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### DEADLINE D9 SUBMISSION

I am an independent scientist and environmental consultant, working at the intersection of science, policy, and law, particularly relating to ecology and climate change. I work as a consultancy called Climate Emergency Policy and Planning (CEPP).

**In so far as the facts in this statement are within my knowledge, they are true. In so far as the facts in this statement are not within my direct knowledge, they are true to the best of my knowledge and belief.**

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## **1 INTRODUCTION**

### **1.1 *Deadline 9 (D9)***

- 1 I submit comments on REP8-029 “8.33 Comments on Responses received by Deadline 7 and 7a and Changes to the Application” which includes the applicant’s response on the Rule 17 letter on the recent decision letter on the M54-M6 scheme (decision letter referred to here as M54-M6-DL).
- 2 I note that the SoST has subsequently consented the M25 Junction 10/A3 Wisley Interchange (decision letter referred to here as M25-J10-DL, May 12<sup>th</sup> 2022) and M25 junction 28 improvements (decision letter referred to here as M25-J28-DL, May 16<sup>th</sup> 2022). The majority of the M54-M6-DL, M25-J10-DL and M25-J28-DL carbon emissions sections are identical, and my comments of the M54-M6-DL apply.

### **1.2 *Presumptions of inevitable success of national policy by the applicant***

- 3 Again, a reminder that I previously provided in REP8-035 background on the current legal challenge to the Government, now with permission to proceed to a full Judicial Review hearing, against the Net Zero Strategy, and outlined a number of propositions, or presumptions, which occur in the Applicant’s submissions to the examination. I have summarised this issue in the next bullet.
- 4 The applicant relies upon the contention that because various national climate change policy documents and targets exist, it is guaranteed that the Government will meet its carbon reduction targets and targets set within them, and consequentially, the scheme will not have a material impact on the ability of the Government to meet its carbon reduction targets. This proposition is false on both counts (ie the general principle and its specific application to the scheme), although it is widely applied by the applicant, including with reference to the Net Zero Strategy (NZS), the Transport Decarbonisation Plan (TDP) and the UK’s National Determined Contribution (NDC) and international obligation under the Paris Agreement. The applicant’s statements with respect to the significance of the carbon emissions associated with the scheme and their material impacts on meeting Government’s carbon reduction targets relating to NN NPS 5.17 and 5.18 need to be re-examined in the context of this falsehood

## 2 RESPONSE TO RULE 17 LETTER

### 2.1 REP8-029, 3.2.5 – *only the evidence from this examination is relevant*

- 5 The applicant states that the same approach has been used on the A417 scheme as with the M54-M6 scheme.
- 6 However, my analysis of the applicant's traffic model, and the architecture in which it extracts quantifications of carbon emissions (by the differential DS-DM method) was not submitted to the relevant consultations on the M54-M6, and M25-J28 and M25-J10, schemes.

Although the applicant's consultation responses to the SoST on these schemes appear to make the same errors as on the A417 scheme, I was unable to provide evidence to the SoST consultations to point this out as I was not an interested party on these schemes. The consequence is that the SoST has not seen my evidence for the lack of an EIA compliant cumulative carbon emission assessment, and other issues, in the context of these three schemes.

The SoST has therefore made his decision of these three schemes on the basis of a different, and less comprehensive, set of evidence than is now available for the A417 scheme examination.

**Clearly the recommendations to the SoST from this examination must be based on the evidence provided to this examination.** Therefore, the conclusions made in each of these decision letters on different schemes, with different evidence, is not relevant.

### 2.2 REP8-029, 3.2.6 – *impact of scheme on climate*

- 7 I have previously pointed out at REP8-035/27 and 76-77 that M54-M6-DL/53 relies, as does M54-M6-DL/31, on the SoS predicating his decision on the basis of both the overarching and subsidiary assertions of success for both the TDP and NZS (propositions 1 – 4 in REP8-035). These assertions are false as laid out in REP8-035, and the applicant has not demonstrated them to be true. The applicant cannot rely upon these propositions for the A417 scheme, noting also that only evidence given at this examination is relevant.
- 8 The quoted sentence from M54-M6-DL/46 is not compliant with the IEMA guidance which strongly endorses and encourages making local and regional assessments of carbon emissions, and not solely using a comparison with national budgets [see also REP8-035/section 5.5 on M54-M6-DL/32-35]. The EIA guidance does so too [REP2-020/3.1 and REP2-022/section 3].
- 9 The IEMA guidance says 1) assessment of a project's carbon emissions against the carbon budget for the entire UK economy **is only a starting point of limited value** in the EIA process 2) local policies and budgets and targets should be used.

**2.3 REP8-029, 3.2.13 –EIA Regulation compliant cumulative carbon assessment for the A417 scheme**

10 The applicant states that it “notes that the SoS endorses the approach taken by the M54 to M6 Link Road to assess cumulative assessment of road user and other planned developed emissions.” The same comment applies as above, that **clearly the recommendations to the SoST from this examination must be based on the evidence provided to this examination.** Therefore, the conclusions made in other decision letters on different schemes, with different evidence, is not relevant.

11 It is important to note that I have provided information not seen on these scheme examinations before the SoS decisions. I have shown for the A417 scheme, in detail, in REP7-007/section 5 that **no** cumulative carbon assessment has been made, and that the solus carbon assessment is based upon the wrong quantification which is an underestimate of the emissions. I have shown that the notion that the assessment made by the applicant is cumulative because the traffic model is “inherently cumulative” is false.

12 Further I have laid out at REP8-035/5.6 that the applicant has not provide a meaningful response to bullets 33-79, which cover the substance of my response in REP7-007 on there being no cumulative carbon assessment by the applicant. Crucially, the applicant has not responded to sections 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9 and 5.10 which relate to whether the environmental statement includes a quantification and assessment of the cumulative carbon emissions of the scheme which is compliant with the EIA Regulations.

**2.4 REP8-029, 3.2.14 –EIA Regulation compliant cumulative carbon assessment for the A417 scheme**

13 The comments in the previous section apply.

**2.5 REP8-029, 3.2.15 – Summary, cumulative assessment**

14 The comments in the previous section apply.

**2.6 REP8-029, 3.2.16 – Summary, national only assessment and cumulative assessment**

15 The comments in the responses to REP8-029, 3.2.6 and REP8-029, 3.2.13 above apply.

**2.7 REP8-029, 3.2.17 – cumulative assessment**

The applicant introduces a new comment on M54-M6-DL/52 in the summary. This is a concluding paragraph from the section on climate change and carbon emissions in the decision letter. However, my analysis of the applicant’s traffic model, and the architecture in which it extracts quantifications of carbon emissions (by the differential DS-DM method) was not submitted to the relevant consultations on the M54-M6 scheme. The SoST has therefore made his decision of the M54-M6 scheme on the basis of a different, and less comprehensive, set of evidence than is now available for the A417 scheme examination.

The comments above on REP8-029, 3.2.5 apply, namely that recommendations to the SoST from this examination must be based on the evidence provided to this examination.

### 3 RESPONSE TO CEPP

16 I start by commenting on the so-called TDP Sensitivity test at REP8-029, Table 3.1 and 3.2.32 – 3.2.36.

#### 3.1 REP8-029, 3.2.32-3.2.36 – so-called TDP Sensitivity test

17 This is based on TDP, Figure 2 which “*illustrates the anticipated reduction in CO<sub>2</sub>e emissions from transport*” [REP8-029/3.2.32].

18 Effectively, the applicant is saying that the emissions with the Scheme are modulated by the TDP delivery pathway assumptions, and its anticipated carbon reductions. The idealised test simply multiplies carbon outputs from the traffic model by a factor derived from the graph at TDP Figure 2. This is the proposition 3 of the “overarching assertion of TDP success”, and the so-called TDP Sensitivity test which is merely a numerical version of proposition 3. It does not provide the required demonstration of compliance with the TDP itself or with the NZS.

19 No evidence has been provided that the TDP will inevitably succeed, and therefore it cannot be anticipated to do so. The applicant is making a leap of blind faith that the TDP will, in all circumstances, succeed, and no evidence has been provided that this is realistic, or that the TDP and NZS have even been designed to secure this outcome. This is contested in a legal challenge for the NZS.

#### 3.2 REP8-029, 3.2.18 – weight given to TDP

20 The applicant relies on the M54-M6-DL that weight “*needs to be given to the Transport Decarbonisation Plan that will mean operational emissions reduce over time*”. I disagree, and at REP8-035/5.1, I stated that it is incorrect to rely on the inevitable success of the TDP and the NZS (Propositions 1, 2, 3, and 4) at M54-M6-DL/31, and that it would also be premature for the ExA in its recommendations to the SoS to make any reliance on overarching or subsidiary assertions of success for the NZS and TDP on the A417 scheme.

21 Further as above, the A417 must be decided on evidence at this examination which is more extensive on this matter than for the M54-M6.

22 The comments above on the so-called TDP Sensitivity test apply.

**3.3 REP8-029, 3.2.18–3.2.22 – EIA Regulation compliance**

- 23 As above, the SoST in the M54-M6 decision did not have the evidence provided at this examination at REP7-007/section 5. The comments on REP8-029, 3.2.13 above apply.
- 24 EIA Regulation 20 is a matter for the ExA to apply if it considers the Environmental Statement to be inadequate.
- 25 The applicant has not provided a response to REP7-007/section 5. This challenges the idea that a cumulative carbon assessment has been done on this scheme in this examination, **and the applicant has to date not engaged or responded to it.**

**3.4 REP8-029, 3.2.23–3.2.25 – update of BCR and case for the scheme**

- 26 The point about an update of the BCR being required, given the new carbon prices, is that an up-to-date economic appraisal of the scheme is relevant to the planning process and the case for the scheme presented in the planning application. At 3.2.25, the applicant is suggesting that updated economic appraisal can be deferred to the Full Business Case (FBC) and later approval processes.
- 27 There is a complete lack of transparency on the BCR calculations for the scheme. No recalculation based on the most recent carbon prices has been attempted. The economic case, and the Benefit Cost Ratio (BCR) need to be recalculated against the new carbon price data. This should include: the construction carbon emissions on the cost side of the BCR; a solus quantification of the carbon emissions associated with the scheme based on the carbon impacts against the current environmental baseline; the full cumulative carbon emissions with other road and land-based developments. Full workings must be supplied to the examination. The provision of an up-to-date economic appraisal of the scheme relates to the **case for the scheme** which is a material issue in the planning decision: it is not legitimate for revisions of the BCR to be promised at later stages of approval, where they would be outside the planning examination process.
- 28 The applicant has missed the point completely in seeking to defer making an update to the economic appraisal.

**3.5 REP8-029, 3.2.26–3.2.31 – Eft v11**

- 29 No comments.

**3.6 REP8-029, 3.2.37 and Table 3-2 – IEMA guidance**

- 30 I commented on M54-M6-DL/32-35 and the latest IEMA guidance at REP8-035/5.5. The SoS selectively quotes IEMA. The IEMA guidance at section 6.4 on “Contextualising a project’s carbon footprint” has been ignored. See also REP7-007/3.1, on IEMA saying 1) assessment of a project’s carbon emissions against the carbon budget for the entire UK

economy **is only a starting point of limited value** in the EIA process 2) local policies and budgets and targets should be used.

- 31 I have also shown at REP8-035/5.7 that the applicant has not followed DMRB LA 104.
- 32 On “cumulative effects” in Table 3-2, the comments above on REP8-029, 3.2.13 apply. No cumulative assessment has been demonstrated for the A417 scheme.
- 33 On “significance” in Table 3-2, I have laid out at REP8-035/2.2 that the applicant REP2-012/2.3.5 is reliant on the incorrect proposition of the “overarching assertion of NZS success” for the test at NN NPS 5.18. The NZS is currently under legal challenge as outlined at REP8-035/section 2 for not being designed to secure its emission reduction objectives. It would also be premature for the ExA in its recommendations to the SoS to make any reliance on overarching or subsidiary assertions of success for the NZS and TDP on the A417 scheme.

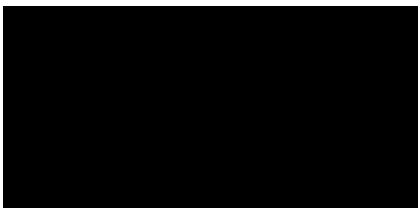
#### **4 CONCLUSIONS**

- 34 The applicant makes six key assumptions or propositions [REP8-035/section 2] that the carbon reduction targets implied by the NZS, TDP and NDC will inevitably be achieved (the propositions are six-fold, as “inevitable success” is applied both in general and specifically to the scheme across the three policies/targets). However, the existence of these targets and policy documents is insufficient. Evidence is required that the NZS is designed to secure the required outcomes for the NZS itself, and the TDP and NDC. This evidence does not exist, and the NZS is being legally challenged on this basis. Therefore, no weight, or credibility, can be given to projected reductions in carbon emissions which rely on these propositions.

These propositions, which are false, underlie many of the applicant’s arguments on carbon emissions including the so-called TDP Sensitivity test.

- 35 There is no EIA compliant cumulative carbon assessment. The applicant has not responded to my substantive arguments on this. My substantive argument thoroughly dismisses the notion that extracting data from a traffic model which contains all the likely land-based and road developments will inevitably provide cumulative carbon quantification and assessment. It does not and cumulative carbon assessment needs to be quantified and assessed as I have laid out at REP7-007/section 5.
- 36 The decision, and recommendation for the decision, has to be based on the evidence provided at this examination on the A417 scheme specifically. No weight should be given to decisions made elsewhere (ie the M54-M6, M25-J10 and M25-J28 schemes), especially as the same evidence (ie my substantive evidence) has not been submitted on those schemes.
- 37 The application does not follow the IEMA guidance and the EIA guidance for local and regional carbon assessment.

- 38 The reduction in carbon emissions from the traffic model for the scheme have not been demonstrated to comply with the delivery pathways in the TDP and NZS. The idealised and so-called TDP Sensitivity test which simply multiplies carbon outputs from the traffic model by a factor does not provide the required demonstration of compliance.
- 39 The DS-DM carbon quantification in the assessment is the wrong solus calculation and underestimates even the differential emissions associated with the scheme in isolation.
- 40 The application does not follow the science, particularly the three recent IPCC sixth assessment working group reports for which the UK Government drafted and signed each policy document (“Summary for Policymakers”) [REP8-035/5.4]
- 41 The application should not be consented as the applicant has not demonstrated compliance with the EIA regulations, the Net Zero Strategy, IEMA and EIA guidance, and uses an underestimate of the carbon emissions, as well as the false assumptions of the inevitable success of various policies.



Dr Andrew Boswell,  
Climate Emergency Policy and Planning, May 16<sup>th</sup>, 2022