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Sent by email to:
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Copied to transportinfrastructure@dft.gov.uk

Dear Mr Dyer,

**A66 Northern Trans-Pennine Project TR010062 (the Project)
DCO Application (the DCO Application)**

Applicant's response to the Secretary of State's Request for Information dated 30 August 2023 (the RfI)

I am writing in response to the RfI dated 30 August 2023 issued by the Secretary of State to National Highways (**the Applicant**) and others in relation to the DCO Application for the A66 Northern Trans-Pennine Project.

The RfI requests the Applicant and others to provide a response to the issues raised in the representations submitted in response to the Secretary of State's earlier Request for Information dated 11 August 2023.

In this Letter the Applicant addresses those responses in turn, providing an update on the matters mentioned in them.

In addition, the Applicant has noticed that in its Post Examination Position Statement on Habitats Regulations Assessment and North Pennine Moors SAC (**the Applicant's Position Statement**), submitted to the Secretary of State on 25 August 2023, it referred to certain areas of land as being owned by the Ministry of Defence, whereas the Applicant can now confirm that this land is in fact owned by the Public Trustee. The Applicant has therefore submitted an "Errata Report – Applicant's Position Statement" at Annex 1 of this letter to correctly report the ownership position.

Attached to this response are the following documents:

- Annex 1: Errata Report – Applicant’s Position Statement; and
- Annex 2: Applicant’s letter to Tim Farron dated 30 August 2023.

Walton Goodland Ltd on behalf of Dr Richard Leeming and Lady Elizabeth Mary Cecilia Leeming

A commitment was made in our letter to you on 25 August 2023 to provide Dr Richard Leeming and Lady Elizabeth Mary Cecilia Leeming (**the Leemings**) with more detailed information on woodland loss. We confirm this was supplied via their land agent on 01 September 2023.

The Applicant has been in discussions with the representatives of the Leemings regarding a proposed side agreement between the Applicant and the Leemings. The Applicant intends to send a draft side agreement to the Leemings by 11 September 2023 and is confident following discussions with the Leemings that this will conclude the outstanding matters.

Whilst we had aimed to secure this side agreement by the end of September 2023, we are seeking to conclude matters at the earliest opportunity. Therefore, the Applicant is seeking completion of the side agreement by 15 September 2023, in line with the side agreements with the local authorities.

Tim Farron on behalf of Ms Emma Nicholson

The Applicant received direct correspondence from Tim Farron on 17 August 2023, in his capacity as the Liberal Democrat candidate for the new Westmorland and Lonsdale constituency. This correspondence was issued to Nick Harris, Chief Executive of the Applicant, on behalf of Emma Nicholson.

The Applicant notes that the correspondence it received is identical to the letter issued to the Secretary of State by Mr Farron, also on 17 August 2023.

The Applicant responded to Mr Farron’s letter on 30 August 2023. A copy of this response is attached to this letter as Annex 2.

We have added the following Examination Library references to the documents contained in the Applicant’s response letter, to assist the Secretary of State in his determination:

- Case for the Project – ([APP-008](#));
- Combined Modelling and Appraisal Appendix E Stage 3 Economic Appraisal – ([APP-241](#));
- Consultation Report– ([APP-252](#));
- Project Development Overview Report– ([APP-244](#)); and
- Environment Statement Chapter 13 Population and Human Health – ([APP-056](#)).

Tim and Emma Nicholson

In response to Tim and Emma Nicholson's letter to the Secretary of State, as published on 30 August 2023, the Applicant has provided references to the following information that was submitted into the Examination of the DCO Application, and which the Applicant considers addresses the issues raised as summarised below.

Carbon Budget Delivery Plan and Transport Decarbonisation Plan

In matters relating to the Carbon Budget Delivery Plan (March, 2023), the Transport Decarbonisation Plan (July, 2021) and "Reverse Gear" by Professor Marsden, the Applicant notes that these points were all addressed in its Submissions on Climate Matters at both Deadline 8 and Deadline 9 of the Examination ([REP8-076](#) and [REP9-033](#) respectively).

Tim and Emma Nicholson's letter also references The Climate Change Committee Progress Report (2022-2023) (June 2023) and the Transport Select Committee Report (July 2023), both of which were published after the close of the Examination. The Applicant remains of the view that the commentary on government policy of this nature is not specific to the DCO Application. Whilst reference is made to the findings set out in the Combined Modelling and Appraisal Report ([APP-237](#)), submitted with the DCO Application, the Applicant would add that its assessment presented in Chapter 7 of the Environment Statement ([APP-050](#)) concludes that there would be no significant adverse effects arising from the Project on GHG emissions.

Traffic Forecasts and the Benefit Cost Ratio (BCR)

With respect to comments relating to traffic forecasts and the Project's BCR, the Applicant advises that Chapter 7 of the Combined Modelling and Appraisal Report ([APP-237](#)) describes the work undertaken to assess the impact of low and high varying traffic growth levels and their impacts on the Project's economic benefits, in line with TAG Unit M4¹. All major projects promoted by the Applicant are subject to an ongoing process of assessment and appraisal as they develop in line with the Applicant's internal governance (including its Project Control Framework² process). This is explained briefly in Section 3.2 of the Project Development Overview Report ([APP-244](#)).

Any variation to the funding position of the Project is subject to the processes set out in Appendix A of the Funding Statement ([APP-289](#)) submitted as part of the DCO Application.

¹ Department for Transport (October 2013) TAG UNIT M4: Forecasting and Uncertainty, Transport Analysis Guidance (TAG).

² The Project Control Framework sets out how the Applicant manages and delivers major improvement projects. It sets out project control processes and governance arrangements through the standard project life cycle with standard project deliverables.

The Applicant has previously provided responses to Emma and Tim Nicholson, including in its Response to Relevant Representations ([PDL-012](#)), in respect of the BCR. The Applicant has followed HM Treasury and Department for Transport guidance for valuing the costs and benefits through a scheme business case, compliant with the 'Green Book'³ and WebTAG.

Some of the costs and benefits can have a monetary value, calculated and presented in the BCR, whilst other costs and benefits are valued qualitatively. The principal monetised benefits are transport economic efficiency benefits, safety and accident benefits and journey time reliability benefits. This information is presented in the Combined Modelling and Appraisal Report ([APP-237](#)).

BCR is just one component of the overall business case for the Project and should be read alongside all the other impacts and benefits of the Project. This wider view of the Project is key to decision-making, taking into account the various benefits which the Project presents, many of which are qualitative and cannot be monetarised. To this end, the way in which the proposals meet the Project's objectives is detailed within Table 7-1 of the Applicant's Case for the Project ([APP-008](#)).

With respect to the comments made in August 2022, the Accounting Office Assessment⁴ stated:

A reduction in cost is likely to have a positive impact on BCR to bring it to above 1.0. There are opportunities for cost reduction in the next stage of the Project that are likely to positively impact on the BCR and VfM assessment. NH is also working to capture all benefits as part of developing the full business case.

As the Project develops, more information becomes available around the Project costs, and the Project benefits, meaning the BCR will be refined as the Project goes through its various development stages, which is to be expected and occurs on all projects, as set out in the 'Green Book'.

The Applicant is aware of the Nicholson family's request for a BCR for the Temple Sowerby to Appleby section of the Project only. Section 6.4 of the Case for the Project ([APP-008](#)) document presents the case for the proposed Temple Sowerby to Appleby scheme specifically, whilst a detailed response to a similar question raised by Emma Nicholson was responded to during the Examination (see the Applicant's Response to Written Representations made by Affected Persons at Deadline 1 ([REP2-015](#)), page 76).

³ HM Treasury Guidance: The Green Book (2022), updated November 2022.

⁴ Department for Transport accounting officer assessment summaries for the Governments Major Projects Portfolio; A66 Northern Trans-Pennine project accounting officer assessment (October 2022), updated January 2023.

Tourism

The Applicant has previously responded to concerns with respect to tourism made by Friends of the Lake District (see the Applicant's Response to Written Representations made by other Interested Parties at Deadline 1 ([REP2-017](#)), pages 14 to 29).

The Applicant would note the support provided to the Project by Cumbria Local Enterprise Partnership ([AS-055](#)), who advocate the need for the Project to increase accessibility to the region due to its 'self-contained economic geography'. In addition, both Cumbria Tourism ([REP4-036](#)) and Eden Tourism Network ([REP5-042](#)) stated their strong support for the Project during the Examination, acknowledging the safety, economic and social benefits that the Project will bring.

Costain

The Applicant and Costain have agreed to a change in contracting strategy, which will see Costain's involvement on the Project come to an organised and managed conclusion and therefore end.

The status of the Trout Beck restoration scheme has previously been advised on in the Applicant's Response to Relevant Representations Addendum and Errata ([PDL-013.1](#)) as being 'agreed to postpone the use of the approved funding and the start of the feasibility until during detailed design with an estimated start date of April 2023, subject to landowner agreement. The Applicant confirms that the Project will not prevent the river restoration Designated Fund project in this location from going ahead.'

Induced Traffic

With respect to the concerns raised regarding induced traffic, the Applicant provided a response during the Examination in response to Friends of the Lake District (see the Applicant's Response to Written Representations made by other Interested Parties at Deadline 1 ([REP2-017](#)), page 16). The response refers to the Combined Modelling and Appraisal Report ([APP-238](#)), which presents details of the traffic model built to support the DCO Application. The response references the Executive Summary of that Report, which provides a description stating how the model used and accounts for how the demand to travel will change following the provision of the Project.

Planning Policy

Tim and Emma Nicholson's letter also refers to planning policy regarding the requirement for applicants to demonstrate exceptional circumstances for proposed development in respect of nationally designated areas, including Areas of Outstanding Natural Beauty (**AONB**). The Case for the Project ([APP-008](#)) describes and demonstrates the exceptional circumstances for the Project (see paragraphs 6.5.57 to 6.5.191). These paragraphs also outline how the route in question, presented as part of the Project, complies with paragraphs 5.152 to 5.155 of the National Networks National Policy Statement.

The Applicant's Closing Submissions ([REP8-074](#)) provide an overview in section 4.3 (Scheme 6, Appleby to Brough) and section 4.5 (Scheme 07, Bowes Bypass) of the consideration of policy with regard to the North Pennines AONB and the relevant schemes within the Project.

Muckle LLP on behalf of the Public Trustee

The Applicant acknowledges the submission made by Muckle LLP on behalf of the Public Trustee (**the PT**) and is now able to provide an update on the position set out in that submission, following the hearing held on 6 September 2023 at Darlington County Court (**the Court**).

The PT's application to the Court sought an Order authorising the PT to transfer plot 07-02-45 to the Applicant (and other land transfer which is not relevant to the Project). The application also sought authorisation from the Court for the PT to grant Crown authority consent to authorise the inclusion of plot 07-02-45 in the Applicant's DCO for the Project, should plot 07-02-45 be held to be Crown land (pursuant to provisions in the Planning Act 2008).

At the hearing, the Court granted the Order sought by the PT in respect of the land transfers. The Crown authority consent element of the Order sought was adjourned on the basis that the PT would be able to request it from the judge within the next 12 months, in the event that it was required. If the Applicant's acquisition of plot 07-02-45 from the PT proceeds (as previously planned and as now authorised by the Court), there will be no question of plot 07-02-45 being Crown land and no requirement for Crown authority consent.

The Applicant has not yet received a copy of the sealed Order but understands that Muckle LLP will provide this to the Applicant once Muckle LLP have received it.

Muckle LLP and the Applicant's solicitors are now preparing for completion of the transfer of plot 07-02-45 (an agreed draft of which was included in the application to the Court) as soon as possible. They are aware of the Applicant's aim of closing out all outstanding matters relating to the DCO Application by 15 September 2023.

United Utilities Water Limited

The Applicant remains in negotiations on its proposed side agreement with United Utilities Water Limited (**UU**) and is currently reviewing UU's latest comments on this side agreement.

The Applicant notes that UU, in its submission, referred to two outstanding points remaining under discussion between the Applicant and UU. The Applicant and UU have now reached agreement on the first of those points, relating to suitable access for all UU property, meaning the only outstanding point remaining to be agreed relates to the

management and maintenance regime for the additional road that is proposed at Penrith Wastewater Treatment Works.

The Applicant continues to anticipate being able to complete this side agreement before the end of the determination period, given that only one point remains outstanding between the Applicant and UU.

Durham County Council and Westmorland and Furness Council

The Applicant acknowledges the submissions from Durham County Council and Westmorland and Furness Council, both of which state that discussions are ongoing between the Applicant and these Councils regarding the side agreements, with confidence that agreement on these can be reached by the targeted date of 15 September 2023.

The Applicant agrees with the contents of these submissions.

Birketts LLP on behalf of Northumbrian Water Limited

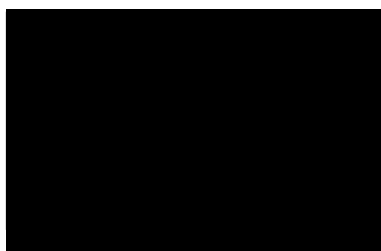
The Applicant acknowledges this submission and thanks Northumbrian Water Limited (**NWL**) for the removal of its objection to the DCO Application, following the completion of a side agreement dated 21 August 2023 between the Applicant and NWL.

Town Centre Regeneration Ltd on behalf of Penrith Properties Limited

The Applicant acknowledges the new contact details provided for Penrith Properties Limited (**PPL**). In particular, the Applicant notes that PPL has requested that its agent, Mr David van der Lande, has any future notices sent to PPL served on him as well, which the Applicant commits to do.

If you have any further queries or comments, I can be contacted by email at A66NTP@nationalhighways.co.uk.

Yours sincerely



Monica Corso Griffiths
Head of Design and DCO
A66 Northern Trans-Pennine Project