applicant has set out its position at ISH14. It is not appropriate for the EMP3 to be subject to approval. The Applicant is a strategic highways authority appointed by the Secretary of State, and operational matters fall within its day to day operational responsibilities. Insofar as the road is a local highway, this will be handed back to the relevant highway

				Marine Management Organisation The MMO has no comments.	authority. The position adopted is consistent with a long line of precedents (see Requirement 4(6) of the M42 Junction 6 Development Consent Order 2020, Requirement 4(4) of the A63 (Castle Street Improvement, Hull) Development Consent Order 2020, Requirement 4(5) of the A585 Windy Harbour to Skippool Highway Development Consent Order 2020, Requirement 4(16) of the A303 (Amesbury to Berwick Down) Development Consent Order 2023). The Project does not give rise to any materially distinguishing features which justify departing from that precedented approach. TC's comment on consultation is addressed above. In response to WGL, the Applicant has

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				Warley Green Ltd WGL object to the absence of air quality monitoring from the preliminary works EMP and solar farms should be identified as a receptor for dust monitoring. WGL also confirm that "*the iteration and approval process is sufficiently clear*". **TfL** TfL confirmed it had no comments.	explained that the preliminary works EMP includes the relevant controls (see paragraph 1.1.14 to 16 of the preliminary works EMP). In relation to dust monitoring, the Applicant considers that measures AQ006 and AQ007 are adequate, and notes that the monitoring locations will be approved by the Secretary of State following consultation with local authorities. Please see further the Applicant's responses to IP's comments at D8, submitted at Deadline 9 [**Document Reference 9.214**].
QD51		Should any specific consultations prior to approval by the SoS be secured?	The requirement for specific consultation is already secured by Requirement 4(2), which confirms that the second iteration of the EMP must be submitted to and approved in writing by the Secretary of State, following consultation by the Applicant with the relevant planning authorities,	**Kent County Council** KCC confirmed it is content that adequate consultation is provided within the DCO. KCC suggested that the Second Iteration of the Environmental	In response to KCC's suggestion, the Applicant considers the current drafting to be sufficiently robust. The second iteration of the EMP must be submitted to and approved in writing by the Secretary

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			relevant local highway authorities and bodies identified in Table 2.1 of the Code of Construction Practice to the extent that the consultation relates to matters relevant to their respective functions.	Management Plan Information confirms that relevant information should be submitted confirming all the required ecological mitigation has been completed prior to construction starting. **GBC** GBC referred to its response to QD50 above. **Environment Agency** The EA confirmed that it has no comments in relation to this matter.	of State, following consultation by the Applicant. Should any of the consultees or the Secretary of State consider any relevant information to be missing, this would be raised within this process. In response to GBC's comments, the Applicant refers to its response to QD50 above, including the modification made to the Code of Construction Practice at Deadline 8 [REP8-044]. The Applicant is grateful to the EA, the MMO and TfL for their confirmations.

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				Marine Management Organisation The MMO has no comments. **TfL** TfL confirmed it has no comments.	
QD52	Requirement 5 – landscaping and ecology	Is the approval process sufficiently clear? Does it provide adequate security for initial stage commitments and for the REAC? If amendments are sought, why are they required?	The Applicant agrees with the ExA's comments within its Commentary on the draft Development Consent Order (dDCO) [PD-047] that the measures provided for by Requirement 5 are robust. The Applicant also considers that the approval process in respect of any landscape and ecology management plan (LEMP) under Requirement 5 is sufficiently clear; Requirement 5 makes clear that the LEMP must be submitted to and approved in writing by the Secretary of State prior to the opening of the part of the authorised development to which that LEMP relates. All initial stage commitments are detailed in the outline LEMP [**Document Reference 6.7 (7)**] and the REAC, which are in turn	**Kent County Council** KCC confirmed it was satisfied with the process set out in requirement 5. It may be appropriate at the start of the project to produce an interim LEMP for the mitigation areas and then develop the full and final LEMP in advance of the landscaping works commencing.	In response to KCC's suggestion, the Applicant considers the current measures to be sufficiently robust for the reasons set out in response in Section 8 above. The provision of the landscape and ecological design of any LEMP submitted to the Secretary of State would be based on the outline Landscape and Ecology Management Plan (oLEMP). Requirement 5 makes clear that the LEMP must be submitted to and approved in writing by the Secretary of State prior to the opening of the part of

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			secured by Requirement 5(2). Commitments relevant to the initial establishment stage of any planting to be implemented as part of the authorised development are therefore legally secured.	**GBC** GBC confirmed that it was content with Requirement 5. **Thurrock Council** TC repeats its comments about the word "reflect." **Marine Management Organisation** The MMO has no comments. **TfL** TfL confirmed it was satisfied with the approval process and security of commitment in the REAC.	the authorised development to which that LEMP relates The Applicant is grateful for GBC's confirmation. The Applicant's position on the use of the word "reflect" is addressed above. The Applicant is grateful to the MMO and TfL for their confirmations.
QD53		Should any specific consultations (and the timing for these consultations) prior to approval by the SoS be secured?	This is already provided for by Requirement 5(1), which states that a LEMP must be submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the bodies listed in Table 2.1 of the	**Kent County Council** KCC ask that the wording of Requirement 9 clarifies that the Secretary of State will approve documents, such as the AMS-OWSI	In response to Kent County Council's comments, the Applicant considers that these approval processes are sufficiently clear in the

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			outline LEMP on matters related to their respective functions. Table 2.1 is in the Applicant's view a comprehensive list of the stakeholders with an interest in the development and implementation of the LEMP.	and subsequent documents such as EMP2 and Site Specific Written Schemes of Investigation, in consultation with the Relevant Planning Authority. **GBC** GBC confirmed it will be consulted and is content with Requirement 5. **Marine Management Organisation** The MMO has no comments. **TfL** TfL confirmed it had no comments.	current drafting of the DCO. Requirement 4(2) sets out that the second iteration of the EMP must be submitted to and approved in writing by the Secretary of State, following consultation by the Applicant with the relevant planning authorities, relevant local highway authorities and bodies identified in Table 2.1 of the Code of Construction Practice to the extent that the consultation relates to matters relevant to their respective functions. Requirement 9(1) sets out that no part of the authorised development is to commence until for that part a site-specific written scheme for the investigation of areas of

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					archaeological interest, reflecting the relevant mitigation measures set out in the AMS-OWSI, has been submitted to and approved in writing by the Secretary of State, following consultation by the undertaker with the relevant planning authority and Historic England on matters related to their respective functions. The Applicant is grateful for GBC's, the MMO's and TfL's confirmations.
QD54	Requirements 6, 7,8 and 9 – contaminated land and groundwater, protected species, surface and foul water drainage and historic environment	Do the Environment Agency, Natural England and Historic England consider that the approval process is sufficiently clear? Does it provide adequate security for initial stage commitments and for the REAC? If amendments are	The Applicant notes that this question is directed to IPs, however the Applicant does consider that the approval process relating to the matters addressed by Requirements 6 – 9 (inclusive) is sufficiently clear and does not require amendment. As requested, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at	**Environment Agency** The EA confirms this requirement is sufficiently clear but requests that there should be deemed refusal in paragraph 20.	The Applicant does not accept the need for a "deemed refusal". Please see the Applicant's response to IP comments made on the draft DCO at Deadline 1 [REP2-077] which justifies the use of the well-precedented deemed consent provisions.

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		sought, why are they required?	Deadline 9 in the Examination timetable.		
QD55	Requirement 13 – re-provision of Gammonfields Travellers' Site in Thurrock	R13 appears to provide for the development of a replacement Travellers' site but the ExA is not clear that it also adequately provides for the lawful ongoing use of the site, or ensures that use or development not expressly contemplated in clause S11.12 of the Design Principles document can be adequately managed.	The Applicant has prepared a note in response to this question, which is appended to the Deadline 8 submission [**REP8-117**].	**Thurrock Council** TC notes that agreement has been reached on the terms of Requirement 13.	The Applicant is grateful for the confirmation.
QD56		Does R13(3) (which provides security for the carrying out of works to provide the replacement Travellers' site) provide any security for the ongoing use of the operational site as provided?		As above	As above

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QD57		Could a new R13 (4) (with renumbering thereafter) provide that on completion of Work No.7R the land must be used as a Travellers' site and the development must be maintained generally in accordance with any plans or details submitted and approved under R13 (2)?		As above	As above
QD58		Is there argument to include another new provision that, notwithstanding the process for obtaining consent for operational development for a Travellers' site provided under R13, any subsequent application for change of use, new development or any further enforcement proceedings or appeals in relation to		As above	As above.

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		any of these should proceed under relevant provisions of the TCPA, with the consent for use and development provided under the made Order being deemed to be a conditional lawful use or a planning permission for the purposes of TCPA decision-making, subject to a need to consult the LTC undertaker on any such application, proceeding or appeal? The aim of such a change would be to use the DCO regime to re-provide the site, but not to govern its operation. Could such a provision form part of A56 or should it be dealt with in R13 or another new Article and or Requirement? The Applicant is			

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		requested to provide a drafted response.			
QD59	Requirement 15 – carbon and energy management plan	IPs final submissions are sought. Reasons for any proposed changes must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no further submissions to make on this requirement. **GBC** GBC confirmed that it has no comments on this Requirement. **Thurrock Council** TC repeats its concerns about the monitoring, processes and outcomes in connection with the Carbon and Energy Management Plan. **Marine Management Organisation** The MMO has no comments.	The Applicant is grateful for the confirmations provided. In response to TC, the Applicant addressed these matters in ISH12 [REP8-111], and considers no amendment is required for its ground breaking and pathfinding approach. The Applicant has comprehensively addressed the comments from TC in its response to TC's LR (see, in particular, [REP2-062] and [REP2-064].

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				TfL TfL submitted that the Carbon and Energy Management Plan should include measures to address, manage and mitigation operational carbon emissions from road users.	As regards TfL's comments, the Applicant's position is set out in its responses to TfL's written representation [REP2-048] and at item 2.1.30 of the Statement of Common Ground between the Applicant and TfL [REP7-114].
QD60	Schedule 3 – temporary closure, alteration, diversion and restriction of use of streets and private means of access	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and representation of temporary restrictions on plans identified in Schedule 3 are sought from Local Highway Authorities and IPs affected by the proposals. Reasons for any requested amendments must be provided	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no further submissions to make on Schedule 3. **GBC** GBC confirmed it has no comments on Schedule 3. **Thurrock Council** TC confirms it has no further comments. **TfL** TfL confirmed it had no comments.	The Applicant is grateful for the confirmations provided.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
QD61	Schedule 4 – permanent stopping up of streets and private means of access	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and representation of permanent stopping up on plans and of the proposed substitutes(s) identified in Schedule 4 are sought from Local Highway Authorities and IPs affected by the proposals. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC have raised that there should be scope to amend the precise alignment, with the agreement of the Highway Authority, to account for practical challenges that may arise, should be provided for within the DCO. Widths must be accurately described and clearly may be greater than the minimum specified in design principles. The widths may only be determined on completion of the works and should form part of the certification and handover on practical completion of the works. **GBC** GBC confirmed it has no comments on Schedule 4.	The Applicant considers there is adequate scope to amend the precise scope as article 14(1) is permissive in that it allows stopping up 'to the extent' set out. This allows a 'shorter' stopping up. The Applicant has set these limits to an extent which reflects the preliminary scheme design. This flexibility is confirmed in article 14(3) which refers to streets being "wholly or partly" stopped up. The Applicant is grateful for GBC's and TfL's confirmations.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				TfL TfL confirmed it had no comments. **Thurrock Council** TC confirms there is sufficient detail, and further confirms that "*proposed routes once the scheme is completed will maintain and improve connectivity.*"	The Applicant is grateful for the confirmation. The Applicant notes that comments are also made about the construction period. The Applicant is confident reasonable mitigation has been provided in the oTMPfC which sets out commitments in relation to the construction period. The Applicant would refer to [REP7-179] which sets this out in further detail.
QD62		Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and representation of permanent stopping up on plans identified in Schedule 4 are sought from Local Highway Authorities and IPs affected by the proposals. Are individual proposals	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by Interested Parties in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no further submissions to make on Schedule 4. **GBC** GBC confirmed it has no comments on Schedule 4. **Thurrock Council** TC confirms it has no further comments.	The Applicant is grateful for the confirmations provided.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
		to stop up without substitution appropriate? Reasons for any requested amendments must be provided.		**TfL** TfL confirmed it had no comments.	
QD63	Schedule 5 – classification of roads, etc.	Final submissions on the reclassification of certain bridleway PRoWs are sought from Mr Mike Holland for clients, Mr Tom Benton, and Mr Jeremy Finnis for client. With reference to Schedule 5 Part 6 and to the Classification of Roads Plans, please identify each Bridleway proposed to be differently classified, what its revised proposed classification would be and a summary reason for the change.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Thurrock Council** TC states that it wants all affected routes to be upgraded to bridleway to enhance the network.	The Applicant is providing a substantial betterment to the non-motorised user network across the Order limits, including the provision and upgrading of a number of routes to bridleway. In limited instances permissive paths have been proposed and this has been explained in Section 4.1 of [**REP6-091**].
QD64		Applicant, Local Highway Authorities and IPs affected by	The Applicant notes the request and will provide a response at Deadline 9 to any comments from		

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		the proposals are invited to respond at the following deadline.	Interested Parties in respect of QD63.		
QD65	Schedule 6 – traffic regulation measures	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions and extents of the proposed speed limits, clearway provisions and TRO amendments in Schedule 6 are sought from Local Highway Authorities and IPs affected by the proposals. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it is broadly satisfied with the speed limits proposed but noted that the 30mph restriction on Thong Lane, although desirable, is unlikely to be achievable without further measures due to the geometry of the route. **GBC** GBC confirmed it has no comments on Schedule 5. **Thurrock Council** TC confirms it has no further comments. **TfL** TfL confirmed it had no comments.	The Applicant is grateful for the confirmations provided. In relation to the 30mph speed limit, there is provision in the dDCO (see article 17) and the outline Traffic Management Plan for Construction to deal with any further measures which are required.

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QD66		Without prejudice to submissions on HRA and effects of European Sites more generally, the Applicant is invited to indicate whether (and if so how) relevant air quality impact reductions might be secured by speed limits. Would such controls be given effect to in this Schedule and if so, how would the Schedule be changed?	The speed limits on M25 are controlled and regulated under a variable speed limit variation. This allows for a variation of the speed limit on the M25 in the event that the Secretary of State considers the without prejudice mitigation is required. The relevant speed limit would not be inserted into Schedule 6 to the dDCO [**REP7-090**], but would instead be required under the REAC secured under Requirement 4. The Applicant has addressed how the REAC would be updated in response to ExQ1_Q11.11.2, which can be found in [**REP4-194**].	**GBC** GBC confirmed it is neutral on this issue and deferred to Natural England to respond on HRA matters.	The Applicant is grateful for GBC's confirmation and notes that Natural England was unable to prove a response to these questions for D8. The Applicant will consider any comments provided by Natural England at D9.
QD67	Schedule 7 – trees subject to tree preservation orders	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and effects of the proposed tree works in Schedule 7 are sought from Local Authorities. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC deferred to Gravesham Borough Council for this question. **GBC** GBC confirmed it has no comments in relation to Schedule 7. **Thurrock Council** TC confirms it agrees with the provisions.	The Applicant is grateful to GBC for its confirmation.

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QD68	Schedule 8 – land of which only new rights etc. may be acquired	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and purposes of the proposed acquisitions in Schedule 8 are sought from Affected Persons. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no specific submissions on Schedule 8, and flagged to the ExA their summary of ISH12 [REP8-138]. **Essex & Suffolk Water** ESW asserts that there is not a compelling case in regards to the compulsory acquisition, acquisition of rights or temporary possession of plots 24-133. **Thurrock Council** TC confirms it has no further comments. **TfL** TfL confirmed it had no comments.	The Applicant is grateful for KCCs and TfL's confirmations. The Applicant understands that ESW's primary contention remains as set out in [REP1-265]. ESW seeks the removal of plot 24-133, the Linford Well site, from the Order limits so as not to interfere with ESW's statutory undertaking, including abstraction licence obligations and commitments relating to future water supply. The Applicant has been in ongoing discussion with ESW and has provided responses to the representations ESW has made in its: Post-event submissions, including written submission of oral comments, for CAH4, Section 3.4

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					[REP6-088]; Deadline 7 Hearing Actions, Section 3.3 [REP7-185]; Responses to the Examining Authority's ExQ2 Appendix F: 10 Road Drainage, Water Environment and Flooding, response to ExQ2_Q10.3.1 [REP6-112]; and Comments on WRs Appendix B: Statutory Undertakers [REP2-047]. A side agreement is currently being negotiated which already incorporates the majority of the provisions referred to in ESW's submitted form of protective provisions [REP7-224] and the Applicant does not consider a bespoke set of Protective Provisions to be necessary. The Examining Authority should note that the majority of amendments are

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					already agreed or immaterial in nature. The Applicant wishes to make clear that the existing Protective Provisions in Part 1 of Schedule 14 to the draft Order [**REP8-006**] are reasonable and offer adequate protection to ESW in all material respects, other than on water quality which is already covered by existing REAC commitments (see 3.4.14 of [**REP6-088**]). The existing provisions are well precedented and adequately protect water undertakers such as ESW. Overall, the Applicant is engaged in positive discussions. The Applicant hopes that an agreement can be reached prior to the close of Examination. However, should an agreement not be reached, the Applicant

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					maintains that the Protective Provisions already within the Order provide sufficient protection to ESW.
QD69	Schedule 9 – modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictive covenants	Final submissions on the appropriateness and effect of the proposed modifications in Schedule 9 are sought from Affected Persons. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no specific submissions on Schedule 9. **GBC** GBC confirmed it had no specific comments in relation to Schedule 9. **Thurrock Council** TC confirms it has no further comments. **TfL** TfL confirmed it had no comments.	The Applicant is grateful for the confirmations provided.
QD70	Schedule 10 – land in which only subsoil or new rights in and above subsoil and surface may be acquired	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and purposes of the proposed acquisitions in	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this	**Kent County Council** KCC confirmed it has no specific submissions on Schedule 10.	The Applicant is grateful for the confirmations provided.

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		Schedule 10 are sought from Affected Persons. Reasons for any requested amendments must be provided.	question, at Deadline 9 in the Examination timetable.	**GBC** GBC confirmed it has no comments in relation to Schedule 10. **Thurrock Council** TC confirms it has no further comments. **TfL** TfL confirmed it had no comments.	
QD71	Schedule 11 – land of which temporary possession may be taken	Final submissions on the appropriateness and/ or accuracy of the proposed descriptions, extents and purposes of the proposed TP in Schedule 11 are sought. Reasons for any requested amendments must be provided.	The Applicant notes that this question is directed to IPs and, therefore, has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no specific submissions on Schedule 11. **GBC** GBC confirmed it has no comments in relation to Schedule 11. **Essex & Suffolk Water** ESW asserts that there is not a compelling case in regards to the compulsory acquisition, acquisition of rights or	The Applicant is grateful to Kent County Council, GBC and TfL's for their confirmations. The Applicant has addressed ESW's submitted protective provisions in its response to QD68 in this submission

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				temporary possession of plots 24-133. **Thurrock Council** TC confirms it has no further comments. **TfL** TfL confirmed it had no comments.	
QD72	Schedule 12 – road user charging provisions for use of the Lower Thames Crossing	Is the ExA correct in assessing the basis for this provision as avoiding differential approaches to charging which might differentially attract vehicles to one or the other crossing?	This is correct, as is more fully explained in the Road User Charging Statement [APP-517].	**GBC** GBC confirmed it may comment in due course on the Applicant's response at D8. **Thurrock Council** TC agrees the basis for the schedule is to avoid differential charges.	The Applicant will consider any submissions from GBC in relation to this issue at Deadline 9.
QD73		Are IPs content that the proposed charging regime is within the powers of a DCO (with reference to PA2008 s120 and	The Applicant notes that this question is directed to IPs but the Applicant's firm position is that the proposed charging regime is within the powers of a DCO, for the reasons set out in the EM [REP7-092]. In particular, paragraph 18 of	**Kent County Council** KCC confirmed it has no comment.	The Applicant is grateful for the confirmations provided.

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		Schedule 5)? If not, please explain why not.	Schedule 5 to the Planning Act 2008 specifically provides that the matters for which provision may be made by a DCO include 'charging tolls, fares (including penalty fares) and other charges'. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**GBC** GBC confirmed it was content that the proposed charging regime is within the powers of a DCO. **Thurrock Council** TC agrees that the charging regime is within the powers of the dDCO. **TfL** TfL confirmed it had no comments.	
QD74		Are there any final observations on the operation of Payments for local residents (para 5)?	As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no final observations on the operation of payments. KCC noted it would support a local resident's agreement for those within the Borough of Gravesham. **GBC** GBC referred to its suggested drafting amendments in relation to Schedule 12 of the dDCO and its earlier	In response to GBC's comments, the Applicant has set out in full its position regarding the operation

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				submissions on the operation of payments for residents of Gravesham. **Thurrock Council** TC confirms it has no further comments. **Thames Crossing Action Group** TCAG believe discounts should be provided to residents of Dartford and that the existing system has issues.	of payments for local residents during the course of the examination in [REP1-184] (please see, in particular, the Secretary of State's confirmation on government policy in Annex B of that submission), [REP2-077] and [REP4-212]. In response to TCAG, please see the response to LBH on QD39 above. The existing arrangements at Dartford are not subject to amendment under this dDCO, and for completeness, the Applicant does not recognise the issues reported.
QD75		Are there any final observations on the effect of the balance of these provisions? Responses to these questions are specifically sought	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this	**Kent County Council** KCC confirmed it has no further comments on this matter.	The Applicant is grateful for the confirmations provided.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
		from the host Local Authorities for the proposed LTC. Reasons should be provided for any changes sought.	question, at Deadline 9 in the Examination timetable.	**GBC** GBC confirmed it has no further comments. **Thurrock Council** TC confirms it has no further comments.	
QD76	Schedule 13 – Lower Thames Crossing byelaws	Are IPs content that all of the proposed byelaws are within the powers of a DCO (with reference to PA2008 s120 and Schedule 5)? If not, please explain why not.	The Applicant notes that this question is directed to IPs and therefore has no further substantive comments at this stage, but is nevertheless content that all of the proposed byelaws are within the powers of a DCO by virtue of section 120(3) and paragraph 32A of Schedule 5 to the Planning Act 2008. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it is content that the proposed byelaws are within the powers of a DCO. **GBC** GBC confirmed it has no comments. **Thurrock Council** TC confirms the byelaws are within the powers of the DCO. **Marine Management Organisation** The MMO has no comments.	The Applicant is grateful for the confirmations provided.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				TfL TfL confirmed it had no comments.	
QD77		Are there any final observations on the effect of these provisions? Responses to this question are specifically sought from the host Local Authorities for the proposed LTC. Reasons should be provided for any changes sought.	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no further comment on this matter. **GBC** GBC confirmed it has no comments. **Thurrock Council** TC confirms it has no further comments. **Marine Management Organisation** The MMO has no comments.	The Applicant is grateful for the confirmations provided.
QD78	Schedule 14 – protective provisions	Are the named beneficiaries of the Protective Provisions content that the provisions drafted for their benefit are appropriate and correct? If not, please explain why not.	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**All Local Highway Authorities** All Local Highway Authorities refer to a note submitted by the London Borough of Havering at Deadline 8 [REP8-150].	The Applicant has responded to this joint submission in this document (see Section 2 above). The Applicant is grateful for the EA's confirmation.

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				Environment Agency The EA has agreed to the form of protective provisions in Part 9 of Schedule 14 of the DCO. **Essex & Suffolk Water** ESW refers to the protective provisions submitted which ESW wants included in the dDCO [REP7-224]. **TfL** TfL noted there were outstanding matters still to be agreed in relation to the protective provisions for the benefit of local highway authorities and considered that the protective provisions proposed by the Applicant were not appropriate in several respects (crucially in relation to commuted sums).	The Applicant has addressed ESW's submitted protective provisions in its response to QD68 in this submission. In response to TfL's comments, the Applicant would refer to Section 2 of this document, which sets out its response to the Joint Submission on local highway authority protective provisions.

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QD79		Further to changes to the structure of the National Grid group of companies, should the beneficiary of Part 6 be National Gas?	The Applicant can confirm that references to National Grid Gas Plc in the dDCO were amended to National Gas Transmission Plc in the version of the dDCO submitted at Deadline 7 [**REP7-090**].	**Marine Management Organisation** The MMO has no comments.	
QD80		Do any other IPs and specifically statutory undertakers affected by the Proposed Development consider that they should benefit from Protective Provisions? If so, why and what ought the provisions to contain?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	**Kent County Council** KCC confirmed it has no further comment on this matter. **GBC** GBC confirmed that it is not seeking protective provisions. **Environment Agency** The EA confirmed that it has no comments in relation to this matter.	The Applicant is grateful for the confirmations provided. In relation to TfL's comments, the Applicant refers to its response to TfL's response to QD78 above.

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				Marine Management Organisation The MMO has no comments. **TfL** TfL referred to its response to QD78.	
QD81		Are there any other requests for amendments to Protective Provisions? If so what changes are sought and why?	The Applicant continues to negotiate the terms of protective provisions with third parties and is hopeful that agreement will be reached with the majority of third parties in due course. The Applicant will set out its final position in relation to negotiations with third party undertakers at Deadline 9.	**Kent County Council** KCC does not consider a 28-day period for deemed consent to be acceptable as it is too short, and a 12-week (60-day) period ought to be inserted into this Protective Provision. **Environment Agency** The EA confirmed that it has no comments in relation to this matter. **PLA** The PLA highlight two outstanding matters on their PPs: one relating to arbitration, and the other	In relation to the KCC request, please see the response provided in relation to QD12, QD22 and QD23. The Applicant's position on arbitration (paragraph 99(6) is addressed above at Section 10). In relation to paragraphs 104 of

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				relating to paragraph 104 (protective works). **Marine Management Organisation** The MMO has no comments. **TfL** TfL referred to its response to QD78.	Schedule 14 to the dDCO, the Applicant's position is set out in Table 5.1 of [REP7-190]. In short, The PLA objects to the use of the word 'material' and argues that "*what is material in the context of the river, may be different from what is material in the context of the project as a whole and that, from the PLA's point of view, paragraph 104 should deal with materiality so far as the river is concerned*". The Applicant has addressed this matter in the Statement of Common Ground with the PLA [APP-100] (see Item 2.1.58). In short, the 'material' change is explicitly a change which is a "*material change to the riverbed*", and which is "*materially detrimental to traffic l in, or the flow*

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					or regime of, the river". There is no reference to materiality being related to the Project. No amendment is therefore considered necessary. In relation to TfL's comments, the Applicant refers to its response to TfL's response to QD78 above.
QD82	Schedule 15 – deemed marine licence	Are there any final observations on the form or effect of the DML? Responses to this question are specifically sought from the MMO. Reasons should be provided for any changes sought.	The Applicant considers the Deemed Marine Licence (DML) now agreed, subject to the outstanding points below: • Paragraph 20 of the DML (Further information regarding return): The MMO do not agree to the deemed consent provisions within para 20(2) of the DML. The Applicant seeks inclusion of deemed consent provisions to ensure that there are no delays to its ability to implement the scheme. 30 business days to request further information is considered a reasonable period. Deemed consent provisions such as	**Kent County Council** KCC confirmed it has no comments on this matter. **GBC** GBC confirmed it has no comments on this matter **Marine Management Organisation**	The Applicant is grateful for the confirmations provided. At Deadline 9, the Applicant has amended paragraph 15 and inserted the requested condition relating to Coalhouse point. The Applicant considers this matters closed. On Article 8, the

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			those in para 20 have been included in DMLs in other DCOs, for example The Great Yarmouth Third River Crossing DCO 2020. • Paragraph 22 of the DML (Notice of determination): The MMO do not agree to determine applications within 30 business days. The Applicant considers this a reasonable period of time to make a decision, particularly given the limited nature of works in the marine area. Paragraph 22(3) also permits the MMO to make a decision later than 30 business days if it cannot reasonably make an earlier decision. The Applicant therefore considers this drafting reasonable. The Applicant's approach is in line with that on the Silvertown Tunnel Order 2018. • Paragraph 24(3) of the DML (Changes to the Deemed Marine Licence), Article 8 DCO (Consent to transfer benefit of the Order): The MMO disagree with the Applicant's interpretation of this DML paragraph and believe that sections 72(7) and (8) of the	The MMO makes a request for an amendment to paragraph 15(2)(a) of the DML and also signposts to its comments on Article 8. The MMO separately requests a new condition relating to the Coalhouse Fort water inlet.	Applicant's precedented position is justified in Section 5 of [REP7-190].

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			Marine and Coastal Access Act 2009 should continue to apply, even to transfers of the DCO unconnected to the MMO's remit. The Applicant has supplied a technical note to the MMO to clarify its position but it seems that the parties are unable to reach an agreement. The Applicant's preferred drafting appears in Schedule 11 (Deemed Marine Licence under the 2009 Act – Generation Assets), Part 1, para 7 of The Hornsea Four Offshore Wind Farm Order 2023. The Applicant is considering further amendments to the DML. A meeting is set up with the MMO to go over these amendments. In summary, the Applicant is seeking the following amendments: • Self-service marine licensing: The Applicant will discuss a potential amendment to clarify that works which involve removing sediment are to be incorporated within the DML. The Applicant does not consider such works to be dredging and so any such work would ordinarily be consented by the		

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			self-service marine licensing route. The Applicant considers this necessary to ensure there is clarity on which works are included within the scope of the DML. Should an amendment be agreed with the MMO, it will form part of an updated DML to be submitted at a later deadline.		
QD83		The MMO is asked whether the REAC commitments or other CDs are sufficiently secured. If not, what specific additional references to the REAC or to specific CDs are required in any of the existing draft Requirements, or are any additional Requirements sought (and if so reasons for their inclusion and drafts should be provided)?	The Applicant notes that this question is directed to the MMO and therefore has no comments at this stage but is content that all commitments are sufficiently secured by the DML or other controls referred to in the dDCO [**REP7-090**]. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.		
QD84	Control documents	Do any IPs have any final concerns about the functions of and	The Applicant notes that this question is directed to IPs and therefore has no comments at this	**Kent County Council** KCC refers to its Written Summary of Oral	The Applicant has responded to KCC in

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
		relationships between the proposed certified documents and the CDs as a subset of them? Are the proposed iterations clear and justified? If any changes are sought, please explain these.	stage. As requested by the ExA, where appropriate the Applicant will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Submissions at ISH12 [REP8-138] but these do not contain submissions on the dDCO (they relate to control documents). **GBC** GBC confirmed it has no comments in addition to those raised elsewhere. **TfL** TfL confirmed it had no comments. **Thurrock Council** TC repeats again its objection to the terms "reflect", "substantially in accordance with".	the Applicant's responses to IP's submissions at Deadline 8 [**Document Reference 9.214**]. The Applicant is grateful for GBC's and TfL's confirmations. These are addressed in this document, and in particular, Section 12 which provides a specific response to Thurrock Council.
QD85		QD85: Do any IPs have any final submissions to make on the CDs and their content?	The Applicant notes that this question is directed to IPs and therefore has no comments at this stage. As requested by the ExA, where appropriate the Applicant	**Kent County Council** KCC refers to its responses to QD3 to QD7 and its Written Summary of Oral	The Applicant has responded to KCC in the Applicant's responses to IP's

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
		Is there superfluous content that could be removed? Is there additional content that should be added? Are there any other documents that should be certified and should form part of the CDs? Any responses to this question should be accompanied by an explanation of the changes sought and the reasons for them.	will provide a response to any comments by IPs in relation to this question, at Deadline 9 in the Examination timetable.	Submissions at ISH12 [REP8-138] but there are no comments on the dDCO (they are on control documents). **GBC** GBC referred to its separate submission setting out drafting suggestions in respect of the dDCO. **PLA** The PLA confirms it has no comments on this question. **Thurrock Council** For completeness, TC has copy and pasted, for the fourth time in the same document, its comments on the same plans needing to be secured. **Warley Green Ltd** WGL reiterates its request for the SAC-R or	submissions at Deadline 8 [**Document Reference 9.214**]. As regards GBC's comments, the Applicant has responded to GBC's drafting suggestions in Section 4 of this document above. The Applicant is grateful for the PLA and TfL's confirmations. These are addressed in this document, and in particular, Section 12 which provides a specific response to Thurrock Council. In response to WGL, the Applicant has responded to this

Ref. No	Provision	ExA question	Applicant's response to ExA	Any IP comments at Deadline 8	Applicant's response to IP
				REAC to include monitoring in connection with dust monitoring of solar farms. **TfL** TfL confirmed it had not identified any superfluous content that could be removed or additional content that should be added.	suggestion in response to QD50.

References

Department for Levelling Up, Housing and Communities (DLUHC) (2023). Getting Great Britain building again: Speeding up infrastructure delivery. Accessed December 2023. https://www.gov.uk/government/publications/getting-great-britain-building-again-speeding-up-infrastructure-delivery#:~:text=Policy%20paper-,Getting%20Great%20Britain%20building%20again%3A%20Speeding%20up%20infrastructure%20delivery,delay%2C%20high%20costs%20and%20inefficiency.

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