

# Southampton to London Pipeline Project

## Deadline 3

Responses to Written Representations -

Statutory Undertakers

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Southampton to London  
Pipeline Project



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## 1 Responses to Written Representations – Cadent Gas Limited

Table 1.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
3	<p><b>Protective Provisions</b></p> <p>Cadent seeks to protect its statutory undertaking, and insists that in respect of works in close proximity to their Apparatus the following procedures are complied with by the Applicant: (a) Cadent has had the opportunity to review and consent to the plans, methodology and specification for works within 15 metres of any Apparatus or works which will adversely affect their Apparatus; and (b) DCO works in the vicinity of Cadent's apparatus are not authorised or commenced unless protective provisions are in place.</p> <p>The form of the Protective Provisions which Cadent are seeking appear at the Appendix to this Representation. The text highlighted in yellow remains in</p>	<p>Negotiation of the Protective Provisions between the Applicant and Cadent Gas is ongoing. The issues raised by Cadent Gas in its Written Representation (save for paragraph 3.4 in respect of which please see below) are the subject of continuing engagement and negotiation. The Applicant is confident these negotiations will be concluded satisfactorily within the term of the Examination. The Applicant will continue to keep the Examining Authority updated.</p>



WR Para Ref	Point raised	Applicant response to point raised:
	dispute as does some of the timescales for approving plans.	
<b>3.4</b>	The proposed Order does not yet contain fully agreed Protective Provisions expressed to be for the protection of Cadent to Cadent's satisfaction, making it currently deficient from Cadent's perspective nor does it address fully how property rights will be made available for the diversion of Cadent's assets to their satisfaction where compulsion, rather than agreement with a third-party land owner is necessary.	In relation to paragraph 3.4 of Cadent Gas' Written Representation, whilst the Applicant would note that, at this stage, no relocation or diversion of Cadent's apparatus is planned, in the event that such relocation or diversion were required and the Applicant were unable to acquire the rights required to accommodate any relocated or diverted apparatus (either under the powers of compulsory acquisition (CA) conferred by the DCO or by voluntary agreement), then there is a need to retain a provision requiring Cadent to take reasonable steps (including, where necessary, through the exercise of its own CA powers) to acquire those rights. This is a reasonable provision which is widely preceded and is required to facilitate the smooth delivery of this NSIP.



## 2 Responses to Written Representations – GTC

Table 2.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
N/A	Diversionary works to GTC apparatus	<p>The Applicant has been in communication with GTC and is aware that it owns a limited amount of apparatus along the route of the replacement pipeline.</p> <p>To the extent that it may be necessary to divert any of GTC's apparatus in order to construct and maintain the authorised development, and any such diversionary works are covered by a code of practice issued or approved by the Secretary of State under s.84(2) of the New Roads and Street Works Act 1991 ('the 1991 Act'), the Applicant can confirm that the need to comply with that code of practice is not disapplied by the draft DCO (<b>Document Reference 3.1 (4)</b>) and so would continue to apply.</p> <p>For the avoidance of doubt, it is the Applicant's understanding that s.84 of the 1991 Act (and any code of practice issued or approved under it) also continues to apply in parallel with the South East Permit Scheme for Road Works and Street Works and the Hampshire County Council Permit Scheme, which it is intended will be applied by the draft DCO (with modifications) to the authorised development.</p> <p>The Applicant also confirms that safe digging practices will be employed in accordance with HSG(47) - "Avoiding Danger from Underground Services" which includes obtaining utility network drawings from the utility owner.</p>

### 3 Responses to Written Representations – National Grid Electricity Transmission PLC

Table 3.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
5.1-5.5	<p><b>Protective Provisions</b></p> <p>National Grid is seeking to protect its statutory undertaking and requests compliance with specified procedures in respect of work in close proximity to its Apparatus. National Grid seeks control of the plans, methodology and specification for works within 15 metres of its Apparatus and protective provisions to be in place prior to the commencement of works.</p> <p>National Grid is continuing to liaise with the promoter with the intention of reaching agreement over a set of protection provisions for inclusion in the Order.</p> <p>National Grid considers the following issues are currently in dispute: (i) the need for insurance and surety to back up the indemnity; (ii) whether third party claims against National Grid</p>	<p>Negotiation of the Protective Provisions between the Applicant and National Grid is ongoing. A number of outstanding points including those set out in paragraphs 5.1, 5.3 and 5.4 of National Grid's Written Representation are yet to be agreed between the parties. The Applicant is continuing to engage with National Grid in order to agree these points and is confident these negotiations will be concluded satisfactorily within the term of the Examination. The Applicant will continue to keep the Examining Authority updated.</p>



WR Para Ref	Point raised	Applicant response to point raised:
	<p>recoverable under the indemnity should be in the control of the promoter to settle and the extent of the obligations on National Grid to mitigate such claims outside National Grid's control; (iii) the wording for National Grid's protection for retained apparatus; (iv) the need for crossing agreements in respect of buried cables; and (v) the appropriateness of the promoter seeking powers to carry out diversion of NG apparatus themselves, amongst other matters.</p>	

## 4 Responses to Written Representations – Network Rail Infrastructure Limited

Table 4.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
2	<p><b>Statutory Duties</b></p> <p>Network Rail considers that the compulsory acquisition of land and rights over its land is inappropriate and should instead be dealt with by way of private agreements to grant the necessary rights.</p>	<p>The Applicant is progressing negotiations with Network Rail for the acquisition of land rights in respect of Network Rail land.</p> <p>However, the Applicant does not agree that there is no compelling case in the public interest. The case set out in the Statement of Reasons (<b>Document Reference 4.1(2)</b>) for the compulsory acquisition of land and rights applies as much to Network Rail as it does to other land along the route. In addition, the Applicant does not agree that the test in section 127 of the Planning Act 2008 is not met in relation to the land and apparatus of Network Rail.</p> <p>The Applicant acknowledges that there are unique issues to consider in respect of works located in, on, under or over operational railway, but does not consider that this reason alone defeats any compelling case for the compulsory acquisition of land and rights which might otherwise exist. In any event, the Applicant is confident that the interface between the works to construct the replacement pipeline and railway network can be managed effectively through appropriate protective provisions for the benefit of Network Rail as part of the DCO, which are subject to ongoing discussion between the parties.</p>
2.4	<p><b>Network Rail Clearance</b></p> <p>Network Rail is currently applying for internal clearance in relation to the works required for the Scheme.</p>	<p>The Applicant will continue to work with Network Rail to provide the information required to enable Network Rail to continue and conclude its internal clearance process.</p>





WR Para Ref	Point raised	Applicant response to point raised:
<p><b>3.5, 3.12 and 3.13</b></p>	<p><b>Objection to Class Rights</b></p> <p>Network Rail states that the design of the Scheme proposed differs to the Class Rights set out in the Book of Reference.</p> <p>Network Rail does not agree to the Class Rights and considers that they should be dealt with by an agreement between the Applicant and Network Rail.</p>	<p>The Applicant does not agree that the class rights sought by the Applicant are deficient.</p> <p>As regards the issues raised at paragraph 3.12 of Network Rail's written representation, the Applicant can confirm that the 1200mm depth refers to the upwards vertical limits of deviation for the pipeline works and not the downwards vertical limits of deviation. The Applicant is seeking powers to install the pipeline to a depth of four metres below the surface of the ground, where the pipeline is installed using trenched construction techniques, and to 12 metres where using trenchless construction techniques. The Applicant is confident that these powers will enable it to satisfy any minimum depth requirements relevant to crossings of the railway.</p> <p>In terms of the five-year period, this is a reference to the maintenance period specified in article 30(12) of the draft DCO and relates to the Applicant's power to take temporary possession of the whole of the Order land for the purposes of maintaining the authorised development. This power is without prejudice to the permanent class 2 and 3 rights required and sought by the Applicant to maintain the replacement pipeline over its operational lifetime.</p>
<p><b>3.7</b></p>	<p><b>Level Crossing at Farnborough North</b></p> <p>Network Rail requires details of the type, size, timing and frequency of construction traffic that will use the level crossing.</p>	<p>The Applicant will work with Network Rail to assess the impact of the proposed development on this and other level crossings affected by the Works. However, the Applicant does not consider that it is necessary for Network Rail to be formally consulted on any Construction Traffic Management Plan pursuant to Requirement 7 of the draft DCO, in circumstances where appropriate protections for Network Rail's interests, rights and assets are capable of being secured by appropriate protective provisions for the protection of Network Rail in the DCO. Protective provisions are the subject of ongoing discussion in this regard.</p>



WR Para Ref	Point raised	Applicant response to point raised:
3.15	<p><b>New Requirement</b></p> <p>Network Rail proposes a new Requirement for inclusion in Schedule 2 of the draft DCO which would require Network Rail's approval of an ongoing maintenance plan for the pipeline which addresses steps to be taken in an emergency to safeguard the operational railway and those who use it.</p>	<p>The Applicant will consider any proposed wording as and when received. However, the Applicant does not as a matter of principle understand why these matters could not be more appropriately addressed through protective provisions in the DCO as opposed to a new Requirement in Schedule 2 of the draft DCO.</p>
3.17	<p><b>Protective Provisions</b></p> <p>Network Rail has provided its preferred form of Protective Provisions for inclusion in the draft DCO.</p>	<p>The Applicant is reviewing the proposed Protective Provisions provided by Network Rail as part of its written representation and will continue to engage and negotiate with Network Rail to agree a form for inclusion in the DCO.</p>

## 5 Responses to Written Representations – Thames Water Utilities Limited

Table 5.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
	<p><b>Article 17</b></p> <p>TWUL objects to the deemed consent provision set out in Article 17(9) and has proposed amended wording in this regard.</p>	<p>The Applicant does not accept TWUL's proposed amendments to article 17(9).</p> <p>The drafting of article 17(9) is designed to ensure that the construction of the authorised development is not subject to delay, in circumstances where the Applicant has taken steps to discharge its duties under the Order and the cause of any delay is with another body failing to determine an application within the relevant timescales. In the Applicant's view, TWUL's position is safeguarded by the fact that its consent is required in the first instance for discharges under article 17(4).</p> <p>Notably, TWUL has failed to indicate why it would not be able to determine applications for consent under article 17(4). The Applicant notes that the issue has not been raised by any other interested parties, which include other water and sewerage undertakers along the route of the replacement pipeline, in the context of this application.</p> <p>In the absence of a deemed consent provision, the Applicant apprehends that there will be no incentive for approving authorities to determine applications in a timely and efficient manner, knowing that consent will be deemed refused where there it fails to determine an application within the relevant timescales. Indeed, the Applicant is concerned that a deemed refusal provision could give rise to a recurring cycle of applications being submitted for approval but not determined under article 17(4), with no obvious (or expeditious) route to appeal for a non-determination.</p> <p>TWUL refer to the Silvertown Tunnel Order 2018, where the deemed approval provision was removed from the made Order. However, a deemed consent provision has been consistently approved in previous made Orders, including the following:</p> <ul style="list-style-type: none"> <li>• The National Grid (North London Reinforcement Project) Order 2014 (article 17(8));</li> </ul>



WR Para Ref	Point raised	Applicant response to point raised:
		<ul style="list-style-type: none"> <li>• The Kemsley Mill K4 Combined Heat and Power Generating Station Order 2019 (article 9(9));</li> <li>• The A19/A184 Testo's Junction Alteration Development Consent Order 2018 (article 17(9)); and</li> <li>• The National Grid (Richborough Connection Project) Development Consent Order 2017 (article 16(9)).</li> </ul> <p>For these reasons, the Applicant resists TWUL's proposal to replace deemed consent with deemed refusal in article 17(9) of the draft DCO.</p>
	<p><b>Article 29</b></p> <p>TWUL seeks modifications to article 29(4)(e) to impose an obligation upon the undertaker to remove protective measures installed over or around TWUL's assets in certain circumstances, for example where those protective measures affect TWUL's ability to maintain access to its apparatus.</p>	<p>The Applicant does not consider that the modifications sought by TWUL are necessary. Under the terms of the protective provisions offered by the Applicant, TWUL would have the ability to impose reasonable requirements for the alteration or otherwise for the protection of TWUL's apparatus, or for securing access to TWUL's apparatus (see paragraph 9 in Part 1 of Schedule 9), thus providing TWUL with an appropriate mechanism to control the installation and removal of any protective measures in respect of its apparatus.</p> <p>The Applicant notes that the Silvertown Tunnel Order 2018, which TWUL relies upon in support of its proposed amendments to article 17 of the draft DCO, contains a provision in exactly the same terms as article 29(4)(e) of the draft DCO.</p>
	<p><b>Protective Provisions and impacts upon TWUL's assets</b></p> <p>TWUL seeks a number of changes to the protective provisions</p>	<p>The Applicant notes the comments made by TWUL in relation to the protective provisions contained in Part 1 of Schedule 9 of the draft DCO. The Applicant has previously responded to TWUL on a number of these points as part of early discussions between the parties.</p> <p>To move matters forward, the Applicant has, on a number of occasions, requested a copy of TWUL's preferred form of protective provisions to be provided and these are still</p>



WR Para Ref	Point raised	Applicant response to point raised:
	contained in Part 1 of Schedule 9 of the draft DCO.	<p>awaited. The Applicant will consider the proposed protective provisions once received and will work with TWUL to agree a final form.</p> <p>Further to discussion at the Compulsory Acquisition Hearing on Wednesday 27 November 2019, a technical meeting has also been arranged for 16 January 2020, in order to discuss the concerns raised by TWUL in relation to the impacts of the proposed development on its assets.</p>

## 6 Responses to Written Representations – Transport for London (TfL)

Table 6.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
<b>Paragraph 1</b>	<p><b>Impact of the project on TfL assets and network</b></p> <p>TfL want to ensure that any potential impacts on surface or sub surface rail infrastructure including the Piccadilly Line and Elizabeth Line (Crossrail), safety and operation of the TLRN or its junctions and any delays to bus services or impacts to road users caused by road closures or diversions as a result of pipeline replacement works are minimised. Potential impacts and proposed measures should be agreed with TfL and the local transport authority. It is noted that some sections of highways land close to the London border are registered to TfL as shown on the attached plans. It is particularly important that any works potentially affecting these areas of land are the subject of early consultation with TfL.</p>	<p>It is noted that this written representation refers to attached plans, but that these are not available on the Inspectorate's website. The Applicant has met with TfL on 13 May 2019 and is aware of their land interests on the nearby A30 and on the strategic road network in London. These interests are outside of the project's Order Limits. As such TfL do not appear in the Book of Reference.</p> <p>To reduce impacts, the project has embedded design measures such as the use of trenchless crossings for trunk roads, motorways and railways. A trenchless crossing (project reference TC 042) would be used under the A30 Staines Road to avoid travel disruption in the area. Therefore, bus services along the A30 would not be affected.</p> <p>There are no TfL rail services affected by this proposal. The closest rail line to the TfL local transport authority area would be the Waterloo to Reading Railway Line. The Applicant has engaged with Network Rail and where crossing railway infrastructure the project would use trenchless crossings to avoid disruption to the rail services.</p>



## 7 Responses to Written Representations – West London Pipeline and Storage Limited (WLPS)

Table 7.1: Applicant response to Written Representation

WR Para Ref	Point raised	Applicant response to point raised:
1-8	<p><b>Negotiation of Protective Provisions</b></p> <p>Discussions between the parties in relation to the Protective Provisions are ongoing. Most drafting is agreed with the exception of the notice period to be given for work to WLPS' assets and costs recovery. WLPS hopes to agree the final issues with the applicant and will withdraw its representation at that point.</p>	<p>Negotiation of the Protective Provisions between the Applicant and West London Pipeline and Storage Limited is ongoing with the majority of points now agreed or substantively agreed between the parties. The Applicant is confident agreement will be reached on the limited outstanding points imminently and that these negotiations will be concluded within the term of the Examination. The Applicant will update the Examining Authority on agreement being reached.</p>