

**Principal Areas of Disagreement Summary Statement  
as at 15 December 2023**

**Lower Thames Crossing – TR010032**

**PORT OF LONDON AUTHORITY (PLA) – id no 20035622**

**Statement of Common Ground (December 2023)**

<b>Number</b>	<b>Principal Issue in Question</b>	<b>SoCG or, where specified, other doc reference</b>	<b>The brief outstanding concern held by PLA</b>	<b>What needs to change, or be included, or amended so as to overcome the disagreement</b>
<b>Issues relating to drafting of the dDCO</b>				
1	Article 2 (Interpretation) – definition of “authorised development”	2.1.21 2.1.22	The definition of authorised development is too wide and imprecise – as it includes any development within the meaning of s32 of the Planning Act 2008 – and causes uncertainty as to the ultimate extent of the authorised development and the extent to which it may engage the river.	The definition of “authorised development” should be restricted to what is described in Schedule 1 to the dDCO.
2	Article 8 (Consent to transfer benefit of Order) - number of undertakers who may take benefit of the dDCO for their undertaking	2.1.24	The scope of parties to whom the benefit of the dDCO, and the powers it confers, including powers of compulsory acquisition, may be transferred without the consent of the Secretary of State is too great.	The purposes for which powers may be transferred to be specified in the case of each undertaker.
3	Schedule 2 – Requirement 2 – begin and commence	REP1-269 REP2-091 REP4-345 REP7-225 REP8-162 REP9-295	R2 states that development must “begin” within five years of the dDCO coming into force, but there is no equivalent requirement for the development to “commence”, leading to the possibility that the development is “begun” by means of minor, preliminary works, with no obligation on the Applicant to carry out “commence” the development in earnest, and the development consent then existing indefinitely. This creates ambiguity for IPs whose land and interests are affected by the scheme, as there can be no certainty	There should be a requirement that the dDCO scheme be commenced within a commensurate five-year period.

			as to when it will come forward.	
4	Schedule 14 Part 8 Para 99(6) – unilateral referral of arbitration to Secretary of State	2.1.37 2.1.38	In the event of a dispute as to tunnelling design works, the Applicant may refer arbitration thereon to the Secretary of State for a decision, with which the arbiter must abide. The PLA objects to being treated differently from any undertaker on any other DCO scheme, and in a manner which would interfere with its existing duties and obligations under the Port of London Act 1968.	Article 64 (arbitration) of the dDCO and paragraph 99 of the protective provisions for the PLA should be amended, and the Arbitration Rules schedule incorporated, as suggested in the PLA’s note on proposed Arbitration Rules (REP8-161). This is further explained in the PLA’s other Deadline 9A submission (Comments on Applicant’s submissions at Deadline 9).
5	Schedule 14 Part 8 Para 104 – materiality in terms of river, in context of project	2.1.58	Paragraph 104 deals with remedial works where there is a material change to the riverbed; however, 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.	Paragraph.104 should deal with materiality only so far as the river is concerned, adding the words in italics: “ <i>or in the PLA’s reasonable opinion</i> ”, other material change to the riverbed”.
<b>Issues relating to river use</b>				
6	Outline Materials Handling Plan - Insufficiently robust commitment to use of the river (materials waste plant and equipment) and to monitoring and reporting	2.1.36 2.1.39 2.1.66	The oMHP as drafted including at para 8.3.3 commits only to investigating river use where it is a proven environmentally equivalent or better option, and does not impact on value for money nor cause disproportionate delay. With such caveats, there is no reasonable prospect of the Applicant having to commit to use of the river  To evaluate the use of river and rail facilities as an alternative to road transport, the Applicant should be required to take into account safety, carbon emissions and effects of air quality. This would be consistent with government policy as set out in paragraph 5 of the PLA’s Comments on Applicant’s submissions at Deadline 9. The detail required in the construction phase Materials Handling Plan and the monitoring and	Paragraph 8.3.3 of the oMHP should be split out to make clear the split between the two commitments and to add the wording in italics:  “8.3.3 The Project recognises the benefit of reducing impacts from vehicle movements by using rail and/or river facilities as part of a multimodal approach to transport materials. As such, the Project commits to seek to maximise the use of rail and/or river facilities as part of the multimodal transport of bulk aggregates to the whole scheme.  8.3.4 Where the use of a rail and/or

			reporting requirements should extend to all materials, waste, plant and equipment that it is proposed to transport by water.	<p>river facility is proven to be an environmentally equivalent or better option which <i>provides no significantly worse value (taking into account safety, carbon emissions, and effects on air quality as part of a broader cost-benefit analysis)</i>, and that does not cause disproportionate delay to the programme, then the Project commits to the use of that facility to transport the material.</p> <p>The Materials Handling Plan and the monitoring and reporting requirements should be extended to all materials, waste, plant and equipment that it is proposed to transport by water, as set out in the PLA's Deadline 9 submission on multi-modal transport (REP9-294).</p>
7	Non-compliance with national and regional ports policy, including National Policy Statement for Ports	REP9-296	The Applicant has acknowledged that it is not required to comply with policy objectives as set out in the NPS for Ports as the scheme will bring benefits to the ports. The ports note that, whilst they will be subject to certain disbenefits as a result of the scheme, the benefits alleged by the Applicant are by no means certain, and the Applicant remains reluctant to make any of the commitments necessary to secure such benefits. In relation to the PLA, as set out in the joint statement, the opportunities to maximise use of the river are not secured and the full benefits of the project have therefore not been realised.	Amendments to the oMHP and associated documents to secure meaningful commitments to river use that are all monitored and reported on
8	Outline Traffic Management Plan for Construction – “representation of disagreements” and project	2.1.66	Disputes arising in relation to development of a traffic management plan, will incur production of a “representation of disagreements”, without any commitment that any party other than the	Paragraph E.6.10.c of oTMPfC should be amended to make clear that a representation of disagreement is to be prepared with the involvement

	reporting commitments		<p>Applicant will be involved in its preparation.</p> <p>Monitoring is required only in relation to the forecasted amounts of bulk aggregates to be transported by water.</p>	<p>of all those party to the disagreement.</p> <p>Paragraph 2.4.22.f of the oTMPfC should be amended to secure monitoring and reporting of all materials, waste, plant and equipment which is forecast to be transported by water</p>
9	Inadequate document scrutiny	2.1.36	<p>There are a number of documents which are not required to be consulted upon and approved as part of EMP2 (per R4(2)), and are to be produced post-consent and following approval of EMP2 which do not require consultation and/or approval by regulators or other relevant IPs. Construction Logistics Plans are one such example of plans to be produced by the contractor without further oversight,</p> <p>The PLA has not been included in the list of stakeholders with which the Applicant must engage in relation to environmental incident control and the emergency procedures that will be produced in relation to construction of the scheme.</p> <p>The PLA does not have a role in the formulation of site-specific travel plans.</p>	<p>PLA engagement and approval is to be required in respect of <u>all</u> plans, procedures or other documents which affect the river, its users and/or the PLA's functions and duties.</p>
10	Code of Construction Practice – controls on lighting on and adjacent to the river	2.1.56	<p>The PLA has no role in whether a river safety lighting management plan is necessary, notwithstanding its environmental responsibilities and duties in respect of navigation; rather it is for the contractor to decide if a RSLMP is required in the first instance. In addition, a lighting plan is only required to be sought under the deemed marine licence where 24-hour working is proposed.</p> <p>The PLA is concerned about the potential effect of lighting on the river, in terms of impact on ecological</p>	<p>CoCP to be updated to make it clear that a RSLMP is required to be produced in any event and to allow the PLA to properly consider its environmental responsibilities when commenting along with its navigational responsibilities.</p> <p>Amend the requirement for a lighting plan to be submitted to the MMO to ensure that one is produced if</p>

			marine species and on dazzling effects on mariners and other users.	working is to be undertaken in the dark any point of the day at any time of the year.
11	Stakeholder Actions and Commitments Register – need to be beneficiary of TDASCG	REP7-225 REP8-162	The PLA has not been named as a beneficiary of the commitment in the SACR as to a Tunnel Design and Safety Consultation Group. Due to its stake in the tunnelling process, the PLA should be added to this group.	The PLA should be added as a named beneficiary of the TDSCG.
<b>Other</b>				
12	Compulsory Acquisition - compensation matters and matters of valuation	2.1.31 2.1.46 2.1.61	<p>The PLA objects to compulsory acquisition powers on principle as a statutory undertaker and given its particular role in managing and conserving the river.</p> <p>On the basis that such powers are included in the dDCO, the PLA considers that there has not been a reasonable attempt to acquire the relevant interests by agreement, in line with the relevant PA 2008 guidance.</p> <p>There is a significant distance between the parties in terms of quantum, and compensation for temporary works remains unresolved. Notwithstanding which, it ought to have been possible to reach agreement on other matters relating to property acquisition.</p>	The Applicant and the PLA should progress discussions to enter into a property agreement.
13	Mean High Water	REP4-343 REP8-162	The matter of MHW needs to be resolved in that certain plot boundaries follow the published Ordnance Survey (OS) line of MHW. The OS line is dated, being at least 20 years old, and recent survey data suggest the MHW has receded by about 15m.	The boundaries of the relevant plots should be changed to reflect the actual line of MHW, not the outdated OS line.
14	Inadequacies and inaccuracies in the Environmental Statement	2.1.64	<p>The PLA has identified a number of uncertainties and discrepancies between the conclusions reported in the ES and the contents of the register of environmental actions and commitments</p> <p>The Applicant addressed a limited number of</p>	The PLA remains of the opinion that the Applicant should make clear in the ES the limitations of the data used.

			inconsistencies during the Examination but some remain for example in the PLA's WR a number of inaccuracies were identified in relation to Chapter 13 of the ES (Population and Human Health) (para 22.23 of the WR) none of which has been addressed to date.	
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