



# MetroWest+

## Portishead Branch Line (MetroWest Phase 1)

**Planning Inspectorate Reference: TR040011**

**Applicant: North Somerset District Council**

### 9.3.2 ExA.SoCG-BCC.D7.V3 – Statement of Common Ground

Between:

- (1) North Somerset District Council; and
- (3) Bristol City Council (as Local Planning Authority)

**Version: 3**

**Date: April 2021**



Version history			
Date	Version	Status	Description/changes
24 February 2020	1	Draft	First draft
3 August 2020	1	Draft	Updated following meetings on: - 28 February 2020; - 7 April 2020; - 1 May 2020; - 6 May 2020; and - 15 May 2020.
2 November 2020	1	D1 Submission	Draft for submission to examination at Deadline 1
16 February 2021	2	D5 Submission	Updates following: - Meeting between the Applicant and BCC on 17 December 2020 following ISH1 and Deadline 3 submissions; - ISH2 (11 January 2020) and ISH3 (12 January 2020); and - Meetings between the Applicant and BCC on 22 January and 10 February 2021 following ISH2, ISH3 and Deadline 4 submissions.
8 April 2021	3	D7 Submission	Updates following: - Meeting between the Applicant and BCC on 19 March 2021 following ISH4, ISH5 and CAH2 and Deadline 6 submissions;

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## 2. ABBREVIATIONS

2008 Act	Planning Act 2008
Applicant	North Somerset District Council
AGVMP	Avon Gorge Vegetation Management Plan
BCC	Bristol City Council
BS	British Standard
CAZ	Clean Air Zone
CEMP	Construction Environmental Management Plan
CoCP	Code of Construction Practice
CTMP	Construction Traffic Management Plan
Defra	Department for Environment, Food and Rural Affairs
DAS	Design and Access Statement
DCO	Development Consent Order
DMU	Diesel Multiple Unit
EA	Environment Agency
EIA	Environmental Impact Assessment
EPSL	European Protected Species Licence
EPUK	Environmental Protection UK
ES	Environmental Statement
FRA	Flood Risk Assessment
GBATS	Greater Bristol Area Transport Study
GRIP	Governance for Railway Investment Projects
HRA	Habitats Regulations Assessment
IAQM	Institute of Air Quality Management
IROPI	Imperative Reasons of Overriding Public Interest
LHA	Local Highway Authority
LPA	Local Planning Authority
LVIA	Landscape and Visual Impact Assessment
NMU	Non-Motorised Users
NRIL	Network Rail Infrastructure Limited
NSC	North Somerset District Council
NSIP	Nationally Significant Infrastructure Project
PEIR	Preliminary Environmental Information Report

PINS	Planning Inspectorate
SAC	Avon Gorge Woodlands Special Area of Conservation
SoCG	Statement of Common Ground
SPA	Special Protection Area
SWMP	Site Waste Management Plan
TA	Transport Assessment

In the text, "DCO Document Reference" refers to the DCO document reference number as shown on the documents on the Portishead Branch Line (MetroWest Phase 1) [project page on the PINS website](#).

In cases where a document appears twice and there are two DCO Document Reference numbers, (for example, the AGVMP which appears twice as standalone DCO Document Reference number 8.12 and as ES Appendix 9.11, DCO Document Reference 6.25), we have used the DCO Document Reference for the standalone document.

### **3. INTRODUCTION**

- 3.1 This Statement of Common Ground ("SoCG") has been prepared by North Somerset District Council ("the Applicant") and Bristol City Council in its capacity as Local Planning Authority ("BCC") to set out the areas of agreement and disagreement between the parties in relation to the Development Consent Order ("DCO") application for the Portishead Branch Line (MetroWest Phase 1) ("the DCO Scheme") based on consultation to date. In stating its position to BCC and working to agree the issues raised, the Applicant has consulted with Network Rail Infrastructure Limited ("NRIL") given its interest in the DCO and anticipated role in the delivery and operation of the DCO Scheme.
- 3.2 This SoCG comprises an agreement log which has been structured to reflect topics of interest to BCC in relation to the application for the DCO Scheme, and matters raised by the Examining Authority and responded to by the Applicant (supported by NRIL) and BCC during the course of the DCO Examination. Topic specific matters agreed and not agreed between BCC and the Applicant are included.

### **4. SCHEME OVERVIEW**

- 4.1 The Applicant has applied to the Planning Inspectorate ("PINS") for a DCO to construct the Portishead Branch Line under the Planning Act 2008 ("the Application"). The Application was made on 15 November 2019 under reference TR040011 and was accepted for examination on 12 December 2019. The Examination opened on 19 October 2020 and is scheduled to close on 19 April 2021.
- 4.2 The DCO Scheme will provide an hourly (or hourly plus) railway service between Portishead and Bristol Temple Meads Railway Station, with stops at Portishead, Pill, Parson Street and Bedminster.
- 4.3 The DCO Scheme comprises the Nationally Significant Infrastructure Project ("NSIP") as defined by the Planning Act 2008 ("the 2008 Act") to construct a new railway 5.4 kilometres long between Portishead and the village of Pill, and associated works including a new station and car park at Portishead, a refurbished station and new car park at Pill and various works along the existing operational railway line between Pill and Ashton Junction where the DCO

Scheme will join the existing railway. Ashton Junction is located close to the railway junction with the Bristol to Exeter Mainline at Parson Street.<sup>1</sup>

- 4.4 The Application has been accompanied by an Environmental Statement ("ES") because the DCO Scheme is classified as EIA development in the EIA Regulations 2017<sup>2</sup>.

## **5. MATTERS OF INTEREST TO BRISTOL CITY COUNCIL IN THE DCO SCHEME**

- 5.1 BCC supports the principle of the DCO Scheme, as described in its policy BCS10 'Transport and Access Improvements'.
- 5.2 As BCC is the Local Planning Authority for the area in which part of the DCO Scheme lies – the remainder being within the North Somerset District Council ("NSC") authority area – BCC has a particular interest in the DCO Requirements. Applications to discharge a number of the Requirements will be made to BCC, and therefore a key area for agreement is the process by which those applications are made by the Applicant and dealt with by BCC.
- 5.3 BCC is both a Local Planning Authority and a Local Highway Authority, and therefore highway impacts associated with the construction and operational phases of the DCO Scheme are of particular interest. Matters including the highway access to the Clanage Road compound, and works on and around Winterstoke Road, have been raised during the DCO Scheme consultation and further explored during the course of the DCO Examination. BCC and the Applicant are working towards a separate highway works agreement to set out the protocols for the approval and delivery of those highway works outlined in the draft Order.
- 5.4 The environmental considerations of the DCO Scheme have also been a focus for BCC's input. This includes the ecological impacts, such as tree loss and replacement, and flood risk and mitigation measures in the Clanage Road compound area. BCC has also given due consideration to the relationship of the DCO Scheme and the wider landscape in the authority area, in particular in the area around the Clifton Suspension Bridge.
- 5.5 Further details of the key areas of interest to BCC are set out in the Relevant Representations, reproduced in Section 7.

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<sup>1</sup> Please refer to Schedule 1 of the draft Order (DCO Document Reference 3.1) for more detail.

<sup>2</sup> The Town and Country Planning (Environmental Impact Assessment) Regulations 2017

## **6. OVERVIEW OF ENGAGEMENT**

### **6.1 Introduction**

6.1.1 This section briefly summarises the consultation that the Applicant and has had with BCC. For further information on the consultation process please refer to the Consultation Report (DCO Document Reference 5.1).

### **6.2 Pre-application**

6.2.1 The Applicant has engaged with BCC on the DCO Scheme during the pre-application process, both in terms of informal non-statutory engagement and formal consultation carried out pursuant to Section 42 of the 2008 Act.

6.2.2 The Applicant has had regular and constructive engagement with BCC throughout the pre-application process on both a formal and an informal basis. The Applicant adopted a multi-stage approach to formal consultation which has allowed the DCO Scheme proposals to evolve iteratively through the Applicant's consideration and regard for BCC's input, in keeping with the (former) Department for Communities and Local Government (DCLG) Pre-Application Guidance (2015). This has meant that BCC's responses meaningfully contributed to the development of the proposals in the DCO Scheme.

6.2.3 The formal consultation was carried out in three main stages:

- (a) "Stage 1 Consultation", from 22 June 2015 to 3 August 2015 (pursuant to Section 47 only);
- (b) "Stage 2 Consultation", from 23 October 2017 to 4 December 2017; and
- (c) "Additional Stage 2 Consultation" at several different points following Stage 2 Consultation.

6.2.4 A full account of the Applicant's pre-application engagement with BCC is contained in the Consultation Report (DCO Document Reference 5.1).

### **6.3 Post-application**

6.3.1 Following the submission of the Application on 15 November 2019, the Applicant has continued to engage with BCC and progressed the substantive matters that are recorded in this document.

6.3.2 BCC's Relevant Representation is set out in section 7 of this SoCG alongside the Applicant's response.



## 6.4 Overview of key issues raised in Relevant Representation and at Section 42 consultation

6.4.1 When formally consulted during the Section 42 consultation, BCC raised the following key issues:

- (a) Air quality monitoring, modelling and impacts of road traffic;
- (b) Requested further information regarding geology, hydrogeology, ground conditions and contaminated land;
- (c) Landscape and visual impacts including how the Clanage Road compound will affect views; and
- (d) Transport, access and Non-Motorised Users ("NMU") including drainage design and the Construction Traffic Management Plan ("CTMP").

6.4.2 Outside of the formal consultation process BCC raised the following key issues:

- (a) Supported re-use of materials on site;
- (b) Construction working hours;
- (c) Impacts of highways works at Winterstoke Road and the surrounding area, including the scope for a highway works agreement with Bristol City Council in its capacity as Local Highway Authority ("LHA") for this area of the DCO Scheme;
- (d) Clanage Road compound site access/ highway safety;
- (e) Ashton Vale Road level crossing and Barons Close level crossing;
- (f) Site operations including protection of watercourses and processes for engagement with the LHA on movement of abnormal loads;
- (g) Further requests for information regarding geology, hydrogeology, ground conditions and contaminated land;
- (h) Materials and waste including in respect to layout of compounds;
- (i) Assessment of tree loss in relation to BCC's policy and need for appropriate mitigation; and

(j) Flood mitigation at the Clanage Road compound.

6.4.3 The following section sets out BCC's Relevant Representation (made following publication of the acceptance of the Application pursuant to Section 56 of the 2008 Act) and the Applicant's responses. The Relevant Representation as submitted is available on the Application project pages here: <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=relreps&relrep=39270>.

6.4.4 Section 8 onwards provides detail on the matters raised by BCC during the course of the DCO Scheme consultation, along with those issues raised by the Examining Authority during the course of the DCO Examination and which have been the subject of further discussion between the parties to this SoCG. Section 8 also sets out the actions taken by the Applicant in response to the issues raised, and whether the matter is agreed or remains to be agreed.

## 7. RELEVANT REPRESENTATIONS

The following table sets out the comments received by the Applicant from BCC as Relevant Representations following PINS' acceptance of the Application, and the Applicant's response.

**Table 7.1: Relevant Representations and Applicant responses**

Ref.	Topic	BCC position	Applicant position
RR-001 (1)	Support for the DCO Scheme	<p>Bristol City Council has received notification from North Somerset Council (the Applicant) of the acceptance of this application for a Development Consent Order. Bristol City Council is a Host Authority and as such is registering as an 'Interested Party' for the MetroWest Phase 1 Examination.</p> <p>In summary, Bristol City Council as Local Planning Authority supports the principle of the proposals put forward for the re-opening of the Portishead Branch Line and the associated improvements as set out within our Policy BCS10 'Transport and Access Improvements'.</p>	Bristol City Council as Local Planning Authority's support for the scheme is noted.
RR-001 (2)	SoCG	We would however like the opportunity to comment on the following main issues given the potential impacts upon the built and natural environment of the City of Bristol and its people. Discussions are ongoing between the Applicant and Bristol City Council as Host Authority regarding the proposals and proposed mitigation.	A Statement of Common Ground (SoCG) is being progressed between the Applicant and the Local Planning Authority, which sets out the matters which are agreed and the parties' positions/ required steps to agree those matters which are not yet agreed.

Ref.	Topic	BCC position	Applicant position
RR-001 (3)	Transport	<p>The points below largely accord with our representations made during the Section 42 Consultation, which are included within the Applicant's Consultation Report:</p> <p>Transport, including the proposed highway improvements on Winterstoke Road and management of Construction Traffic.</p>	Transport issues are set out in detail with points which are agreed and not yet agreed in the SoCG in section 16.
RR-001 (4)	Ecology and Biodiversity	Ecology and biodiversity, in particular the loss of trees within Bristol and the potential impact on designated sites including: the Avon Gorge Woodlands SAC; the Severn Estuary SPA; and Severn Estuary Ramsar site.	Ecology and Bio-diversity issues are set out in detail with points which are agreed and not yet agreed in the SoCG in section 12.
RR-001 (5)	Flood Risk	Flood risk, in particular the requirement for flood plain compensation and for a positive drainage system at the Clanage Road compound given its location within Flood Zone 3, and the risk of damage to watercourses, including culverts.	Flood Risk Assessment issues are set out in detail with points which are agreed and not yet agreed in the SoCG in section 17.
RR-001 (6)	Land contamination	Land contamination, in relation to the baseline data/information, risk to controlled waters and groundwater, the potential remediation of ballast and the operational impacts upon the environment.	Land contamination issues are set out in detail with points which are agreed and not yet agreed in the SoCG in section 0.
RR-001 (7)	Landscape and visual impact	Landscape and visual impact; in relation to the impact upon the setting of designated heritage and natural environment assets.	Landscape and visual impact issues are set out in detail with points which are agreed and not yet agreed in the SoCG section 12.

Ref.	Topic	BCC position	Applicant position
RR-001 (8)	Construction Impacts	Construction impacts including the measures proposed within the Framework Construction Environmental Management Plan and the Construction Traffic Management Plan.	Construction impact issues are set out in detail with points which are agreed and not yet agreed in the SoCG primarily in sections 10, 12 and 16.
RR-001 (9)	Arrangements for discharge of requirements / other procedural matters	Schedule 2 Part 3 of the Draft DCO concerning arrangements for the discharge of Requirements.	Points which are agreed and not yet agreed in respect of the DCO Requirements are set out in the SoCG in section 7.
RR-001 (10)	Local impact report SoCG	A full assessment of proposals will be included within the Council's Local Impact Report and the Council is proactively working with the Applicant to agree a Statement of Common Ground which will confirm the position regarding these matters. Bristol City Council will continue to work with the Applicant and other stakeholders to ensure the proposals meet its objectives to support economic growth and improve the accessibility to the rail network whilst mitigating potential negative effects.	Noted.



## 8. AIR QUALITY

The following table sets out the comments received by the Applicant and from BCC in respect of air quality.

**Table 8.1: Air quality issues**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
8.1.1	Model Baseline (Post-application)	<p>Only data up to 2016 are discussed in the ES with no reference made to 2017 or 2018 data which are available.</p> <p>A 2013 baseline year has been used which is now 7 years old and would not be considered best practice in an air quality assessment.</p> <p>It is expected that this would be updated to reflect the latest data available.</p>	<p>A methodology to update the Air Quality Model has been discussed and agreed with BCC.</p> <p>An updated traffic base year of 2015 will be adopted. Traffic data for 2015 will be derived using the Greater Bristol Area Transport Study ("GBATS") model, applying knowledge gained during the Bristol Clean Air Zone ("CAZ") modelling work (which applied GBATS with a Base Year of 2015).</p> <p>Relevant assumptions from the 2015 CAZ modelling have been applied to GBATS, combined with adaptations to reflect assumptions included in the previous GBATS setup for the DCO Scheme. In taking this approach, we ensure that the overall Base Year traffic assumptions are within 5 years of 2020, and therefore in line with good</p>	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>practice recommendations for traffic modelling. The approach also ensures that the Base Year traffic assumptions are still concurrent with assumptions applied for the previous Opening Year 2021 DCO Scheme traffic modelling.</p> <p>Other aspects of the assessment have been updated, or sensitivity tests undertaken, in line with the 2015 base year as required.</p>	
8.1.2	Model and Results  (Post-application)	<p>Unfortunately, the Air Quality report and appendices are confusing and unclear in the way they are structured and results reported.</p> <p>Table 7.20 of ES Chapter 7 Air Quality and Greenhouse Gases (DCO Document Reference 6.10) reports one set of results. Table 1.2 of the ES Appendix 7.4 (DCO Document Reference 6.25) reports a different set of results. It is unclear why they differ and there is reference to TG16 methodology but this is not explained. Is it sensitivity analysis? The supporting text needs to make this clearer.</p>	<p>Table 1.2 in Appendix 7.4 (DCO Document Reference 6.25) has been updated to include the long term factors showing in Table 7.20 of the ES Chapter 7 Air Quality and Greenhouse Gases (DCO Document Reference 6.10). This does not affect the assessment.</p>	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		The text above Table 1.2 of the ES Appendix 7.4 (DCO Document Reference 6.25) highlights that no exceedences occur but the table shows exceedences? The significance of the increase using Institute of Air Quality Management ("IAQM")/Environmental Protection UK ("EPUK") impact descriptors have not been included here. Some significant increases are shown.		
8.1.3	Parson Street (Post-application)	<p>It is unclear how the baseline concentrations have been determined at those receptor locations located by the railway line.</p> <p>BCC's request at the Section 42 consultation stage for monitoring has not been actioned and it appears the roadside NO<sub>2</sub> concentrations around the Parsons Street gyratory have been used from the 2013 baseline with the modelled emissions from Diesel Multiple Units ("DMUs") added, but this is unclear.</p> <p>If this is the case, it is unrealistic and demonstrates why local monitoring</p>	<p>A methodology to update the Air Quality Model was discussed and agreed with BCC.</p> <p>The air quality model verification exercise has been repeated using year 2015 monitoring data, with additional attention paid to locations near the Parson Street Station and the Bedminster Road area.</p> <p>The verification adjustment factor applied to the modelled outputs for all scenarios (including the 2021 concentrations) have been updated where the new verification exercise concludes that this is appropriate.</p>	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		should be undertaken. The baseline NO <sub>2</sub> values used at receptors have not been justified and it is considered that the values predicted at R50 and R51 are too high and those predicted at receptor R56 is far too low. To help BCC make sense of the real impacts at R50 and R51 can the predicted contribution from the DMUs at the receptors around Parsons street station be reported separately?		
8.1.4	Methodology and Baseline  (Post-application)	<p>Nitrogen dioxide monitoring sites used for model verification have not included around Parson Street which is partly why the roadside concentrations are too low in this location.</p> <p>It is assumed by BCC that the large differences between the 2013 baseline concentrations and the modelled 2021 DM scenario are as a result in the predicted reduction in the vehicle emission factors between 2013 and 2021 as the DMU emissions have been held constant. Please confirm this.</p> <p>If this is the case and the Eft V6 emission factor toolkit has been used</p>	<p>See section 8.1.3 above.</p> <p>Road emission rates (g/km/s) of Nitrogen Oxides (NO<sub>x</sub>) and particulate matter (PM<sub>10</sub>) have been re-calculated for the Base Year with 2015 vehicle fleets.</p> <p>Emission rates have been calculated using the Department for Environment, Food and Rural Affairs ("Defra") EFT v8.0.1, with the year 2015 annual average daily traffic flow inputs from Step 1. The EFT v8.0.1 was used in the previous MetroWest local and regional air quality assessments and uses 2015-projected fleets. All other</p>	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		<p>then this improvement is very optimistic and shows much too large a reduction as it is accepted the Eft V6 included optimistically large reductions in vehicle emissions for future years.</p> <p>We are currently on Eft V9 which was released in May 2019, why has the report not been updated to use the latest Eft V9?</p>	<p>Defra tools used in the results processing (Steps 4-5) are in alignment with the v8.0.1 EFT release i.e. based on 2015-fleet and fuel projections. These tools include background maps, background sector removal, NO<sub>x</sub> to NO<sub>2</sub> conversion calculators and long term trend calculations.</p> <p>We note that v9.0 of the EFT was released in May 2019, which applies 2017-projected fleets. However, the emission factors (g/km) per vehicle type remain the same between EFT versions and, given that all Defra tools used will also be compatible with the 2015-projected fleets, the difference in resulting NO<sub>2</sub> concentrations compared to using EFTv9.0 is perceived to be small.</p> <p>We provided a sensitivity test as an appendix comparing 2021 emission rates projected using the EFT v8.0.1 and v9.0. Our current analysis indicates the level of difference to emission rates would be less than 2%.</p>	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>We cannot actually find the statement by Defra suggested in the comment from BCC. Perhaps a link could be provided by them. It does state however that <i>“Local authorities are advised to use the latest version of the EFT for all future work.”</i></p> <p><a href="https://laqm.defra.gov.uk/review-and-assessment/tools/emissions-factors-toolkit.html">https://laqm.defra.gov.uk/review-and-assessment/tools/emissions-factors-toolkit.html</a>. We would suggest that in most cases the EFT version used at the onset of a project is generally maintained in order to reduce confounding the results. The alternative is to restart the analysis from scratch including traffic modelling. We believe the recommended approach is a pragmatic compromise.</p> <p>The revised assessment was presented and agreed with BCC.</p>	
8.1.5	Methodology and Baseline  (Post-application)	When combined with the unrepresentative roadside background concentrations applied to the Railside receptor locations the figures reported are effectively considered to be meaningless and totally unrealistic.	The revised assessment was presented and agreed with BCC.	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
8.1.6	Methodology and Baseline  (Post-application)	Why have BCC DT location not been referenced in Table 1.2 in ES Vol 4?	The revised assessment was presented and agreed with BCC.	BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8 <sup>th</sup> July 2020).  Addressed in DCO Document Reference 6.25 ES Volume 4: Appendix 7.3 Air Quality Model Verification.
8.1.7	Parson Street  (Consultation)	Query how and if the monitored roadside concentrations in the Parson Street area have been combined with the diesel locomotive emissions at those receptors closest to the railway.	Air quality monitoring has not been undertaken specifically for the DCO Scheme. However, air quality monitoring is being carried out by NSC and BCC and these are considered to be sufficient for the purposes of model verification.  The ambient air quality has been combined with the modelled diesel emissions to assess the 'with and without scheme' scenarios. This is included in the ES Appendix 7.2 Air Quality Modelling Methodology (DCO Document Reference 6.25).	Agreed.  BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8 <sup>th</sup> July 2020).



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
8.1.8	Nitrogen dioxide (Consultation)	Monitoring of nitrogen dioxide concentrations should be carried out in order to establish a site-specific pollutant baseline.	<p>Air quality monitoring has not been undertaken specifically for the DCO Scheme. However, air quality monitoring is being carried out by NSC and BCC and these are considered to be sufficient for the purposes of model verification.</p> <p>ES Chapter 7 – Air Quality and Greenhouse Gases (DCO Document Reference 6.10) sets out the baseline scenario.</p>	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>
8.1.9	Road traffic emissions (Consultation)	<p>The Preliminary Environmental Information Report ("PEIR") does not explicitly state why the air quality impacts from the roads have not been reported within Bristol.</p> <p>The changes to vehicle flows in Bristol do not meet the criteria outlined in section 7.3.11 of the report, with reductions in road traffic being predicted as a result of the modal shift induced by the MetroWest Development.</p> <p>The future ES should be clearer with regard to the reason for not reporting on</p>	The ES Chapter 7 – Air Quality and Greenhouse Gases (DCO Document Reference 6.10) explains more clearly how the “affected roads” were identified through the traffic model and taken forward for the air quality assessment.	<p>Agreed.</p> <p>BCC confirmed that the revised approach (i.e. 2015 base year) addressed this concern (email 8<sup>th</sup> July 2020).</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		air pollution as a result from changes to road traffic within Bristol.		
8.1.10	Cumulative effects  (Examination)	<p>BCC commented in its response to ExQ1 question GC.1.2 [REP2-036] that its Air Quality Officer has raised concerns over the proposed development at the Former Ashton Sidings, Clanage Road (planning application ref. 20/01655/F), owing to the likely increase in traffic.</p> <p>Nevertheless, BCC considers the air quality impacts of the DCO Scheme are negligible at the relevant locations, with no significant cumulative effects on air quality.</p>	<p>The Applicant has commented on BCC's response to ExQ1 question GC.1.2 [see REP3-030].</p> <p>The Applicant agrees based on the information available there is not likely to be a significant cumulative impact on air quality.</p>	Agreed.

## 9. ARCHAEOLOGY AND CULTURAL HERITAGE

The following table sets out the comments received by the Applicant from BCC in respect of archaeology and cultural heritage.

**Table 9.1: Archaeology and cultural heritage issues**



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
9.1.1	Clanage Road compound  (Consultation)	The construction compound at Clanage Road would be relatively exposed in the landscape, with views possible from the Clifton Suspension Bridge.	<p>The construction compound will be temporary and lighting only required whilst in use.</p> <p>Views from both sides of the bridge looking towards the compound area show little if any visual impact due to the vegetation growth nearby which mask it. Photographs from multiple views including those suggested were taken to inform the ES Chapter 11 – Landscape and Visual Impacts Assessment (DCO Document Reference 6.14).</p> <p>NRIL has presented updated designs for rock catch fences required in the Avon Gorge. Rock catch fence No. 3 is located upstream of the Clifton Suspension Bridge. The effect of this on landscape is discussed below in 9.1.4. It is not predicted to be visible from the temporary Clanage Road compound as it would be obscured by intervening trees and the Bridge itself.</p> <p>Direct and indirect impacts on the heritage assets, historic landscape and</p>	<p>Agreed.</p> <p>Also see Table 18.1 concerning Green Belt development.</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			the impact on the historic setting of heritage assets are presented in the ES Chapter 8 Cultural Heritage (DCO Document Reference 6.11), and Cultural Heritage Gazetteer (ES Appendix 8.1, DCO Document Reference 6.25).	
9.1.2	Master CEMP (Consultation)	Regarding archaeology and cultural heritage, the Archaeology Officer raised no objection to the outlined information contained within the draft Master CEMP (ES Appendix 4.2, DCO Document Reference 8.14) documents.	Noted.	Agreed
9.1.3	Archaeology (Consultation)	Recommended that where the potential for below ground archaeology exists an archaeological contractor should be employed to record any surviving evidence prior to its removal.	A written scheme of investigation will be undertaken or there will be an archaeological watching brief on the sites as specified in the ES Chapter 8 - Cultural Heritage (DCO Document Reference 6.11). The approach is also captured in the Schedule of Mitigation (DCO Document Reference 6.31) and will be subject to Local Planning Authority ("LPA") approval under Requirement 10 of the draft Order (DCO Document Reference 3.1).	Agreed

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
9.1.4	Clifton Suspension Bridge  (Post-application)	<p>Please provide details of the rockfall barriers including the specific locations of the barriers.</p> <p>BCC notes the revised designs for the rockfall barriers – please confirm the revised designs will have no substantially different effects on tree loss or ecology.</p>	<p>Details of rock bolting and rockfall barriers have been included in the Report to Inform Habitats Regulations Assessment (ES Volume 4, Appendix 9.12 DCO Document Reference 6.25) and on the General Arrangement Plans Sheets 9 to 13 (DCO Document Reference 2.4).</p> <p>NRIL produced revised designs for the rockfall barriers near the Clifton Suspension Bridge in May 2020. The locations of the rockfall barriers are as follows:</p> <ul style="list-style-type: none"> <li>• Rockfall barrier No. 1 is located south of Quarry Underbridge number 3. It is positioned up the cliff slope from the railway line within the existing trees.</li> <li>• Rockfall barrier No. 2 is located north of Quarry Underbridge number 2. It is positioned up the cliff slope from the railway line within the existing trees.</li> <li>• Rockfall barrier No. 3 is located between the base of the Clifton Suspension Bridge by the tunnel and Nightingale Valley. It is positioned</li> </ul>	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>up the cliff slope from the railway line within the existing trees.</p> <p>A location plan showing the three rockfall barriers is presented at Appendix 1, along with photographs of the setting of each rockfall barrier with a line showing the indicative location of the barriers.</p> <p>It can be seen from the photographs that the rockfall barriers would be located within the existing woodland and therefore well screened from view by the planting. There would be some localised vegetation removal to allow their installation, primarily for working space and access, but this would not affect the major trees and the screening effect they provide.</p> <p>The revised designs for the rockfall barriers mean there is potential for increased habitat loss but this is not significant – the effects remain within the estimates in the original geotechnical risk assessment which informed the AGVMP.</p>	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>The mesh material used for the barriers is relatively transparent and therefore even if they are visible, the vegetation and ground behind the barrier would be visible through the mesh.</p> <p>It may be possible to see the barriers more easily from directly over the barrier looking down in the winter months. In the summer the tree canopy would screen the barriers. This particular view is also atypical and particular, whereas most viewers enjoy the wider view across the Avon Gorge where the barriers, if visible, would form a small part of the overall view.</p>	

## 10. GENERAL SITE OPERATIONS

The following table sets out the comments received by the Applicant and from BCC in respect of general site operations.

**Table 10.1: General site operations**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
10.1.1	Watercourses (Consultation)	Concerned about the protection of the watercourses from pollution during the construction phase.	The Application includes a Code of Construction Practice ("CoCP") (DCO Document Reference 8.15) and Master Construction Environmental Management Plan ("CEMP") (DCO Document Reference 8.14) setting out requirements for the control of construction related impacts.	Agreed
10.1.2	Abnormal loads - community engagement (Consultation)	If abnormally sized loads and deliveries will be completed outside of operational hours, prior warning to affected communities should be provided adjacent to the site and linear routes taken to access sites. This should be included in the Transport, Access and Non-Motorised Users chapter of the Master and Stage CEMP documents. Forward planning and scheduling in conjunction with communities should be undertaken to prevent road blockages and community disruption.	<p>Paragraph 6.4 of the Construction Traffic Management Plan ("CTMP") (DCO Document Reference 8.13) addresses abnormal loads.</p> <p>The Stage-specific CEMP will also detail the specific approach to abnormal loads for that Stage and will follow the principles in the CTMP in accordance with Requirement 5.</p> <p>The Applicant does not consider any amendments are necessary to the</p>	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			application documents to which BCC refer.	
10.1.3	Soil contamination (Consultation)	In relation to soils, the Land Contamination Officer raises no issues at this stage of the draft Master CEMP.	Noted.	Agreed.
10.1.4	Working hours (Consultation)	Concerned about the proposed working hours of 0600 to 1800 Monday to Saturday. The hours usually allowed for works audible at any residential property are 0800 to 1800 Monday to Friday and 0800 to 1300 on Saturdays. Further information is requested to demonstrate how works outside of normal hours would not cause negative impacts to residential dwellings.	<p>The works within BCC's administrative boundary are to be carried out on operational railway and existing highway and are not subject to working hours restrictions, as detailed in Requirement 16 of the draft Order (DCO Document Reference 3.1). However, a community engagement strategy will be produced as set out in the Master CEMP (DCO Document Reference 8.14) for the DCO Scheme.</p> <p>The approach to working hours will be detailed in each stage-specific CEMP. In order to undertake 24/7 working on the operational railway access to the compounds will be required for the same period.</p>	<p>Agreed.</p> <p>It is noted that the working hours cannot be restricted on the operational railway. BCC support the use of community engagement to mitigate potential complaints.</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
10.1.5	Construction Worker Travel Plan (CWTP)  (Consultation)	In the Issue Specific Hearing 1 (ISH1) BCC queried whether the obligation to implement a Construction Workers Travel Plan (CWTP) should be captured in the DCO as a requirement. BCC was uncertain whether it would be captured within Requirement 5. BCC and the Applicant agreed to address the issue in the SoCG.	<p>Following ISH1 the Applicant gave further consideration to this query and, as outlined in its response to written submissions at Deadline 3 (REP4-020) proposes the following amendment to Requirement 5 of the draft Order, to be incorporated into the updated draft Order submitted at Deadline 5:</p> <p>Requirement 5(5)...<i>"The CEMP for Work Nos. 26, 27, 28 or 29 must, where relevant to that Work, in addition include a construction workers travel plan."</i></p>	Agreed.

## 11. GEOLOGY, HYDROLOGY, GROUND CONDITIONS AND CONTAMINATED LAND

The following table sets out the comments received by the Applicant and from BCC in respect of geology, hydrology, ground conditions and contaminated land.

**Table 11.1: Geology, hydrology, ground conditions and contaminated land**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
11.1.1	Clanage Road Compound  (Post-application)	Has Clanage Road Compound been covered in the land contamination report and were there no previous uses or contamination?	Historic maps are provided in the ES Appendix 10.2 Annex A5 (DCO Document Reference 6.25 and show that this area has not been developed, being rural or more recently identified as sports grounds. Thus the risk of contamination at this site is low.	Agreed.
11.1.2	Historic land use  (Consultation and Post-application)	<p>The PEIR (section 10.4.18) only refers to historic landfill for the Bristol area, while much of the Parson Street to Ashton Gate Underpass area has been subject to a variety of historical uses. This should be updated. Data offered that covers this section of the route.</p> <p>Post- Application comments...</p> <p>Our contaminated land officer has requested the source of the Application data in relation to historic landfill.</p>	<p>The Land Contamination Summary Report (ES Appendix 10.2, DCO Document Reference 6.25) brings together all the land contamination data held for the Bristol area.</p> <p>Following the pre-submission PEIR, information on the Ashton Vale area has been updated and is presented in the ES Chapter 10 - Geology, Hydrogeology, Ground Conditions and Contaminated Land (DCO Document Reference 6.13).</p>	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>The works required along the section of the railway between Ashton Junction and Parson Street Junction will be undertaken under NRIL's permitted development rights and does not form part of the Application.</p> <p>The ES scope is limited to the consents being sought under the Application, not permitted development works, so the investigation and reporting finishes near Imperial Tobacco. The works further along the existing line are then permitted development (and are minimal) thus the Applicant is not seeking consent for them.</p>	
11.1.3	Ashton Vale – alternative highway access  (Post-application)	Is the alternative highway access at Ashton Vale being provided? Contaminated land information for this area was included in the PEIR.	<p>Information on historic landfills in the Ashton Vale study area is provided in the Land Contamination Summary Report Annex A5 Ashton Vale Envirocheck (ES Appendix 10.2, DCO Document Reference 6.25).</p> <p>Please note the alternative highway access at Ashton Vale is no longer part of the DCO Scheme for which</p>	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>development consent is sought, so there will be no impact on the landfill area.</p> <p>The data in respect of the alternative highway access were included in the ES Appendix 10.2 Annex B1 – Ashton Vale Road Alternative Highway Access Preliminary Sources Study Report (DCO Document Reference 6.25) to provide background information on ground conditions in the general area. The sources of information are listed in section 3.</p> <p>The Ashton Vale alternative highway access was not required for the one train per hour scheme. The Ashton Vale information was included in the contaminated land report as we had already collected these data and it gives a wider picture of the surrounding area to the DCO Scheme.</p>	
11.1.4	Controlled waters/ human health and contamination	Concerned that controlled waters/human health and contamination have been “scoped out” of the Environmental Impact Assessment	In their Scoping Opinion (DCO Document Reference 6.1), the Secretary of State agreed that the	<p>Agreed</p> <p>The issues are covered by the Master CEMP</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	(Consultation)	<p>("EIA") without sufficient supporting evidence.</p> <p>Believed that surveys were not undertaken, and no data made available, despite the advice provided in the PEIR which indicated the surveys were being undertaken.</p> <p>Query where in the ES these comments have been taken on board.</p>	<p>following matters could be scoped out of the ES:</p> <p>Operational impacts on geology, hydrogeology, ground conditions and contaminated land;</p> <p>The use of material resources and the generation of waste during operation (see paragraph 3.28).</p> <p>This recognises that once the old track formation along the disused railway has been removed and replaced with fresh uncontaminated formation, and following minor works along the operational railway, the site would have been remediated to some extent and presents an improved situation on present conditions. Furthermore, during operations, wastes, including solid and wastewater wastes disposed of at the stations and potential leaks from the trains along the railway, are unlikely to have a significant effect on the environment.</p> <p>Between west of the Baron's Close foot level crossing and Clifton Bridge the ballast in the track formation will be</p>	and will need to be agreed with the EA.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>dug out and replaced with new ballast. This is to keep the line at its present height, so flood risk is not increased. The associated development works proposed between Barons Close foot level crossing and Ashton Junction are minimal. There are also works comprising modifications to Winterstoke Road. The proposals are unlikely to have a significant adverse effect on land quality.</p> <p>Additional material has been gathered regarding the section of the railway in the Ashton Vale area from the geotechnical desk studies, so this was added to the assessment of the associated development works.</p> <p>The Land Contamination Summary Report (ES Appendix 10.2, DCO Document Reference 6.25) contains baseline information on land quality and was provided to the EA and LPAs in September 2019.</p> <p>Requirement 17 in the draft Order (DCO Document Reference 3.1) obliges the Applicant to produce a Written Scheme dealing with land</p>	

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			contamination for sign off by the LPA (in consultation with the EA) prior to commencement of works on any Stage of the DCO Scheme. This will pick up the gaps in land contamination assessment identified in Appendix 10.2.	



## 12. ECOLOGY AND LANDSCAPE AND VISUAL IMPACT ASSESSMENT

The following table sets out the comments received by the Applicant and from BCC in respect of ecology and Landscape and Visual Impact Assessment ("LVIA").

**Table 12.1: Ecology and Landscape and Visual Impact Assessment**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
12.1.1	Green infrastructure  (Consultation)	Appropriate mitigation of any lost green infrastructure assets will be required.	<p>An arboricultural assessment has been undertaken for trees within Bristol's local authority boundary. This has been shared with the LPA and mitigation measures discussed.</p> <p>Tree loss replacement has been included in the Clanage Road Compound, Landscaping and Access Plan (DCO Document Reference 2.52). However, it does not fully compensate for the losses as there is insufficient space for the quantum of replacement trees. Therefore the Applicant will provide a financial contribution.</p> <p>The calculations for the expected tree loss payment are appended to this SoCG at Appendix 4 and are in accordance with the Bristol Tree</p>	<p>Agreed.</p> <p>The Applicant and BCC have agreed a mechanism for securing the financial contribution. The Applicant has issued to BCC the letter at Appendix 6. The parties have agreed this letter, and BCC's acknowledgement of the terms, will be relied upon by BCC (enforceable under the doctrine of legitimate expectation) for the payment of the tree loss contribution, such obligation triggered by</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			Replacement Standard as set out in BCC policy DM17.	the commencement of the DCO Scheme.
12.1.2	Avon Gorge – vegetation loss  (Consultation)	<p>The most likely landscape and visual impacts during construction are vegetation losses within the Avon Gorge character area - in particular, those trees which overhang the railway line, and the lighting of the track and construction compounds.</p> <p>There should be a Requirement for replacement planting.</p>	<p>The assessment of landscape, setting and views for historical assets forms part of the LVIA in the ES Chapter 11 – Landscape and Visual Impacts Assessment (DCO Document Reference 6.14).</p> <p>An arboricultural assessment has been undertaken for trees within Bristol's local authority boundary. This has been shared with BCC and mitigation measures discussed.</p> <p>Tree loss replacement has been included in the Clanage Road Compound, Landscaping and Access Plan (DCO Document Reference 2.52). However, it does not fully compensate for the losses as there is insufficient space for the quantum of replacement trees. Therefore the Applicant will provide a financial contribution.</p> <p>Requirement 7 of the draft Order (DCO Document Reference 3.1) requires</p>	<p>Agreed.</p> <p>See issue 12.1.1 above.</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>landscaping to be carried out in accordance with drawings approved by the relevant LPA and an approved implementation timetable.</p> <p>Vegetation management on the disused railway and the Avon Gorge Woodlands Special Area of Conservation ("SAC") are addressed separately under Requirements 6 and 14 respectively.</p> <p>Requirement 31 requires the landscaping and planting scheme forming part of the Clanage Road permanent maintenance compound to be carried out in accordance with the approved design drawing.</p>	
12.1.3	Tree Loss  (Consultation and Post-application)	<p>Could you please provide a link to the Arboricultural Assessments and supporting information? We have not been able to locate this, and it is not referenced in the Navigation Document.</p> <p>The method of reporting tree loss within BCC's area must comply with the standard and categorise the different</p>	<p>An updated tree loss table was sent to BCC on 30 April 2020. Further details were submitted into the Examination by the Applicant as an appendix to its response to ExAQ1 question BIO.1.14 (see REP3-035), including plans showing the locations of the affected trees and a revised tree survey has to</p>	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		types of tree lost (British Standard – "BS" – 5837:2012).	<p>comply with BS5837:2012 (with no substantially different findings).</p> <p>Annex F of the Avon Gorge Vegetation Management Plan ("AGVMP") (DCO Document Reference 8.12) also shows the positive management of trees within the Avon Gorge the Applicant is proposing as compensation for the SAC woodland losses. Most of the work is within the administrative boundary of NSC. The positive management of trees is not a loss as this is the removal of invasive and inappropriate tree species in the Avon Gorge.</p> <p>In order to compensate for the loss of rare whitebeam trees, it is proposed to plant new saplings at a replacement ratio of 2:1 in suitable, unaffected locations to be agreed with Natural England. Saplings will be planted in an approximate ratio of 2:1 to allow for some that fail after planting. In total, it is proposed to plant up to 54 whitebeam saplings to compensate for those removed.</p>	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>The programme of whitebeam conservation is explained in Annex H of the AGVMP (DCO Document Reference 8.12)</p> <p>Annex H does not include proposals to plant rare whitebeam trees at the Red Oak plantation site on Forestry England land close to Miles Dock as an alternative site, that we are now investigating with Forestry England. Discussions are at an early stage and this would be mostly within NSC's administrative boundary.</p>	
12.1.4	<p>Clanage Road compound</p> <p>(Consultation)</p> <p>(Examination)</p>	<p>The construction compound at Clanage Road would be relatively exposed in the landscape, with views possible from the Clifton Suspension Bridge.</p> <p>In respect of both the temporary and permanent compounds at Clanage Road, in its ExQ2 questions the ExA at question HE.2.2 queried whether BCC had any concerns in respect of the views towards the compound area, particularly from the Clifton Observatory. In response BCC confirmed it is satisfied the compound</p>	<p>Views from both sides of the bridge looking towards the compound area show little if any visual impact due to the vegetation growth nearby which masks it. Photos from multiple views including those suggested were taken to inform the ES Chapter 11 – Landscape and Visual Impacts Assessment (DCO Document Reference 6.14). In particular Views 17a, 17b and 17c presented in Appendix 11.1 and 11.2 to the Landscape and Visual Impact</p>	<p>Agreed.</p> <p>Also see Table 18.1 concerning Green Belt development.</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		area would be largely concealed by trees and, furthermore, the Applicant's proposed soft landscaping would further reduce any visual impact to an acceptable level.	<p>Assessment show views from the suspension bridge with associated commentary.</p> <p>Overall, during the construction stage the compound (Work 26 and 26A) may be just visible. However, once the landscaping has established and temporary works removed the remaining permanent compound (Work No. 26) would be screened.</p>	
12.1.5	Design approach (Consultation)	Although the Master CEMP indicates the requirement for the contractor to identify significant adverse effects and mitigation measures in the EIA and ES, a rationale may be required for actions taken during optioneering at Governance for Railway Investment Projects – "GRIP" – Stage 3.	<p>Although GRIP 3 is an optioneering phase, we did not have material options for the design, so GRIP 3 focussed on the proposed scheme.</p> <p>The Master CEMP (ES Appendix 4.2, DCO Document Reference 8.14) addresses the DCO Scheme, which considers the design developed in GRIP Stage 3 and 4, and aspects of design completed for GRIP Stage 5.</p> <p>Whilst the alternative options available for the DCO Scheme were limited, they were nevertheless considered and are set out in ES Chapter 3 – Scheme Development and Alternatives</p>	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			Considered (DCO Document Reference 6.6). The GRIP Stage 3 railway design informed the EIA process and the production of the ES.	
12.1.6	Replacement trees  (Consultation)	<p>Satisfied with the quantum of proposed replacement trees but request the following further information:</p> <ul style="list-style-type: none"> <li>• a tree survey of those existing affected trees as prescribed within BS5837:2012;</li> <li>• a schedule of the size and type of the 35 replacement trees proposed for planting at Clanage Road; preferred to have trees appropriate to the location and suggest that oak and sweet chestnut would meet this requirement; and</li> <li>• a plan showing the location of the proposed 35 replacement trees.</li> </ul>	<p>An updated tree loss table was sent to BCC on 30 April 2020. Further details were submitted into the Examination by the Applicant as an appendix to its response to ExAQ1 question BIO.1.14 (see REP3-035), including plans showing the locations of the affected trees and a revised tree survey to comply with BS5837:2012 (with no substantially different findings).</p> <p>Tree loss replacement has been included in the Clanage Road Compound, Landscaping and Access Plan (DCO Document Reference 2.52).</p> <p>However, it does not fully compensate for the losses as there is insufficient space for the quantum of replacement trees. Therefore the Applicant will provide a financial contribution.</p> <p>The details requested will be provided to BCC post-DCO Application</p>	<p>Agreed.</p> <p>The Applicant acknowledges BCC's request that any tree replacement and financial contribution required (in respect of replacement trees which cannot be provided at the Clanage Road Compound) is to be in accordance with the Bristol Tree Replacement Standard as set out in BCC policy DM17.</p> <p>The calculations for the expected tree loss payment are appended to this SoCG at Appendix 4.</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			submission and comply with the requested methodology.	See issue references 12.1.1 and 12.1.2.
12.1.7	Ecological mitigation  (Consultation)	Ecological mitigation should address legally protected species and priority species and habitats found in surveys.	A number of measures to avoid or reduce effects and to comply with the legal framework have been developed in consultation with the regulatory authorities and are presented in Sections 9.5 and 9.7 of the ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.7).	Agreed
	Ecological mitigation  (Post-application)	<p>Substantial survey information has been obtained. Although there seems to be lack of transect bat surveys along the freight line. The majority of bat surveys have concentrated on the disused line.</p> <p>It is noted that structures surveys have been undertaken for bats along the freight line.</p> <p>BCC would suggest a detailed Precautionary Methods of Works.</p> <p>Detailed ecological mitigation plans should be provided showing locations of all ecological mitigation activities – including areas which will be covered by</p>	<p>A preliminary assessment of the bat navigational route at Pill Station was undertaken and is presented in Section 9.4 of the ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12).</p> <p>Further bat surveys have been completed since the time of writing, between May and October 2019, to assess bat activity along the freight line at Pill. The results indicate that whilst there is likely to be some movement of bats from the wider area, much of the lesser horseshoe bat activity appears to be localised around</p>	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		European Protected Species Licences ("EPSL"), protected species works and protected flora.	<p>the bat roost at Pill Station (disused platform) and greater horseshoe bat activity through the station is too low to be considered significant commuting behaviour.</p> <p>No bat activity surveys have been completed for the rest of the Portbury Freight Line because the DCO Scheme will not affect the foraging and commuting habitats elsewhere.</p> <p>An Environmental Masterplan was submitted as part of the Application (DCO Document Reference 2.53).</p> <p>The AGVMP (DCO Document Reference 8.12) shows the location of the proposed mitigation in the Avon Gorge in Annex F, H and K. Annex H will be updated following discussion with Natural England and Forestry England about using the Red Oak plantation as an alternative Whitebeam planting site and a small revision to the planting site above Clifton Bridge No. 2 Tunnel (southern end) where existing scrub will be cleared to create an area</p>	

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			for planting whitebeams, rather than planting on grassland.	
12.1.8	Avon Gorge Woodlands SAC  (Consultation)	Full details are required for works through the Avon Gorge Woodlands SAC, and a need to define the limit of the works and extent of vegetation removal.	The Summary of Works in the SAC is presented in ES Appendix 4.4 (DCO Document Reference 6.25). Discussion of the impacts on the qualifying habitats of the SAC is provided in the Report to Inform Habitats Regulations Assessment ("HRA [Report]") (ES Appendix 9.12, DCO Document Reference 5.5).	Agreed.
	Avon Gorge Woodlands SAC  (Post-application)	The AGVMP (DCO Document Reference 8.12) addresses this question.	Noted.	
12.1.9	HRA  (Consultation)	The HRA needs to include assessment of works in the Portbury Wharf Nature Reserve on the Severn Estuary Special Protection Area ("SPA") and Ramsar site, the impact of horseshoe bats in relation to the two bat SACs (North Somerset and Mendips Bats SAC and	The Severn Estuary SPA/Ramsar site (including consideration of indirect effects via the Portbury Wharf Nature Reserve) and the North Somerset and Mendips Bat SAC and Bath and Bradford-on-Avon Bats SAC are considered in the HRA Report (ES	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		Bath and Bradford-on-Avon Bats SAC) and works through the Avon Gorge Woodlands SAC.	Appendix 9.12, DCO Application Document Reference 5.5).	
	HRA  (Post-application)	The HRA Report (ES Appendix 9.12, DCO Application Document Reference 5.5) is noted. This is satisfactory.	Noted.	
12.1.10	CoCP  (Consultation)	Measures to protect flora and fauna during construction should be incorporated into the CoCP for the contractor to implement.	Measures have been included in the CoCP (ES Appendix 4.1, DCO Document Reference 8.15), Master CEMP (ES Appendix 4.2, DCO Document Reference 8.14), and AGVMP (ES Appendix 9.11, DCO Document Reference 8.12).  The contractor's CEMP will detail these further.	Agreed.
	CoCP  (Post-application)	Satisfactory. The contractor's CEMP will need to be more detailed.	Noted. Under Requirement 5 of the draft Order (DCO Document Reference 3.1) the CEMP for each Stage of the DCO Scheme works must be submitted to and approved by the	

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			relevant LPA prior to commencement of those works.	
12.1.11	HRA – Appropriate Assessment  (Consultation and Post-application)	A shadow Appropriate Assessment would be required under the Habitats Regulations to avoid an adverse effect on the qualifying interest features.	The HRA Report has been undertaken and submitted as part of the Application (ES Appendix 9.12, DCO Document Reference 6.25). This includes Stage 2 (appropriate assessment) and Stage 4 (Imperative Reasons of Overriding Public Interest – "IROPI").	Agreed.  BCC considers the HRA assessment to be acceptable.
12.1.12	Requirements	Recommended that planning requirements are included as part of the DCO, including a CEMP, an ecological mitigation and enhancement strategy and a nature conservation management plan for the Avon Gorge Woodlands SAC.	The ES includes the Master CEMP (ES Appendix 4.2, DCO Document Reference 8.14) AGVMP (DCO Document Reference 8.12), the HRA Report (DCO Document Reference 5.5), Reptile Mitigation Strategy (ES Appendix 9.13, DCO Document Reference 6.25) and Lighting Survey Report in relation to the disused railway line near Court House Farm and Pill Station (ES Appendix 9.17, DCO Document Reference 6.25).  The AGVMP and HRA Report summarise the mitigation and	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>compensation (positive management) measures to be undertaken in the SAC. The Master CEMP includes good practice measures to impact construction impacts on biodiversity.</p> <p>The draft Order (DCO Document Reference 3.1) details the Requirements which will ensure the CEMP, AGVMP and other ecological mitigation/compensation measures are implemented in a manner approved by the relevant LPA and other appropriate bodies.</p>	
12.1.13	<p>Method statements – reptile mitigation and lighting</p> <p>(Consultation)</p>	Request method statements for reptile mitigation and details of external lighting.	<p>A Reptile Mitigation Strategy (ES Appendix 9.13, DCO Document Reference 6.25) has been produced and shared.</p> <p>No permanent external lighting is proposed along the route except at new stations and highways works. Permanent maintenance compounds will not be lit.</p>	Agreed.
	Method statements –	The Reptile Mitigation Strategy is acceptable.	Requirement 5 of the draft Order (DCO Document Reference 3.1) requires the	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	reptile mitigation and lighting (Post-application)	Lighting contour plans for construction activities along with proposed timings of works is required.	CEMP for each Stage to include a nuisance management plan in respect of lighting (see Requirement 5(3)(k)).	
12.1.14	CEMP (Consultation)	Reference should be made in the CEMP to site management practices upon the transport network and roads in addition to residential, environmental and conservation receptors.	These considerations have been included in the Master CEMP (DCO Document Reference 8.14).	Agreed.  The CEMP is satisfactory in this regard.
12.1.15	CEMP (Consultation)	<p>Raised the following points in regard to paragraph 3.2.4 in the CEMP:</p> <ul style="list-style-type: none"> <li>• Designated smoking areas should be located away from residential or ecological receptors to prevent unacceptable noise impacts from occupants and reduced air quality.</li> <li>• Implement a scheme of recycling and disposing waste resulting from demolition: adequate removal of waste from the site and the surrounding construction compounds should be undertaken to prevent unacceptable impacts on the road network and road/pedestrian safety (this should include waste as well as</li> </ul>	A general statement has been included in the Master CEMP (DCO Document Reference 8.14). However, given the detailed nature of the suggested elements they were considered better placed in the Stage-specific CEMPs. These will be subject to the approval of the relevant LPA under Requirement 5 of the draft Order (DCO Document Reference 3.1).	Agreed.  The majority of these points can be incorporated into Stage-specific CEMPs with the exception of lighting (see SoCG Issue ref. 12.1.16)).

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		<p>materials upon the road such as mud).</p> <ul style="list-style-type: none"> <li>• Maintenance of washing facilities and methods to reduce mud on the road - Suitable drainage should also be provided to prevent waterlogging of construction compound sites and drainage issues upon surrounding watercourses.</li> <li>• Appropriate lighting to minimise visual intrusion on ecology - Lighting should be provided away from residential receptors to reduce impacts on residential amenity. In addition, low lux lighting would result in reduced glare and disruption to ecological receptors.</li> <li>• Noise management - suitable bunding and noise mitigation barriers should be provided upon boundary treatments to prevent noise and vibration impacts on residential receptors and ecological receptors.</li> <li>• Maintenance of public rights of way and inclusive access - Access to the construction compound sites should not prejudice of result in any unacceptable impacts on road</li> </ul>		



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		<p>user/pedestrian safety. The turning angles to the site should be adequate to allow access to the site for larger vehicles such as HGVs without disruption to the road network.</p> <ul style="list-style-type: none"> <li>• Loading and unloading should take place off the public highway wherever practicable - provision of kiosks and buildings off the public highway within the construction compounds should be provided away from residential receptors to minimise noise and vibration and loss of residential amenity. Suitable space should be provided within the compound sites to allow HGVs to turn and exit in a forward gear as to not detriment road users or pedestrian safety.</li> </ul>		
12.1.16	Lighting  (Consultation)	The lighting arrangements included within the detailed CEMP document should be low lux lighting to reduce intrusion on residential and ecological receptors.	<p>The Master CEMP (DCO Document Reference 8.14) specifies that night-time lighting details will need to be included in the Stage-specific CEMPs.</p> <p>Requirement 5 of the draft Order (DCO Document Reference 3.1) requires the CEMP for each Stage of works to include a nuisance management plan</p>	<p>Agreed.</p> <p>BCC notes there are further controls to be applied through Requirements to mitigate light impacts.</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			in respect of lighting (see Requirement 5(3)(k)).	Lighting contour plans for construction activities along with proposed timings of works will be required.
	Lighting  (Post-application)	Lighting contour plans during construction should be provided – following Bat Conservation Trust and Institute of Lighting Professionals (2018) guidance. This would also protect otters and badgers.  At night time lighting is required for the construction period.	The Master CEMP (DCO Document Reference 8.14) Section 3.4 includes text regarding site lighting including that a lighting plan will be included in the detailed CEMP. Section 3.4.2 states that 'Lighting will be designed, positioned and directed so as not to intrude unnecessarily on adjacent buildings, sensitive ecological receptors, structures used by protected species and other land uses to prevent unnecessary disturbance to local residents, light-sensitive species such as bats, railway operations, and passing motorists (such as in Portishead and at Pill).'	
12.1.17	Ecologically sensitive features  (Consultation)	Regarding ecology and biodiversity, a plan should be provided within the CEMP showing the location of ecologically sensitive features, including the extent and boundaries of the European Site which will be protected by robust fencing with appropriate	Reference is made in the Master CEMP (DCO Document Reference 8.14), as to where plans are included in the suite of Application documents.	Agreed.  BCC notes the Master CEMP refers to relevant plans. It would be helpful for a plan detailing ecologically

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		warning signs during the construction period.	Mitigation measures for the Avon Gorge are included in the AGVMP (DCO Document Reference 8.12).	sensitive features to be included within each stage-specific CEMPs.
	Ecologically sensitive features  (Post-application)	Figures in AGVMP – no fence location on figures and ecologically sensitive protected species (fauna) not shown.  Recommend an ecological plan showing ecological issues (fauna and flora) and mitigation areas.	An Environmental Masterplan was submitted as part of the Application (DCO Document Reference 2.53).  The AGVMP (DCO Document Reference 8.12) shows the location of the proposed mitigation in the Avon Gorge in Annex F, H and K. Annex H will be updated following discussion with Natural England and Forestry England about using the Red Oak plantation as an additional alternative Whitebeam planting site and a small revision to the planting site above Clifton Bridge No. 2 Tunnel (southern end) Clifton 2 planting site where existing scrub will be cleared to create an area for planting whitebeams, rather than planting on grassland to remove scrub.	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
12.1.18	Bird species  (Consultation)	An assumption has been made that Schedule 1 Bird Species refers to peregrine falcons. In addition, bullet point 1 should refer to 'installation of nesting (not roosting) features or boxes'.	Noted. CEMP reviewed and references changed to roosting / nesting.	Agreed.
	Bird species  (Post-application)	Recommended that nesting sites known to be used historically and currently by peregrines should be monitored twice per season.	Section 6.2.32 of the Master CEMP (DCO Document Reference 8.14) details peregrine mitigation measures including monitoring by the Ecological Clerk of Works ("ECoW") prior to and during construction works.	
12.1.19	Otters  (Consultation)	Otter holts should be protected by robust fencing and warning signs to advise site operatives not to enter the exclusion zone.	No otter holts have been identified in the area. However, the Master CEMP (DCO Document Reference 8.14) includes precautionary measures to safeguard otters.	Agreed.
	Otters  (Post-application)	Satisfactory as long as section 6.2.54 of Master CEMP (ES Appendix 4.2, DCO Document Reference 8.14) applies.  Lighting contour plans will need to be provided as per previous comment.	See comment in 12.1.16 regarding lighting.	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
12.1.20	Badgers  (Consultation and post-application)	<p>The CEMP should include measures to protect badgers during construction to prevent them from becoming trapped in excavations or open pipework.</p> <p>Suggest measures including cover-plating, chain link fencing or the creation of sloping escape ramps for badgers by edge profiling of trenches/ excavations or placing a plank in the bottom of open trenches at the end of each working day to allow any trapped badgers to escape.</p> <p>The CEMP text should state that open pipework larger than 150 mm outside diameter will be blanked off at the end of each working day.</p>	<p>Noted.</p> <p>The Master CEMP (DCO Document Reference 8.14) refers to preventative measures including ramps to help mammals escape and that any temporarily exposed open pipe systems will be capped in such a way as to prevent animals gaining access when contractors are off-site. These will form part of the Method Statement and badger EPSL application.</p>	<p>Agreed.</p> <p>A draft copy of the 'Toolbox Talk' proposed will be provided to BCC.</p>
12.1.21	AGVMP	The CEMP should make it clear that the AGVMP must be followed for the SAC portion of the site to meet the regulatory requirements of the Conservation of Habitats and Species Regulations 2017	Requirement 14 in the draft Order (DCO Document Reference 3.1) requires the works in the SAC are undertaken in accordance with the AGVMP (DCO Document Reference 8.12) and details those works in the SAC which require further approval of the relevant LPA.	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
12.1.22	Compounds  (Consultation)	Site compounds including areas for refuelling should be located on areas of hardstanding with minimal ecological value.	Detailed design of the compounds will be undertaken by the contractor once appointed.	Agreed
	Compounds  (Post-application)	Noted.  This requirement should form part of the agreement to contractors.	Noted.	
12.1.23	HRA Report  (Consultation)	Stated that in the HRA Report (ES Appendix 9.12, DCO Document Reference 6.25), Sections 10.5 and 10.6 are critically important and lacked sufficient specific detail of compensatory measures.  The HRA Report also lacked detail around Whitebeam planting including locations (plan required) and numbers and 'over-mitigation' (i.e. planting in excess of the number lost) for the estimated 27 trees which would be lost.	The detail of the compensation is included in the AGVMP (DCO Document Reference 8.12) and the HRA Report (DCO Document Reference 5.5), references were included.	Agreed.
	HRA Report and AGVMP	The detail of the compensation included in the AGVMP (DCO Document	Noted.	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	(Post-application)	<p>Reference 8.12) and HRA Report (DCO Application Document Reference 5.5) is acceptable in principle.</p> <p>Three locations for whitebeam now proposed but further survey works are proposed to fully assess their suitability. Full assessment of impacts cannot be made at this stage.</p>	<p>The further survey works at the three locations were undertaken and included in Annex H of the AGVMP (DCO Document Reference 8.12).</p> <p>Annex H will be updated following discussion with Natural England and Forestry England about using the Red Oak plantation as an alternative Whitebeam planting site and a small revision to the planting site above Clifton Bridge No. 2 Tunnel (southern end) where existing scrub will be cleared to create an area for planting whitebeams, rather than planting on grassland.</p>	
12.1.24	Whitebeam  (Post-application)	<p>Serious concern over lack of Avon whitebeam (due to propagation issues). Avon whitebeam is critically endangered. The proposed scheme will be affecting 29% of the world population. As a minimum 2:1 ratio anything lower than this would seriously risk this existence.</p>	<p>Further seed collection and cuttings of Avon Whitebeam were undertaken in 2019. Bristol University Botanical Gardens have successfully grown three additional Avon whitebeam saplings. Propagation of cuttings was unsuccessful. Further seed collection and propagation is planned.</p>	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		Has translocation of the Avon whitebeam trees been considered?	<p>The AGVMP (DCO Document Reference 8.12) confirms that the number and species of rare whitebeam to be planted will be reviewed if more saplings are available prior to planting, especially for Avon whitebeam, which is predicted to have the greatest impact as a result of the DCO Scheme (12 trees are predicted to be removed or coppiced).</p> <p>Translocation has been considered and we were advised by whitebeam experts Dr Tim Rich and Libby Houston that it would not be successful.</p> <p>An Environmental Master plan was submitted as part of the Application (DCO Document Reference 2.53).</p> <p>The AGVMP shows the location of the proposed mitigation in the Avon Gorge in Annex F, H and K.</p> <p>Annex H will be updated following discussion with Natural England and Forestry England about using the Red Oak plantation as an additional whitebeam planting site and a small</p>	

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>revision to the Clifton 2 planting site to remove scrub.</p> <p>Annex H will be updated following discussion with Natural England and Forestry England about using the Red Oak plantation as an alternative Whitebeam planting site and a small revision to the planting site above Clifton Bridge No. 2 Tunnel (southern end) where existing scrub will be cleared to create an area for planting whitebeams, rather than planting on grassland.</p>	

### 13. MATERIALS AND WASTE

The following table sets out the comments received by the Applicant and from BCC in respect of materials and waste.

**Table 13.1: Materials and waste**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
13.1.1	Site waste management plan  (Consultation)	BCC supports the proposal for reusing of ballast and noted that a Site Waste Management Plan ("SWMP") was being prepared for the DCO application.	It is no longer proposed to reuse the ballast on site but remove it for treatment as detailed in the ES Chapter 10 - Geology, Hydrogeology, Ground Conditions and Contaminated Land (DCO Document Reference 6.13).  Guidelines for a SWMP are included in the Master CEMP (DCO Document Reference 8.14). The SWMP will be prepared by the contractor.	Agreed.  The approach with existing ballast and process for SWMP preparation are acceptable to BCC.
13.1.2	Compound design  (Consultation)	Site compounds including areas for refuelling should be located on areas of hardstanding with minimal ecological value.	Detailed design of the compounds will be undertaken by the contractor once appointed.  This is out of scope of the Application, though please note there is a Requirement in the draft Order (DCO Document Reference 3.1) for approval (prior to commencement) of compound	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			detailed design by the relevant local planning authority.	

## 14. NOISE AND VIBRATION

The following table sets out the comments received by the Applicant and from BCC in respect of noise and vibration.

**Table 14.1: Noise and vibration**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
14.1.1	CEMP  (Consultation)	Regarding air quality, the Environmental Health Officer responded to the draft Master CEMP (DCO Document Reference 8.14) and raised no issues to the approaches set out for managing air, noise or odour pollution.	Noted.	Agreed.
14.1.2	Noise monitoring  (Post- application)	<p>Are you able to provide any clarification on measures for monitoring of operational noise?</p> <p>The ES sets out that operation will not break certain limits on noise, but there is no confirmation of how this is checked and if any mitigation is put forward should the levels not be met.</p>	<p>The railway line from Parson Street Junction to Royal Portbury Dock is operational railway forming a part of the National Rail Network owned, maintained and operated by Network Rail and regulated by the Office of Rail &amp; Road (ORR).</p> <p>The ES scope is limited to the consents being sought under the Application, not permitted development works, so the investigation and reporting finishes near Imperial Tobacco. The works further along the existing line are then permitted</p>	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>development (and are minimal) thus the Applicant is not seeking consent for them.</p> <p>The ES concludes that operations will not give rise to significant noise impacts for that part of the Portishead Branch Line within Bristol. The ES presents the results of the assessment that shows that the operation of the railway should not exceed guideline noise levels. The assessment of noise in the ES is based on the train path constraints on the Network due to infrastructure and assessment of the likely rolling stock to be used. The works in the BCC area of the route are largely related to renewals of the track and some bridges plus an enhancement to the signalling system.</p> <p>Whilst the ES considered operational noise impacts for this part of the railway, its operation is authorised by statute. Accordingly there is no need nor power for a requirement that operational noise be monitored after passenger services commence.</p>	



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			There are no proposed restrictions on train movement and no Rochdale envelope constrained by requirement. NRIL have permitted development rights to operate unrestricted train movements.	

## 15. SOILS, AGRICULTURE, LAND USE AND ASSETS

The following table sets out the comments received by the Applicant and from BCC in respect of soils, agriculture, land use and assets.

**Table 15.1: Soils, agriculture, land use and assets**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
15.1.1	General (Consultation)	No objection to the approach to managing soils, agriculture, land use and assets at this stage of the draft Master CEMP (DCO Application Document Reference 8.14).	Noted.	Agreed.

## 16. TRANSPORT, ACCESS AND NON-MOTORISED USERS

The following table sets out the comments received by the Applicant and from BCC in respect of transport, access and Non-Motorised Users ("NMUs").

**Table 16.1: Transport, access and Non-Motorised Users**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
16.1.1	Highway works  (Consultation)  Also see issue reference. 16.1.12	There is a need for consideration of the traffic impacts on Winterstoke Road and Ashton Vale Road.	The Transport Assessment ("TA") (ES Appendix 16.1, DCO Document Reference 6.25) has examined this area in detail. It is also detailed in Sections 16.4 and 16.6 of the ES Chapter 16 – Transport, Access and Non-Motorised Users (DCO Document Reference 6.19) outlining the existing situation and impacts of the DCO Scheme on Winterstoke Road and Ashton Vale Road.	Agreed.  The Applicant has given appropriate consideration to the traffic impacts on Winterstoke Road and Ashton Vale Road, and is working with BCC to prepare a highway works agreement to secure the proposals.
16.1.2	Highway works agreements  (Consultation)	Agreements will be required under s.278 and s.38 of the Highways Act 1980 for the works at Ashton Vale Level Crossing and the new vehicular maintenance road and construction compound at Clanage Road.	The Applicant has agreed an approach in principle with BCC. Work on final agreements is ongoing.	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	Also see issue reference 16.1.13			
16.1.3	CTMP  (Consultation)	The CTMP must confirm the duration of the works and meet the standard requirements of the LPA as a minimum.	The CTMP (DCO Document Reference 8.13) does this.  A more detailed CTMP will be produced by the contractor and the CEMP for any stage (incorporating a construction traffic management plan) will be subject to the approval of the LPA as set out in Requirement 5(2)-(4) of the draft Order.	Agreed.
16.1.4	Drainage  (Consultation)	Works to the highway within the BCC authority area must ensure drainage standards meet local requirements.	Discussions took place between the Applicant and BCC regarding the Surface Water Drainage Strategy (DCO Document Reference 6.26). Works within the BCC authority area at Clanage Road and Winterstoke Road are designed to local requirements.	Agreed.  Noted that highway and surface water drainage matters are subject to approval of the relevant LPA under Requirements 9 and 11 in the draft Order.
16.1.5	Clanage Road compound – access	Highway safety concerns regarding visibility of the junction from Clanage Road construction compound. The	Drawings showing traffic management and signing that will be installed during construction as required in the CTMP	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	(Consultation)  (Post-application)	<p>distances stated would require vehicles to creep into a fast speed highway which would impair road user safety.</p> <p>Temporary traffic management measures will be required in order to ensure highway safety at this location. This could include, but not limited to; temporary speed limits, signage, temporary signals and lighting.</p> <p>It is noted that the detailed design of the Clanage Road Compound and the related highway access will be secured via Requirement. This, along with the details secured via the Requirement for a CEMP (inclusive of a CTMP) provides the LPA sufficient comfort that the compound would not have an unacceptable impact on Highway Safety.</p>	<p>(DCO Document Reference 8.13) will be provided in the final detailed CTMP.</p> <p>The detailed design of the Clanage Road maintenance compound and replacement access will be subject to LPA approval pursuant to Requirement 4 of the draft Order.</p> <p>The Applicant is working with BCC to prepare a highway works agreement to agree the necessary works at Clanage Road.</p>	
16.1.6	Clanage Road compound – access  (Consultation)  (Post-application)	As the site access width to Clanage Road construction compound is considered unsuitable for two HGVs to pass, such events should be mitigated through on-site communications, and should be detailed within the Master CEMP (DCO Document Reference 8.14) and Stage-specific CEMP.	<p>The CTMP (DCO Document Reference 8.13) states that deliveries should be managed to avoid traffic congestion on Clanage Road.</p> <p>The contractor's Stage-specific CTMP will contain further detail and is part of the requirement for a detailed CEMP which shall be subject to LPA approval, as per Requirement 5(2)-(4)</p>	<p>Agreed.</p> <p>The approach outlined in the overarching CTMP is noted. The Requirement for a CEMP (inclusive of a CTMP) to be submitted to and approved by BCC provides the LPA sufficient comfort that</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			within the draft Order (DCO Document Reference 3.1).	the compound would not have an unacceptable impact on Highway Safety.
16.1.7	<p>Ashton Vale Road level crossing</p> <p>(Consultation)</p> <p>(Post-application)</p> <p>Also see issue reference. 16.1.12</p>	<p>The additional operation of the level crossing during peak hours will lead to increased delays on the network, particularly where freight services utilise the line during a peak period.</p> <p>The additional operation of the level crossing for passenger trains and 1 freight train per hour would exacerbate an already congested scenario beyond what would be considered acceptable.</p>	<p>The traffic modelling results confirm that with the proposed highway improvements, the hourly train service proposed can be delivered without detriment to the local highway conditions within the vicinity of the Winterstoke Road /Ashton Vale Road junction.</p> <p>Many different scenarios were tested, including much higher levels of freight movement than currently operate. This is thoroughly detailed within Appendix N of the TA (ES Appendix 16.1, DCO Document Reference 6.25).</p>	<p>Agreed.</p> <p>The approach to modelling is accepted, as is the highway mitigation. Ongoing consultation with BCC's Network Management Team is encouraged and the detailed design for this aspect should be in accordance with BCC's Traffic Signals Team.</p>
16.1.8	Ashton Vale Road level crossing – Transport Assessment	A number of tests acknowledge the proposed increase in passenger rail movements, alongside the more variable nature of freight movements with sensitivity tests that include up to 5 or 6 closures in a single hour, which assumed 45-minute frequency trains	Modelling suggested that a 45-minute rail service could also be accommodated, although this would be at the cost of increased delays on Ashton Vale Road of circa 50 seconds	<p>Agreed.</p> <p>The approach to modelling is accepted, as is the highway mitigation. Ongoing consultation with BCC's</p>



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	<p>(Consultation)</p> <p>Also see issue reference. 16.1.12</p>	<p>along with a further 2 closures owing to freight.</p> <p>Assumed this to be the worst case, as opposed to the theoretical and realistic worst cases which are based upon the current scenario of 1 or 0 freight trains using the line during a peak hour.</p>	<p>over the Do-Nothing in the PM peak period.</p> <p>Testing presented in the TA (ES Appendix 16.1, DCO Document Reference 6.25) has assumed growth in through-traffic passing along Winterstoke Road, and in reality, MOVA will be far more adaptive and intelligent than the way that it can be modelled theoretically.</p> <p>It is therefore likely that the assessment set out in the TA (ES Appendix 16.1, DCO Document Reference 6.25) is conservative, and conditions will be better than those modelled.</p>	<p>Network Management Team is encouraged and the detailed design for this aspect should be in accordance with BCC's Traffic Signals Team.</p>
16.1.9	<p>Winterstoke Road/ Ashton Vale Road – public right of way.</p> <p>(Consultation)</p>	<p>The current Public Right of Way (Ref: 422/10 in Ashton Vale) would need to be stopped up and advice should therefore be sought from BCC's PROW team on the best way forward in terms of the mechanism required to achieve this.</p> <p>If this is included as part of the DCO Scheme, which will determine the</p>	<p>Advice was sought as suggested. The route will be dedicated as a PROW as included on the Ashton Vale Road and Winterstoke Road Highway Works Plan (DCO Document Reference 2.47), and Permanent and Temporary Stopping up and Diversion Plan (DCO Document Reference 2.30).</p>	<p>Agreed.</p> <p>BCC supports the dedication of the new route.</p>

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		PRoW alterations without the need for a separate diversion and / or stopping up order, then under highway law, the status of the route may need to be altered from a footpath to a cycle-route, depending upon what changes / orders the MetroBus scheme has already implemented.		
16.1.10	Transport Development Management comments – April 2020  (Post-application)	The need for a Highway Agreement is noted and supported. An Approval in Principle would be needed for the implementation of the Ashton Vale Ramp.  Fees for technical approvals should form part of the Highway Agreements process, but it is noted that this sits outside of the planning (DCO) process.	Noted. In respect of the proposed ramp at Ashton Vale Road, see issue ref. 16.1.11.	Agreed.
16.1.11	Winterstoke Road/ Ashton Vale Road – ramp.  (Examination)	BCC notes the Applicant's submissions at and following ISH2 and accepts the removal of the Ashton Vale Road ramp (Work No. 27).	The Applicant considers the Ashton Vale Road ramp to be desirable infrastructure but accepts it is not required as mitigation within the DCO Scheme. As such, and following questions from the Examining Authority at ISH2 and further	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		BCC queries whether there is suitable provision for the pedestrian volumes on Bristol City match days.	<p>discussion with BCC, the Applicant sought the removal of the ramp (Work No. 27) from the DCO as a non-material amendment (see examination document REP4-027). The request was subsequently approved by the Examining Authority – see examination document PD-013.</p> <p>Further comments on the rationale for the removal of Work 27 is included in the Applicant's oral case and response to representations at ISH2 (REP4-009) issue reference 41.</p> <p>In the Applicant's oral submission at ISH2 it noted that on match days there is a Police presence controlling spectator pedestrian movements across Winterstoke Road (see issue 41 in REP4-009).</p>	
16.1.12	Ashton Vale Road level crossing (Examination)	As detailed in BCC's Local Impact Report (REP1-032) BCC considers the Applicant has given sufficient consideration to the traffic impacts on Winterstoke Road and Ashton Vale Road. Provision of an extended left turn	The Applicant notes BCC's overall satisfaction with the approach taken in the Transport Assessment (ES Appendix 16.1, DCO Document Reference 6.25) specifically in regard to the modelling and proposed	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		lane at this location, to mitigate potential impacts associated with the increased use of the Ashton Vale Level Crossing, is supported. It is noted within the traffic modelling results submitted by the Applicant that the hourly train service can be delivered without detriment to the highway at Winterstoke Road and Ashton Vale Road junction. Ongoing consultation with BCC's Network Management Team is encouraged and the detailed design for this aspect should be in accordance with BCC's Traffic Signals team.	mitigation at the junction of Winterstoke Road and Ashton Vale Road (level crossing), as recorded at issue references. 16.1.7 and 16.1.8.	
16.1.13	Highway works agreements  (Examination)	The scope of the Section 278 agreement is agreed and BCC confirms the draft agreement has been issued to BCC for comment.	<p>During the Issue Specific Hearing 2 the Examining Authority requested an update on progress with the Section 278 agreement for highway works in Bristol.</p> <p>The scope of the Section 278 agreement was set out in the Applicant's oral case and response to representations at ISH2 (REP4-009), and a copy of the draft agreement issued to BCC was appended to that document at Appendix 7 (REP4-016).</p>	<p>Agreed.</p> <p>The approach is acceptable to BCC and work on the agreement is ongoing.</p>

## 17. WATER RESOURCES, DRAINAGE AND FLOOD RISK

The following table sets out the comments received by the Applicant and from BCC in respect of water resources, drainage and flood risk.

**Table 17.1: Water resources, drainage and flood risk**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
17.1.1	Clanage Road compound – flood mitigation works  (Consultation)	Mitigation is required within the proposed maintenance compound adjacent to Clanage Road.	Floodplain compensation is detailed in the Flood Risk Assessment ("FRA") (DCO Document Reference 5.6).  The height of track was revised to ensure it remains at its current level and flood compensation provided in the Clanage Road compound for flood water displacement by the ramp by lowering the ground levels within the compound. This avoids flood risk to third parties.	Agreed.  BCC is satisfied the Applicant has addressed the requirement for flood plain compensation as a result of the Clanage Road compound. Noted the approach is being led through engagement with the Environment Agency.
17.1.2	Clanage Road compound – Drainage Strategy	The drawing 467470.BQ.04.20-DS-C4 rev A shows a "runoff collector" (I assume a ditch of sorts) to the south of the compound, falling to a sump with pump via a bypass separator. The pump discharges surface water to the	The collector and sump are proposed for the construction stage. During operation no positive drainage is proposed with the tarmac area at the entrance draining back into the site. The majority of the compound is	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
	(Post-application)	<p>river Avon. It is not clear how runoff from the compound hard standing is to arrive at the runoff collector.</p> <p>The Applicant is required to clarify this. For an area of hard standing this size, I would expect to see some kind of positive drainage system for the permanent compound.</p>	proposed to be a porous stone surface to allow water to drain into the ground.	
17.1.3	<p>Clanage Road compound – Drainage Strategy</p> <p>(Post-application)</p>	There are existing culverts in the vicinity of the site that carry water from the watercourse in Ashton Court through to the river Avon. We do not hold records of the exact location or size of these, [but a screenshot of the approximate locations is provided below (culverts in dashed lines, open channel in solid lines)]. The location and condition of these structures must be determined and if necessary, appropriate mitigation put in place to protect them from damage.	Noted. The location and condition of these structures will be determined by further survey and investigation and if necessary, appropriate mitigation put in place to protect them from damage.	
17.1.4	Flood risk – Bower Ashton	BCC notes the Applicant is continuing to engage with the EA on this issue.	Where the railway crosses the tidal River Avon floodplain at Bower Ashton and Longmoor and Colliter's Brooks fluvial floodplain, proposed rail and	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			embankment levels, and raised bunds adjacent to the railway, are retained at existing levels. This avoids offsite impacts on flood risk which could arise from raising the railway or removing adjacent raised bunds as previously proposed.	
17.1.5	Clanage Road compound – emergency evacuation plan  (Examination)	<p>At Issue Specific Hearing 3 BCC was requested to liaise with the Applicant in regard to the emergency evacuation plan for the Clanage Road compound, comment on the plan, and confirm its function in that plan (see REP4-039).</p> <p>In BCC's response to ISH3 – see examination document REP4-039 – BCC confirmed it is responsible for reviewing and approving the emergency evacuation plan. BCC is satisfied Requirement 5 provides a mechanism for the submission and approval of the emergency evacuation plan for the construction phase.</p>	The Applicant has proposed an amendment to Requirement 31 in its updated draft Order submitted at Deadline 5. This amendment requires submission to BCC (and its approval) of a flood plan, including emergency and evacuation procedures, for the temporary and permanent compounds at Clanage Road prior to commencement of the relevant works.	Agreed.

## 18. GREEN BELT

The following table sets out the comments received by the Applicant and from BCC in respect of Green Belt.

**Table 18.1: Green Belt development**

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
18.1.1	Development in the Green Belt  (Post-application)	BCC policy BCS10 supports the delivery of railway improvements including the re-opening of the Portishead railway line for passenger use, which is noted as a prioritised scheme. The corridor for the railway in its location within the Green Belt has been reserved for transport development.	Noted.	Agreed.
18.1.2	Appropriateness (Post-application)	<p>It is considered that the DCO Scheme as 'local transport infrastructure', as listed in paragraph 146 of the National Planning Policy Framework.</p> <p>BCC considers that the Green Belt Assessment which considers the 'appropriateness' of the DCO Scheme as local transport infrastructure in the Green Belt is acceptable. The DCO Scheme through the Green Belt follows the alignment of the existing railway line</p>	Noted. The DCO Scheme does not constitute inappropriate development in the Green Belt as described in the National Planning Policy Framework and paragraph 5.170 of the National Policy Statement for National Networks.	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
		and principal structures for the railway in the Green Belt are already established.		
18.1.3	Clanage Road maintenance compound  (Post-application)  (Examination)	<p>The proposed maintenance compound at Clanage Road is understood to be essential infrastructure. BCC consider that given its relationship with the railway infrastructure, this would not represent unacceptable encroachment into the countryside.</p> <p>Screening of the Clanage Road compound with sensitive landscaping would retain openness of the Green Belt. Details of this have been included within the Application, with the detailed design to be agreed with Bristol City Council through discharge of Requirement.</p> <p>Notwithstanding BCC's satisfaction that the Clanage Road compound does not adversely affect the openness of the Green Belt, BCC agrees with the Applicant's assertion that very special circumstances exist to justify its location in the Green Belt.</p>	<p>The Applicant has undertaken a Green Belt Assessment as set out at paragraph 6.5.137 of the Planning Statement (DCO Document Reference 8.11). This demonstrates the only permanent works in the Green Belt comprise accesses and maintenance compounds (Sheepway, Ham Green and Clanage Road). These are essential for the safe and efficient operation of the railway. In addition some new fencing is required, to safely secure the railway. Given the relationship of these works with the existing rail infrastructure, this does not represent unacceptable encroachment in the countryside.</p> <p>The LVIA (DCO Document Reference 6.14) finds the permanent maintenance compound at Clanage Road will have only a minor adverse effect on the setting and views. Landscaping mitigation will be</p>	Agreed.



Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>provided around the perimeter of the compound to reduce its impact on the visual amenity of the Green Belt – the proposed landscaping is shown on the Clanage Road Compound, Landscaping and Access Plan (DCO Document Reference 2.52). The landscaping and planting will be carried out to the reasonable satisfaction of BCC prior to first use of the permanent compound, as secured by Requirement 31.</p> <p>During the Issue Specific Hearing 3 (ISH3) the Examining Authority queried whether the compound does indeed preserve the openness of the Green Belt, and the Applicant's position should the Examining Authority consider that not to be the case.</p> <p>In its response to ISH3 (REP4-017) the Applicant confirmed that, if the Examining Authority considers the Clanage Road compound does not preserve the openness of the Green Belt and is therefore 'inappropriate development', the Applicant's view is</p>	

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>there are very special circumstances to justify its position in the Green Belt. The application of the test for very special circumstances is detailed in the Planning Statement from paragraph 6.5.154 onwards (APP-208). In respect of the Clanage Road compound the Applicant notes the extensive site selection process which concluded this site is the only appropriate location for the compound, with a compound being an absolute necessity on the Bristol side of the Avon Gorge for the safe operation by NRIL of the railway.</p>	
18.1.4	<p>Clanage Road compound - fencing</p> <p>(Examination)</p>	At Issue Specific Hearing 2 (ISH2), BCC commented that it would be concerned by the use of palisade fencing around the Clanage Road compound, owing to the presence of the adjacent Conservation Area.	<p>In its actions following ISH2, and in response to the concern raised by BCC, the Examining Authority requested further details of the proposed fencing for the Clanage Road compound.</p> <p>Since ISH2 the Applicant has further discussed the matter of fencing at the Clanage Road compound with NRIL. On reviewing its operational requirements NRIL has confirmed</p>	Agreed.

Ref.	Topic (stage issue raised)	BCC position	Applicant position	Status (Agreed/ Not Yet Agreed)
			<p>paladin fencing can be used instead of palisade. The Applicant supports this revision to the fencing proposal and Requirement 31 has been amended to reflect his.</p> <p>Further, the Applicant notes the proposed additional landscaping at the compound which will mitigate the effect of fencing at the Clanage Road compound. See examination document APP-044 for the location of proposed planting.</p>	



## **19. DRAFT DCO – REQUIREMENTS AND LPA APPROVALS**

### **19.1 Approach to discharge of requirements**

- 19.1.1 Requirement 38 of the draft Order sets out a non-standard process for deemed discharge of Requirements, which has been drafted in consultation with BCC. In summary, Requirement 38 provides that if the relevant planning authority has not indicated its decision within eight weeks of submission of an application to discharge a Requirement then, as long as the detail is within the parameters of the ES, the Requirement is deemed to have been discharged.
- 19.1.2 NSC asked for the provisions of Sub-paragraph (4) to also be included and BCC agreed with this request. Sub-paragraph (4) provides a 'final reminder' before the deeming provisions are triggered, requiring the Applicant to give 14 days' notice that the date for determination is approaching (i.e. 14 days before the end of the 8 week determination period), before it can rely on the deeming provisions.
- 19.1.3 Sub-paragraph (4) also states that if the details go outside of the ES then the application is deemed to be refused.
- 19.1.4 The suggested drafting in PINS Advice Note 15 in respect of fees is not included in the draft Order. It is expected that the two LPAs will instead be seeking a Planning Performance Agreement with the Applicant.
- 19.1.5 The deeming provisions in Requirement 38 were further amended prior to submission of the draft DCO, and without further consultation with the LPAs, to reflect the relevant PINS Advice Note 15 which was issued after the approach had been substantially approved by the LPAs. Nevertheless, following subsequent review of Requirement 38 in full the process has been agreed with BCC. A Planning Performance Agreement will be agreed with BCC and NSC to support the undertaking of their duties prescribed within Requirement 38.
- 19.1.6 The Explanatory Memorandum (DCO Document Reference 3.2) provides further detail on the rationale for the non-standard wording for discharge of Requirements. A further explanatory note is appended to this SoCG at Appendix 3.

### **19.2 LPA approvals**

- 19.2.1 The Requirements include details of matters which shall be subject to the approval of the LPAs as a prerequisite for their discharge. In some cases it has been agreed with the LPAs that there is additional benefit in building flexibility into the Requirements. For example,

Requirement 3 sets out the proposed stages of authorised development within each local planning authority area, though with 'tail piece' wording allowing the Applicant to apply for (and the LPA to approve) "such other stages of the Works that are agreed in writing with the relevant planning authority".

19.2.2 Overall the wording of the Requirements in the draft Order is acceptable to BCC. The approvals mechanisms have been discussed at length with the Applicant and additional information provided to satisfy BCC that the process can be managed. Where 'tail piece' wording is used, this is acceptable to BCC given its limited application and in light of the rationale set out by the Applicant. The Applicant has provided a note on tail pieces and where they apply to specific Requirements (as agreed with BCC), appended to this SoCG at Appendix 7.

### 19.3 **Requirements**

19.3.1 The following table sets out the Requirements in the draft DCO and the issues which have been addressed between the Applicant and BCC.

Table 19.1: DCO Requirements

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 1</b>  Interpretation	<p>Query definition of 'preparatory activities'. This definition should not allow early commencement of activities which themselves would require consents.</p> <p>Do the CEMP and CTMP still bite on the preparatory activities?</p>	<p>A detailed Drafting Note is provided at Appendix 2.</p> <p>The definitions of "Commence" and "Preparatory Activities" confirms that the preparatory activities must be carried out in accordance with the CoCP and the Master CEMP which will be certified documents that will have been considered by and approved by the relevant planning authorities.</p> <p>The Examining Authority at Issue Specific Hearing 2 (ISH2) queried the definition of 'commence' and whether sufficient activities were carved out of the definition. The Applicant's response (REP3-028, issue reference 2) explains the updates made to the draft Order submitted at Deadline 3 as a result, with the addition of 'laying out of compounds' and 'erection of protective fencing' excluded from the definition of 'commence'.</p> <p>See further comments against Requirement 5 below.</p>	Agreed.



Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 2</b>  Time limits	No comments.	Time limit of 5 years from the date of the Order in accordance with Regulation 3 of the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010 (2010 SI No 105).	Agreed.
<b>Requirement 3</b>  Stages of authorised development	<p>The Stages as currently presented appear logical in terms of the types of work and geographical scope, but is it necessary to include Stages in the DCO at all?</p> <p>Is the Applicant able to provide a plan showing the different Stages and how they apply geographically?</p> <p>Agree the flexibility given by the 'unless otherwise agreed' with the LPA and sub-paragraph (submission for approval of part of a Stage) wording is necessary and</p>	<p>Stages are necessary to reflect the different types of activity, and because different contractors may be employed to carry out different works at different times.</p> <p>The Stages reflect the current intention of the Applicant and NRIL but flexibility is necessary and built into the drafting with 'tail piece wording' ('unless otherwise agreed' with the LPA). The Stages will be finalised once the contractors are engaged and with the input of NRIL. The Applicant has provided a plan at Appendix 3 showing the locations of the proposed Stages.</p>	Agreed.

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	the LPA considers this to be acceptable.		
<b>Requirement 4</b>  Submission and approval of design detail	No specific comments though BCC notes the importance of having an agreed approach for how it deals with applications to discharge Requirements – approval of designs may require significant resource commitment.	<p>Regarding resourcing, a PPA is under discussion and the Applicant and LPAs have proposed a 'process flow' the principle of which is agreed and is included in the note at Appendix 3.</p> <p>A lot of detail has already been provided in the DCO submission and in many cases the designs are as detailed as would be used for a full Town and Country Planning Act planning application, going beyond which is necessary or a DCO Application.</p> <p>The Applicant and NRIL expect very few changes to the designs.</p> <p>The railway design is not included in the list as being subject to LPA approval. This is outside the remit of the LPA and is for NRIL to implement as the body with the technical knowledge to deliver safe railways.</p>	<p>Agreed.</p> <p>Requirement 4 is agreed. With regard to an approach to discharge of Requirements, BCC refers to its responses to Requirements 38 and 39.</p>



Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 5</b>  Construction Environmental Management Plan ("CEMP")	Note there is a Master CEMP but there will also be Stage-specific CEMPs.	Agreed, as per Requirement 5(1).	Agreed.
	The LPA notes that the effect of Requirement 5(6) is that the preparatory activities do not have to be undertaken in accordance with the CoCP and Master CEMP. They are also excluded from any Stage-specific CEMP. This is a concern in particular for preparatory activities involving erection of plant and machinery.	The Applicant has undertaken a review of the drafting of Requirement 5(6) in light of the comment from BCC. The Applicant does not agree with this interpretation and has issued a supplementary Drafting Note to BCC (see Appendix 2 of this SoCG).	Agreed.  As per the Drafting Note (Appendix 2) it is agreed that the definitions of "Commence" and "Preparatory Activities" confirm that the preparatory activities must be carried out in accordance with the CoCP, the Master CEMP and the CTMP (which will be certified documents, considered by and approved by the



Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
			relevant planning authorities.
<b>Requirement 6</b>  Landscaping scheme – disused railway	No comments, as this is outside of the BCC authority area.	It should be noted that given the operational requirements NRIL would not normally accept a landscaping requirement for future operational railway. The 3m railway must be kept clear and within 5 metres NRIL require the option to clear the land for future works, as shown on the Landscape plans and ES Chapter 9 – Ecology and Biodiversity (DCO Document Reference 6.12)	Agreed.
<b>Requirement 7</b>  Landscaping – other works	5 year maintenance period for landscaping works outside of the rail corridor is agreed.	Note this Requirement excludes both the rail corridor (covered by Requirement 6) and the works covered by the AGVMP (DCO Document Reference 8.12).	Agreed.
<b>Requirement 8</b>  Temporary fencing	This appears to be standard wording but query whether it would cover Heras fencing used for contractor compounds. Also, does it cover temporary ecological fencing?	The Applicant considers the Requirement does include all types of temporary fencing.	Agreed.
<b>Requirement 9</b>  Highway accesses	No comments	This is a standard form Requirement. Note removal of haul roads is controlled separately under Requirement 22.	Agreed.

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 10</b> Archaeology	No comments.	Noted.	Agreed.
<b>Requirement 11</b> Surface and foul water drainage	No comments.	Noted.	Agreed
<b>Requirement 12</b> Trees	Requirement appears standard and is acceptable.	Noted.	Agreed.
<b>Requirement 13</b> Control of Invasive Plants outside of Avon Gorge Woodlands SAC	No comments.	Note this Requirement does not apply to the Avon Gorge Woodlands SAC, to which the AGVMP will apply.	Agreed.
<b>Requirement 14</b> Avon Gorge Woodlands SAC	The principles of this Requirement are accepted. This area is outside of the BCC authority boundary and is for NSC to comment on.	This is a key Requirement and Natural England will be heavily involved.  The timing of the works depends on several factors including securing of Habitat Regulations consents.	Agreed.

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		The AGVMP is in the process of being updated.	
<b>Requirement 15</b>  External lighting and control of artificial light emissions during construction	Requirement appears standard and is acceptable.	Noted.	Agreed.
<b>Requirement 16</b>  Construction hours	This Requirement does not apply to works on current operational railway for which NRIL is under no restriction.	<p>Existing highway land, operational railway land, and works undertaken at compounds associated with those works – must be excluded from this Requirement. In such cases night working may be preferable in terms of impact on the public.</p> <p>Along the operational railway, the works have to accommodate freight train passes. As such, the works may be conducted in a range of shift patterns, including 24 hr working. The pattern of working will subject to agreement with the Bristol Port Company over freight train movements and the</p>	Agreed.



Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		<p>proposed construction scheduling developed by the successful contractor.</p> <p>24hr working may be required at the construction compounds to support ongoing works and deliveries and waste removal.</p>	
<b>Requirement 17</b>  Contaminated land and ground water	Requirement appears standard and is acceptable.	Noted.	Agreed.
<b>Requirement 18</b>  Works to Winterstoke Road, Bristol	Noted that the highway works at Winterstoke Road and Ashton Vale Road will be primarily secured to the local highway authority's satisfaction by way of a s278/38 highway works agreement. The Requirement is acceptable.	Agreed. The Requirement will remain in the draft Order to ensure the necessary highway authority approvals are obtained prior to commencement of Work No. 28.	Agreed.
<b>Requirement 19</b>  Temporary path south of Trinity Primary School, Portishead	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 20</b>  Path at Marsh Lane, Easton in Gordano	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 21</b>  Temporary Path at Avon Road, Pill	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 22</b>  Restoration of land used temporarily for construction	This Requirement is acceptable though BCC queries whether it provides a mechanism for the Applicant to retain works on land subject only to temporary possession.	<p>This is a standard Requirement save for sub-paragraph (2) which is necessary owing to the temporary possession of National Trust Land for installation of rock bolts. Once installed by NRIL it is intended that they will be maintained by National Trust.</p> <p>It is correct that the Requirement does allow for retention of some works on temporary possession land, in accordance with Article 33(4)(d).</p>	Agreed.
<b>Requirement 23</b>  Watercourses	This Requirement is acceptable.	No comments.	Agreed.



Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 24</b>  For the protection of bats	This is not an issue for the DCO Scheme with in the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 25</b>  Permanent Fencing outside of Avon Gorge Woodlands SAC	This Requirement is acceptable. BCC notes fencing included within a stage of the works will be subject to its approval before commencement of that stage (subject to Requirement 31(4) regarding the Clanage Road permanent compound). It is agreed that new fencing outside of a stage will be in accordance with the general arrangement plans and Fencing Grades Summary and BCC considers this acceptable.	Please note the Applicant's General Arrangement Plans (DCO Document Reference 2.4, Version 4) indicates the nature of the proposed fencing to be retained and/or installed. Following the ExA's request during the Examination for additional clarity on fencing design, this is supplemented by the Fencing Grades Summary.	Agreed.
<b>Requirement 26</b>  Permanent acoustic fencing	This relates to Old Portbury Station House which is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 27</b>  Portishead Station	This station is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.



Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 28</b> Pill Station	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 29</b> Operational lighting – highways, bridges, paths and car parks	This Requirement is acceptable.	The locations where this Requirement is of significance are, amongst others, the Tansy Lane footbridge and the station car parks. These are outside of the BCC authority area.	Agreed.
<b>Requirement 30</b> Works affecting M5 Junction 19	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 31</b> Clanage Road, Bristol	<p>This Requirement is acceptable to BCC in its capacity as highway authority though note the need for approval of the highways authority.</p> <p>The 5 year maintenance period is standard for BCC and acceptable. Amendments to Requirement 31 introduced by the Applicant at Deadline 5 concerning the submission of a flood plan and at Deadline 6 and 7 concerning</p>	This Requirement focuses on LVIA issues which was not an apparent concern to the local highway authority. Any related issues raised by the highway authority will be dealt with through the proposed highway works agreement.	Agreed.

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	fencing type and height are agreed by BCC.		
<b>Requirement 32</b>  New bridleway east of M5 Avonmouth Bridge	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 33</b>  Cattle Creep Bridge, Easton in Gordano	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 34</b>  Trinity Primary School Bridge	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 35</b>  Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
<b>Requirement 36</b>  Pill Tunnel Eastern Portal Compound Access, Ham Green	This area is outside of the BCC authority boundary and is for NSC to comment on.	Noted.	Agreed.
<b>Requirement 37</b>  Requirement for written approval	This Requirement is acceptable.	Noted.	Agreed.
<b>Requirement 38</b>  Amendments to approved details	This Requirement is acceptable.	Noted.	Agreed.
<b>Requirement 39</b>  Anticipatory steps towards compliance with any requirement	This Requirement is acceptable.	Noted.	Agreed.
<b>Requirement 40</b>  Applications made under requirements	What is meant by 'contemplated by' a requirement in 38(1)?  Regarding paragraph (3)(c) – who would write the report that decided	Generally speaking the intention is to keep the scope of applications for consent of the LPA as broad as possible, to include matters which are impliedly necessary to achieve the same end.	Agreed.  This matter has been the subject of helpful discussion between the





Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
	<p>whether environmental effects are materially worse?</p> <p>This Requirement is under review by BCC pending the provision of further information by the Applicant concerning use of 'deemed discharge' provisions on other DCOs and agreement on a suggested process for the practical management of Requirement discharge applications.</p>	<p>The drafting of this Requirement is largely drawn from the PINS drafting, save for the deeming provisions (though this does utilise precedent from made orders).</p>	<p>Applicant and BCC, and is supported by the Applicant's Drafting Note at Appendix 2.</p> <p>The proposed 'deeming provision' can be supported, on the assumption that it remains linked into the provisions of Requirement 39 as per the Draft Order. A Planning Performance Agreement will be agreed with BCC and NSC to support the undertaking of their duties prescribed within Requirement 38.</p>
<p><b>Requirement 41</b></p> <p>Further information</p>	<p>It is not clear how this Requirement works practically.</p>	<p>The Applicant and BCC have engaged in detailed post-application discussions in respect of Requirements and the process by which applications to discharge</p>	<p>Agreed.</p> <p>The proposed drafting of this</p>

Requirement	BCC position	Applicant's position	Status: Requirement Agreed/ Not Yet Agreed
		Requirements will be dealt with. Appendix 3 sets out the proposed approach.	Requirement is supported, on the basis that it remains linked into the provisions of Requirement 38(1)(b) as per the Draft Order and described in the supporting note at Appendix 3.
<b>Requirement 42</b>  Appeals	This Requirement is acceptable.	Noted.	Agreed.
<b>Requirement 43</b>  Interpretation of Schedule 2	This Requirement is acceptable.	Noted.	Agreed.

## Agreement on this Statement of Common Ground

This Statement of Common Ground has been jointly prepared and agreed by:

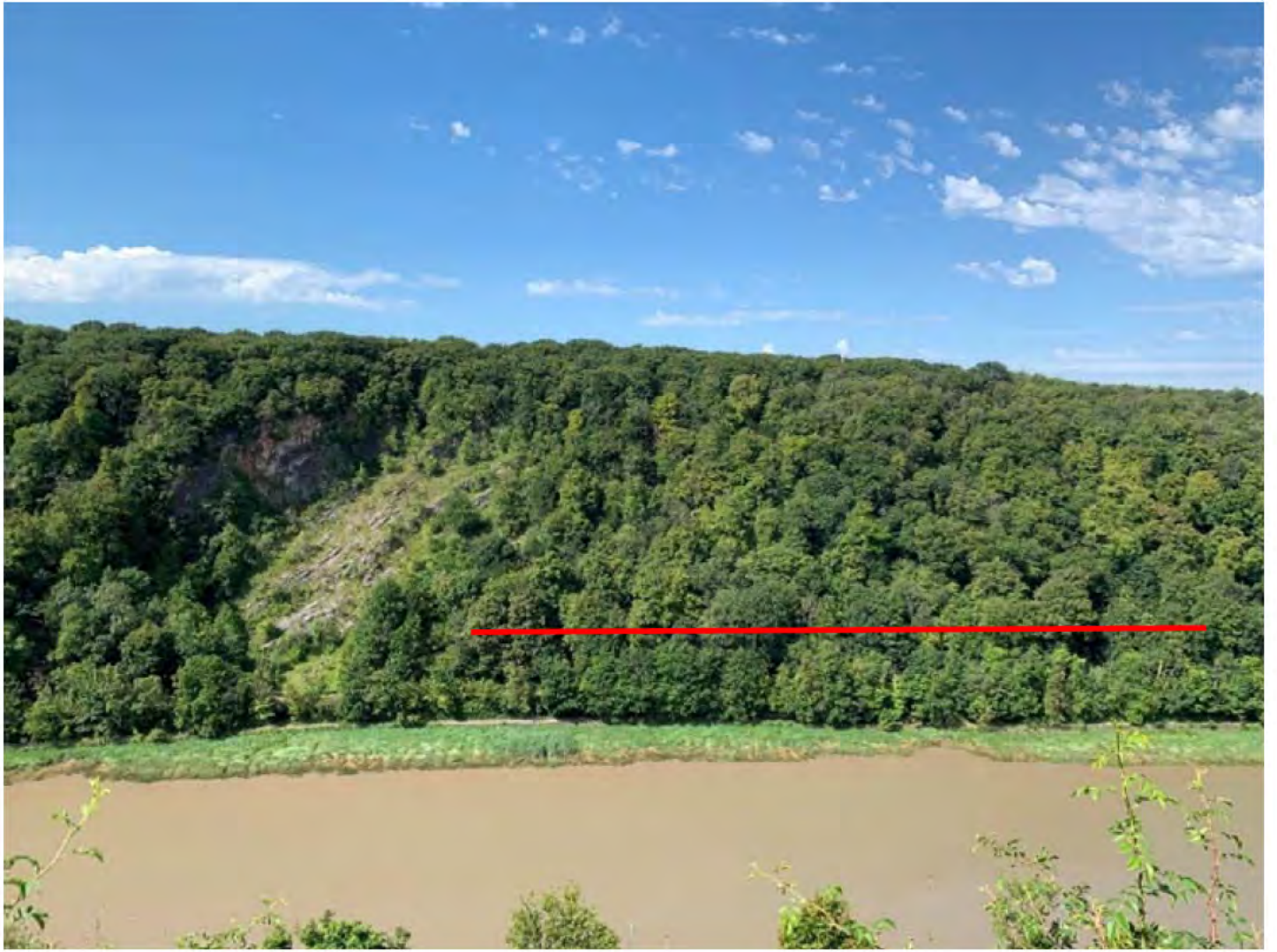
<b>Bristol City Council (as Local Planning Authority)</b>
<i>Name:</i> Gary Collins
<i>Signature</i> 
<i>Position:</i> Head of Development Management
<i>On behalf of:</i> Bristol City Council
<i>Date:</i> 13 <sup>th</sup> April 2021

<b>North Somerset District Council (as Applicant)</b>
<i>Name:</i> James Willcock
<i>Signature:</i> 
<i>Position:</i> MetroWest Phase 1 Programme Manager
<i>On behalf of:</i> North Somerset Council
<i>Date:</i> 13 <sup>th</sup> April 2021



20. APPENDIX 1 – ROCKFALL BARRIER LOCATIONS





Photograph 1 – Rockfall barrier 1 location (147m long)





Photograph 2 – Rockfall barrier 2 location (52m long)





Photograph 3 – Rockfall barrier 3 location (78m long)

**21. APPENDIX 2 – DRAFTING NOTE – DEFINITIONS OF "COMMENCE" AND  
"PREPARATORY ACTIVITIES" IN THE DRAFT ORDER**

## The Portishead Branch Line (MetroWest Phase 1) Order

### Drafting note - definitions of "Commence" and "Preparatory Activities" in the draft Order

#### 1. INTRODUCTION

- 1.1 This note has been prepared at the request of the relevant planning authorities to explain the relationship between the definitions of Commencement and Preparatory Activities in the draft Order.
- 1.2 It is designed to inform the two local planning authorities and hopefully then to be incorporated in the relevant Statements of Common Ground and agreed by the parties.

#### 2. DEFINITION OF "COMMENCE"

- 2.1 Article 2 of the draft Order includes the largely standard definition "commence". It reads:

*"commence" means beginning to carry out material operation (as defined in Section 155 (when development begins) of the 2008 Act) forming part of the authorised development other than operations consisting of environmental surveys and monitoring, investigations for the purpose of assessing ground conditions, receipt and erection of construction plant and equipment, utility diversions, works to clear watercourses, erection of any temporary needs of enclosure, the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly.*

- 2.2 Note that the Applicant has proposed in addition, in its Deadline 7 submissions that Archaeological investigations are added to the list of activities that would not amount to commencement.
- 2.3 The definition of "commence" would apply to development control operations as may be capable of being enforced by the relevant planning authority in connection with the discharge of the requirements listed in Part 1 of Schedule 2 to the Order.

#### 3. PREPARATORY ACTIVITIES

- 3.1 The definition of "preparatory activities" is included in Requirement 1 in Part 1 of Schedule 2 of the Order. It reads:

*"preparatory activities" means ecological mitigation works, archaeological investigations, boreholes, intrusive surveys, environmental surveys and monitoring, other investigations for the purpose of assessing ground conditions or the receipt and erection of construction plant and equipment, utility diversions or ground clearance works"*

- 3.2 In the paragraph below the words in red appear only in the definition of commence in Article 2. The words in blue appear only in the definition of preparatory activities. The words in black text are common to both definitions.

*"commence" means beginning to carry out material operation (as defined in Section 155 (when development begins) of the 2008 Act) forming part of the authorised development other than operations consisting of "preparatory activities" means ecological mitigation works, archaeological investigations, boreholes, intrusive surveys, environmental surveys and monitoring, other investigations for the purpose of assessing ground conditions or the receipt and erection of construction plant and equipment, utility diversions or ground clearance works, works to clear watercourses, erection of any temporary needs of enclosure, the temporary display of site notices or advertisements, and "commencement" is to be construed accordingly.*



The Applicant has further proposed at Deadline 7 that archaeological investigations are included in both activities not amounting to commencement and as preparatory activities.

#### **4. THE RELEVANCE OF "PREPARATORY ACTIVITIES"**

- 4.1 "Preparatory activities" is used only in Requirement 3 and 5. These relate respectively to stages and the CEMP.
- 4.2 In relation to Requirement 3, the last paragraph (Requirement 3(4)) states that preparatory activities may be carried out before staging has been settled by the parties. It is provided to make it clear that the preparatory activities relating to a stage may be carried out without needing all of the requirements for the whole of that stage to be discharged. The preparatory activities can take place in the scenario where development as a whole has commenced in development control terms but all of the discharges for the relevant stage has not yet been approved by the relevant planning authority.
- 4.3 This is an appropriate balance between keeping control over development and allowing enabling activities to proceed before the details have been fully established.

#### **5. REQUIREMENT 5 – CONSTRUCTION AND ENVIRONMENTAL MANAGEMENT PLAN ETC**

Requirement 5(6) makes it clear that preparatory activities are not regulated by the stage specific CEMP if they are carried out prior to the stage specific CEMP being approved by the relevant planning authority. Control remains because the preparatory activities must be carried out in accordance with the COCP and the Master CEMP which will be certified documents that will have been considered by and approved by the relevant planning authorities.

Womble Bond Dickinson

27 July 2020

(Amended 14 April 2021 to reflect changes made to definitions at Deadline 7 relating to archaeological investigations.)

**22. APPENDIX 3 – NOTE ON ANTICIPATED PROCESS FOR APPLICATION AND DISCHARGE  
OF REQUIREMENTS**

# **THE PORTISHEAD BRANCH LINE (METROWEST PHASE 1) ORDER**

## **Requirements – Provisions for Deemed Discharge**

### **Note to relevant Local Planning Authorities**

#### **Drafting Note: explanation for inclusion of Deeming Provisions relating to discharge of requirements**

#### **1. INTRODUCTION**

- 1.1 This note is provided to the two host local planning authorities (North Somerset Council and Bristol City Council) to further clarify why North Somerset Council (Applicant) has included a process for deeming the approval for requirements that are being discharged in accordance with Schedule 2 of the draft Portishead Branch Line (MetroWest Phase 1) Development Consent Order (the draft DCO).
- 1.2 This note is provided following discussions on the Statement of Common Ground between, principally, Bristol City Council and the Applicant. It is intended that this note, or a revised version of it, be included as an Appendix to the Statement of Common Ground submitted to the examination.

#### **2. WHY HAVE DEEMING PROVISIONS BEEN INCLUDED?**

- 2.1 Practice varies in DCO drafting as to whether or not a mechanism for deemed consent by relevant planning authorities is included for requirements following applications for discharge post development consent.
- 2.2 There is some precedent for the inclusion of deeming provisions, albeit in a different context, for recently made Orders determined by the Secretary of State for Transport.
- 2.3 Whilst not all SoST determined Orders include deeming processes for requirements, several Orders made following application by Highways England do include a process for deeming. See for instance requirement 17 contained in Schedule 2 Part 2 of the M20 Junction 10A Development Consent Order 2017 (2017 SI No. 1202).

<https://infrastructure.planninginspectorate.gov.uk/document/TR010006-000893>

And also the recently made M42 Junction 6 Development Consent Order 2020

[https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010027/TR010027-000970-200520%20M42%20DCO%20\(SI%20number%20included\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010027/TR010027-000970-200520%20M42%20DCO%20(SI%20number%20included).pdf)

- 2.4 For DCOs overall therefore, and for DCOs made by the Secretary of State for Transport, there is no single approach – deeming provisions can be included by the Secretary of State in made Orders, but this is not the case for every Order. For the MetroWest DCO Scheme, the relevant provisions of the Order are provided in Appendix 1 to this document whilst Figure 1 provides a flow chart demonstrating how the process should work. Annex 1 provides a draft tracker for the host planning authorities and the Applicant to use to manage the discharge of requirements process.

#### **3. PRECEDENT FOR DEEMED DISCHARGE OF DCO REQUIREMENTS**

- 3.1 As is clear from the preceding section of this note, the Applicant has undertaken a review of recent made DCOs, on the basis that recent examples are most likely to reflect the wording the Planning Inspectorate will find to be acceptable.

#### **3.2 MetroWest comparables – made Orders with similar deeming provisions**

- 3.2.1 A large number of the recently made Orders reviewed which include deeming provisions do so with very similar wording to the draft MetroWest Order.
- 3.2.2 The following made Orders, as with the proposed MetroWest Order, include:



- (a) a defined period for the LPA to decide an application to discharge a requirement (this period being 8 weeks, save for where a different period is stated); and
- (b) unconditional deemed approval at the expiry of that period provided the subject of the application does not give rise to materially new or materially worse environmental effects (in which case it is deemed to be refused).

3.2.3 None of the made Orders which provide for the deemed discharge of requirements include any additional notice to the LPA at the 6 week (or other) stage, as has been included in the draft MetroWest Order following comments from the LPAs.

#### **3.2.4 Drax Re-Power DCO**

This Order was granted on 4 October 2019 and the relevant provisions concerning discharge of requirements are presented at Appendix 2.

The decision period is 9 weeks rather than 8. The deemed discharge provisions do not apply where the environmental effects relating to the subject of the application are materially new or materially different to those set out in the environmental statement.

#### **3.2.5 Abergelli Power DCO**

This Order was granted on 19 September 2019 and the relevant provisions concerning discharge of requirements are presented at Appendix 3.

This made Order includes an 8 week determination period. As with the Drax Order, the deemed discharge provisions do not apply where the environmental effects relating to the subject of the application are materially new or materially different to those set out in the environmental statement.

#### **3.2.6 Tees Combined Cycle Power Plant DCO**

This Order was granted on 5 April 2019. The relevant provisions are set out in Appendix 4.

The determination period in this made Order is stated as '30 business days' – i.e. 6 weeks – contrasting the 8 weeks proposed in the MetroWest draft Order. Otherwise the deeming provisions in this Order are closely aligned with the drafting in the Drax and Abergelli orders.

#### **3.2.7 Millbrook Power DCO**

This Order was granted on 13 March 2019. The relevant provisions are set out in Appendix 5.

The deeming provisions are very similar to those in the MetroWest draft Order. There is an 8 week determination period, and as with the above orders the deeming provisions do not apply where there new or materially worse environmental effects will arise from the subject matter of the application.

#### **3.2.8 Lake Lothing (Lowestoft) Third Crossing DCO**

This Order was granted on 30 April 2020. The relevant provisions are set out in Appendix 6.

The deeming provisions include an 8 week determination period (or such longer period as may be agreed). It should also be noted that in this case there is no additional provision relating to environmental effects associated with the subject matter of the application.

#### **3.2.9 Riverside Energy Park**

This Order was granted on 9 April 2020. The relevant provisions are set out in Appendix 7.

The deeming provisions in this Order prescribe a 9 week determination period following an application to discharge a requirement (or longer if agreed or if further information is requested). The application is deemed to be approved after this period, unless it gives rise to materially new or materially worse environmental effects.

- 3.3 It is worth noting that a number of recently made Highways England orders include standardised drafting to allow for deemed discharge of requirements where applications are undecided by the Secretary of State (to whom applications are made in respect of the Strategic Road Network, as opposed to the local authority). The provisions are comparable to those included in the MetroWest draft Order, save for the different decision making authority.
- 3.4 Highways England's precedent procedure for deeming incorporates the following:
- 3.4.1 Where an application is made to discharge a requirement the Secretary of State must give notice of its decision to the Applicant within 8 weeks of the application (or longer if agreed between the parties or if further information was requested);
- 3.4.2 If the Secretary of State does not determine the application in the 8 week period, it is deemed to have granted the application, subject to where the application is accompanied by a report showing, in the view of a relevant body to be consulted, its subject matter would give rise to materially new or materially worse environmental effects. In such circumstances the application for discharge shall be deemed to be refused at the end of the 8 week period.
- 3.5 The recently made Highways England Orders in which these provision have been included are:
- 3.5.1 A30 Chiverton to Carland Cross DCO**
- This Order was made on 6<sup>th</sup> February 2020. The relevant provisions are set out in Appendix 8.
- 3.5.2 A63 (Castle Street Improvement) DCO**
- This Order was made on 28 May 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.
- 3.5.3 A585 Windy Harbour to Skippool DCO**
- This Order was made on 9 April 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.
- 3.5.4 M42 Junction 6 DCO**
- This Order was made on 21 May 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.
- 3.5.5 A19 Downhill Lane Junction DCO**
- This Order was made on 16 July 2020. The relevant provisions are not reproduced here as they are substantially the same as those presented at Appendix 8.

#### **4. PINS ADVICE NOTE 15**

- 4.1 Advice Note 15 contains a precedent for the drafting of processes for dealing with the discharge of requirements. Appendix 1 to the Advice Note provides standard drafting and cross refers to good practice point 3 of the Advice Note. It also indicates that decisions on provisions by discharging authority should be given within a decision period of 42 days. No process for deeming is provided in that draft. The Advice Note is at:  
[https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice\\_note\\_15\\_version\\_1.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/10/advice_note_15_version_1.pdf)

- 4.2 Good practice point 3 states that the drafting is standard wording and:

*"where an applicant seeks for any amendment(s) to be made to the drafting of the standard working, it should be justified in full in the Explanatory Memorandum".*

## **5. THE DRAFT DCO**

- 5.1 Requirement 38 of Schedule 2 of the draft DCO (document 3.1 – see <https://infrastructure.planninginspectorate.gov.uk/projects/south-west/portishead-branch-line-metrowest-phase-1/?ipcsection=docs&stage=app&filter1=Draft+Development+Consent+Order>)

deals with applications made under requirements for the Portishead application. Requirement 38 is reproduced in this note at Appendix 1.

- 5.2 The Explanatory Memorandum (document 3.2) cross-refers to Advice Note 15 and explains further that extended time periods for consideration of the submitted details under requirements had previously been agreed.
- 5.3 The draft DCO at requirement 38 provides a mechanism for deeming, but only if, six weeks after the application for discharge of a requirement has been provided to the relevant planning authority, the applicant notifies the relevant planning authority of its intention to treat the requirement as being discharged through the deeming provision if no determination is made within the subsequent two weeks following the notice of intended deeming. This approach was discussed with the two relevant planning authorities prior to submission.

## **6. WHY HAS DEEMING BEEN INCLUDED?**

- 6.1 Schedule 2 of the draft DCO includes (at requirement 3) some 10 Stages (together with 5 sub stages) for the proposed authorised project, identified by reference to individual works. A staging plan is provided with this document – see appendix 10
- 6.2 Six stages (and the majority of the works) are within the administrative boundary of North Somerset Council. Four stages (albeit a relatively limited amount of the actual works) are within Bristol City Council's administrative area.
- 6.3 Requirement 3 also allows for the number and nature of stages to be altered by agreement with the relevant planning authority.
- 6.4 Thereafter there are some 30 individual operative requirements. Whilst not every requirement will apply to every stage, or requires further determination, it is clear that in terms of individual approvals for requirements there is the potential for approximately 450 individual discharges of (and in addition approvals and consultation in relation to the submitted documents under requirement 4 such as the CEMP, CTMP etc).
- 6.5 It has never been the Applicant's intention that deeming should be a default process. It is however believed by the Applicant that there are several reasons for deeming provision being justified and necessary. These are set out in paragraphs 7 and 8 below.

## **7. HOW WILL THE PROCESS WORK?**

- 7.1 It is important to note that deeming is just one part of the overall process. Figure 1 below provides the proposed process.
- 7.2 It is hoped that, through the planning performance agreements and process for liaison and tracking performance regarding applications for, timing of and discharge of requirements, deeming will be very much the exception, if indeed it is used at all.
- 7.3 The Applicant intends to work closely with the relevant planning authorities to ensure that full notice is given of the intended applications, full information provided to the relevant planning authorities and all necessary assistance for speedy and efficient discharge of requirements continues throughout.



- 7.4 Further, it is unlikely in practice that deeming will be used in any event because of the six week notice provision that is included in the drafting (something bespoke to the MetroWest draft Order and inserted at the suggestion of the planning authorities). This additional mechanism should allow the relevant planning authority to retain full control over the process.
- 7.5 Deeming is therefore only likely to happen where an application for the discharge of a requirement is considered so low key for the relevant planning authority that resource need not be expended on the formal discharge of the requirement.
- 7.6 It is hoped that, with:
- 7.6.1 a clear programme for application for requirements communicated well in advance to the relevant planning authorities;
  - 7.6.2 a standard form for an application for discharge of requirements being agreed by the parties;
  - 7.6.3 regular updates on progress on requirements during the discharge and preconstruction phase for the development; and
  - 7.6.4 the six week notice of intended deeming provision included within the process for deeming

that deeming will not be used save where only a minor decision is required.

- 7.7 It is to be noted that should any application for discharge requirements give rise to significant environmental effects then the deeming operates to refuse the discharge of the relevant requirement.

## **8. WHY IS DEEMING CONSIDERED APPROPRIATE?**

- 8.1 The Applicant believes that deeming should be included in the draft DCO for the following reasons:
- 8.1.1 there are a large number of individual discharges of requirements in the Order – potentially around 450 individual discharges;
  - 8.1.2 the constraints for construction timetable are considerable. Many activities will hinge on having pre-booked possessions or blockades on Network Rail's railway. Such possessions take a long time to book and have significant financial consequences for Network Rail, which will be passed on to the project, through binding commercial and contractual arrangements. It means delays to getting contractors on site to undertake works in preparation for key pre-booked line possessions / blockade, resulting in just one of the possessions / blockades being missed , could cause a chain of knock on impacts to the construction programme resulting in very serious cost escalation consequences for the Applicant (and co-promoters) and could significantly delay implementation of the project; and
  - 8.1.3 Whilst it is the Applicant's responsibility to make allowance for flexibility where possible in its programme for construction and implementation, the potential consequences of inaction regarding a minor discharge of requirement could result in very considerable financial impacts for the Applicant (and co-promoters) . The deeming approach therefore proportionately allocates risk to avoid a delay in a very minor approval not being issued and need to reduce the risk of delay to the project.
- 8.2 If deeming is not included then the Applicant's only course would be a process to appeal against either refusal or non-determination depending on the circumstances, or to resubmit its application for discharge. Each of these processes would be time-consuming and could similarly impact on the construction programme.
- 8.3 Deeming is not a process unknown to Town and Country Planning Act 1990 applications. The Town and Country Planning (Development Management Procedure) (England) Order 2015 introduced in provisions, with an eight week period to determine an application, with an applicant

able to serve its own notice of deemed discharge after six weeks, stating when it considers deeming discharge to have effect. Whilst not identical, this process is similar to the process included in the draft DCO.

## **9. CONCLUSIONS**

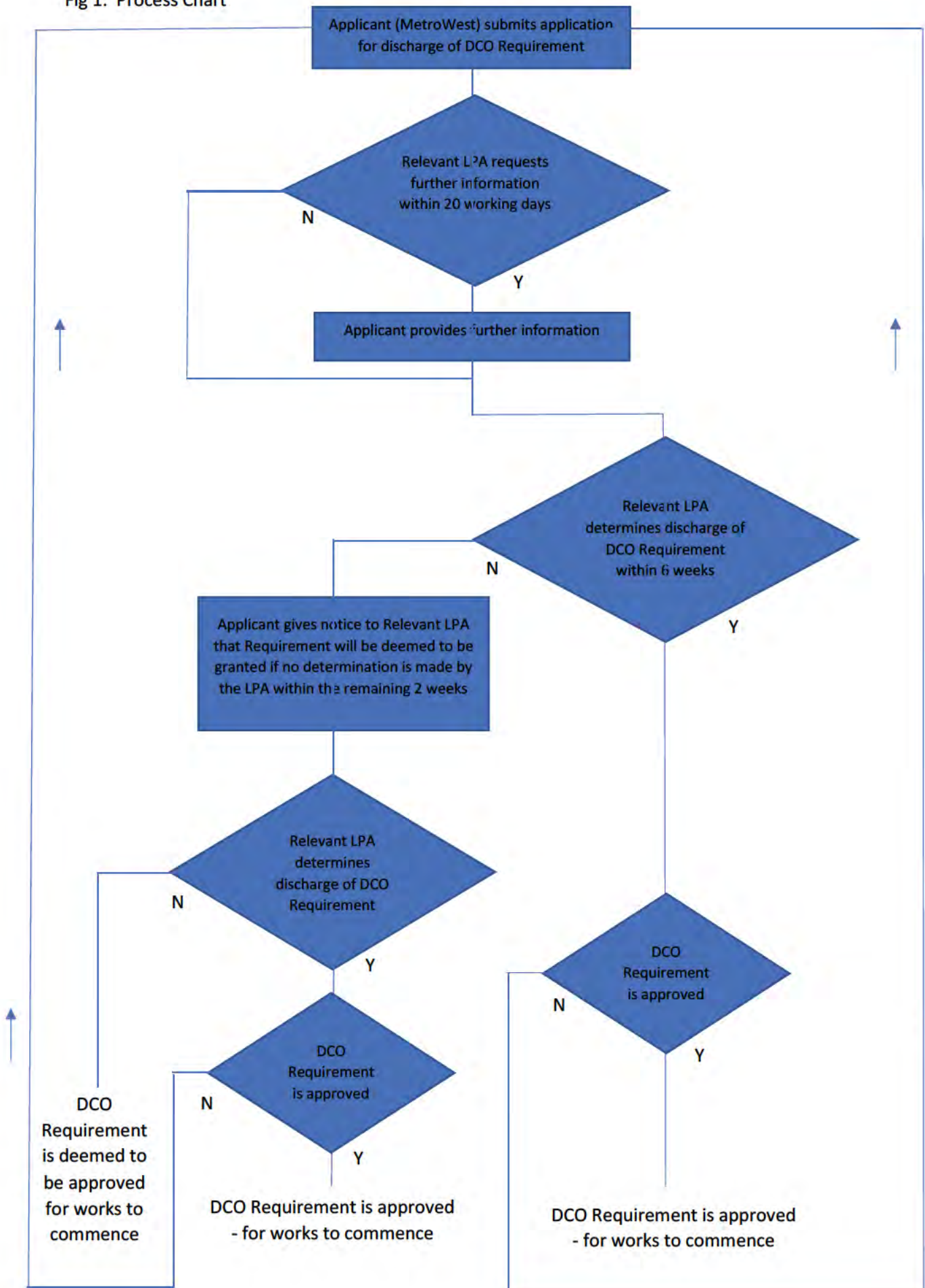
- 9.1 The Applicant believes that the inclusion of deeming provisions in Schedule 2 to the draft DCO provides an appropriate compromise between control and scrutiny by the relevant planning authorities and the need to have a clear construction programme with the reduced risk of delay for relatively minor discharges of requirements.
- 9.2 In the Applicant's view there is a strong precedent for the use of deemed discharge provisions. Notwithstanding this, there are sufficient factors specific to the MetroWest scheme to justify the inclusion of such deeming provisions as a 'safety net'. It is imperative that the discharge of requirements is undertaken in accordance with the prescribed timescales in order to avoid unnecessary disruption to the existing rail network and potential additional expense to the public purse from third party claims.
- 9.3 The deeming process is a small part of the overall package of liaison, monitoring and control that should be in place between the Applicant and the relevant planning authorities. The Applicant anticipates that deeming will rarely, if ever be used in practice, but it remains a vital tool to ensure that this key nationally significant infrastructure project with many planning advantages for the relevant planning authorities and the wider economic area is taken forward if consented with a minimum of delay.
- 9.4 Conversely the absence of deeming provisions leads to a significant risk that possessions and blockades would be missed with potentially very significant impacts on the implementation programme for this project.

**Womble Bond Dickinson**

**July 2020**

## Process for Discharge of DCO Requirements

Fig 1. Process Chart





## **APPENDIX 1**

### **MetroWest Phase 1 DCO: Requirement 38 on discharge of Requirements**

#### **Procedure for discharge of requirements**

##### **Applications made under requirements**

**38.—**(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required or contemplated by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the relevant planning authority must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

- (a) the day immediately following that on which the application is received by the relevant planning authority;
- (b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 39 (further information);

or such longer period as may be agreed between the undertaker and the relevant planning authority.

(2) Subject to sub-paragraphs (3) and (4), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

- (a) an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order;
- (b) the relevant planning authority does not determine such application within the period set out in sub-paragraph (1); and
- (c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially worse environmental effects in comparison with the authorised development as approved,

then the application is taken to have been refused by the relevant planning authority at the end of that period.

(4) Sub-paragraph (2) will only apply to an application made under requirements if—

- (a) at least 6 weeks have elapsed since the application was received by the relevant planning authority,
- (b) the undertaker has served on the relevant planning authority written notice that sub-paragraph (2) will apply from a date specified in the notice (such date not being less than 8 weeks from the date the application was received by the relevant planning authority), and
- (c) by the date specified in the notice (or such later date as the relevant planning authority may agree with the undertaker) the relevant planning authority has not determined the relevant application.

##### **Further information**

**39.—**(1) In relation to any part of an application made under this Schedule, the relevant planning authority has the right to request such further information from the undertaker as is necessary to enable the relevant planning authority to consider the application.

(2) In the event that the relevant planning authority considers such further information to be necessary, the relevant planning authority must, within 20 business days of receipt of the application, notify the undertaker in writing specifying the further information required and (if applicable) to which part of the application it relates. In the event that the relevant planning authority does not give such notification within this 20 day period the relevant planning authority is deemed to have sufficient information to consider the application and is not subsequently entitled to request further information without the prior agreement of the undertaker.

(3) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 38 (applications made under requirements) and in this paragraph.

## APPENDIX 2

### Drax Re-Power: Article 42 and Schedule 11 (discharge of requirements)

#### "Procedure in relation to certain approvals etc.

**42.**—(1) Where an application is made to or request is made of any authority or body named in any of the provisions of this Order for any consent, agreement or approval required or contemplated by any of the provisions of the Order, such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed. (2) Schedule 11 (procedure for discharge) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to any provision of this Order...

...

#### SCHEDULE 11 PROCEDURE FOR DISCHARGE

Article 42

##### Interpretation

1. In this Schedule—

“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a);

“relevant authority” means any authority or body named in any of the provisions of this Order and whose consent, agreement or approval is sought; and

“requirement consultee” means any body or authority named in a Requirement as a body to be consulted by the relevant planning authority in discharging that Requirement.

##### Applications made under Requirements

2.—(1) Where an application has been made to the relevant authority for any consent, agreement or approval required or contemplated by any of the provisions of this Order (including consent, agreement or approval in respect of part of a Requirement) the relevant authority must give notice to the undertaker of their decision on the application within—

(a) a period of nine weeks beginning with the day immediately following that on which the application is received by the authority;

(b) where further information is requested under paragraph 3 of this Schedule (further information and consultation), a period of nine weeks beginning with the day immediately following that on which further information has been supplied by the undertaker; or

(c) such period that is longer than the nine week period in sub-paragraph (a) or (b) as may be agreed in writing by the undertaker and the relevant authority before the end of such nine week period.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where an application has been made to the relevant authority for any consent, agreement or approval required by a Requirement included in this Order, and—

(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states that the subject matter of such

application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement

then the application is to be taken to have been refused by the relevant authority at the end of that period..."



## **APPENDIX 3**

### **Abergelli Power: Article 41 and Schedule 12 (discharge of requirements)**

#### **"Procedure in relation to certain approvals**

**41.**—(1) Where an application is made to or a request is made of the relevant planning authority, highway authority, traffic authority, street authority, or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements), such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) Any consent, agreement or approval given under paragraph (1) above may be given subject to conditions.

(3) Schedule 12 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements in Schedule 2 (requirements).

(4) Save for applications made pursuant to Schedule 12, if, within eight weeks after the application or request has been submitted to an authority or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed with the undertaker in writing) it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(5) The procedure set out in paragraph 3 of Schedule 12 has effect in relation to any refusal by an authority or an owner as referred to in paragraph (1) of this article to any consent, agreement or approval required under this Order, as if such a refusal were in respect of an application to discharge a requirement.

(6) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the relevant article of this Order under which consent is sought, the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (4)...

...

#### **SCHEDULE 12**

Article 41

#### **PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

##### **Applications made under requirements**

**1.**—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order the relevant planning authority must give notice to the undertaker of their decision on the application within a period of eight weeks beginning with—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the

undertaker under paragraph 2; or

such longer period as may be agreed in writing by the undertaker and the relevant planning authority.

(2) Subject to sub-paragraph (3), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environment statement and if it will then it must be accompanied by information setting out what those effects are.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement included in this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1), then if either—

(a) the application is accompanied by a report pursuant to sub-paragraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant planning authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

then the application is to be taken to have been refused by the relevant planning authority at the end of that period.

(5) Where an application is made to a relevant planning authority for a consent, agreement or approval required by a requirement they may grant such consent, agreement or approval either unconditionally or subject to conditions..."

## **APPENDIX 4**

### **Tees CCCP: Article 14 and Schedule 2 (discharge of requirements)**

#### **"Procedure in relation to certain approvals etc.**

**14.**—(1) Where an application is made to, or a request is made of the relevant planning authority or any other relevant person for any agreement or approval required or contemplated by any of the provisions of the Order, such agreement or approval must, if given, be given in writing and must not be unreasonably withheld or delayed. (2) Schedule 2 (procedure for discharge of requirements) has effect in relation to all agreements or approvals granted, refused or withheld in relation to requirements...

...

#### **SCHEDULE 2 PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

Article 14

#### **Interpretation of Schedule 2**

##### **1. In this Schedule—**

“appeal documents” means the application and documents referred to in paragraph 4(2)(a) of this Schedule

“appeal parties” means the relevant planning authority, the requirement consultee and the undertaker and “appeal party” shall be construed accordingly;

“appointed person” means a person appointed by the Secretary of State to determine an appeal pursuant to paragraph 4(2)(c);

“business day” means a day other than a Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(a); and

“requirement consultee” means any body named in a requirement in Part 2 of Schedule 1 to this Order as a body to be consulted by the relevant planning authority in discharging that requirement.

#### **Applications made under requirements**

**2.**—(1) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement in Part 2 of Schedule 1 to this Order the relevant planning authority must give notice to the undertaker of their decision on the application within a period of 30 business days beginning with—

(a) the day immediately following that on which the application is received by the authority; or

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 3;

(2) Subject to sub-paragraph (4), in the event that the relevant planning authority does not determine an application within the period set out in sub-paragraph (1), the relevant planning authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Any application made to the relevant planning authority pursuant to sub-paragraph (1) must include a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement and if it will then it must be accompanied by information setting out what those effects are.

(4) Where an application has been made to the relevant planning authority for any consent, agreement or approval required by a requirement in Part 2 of Schedule 1 to this Order and the relevant planning authority does not determine the application within the period set out in sub-paragraph (1) and—

(a) the application is accompanied by a statement pursuant to sub-paragraph (3) which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or



(b) the relevant planning authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement

or such longer period as may be agreed in writing by the undertaker and the relevant planning authority

then the application is taken to have been refused by the relevant planning authority at the end of that period..."

## **APPENDIX 5**

### **Millbrook Power CCCP: Article 42 and Schedule 11 (discharge of requirements)**

#### **"Procedure in relation to certain approvals**

**40.**—(1) Where an application is made to or a request is made of the relevant planning authorities, highway authority, traffic authority, street authority, or the owner of a watercourse, sewer or drain or the beneficiary of any of the protective provisions contained in Schedule 10 (protective provisions) for any consent, agreement or approval required or contemplated by any of the provisions of the Order (not including the requirements but including the protective provisions contained in Schedule 10), such consent, agreement or approval to be validly given, must be given in writing and must not be unreasonably withheld or delayed.

(2) Schedule 12 (procedure for discharge of requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the requirements in Schedule 2 (requirements).

(3) Save for applications made pursuant to Schedule 12 (procedure for discharge of requirements) and where stated to the contrary if, within eight weeks after the application or request has been submitted to an authority, beneficiary of protective provisions or an owner as referred to in paragraph (1) of this article (or such longer period as may be agreed with the undertaker in writing) it has not notified the undertaker of its disapproval and the grounds of disapproval, it is deemed to have approved the application or request.

(4) The procedure set out in paragraph 1(3) of Schedule 12 (procedure for discharge of requirements) has effect in relation to any refusal by an authority, beneficiary of protective provisions, or an owner as referred to in paragraph (1) of this article to any consent, agreement or approval required under this Order, including such as may be required pursuant to the protective provisions contained within Schedule 10 (protective provisions).

(5) Where any application is made as described in paragraph (1), the undertaker must include a statement in such application that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe as prescribed by paragraph (3)...

...

#### **SCHEDULE 12**

Article 40

#### **PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

##### **Applications made under requirements**

**1.**—(1) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order the relevant authority must give notice to the undertaker of their decision on the application within a period of eight (8) weeks beginning with—

(a) the day immediately following that on which the application is received by the authority;

(b) the day immediately following that on which further information has been supplied by the

undertaker under paragraph 2; or

(c) such longer period as may be agreed by the undertaker and the relevant authority in writing.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the relevant planning authorities for any consent, agreement or approval required by a requirement included in this Order; and

(b) the relevant planning authorities do not determine such application within the period set out in sub-paragraph (1); and

(c) such application is accompanied by a report that considers it likely that the subject matter of such application will give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved,

then the application is to be taken to have been refused by the relevant planning authorities at the end of that period..."



## APPENDIX 6

### Lake Lothing (Lowestoft) Third Crossing: Schedule 2 Part 2

#### "Applications made under requirements

17.—(1) Where an application has been made to the discharging authority for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) contained in Part 1 of this Schedule, or a document referred to by a requirement, the discharging authority must give notice to the undertaker of the discharging authority's decision on the application with a period of 8 weeks beginning with—

(a) the day immediately following that on which the application is received by the discharging authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 18; or

(c) such longer period as may be agreed between the parties.

(2) Subject to paragraph (3), in the event that the discharging authority does not determine an application within the period set out in sub-paragraph (1), the discharging authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) In determining any application made to the discharging authority for any consent, agreement or approval required by a requirement contained in Part 1 of this Schedule, the discharging authority may—

(a) give or refuse its consent, agreement or approval; or

(b) give its consent, agreement or approval subject to reasonable conditions,

and where consent, agreement or approval is refused or granted subject to conditions the discharging authority must provide its reasons for that decision with the notice of the decision."

## **APPENDIX 7**

### **Riverside Energy Park: Schedule 12 (procedure in relation to certain approvals etc.)**

#### **"Applications made under requirements**

2.—(1) Subject to article 42(2) (procedures in relation to certain approvals etc), where an application has been made to the relevant authority for any consent, agreement or approval required or contemplated by any provisions of this Order (including consent, agreement or approval in respect of part of a requirement) the relevant authority must give notice to the undertaker of its decision on the application within a period of nine weeks beginning with—

(a) the day immediately following that on which the application is received by the relevant authority;

(b) the day immediately following that on which further information has been supplied by the undertaker under sub-paragraph (2); or

(c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Subject to sub-paragraph (4), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (1), the relevant authority is to be taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where an application is made to the relevant authority for any consent, agreement or approval required by a requirement included in this Order, it must be accompanied by a report which states whether the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement.

(4) Where an application has been made to the relevant authority for any consent, agreement or approval required by a requirement included in this Order, and—

(a) the relevant authority does not determine the application within the period set out in sub-paragraph (1) and such application is accompanied by a report which states that the subject matter of such application is likely to give rise to any materially new or materially different environmental effects compared to those in the environmental statement; or

(b) the relevant authority determines during the period set out in sub-paragraph (1) that it considers that the subject matter of such application will give rise to any materially new or materially different environmental effects compared to those in the environmental statement,

the application is to be taken to have been refused by the relevant authority at the end of that period."

## **APPENDIX 8**

### **A30 Chiverton to Carland Cross Order: Schedule 2 Requirement 16**

#### **"PART 2 PROCEDURE FOR DISCHARGE OF REQUIREMENTS**

##### **Applications made under requirements**

**16.**—(1) Where an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement (including agreement or approval in respect of part of a requirement) included in this Order, the Secretary of State must give notice to the undertaker of the decision on the application within a period of 8 weeks beginning with—

(a) the day immediately following that on which the application is received by the Secretary of State;

(b) the day immediately following that on which further information has been supplied by the undertaker under paragraph 17; or

(c) such longer period as may be agreed between the parties.

(2) Subject to sub-paragraph (3), in the event that the Secretary of State does not determine an application within the period set out in sub-paragraph (1), the Secretary of State is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the Secretary of State for any consent, agreement or approval required by a requirement included in this Order;

(b) the Secretary of State does not determine such application within the period set out in sub-paragraph (1); and

(c) the application is accompanied by a report referred to in paragraph 4 stating that, in the view of a body required to be consulted by the undertaker under the requirement in question, the subject matter of the application is likely to give rise to any materially new or materially different environmental effects from those reported in the environmental statement,

then the application is taken to have been refused by the Secretary of State at the end of that period.



## **Appendix 9 – Stages for the MetroWest DCO**

(1) The following stages are in of North Somerset—

(a) Stage 1 comprises Works Nos. 1, 1A, 5, 7, 7E, 9, 11, 11A, 12, 13, 14, 14A, 14B, 16C, 16D being the new railway between Portishead and Station Road, Portbury; the new railway between old Portbury Station and Portbury Junction, the new Portishead Station; Trinity Primary School bridge; works at The Drove at Portbury; a road rail access point, at Easton in Gordano; works to bridleway at Royal Portbury Dock Road and Marsh Lane, Easton in Gordano, and flood attenuation works west of the M5 at Easton in Gordano;

(b) Stage 1A comprises Works Nos. 7D, 8, 10, 10A, 12A, 13A, 15, 16A, 17 and 17A being haul roads south of Work No. 1, cycle path diversions and compounds at Sheepway together with any use of neighbouring Order land as a temporary compound, a temporary construction compound north of the A369 at Portbury; construction haul roads; a permanent access from A369 at Portbury, temporary vehicle turning circle east of the Drove and north of the A369 Portbury Hundred, a temporary construction compound under the M5 Special Road Avonmouth Bridge; a temporary construction compound and haul road at Lodway;

(c) Stage 1B comprises Works Nos. 20, 20B, 23 and 24A and being demolition of garages at Avon Road, Pill, temporary diversion of bridleway to the west of Avon Road, Pill, temporary compound beneath Pill Viaduct, and a temporary construction compound at Chapel Pill Lane, Ham Green together with any use of neighbouring Order land as a temporary compound;

(d) Stage 1C comprises Works Nos. 10B and 11B, being temporary haul roads to the north and south of Shipway Gate Farm, Sheepway; (e) Stage 1D comprises Work No. 11, being improvements to the existing agricultural access from Shipway Gate Farm, Sheepway;

(f) Stage 2 comprises Works Nos. 2, 2A, 3, 4, 6, and 7A-C being the diversion of Quays Avenue, Portishead, highway works at Harbour Road and Quays Avenue, Portishead; new highway drain; footpaths parallel to the disused Portishead Branch Line railway; public realm works and car parks at Portishead;

(g) Stage 3 comprises Works Nos. 10C, 12B and 16B, being new a pond within the Portbury Wharf Ecological Park, Portbury, a pond and ecological works south of Sheepway, Portbury, and a pond and ecological works to the west of the M5, Easton in Gordano;

(h) Stage 4 comprises Works Nos. 1B, 1C, 19, 20A, 21, 21A and 22 being works to the existing railway and to construct a railway between Portbury Junction and Pill Junction, installation of signalling equipment on the Bristol Port Company's railway, works to replace an underbridge to the north of Avon Road, Pill; Pill Station; car park at Pill Station and permanent maintenance compound and road rail access point;

(i) Stage 4A comprises Work No. 18 being a bridleway from under the M5 Avonmouth Bridge to meet National Cycle Network route no. 41 on the east side of the M5 Special Road, Pill;

(j) Stage 4B comprises Work No. 24 being a permanent maintenance access at Ham Green;

(k) Stage 5 comprises Works Nos. 22A and 22B being modifications to an existing bus stop and temporary compound at Pill Memorial Club, Lodway;

(l) Stage 6 comprises Work No. 25 being the reconstruction of Quarry Bridge No. 2 and the associated temporary compound in the Avon Gorge, together with the minor works to the railway between Pill Tunnel and Clifton Overbridge.

The following stages apply in Bristol:

a) Stage 7 comprises Works Nos. 26, 26A and 26B, being a permanent road rail access point and compound, temporary construction compound at Clanage Road and new permanent access to the highway of Clanage Road, at Bower Ashton in Bristol;

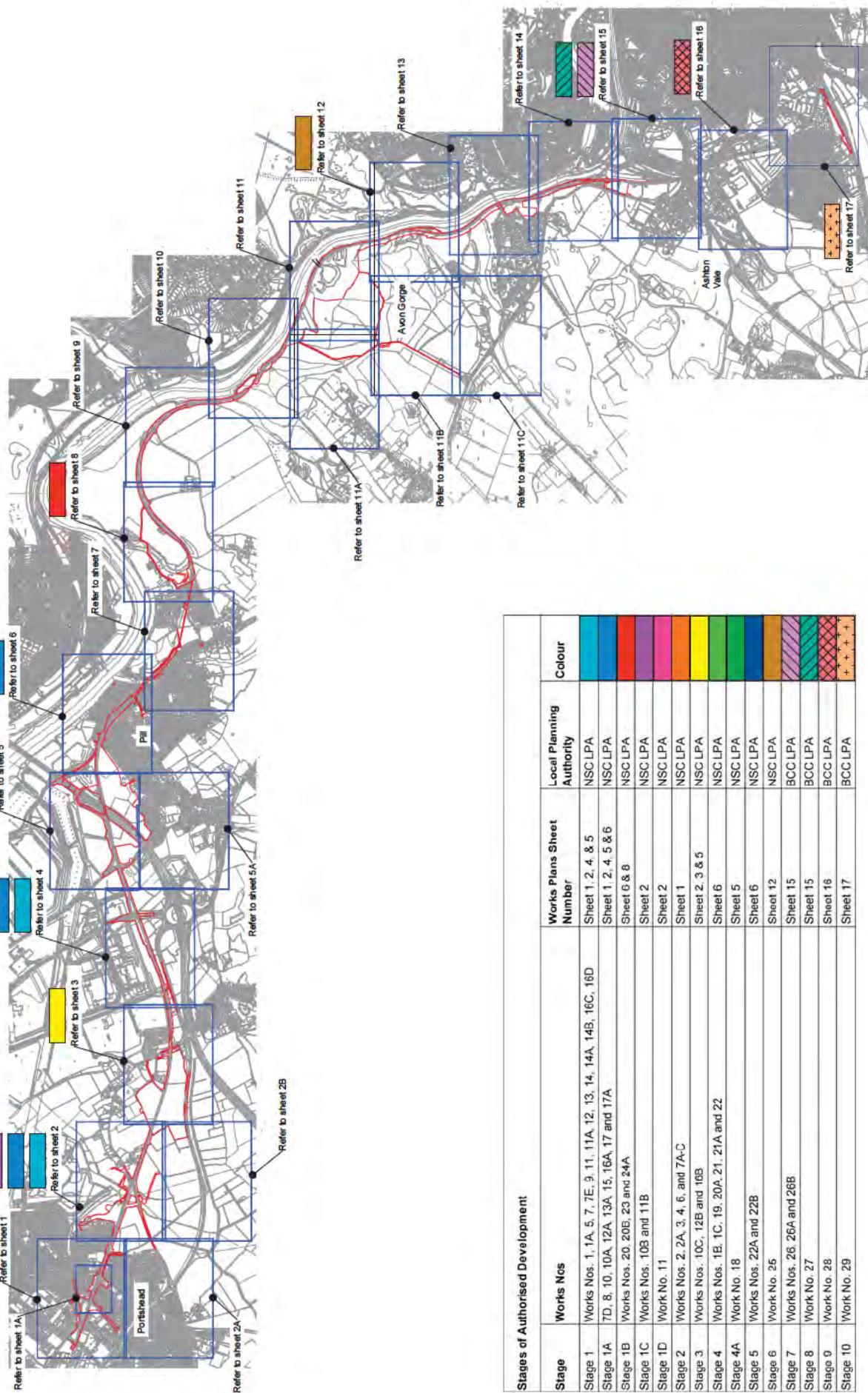
(b) Stage 8 comprises Work No. 27, being a new public cycle track ramp from the A370 Ashton Road to Ashton Vale Road;

(c) Stage 9 comprises Work No. 28, being works to the public highway at the junction of Winterstoke Road and Ashton Vale Road, Bristol; and

(d) Stage 10 comprises Work No. 29 being a temporary construction compound at the rail freight facility at South Liberty Lane, Bristol

## **Appendix 10 – Plan illustrating Stages for the MetroWest DCO**





Stages of Authorised Development				
Stage	Works Nos	Works Plans Sheet Number	Local Planning Authority	Colour
Stage 1	Works Nos. 1, 1A, 5, 7, 7E, 9, 11, 11A, 12, 13, 14, 14A, 14B, 16C, 16D	Sheet 1, 2, 4, & 5	NSC LPA	
Stage 1A	7D, 8, 10, 10A, 12A, 13A, 15, 16A, 17 and 17A	Sheet 1, 2, 4, 5 & 6	NSC LPA	
Stage 1B	Works Nos. 20, 20B, 23 and 24A	Sheet 6 & 8	NSC LPA	
Stage 1C	Works Nos. 103 and 11B	Sheet 2	NSC LPA	
Stage 1D	Work No. 11	Sheet 2	NSC LPA	
Stage 2	Works Nos. 2, 2A, 3, 4, 6, and 7A-C	Sheet 1	NSC LPA	
Stage 3	Works Nos. 10C, 12B and 18B	Sheet 2, 3 & 5	NSC LPA	
Stage 4	Works Nos. 1B, 1C, 19, 20A, 21, 21A and 22	Sheet 6	NSC LPA	
Stage 4A	Work No. 18	Sheet 5	NSC LPA	
Stage 5	Works Nos. 22A and 22B	Sheet 6	NSC LPA	
Stage 6	Work No. 25	Sheet 12	NSC LPA	
Stage 7	Works Nos. 26, 26A and 26B	Sheet 15	BCC LPA	
Stage 8	Work No. 27	Sheet 15	BCC LPA	
Stage 9	Work No. 28	Sheet 16	BCC LPA	
Stage 10	Work No. 29	Sheet 17	BCC LPA	

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100	101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120	121	122	123	124	125	126	127	128	129	130	131	132	133	134	135	136	137	138	139	140	141	142	143	144	145	146	147	148	149	150	151	152	153	154	155	156	157	158	159	160	161	162	163	164	165	166	167	168	169	170	171	172	173	174	175	176	177	178	179	180	181	182	183	184	185	186	187	188	189	190	191	192	193	194	195	196	197	198	199	200	201	202	203	204	205	206	207	208	209	210	211	212	213	214	215	216	217	218	219	220	221	222	223	224	225	226	227	228	229	230	231	232	233	234	235	236	237	238	239	240	241	242	243	244	245	246	247	248	249	250	251	252	253	254	255	256	257	258	259	260	261	262	263	264	265	266	267	268	269	270	271	272	273	274	275	276	277	278	279	280	281	282	283	284	285	286	287	288	289	290	291	292	293	294	295	296	297	298	299	300	301	302	303	304	305	306	307	308	309	310	311	312	313	314	315	316	317	318	319	320	321	322	323	324	325	326	327	328	329	330	331	332	333	334	335	336	337	338	339	340	341	342	343	344	345	346	347	348	349	350	351	352	353	354	355	356	357	358	359	360	361	362	363	364	365	366	367	368	369	370	371	372	373	374	375	376	377	378	379	380	381	382	383	384	385	386	387	388	389	390	391	392	393	394	395	396	397	398	399	400	401	402	403	404	405	406	407	408	409	410	411	412	413	414	415	416	417	418	419	420	421	422	423	424	425	426	427	428	429	430	431	432	433	434	435	436	437	438	439	440	441	442	443	444	445	446	447	448	449	450	451	452	453	454	455	456	457	458	459	460	461	462	463	464	465	466	467	468	469	470	471	472	473	474	475	476	477	478	479	480	481	482	483	484	485	486	487	488	489	490	491	492	493	494	495	496	497	498	499	500	501	502	503	504	505	506	507	508	509	510	511	512	513	514	515	516	517	518	519	520	521	522	523	524	525	526	527	528	529	530	531	532	533	534	535	536	537	538	539	540	541	542	543	544	545	546	547	548	549	550	551	552	553	554	555	556	557	558	559	560	561	562	563	564	565	566	567	568	569	570	571	572	573	574	575	576	577	578	579	580	581	582	583	584	585	586	587	588	589	590	591	592	593	594	595	596	597	598	599	600	601	602	603	604	605	606	607	608	609	610	611	612	613	614	615	616	617	618	619	620	621	622	623	624	625	626	627	628	629	630	631	632	633	634	635	636	637	638	639	640	641	642	643	644	645	646	647	648	649	650	651	652	653	654	655	656	657	658	659	660	661	662	663	664	665	666	667	668	669	670	671	672	673	674	675	676	677	678	679	680	681	682	683	684	685	686	687	688	689	690	691	692	693	694	695	696	697	698	699	700	701	702	703	704	705	706	707	708	709	710	711	712	713	714	715	716	717	718	719	720	721	722	723	724	725	726	727	728	729	730	731	732	733	734	735	736	737	738	739	740	741	742	743	744	745	746	747	748	749	750	751	752	753	754	755	756	757	758	759	760	761	762	763	764	765	766	767	768	769	770	771	772	773	774	775	776	777	778	779	780	781	782	783	784	785	786	787	788	789	790	791	792	793	794	795	796	797	798	799	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814	815	816	817	818	819	820	821	822	823	824	825	826	827	828	829	830	831	832	833	834	835	836	837	838	839	840	841	842	843	844	845	846	847	848	849	850	851	852	853	854	855	856	857	858	859	860	861	862	863	864	865	866	867	868	869	870	871	872	873	874	875	876	877	878	879	880	881	882	883	884	885	886	887	888	889	890	891	892	893	894	895	896	897	898	899	900	901	902	903	904	905	906	907	908	909	910	911	912	913	914	915	916	917	918	919	920	921	922	923	924	925	926	927	928	929	930	931	932	933	934	935	936	937	938	939	940	941	942	943	944	945	946	947	948	949	950	951	952	953	954	955	956	957	958	959	960	961	962	963	964	965	966	967	968	969	970	971	972	973	974	975	976	977	978	979	980	981	982	983	984	985	986	987	988	989	990	991	992	993	994	995	996	997	998	999	1000	1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	12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## **Annex 1– Proposed DCO Requirements Tracker**

**MetroWest Phase 1 – Requirements Tracker**

**Date of Current issue of this document:**

**MetroWest Contact:**

**LPA Contact:**

**Overview:**

This table is intended to allow both the MetroWest implementation team and the local planning authority clear oversight of how the progress to discharge of requirements is progressing. It utilises a uniform template for each stage, and requirements not relevant to that stage will be noted as "NA".

The MetroWest Team will aim to populate column (b) and discuss it with the LPA at least [8] weeks prior to submission of details.

The document will be submitted with columns (b) and (c) populated prior to first submission of details for a stage. It will thereafter be re-issued by MetroWest every 4 weeks until the approvals process is finished for that stage, or at such other frequency as is otherwise agreed by the LPA .

Any pre-deeming notification served by MetroWest will be accompanied by a copy of the latest iteration of this document for that stage.

**Notes:**

NA in column (b) (e) or (g) means requirement not relevant for this stage

In column (i) **A** = Approved/R=Refused/**DA** = Deemed Approval/W= Withdrawn

Requirements 1-3 not relevant for table below



(a) Key elements to be approved incl the relevant stage of authorised development	(b) Intended submission notification date	(c) Requirement Number	(d) Actual Submission notification date	(e) Further information requested by LPA and date, if applicable	(f) Date for determination by LPA without deeming	(g) Pre deeming notification issued (Y/N) and date	(h) Date of decision/ deemed decision	(i) Outcome of application  (Approved/Refused/Deemed Approval/Withdrawn)
		4						
		5						
		6						

**23. APPENDIX 4 – BRISTOL CITY COUNCIL TREE LOSS PAYMENT: CALCULATIONS**

MetroWest Phase 1 - Tree loss and replacement calculations

Vegetation Loss in BCC boundary for works to Structures (see BIO1.14 BIO.1.14.MW1 Arb Survey_Ashdon_Rev 2)	Approximate no. of trees affected	Notes about loss from each group	Young trees < 29cm girth to be coppiced to allow for construction activity	Number of Semi mature trees (30 - 39cm Girth) to be coppiced to allow for construction activity	Number of Mature trees (50 - 59.9cm Girth) lost (requiring replacement at 1:5 ratio)	Replacement planting ratio for mature trees	Number of Replacement Trees to be planted in mitigation
27 and 28 Miles Dock Underbridge	30	<b>Mature trees: 6no. mature group:</b> 5% Quercus robur 5% Quercus ilex 20% Acer pseudoplatanus 20% Acer platanoides 30% Corylus av lana 10% Tilia cordata 10% Fraxinus Excelsior  <b>Semi mature trees: 12 no. semi mature group:</b> 5% Quercus robur 5% Quercus i ex 20% Acer pseudoplatanus 20% Acer p atanoides 30% Corylus avellana 10% Tilia cordata 10% Fraxinus Excelsior  <b>Young trees: 12no. young tree group:</b> 5% Quercus robur 5% Quercus ilex 20% Acer pseudoplatanus 20% Acer p atanoides 30% Corylus avellana 10% Tilia cordata 10% Fraxinus Excelsior	12	12	6	5	30
18	0	0% vegetation affected inside BCC boundary	0	0	0		0
21	0	The only vegetation present is found on top of the retaining wall outside of BCC Boundary	0	0	0		0
22	0	0% vegetation affected inside BCC boundary	0	0	0		0
25	0	12 no. semi mature Fraxinus excels or	0	2	0		0
26	0	Scattered low scrub - assuming will regenerate when cleared	0	0	0		0
							30

Vegetation Loss in BCC boundary for works associated with the proposed railway fence. Stretch of Railway (see BIO1.14 BIO.1.14.MW1 Arb Survey_Ashton_Rev 2)	Approximate no. of trees affected	Detailed notes about loss from each group	Young trees < 29cm girth to be coppiced to allow for construction activity	Number of Semi mature trees (30 - 39cm Girth) to be coppiced to allow for construction activity	Number of Mature trees (50 - 59.9cm Girth) lost (requiring replacement at 1:5 ratio)	Replacement planting ratio for mature trees	Number of Replacement Trees to be planted in mitigation
23 24 and 25 Ch.7350m - Ch.7250m	6	<b>Mature trees:</b> 0 <i>See tree survey for species - indicative species below</i> <b>Semi mature trees:</b> no semi mature Betula pendula <b>2no.</b> semi mature Acer pseudoplatanus <b>2no.</b> mature Crataegus monogyna ( 0 - 39cm Girth) <b>2no.</b> semi mature Acer platanoides. Group: <b>28 no</b> semi mature: 5% Quercus robur 5% Quercus ilex 10% Acer pseudoplatanus 0% Acer platanoides 30% Tilia cordata 30% Corylus avellana 0% Fraxinus Excelsior. <b>Young trees:</b> Group: <b>28 no</b> young trees: 5% Quercus robur 5% Quercus ilex 10% Acer pseudoplatanus 10% Acer platanoides 30% Tilia cordata 30% Corylus avellana 10% Fraxinus Excelsior	28	35	0	5	0
19 20 and 21 Ch.6630 - Ch 6570m	8	<b>Mature trees:</b> 1no. mature Acer pseudoplatanus  <b>Semi mature trees:</b> no. semi mature Acer pseudoplatanus Group: 6 no. (approx 0% of group of 17) semi mature group: 20% Tilia cordata 20% Corylus avellana 20% Acer pseudoplatanus 20% Acer platanoides 20% Crataegus monogyna	0	7	1	5	5
17 and 18 Ch.6270 - Ch 6190m	34	Acer pseudoplatanus (Sycamore) x 18 Crataegus monogyna (Hawthorn) x 1 Fraxinus excelsior (Ash) x 10 Prunus sp. (Cherry) x 2 Quercus ilex (Holm oak) x 1 Ulmus glabra (Wych elm) x 2	0	34	0		0
					TOTAL		5

Clanage Road compound (see BIO1.14 BIO.1.14.MW1 Arb Survey_Ashton_Rev 2)	Approximate no. of trees affected		Lost / Comment	Girth			
1		Sambucus nigra (Elder)	Self-sown multi-stem shrub in wall base (rather than a tree)			n/a	
2	0	Salix cinerea (Grey willow)	Retained			n/a	
3		Sambucus nigra (Elder)	Self sown shrub on embankment self-sown multi-stem shrub (rather than a tree)			n/a	
4		Sambucus nigra (Elder)	Self sown shrub on embankment self-sown multi-stem shrub (rather than a tree)			n/a	
5	0	Sambucus nigra (Elder)	Retained			n/a	
6	0	Betula pendula (Silver birch)	Retained			n/a	
7		Betula pendula (Silver birch)		1.40 estimated		3	3
8		Acer pseudoplatanus (Sycamore)		1.25 estimated		2	2
9		Betula pendula (Silver birch)		1.30 estimated		2	2
10	0	Salix cinerea (Grey willow)	Retained			n/a	
					TOTAL		7

TREES – PROPOSED FENCE INSTALLATION AREA (see BIO1.14 BIO.1.14.MW1 Arb Survey_Ashton_Rev 2)	Approximate no. of trees affected		Lost / Comment	Girth			
11		Acer pseudoplatanus (Sycamore)		1		4	4
12		Acer pseudoplatanus (Sycamore)		1		3	3
13		Acer pseudoplatanus (Sycamore)		1		3	3
14		Acer pseudoplatanus (Sycamore)		1		2	2
15		Fraxinus excelsior (Ash)		1		3	3
					TOTAL		15

TREES – PROPOSED PEDESTRIAN RAMP AREA (see BIO1.14 BIO.1.14.MW1 Arb Survey_Ashton_Rev 2)	Approximate no. of trees affected		Lost / Comment	Girth			
16	0	Acer pseudoplatanus (Sycamore)		0	0	3	0
					TOTAL		0

		Total Sum of tree replacements:		57
		Replacement trees planted at Clanage Road		35
		Replacement trees to pay for		22

NOTES ABOUT COPPING: Most of the young tree species will thrive from being coppiced during construction. The only exceptions are Acer Platanoides and Acer pseudoplatanus where shoots will arise from adventitious buds on the stump. As such, if possible as much stump to be left possible.

		Cost per tree:		765.2
		Total mitigation planting cost:		€ 6,834.62



**24. APPENDIX 5 – BCC COMMENTS ON THE EXAMINING AUTHORITY'S RECOMMENDED AMENDMENTS TO THE DCO AND APPLICANT'S COMMENTS**

## **Appendix 5**

**Bristol City Council as Local Planning Authority's comments on  
Applicant's responses to proposed changes to requirements in Schedule 2  
of the dDCO as suggested in ExA's recommended amendments to the  
Applicant's draft DCO submitted at Deadline (D)6 [REP6-008]**

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>SCHEDULES</b>					
<b>Schedule 2</b> <b>Requirement 5</b> <i>Construction Environmental Management Plan</i>	5(6) Where a part of the authorised development – (a) is not within a relevant stage or associated development connected with a relevant stage; or (b) does not consist of preparatory activities then that part of the authorised development must be carried out in accordance with the COCP and the Master CEMP.	5(6) Where a part of the authorised development – (a) is not within a relevant stage or associated development connected with a relevant stage; or (b) does not consist of preparatory activities then that part of the authorised development must be carried out in accordance with the COCP, <del>and the</del> Master CEMP <b>and the CTMP.</b>	For consistency	The Applicant has included the suggested change in the revised dDCO but used the definition CTMP – Construction Traffic Management Plan" for consistency.	<b>Noted and agreed.</b>



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement 8</b> <i>Temporary fencing</i>	8(4) The fencing must be removed to the satisfaction of the relevant planning authority	8(4) The fencing must be removed <b>in accordance with the approved removal timetable</b> to the satisfaction of the relevant planning authority.	For precision and enforceability	Agreed and included in revised draft submitted at deadline 7.	As set out in BCC's responses at ISH4 on the dDCO, BCC was satisfied that this provided the flexibility to the Applicant and the LPA to deal with this issue on a case-by-case basis.

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement 9</b> <i>Highway Access</i>	9(2) The approved highway alterations and improvements, including any altered or new accesses and temporary haul roads, for that stage must be implemented in accordance with the approved details and timetable.	9(2) The approved highway alterations and improvements, including any altered or new accesses and temporary haul roads, for that stage must be implemented in accordance with the approved details and timetable <b>and that stage of the authorised development must not commence until these works have been completed.</b>	To ensure highway safety and for precision and enforceability	The Applicant has not made the proposed change. Given the scale of some stages (for instance, Stages 1 and 2 are several miles in length and involve a number of components, the applicant does not believe the whole of a stage needs to be constrained as suggested by the ExA and there could be significant implications for construction programme. The Applicant suggests that	<b>BCC is satisfied that it would retain sufficient control via the approval of an agreed timetable for new highway accesses etc. Any timetable would need to be agreed in sufficient time to avoid delay to the determination of any requirements.</b>

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
				the control in Requirement 9(1) to provide a timetable provides sufficient control for the relevant planning authority and relevant highway authority	



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement 14</b> <i>Avon Gorge Woodland SAC</i>	14(3) Work to remove, install or replace security fencing in the Avon Gorge Woodland SAC must not commence before details of the location, siting and design of the fencing together with any required site clearance and working space, have been submitted to and approved by the relevant planning authority in consultation with Natural England. The details submitted for	14(3) Work to remove, install or replace security fencing in the Avon Gorge Woodland SAC must not commence before details of the location, siting, <b>colour</b> and design of the fencing together with any required site clearance and working space, have been submitted to and approved by the relevant planning authority in consultation with Natural England. The details submitted for approval must be located within the areas shown for fencing in the habitat impacted by construction works within the Avon Gorge Vegetation Management Plan and any permanent security	<p><b>Colour</b> – the Examining Authority (ExA) consider that due to sensitivity of location control over the colour of any fencing would be necessary</p> <p><b>for railway operational safety reasons the relevant planning authority gives written consent to any variation</b> – the insertion of this wording would give the Applicant the flexibility to</p>	Colour - agreed and included in revised draft submitted at deadline 7.	BCC is satisfied that Network Rail retains its PD rights in respect of fencing in the Avon Gorge and that the DCO should not place burden on the NR's role as statutory undertaker.

	<p>approval must be located within the areas shown for fencing in the habitat impacted by construction works within the Avon Gorge Vegetation Management Plan and any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the relevant part of the general arrangement plans and the fencing grades summary. The works must be carried out in accordance with the approved details and the</p>	<p>fencing to be installed must be of a nature substantially in accordance with the details set out in the relevant part of the general arrangement plans and the fencing grades summary. The works must be carried out in accordance with the approved details and the installed fencing thereafter retained unless <b>for railway operational safety reasons the relevant planning authority gives written consent to any variation. unless alternative type fencing is required for railway operational safety reasons.</b></p>	<p>change the fencing if required for operational safety reasons but would mean that Requirement 35 (2) would apply so that it would ensure that in this sensitive location any variations to the fencing would not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement (ES).</p>	<p>Changes to fencing - The change has not been made as the Applicant does not believe that railway safety fencing should be regulated by the relevant planning authority, for the existing operational railway in the Avon Gorge SAC but left to Network Rail as Statutory undertaker relying on its existing permitted development rights under Part 18 Paragraph A of the Town and Country Planning (General Permitted Development) (England) Order</p>	
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Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	installed fencing thereafter retained unless alternative type fencing is required for railway operational safety reasons.			2015 (Works authorised by Local Act for development control purposes(. Any fencing changes would be subject to the Conservation of Habitats and Species Regulations 2017 application of the which will provide a control over how works are carried out in the Avon Gorge Woodlands Special Area of Conservation.	



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement</b> <b>24</b> <i>For the protection of bats</i>	24(1) Work Nos 1, 1A, 1B and 1C must not commence until written details of the proposed tree planting on the A369 Portbury Hundred classified road must have been approved in writing by the relevant planning authority in consultation with the relevant highway authority. The details submitted for approval must accord with the Portbury Hundred location of additional tree planting plans.	24(1) Work Nos 1, 1A, 1B and 1C must not commence until written details of the proposed tree planting on the A369 Portbury Hundred classified road must have been approved in writing by the relevant planning authority in consultation with the relevant highway authority <b>and Natural England</b> . The details submitted for approval must accord with the Portbury Hundred location of additional tree planting plans.	As the tree planting is proposed to provide additional foraging for commuting bats the ExA consider that it would be appropriate that Natural England should be consulted on the details	Agreed and included in revised draft submitted at deadline 7.	Noted and agreed.

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement 25</b> <i>Permanent fencing outside of Avon Gorge Woodlands SAC</i>	25(1) subject to paragraphs (2) and (3) and without affecting requirement 31(4) a stage of the works must not commence until written details of any permanent security fencing to be installed in connection with the that stage, together with a timetable for its installation, have been submitted to and approved by the relevant planning authority. (2) Where new fencing is to be provided that does not fall	25(1) subject to paragraphs (2) and (3) and without affecting requirement 31(4) a stage of the works must not commence until written details of any permanent security fencing to be installed in connection with that stage, together with a timetable for its installation, have been submitted to and approved by the relevant planning authority. (2) Where new fencing is to be provided that does not fall within a stage, and is outside of the Avon Gorge Woodlands SAC any permanent security fencing to be installed must be of a nature substantially in	The insertion of this wording would give the Applicant the flexibility to change the fencing if required for operational safety reasons but would mean that Requirement 35 (2) would apply so that it would ensure that in this location any variations to the fencing would not give rise to any materially new or materially different environmental effects from those assessed in the ES	The change has not been made as the Applicant does not believe that railway fencing safety should be regulated by the relevant planning authority, but left to Network Rail as statutory undertaker relying on permitted development rights under Part 8 Paragraph A of the Town and Country Planning (General Permitted Development) (England) Order 2015,	BCC is satisfied that Network Rail retains its PD rights in respect of fencing in the Avon Gorge and that the DCO should not place burden on the NR's role as statutory undertaker.



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>within a stage, and is outside of the Avon Gorge Woodlands SAC any permanent security fencing to be installed must be of a nature substantially in accordance with the details set out in the general arrangement plans and the Fencing grades Summary.</p> <p>(3) Any new permanent security fencing must be installed in accordance with the approved details and thereafter retained unless</p>	<p>accordance with the details set out in the general arrangement plans and the Fencing grades Summary.</p> <p>(3) Any new permanent security fencing must be installed in accordance with the approved details and thereafter retained unless <b>for railway operational safety reasons the relevant planning authority gives written consent to any variation. <del>Alternative type fencing is required for railway operational safety reasons.</del></b></p>		<p>being Development by railway undertakers on their operational land, required in connection with the movement of traffic by rail. In circumstances where safety is a concern or regulations require changes to railway fencing, the approval of the relevant planning authority should not be a necessary prerequisite to the change to fencing.</p>	



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	alternative type fencing is required for railway operational safety reasons.				

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement 27</b> <i>Portishead Station</i>	27(1) Work No 5 (Portishead Station) must not commence until written details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved in writing by the relevant planning authority, the authority acknowledging the necessity for the lighting to comply with Railway Industry Standards.	27 (1) Work No 5 (Portishead Station) must not commence until written details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved <del>in writing</del> by the relevant planning authority, the authority acknowledging the necessity for the lighting to comply with Railway Industry Standards. (2) Work No 5 must not commence until written details of any GSM-R mast to be located at Portishead Station have been submitted to and approved by the	(1) In writing is not necessary as this would be delivered by Requirement 34  (3) the inclusion of the wording 'of any proposals' provides ambiguity the deletion is recommended to provide clarity and enforceability  (4) has been inserted at the request of the Environment Agency [REP6-038]	(1) the words "in writing" no longer appear in Requirement 27(1)). (3) The words were included to allow for it proving to not be possible for the provision of on-site energy generation at Portishead station. The words have been removed.  (4) This has been included subject to "Shall" being replaced by "must".	Not relevant to BCC.

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>(2) Work No 5 must not commence until written details of any GSM-R mast to be located at Portishead Station have been submitted to and approved by the relevant planning authority. The GSM-R mast must not exceed 12 meters in height from the proposed track bed level of Work No 1 at Portishead Station.</p> <p>(3) Work No 5 must not commence until written details of any proposals for the inclusion of on-site energy generation to be</p>	<p>relevant planning authority. The GSM-R mast must not exceed 12 meters in height from the proposed track bed level of Work No 1 at Portishead Station.</p> <p>(3) Work No 5 must not commence until written details of any proposals for the inclusion of on-site energy generation to be incorporated within the detail design for Portishead Station have been submitted to and approved by the relevant planning authority.</p> <p>(4) <b>Work No 5 must not commence until a Flood Risk Assessment (FRA) for this work</b></p>			



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	incorporated within the detail design for Portishead Station have been submitted to and approved by the relevant planning authority. (4) work No 5 must be carried out in accordance with the approved details.	<b>has been submitted to and approved by the relevant planning authority in consultation with the Environment Agency. If the FRA concludes that Work No 5 is at risk of flooding then the FRA shall include details of the mitigation, such as a flood emergency and evacuation plan, that would be required to ensure that the station and users would remain safe should a flood event occur.</b> (5) work No 5 must be carried out in accordance with the approved details.			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2 Requirement 30</b> <i>Works affecting M5 Junction 19</i>	30 (3) All morning shift construction staff arriving by private car at the J19 compounds will be told in advance to arrive no later than 7.30am or no earlier than 9am (Monday to Friday)("the restricted hours")	30 (3) All morning shift construction staff arriving by private car at the J19 compounds will be told in advance to <b>not</b> arrive <del>no later than between the hours of 7.30am or no earlier than</del> <b>and</b> 9am (Monday to Friday)("the restricted hours")	For precision	Agreed and included in revised draft submitted at deadline 7.	Not relevant to BCC.
<b>Schedule 2 Requirement 31</b> <i>Clanage Road, Bristol</i>	31 (1) Works 26, 26A and 26B must not commence until a flood plan which details – (a) the emergency and evacuation procedures for the use of the	31 (1) Works 26, 26A and 26B must not commence until a flood plan which details – (a) the emergency and evacuation procedures for the use of the temporary and permanent compound; (b) the location,	(if appropriate) – deleted as requested by Bristol City Council [REP6-029]  (4) wording changed to provide clarity and precision	31(1) amended in Deadline 7 dDCO.  (4) amended in Deadline 7 dDCO.  The Applicant	Noted and agreed.



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	temporary and permanent compound; (b) the location, height above ground level and the duration on site (if appropriate) of the welfare facility on the temporary compound; and (c) the means to remove materials stored at the temporary and permanent compound in the event of flooding; have been submitted to and approved in writing by the relevant planning authority in	height above ground level and the duration on site <del>(if appropriate)</del> of the welfare facility on the temporary compound; and (c) the means to remove materials stored at the temporary and permanent compound in the event of flooding; have been submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency and the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority. (2) the landscaping	which the ExA consider necessary given the location of the compound within the Green Belt and adjacent to a number of designated heritage assets	has also taken the opportunity to change "shall" to "must" in the draft.	



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>consultation with the Environment Agency and the lead local flood authority. The approved flood plan must thereafter be complied with to the satisfaction of the relevant planning authority.</p> <p>(2) the landscaping and planting forming part of Work No 26 must be carried out in accordance with the relevant design drawing prior to first use of Work No 26 as a permanent maintenance</p>	<p>and planting forming part of Work No 26 must be carried out in accordance with the relevant design drawing prior to first use of Work No 26 as a permanent maintenance compound. Any tree or shrub planted as part of the landscaping that, within a period of five years after planting is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as originally planted, unless the relevant planning</p>			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	compound. Any tree or shrub planted as part of the landscaping that, within a period of five years after planting is removed, dies or becomes in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as originally planted, unless the relevant planning	authority gives written consent to any variation. (3) The regrading of the levels forming part of Work No 26 must be carried out, in accordance with the Clanage Road, compound, landscaping and access plan prior to first use of Work No 26 as a permanent maintenance compound. The levels must thereafter be maintained. (4) <del>Any permanent new fencing to be erected as part of Work No 26 shall be of paladin type and shall not exceed a height to be previously approved by the relevant planning</del>			

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	<p>authority gives written consent to any variation.</p> <p>(3) The regrading of the levels forming part of Work No 26 must be carried out, in accordance with the Clanage Road, compound, landscaping and access plan prior to first use of Work No 26 as a permanent maintenance compound. The levels must thereafter be maintained.</p> <p>(4) Any permanent new fencing to be erected as part of Work No 26</p>	<p><del>authority in writing.</del> Prior to the first use of Work No 26 as a permanent maintenance compound details of the permanent paladin type fencing including colour, height and location shall be submitted to and approved by the relevant planning authority and once installed shall thereafter be permanently maintained.</p>			



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
	shall be of paladin type and shall not exceed a height to be previously approved by the relevant planning authority in writing.				
<b>Schedule 2 New Requirement</b> <i>t Trinity Primary School Bridge</i>		(1) Work No 7 must not commence until details of any permanent lighting to be installed in connection with that work, including measures to minimise light spillage, have been submitted to and approved by the relevant planning authority. (2) Work No 7 must not commence until details of the colour	Whilst the ExA note that the submission and approval of detailed design for Trinity Primary School Bridge (Work No 7) would be delivered under Requirement 4 the ExA consider that as for other elements of the scheme (eg Portishead Station which is also included in	Agreed and included in revised draft submitted at deadline 7. Paragraph (2) has been altered to make it clear that it is for the relevant planning authority to decide if the privacy screening is needed.  Paragraph (3)	Not relevant to BCC.

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>finish of the bridge have been submitted to and approved by the relevant planning authority.</p> <p>(3) Work No 7 must not commence until details of the location, design and colour of privacy screens, if required, have been submitted to and approved by the relevant planning authority.</p> <p>(4) Work No7 must be carried out in accordance with the approved details and thereafter permanently retained.</p>	<p>Requirement 4) should the Secretary of State (SoS) grant consent then given the concerns raised during the Examination in relation to this work it is important that details in relation to permanent lighting; colour of the bridge and location, design and colour of privacy panels for the bridge are submitted for approval.</p>	<p>has been altered to make it clear that the requirement seeks the required details and not the Work to be permanently retained</p>	



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
<b>Schedule 2</b> <b>New Requirement</b> <i>Perimeter Track between Marsh Lane and the compounds under the M5 Avonmouth Bridge and on Lodway Farm</i>		(1) Work Nos 16A and 17 must not commence until: (a) a pre-commencement survey of the perimeter track between Marsh Lane and Work Nos 16A and 17 has been undertaken and submitted to and approved by the relevant planning authority. The pre-commencement survey shall include but not be limited to: (i) details of the current surfacing material; (ii) details of the sub-structure; and (iii) an assessment of whether the track as currently constructed would be able to take the volume of	The ExA consider that should the SoS grant consent the use of the perimeter track to access Work Nos 16A and 17 should not result in damage to this track and the track itself should be capable of accommodating the weight and volume of construction traffic that would need to use it.	The Applicant has amended the ExA's proposed requirement, to reflect the land powers the Applicant has in the Order and the limitations on those powers that are being proposed by the Bristol Port Company in its draft protective provisions. As the Applicant would have to carry out physical works under its temporary powers in the Order, and because Bristol Port Company is seeking an	Not relevant to BCC.



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>construction traffic that will need to access these works.</p> <p>(b) based on the results of the pre-commencement survey a Perimeter Track Strategy shall be submitted to and approved by the relevant planning authority. The Perimeter Track Strategy shall include but not be limited to:</p> <p>(i) details of what, if any, measures are required to ensure that construction vehicles can use the track to access the compounds without damaging the track;</p> <p>(i) a timescale for the implementation of any necessary measures;</p> <p>a strategy or on-going maintenance and management of the</p>		<p>absolute prohibition on temporary powers on this part of the Order land (see para 59 of the protective provisions proposed by Bristol Port Company. The Applicant must not be required to carry out physical works to the Marsh Lane Track if Bristol Port Company will not permit the Applicant to do so. In such circumstances the remedy for Bristol Port Company will be in the compensation</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		<p>track during construction; and</p> <p>(iv) details of management measures to minimise dust generation from construction vehicles.</p> <p>Work Nos 16A and 17 must be carried out in accordance with the Perimeter Track Strategy.</p> <p>(2) Within six months of the cessation of the use of the perimeter track a post-construction survey shall be submitted to and approved by the relevant planning authority. The post-construction survey shall include but not be limited to:</p> <p>(i) details of the state of the track post construction;</p>		<p>code.</p> <p>The track is also used by other parties and the requirement has been amended to reflect this.</p> <p>The Applicant has also changed "shall" to "must" in the draft.</p>	

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		(ii) details of what measures/repairs, if any, are required to ensure that the track is returned in the same or similar state to pre-commencement; and (iii) a timetable for the implementation of any measures/repairs that would be required.			
<b>Schedule 2 New Requirement</b> <i>Pill Tunnel Eastern Portal Compound Access, Ham Green</i>		Work No 24 must not commence until written details of the levels and surfacing of the Work have been submitted to and approved by the relevant planning authority. Work No 24 must thereafter be carried out and retained in accordance with	Whilst the ExA note that the submission and approval of detailed design for the Pill Tunnel Eastern Portal Compound (Work No. 24) would be delivered	Agreed and included in revised draft submitted at deadline 7.	Not relevant to BCC.



Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
		the approved details.	under Requirement 4 the ExA consider that as for other elements of the scheme (eg Portishead Station which is also included in Requirement 4) should the SoS grant consent then given the concerns raised during the Examination in relation to this work and its location in the Green Belt it is important that details in relation to surfacing and levels are		

Reference	Text as set out in the draft DCO [REP6-008]	ExA's Recommended Amendment	Reason and Notes	Applicant's comments	Local Planning Authority's Comments
			submitted for approval		

**25. APPENDIX 6 – LETTER OF INTENT SECURING A TREE REPLACEMENT CONTRIBUTION**



**Date:** 24 March 2021  
**My ref:** MetroWest Phase 1  
**Your ref:**  
**Contact:** James Willcock  
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Stephen Peacock  
Director of Growth and Regeneration  
Bristol City Council  
City Hall  
College Green  
Bristol BS1 9NE

Place Directorate  
North Somerset Council  
Town Hall  
Weston-super-Mare  
BS23 1UJ  
  
DX 8411 Weston-super-Mare

**Portishead Branch Line (MetroWest Phase 1) Development Consent Order – contribution towards replacing trees within Bristol City Council**

Dear Mr Peacock

I am writing to confirm North Somerset Council's position regarding the payment of a contribution to Bristol City Council for replacing trees in accordance with Bristol City Council's planning policy BCC policy DM17.

Upon commencement of the works to construct the MetroWest scheme within Bristol City Council's administrative area, North Somerset Council will make a payment to Bristol City Council of **£16,834.62** in consideration of the City Council's tree replacement policy, to enable North Somerset Council to discharge any policy requirements in this regard.

It has been agreed between us that:

1. the payment will be in full and final settlement of North Somerset Council's liability to Bristol City Council in relation to tree contributions; and
2. the sum paid will be allocated only to discharging the City Council's tree contribution policy as a result of the MetroWest proposals being implemented and will not be used for any other purpose.

I confirm that I will notify you at the point that works to implement MetroWest commence within Bristol City Council's Administrative area and will also at that point arrange for the payment to be made.

Could you please respond in writing to confirm that the terms above are agreed between the parties.

Yours sincerely

A solid black rectangular box used to redact the signature of James Willcock.

James Willcock  
MetroWest Phase 1 Programme Manager  
  
cc Alex Hawtin & Joanne Mansfield

[www.n-somerset.gov.uk](http://www.n-somerset.gov.uk)  
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## **26. APPENDIX 7 – NOTE ON 'TAIL PIECES' TO DCO REQUIREMENTS**

## **The Portishead Branch Line (MetroWest Phase 1) Order**

### **Drafting note: Requirements using "tailpiece" wording**

#### **1. Introduction**

1.1 A number of the Requirements in the Portishead Branch Line (MetroWest Phase 1) Order have the words "unless otherwise agreed with the relevant planning authority" inserted in them.

1.2 Planning Inspectorate in Advice Note 15 indicates that it is ordinarily acceptable to use "tailpiece" wording, on the basis that it is not acceptable to circumvent the prescribed process for making amendments to the terms of a DCO. The issue is covered in Advice Note 15, paragraphs 17.3-17.5.

1.3 As tailpiece wording appears in the Requirements set out below in Schedule 2 of the draft Order, this note provides the explanation for each tailpiece being included.

#### **2. Requirements in Schedule 2 containing "tailpiece" wording**

##### ***2.1 Requirement 3 - Stages for authorised development***

2.1.1 Requirement 3 sets out the stages of the authorised development proposed to be followed to enable the applicant to submit applications to discharges of Requirements for parts of the authorised development rather than the whole. Some 10 stages (of which some have sub-stages) are set out in Requirement 3(1) and 3(2). Identical tailpiece wording appears in Requirement 3(1) and Requirement 3(2). In addition Requirement 3(3) also allows for stages to be implemented, and covered by the approvals mechanisms within on a partial basis rather than the whole of an individual stage needing to be fully dealt with in one application.

##### *Reason for tailpiece*

2.1.2 The tailpiece wording is included here to allow for flexibility in the phasing of the authorised development. Alterations to phasing have no impact on what is actually consented but allow for the applicant and the relevant planning authorities to agree that the phasing listed in Requirement 3 (1) and 3(2) are capable of being rearranged if appropriate for the better implementation of the authorised development. It is not in any way changing the nature of the authorised development nor any findings of the ES. To require a non-material change application if it were found that the current phasing proposals were impracticable would lead to an unnecessary and cumbersome additional process.

##### ***2.2 Requirement 4 – detail design***

Requirement 4(2) states that detail design submitted to the relevant planning authority must reflect the principles of the relevant design drawings that are listed in Requirement 4, unless otherwise agreed with the relevant planning authority. This "tailpiece" is qualified by Requirement 4(3) which indicates changes must be in accordance with the principles of the Environmental Statement.

##### *Reason for tailpiece*

Tailpiece wording is included to allow some flexibility in detail design, albeit controlled by the submissions in the Applicant's Environmental Statement. The flexibility in detail design is proposed to allow for the limited level of flexibility if, following issue of development consent and the preparation of approvals under Requirement 4 it is ascertained that the detail set out in the design drawings cannot be fully complied with. To require a non-material change, were it to be found that the current proposals were impractical, would lead to unnecessary and cumbersome additional processes. Control should remain with the relevant planning authority.



### **2.3 Requirement 11 - Surface and foul water drainage**

2.3.1 Requirement 11 requires that a stage of the authorised development does not commence until the written details of the relevant drainage systems have been submitted to and approved by the local planning authority with the approval of the lead local flood authority and the Environment Agency.

2.3.2 Requirement 11(2) states that the details must be carried out as approved unless otherwise agreed with the relevant planning authority unless otherwise agreed with the local planning authority after consultation with the lead local flood authority and the Environment Agency.

#### *Reason for tailpiece*

The wording of this Requirement has been agreed with the local planning authority, lead local flood authority and Environment Agency. The tailpiece will allow for altered arrangements and the maintenance of the approved drainage if appropriate and subject to the agreement of the relevant authorities. This flexibility is required in case changes to the maintenance are proposed and to deal with the matter that is not conveniently dealt with by way of the Town & Country Planning Act regime.

**Womble Bond Dickinson (UK) LLP**

**April 2021**