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By email: [transportinfrastructure@dft.gov.uk](mailto:transportinfrastructure@dft.gov.uk)

Dear Sir/Madam,

**The A122 (Lower Thames Crossing) Development Consent Order 2025 – A122 Lower Thames Crossing Development Consent Order 2025 - Non-Material Change Applications - Request for Reduced Consultee List**

## **1 Proposed Non-Material Change Applications**

- 1.1 National Highways is intending to submit two separate, concurrent applications to seek two non-material changes (NMCs) to the above order (the DCO). The nature of the changes sought is very limited, and can be explained as follows:
- i. **NMC application 1 (NMC-1)** – an application to modify the wording of a mitigation commitment in the DCO relating to a 60mph speed limit in the westbound direction between junctions 26 and 27 of the M25, which was imposed by the SoS to ensure that there is no Adverse Effect on Integrity on Epping Forest Special Area of Conservation (**SAC**) as a consequence of traffic emissions leading to increases in nitrogen deposition, NO<sub>x</sub> and NH<sub>3</sub>, and to implement air quality monitoring in this location. See **Appendix 1** for a detailed explanation of NMC application 1.
  - ii. **NMC application 2 (NMC-2)** – an application to modify article 65 of the DCO, to change the timing associated with reaching agreement over the quantum of an enhancement fund for Kent Downs National Landscape (**KDNL**) Unit, and to allow for a payment schedule to be agreed. See **Appendix 2** for a detailed explanation of NMC application 2.
- 1.2 Pursuant to regulation 7(2) of Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (the **2011 Regulations**), the Applicant must consult specific parties about the proposed non-material changes to the DCO, unless it has obtained written consent of the Secretary of State that it need not do so.
- 1.3 As outlined in Appendices 1 and 2, the non-material changes are very limited in scope and do not affect the substantive outcome that was sought to be

achieved by the drafting contained in the DCO as made by the Secretary of State (**SoS**).

- 1.4 Given the limited nature of the changes, the Applicant considers that it would be disproportionate – in the case of both NMC applications – to consult the full extent of the parties specified in regulation 7(2). For that reason NH is seeking the consent of the SoS to use her powers under regulation 7(3) of the 2011 Regulations to reduce the list of parties to be consulted, as follows:

**NMC 1 – Epping Forest air quality mitigation measure – proposed consultees**

- Natural England
- Essex County Council
- Epping Forest District Council
- Forestry Commission
- City of London Corporation (landowner)

**NMC 2 – KDNL enhancement fund – proposed consultees**

- Kent Downs National Landscape
- Kent County Council
- Natural England
- Gravesham Borough Council

- 1.5 For NMC 1 in relation to the Epping Forest mitigation measure, Natural England and the Forestry Commission are in relevant interested parties in respect of the impact upon Epping Forest, by reason of their statutory functions. The relevant land is owned by the City of London Corporation and which falls within the Essex County and Epping Forest District Council areas. These represent the appropriate list of consultees for this NMC, which concerns minor technical changes to the implementation of the commitment, in particular air quality monitoring. It is not considered necessary or proportionate to consult any other parties.
- 1.6 For NMC 2 in relation to the KDNL enhancement fund, under article 65 agreement on fund quantum is required only with the KDNL Unit and Natural England, and no other parties. We understand that KDNL Unit's agreement in turn requires governance input from Kent County Council (**KCC**), and since the interface with the National Landscape falls within the administrative areas of both KCC and Gravesham Borough Council, both have been included as consultees. These represent the appropriate list of consultees for this NMC, which is minor in effect and concerns only the timing of reaching agreement, by de-linking this from commencement of DCO works north of the River Thames which have no impact on KDNL. It is not considered necessary or proportionate to consult any other parties.
- 1.7 To assist the SoS's decision-making in respect of this request, **Appendices 3 and 4** to this letter set out in full the "default" list of consultees for the purposes of regulation 7(2), with in each case the Applicant's reasoning for requesting a reduction in consultees to those listed in above.
- 1.8 NH notes that the general public would still be notified of the applications pursuant to NH's obligation to publicise the applications in accordance with

Regulation 6. Therefore interested parties are permitted to submit representations in respect of the application through that route.

- 1.9 NH also notes, in support of this request, that it is consistent with Government policy, and in particular the Written Ministerial Statement dated 23 April 2025 which notes that consultation requirements have led to "consultation fatigue and confusion for communities"; longer, more technical and less accessible documentation" and highlights "the importance of developers taking a proportionate approach to avoid repeated consultations". Whilst that Written Ministerial Statement was made in respect of pre-application consultation on DCO applications, the Applicant considers that this applies with equal force to these technical, and non-material, changes sought.
- 1.10 We look forward to hearing from you in respect of this regulation 7(3) request, at your earliest convenience.

Yours sincerely

Dr Tim Wright

Head of Consents – Lower Thames Crossing

## Appendix 1 – Supporting Statement for NMC-1

(Attached separately)

## Appendix 2 – Supporting Statement for NMC-2

(Attached separately)

## Appendix 3 – Justification for reduced consultee list

2011 Regulation	Prescribed ‘default’ consultee under regulation 7(2)	Applicant’s regulation 7(3) proposal / justification for reduced consultee list	
		NMC 1 – Epping Forest air quality mitigation measure	NMC 2 – Kent Downs National Landscape enhancement fund
7(2)(a)	Each person for whose benefit the DCO, to which the non-material change application relates, has effect.	<p>Under article 7(1) of the DCO provides that, subject to article 7(2), NH has the benefit of the powers contained in the DCO, including the powers which are relevant to NMC 1 and NMC 2.</p> <p>The purpose of article 7(2) is simply to clarify that works in the DCO for the express benefit of others, are not prevented from benefitting them due to article 7(1). It does not give rise to additional consultees here because:</p> <ul style="list-style-type: none"><li>- the subject matter of NMC 1 and NMC 2 does not engage any “works” authorised by the DCO; and</li><li>- key interested parties in relation to NMC 1 and NMC 2 are already proposed as consultees, as listed in this letter.</li></ul>	
7(2)(b)	Each person that was, in accordance with section 56 of the Planning Act 2008 (the <b>2008 Act</b> ), notified of the DCO application which is the subject of the non-material change application.	See below:	See below:
	<i>Parties required to be notified of the DCO application pursuant to section 56(2) of the 2008 Act are as follows:</i>		
	a) prescribed bodies (s56(2)(a)). These are the bodies listed in Schedule 1 of the	a) These bodies are set out in column one of the table at <b>Appendix 4</b> . The Applicant has included in the column two of the table at	

	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.	Appendix 4 its proposals for consultation of each of these bodies for NMC applications 1 and 2, including a brief explanation for its rationale.	
	b) the Marine Management Organisation (MMO) (if applicable – see s56(2A)) (s56(2)(aa))	b) The position in relation to the MMO is included in the list at <b>Appendix 4.</b>	
	c) each local authority within s56A (s56(2)(b))	c) The Applicant proposes to consult only with <b>Epping Forest District Council</b> and <b>Essex County Council</b> in respect of NMC 1. The land affected by the relevant mitigation measure falls within the administrative boundaries of these local authorities, and does not affect any other local authority within s56A of the 2008 Act.	c) The Applicant proposes to consult only with <b>Gravesham Borough Council</b> and <b>Kent County Council</b> in respect of NMC 2. The extent of the Order Limits within the Kent Downs National Landscape is limited to land within the administrative areas of these local authorities. Any wider interests are adequately represented by the Kent Downs National Landscape Unit, which is ultimately the key consultee in respect of NMC 2.
	d) the Greater London Authority if in Greater London (s56(2)(c))	d) The mitigation measure relates to land entirely outside of Greater London.	d) The enhancement fund relates to land entirely outside of Greater London.
	e) each person in s57 (these are the persons with an interest in the DCO Order Limits) (s56(2)(d))	e) The relevant landowner in respect of Epping Forest SAC, being the <b>Corporation of the City of London</b> , is proposed as a consultee. The	e) The proposed enhancement fund is to be deployed across the entire Kent Downs National

		only other relevant landowner, in respect of air quality monitoring locations, is NH, the applicant.	Landscape, on projects which support its conservation and enhancement. There is no specifically identifiable land interest holder within the Order Limits that has a discrete and identifiable interest in this matter. It was not a matter which engaged any person with an interest in land during the DCO process.
7(2)(c)	Any other person who may be directly affected by the changes proposed in the non-material change application	All bodies directly affected by the proposed change are proposed as consultees	All bodies directly affected by the proposed change are proposed as consultees



## Appendix 4 – Prescribed bodies proposal / justification

Prescribed consultee	Applicant's regulation 7(3) proposal / justification for reduced consultee list	
	NMC 1 – Epping Forest air quality mitigation measure	NMC 2 – Kent Downs National Landscape enhancement fund
The Welsh Ministers	N/A	N/A
The Scottish Executive	N/A	N/A
The relevant Northern Ireland Department	N/A	N/A
The Secretary of State for Defence	Not relevant to this consultee – does not affect current or future operation of a site identified in a safeguarding map and all developments in the marine area	Not relevant to this consultee – does not affect current or future operation of a site identified in a safeguarding map and all developments in the marine area
The relevant parish council, or, where the application relates to land in Wales or Scotland the relevant community council	The relevant local authorities proposed to be consulted are sufficient to represent local interests	The relevant local authorities proposed to be consulted are sufficient to represent local interests
The Environment Agency (EA)	The proposed change does not affect the EA's functions	The proposed change does not affect the EA's functions
The Scottish Environment Protection Agency	N/A	N/A
Natural Resources Wales	N/A	N/A
Natural England	<b>Proposed consultee for NMC application 1</b>	<b>Proposed consultee for NMC application 2</b>
Scottish Natural Heritage	N/A	N/A

The Forestry Commission	<b>Proposed consultee for NMC application 1</b>	Not relevant to this consultee
The relevant AONB Conservation Boards	Not relevant to this consultee	<b>Kent Downs National Landscape (AONB) Unit is a proposed consultee for NMC application 2</b>
The Historic Buildings and Monuments Commission for England	Not relevant to this consultee – the proposed amendment has no impact on cultural heritage	Not relevant to this consultee – the proposed amendment has no impact on cultural heritage
Royal Commission on Ancient and Historical Monuments of Wales	N/A	N/A
The Joint Nature Conservation Committee	Natural England, as a proposed consultee, will represent the interests of nature conservation	Natural England, as a proposed consultee, will represent the interests of nature conservation
The Maritime and Coastguard Agency	Not relevant to this consultee	Not relevant to this consultee
The relevant Internal Drainage Board	N/A – the proposed amendment does not increase the risk of flooding in that area or where the proposals relate to an area known to be an area of flood risk	N/A – the proposed amendment does not increase the risk of flooding in that area or where the proposals relate to an area known to be an area of flood risk
The Canal & River Trust	Not relevant to this consultee	Not relevant to this consultee
The British Waterways Board (Scottish Canals)	N/A	N/A
Trinity House	Not relevant to this consultee	Not relevant to this consultee
The relevant highways authority	The proposed change does not affect any local highways	Not relevant to this consultee
The Secretary of State for Transport	<b>The application is being made to the Secretary of State for Transport</b>	<b>The application is being made to the Secretary of State for Transport</b>

Integrated Transport Authorities (ITAs) and Passenger Transport Executives (PTEs)	The application will not affect transport within or to an integrated transport area within a PTE or ITA	The application will not affect transport within or to an integrated transport area within a PTE or ITA
Transport for London	The proposed change does not affect any GLA roads	Not relevant to this consultee
The Civil Aviation Authority	Not relevant to this consultee	Not relevant to this consultee
The Health and Safety Executive	Not relevant to this consultee	Not relevant to this consultee
United Kingdom Health Security Agency	Not relevant to this consultee	Not relevant to this consultee
National Health Service England	Not relevant to this consultee	Not relevant to this consultee
National Health Service Trusts Wales	N/A	N/A
The relevant Health Board (Scotland)	N/A	N/A
The relevant local Health Board (Wales)	N/A	N/A
Relevant statutory undertakers	Not relevant to this consultee	Not relevant to this consultee
The Coal Authority	Not relevant to this consultee	Not relevant to this consultee
The Crown Estate Commissioners	No Crown interests are affected by the change	No Crown interests are affected by the change
The relevant police authority	Not relevant to this consultee – the change has no impact of the enforcement of the 60 mph mitigation measure	Not relevant to this consultee
The relevant ambulance service	Not relevant to this consultee	Not relevant to this consultee
The relevant fire and rescue authority	Not relevant to this consultee	Not relevant to this consultee
A person who manages any property, rights or interests to which section 90B(5)	N/A	N/A

of the Scotland Act 1998 to which section 90B(5) applies		
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**Note:** “relevant” in relation to a body, shall mean the body which has responsibility for the location where the proposals may or will be sited. For completeness, regulation 7(2)(b) sets out that “each person that was, in accordance with section 56, notified of the application for the development consent order which is the subject of the application”. The list of those bodies who were prescribed changed following the section 56 notices issued in respect of the Lower Thames Crossing under the Infrastructure Planning (Miscellaneous Provisions) Regulations 2024/332. The only bodies who are not listed above, and which were removed under those later regulations, are the Office for Nuclear Regulation (whose functions are not affected by the proposed changes), the strategic highways company (which, in this case, is the Applicant itself), the Marine Management Organisation (whose functions are not affected by the proposed changes).