



Gatwick Airport Northern Runway Project

The Applicant's Response to Deadline 7 Submissions
Appendix C: Response to the JLAs' EMG Framework Paper

Book 10

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1 Overview

- 1.1.1 The Applicant has prepared this submission to respond to the Joint Local Authorities' (JLA) submission at Deadline 7 [\[REP7-102\]](#), which they prepared in response to the Applicant's submission at Deadline 6 [\[REP6-093\]](#) in respect of the JLAs' submission at Deadline 5 which provided further background as to why the JLAs consider an "Environmentally Managed Growth (EMG) Framework" to be necessary in respect of the potential impacts of the Northern Runway Project (NRP) [\[REP5-093\]](#).
- 1.1.2 The JLAs' Deadline 5 submission built on the introductory EMG paper they submitted at Deadline 4 [\[REP4-050\]](#) to which the Applicant responded at Deadline 5 [\[REP5-074\]](#).
- 1.1.3 The Applicant does not propose to repeat its previous submissions on this matter, the substance and conclusions of which have not changed based on the JLAs' Deadline 7 submission.
- 1.1.4 Instead, the Applicant has addressed specific elements of the JLAs' latest submission, where it is considered such response may assist the examination and the consideration of the matter going forward. In particular, the Applicant has responded below:
- 1.1.4.1. to the JLAs' commentary on the alleged weaknesses of planning enforcement under the Planning Act 2008;
 - 1.1.4.2. by exception, to residual elements of the JLAs' submission in respect of each topic where corrections/clarifications are considered necessary/helpful and in response to the JLAs' suggested alternatives to the EMG framework; and
 - 1.1.4.3. to set out the Applicant's final position in respect of a request for an EMG framework.

2 Enforcement under the Planning Act 2008

- 2.1.1 The JLAs do not dispute the Applicant's previous submissions which noted that the enforcement regiment under the Planning Act 2008 (the "2008 Act") would apply in circumstances where the Applicant was in breach of a DCO requirement, including in relation to the Air Noise Envelope (Requirement 15), Surface Access Commitments (Requirement 20) and/or Carbon Action Plan (Requirement 21).

- 2.1.2 However, they appear to dispute the efficacy of such statutory regime, principally citing issues in relation to the available sanctions (fines/injunctions) and the logistics of bringing the claim, and that their proposed EMG framework should be preferred by comparison.
- 2.1.3 The Applicant makes three short points in response:
- 2.1.3.1. The Applicant does not dispute that there would be challenges in relying on the enforcement regime under the 2008 Act to regulate compliance with its commitments under the above-noted requirements. It is for this reason that the Applicant has instead proposed bespoke monitoring, reporting and governance processes under those same requirements, so as to avoid the need to default to the statutory enforcement provisions. The same arguments the JLAs proffer in respect of their EMG framework by comparison to the 2008 Act process apply equally to the approach set out by the Applicant within its relevant control documents. It is incorrect to characterise the position as a choice between an EMG framework and the Planning Act 2008 enforcement regime, or indeed to suggest that one would be progressed in exclusion to the other. In circumstances where any enforcement action is pursued, where there is a breach that would in any event require actions to be taken to be remedied in accordance with the Applicant's approach;
 - 2.1.3.2. The Applicant had simply observed in its previous submissions the existence of the Planning Act 2008 enforcement regime as an additional safeguard, which can be relied upon by the JLAs (or others) in circumstances where they identify a breach of a DCO requirement. As primary legislation reflecting Parliament's will, it should be able to be taken as read that those enforcement processes are appropriate to be relied upon in the event of a breach of a DCO requirement. Whilst the individual monitoring, reporting and, where necessary, remedial action processes set out in the individual control documents have been designed to ensure more bespoke process tailored to those individual topics, the presence of the existing statutory regime should provide more general comfort that there is an ultimate sanction in circumstances where the Applicant was considered to be in breach of those processes; and
 - 2.1.3.3. And further to the above, like most criminal sanctions the Planning Act 2008 enforcement regime serves as much, if not more, as a deterrent

from breaches occurring, as it does to provide a route for remedy to address breaches which have occurred. No responsible business would conduct itself in a manner which would give rise to criminal liability, taking into account the internal corporate and more widely the reputational issues this would give rise to. This is a significant consideration in respect of any enforcement regime and which is fundamental to effectiveness, which is in most cases to provide sufficient deterrent so as to avoid the need for resource to deal with the offence which has occurred.

3 Comments on JLAs' submissions regarding the individual topics

3.1.1 The Applicant has made extensive submissions in response to the JLAs' criticisms of/queries regarding its approach to the assessment of the individual topics proposed to be subject to the EMG, and the control documents proposed in their respect and does not repeat the same here. The JLAs' Deadline 7 submissions do not materially advance their case, nor respond in any greater detail to the Applicant's submissions and the Applicant's in-principle position in relation to each of the topics is unchanged from that which it has explained in its previous Deadline 5 and 6 submissions.

3.1.2 As such, the Applicant has addressed (by exception) elements of the JLAs' submissions below where considered necessary/helpful.

Air Quality

3.1.3 The JLAs' principal argument appears to be that, notwithstanding the absence of any likely significant effects in the assessment, it is still necessary to have an EMG framework to guard against future legislative changes which may tighten air quality standards and which the Project may be in breach of at that future point.

3.1.4 The Applicant does not regard this as a reasonable argument. The Applicant is entitled to assess and mitigate based on the information available and against the legislative requirements which are known, and in force today. It cannot be credibly stated that there is a requirement to do more than this and attempt to speculate on future changes to air quality standards and the Project's potential impact against those (blind to any other changes which have occurred to the background receiving environment/receptors and policy context in parallel). Any attempt to subject the Project to unknown future standards would introduce obvious unacceptable uncertainty to the delivery of the Project/operation of the

airport, as it would for any development. There is no legislative or policy basis for that position. Indeed, a similar argument was put forward and dismissed in the appeal decision which granted planning permission for Stansted Airport (APP/C1570/W/20/3256619) where the Inspectors noted (para 142):

*"The Council proposes alternative conditions to deal with noise, air quality and carbon. Its primary case involves a condition, referred to during the Inquiry as 'condition 15', which would impose restrictions based upon the impacts assessed in the ES/ESA, along with future more stringent restrictions (using some interpolated data from the ES/ESA) and a process that would require the Council's reassessment and approval periodically as the airport grows under the planning permission, allowing for a reconsideration against new, as yet unknown, policy and guidance. **In light of the Panel's conclusions on these matters, there is no policy basis for seeking to reassess noise, air quality or carbon emissions in light of any potential change of policy that might occur in the future. Furthermore, it would be likely to seriously undermine the certainty that a planning permission should provide that the development could be fully implemented.** This appeal must be determined now on the basis of current circumstances and the proposed 'condition 15' is not necessary or reasonable."* (emphasis added)

3.1.5 Further, there is inherent conservatism built into the Applicant's assessment of future years which should, in any case, provide confidence that, even were air quality standards to tighten, the Project would not result in any breach of such standards. Conservative assumptions for future emissions include background values being frozen at 2030 and conservative aircraft emissions assumed for future cases. Road traffic emissions are anticipated to improve in future years due to changes in fleet composition which will be necessary to meet the trajectory of carbon reductions set out in the Transport Decarbonisation Plan to deliver net zero commitments. In addition, with improved vehicle engine testing and improved emission factors, the risk of underprediction has reduced. Conservative assumptions are detailed within **ES Chapter 13: Air Quality** [[REP3-018](#)] and Appendix D and F of the **Supporting Air Quality Technical Notes to the SoCGs** [[REP1-050](#)].

3.1.6 Monitored concentrations reported within **ES Appendix 13.6.1** [[APP-159](#)] demonstrate that concentrations within the vicinity of the airport are below the current air quality objectives for NO₂, PM₁₀ and PM_{2.5} and are already below the future legal target for PM_{2.5} introduced in 2023. Monitored concentrations at the LGW3 monitoring station at Gatwick have been below the updated PM_{2.5} legal standard of 10 µg/m³ to be met by 2040 for the past 5 years. Furthermore, within

Horley Gardens the maximum annual average NO₂ concentration for 2023 was 20 µg/m³, half of the air quality objective of 40 µg/m³, meeting the more stringent WHO global guideline NO₂ value of 20 µg/m³ (which is not currently part of UK legislation or policy).

- 3.1.7 Notwithstanding the absence of any assessed significant effects, the Applicant has still proposed through its draft s106 Agreement to produce an Air Quality Action Plan to detail the measures that it has taken to improve air quality, as well as its commitments to a continuation of and enhancement to the existing monitoring regime present today and programmes of study on that data, the type of power units to be used at aircraft stands and a contribution toward a UFP study if the Government decides that national standards are necessary. In recognition of the JLAs' own air quality responsibilities, GAL is proposing to share and publish data and support regular engagement including updates on any changes to air quality thresholds (see Schedule 1 of the **draft DCO s106 Agreement** [[REP6-063](#)]).
- 3.1.8 The Applicant considers the above to be comprehensive and to clearly provide all that is necessary in respect of the assessed impacts of the NRP in environmental and planning terms. The Applicant seriously doubts that the JLAs can point to any policy support or any precedent in their jurisdictions where greater commitments than these have been made where there is no prospect of air quality limits being reached.
- 3.1.9 As an alternative to EMG, the JLAs have suggested (in paragraph 4.19) various elaborations to the Applicant's existing controls in the **SAC** (Doc Ref. 5.3 v5), **CAP** (Doc Ref. 5.3 v2) and **AQAP** [[REP6-063](#)], all of which essentially provide for a greater level of prescription, control and process. The Applicant has no difficulty in reporting on the measures it is undertaking in those documents, and both the SAC and CAP already provide for this detail within their respective monitoring processes (Commitment 16 of the SAC and paragraph 4.4.2 of the CAP). To the extent the interventions undertaken are not having their desired effect, then their respective reporting/governance processes will make that clear and allow remedial/additional action to be undertaken. In the absence of the individual/micro measures being committed at this point in time (which the Applicant has previously explained is not necessary/appropriate in view of the overarching committed 'outcomes'), then it is not clear what additional detail the JLAs can be said to need/what gap is alleged in the Applicant's existing process.

Carbon

- 3.1.10 The Applicant notes the JLAs do not challenge the majority of the Applicant's previous submissions as to why an EMG framework is not necessary/justified in respect of GHG emissions (Section 4 of [\[REP6-093\]](#)). Instead, the substance of their further submissions focusses on suggested supplements to the CAP, in the alternative to the EMG framework (paragraphs 5.6 onwards).
- 3.1.11 The Applicant would invite the ExA to infer from the JLAs' lack of challenge to the detail of the Applicant's previous response an acceptance (tacit or otherwise) that the need for an EMG framework in respect of this topic is not supported by the evidence presented in the examination.
- 3.1.12 When coupled with the similarly weak/evidenced position in respect of Air Quality (for the reasons discussed above), the Applicant submits the JLAs' case for their EMG framework as an alternative to the Applicant's own proposed control documents does not hold up to any proper scrutiny and can be seen for what it is – a concept created for other distinct application contexts, which are not applicable to the facts and circumstances of the NRP (for the reasons explained in Section 5 of [\[REP5-074\]](#)).
- 3.1.13 Those general observations aside, the principal challenges to the position put forward by the Applicant in the CAP appear to be:
- 3.1.13.1. The absence of a carbon reduction trajectory towards and between the existing 'net zero' emissions by 2030 and 'absolute zero' emissions by 2040 ABAGO Scope 1 and 2; and
 - 3.1.13.2. The absence of a specific target in respect of surface access emissions.
- 3.1.14 The Applicant addressed both of these line items in its response paper at Deadline 6 ([\[REP6-093\]](#), paragraphs 4.1.6 onwards), the detail of which the JLAs' do not engage with in their response and the conclusions of which the Applicant still maintains. In the absence of the JLAs' engagement on the direct submissions made by the Applicant, as opposed to simply re-stating/re-framing their submissions, it is again unclear what argument is being made in response/what gap is alleged in respect of the Applicant's control documents on this subject.
- 3.1.15 If it is accepted that “*aviation emissions will be controlled by government*” (paragraph 5.3 of their Deadline 7 submission ([\[REP7-102\]](#)) and recognised that government has set out policies (through its Jet Zero strategy) to monitor and control emissions from airport ground operations (with which the Applicant's

ABAGO commitments in the CAP are consistent), there cannot conceivably be a case based on reasonableness or necessity for the JLAs to draw up and enforce their own strict trajectory.

- 3.1.16 Again, there is no evidence of the JLAs ever having considered this necessary for any development in their areas or having any policy basis to support their case.

Surface Access

- 3.1.17 Much of the commentary under this section to the JLAs' D7 submission contextualises the concerns they have previously raised on this topic and to which the Applicant has responded extensively in this examination to date. The Applicant purposely limits its response below on that basis.
- 3.1.18 Firstly, the Applicant notes the concerns raised (in paragraph 6.4) regarding the three-year period from commencement of dual runway operations until the mode share commitments (commitments 1 to 4 in the SACs) have effect. The JLAs' acknowledge that the monitoring and reporting will apply during this time (paragraph 6.4), but for completeness and to avoid any residual misunderstanding, the SACs already prescribe (version 5 Doc Ref. 5.3):
- 3.1.18.1. Paragraph 6.2.1 – the first AMR is to be produced no later than 6 months before the commencement of dual runway operations and annually thereafter;
 - 3.1.18.2. Paragraph 6.2.2 – the AMR will be provided to the TFSG prior to publication so that it can provide a response. Once received, GAL will publish on the GAL website both the AMR and the TFSG's response at the same time;
 - 3.1.18.3. Paragraph 6.2.3 – In addition to the AMR, GAL will report quarterly to the TFSG, who will also be given access to data collected for the purpose of monitoring (except those which are commercially sensitive, where alternative arrangements will be sought to be agreed);
 - 3.1.18.4. Paragraph 6.2.4 – prior to the first AMR, GAL will continue to produce an Action Plan in line with its commitments in the Airport Surface Access Strategy (the "ASAS-AP"). The ASAS-AP presents GAL's plan for achieving the targets set out in the ASAS and the Decade of Change (Ref 1-4), and will also support the achievement of the mode share commitments in the SAC. For clarity, the AMR will supplement and not replace the ASAS-AP. The ASAS-AP will be reviewed with the

TFSG quarterly and reported on at the annual meeting of the Gatwick Area Transport Forum.

- 3.1.19 The aggregate effect of these 'pre-emptive' monitoring and reporting obligations cannot be credibly stated to mean there is an information gap prior to the mode share commitments in the SAC coming into effect.
- 3.1.20 The Applicant has explained previously how action will be taken/directed if the trajectory suggests (in the reasonable opinion of GAL or the TFSG) the mode share commitments may not be achieved (paragraphs 6.2.6 of the SAC). However, in an effort to provide the JLAs with more certainty/clarity on that trajectory and the actions which must follow, the Applicant has proposed amendments to the SACs (version 5 Doc Ref. 5.3) to introduce 'interim' mode share commitments upon commencement of dual runway operations (new Commitments 1A and 1B for air passenger journeys and airport staff journeys respectively). This is intended to ensure clarity on the trajectory and the Applicant's correlative performance against those mode share targets and the interventions being implemented. In circumstances where the Applicant was not 'on track', then the TFSG will have early sight of such non-compliance in accordance with the reporting and engagement obligations pursuant to Commitment 16 and as outlined above, and can direct remedial action, in advance of the subsequent mode share commitments being triggered.
- 3.1.21 Secondly, the JLAs clarify the intended effect of their EMG framework is to only restrict growth in circumstances where the Applicant fell below 5% of its mode share commitments (paragraph 6.6). The Applicant is not clear that this is reflected in the drafting proposed by the JLAs as part of their Deadline 6 submission (para 44 of [REP 6-100](#)); however, the relative tolerance in the percentages is not the material factor which informs the Applicant's rebuttals to the need for an EMG framework in respect of the NRP. Rather, it is the crudeness and disproportionate nature of a growth restriction as a default consequence which the Applicant does not support.
- 3.1.22 The Applicant has addressed the crudeness/disproportionality of an operational restriction in response to the ExA's suggested amends to the SAC requirement at ISH9 in the Applicant's Written Summary of Oral Submissions ISH9: Mitigation (Doc ref. 10.62.2) and does not repeat the same commentary here, other than to confirm the same submissions apply in respect of the JLAs' commentary in this section of their D7 response. Those submissions are made and maintained, whilst still acknowledging that in particular circumstances the SoS may determine it necessary to impose a restraint of some form where the matter is referred to

the SoS under the SAC monitoring and reporting process. The Applicant has purposely not put a ceiling on what the SoS may determine to be appropriate in those circumstances; however, that discretionary flexibility to respond to the particular circumstances is clearly very different from an automatic growth restriction in the manner envisaged by the EMG framework.

- 3.1.1 Finally, the Applicant welcomes the additional comments made by the JLAs' to the SAC at Deadline 7 and has sought to incorporate the suggested amendments to the further mark-up of the SACs submitted at Deadline 8 as appropriate (Doc Ref. 5.3 v5).

Noise

- 3.1.2 The Applicant would not agree that the noise envelope "*is intended to be the primary control for managing noise in the context of UK policy from the airport*". The Applicant has explained, including within the **Noise and Vibration Chapter of the Environmental Statement** [[APP-039](#)] at section 14.8, the range of existing noise control measures which are already and will continue to be implemented to control noise from the airport. The Noise Envelope provides certainty to local communities that noise will be limited and will be a means of ensuring the measures which the airport implements are effective to achieve compliance with the contours of the Noise Envelope, and in so doing to incentivise better noise performance to release growth and, once a peak is reached, to allow continued levels of air traffic to continue within those contours as they are reviewed and reduced over time. It is therefore one of a range of measures to be committed to, to control noise, and to report on the noise performance of the airport.
- 3.1.3 In performing the role detailed above, and in conjunction with all other noise related mitigation measures, the noise envelope assists to ensure that the Project will meet the aims for the effective management and control of noise detailed at paragraph 5.68 of the Airports National Policy Statement, within the context of Government policy on sustainable development.
- 3.1.4 The Applicant notes the view of the JLAs that "*the noise envelope is not policy compliant*". The Applicant does not agree with this view, and the Applicant's position is supported by the impact assessment which has been undertaken of the Project taking into account all relevant mitigations, which evidences, based on the accepted assessment methodologies, that the proposals will "*Avoid significant adverse impacts on health and quality of life from noise*" and will also "*Mitigate and minimise adverse impacts on health and quality of life from noise*". By ensuring reviews of the noise envelope over time, which are expected to

result in the reduction of the noise envelope contours reflecting the rate of fleet transition, and in addition by providing an extended noise insulation scheme which uses the daytime $L_{eq\ 16\ hour}$ 54 dB contour as the outer boundary which goes further than emerging Government policy proposes, the airport also has and will continue to take opportunities "to contribute to improvements to health and quality of life" during the lifetime of the airport.

- 3.1.5 The Applicant notes that the JLAs are of the view that Updated Central Case forecast may be overly conservative, and that the Central Case forecast "is still achievable". The Applicant disagrees with the JLAs' analysis, and identifies that the Updated Central Case reflects the airport's best view on the likely rate of fleet transition following the COVID-19 pandemic and is robust (see further information in **The Applicant's Response to Deadline 5 Submissions – Fleet Mix Assumptions** [[REP6-092](#)]), but in any event the Applicant notes that the reviews of the noise envelope will identify to what extent the Updated Central Case or the Central Case, or a different rate of technological improvement and fleet transition, has been achieved and is forecast in the future. The Noise Envelope contour area limits will be revised to reflect this, ensuring the noise envelope remains relevant and incentivises continued improvement in noise performance. The JLAs different view in this respect is therefore addressed through this aspect of the operation of the Noise Envelope.
- 3.1.6 The Applicant notes the JLAs comments on their proposal to introduce contour areas "under the 60 dB LAeq 16h and 55 dB LAeq 8h" taking into account the variance in how noise emanates from aircraft for take-off and landing. The Applicant does not agree that this is necessary to achieve the aims of policy. The use of the primary metrics proposed by the Applicant, which reflect noise envelope precedent across airports in the UK and the expectations of policy, is suitable for the noise envelope to perform the role required of it. Moreover, this would only serve to make the noise envelope more complicated without any material benefit being achieved. It is not a proposal which the Applicant supports.
- 3.1.7 Of further relevance to metrics the Applicant also notes the comment that "the one additional noise induced awakening metric should be adopted as a threshold in the noise envelope". The Applicant has explained why the use of the Leq metric is a good indicator and appropriate for Gatwick airport to mitigate noise in the 8 hour night period in paragraph 2.1.33 the **Applicant's Written Summary of Oral Submission ISH8** [[REP6-081](#)].

- 3.1.8 The Applicant has also explained in **ES Appendix 14.9.2: Air Noise Modelling [APP-172]** what an ‘awakening’ means, in the language used by sleep researchers. Sleep research uses the following sleep stages:
- 3.1.8.1. Awake
 - 3.1.8.2. Stage 1 Superficial sleep
 - 3.1.8.3. Stage 2
 - 3.1.8.4. Stage 3 Deep or slow wave sleep (SWS)
 - 3.1.8.5. Stage 4 Deep or slow wave sleep (SWS)
 - 3.1.8.6. Rapid Eye Movement (REM)
- 3.1.9 An ‘awakening’ is defined as a move from deep Stage 4 or REM sleep to a Stage 1 or awake. This is different from ‘being woken up’ in common parlance. It is important to note that, as we sleep, we change sleep stage numerous times and ‘awaken’ for all manner of reasons, e.g., temperature, humidity, light levels, and internal reasons such as sleep disorders, health conditions, bad dreams etc. A healthy adult briefly awakens about 20 times during an eight-hour night and most of these awakenings are too short to be remembered the next morning.
- 3.1.10 The JLAs’ suggestion therefore amounts to setting the Noise Envelope to avoid the number of awakenings in a single average healthy person rising from 20 to 21 per night, i.e. rising by 5%. The Applicant’s position is that this is not a significant health effect to an individual that is required to be avoided, and it is otherwise through the imposition of a noise envelope in the 8 hour night period and through the provision of noise insulation suitably mitigating and minimising adverse impacts on health and quality of life from air noise.
- 3.1.11 The Applicant also notes the comments that in reviewing the noise envelope limits the Applicant is not required to take into account (1) new scientific material, (2) legislation or (3) policy.
- 3.1.12 Firstly, there is nothing in the Development Consent Order which seeks to oust future legislative change. With respect to new scientific material, it would be expected that an influence of this would be on aircraft and the standards they are required to meet. This has been seen to be the case through changes in certification standards and improvements in air noise performance over time. Such change in aircraft noise emissions, and the rate at which this is anticipated to influence the fleet flying from Gatwick Airport, is precisely what the Noise

Envelope reviews would be considering and capturing in revised contour area limits, as noted above to ensure the Noise Envelope remains relevant.

- 3.1.13 With respect to policy, the Applicant notes (paragraph 8.1.3 of the Noise Envelope) which states "*Reviews of the noise envelope limits will be prepared on behalf of GAL by a Specialist Aviation Forecaster, and will be based upon past performance, ATM and fleet transition forecasts, any changes to aircraft routings, **relevant changes to government policy**, and noise modelling forecasts*" (our emphasis). To the extent relevant, the airport has committed to take into account changes to government policy.
- 3.1.14 Noting all of the above, the Applicant considers that the approach to the Noise Envelope reviews strikes the necessary and appropriate balance between providing certainty to the airport for business and investment decisions to be taken with confidence, and to ensure that the Project and moreover the airport is meeting the requirements of relevant noise policy, including paragraph 5.68 of the Airports National Policy Statement.
- 3.1.15 With regard to governance, the Applicant notes the comments made about local authority involvement in monitoring the noise envelope. The Applicant would dispute that the JLA proposal is "*founded on a model which is tried and tested*". It is a model which has no consented precedent.
- 3.1.16 More generally with regard to the suggestion of the need for local authority involvement in verifying the annual monitoring and forecasting reports and noise envelope reviews, the Applicant notes paragraph 5.66 of the Airports National Policy Statement which confirms that the Civil Aviation Authority is an appropriate body to secure the noise mitigation measures. Moreover, the Applicant identifies that such an expert independent body will be capable of providing assurance, confidence and transparency to all relevant persons to that process, including (inter alia) the local authorities, local communities and the Applicant. The Applicant is entirely satisfied with the appropriateness of the Civil Aviation Authority performing the role of independent noise reviewer, including that this is an approach which ensures compliance with policy.
- 3.1.17 The Applicant notes the comments made in respect of the Applicant's proposal (Appendix A to [\[REP6-087\]](#)) to commence the monitoring of noise and the AMFR process for the Noise Envelope 2 years ahead of the NRP operation, and also in respect of QC budgets.
- 3.1.18 Taking each of those in turn, the Applicant notes the early commencement of the AMFR process addresses many of the JLAs concerns regarding the

effectiveness of the noise control regime. It is confirmed that this proposal is incorporated in the Noise Envelope in revision made at this Deadline 8.

- 3.1.19 With regard to QC budgets, and noting all comments on those in the JLAs submission, the Applicant notes that the "*JLAs referred to the use of the QC budget that would operate alongside the noise forecasts to predict and help manage in season compliance with the predictions and the release of capacity (with conditions or otherwise) such that growth could be achieved without breaching the noise envelope*". As is explained in the **Applicant's Written Summary of Oral submissions ISH9 - Mitigation** (Doc Ref 10.62.2), QC is a rather blunt forecast of noise levels, which has significant limitations in its correlation to actual noise performance. It would result in an artificial and unnecessary constraint on movements from the airport where applied in isolation by virtue of its limited correlation to actual noise performance and has been identified to not be the correct approach to base the forecast of noise emissions from the aircraft in isolation, nor to incentivise operational procedures or good noise envelope performance.
- 3.1.20 However, the Applicant has identified at paragraph 4.1.3 of the **Applicant's Response to Actions ISH8 – Noise [REP6-087]** that QC may be one of a range of potential noise management measures that could be adopted in order to inform forecasting and to ensure that the Applicant is complying with the Noise Envelope contour limits. In that respect, QC quota would be used alongside the noise forecasts to inform the anticipated noise levels from the proposed fleet and the release of capacity. It is apparent to the Applicant then that despite the continued protest by the JLAs and demand for a QC budget to apply from the outset as the primary control for managing noise and for thresholds to be set against such a QC budget, the Applicant's approach has already met the suggestion by the JLAs for how a QC quota may be one of the tools used to inform and evidence compliance in the more proportionate and appropriate manner otherwise suggested by them, where it is appropriate.
- 3.1.21 Moreover, the Applicant notes that the Noise Envelope is forward looking and requires future compliance to be predicted and for any future predicted non-compliance (or less likely because of its forward looking nature actual non-compliance) to be addressed. By being forward looking and through restricting the release of slots to prevent breach, it controls slot release effectively, so that the issue of excess capacity declaration identified by the JLAs would not occur. The Noise Envelope is a robust and effective approach to ensure this.

- 3.1.22 The Applicant also wishes to put on record that it does not agree with the characterisation of the level of control that the Airport has in determining what level of capacity is released (in Appendix A to the JLAs' submission). The Applicant has accurately explained the level of control it has in respect of deciding when to release capacity and how much to release in **Appendix A: Note on how the Applicant will plan to stay in the Envelope and why this will be effective** [[REP6-087](#)], and whilst suggested otherwise the approach explained by the Applicant is entirely in accordance with the Airport Slot Allocation Regulation 2006 and EU Regulation 95/93, including Article 6 of that Regulation and the need for the allocation of slots to be based on neutral, transparent and non-discriminatory rules.

4 General

- 4.1.1 The Applicant has sought to address above the residual submissions the JLAs have made in respect of their stated need for an EMG framework to regulate the NRP. When properly examined, the Applicant does not consider there to be any credible case or justification (in policy or otherwise) for such an extensive, onerous and unprecedented framework in the context of the assessed impacts of the NRP.
- 4.1.2 The JLAs suggest their approach is in accordance with aviation policy (paragraph 3.1 of their Deadline 7 submission) and appear to rely (based on their assertions at ISH8) on a general statement in MBU that government support for aviation growth under that policy is conditional on *'environmental issues being addressed'* (paragraph 1.6) and/or that airports *'as part their planning applications airports will need to demonstrate how they will mitigate local environmental issues'* (paragraph 1.24).
- 4.1.3 As the Applicant noted in response to this assertion at ISH8 [[REP6-084](#)], (para 3.2.1), nothing in MBU (or any other aviation policy) suggests that "*subject to environmental issues being addressed*" involves a constraint on the growth of an airport. The policies allow for environmental issues to be addressed in exactly the way that the Applicant is proposing in its control documents. It would be a very extreme measure to suggest that one should stop the operation or growth of nationally significant infrastructure in those circumstances, as opposed to dealing with the normal route, which is to provide a specific means to address the issue that has been identified. Nothing in MBU suggests that such measures are intended to be imposed, particularly given the general support for airports making best use of their existing runways; if such extreme measures were intended the

policy would have said so. Government's clear opposition to demand management in its Jet Zero Strategy provides a more obvious guide to the appropriate approach.

- 4.1.4 In practice, the JLAs' desire appears to be to control matters which Parliament has decided should be managed by government (with which the JLAs disagree) and to assert that any regime based on current policy may not be sufficient, as that policy may change.
- 4.1.5 Both arguments expose the weakness of the EMG proposition in this case.
- 4.1.6 Further, both the ANPS and NNNPS (paragraphs 4.9 and 4.11 respectively) are clear that "*The Examining Authority should only recommend, and the Secretary of State should only impose, requirements in relation to a development consent, that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.*"
- 4.1.7 The Applicant has explained above why the EMG framework is not "necessary" or reasonable in the context of the NRP. There is nothing unique about the NRP as a project which supports such a significant departure from the normal approach to planning controls, including in relation to all other consented airport development (both recent and historic). Indeed, the Applicant does not consider there to be any precedent for this approach in any other form of development or infrastructure planning (beyond the emerging, and untested, GCG approach offered unilaterally by the local authority promoter of the Luton Airport DCO). It is not an approach supported in any county or local policy or applied by the JLAs in any other circumstance to any development anywhere in their respective counties.
- 4.1.8 It appears to have been seized upon by the JLAs as a concept purely because it's been proposed by the promoter of Luton Airport (in their specific context) having initially been conceived (but not promoted) by Heathrow Airport (in their specific context) without any critical analysis having been applied to its actual utility or applicability to Gatwick's NRP. Such an unprecedented approach and departure from all other consented development requires more justification and evidence than superficial comparison.
- 4.1.9 Further, in respect of the imposition of planning conditions, the Planning Practice Guidance makes clear that conditions should not be imposed where they "*unreasonably impact on the deliverability of a development*", making clear that "*Conditions which place unjustifiable and disproportionate financial burdens on an applicant will fail the test of reasonableness*" (paragraph 5 under 'use of

planning conditions'). The EMG framework proposed by the JLAs fails in respect of this guidance criteria. GAL would not accept the risk of incurring the significant capital investment of constructing the development to then find it was unable to commence dual runway operations or subsequently enjoy the growth facilitated by it, because (to take an extreme example) it was 0.1% under a described environmental limit. That is not a credible position to expect a commercial developer/operator to adopt. The level of uncertainty and business risk it would introduce to planning the development and subsequent operation of the airport would be unacceptable, and GAL would simply choose not to invest in implementing the scheme and instead elect to maintain its current operations/growth under a single runway, where it is not subject to any such restrictions.

- 4.1.10 GAL has purposely not reverted to this more straight-forward explanation in discussions to date, because it considers it important to engage with the underlying concern expressed by the JLAs (and other IPs) and to provide comfort/clarification in that respect. However, GAL considers it important for the practical reality/position to be understood given the stage of the examination.