



# APPLICANT'S RESPONSE TO THE EXA'S RULE 17 LETTER DATED 8 APRIL 2025: 9.33

DECARBONISATION

## Cory Decarbonisation Project

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## 1. INTRODUCTION

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- 1.1.1. This document has been prepared to respond to the Examining Authority's Rule 17 Letter – Request for Further Information following Deadline 5 Submissions (PD-016) relating to:
- Design Parameters and Maximum Development Platform Height;
  - Air Quality effects on the Inner Thames Marshes Site of Special Scientific Interest (SSSI);
  - Water Framework Directive (WFD) Assessment;
  - Flood Risk; and
  - the Outline LaBARDS (AS-004).
- 1.1.2. The Applicant has provided a response to the questions raised by the Examining Authority within **Section 2** of this document.

## 2. APPLICANT'S RESPONSE

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### 2.1. DESIGN PARAMETERS AND MAXIMUM DEVELOPMENT PLATFORM HEIGHT

#### RULE 17 LETTER: Q2.1

##### Question

- 2.1.1. Bearing in mind that the Applicant's response to ExQ2.9.2 [REP5-033], Design Principles and Design Code, Revision E (DPDC) [REP5-009] specifies at DC\_CCF 1.24 that "The CCF will have a maximum platform level of 1.3m AOD to the north of the Thames Water Access Road, and a level of 1.5m AOD to the south of the Thames Water Access Road." As the DPDC would be a certified document, should the Design Parameters (Schedule 16, column 5) in the draft Development Consent Order (dDCO) [REP5-005] be revised so that the maximum height parameter for each component, building or area takes the 1.3m or 1.5m maximum development platform height rather than the 3m currently specified?

##### Applicant's Response

- 2.1.2. At Deadline 7, the Applicant will amend Schedule 16 of the **Draft DCO** to remove reference to '*taking account of development platform of maximum 3m*'. The crucial point is that the assessments in **Chapter 5: Air Quality and Chapter 10: Townscape and Visual of the Environmental Statement (Volume 1) (APP-054 and APP-059, respectively)** have assumed maximum heights at the given Above Ordnance Datum/Above Chart Datum height, which is secured by the penultimate column of that Schedule.
- 2.1.3. The development platform does not change the point of Ordnance Datum/Chart Datum, and therefore the maximum Above Ordnance Datum/Above Chart Datum height does not need to be amended as a result of the revised development platform assumptions.

### 2.2. AIR QUALITY EFFECTS ON THE INNER THAMES MARSHES SITE OF SPECIAL SCIENTIFIC INTEREST (SSSI)

#### RULE 17 LETTER: Q2.2

##### Question

- 2.2.1. The ExA notes the positions of the parties in their D5 submissions with regard to cumulative impact on the Inner Thames Marshes SSSI. NE have made comments [REP5-045] in particular about the in-combination effects on that SSSI and the applicant's approach to the baseline scenario and how projected emissions from the Riverside 2 facility have been considered. The Applicant [REP5-023], [REP5-033] notes the matters still under discussion or not in agreement with NE and advise that they will prepare a Technical Note.

- 2.2.2. However, the next deadline any update on discussion between the parties, the Technical Note and NE's confirmation or otherwise as to whether it would be satisfactory, would be expected to be received at D6 (with a final Statement of Common Ground between the two parties at D7). Given how close to the conclusion of the examination period these are, if disagreements that are capable of resolution between the parties have not been resolved by D6 there would be very limited time in which to do so.
- 2.2.3. Consequently, both parties are requested to endeavour to ensure that matters are resolved so that this can be confirmed no later than at D6, although should information be available earlier the ExA would find it of assistance if it were submitted for consideration in advance.

### **Applicant's Response**

- 2.2.4. The Applicant and Natural England have had positive discussions as detailed in the **Natural England Statement of Common Ground (as updated alongside this submission)**. Following a meeting between the Applicant and Natural England on 12<sup>th</sup> March 2025, it was agreed that the Applicant would prepare a technical note presenting the results of the cumulative impact assessment undertaken for the Inner Thames Marshes SSSI.
- 2.2.5. The Applicant issued the methodology for the assessment to Natural England on 4<sup>th</sup> April 2025, which detailed the proposed methodology including the committed developments that will be considered as part of the cumulative impact assessment on the Inner Thames Marshes SSSI. Natural England reviewed the cumulative assessment methodology and confirmed that they were satisfied with the proposed methodology on 8<sup>th</sup> April 2025.
- 2.2.6. The Applicant prepared the Inner Thames Marshes SSSI Cumulative Effects Assessment Technical Note (in accordance with the methodology agreed with Natural England) and submitted this to Natural England on 22<sup>nd</sup> April 2025. The cumulative impact assessment demonstrates that the Proposed Scheme will not have a significant impact on Thames Marshes SSSI as the species present are not sensitive to changes in air quality.
- 2.2.7. Natural England reviewed the Inner Thames Marshes SSSI Cumulative Effects Assessment Technical Note and confirmed on 25<sup>th</sup> April 2025, that they agree with the conclusions of the assessment as detailed in the **Natural England Statement of Common Ground (as updated alongside this submission)**.

## **2.3. WATER FRAMEWORK DIRECTIVE (WFD) ASSESSMENT**

### **RULE 17 LETTER: Q2.3**

#### **Question**

- 2.3.1. The Ridgeway Users' submission at D5 [REP5-054] included comments about the Applicant's WFD Assessment, although it is noted that some of their concerns relate to ongoing potential for pollution from existing facilities. However, the ExA notes that

the EA confirmed in their D5 responses to ExA's questions [REP5-043] that "Compliance with WFD from a marine water quality perspective is now not in doubt and we have no objection to the grant of a DCO in this regard". In light of Ridgeway Users' comments please could the applicant and the EA either confirm that the scope and conclusions of the WFD assessment remain acceptable or explain whether the consideration and conclusions may have changed in light of Ridgeway Users' comments, and in either case provide an explanation for their response.

### Applicant's Response

- 2.3.2. Ridgeway Users comments Ref 1.1.2, 1.1.3 and 1.1.6 in their Written Response (REP5-054) relate to the WFD Assessment presented in **Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106)**. The WFD Assessment is an assessment of whether the Proposed Scheme will impact the water quality of the Thames Middle Transition waterbody, a designated WFD waterbody within the River Thames.
- 2.3.3. The ordinary watercourses in the form of ditches and drains within the Crossness LNR referenced in the Ridgeway Users Written Response (REP5-054) are not WFD water bodies and therefore are not required to be assessed within the WFD Assessment, the aim of which is to determine whether the proposed activity may cause deterioration or jeopardise the water body achieving good status. However, these ordinary watercourses are considered with the **Appendix 17-1: Preliminary Risk Assessment of the Environmental Statement (Volume 3) (APP-113)** as Controlled Waters and will be further considered during future site investigations following the Environment Agency's Land Contamination Risk Management (2023) Guidance.
- 2.3.4. **Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106)** also considered impacts to the Greenwich Tertiaries and Chalk (GB40602G602500) groundwater body, which lies in the Greenwich Tertiaries Operational Catchment, the Thames Groundwater Management Catchment, and the Thames River Basin District. This waterbody was screened out from further assessment due to construction activities not being expected to impact the aquifer. A full explanation is provided in **Paragraph 6.1.5** of the **Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106)**. **Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106)** and the accompanying **Sediment Sampling Technical Note (REP5-031)** was accepted by the Environment Agency, as described in the **Environment Agency Statement of Common Ground (REP5-021)**.

### **RULE 17 LETTER: Q2.4**

#### Question

- 2.3.5. The ExA is mindful of avoiding creating a possibly unfair and additional burden on the Applicant, in respect of the potential implications of an as-yet unpublished River Basin Management Plan (RBMP) for the 2028-34 cycle. The ExA further notes that

the EA states [REP5-043] that “The applicant has satisfied us as far as they reasonably can that the risks of maintenance dredging being non-compliant in the future are small...”

- 2.3.6. The EA pointed out [REP5-043] that proposed maintenance dredging would be likely to take place under a different RBMP than the one under which the EA advise the proposed development would be WFD compliant.
- 2.3.7. Consequently the EA advised that “The logical approach here would be to re-assess for any additional WFD risk the proposed maintenance dredge at least once in every subsequent RBMP cycle to ensure that the activity has not fallen out of step with the prevailing regulation.”
- i. In light of the above the applicant is asked if it considers it appropriate for any provisions to be added to the draft Deemed Marine Licence (dDML) (schedule 11 of the dDCO) [REP5-005], or indeed any certified documents, to address this.
  - ii. In light of its position, can the EA confirm that there are no implications in terms of the drafting of the dDML or the dDCO in this regard or alternatively the EA (and as appropriate the MMO) are requested to advise of any particular wording in the dDML in this respect that would be appropriate.
  - iii. The EA noted [REP5-043] that “The matter of long term (eg 10 year MMO) dredge licences vs WFD assessments valid only for the current RBMP cycle (6 years maximum) is the subject of discussion between EA and MMO and is an internal DEFRA matter which should not be taken to be prejudicial to the compliance arguments provided by the applicant.” For the avoidance of doubt, can the EA (and as appropriate the MMO) confirm that this refers to wider ongoing discussions having a wider bearing and implications than the DCO application under consideration.

#### **Applicant's Response**

- 2.3.8. The Applicant considers that no amendments are required to the DCO, DML, or certified documents. The DML provides for the Environment Agency to be consulted on the method statement for all licensable activities in the marine environment – this includes both capital and maintenance dredging.
- 2.3.9. As such, to the extent that the Environment Agency considered that any further modelling was needed at detailed design stage, it could request this as part of being consulted on such method statements. No further amendments are therefore required.



## 2.4. FLOOD RISK

### RULE 17 LETTER: Q2.5

#### Question

- 2.4.1. The EA's comments [REP5-043] in response to ExQ2.4.3 recommend “.. that, if at the detailed design stage the area of buildings excluded from flooding and the areas where equipment will make the development platform hydraulically rougher increase above that which has been modelled, that the development's impact on flooding is reassessed”. What provision has been, or should be, made within the dDCO and/or certified documents to cater for such a re-assessment following detailed design?

#### Applicant's Response

- 2.4.2. The Applicant and the Environment Agency have had positive discussions in relation to the assessment of flood risk to the Proposed Scheme as detailed in the **Environment Agency Statement of Common Ground (Revision D) (as updated alongside this submission)**.
- 2.4.3. The Applicant, in agreement with the Environment Agency, has updated the wording within the **Design Principles and Design Code (REP5-009)** in relation to the following matters:
- Land Raising - updated wording sets out an approach to minimise ground raising by setting a maximum platform level. These development levels are considered to provide a reasonable and proportionate level of flexibility for this element of the Proposed Scheme and address the concerns raised by the Environment Agency in relation to land raising.
  - Buffer Zones - Updated wording in relation to buffer zones by setting a minimum offset of 5m, from the top of the bank on existing retained watercourses to allow for maintenance, to protect habitats and for the delivery of flood compensation. The updated wording within the **Design Principles and Design Code (REP5-009)** addresses the Environment Agency's concerns in relation to Buffer Zones.
- 2.4.4. The Applicant prepared **Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)** in response to the Environment Agency's concerns regarding the potential increased residual flood risk in the event of a breach of the River Thames flood defences. **Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)** confirms an acceptable level of flood risk; with the reduction in development platform and allowing flood waters to flow across the platform in the event of a breach, enabling a significant reduction in residual flood depths and the Environment Agency have confirmed they are content with these conclusions.
- 2.4.5. The Applicant does not consider that re-assessment as part of the detailed design will be required, notably as the detailed design will be developed in accordance with the parameters and the commitments included in the **Design Principles and Design Code (REP5-009)**. Instead, the Environment Agency and the Applicant

have agreed to have a meeting every two months (post DCO) to discuss the evolving detailed design (including platform levels, equipment functions, buffer zones and set backs), as detailed in the **Environment Agency Statement of Common Ground (REP5-021)**.

- 2.4.6. If, however, the ExA/Secretary of State considered that more is needed on this matter within the consent documentation, then the Applicant considers, and accepts that this could be achieved by adding the Environment Agency as a consultee to Requirement 4; adding the words '*in consultation with the Environment Agency*' at the end of Requirement 4(1) of the **Draft DCO** .

## 2.5. OUTLINE LANDSCAPE BIODIVERSITY ACCESS AND RECREATION DELIVERY STRATEGY

### RULE 17 LETTER: Q2.6

#### Question

- 2.5.1. The Statement of Common Ground – London Borough of Bexley [REP5-019] confirms agreement between the parties and that "*The Outline LaBARDS, including the provision for management, maintenance and monitoring as set out in Rev C, is agreed*", and this is reflected in and applicant's response to ExQ2.3.1 [REP5-033]. However in LBBC's responses to ExQ2.3.1 and ExQ2.3.2 in its D5 submission [REP5-042] there is an apparent difference in expectations for monitoring provisions in the dDCO and LaBARDS including the terminology, frequency, report content, stakeholder review and agreement provisions, and mechanism for securing the monitoring. Please can the parties confirm whether there is agreement on the detailed wording of the dDCO and outline LaBARDS and if not clarify where the differences lie.

#### Applicant's Response

- 2.5.2. Since Deadline 5, the **Outline Landscape Biodiversity Access and Recreation Delivery Strategy (Outline LaBARDS) (AS-094)** has been revised to ensure that the commitments in relation to monitoring, management and maintenance are wholly aligned with the terminology used by LBB in its submissions.
- 2.5.3. The Applicant is pleased to confirm that there is agreement with LBB on the detailed wording of the **Draft DCO** and the **Outline LaBARDS (AS-094)** as confirmed in the **SoCG (AS-096)**.



## DECARBONISATION

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