

Reference number: TR010032
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20 December 2023

Dear Mr Smith

A122 Lower Thames Crossing (Reference Number TR010032)

Deadline 10

1 Response to Rule 8(3) and 9 letter of 17 November 2023

1.1.1 This submission is in response to the Rule 8(3) and 9 letter [[PD-049](#)] issued by the Examining Authority (ExA) on 17 November 2023 giving details of changes to the Examination Timetable.

1.1.2 Annex A of this letter identifies all of the documents that accompany this submission.

1.1.3 A Navigation Document [**Document Reference 1.4 (17)**] has been provided with this submission.

1.2 Comments on any information requested by the ExA and received by Deadline 9 and Deadline 9A

1.2.1 The Applicant has reviewed the submissions by others, published at Deadline 9 and Deadline 9A. The Applicant's response is provided in:

- a. Applicant's comments on Interested Parties' submissions at Deadline 9 and 9A [**Document Reference 9.216**]

1.2.2 The Applicant has no comments to make on the other Deadline 9 and Deadline 9A submissions.

1.3 Closing Submissions

1.3.1 It was requested within the Rule 8(3) and 9 letter [[PD-049](#)] that the Applicant submit Closing Submissions.

1.3.2 The Applicant has enclosed the Closing Submissions [**Document Reference 9.218**] at this deadline.

- 1.3.3 The Closing Submissions is intended to supplement existing submission documents in order to assist the ExA and the Secretary of State in their reporting and decision-making on the application for a Development Consent Order for the A122 Lower Thames Crossing Project.
- 1.3.4 The Closing Submissions do not introduce new assessments, but rather bring together in one place a brief summary of the Applicant's position in respect of key matters that have been subject to submissions by Interested Parties and Affected Persons during the course of the Examination.
- 1.4 Any further information requested by the ExA under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR)**
- Procedural Decision 44**
- 1.4.1 On the 8 December 2023, the ExA issued Procedural Decision 44 [[PD-050](#)] to publish the initial assessment of issues in relation to the second change request (EC01 and EC02) application and seek final written submissions.
- 1.4.2 The Procedural Decision sought final written submissions (if any) from the CA Regs Interested Parties at Deadline 9A, and final responses from the Applicant (if required) at Deadline 10.
- 1.4.3 There were no final written submissions from Interested Parties in response to this Procedural Decision, and the Applicant has no final response to make.
- Procedural Decision 45**
- 1.4.4 On the 8 December 2023, the ExA issued Procedural Decision 45 [[PD-051](#)] to seek further information about the designation of "The Wilderness" under Rule 17 of the EPR. Within this Procedural Decision there were several questions directed to the Applicant and Natural England to be submitted at Deadline 9A.
- 1.4.5 The Applicant noted that it may respond at Deadline 10 to the material provided by Natural England at Deadline 9A. The Applicant has reviewed the material submitted by Natural England at Deadline 9A and has no further comment to make beyond those provided in the Deadline 9A submission of Applicant's response to Procedural Decision 45 The Wilderness [[REP9A-079](#)].

2 Deadline 9 Commitments

2.1 Applicant's final signed and dated s106 agreement(s) or any other final legal agreements

- 2.1.1 As discussed in Section 1.11 of Cover Letter and Submissions for Deadline 9 [[REP9-001](#)], the Applicant can confirm that the completed s106 agreements for the below authorities, have been submitted at this deadline:
- a. Brentwood Borough Council [**Document Reference 9.164 (3)**]
 - b. Essex County Council [**Document Reference 9.165 (3)**]
 - c. Thurrock Council [**Document Reference 9.169 (3)**]

1.1.2 Agreement has been reached between the Applicant and the London Borough of Havering, but the s106 agreement has only been signed by the Applicant. The London Borough of Havering has confirmed agreement to the wording in the s106 agreement and advised that its formal signatory process has not completed. It is expected that the agreement will be executed in January 2024. Therefore, included in this submission is the final s106 agreement signed by the Applicant only [**Document Reference 9.168 (3)**].

1.1.3 As discussed in Section 1.11 of Cover Letter and Submissions for Deadline 9 [[REP9-001](#)], the Applicant can confirm that a signed and dated Unilateral Undertaking for Kent County Council has been submitted at this deadline [**Document Reference 9.167 (3)**].

2.2 Final Statements of Common Ground (SoCGs)

2.2.1 As discussed in Section 1.2 of Cover Letter and Submissions for Deadline 9A [[REP9A-001](#)], the Applicant can confirm that the Final SoCG between the Applicant and the Port of Tilbury London Limited has been submitted at this deadline [**Document Reference 5.4.2.2 (3)**].

2.3 Environmental Statement (ES) Addendum

2.3.1 As discussed in Section 4.2 of Cover Letter and Submissions for Deadline 9 [[REP9-001](#)], the Applicant has resubmitted the ES Addendum [**Document Reference 9.8 (10)**] at this deadline to ensure that the links to the Examination Library are updated to the most recent links.

2.3.2 The ES Addendum (Version 9) [[REP9-245](#)] has been updated and submitted at Deadline 10 as Version 10 to form a final record of the updates and amendments made to ES documents during Examination.

2.3.3 The updates since Deadline 9 comprise the insertion of Examination Library reference numbers and associated hyperlinks for documents also submitted at Deadline 9. Other minor errors present in the document when submitted at Deadline 9 have also been corrected. These are primarily related to formatting and may not show as tracked changes, but also include:

- a. Correction of a presentational error where the green/blue font colours were not shown in Table 3.7; row related to ES Chapter 10: Geology and Soils, Table 10.22
- b. Inclusion of a missing sentence to provide clarification on updates reported in Table 3.7; rows related to ES Chapter 10: Geology and Soils, Table 10.22 and Table 10.23

2.3.4 This document has been provided in 'tracked changes' and 'clean' versions.

2.4 Draft DCO

2.4.1 As discussed in Section 1.4 of Cover Letter and Submissions for Deadline 9 [[REP9-001](#)], the Applicant has resubmitted the below documents at this

deadline to ensure that the links to the Examination Library are updated to the most recent links for the ES Addendum. These documents are:

- a. Draft DCO [**Document Reference 3.1 (12)**]
- b. Validation Report [**Document Reference 3.4 (3)**]
- c. Schedule of Changes to the draft DCO [**Document Reference 9.47 (10)**]

2.4.2 In addition to this, the Applicant has also made minor changes to the Protective Provisions for the Port of London Authority and the Port of Tilbury London Limited to minimise the outstanding issues.

2.4.3 These documents have been provided in ‘tracked changes’ and ‘clean’ versions.

2.5 Response to third written questions (ExQ3)

2.5.1 It was requested in the ExA’s third written questions and requests for information (ExQ3) [[PD-046](#)], for a limited number of questions, for the Applicant to provide updates or nil returns at each success deadline.

2.5.2 **Q2.1.1 A47 Judicial Challenges in the Court of Appeal:** requests that, at each successive deadline until the closure of the Examination, a position statement be submitted explaining any changes to the circumstances of this litigation. If there is no change, then nil return should be entered. The Applicant can confirm nil return in response to this question at Deadline 10.

2.5.3 The Applicant signposts the ExA to Section 2 of the Applicant’s comments on Interested Parties’ submissions at Deadline 9 and 9A [**Document Reference 9.216**] which responds to the comments made by Climate Emergency Policy and Planning (CEPP) [[REP9-301](#)] at Deadline 9. The Applicant considers that no new matters were raised by CEPP in their closing submission at Deadline 9A.

2.5.4 **Q4.2.2 River access and jetties for construction:** requests that, at successive deadlines, the ExA be kept informed of any changed positions emerging from ongoing discussions with the Port of London Authority (PLA) in regard to use of river transport.

2.5.5 The Applicant can confirm nil return in response to this question at Deadline 10 and that the position outlined in the Deadline 9 Cover Letter [[REP9-001](#)] is the final position.

2.6 Error in upload from Deadline 9

2.6.1 The Applicant has noted an error regarding the upload of 2.18 Hedgerow and Tree Preservation Order Plans Volume C (sheets 21 to 49)_v5.0_tracked changes [**Document Reference 2.8 (5)**] which resulted in it not being submitted at Deadline 9. Therefore, the Applicant has uploaded this document at Deadline 10.

3 Other

3.1 Department of Transport land interests

3.1.1 National Highways has been involved in significant engagement with the property team within the Department of Transport regarding their freehold land interests within HS1 as well as a number of other land interests all within the Order Limits. National Highways has agreed the following joint statement with the Department of Transport:

'The Parties agree there are no known outstanding substantive issues in relation to the proposed acquisition or potential use of the Department for Transport's interests in land by National Highways as identified as being affected by the proposed development. The parties acknowledge that the formal legal agreements to fully document this position will not be concluded prior to 20 December 2023. The parties are working collaboratively to agree these during the recommendation stage, and subject to concluding these documents there is currently no known impediment to consent being provided under section 135 of the Planning Act 2008 prior to the decision.'

3.2 Notification of Development of the Order Limits

3.2.1 The Applicant can confirm that the Project's Order Limits have been sent out to the host authorities in a shape file for their use going forward. These are the Project's final Order Limits, taking into account the changes made during the examination.

3.3 References to the Examination Library

3.3.1 In some cases, it has not been possible to update all cross-references to the Deadline 9A references in the Examination Library – i.e. '[REP9A-XXX]' due to limited time between the publication of the Examination Library and the submission deadline. Where that has been the case, the Applicant has referred to its document numbering system in the document, i.e. '[Document Reference 9.XXX]'

3.4 Final remarks

3.4.1 The Applicant notes this is the final communication to the ExA prior to the close of the Examination. The Applicant would like to thank the ExA, the Planning Inspectorate Case Team and all Interested Parties for their participation in the A122 Lower Thames Crossing Examination.

Yours sincerely

Dr Tim Wright

Head of Consents – Lower Thames Crossing

Annex A Documents which accompany the Applicant's Deadline 10 submission

A.1.1 Table A.1 below identifies the documents which accompany the Applicant's Deadline 10 submission.

Table A.1 Documents that accompany Deadline 10 submission

| Document reference | Document title |
|----------------------|--|
| TR010032/APP/1.4 | 1.4 Navigation Document (Version 17) |
| TR010032/APP/2.18 | 2.18 Hedgerow and Tree Preservation Order Plans Volume C (sheets 21 to 49) (Version 5) (tracked changes) |
| TR010032/APP/3.1 | 3.1 Draft Development Consent Order (Version 12) |
| TR010032/APP/3.4 | 3.4 Validation Report (Version 3) |
| TR010032/APP/5.4.2.2 | 5.4.2.2 SoCG between (1) National Highways and (2) Port of Tilbury London Limited (Version 3) |
| TR010032/EXAM/9.8 | 9.8 Environmental Statement Addendum (Version 10) |
| TR010032/EXAM/9.47 | 9.47 Schedule of Changes to the Draft Development Consent Order during Examination (Version 10) |
| TR010032/EXAM/9.164 | 9.164 Section 106 Agreement - Brentwood Borough Council (Version 3) |
| TR010032/EXAM/9.165 | 9.165 Section 106 Agreement - Essex County Council (Version 3) |
| TR010032/EXAM/9.167 | 9.167 Section 106 Unilateral Undertaking - Kent County Council (Version 3) |
| TR010032/EXAM/9.168 | 9.168 Section 106 Agreement - London Borough of Havering (Version 3) |
| TR010032/EXAM/9.169 | 9.169 Section 106 Agreement - Thurrock Council (Version 3) |
| TR010032/EXAM/9.216 | 9.216 Applicant's comments on Interested Parties' submissions at Deadline 9 and 9A |
| TR010032/EXAM/9.217 | 9.217 Cover Letter and Submissions for Deadline 10 |
| TR010032/EXAM/9.218 | 9.218 Closing Submissions |
| TR010032/EXAM/9.219 | 9.219 Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at D9/D9A |