Hampshire Water Transfer and Water Recycling Project

The Applicant's written summaries of oral submissions at OFH1 and ISH1 and post hearing actions

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1 Introduction

1.1 Purpose of this document

1.1.1 The purpose of this document is to provide Southern Water Services Limited's (hereafter referred to as 'the Applicant') written summaries of oral submissions made at the Open Floor Hearing (OFH1) and Issue Specific Hearing 1 (ISH1) for the Hampshire Water Transfer and Water Recycling Project (hereafter referred to as 'the Project').

1.1.2 The Rule 8 letter [PD-006] requests that, at Deadline 1, written summaries of oral submissions made at the Preliminary Meeting (PM) or hearings are submitted to the Examining Authority (ExA). The Applicant has not provided a written summary of its representations made at the PM as procedural decisions have since been made in the Rule 8 letter [PD-006] and Rule 17 letter [PD-007] and a summary of the key points discussed is contained in the Preliminary Meeting Note [EV3-005].

1.1.3 The Applicant has also responded to actions number 2, 3, 4, 6 and 9 in the Action Points from Issue Specific Hearing 1 [EV5-009] published by the Planning Inspectorate on 19 November 2026 (referred to as Ref ISH1-02, ISH1-03, ISH1-04, ISH1-06 and ISH1-09 in Table 3-2 of this document) in the appendix to this document. Actions number 1(a), 1(b), 1(c), and 5 (referred to as Ref ISH1-01(a), ISH1-01(b), ISH1-01(c) and ISH1-05 in Table 3-2 in this document) have been responded to in separate documents, namely The Applicant's response to ISH1 post hearing action 1(a) (Document Reference 8.17, DCO Volume 8, Version 0), The Applicant's response to ISH1 post hearing action 1(b) and 1(c) (Document Reference 8.14, DCO Volume 8, Version 0), and the Other Consents and Licences Position Statement (Document reference 5.4, DCO Volume 5, Version 1).

2 Open Floor Hearing 1

2.1 Written summary of the Applicant's oral submissions made at OFH1

2.1.1 OFH1 was held on Wednesday 11 November 2026 at Fareham Innovation Centre, Merlin House, 4 Meteor Way, Fareham, Lee-on-the-Solent, PO13 9FU, and virtually via Microsoft Teams. The Agenda for OFH1 [EV2-002] was published in advance, on 4 November 2026. Table 2-1 provides a summary of the submissions made on behalf of the Applicant at OFH1.

2.1.2 OFH1 gave Interested Parties (IPs) who had registered to speak the opportunity to make oral representations to the Examining Authority (ExA), and others the same opportunity at the ExA's discretion. The ExA requested that any post-hearing documents, including written summaries from individuals who spoke, be submitted by Deadline 1. Item 4 in Table 2-1 provides only a high-level summary of the other parties' oral submissions for context.

Table 2-1 Summary of oral submissions made at OFH1

Agenda item	Written summary of the Applicant's oral submissions
Item 1 – Welcome, introductions, and arrangements for the hearing	The ExA introduced the panel, the Planning Inspectorate case team, and a planning inspector observing for training purposes. The ExA noted that it was aware of separate ongoing criminal proceedings involving the Applicant and former employees concerning environmental compliance matters – the ExA requested that no submissions be made that could risk prejudicing those proceedings.
Item 2 – Purpose of the open floor hearing	The ExA explained that OFH1 allowed registered interested parties (IPs) to make oral submissions and for the panel to ask questions about the evidence presented. The Applicant would then have the opportunity to respond orally, and matters needing more detail could be addressed in writing by Deadline 1.
Item 3 – confirmation of speakers	1. Susan Cook (on behalf of herself and constituents as a Councillor for Winchester City Council) 2. Henry Brice (on behalf of Landowners (professional agent)) 3. Paul Vignaux (on behalf of the Test and Itchen Association) 4. Martin Burton (on behalf of the Upper Itchen Restoration Community Interest Company) 5. Bianca Carr (on behalf of Save Our South Coast Alliance (SOSCA)) 6. Bethel Hawdon 7. Phillip Michael William Ireland 8. Howard Smith 9. Andrew Newbery

Agenda item	Written summary of the Applicant's oral submissions
	10. Suella Braverman MP (Member of Parliament for Fareham and Waterlooville) 11. Chris Stanley (Rowlands Parish Council) 12. Liam Bailey-Morgan (on behalf of himself and constituents as a Councillor for Winchester City Council) 13. David Snoswell 14. Laura Cooper
Item 4 – oral representations from IPs and non-IPs	**4.1 Cllr Susan Cook** Cllr Susan Cook, councillor for Colden Common and Twyford, spoke on behalf of the residents of Wardle Road and Highbridge Road, Highbridge, about construction compound L-10. Cllr Cook made submissions on site selection, alternatives, lack of consultation, safety, lighting, traffic, working hours and impacts on the nearby River Itchen. Cllr Cook noted that a site visit with residents and the Applicant was held on 13 October 2026 following which a note was issued by the Applicant providing further explanation on the matters discussed at that meeting. Cllr Cook asked the Applicant to consider tunnelling from the opposite direction to avoid using the whole field and ExA asked her to provide detail on the tunnelling suggestion at Deadline 1. **4.2 Henry Brice** Henry Brice, partner of Ian Judd & Partners, spoke on behalf of around 35 landowners and occupiers affected by the pipeline route. Mr Brice made submissions in relation to lack of meaningful negotiation and failure to build trust. He raised concerns on uncertainty over detailed design, construction methodology, route alignment and working widths. He questioned whether the powers are necessary, proportionate and no more extensive than required, whether the Applicant can evidence how it will use the land, and whether alternatives to compulsory acquisition have been explored. Mr Brice also questioned whether local knowledge of ground conditions, including land that is waterlogged for much of the year, had been taken into account in the Applicant's assessments. **4.3 Oral representations: Paul Vignaux** Paul Vignaux, Executive Director of the Test and Itchen Association, spoke on behalf of the Association. Mr Vignaux submitted that the Applicant clearly sets out the need to reduce damaging abstraction but that more could be done to articulate why over-abstraction harms river flora and fauna. He referred to University of Exeter research. It confirmed that the salmon of the Test, Itchen and Meon form a genetically distinct metapopulation adapted to chalk streams, and are proposed for listing as a subspecies. He noted that they are endangered, below their conservation limit and close to local extinction. He explained that this year's low flows delayed migration, increasing

Agenda item	Written summary of the Applicant's oral submissions
	energy loss, difficulty passing barriers and predation, and reducing spawning success. Mr Vignaux considered the Project important for maintaining supplies to Havant Thicket Reservoir while reducing abstraction in drought, and vital to salmon recovery, and asked the ExA to ensure these benefits are fully considered. **4.4 Dr Martin Burton** Dr Martin Burton, water resources management specialist and director of the Upper Itchen Restoration Community Interest Company (CIC), spoke on behalf of the CIC. Dr Burton explained that 2017/18 discussions with the Environment Agency (EA) led to licence changes on the Lower Test and Itchen and the Candover Brook. This prompted the Applicant to seek new sources, including Havant Thicket Reservoir with Portsmouth Water. He noted that south-east England is water stressed, that the Test and Itchen suffered droughts in recent years and that groundwater is also below the long-term average. He stated that the catchments have been in deficit for around 20 years. He referred to the EA's 2006 Test and Itchen Catchment Abstraction Management Plan, which found three of Hampshire's 20 water resource management units over-abstracted, three over-licensed and 14 with no water available. Dr Burton considered that the documentation before the examination focuses on issues rather than benefits, and that the need case in the application was not expressed strongly enough. He found no assessment of the consequences if the Project does not proceed, which he suggested may be more harmful than the issues raised. **4.5 Bianca Carr** Bianca Carr, founder of the Final Straw Foundation, spoke on behalf of Save Our South Coast Alliance (SOSCA) and the wider community. Ms Carr submitted that contaminants of emerging concern (CECs) have not been properly assessed and that they would accumulate in the reservoir. She called for independently verified evidence of what treatment removes, what remains, and how performance would be maintained. She referred to the absence of any quantitative CEC assessment. She also questioned the position on untested contaminants and breakdown products. Ms Carr noted that many CECs, such as trifluoroacetic acid (TFA), have no standards, and that standards take years to develop. She cited a survey of Thames Water customers in which indicated reduced willingness to drink tap water where water recycling is introduced, and noted the effects of pollution caused by increases in bottled water consumption. Ms Carr asked the ExA to use its first written questions to require the Applicant to identify, or else undertake, its assessment of tap water rejection, bottled water use and home treatment. She also asked it to require the Applicant to provide full pilot monitoring data from Budds Farm and Peel Common, including detection limits and process failures. *[Post-hearing note: this*

Agenda item	Written summary of the Applicant's oral submissions
	request was picked up in the list of post-hearing actions. See ISH1 in section 3.2 below.] **4.6 Beth Hawdon** Beth Hawdon, environmental toxicologist and chemist, spoke on behalf of herself and Havant Water Matters. Ms Hawdon complained of a lack of robust assessment of risks from the sewer catchment or of transformation and treatment products. She considered the data and modelling inadequate, and noted that treatment would not remove all contaminants. She expressed concern about accumulation in the reservoir and offshore, about leachate mobilised by construction on the landfill, and about pursuing a complex, high-energy process when few alternatives had been explored. She noted that reverse osmosis (RO) requires constant monitoring and timely membrane replacement, and highlighted missing data in the pilot results. *[Post-hearing note: this request was picked up in the list of post-hearing actions. See ISH1 in section 3.2 below.]* **4.7 Phillip Ireland** Phillip Ireland, chartered mechanical engineer, spoke in a private capacity. Mr Ireland argued that the Applicant has not adequately set out the safety case. He considered that the safety of RO cannot be determined while long-term safe levels of PFAS, especially short-chain PFAS, are unknown. He noted that RO is considered safe worldwide only in large commercial shipping. He argued that recycling through Havant Thicket Reservoir would allow PFAS to bioaccumulate. **4.8 Howard Smith** Howard Smith, a Portsmouth resident, spoke on behalf of himself. Mr Smith explained that his home is a converted underground water tank seven metres below ground, so ground-borne noise would be heard. Mr Smith submitted that the Applicant will not confirm construction or operational noise and vibration effects until after consent. He disputed the Applicant's view that his property's value would be unaffected, noting that he had taken professional advice on the matter. He also noted that he had taken legal advice on seeking a High Court injunction against the application. **4.9 Andrew Newbery** Andrew Newbery, a recently retired lawyer, spoke on behalf of himself. Mr Newbery requested the source data from the Budds Farm pilot plant trial, which he asserted had been sought repeatedly through Environmental Information Regulations (EIR) and Freedom of Information (FOI) requests to the Applicant and to the University of Brighton, on whom the Applicant relies for an expert. *[Post-hearing note: this request was picked up in the list of post-hearing actions. See ISH1 in section 3.2 below.]* Mr Newbery argued that the Gateshead

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	principle does not apply because the DCO disapplies nearly all relevant environmental legislation, and that in any event much of this area is unregulated. He invited the ExA to address this gap in the DCO and called for an independent audit and controls to be secured in the DCO. **4.10 Rt Hon Suella Braverman MP** Rt Hon Suella Braverman MP, Member of Parliament for Fareham and Waterlooville, spoke on behalf of residents who had signed her petition, and objected to the application. She referenced concerns raised at a public meeting in Waterlooville in January 2026, attended by about 100 residents and representatives of the Applicant. Ms Braverman argued that alternatives had never been properly assessed or developed for fair comparison. She stated that on 13 August 2026 the Secretary of State for Environment, Food and Rural Affairs directed the Applicant to revisit options screened out on criteria the regulators did not accept, with this work not due until August 2027, after the Examination closes. She asked the ExA to examine need and alternatives in full. She described effluent recycling as a material change requiring consultation, and characterised consultation on design in summer 2022, after the December 2021 decision, as a predetermined outcome. When asked, she confirmed she had no specific alternative to propose. **4.11 Chris Stanley** Chris Stanley, Chairman of Rowlands Castle Parish Council, spoke on behalf of the Parish Council and the wider community. Mr Stanley argued that cheaper options were not properly developed. He referred to the Secretary of State's 13 August 2026 direction, which stated that long lead times alone are not valid grounds for rejection and required justification on safety, cost and carbon grounds. Mr Stanley explained that half of Havant Thicket Reservoir lies in the parish, and that the Council had accepted the loss of 13 hectares of ancient woodland for a spring-fed reservoir without being asked about recycled effluent. He submitted that the Project was absent from WRMP19 and that the December 2021 switch was a material change to WRMP19. Consultation in summer 2022 related to design. Mr Stanley asked the ExA to treat the 2021 consultation and options appraisal as a principal issue, to examine whether alternatives were fairly compared and consulted on at the earliest stage in accordance with the National Policy Statement for Water Resources Infrastructure. He also asked it to examine the powers over Portsmouth Water's reservoir in the draft Development Consent Order [APP-023]. He expressed concern that the SoCG with Portsmouth Water has not been seen. He also highlighted the build-up of contaminants in the reservoir; the energy and carbon cost; reject water discharged to the Solent; distrust leading to bottled water use; and Ofwat's confirmation that costs have

Agenda item	Written summary of the Applicant's oral submissions
	increased since 2021. Finally, he submitted that the scheme is not best value and should be stopped. **4.12 Cllr Liam Bailey-Morgan** Cllr Liam Bailey-Morgan, Winchester City Councillor for Colden Common and Twyford, spoke alongside Cllr Cook on behalf of the residents of Wardle Road, Lordswood and Highbridge Road, regarding Construction Compound L-10. Cllr Bailey-Morgan explained that WCC's relevant representation [RR-361] raised no specific objection to L-10, subject to mitigation. He noted that the Draft Statement of Common Ground – Winchester City Council [APP-066] records support, relying on the Outline Construction Environmental Management Plan [APP-412 to APP-414]]. He stressed that this position predated residents' and ward councillors' knowledge of L-10. Officers are now reviewing the proposals for WCC's Local Impact Report (LIR), and he asked the ExA not to treat WCC's position as settled. He noted that the Applicant's had dismissed four options without comparing effects on residents. It omitted the Highbridge Road/Kiln Lane corner, where the Applicant's holding tank once stood, and launching the tunnel from the other side of the river, where a smaller reception shaft could reduce the compound's size. He questioned how much of the field is needed for the shaft rather than storage, parking and welfare facilities. He noted that the application sets no maximum period, despite the estimated 17-months. Cllr Bailey-Morgan highlighted that the field waterlogs and is marked as a potential contamination source. He also noted that the tunnel would pass near the unlined Bugle Farm landfill, where no gas monitoring has been carried out, and beside the River Itchen Special Area of Conservation (SAC). He asked the ExA to visit the site and the alternative locations. He also asked the ExA to require a side-by-side comparison of compound options, judged on effects on residents and the environment, and a site-specific ground conditions assessment. In response to the ExA, he confirmed that residents were not yet able to name a preferred option, and wished to see them properly set out first. **4.13 Dr David Snoswell** Dr David Snoswell, a resident of Wardle Road, Colden Common, opposite Construction Compound L-10, spoke on behalf of himself and the residents of Wardle Road and Highbridge Road. Dr Snoswell submitted that consultation and transparency was lacking. He noted that the Applicant had not addressed the Kiln Lane and Highbridge Road junction site, put forward at the 13 October 2026 site meeting, while analysing its own four sites in detail. He considered it the most logical site, as the Applicant already rents it. Dr Snoswell raised concerns about extra daily vehicle movements on an M3 diversion route and light pollution. He questioned whether effects on the Site of Special Scientific Interest (SSSI) at the bottom of the Wardle Road

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	gardens, on migratory birds, and on the River Itchen SAC had been considered. **4.14 Laura Cooper** Laura Cooper, Farlington tenant, spoke on behalf of herself. Ms Cooper expressed concern that the pipeline route from Farlington Avenue may affect the only vehicle access to the grazing fields. She sought reassurance that access and the environment would be protected during construction. Additionally, she confirmed that Dalcour Maclaren had called her on 10 November 2026, responding to her email of 10 July 2026, to advise that surface access would not be restricted.
Item 5 – Responses by the Applicant	**5.1 General** Alistair Paul, on behalf of the Applicant, thanked the parties for their submissions. Mr Paul confirmed that the Applicant would respond in writing to the majority of submissions in its responses to Relevant Representations (RRs) at Deadline 1 (Document references 8.4 – 8.7, DCO Volume 8). In addition, at the Preliminary Meeting a second issue specific hearing on water matters had been suggested in addition to ISH1. He therefore did not propose to respond orally at the OFH1 on many of the points raised in relation to the water environment. **5.2 Consultation on compound L-10** In response to Cllr Cook, Cllr Bailey-Morgan and Dr Snoswell, Mr Paul explained the consultation undertaken in Colden Common. In 2022 all of Colden Common fell within the secondary consultation zone, which received posters and newspaper adverts. Residents and landowners within approximately 500 metres of the pipeline corridors fell within the primary zone and additionally received letters. A consultation event at Colden Common Community Centre on 22 July 2022 had 179 attendees. In 2024, the consultation zones were refined into zones A, B, C and D. Much of Colden Common fell within zones B, C and D, which received Project leaflets, posters, newspaper notices and social media campaigns. Landowners within the draft Order limits additionally received letters. A consultation event at Colden Common Community Centre on 27 June 2024 had 138 attendees. Mr Paul confirmed that these activities are set out in the Consultation Report [APP-029]. He added that the Applicant team has been engaging with residents, acknowledged the October 2026 meeting, and confirmed it is keen to continue engaging with Colden Common residents. **5.3 Ground conditions** In response to Mr Brice, Mr Paul highlighted the Outline Soil Resources Management Plan at Appendix B of the Outline

Agenda item	Written summary of the Applicant's oral submissions
	Construction Environmental Management Plan [APP-412], which addresses the handling, storage and reinstatement of soils. **5.4 Gateshead principle and Schedule 8** In response to Mr Newbery, Mr Paul clarified that the DCO does not propose to disapply all relevant environmental legislation. Schedule 8 of the Draft Development Consent Order [APP-023] proposes to modify the relevant regulatory regimes, not fully disapply them. He noted that this would be discussed in more detail at ISH1. **5.5 WRMP24 and the Permission to Publish letter** In response to Ms Braverman, Mr Paul addressed the letter from the Department for Environment, Food and Rural Affairs (Defra) giving the Applicant permission to publish its Water Resources Management Plan 2024 (WRMP24), which is appended to the 8.2 WRMP24 Position Statement (Version 0) [PDA-004]. Ms Braverman had suggested that the plan would be fully rewritten after publication, and Mr Paul clarified that this is not the case. Annex 2 of the letter sets out actions that Defra requires the Applicant to complete in the 12 months from the date of the letter. Mr Paul confirmed that the Applicant will carry out that work, but that Annex 2 does not change the status of WRMP24, once published. Publication of WRMP24 establishes the need for the Project under the National Policy Statement for Water Resources Infrastructure. Mr Paul confirmed that the Applicant does not expect the Annex 2 actions to reduce the shortfall between water supply and demand in its Western area, which may in fact grow in the short term. Nor will the actions reduce the need for the Project or change its selection in the final WRMP, in which it remains an essential part. Because the WRMP relies heavily on drought options to meet immediate shortfalls until the Project is built, particularly in the Western area, Annex 2 asks the Applicant to look again at measures that could help in the meantime. This includes options it previously rejected because of how long they would take to deliver or their potential environmental impacts. Any such measures would be in addition to the Project, not instead of it. The work must be completed by 12 August 2027. Some results may be reported through the WRMP annual review if completed before June 2027, and all results will feed into the next plan, WRMP29. **5.6 Selection of the Project in 2021** In response to Mr Stanley, Mr Paul confirmed that the Applicant's WRMP annual review 2020/2021 established that selecting the Project instead of desalination was not a material change to WRMP19. Reconsultation on the WRMP19 was therefore not required. He explained that consultation on draft WRMP24, and the DCO consultation in summer 2022, provided an opportunity for feedback on

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	the Project's selection. He emphasised the significant consultation undertaken in both the WRMP and DCO processes.
Item 6 – Close of OFH1	The ExA thanked participants and reminded them that post-hearing documents, including speakers' written summaries, are due at Deadline 1 (23 November 2026). Those who did not speak, or did not complete their submissions, could still make written submissions in accordance with the examination timetable.

3 Issue Specific Hearing 1

3.1 Written summary of the Applicant's oral submissions made at ISH1

3.1.1 ISH1 was held on Thursday 12 November 2026 at Fareham Innovation Centre, Merlin House, 4 Meteor Way, Fareham, Lee-on-the-Solent, PO13 9FU, and virtually via Microsoft Teams. Table 3-1 provides a summary of the submissions made on behalf of the Applicant at ISH1. The Agenda for ISH1 on water environment [EV2-001] was published in advance, on 4 November 2026.

Table 3-1 Summary of oral submissions made at ISH1

Agenda item	Written summary of the Applicant's oral submissions
Item 1 – Welcome, introductions and arrangements for the hearing	The Examining Authority opened the hearing at 10:00am on the 12 November 2026 and made some preliminary remarks. The following parties introduced themselves during ISH1: The Examining Authority (together the ExA): • Wendy McKay • Maria Rokicka • Sharon Bennett-Matthews Southern Water Services Limited (the Applicant): • Robbie Owen, Partner at Pinsent Masons LLP (solicitors for the Applicant) • Alison Dablin, Senior Associate at Pinsent Masons LLP • Charles Streeten, Counsel instructed by Pinsent Masons on behalf of the Applicant • Nina Campbell, Director of Major Infrastructure and Environment at Stantec

Agenda item	Written summary of the Applicant's oral submissions
	• Ian Dennis, Technical Director for Water Environment at Haskoning UK Limited • Mark Wintringham, Director of Hampshire Water Transfer and Water Recycling Project at Southern Water Services Limited • Jonathan Greenwell, Chartered Chemical Engineer and Development Lead for Waste and Generation at Stantec • Kate Wilson, Program Design Manager at Southern Water Services Limited • Jenny Dunwoody, Associate Director and Health Assessment Lead at Arup Portsmouth Water Limited (PW): • Hereward Phillpot KC, instructed by Sharpe Pritchard on behalf of PW • Alastair Lewis, Partner at Sharpe Pritchard (solicitors for PW) • James Henderson, HWTWR Integration Manager | Havant Thicket Reservoir Environment Agency (EA): • Sarah Clark, Partner at TLT (representative for the EA) • Richard O'Callaghan, Environment Planning and Engagement Manager at the EA • Jeremy Graydon, Senior Lawyer at the EA Other statutory and non-statutory bodies: • Kate Kendall, Director at Ofwat • Fiona Lobley, representative for RAPID • Tracey Viney, representative for Water Matters Community Professor Alex Fordham for Water Matters Community • Dr Martin Burton, representative for the Upper Itchen Restoration Community Interest Company

Agenda item	Written summary of the Applicant's oral submissions
	• Andrew Newbery, Technical Advisor to Save Our South Coast Alliance Local authorities: • Henrietta Ansar, Principal Planner at Winchester City Council • James Hammond, Solicitor at Hampshire County Council • Sarah Redpath, Flood and Water Manager at Hampshire County Council • Edward Chetwynd-Stapylton, representative for Portsmouth City Council • Councilor Hugh Mason, for Portsmouth City Council • Ian Austin, Solicitor for Portsmouth City Council • David Jobbins, representative for East Hampshire District Council and Havant Borough Council
Item 2 – Purpose of the hearing	The ExA explained that the Drinking Water Inspectorate were not attending the hearing but provided a written submission [PDA-038] concerning its regulatory role and the ExA would note where relevant in this issue specific hearing and the examination.
Item 3 - Scope and content of the applicant's assessments of the water environment	Nina Campbell, on behalf of the Applicant, provided a high-level explanation of the principal components of the Hampshire Water Transfer and Water Recycling Plant project (the Project). She explained that in Graphic 3.1 of ES Chapter 3 [APP-082], the lighter-blue elements represented the proposed development, the darker-blue elements represented Southern Water's existing network, and the black elements represented Portsmouth Water's assets and development. Ms Campbell stated that the Project comprised a water recycling plant with a maximum output of approximately 60 million litres per day of recycled water, together with associated infrastructure including pipelines from Budds Farm Wastewater Treatment Works to the water recycling plant site to Bedhampton Springs, and from the water recycling plant site to Otterbourne Water Supply Works, as well as pumping stations and break-pressure tanks. Ms Campbell confirmed that the full description of the Project's components is contained in Environmental Statement Chapter 3 [APP-

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	082], the Project is shown spatially in Environmental Statement Figure 1.1 [APP-210], and the works are shown on the Works Plans [AS-007], [AS-008] and [APP-014]. Jonathan Greenwell, on behalf of the Applicant, explained the treatment stages from receipt of treated wastewater. The Applicant explained that Budd's Farm wastewater treatment works is supplied from two sewer catchments across the Eastney and Havant catchments. That wastewater treatment works includes a primary settlement stage where solids are separated from incoming flows, followed by a secondary biological treatment stage for the biological nitrogen removal process. This is an extended sludge age process which has the advantage of enhanced decomposition of organics as well as nitrogen in the wastewater. There is then a final stage of settlement, after which the flow of highly treated wastewater passes to the Long Sea Outfall at Eastney. Mr Greenwell stated that the water recycling plant would intercept that highly treated wastewater and redirect it to the water recycling plant site. The treatment process is referred to internationally as a full advanced treatment process. This is a multi-barrier treatment approach which starts with microfiltration to remove foulants and suspended solid matter that would foul the downstream processes. The next step is reverse osmosis. This is a highly effective, broad spectrum barrier technology for removing contaminants all the way down to the level of viruses and dissolved minerals. It provided non-selective broad-spectrum removal for a lot of the dissolved trace contaminants that may remain in the flow. Following this, the next stage is UV advanced oxidation. This uses hydrogen peroxide in tandem with a high dose of UV to decompose any residual organics. It also provides a very high rate of removal for a broad spectrum of pathogenic organisms, including protozoa, bacteria, and viruses. Mr Greenwell confirmed that, as part of the Project, the Applicant has added a further post-treatment step in the form of granular activated carbon (GAC) absorption, providing additional organics removal from the water coming from the UV advanced oxidation process. He explained that it was called a multi-barrier process because the capability of the different stages overlap with one another to provide a very robust process for producing highly purified water. The reverse osmosis process is broad-spectrum removal, including of dissolved minerals. The water it produces is very low in alkalinity and hardness, and accordingly the Applicant had also provided a remineralisation process to reintroduce

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	hardness and alkalinity to the water so that it is of appropriate condition to be discharged to the environmental buffer. The ExA asked Mr Greenwell whether, having regard to the open floor hearing the previous day and the points raised about certain contaminants that might remain in the recycled water (including PFAS), there was anything he wished to say to address those concerns specifically. In relation to residual contaminants including PFAS, Mr Greenwell confirmed that he would not seek to address individual concentrations that might or might not remain. The treatment approach selected is widely proven internationally, having been operated successfully for a number of years in other regions including North America, California and Singapore. The Singapore installation has been in operation for approximately twenty-five years. The treatment technologies are recognised as suitable treatment technologies for the Project and provide very high rates of removal for a broad spectrum of different trace contaminants, including those that are of concern. He further explained that, as part of piloting trials that the Applicant undertook at Peel Common and then at Budd's Farm, a quantitative risk assessment process was undertaken considering both microbial risk and chemical risk associated with the recycled water. The conclusions of that assessment were that the water did not create a risk to public health. This was in the context of the pilot data from those trials, which did not include the additional GAC post-treatment step, and using a modelled scenario with a much smaller environmental buffer incorporated. Mr Greenwell stated that this presented a highly conservative, worst-case scenario for the operational configuration of the Project. The ExA noted that interested parties had submitted that the full monitoring results from the pilot plant had not been made available. Robbie Owen, on behalf of the Applicant, explained that the application for the DCO had been accompanied by a lot of supporting information, particularly what was required for a full and compliant environmental impact assessment process, the results of which are reported in the Environmental Statement. A judgement had been made as to what was needed to provide that full assessment, and the result was in the application before the ExA.

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	The ExA directed the Applicant to provide the underlying monitoring results at Deadline 1. Mr Owen confirmed that the Applicant would take the direction away and provide what it could at Deadline 1 **Post Hearing Note:** The monitoring results from the pilot plant trial are provided in the Applicant's response to ISH1 post hearing action 1(a) (Document Reference 8.17, DCO Volume 8, Version 0), with additional information and contextual detail set out in the Applicant's response to ISH1 post hearing action 1(b) and 1(c) (Document Reference 8.14, DCO Volume 8, Version 0). The ExA requested clarification as to what water quality monitoring is proposed at Havant Thicket Reservoir during the operational phase, how the Applicant would verify the modelled impacts on water quality if routine monitoring is not proposed, and how potential persistence or bioaccumulation of contaminants of emerging concern would be monitored and whether any other regulatory regime applies to monitor those contaminants. Mr Owen, on behalf of the Applicant, noted that an important preliminary point was that Havant Thicket Reservoir is currently being constructed by PW and would be its operational asset, and that PW would be in charge of the operation and management of the reservoir. Mr Ian Dennis, on behalf of the Applicant, explained that the effects of releasing the recycled water into Havant Thicket Reservoir had been considered as an integral part of the environmental impact assessment presented in Chapter 19 - Water Environment [APP-098]. Because the reservoir does not yet exist, the Applicant had worked with PW and the Environment Agency to agree an approach to how the effects should be modelled and considered within the assessment. This work is presented in ES Appendix 19.11 - Havant Thicket Reservoir Water Quality Modelling Report [APP-206]. Dr Dennis explained the report showed that although there would be some small differences in water quality within the reservoir following the introduction of recycled water, the changes are very small and at all times, once stabilisation effects had been taken into account, water quality will remain consistent with the definition of high status under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ("Water Framework Directive Regulations"). The results demonstrate that there will be no significant adverse effects on water quality in the reservoir, which is the conclusion reported in ES Chapter 19.

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	In respect of the responsibility for monitoring the water quality in the reservoir, Mr Owen, on behalf of the Applicant, explained that monitoring of the reservoir is a matter currently being discussed between the Applicant and PW in the context of a bulk supply agreement, which is currently under negotiation. He explained that this is a commercial agreement that would support delivery of the Project, that discussions have been underway for some time, and that Ofwat is also involved in the discussions to some extent. The Applicant stated that the agreement would cover a number of commercial and operational issues in terms of the interface between the two projects, including how monitoring would work. Mr Mark Wintringham, on behalf of the Applicant, confirmed that the bulk supply agreement is an agreement that will exist between the parties to determine how the reservoir would be used and also the payment for water within the reservoir itself. He confirmed that the negotiations are ongoing and that the parties were moving towards a conclusion. In response to comments from PW on the relationship between article 5 of the draft DCO [APP-023] and the bulk supply agreement, Mr Owen, on behalf of the Applicant, clarified that the Applicant's understanding is that it is agreed that PW will be responsible for monitoring the quality of the water in the reservoir. In terms of monitoring the water quality of the output from the water recycling plant, Mr Greenwell confirmed that the output would be subject to a discharge (environmental) permit. This comes under the established regulatory framework and an application for the permit is being developed in collaboration with the Environment Agency, and therefore falls outside of what is to be secured within the draft DCO as it is part of a separate regulatory regime. The evidence gathered for the purposes of permitting has also been used to inform the Project. During the pilot plant test, the Applicant utilised international experience, using experts who have designed, built and operated these facilities. This experience, along with the knowledge of the local catchment for the Budds Farm Wastewater Treatment Works and the sampling of the pilot plant, have been used to understand the performance of the facility in terms of different groups of substances including pharmaceutical products, industrial chemicals and agricultural chemicals. The Applicant has

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	undertaken, and is actively undertaking, a sampling programme in relation to established environmental quality standard substances. At the request of the Environment Agency, the Applicant is also monitoring the samples for the list of 113 substances under the Chemical Investigation Programme Phase 4. This programme is designed to keep track of the highest risk contaminants of emerging concern as they are identified. That data had been submitted to the Environment Agency for assessment as part of the pre-application process for the environmental permit. It is within the Environment Agency's remit to assess the potential for impact of those substances and to judge whether that would require control under the environmental permit. Mr Greenwell confirmed that appropriate control for the purposes of protecting the reservoir in terms of chemical status under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 ("Water Framework Directive Regulations") is achieved through the established regulatory framework of environmental permitting. Mr Greenwell confirmed that the data under the Chemical Investigation Programme had been submitted in full to the Environment Agency and was therefore already available. In response to comments from PW in relation to the protection of Havant Thicket Reservoir if the recycled water quality deteriorated, Mr Owen, on behalf of the Applicant, referred to the *Gateshead* principle (originating from *Gateshead MBC v Secretary of State for the Environment [1995] Env. L.R. 37*). This principle is supported by the National Policy Statement for Water Resources Infrastructure (NPS), by the National Planning Policy Framework, and by judicial authority (see most recently *R (Associated Petroleum Terminals (Immingham) Limited v Secretary of State for Transport* [2025] EWHC 1991 (Admin) at paras. 48-49 and 60-62). It is the Applicant's position that various parties are, in effect, seeking through the DCO process to duplicate what is the Environment Agency's role under the environmental permitting regime. Mr Streeten, on behalf of the Applicant, submitted that it had been helpful to hear from the Environment Agency about how it conditioned permits and the nature of conditions it might impose. Mr Streeten emphasised, however, that it was not the purpose of the DCO examination itself to go into what those conditions would or might be. The way in which the *Gateshead* principle operates is that the ExA is expected to rely on the Environment Agency, as an expert regulator, to do its job

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	competently and therefore to assume that the conditions imposed in any permit would secure the environmental standards that they are required to. The Environment Agency has confirmed that where there are changes, these would take those into account when issuing a permit and ensure it is based on the most up-to-date scientific evidence. He stated that the effect of the *Gateshead* principle is that the ExA should take it as read that the Environment Agency will do that, and this is reflected in the NPS at paragraph 3.8.3. He confirmed that where PW are raising concerns about what might or might not be the subject of an environmental permit, this is not within the scope of what the ExA needs to consider in the examination. Mr Owen, on behalf of the Applicant, added that in terms of the *Gateshead* principle, it was important to be clear that Schedule 8 to the draft DCO does not make modifications that affect the monitoring of the receiving water. Mr Owen confirmed that article 5 was a backstop provision in the absence or failure of a bulk supply agreement, and that matters of monitoring were part of the overall discussions in the bulk supply agreement. He stated that if those discussions were not successful for any reason, the provisions of article 5 would be there as a backstop, and the Scheme of Operation under article 5 could include agreement as to monitoring and related operational interfaces. Mr Owen submitted that the *Gateshead* principle fully applied on this point and that the ExA was entitled, and indeed directed by the relevant National Policy Statement, not to examine these matters because they were covered by a separate environmental regulatory regime. **Post Hearing Note:** Additional information about the *Gateshead* principle and how it applies in the context of a planning application, including an application for development consent, is provided at Appendix F. In relation to comments from PW on protection of the aquifers at Bedhampton Springs during the construction phase, Katie Wilson, on behalf of the Applicant, explained that flexibility has been retained within the Order Limits. The Applicant has undertaken extensive engagement with PW over the past few years, including site visits. Ms Wilson explained that, as an operational site, there are many constraints to consider, including groundwater springs, existing assets, access routes, environmental constraints, and public rights of way. It was therefore imperative to maintain flexibility within the draft Order limits and the limits of deviation as shown on sheet 4 of the Works Plans [AS-

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	008]. This retains flexibility for the location of the pipelines to be determined at detailed design, so that engagement and investigations could continue to ensure that any potential impacts are considered. Ms Wilson confirmed that the Applicant has committed not to use trenchless construction methods within the Source Protection Zone. Conversations are ongoing to ensure a mutually acceptable solution is found during detailed design. The Applicant confirmed that it would provide a written explanation of the reasons why the flexibility retained within the Order Limits at Bedhampton Springs is appropriate, in light of Portsmouth Water's comments. **Post Hearing Note:** Please refer to Appendix A. The ExA noted that the Drinking Water Inspectorate's recent submission [PDA-38] had identified consumer acceptability as a regulatory consideration and expected appropriate engagement with consumers who may receive water derived from the Project to help address concerns associated with a change of source. The ExA asked questions about how and at what stage consumers would be informed that they might receive water derived from the Project, whether the areas or supply zones that could receive that water would be identified, and how concerns about drinking water safety and the change in source would be addressed. Mr Wintringham, on behalf of the Applicant, confirmed that the Applicant would follow the standard DWI procedure in terms of change of source at the appropriate time. This will be when the source changes over, and the process applies to both the Applicant and PW. Jenny Dunwoody, on behalf of the Applicant, explained that a health assessment had been undertaken as part of Chapter 17 of the Environmental Statement [APP-096], looking at environmental, social, and economic effects that could have implications for population health. She explained that the starting point was that the regulatory framework would ensure appropriate and healthy constant drinking water was provided to customers, and therefore the health assessment had not attempted to duplicate that process or assess any health effects arising from the change of source. The assumption was that the regulatory process would work (which is supported in law and policy). The assessment also considered effects arising from people's concerns and perceptions

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	about the change of source and how that might affect behaviours and well-being, and identified a potential adverse effect on a minority of the population as a result of things such as reluctance to drink tap water, financial burden of purchasing water, and potential anxiety around the change of source. The ExA sought clarification that the environmental permit did not deal with the drinking water supply itself, to which Ms Dunwoody confirmed that was correct and that matters relating to drinking water were within the Drinking Water Inspectorate's remit rather than the Environment Agency's. Mr Wintringham, on behalf of the Applicant, explained that the Applicant has already been talking to customers and community groups to discuss water quality, their understanding of it, and their acceptance or otherwise of recycled water. He stated that as the process moved forward and the point at which the source will change approaches, the Applicant would increase the level of engagement with customers. Mr Owen, on behalf of the Applicant, explained that in addition to the regulatory processes described, the Applicant has been engaging with customers and stakeholders across Hampshire on these matters throughout the development of the Project. He referred to the WRMP24 Position Statement [PDA-004], stating that the WRMP letter received from DEFRA in August contained in Annex II a requirement to carry out certain actions within twelve months from the date of that letter. Those actions include to "provide additional details to address stakeholder concerns raised regarding the health and safety of water recycling, including the HWTWRP. Southern Water will include signposting to additional information in the public domain and the regulatory frameworks in place such as the RAPID gated process or commit to providing further public information where necessary for customers to find out how the company is addressing the concerns being raised." Mr Owen confirmed that the Applicant was required to conclude that work within twelve months of August 2026, and that this would be carried out through various means including wide-ranging awareness campaigns and ongoing educational campaigns. Mr Owen further confirmed that additional engagement activity would commence approximately two years ahead of the new source becoming operational, in line with statutory guidance and requirements. He stated that the whole

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	process, as confirmed by the DWI in its letter submitted at Procedural Deadline A [PDA-038], is regulated and benefits from applicable guidance. There will be full engagement on these issues. The Applicant understands, empathises with, and attaches a huge amount of importance to these concerns. **Post Hearing Note:** Please refer to Appendix B for information about how and at what stage consumers will be informed that they may receive water from the Project. In response to comments made by Water Matters, Mr Jobbins and Dr Burton in relation to water quality, Mr Owen, on behalf of the Applicant, began by thanking Dr Burton for his comments. The whole system needs to be considered. No one would be drinking water directly from Havant Thicket Reservoir as a result of the Project. The water from the Water Recycling Plant would be blended with spring water in the reservoir, then drawn down and taken by the Applicant to Otterbourne Water Supply Works where it would be put through a very intensive, highly regulated treatment process overseen by the Drinking Water Inspectorate. For PW, it would go to their works at Farlington and be similarly treated. Mr Owen stated that it was important to keep in context that various different parts of the overall system would also each be regulated by the Environment Agency: at Budd's Farm and at the water recycling plant itself and at the point of discharge into the reservoir. Mr Owen acknowledged the points made by Mr Jobbins about the *Gateshead* principle not displacing judgements as to acceptable use of land and in relation to the Infrastructure Planning (EIA Regulations) 2017 (the "EIA Regulations"). These points were accepted but do not take away from the core principle that the Examination is not there to second-guess the job of the Environment Agency or the Drinking Water Inspectorate. Mr Owen also noted that engagement in relation to the perception of drinking recycled water was not assisted by misinformation, for example allegations that the Project would involve discharging effluent into the reservoir. Mr Greenwell, on behalf of the Applicant, addressed Professor Ford's points on the quality and quantity of pilot plant data such as lack of samples, and areas covered e.g. PFAS. He explained that as mentioned previously, that the sampling programme for the pilot plant had been designed with the

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	support of international experts to draw from the experience of more advanced regions. He stated that it was not possible to measure every chemical and that everything had to take a risk-based view. The sampling programme drew from other regions and from knowledge of the catchment, and included a selection of contaminants of emerging concern, as well as substances that could be used as indicators for the performance of the process when its being piloted. These are substances that were either more difficult to treat for some of the processes involved in the full advanced treatment process or were typically present in wastewater flows in high concentrations. Mr Greenwell gave the example of sucralose, an artificial sweetener that was persistent and present in very high concentrations in wastewater, which could be used as an effective indicator to show the efficacy of the combined treatment processes. Mr Greenwell explained that this was a very novel and large dataset, including many parameters not routinely measured in the UK in the water environment. He acknowledged that there were variations in the number of samples for some substances, driven partly by the availability of laboratories capable of doing those measurements, noting that they are novel. The Applicant had in some circumstances used laboratories internationally, including shipping samples to laboratories in the United States, which were already accredited for such testing. He further explained that in some cases, because contaminants were so new, accredited methods simply did not exist for them in the water matrices being tested, covering both wastewater and clean water systems, requiring different testing methods. Mr Greenwell addressed the point that non-detect values had been logged as zeros, which Professor Ford had suggested provided an inflated view of process removal efficiency. The counterpoint is that, if all values were set at the limit of detection, the opposite effect would occur - suggesting the process was less efficient than it might be. A substance not being detected does not mean it was present, and it doesn't mean that it wasn't present. Often, the approach taken is a middle ground of using half the limit of detection to provide a balanced view either way. This approach, along with consideration of the limit of detection for individual parameters, has been incorporated into the screening process undertaken in reporting to the Environment Agency and in ongoing discussions regarding environmental quality standards and permitting requirements. He also clarified that the Chemical Investigation Programme Phase 4 data has been collected only at Budd's Farm Wastewater

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	Treatment Works at the inlet and outlet, and that data has been sent as-is to the Environment Agency for its independent interpretation of the hazards that might present to downstream sources. Mr Greenwell addressed the concerns regarding modelling of the reservoir. The Applicant explained that the modelling exercise had been a collaborative exercise between the Applicant and PW, overseen by a water quality steering group assembled from a panel of experts including drinking water safety planners and environmental experts, to ensure the modelling was representative of all operational scenarios foreseen for that body of water. Mr Greenwell confirmed that this included drawdown events where the proportion of recycled water in the reservoir would be higher than in normal operation, as well as scenarios where commissioning of the reservoir was delayed and the reservoir was ultimately filled using a mixture of recycled water and spring water rather than spring water alone. Mr Greenwell noted that the modelling addresses bulk parameters broadly in terms of addressing the Water Framework Directive Regulations classification from an ecological standpoint. It also looked at mixing within the reservoir to understand what the composition of flows leaving the reservoir going both to Farlington and to Otterbourne would look like in terms of its makeup between the different contributions. Mr Greenwell explained that the model included the fact that the reservoir was an open system exposed to the environment, meaning bird populations would be present and introducing their own contamination to the water, and included the drainage catchment around the reservoir which includes agricultural land draining into it as an additional source of environmental input, alongside the springs and the recycled water. The Applicant confirmed that the recycled water composition used in the modelling is detailed in the modelling report at Appendix 19.11 Havant Thicket Reservoir water quality modelling [APP-206], including parameters such as temperature, salinity, and alkalinity. **Post Hearing Note:** The updated Appendix 19.11 Havant Thicket Reservoir water quality modelling report has been updated and submitted at Deadline 1 (Document Reference 6.2, DCO Volume 6, Version 1). An explanatory note on the approach to data selection, sampling methodology, and presentation of non-detect values is provided in response to Action Point 1, in The Applicant's response to ISH1 post hearing action 1(b) and 1(c) (Document Reference 8.14, DCO Volume 8, Version 0).

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	In response to a query on the term "effluent" Mr Greenwell, on behalf of the Applicant, clarified that the term "effluent" referred to flow leaving a wastewater treatment works and has no bearing on the water recycling plant. The Applicant explained that in the terminology used in the Applicant's documentation, there is "wastewater" coming from the sewer catchment; there is "highly treated wastewater" leaving Budd's Farm wastewater treatment works, which is the water supplied to the water recycling plant; the water recycling plant then produces "purified recycled water". He stated that "effluent" has no bearing on the recycled water and is not representative of what recycled water was. Mr Owen, on behalf of the Applicant, suggested that in the post-hearing note the Applicant could include a glossary of what it considered to be the correct terms to use in relation to water recycling, to assist the examination for all parties to be speaking the same language. **Post Hearing Note:** A glossary of correct terminology is included at Appendix C, in response to Action Point 4.
Item 4 - Regulatory roles, responsibilities and compliance	The ExA introduced item 4, noting that it covered regulatory roles, responsibilities, and compliance, and connected closely to what had been discussed under item 3. Before posing questions, in setting out the context the ExA read out the relevant section of the National Policy Statement for Water Resources Infrastructure, section 3.8.3. The ExA further read: "Decisions under the Planning Act should complement, but not duplicate, those taken under the relevant pollution control regime." The ExA asked the Applicant to provide an update on any material changes since APP-055 (the Other Consents and Licences Position Statement) was submitted, specifically relating to the water environment, water quality, and public health. In response to a request from the ExA for an update on any material changes to the positions set out in the Other Consents and Licences Position Statement [APP-055], Mr Owen, on behalf of the Applicant, confirmed that pre-application discussions with the Environment Agency in relation to the discharge permit had been underway for some time. The Applicant has also now commenced pre-application discussions with the Environment Agency in relation to abstraction licensing. He confirmed

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	that both matters were dealt with not only in that application document, but also in the current version of the Statement of Common Ground with the Environment Agency [AS-019]. Post Hearing Note: In response to Action Point 5, the Other Consents and Licences Position Statement has been updated (Document Reference 5.4, DCO Volume 5, Version 1). The ExA directed the Applicant to provide a clarification on the interfaces between the DCO, environmental permitting, drinking water regulation, and the Ofwat/RAPID processes. Mr Owen, on behalf of the Applicant, confirmed the Applicant was happy to produce a note on the interfaces between the DCO, environmental permitting, drinking water regulation and the Ofwat and RAPID processes. **Post Hearing Note**: Please refer to Action Point 6, in Appendix D. Mr Streeten, on behalf of the Applicant, submitted that contaminants of emerging concern, for which there is no existing standard, should be treated similarly to non-CO2 greenhouse gas emissions, which have been dealt with in case law. Where there was no established methodology, it is not the purpose of the examination to speculate as to how those should be dealt with. This principle is clearly established in case law. The EA is the appropriate agency for dealing with this and, when assessing impacts, they should be assessed on the basis of the evidence rather than speculation. **Post Hearing Note**: The case law referred to is *R (Bristol Airport Action Network Coordinating Committee) v Secretary of State Levelling Up, Housing and Communities* [2023] EWHC 171 (Admin) at paras. 208-220 and *R (Luton and District Association for the Control of Aircraft Noise) v Secretary of State for Transport* [2026] JPL 1479 at paras. 113-129. Mr Owen, on behalf of the Applicant, addressed matters raised by Ofwat, RAPID, Water Matters and the Upper Itchen Restoration Community Interest Company. Paragraph 3.8.3 of the National Policy Statement for Water Resources Infrastructure (July 2025) specifically states that "in deciding application, the examining authority and Secretary of State should focus on whether the development is an acceptable use of the land and on the impacts of that use rather than the control of processes, emissions or discharges themselves." Mr Owen submitted that the hearing appeared to be

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	experiencing various attempts to turn the examination into an examination about UK drinking water standards. This is not an appropriate use of the DCO examination process. Mr Owen drew the ExA's attention to the DWI's letter submitted at Procedural Deadline A [PDA-038], describing it as extremely helpful in putting context and explaining the DWI's role at looking at successive gated submissions made by the Applicant. Mr Owen explained that this was a progressive exercise, and that the DWI letter [PDA-038] explains that progress was being made. It states that, at RAPID Gate 3, which was a couple of years ago (July 2024), the DWI had "considered that the project could progress, while identifying matters requiring further evidence on water quality risk assessment, consumer engagement, and security." The letter confirms that the Gate 4 submission, made in July of this year, recorded that "all Gate 3 priority actions had been closed by January 2026. This represents progress in scheme development, but closure of those actions does not constitute final regulatory assurance or discharge the company's continuing statutory duties". The DWI's letter [PDA-038] sets out the DWI's position on the regulatory framework for water recycling and desalination schemes. That letter concludes that the DWI has no objection in principle to water recycling, that RAPID scrutiny had identified areas requiring further development including additional modelling, treatment controls, water safety planning, and consumer engagement, that progress had been made and Gate 3 priority actions had been closed, and that regulatory assurance would continue through the drinking water safety planning and compliance monitoring processes when the scheme was operational. Mr Owen summarised that the DWI was, in effect, saying that through this progressive process of gated submissions and the regulators' consideration of those submissions, they were satisfied that the Project was progressing appropriately and had demonstrated that it was feasible to achieve an environmentally acceptable outcome and value for money. Mr Streeten, on behalf of the Applicant, in response to comments made by Professor Fordham on environmental quality standards, submitted that it is important not to conflate two different issues. The first is the ExA's approach to the assessment of likely significant effects as part of the environmental impact assessment process. This is in scope, and falls to be carried out in accordance with the EIA Regulations. In this regard, the case law is clear that there is no room for speculation (see *Finch*, above), and that likely significant effects are to be assessed using an evidence-based approach, as

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	the Environment Agency itself had made clear. The second is the effectiveness of regulatory controls: whether under the Environmental Permitting (England and Wales) Regulations 2016 or in relation to the functions of the Drinking Water Inspectorate and water undertakers, which have duties, including under section 68 of the Water Industry Act 1991 and under the Water Supply (Water Quality) Regulations 2016, to ensure that drinking water is wholesome and can safely be drunk. He submitted that what Water Matters are seeking to challenge is the standard that would be applied by the Drinking Water Inspectorate, which is beyond the scope of the DCO Examination. The DWI set and applies the standard of safety. Applying WRINPS paragraph 3.8.3, the ExA should simply take that standard as one which will properly be set and applied by the DWI. Mr Streeten stated that if those standards change, then it will be the amended standards that will fall to be applied and enforced by the DWI.
Item 5 - Responsibilities for interfaces with Portsmouth Water's assets	Mr Owen, on behalf of the Applicant, provided an update on the engagement and progress made with PW in relation to the interfaces between the Project and PW's assets and operations. He stated that the Applicant was having productive and collaborative discussions with PW at a regular cadence. The Applicant confirmed that those discussions have particularly focused on article 5, and that the parties were discussing a number of modifications to article 5 to address PW's concerns. Mr Owen added that the issue of article 5 had also been discussed with Ofwat as it was relevant to them, and that Ofwat would be included in future discussions with PW on article 5. Mr Owen stated that the hope was to reach a position where PW would be content with article 5 with some modifications. Article 5 is there as a backstop to provide ultimate assurance that the scheme could be delivered and operated as envisaged. Mr Owen further confirmed that the Applicant has had initial discussions with PW about the protective provisions included in the draft Development Consent Order [APP-023] for Portsmouth Water's benefit. It was stated that those discussions are continuing, that they are complex, but that some progress is being made. He also confirmed that the parties were in discussion about a statement of common ground, and that the hope is to submit a statement of common ground into examination at either Deadline 1 or at Deadline 2.

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	Post-hearing note: The draft Statement of Common Ground with PW will be submitted at Deadline 2. Mark Wintringham, on behalf of the Applicant, explained that, in the relationship between PW and the Applicant two different regulatory constructs were being brought together: the reservoir, which is being delivered through a business-as-usual type of arrangement with PW; and the Project, which the Applicant is looking to deliver through the Direct Procurement for Customers model. He explained that the original reservoir project had been delivered through BSA1 (the first bulk supply agreement), which was essentially there to determine the water traded between the Applicant and PW. Mr Wintringham explained that, with the projects coming together, the Applicant had for a number of years been working on BSA2, the second bulk supply agreement. He confirmed that those conversations were ongoing, that there were many elements on which agreement had been reached, albeit that there were some outstanding issues still being discussed on a weekly basis between the parties in order to reach a point of resolution. Both PW and the Applicant are very much focused on achieving that. Mr Wintringham stated that BSA2 would enable the reservoir to be used directly by the Applicant to give the real benefit to customers that the Project was looking to achieve. In relation to George Reservoir, Mr Wintringham confirmed that ongoing discussions were taking place and on a very frequent basis, and that both parties were looking to resolve the issues prior to the end of the DCO examination. Mr Owen, on behalf of the Applicant, confirmed that PW has raised a large number of issues in their submissions and that the Applicant would respond to these in writing. Mr Owen confirmed that the Applicant agreed that BSA2 was the right approach and the Applicant is working hard to agree BSA2, with input from Ofwat and through weekly meetings with PW. This has been the position for many months. Mr Owen explained that the draft DCO [APP-023] had been drafted back in the spring and before, and that it was necessary to understand the thought process at that time. The Applicant is applying for development consent for a project where use of the reservoir is integral to the project, and yet it is not the Applicant's reservoir. This is a completely unique situation. The Applicant hopes that BSA2 will be concluded swiftly to provide the detail for the interface between the two companies, but the Applicant had to include, as a backstop, the provisions of article 5. This is so that the Applicant

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	can demonstrate that, if all else failed, if there was no BSA2, if BSA2 were for some reason to fall away, or if PW as a company were for some reason to fail, the Applicant would have the statutory powers necessary to deliver the Project for which consent is being sought. Mr Owen emphasised that this is fundamentally important for the Applicant to be able to demonstrate, even if BSA2 was agreed as the Applicant hopes. He also confirmed that whilst Ofwat has the powers to intervene, the Applicant is not able to presume or assume that those powers would necessarily be exercised, and therefore a backstop provision in the form of article 5 was needed. Mr Owen stated, for the record, that the Applicant had sent a draft of the Development Consent Order to Portsmouth Water on 2 April 2026. He acknowledged that it didn't look exactly the same as the version submitted with the DCO application, including that the Scheme of Operation provisions were not in it. However, the Applicant had received no response at all to the draft DCO before the application was submitted or indeed until the middle of August this year, and the Applicant had no response at all on the protective provisions until approximately two weeks before the hearing. The Applicant had not been getting any engagement in relation to the draft that was shared at that time. Mr Owen stated that it was important to understand that the provisions in article 5 dealing with a Scheme of Operation are not intended to be a complete substitute for a bulk supply agreement. He explained that the Scheme of Operation is a device formulated to allow the Applicant to have statutory powers in relation to the operational interface of the Project with the reservoir. It is not intended to deal with commercial matters and could not be used to deal with commercial matters. Mr Owen confirmed that article 5 is not slanted in the Applicant's favour. Provision is included for disputes about the Scheme of Operation to be referred to the Secretary of State for determination. The Applicant also made it clear from the beginning, in paragraph (9) of article 5, that all of this was subject to the bulk supply agreement. Paragraph (9) states that "the undertaker may enter into agreements with Portsmouth Water relating to the exercise by the undertaker of the functions conferred by this article, and the exercise of those functions is subject to the terms and conditions of any such agreements." Mr Owen described this as legislative language providing that BSA2 has primacy. This is still the Applicant's position.

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	Mr Owen addressed the submissions made by Mr Hereward Phillpot KC in relation to the DCO precedents (article 43 of the Great Yarmouth Third River Crossing Development Consent Order 2020 and article 41 of the Lake Lothing (Lowestoft) Third Crossing Order 2020) cited in the Explanatory Memorandum. He confirmed that the Applicant had referred to them only as precedents for the concept or device of a Scheme of Operation in the context of development consent orders. In drafting Explanatory Memorandums, DCO applicants are encouraged to produce such precedents where available. Mr Owen acknowledged, however, that the circumstances were not completely analogous. Mr Owen confirmed that the Applicant was in discussion on the detailed provision of article 5 and hoped to find a middle ground on these issues. In relation to the Reservoirs Act 1975, the purpose of a Scheme of Operation under article 5, if one were needed, is to deal with the operational interfaces. It is not intended, and could not be used, to allow the Applicant to take over the management and control of the whole reservoir, including its structures. This is not something that would be appropriate or which the Applicant would want. The Applicant is happy to make it clear that the Reservoirs Act 1975 could not be undermined, just as, if necessary, it could be made clear that Ofwat's powers are not to be undermined by article 5. Mr Owen emphasised that it was fundamentally important to understand why the Applicant had reached the position that it had on article 5: it is necessary to allow the Applicant to say to the ExA and to Defra that the Project can be delivered and operated as intended to provide the much-needed water it would deliver. Mr Owen confirmed that it is the Applicant's customers who are paying for the reservoir to be built, and that it is for their benefit. The water in the reservoir is not for the benefit of Portsmouth Water. This has been made clear through the water resource management planning process. This is another reason why it is critical that Southern Water has sufficient rights, using that term broadly, over the reservoir to allow the Project to function. The inclusion within article 5, of the powers contained in Part 6 of the Water Industry Act 1991, is intended to support the step-in rights that the bulk supply agreement would include, which have been agreed in principle, to allow Southern Water to step in and complete the Project, including the pipelines between Havant Thicket Reservoir and Bedhampton

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	Springs, if necessary. He confirmed that those elements have planning permission and had been subject to rigorous environmental impact assessment already. Article 5(7) is included to manage this. In response to reference by the ExA to the apparent tension between the submissions about not duplicating regulatory regimes, with the draft DCO seeking to modify the Environment Agency's powers, Mr Owen, on behalf of the Applicant, confirmed that this is a novel situation and a pathfinder project. The Applicant concluded that some elements of the existing regulatory regimes needed to be modified in terms of how they would apply to the Project. Mr Owen specified that this concerned the abstraction licensing regime, the impounding regime, and environmental permitting, and that there were therefore some detailed proposed modifications to those regimes set out in Schedule 8 to the draft DCO [APP-023]. The Applicant had provided very detailed explanation for the modifications in the Explanatory Memorandum [APP-024]. In general terms, Mr Owen explained that they were there to demonstrate to the ExA, and through the ExA to the Secretary of State, that the Project could be delivered and operated as intended. Without the modifications, there would be insufficient assurance for the Applicant to spend considerable sums on the Project and to deliver the certainty required to receive satisfactory tenders for the Competitively Appointed Provider. It was confirmed that the Applicant had started discussions with the Environment Agency on the provisions in Schedule 8 and that the Applicant is considering and responding to the Environment Agency's comments. The drafting of Schedule 8 therefore remains under discussion. Mr Owen acknowledged that although, superficially, there are those who might seek to say this is inconsistent with the application of the *Gateshead* principle explained earlier – the general principle that other regulatory regimes should be allowed to operate as they are – that would be incorrect and in truth this is a different situation. Mr Owen drew a distinction between the general application of the *Gateshead* principle and the modifications in Schedule 8, explaining that this case required modifications to protect the Applicant, particularly bearing in mind that the Applicant does not own Havant Thicket Reservoir: it is paying for it all, but it does not own it, and yet for the life of the Project it needs to be absolutely assured, as does its contractor and Ofwat, that the reservoir would be available for use and would function as intended, sitting in the middle of the Project. The *Gateshead*

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	principles continue to apply, however, to the other regimes as modified by Schedule 8. Those modifications do not exclude its application. Mr Owen, on behalf of the Applicant, confirmed that the Applicant was happy to discuss additional safeguards and balances to article 5 that PW may put forward. Mr Owen stated that there was already a role for the Secretary of State to determine a Scheme of Operation if it was disputed, and that in doing so the Secretary of State would act in the public interest. In response to the submission that Schedule 8 was slanted in terms of capping Portsmouth Water's right to water, Mr Owen explained that all Schedule 8 was doing was reflecting the current position in BSA1 and the position that had been agreed as part of BSA2: namely that Portsmouth Water had no right to the water in the reservoir except insofar as it had provided a like quantity of up to 21 million litres of water a day to the Applicant from elsewhere in Portsmouth Water's network. He explained that this was the basis upon which permission to build the Havant Thicket Reservoir had been granted in the first place: to provide water to PW that it had supplied to the Applicant from other parts of its network in the west. Mr Owen confirmed that this position remained in BSA2, in that there was no separate / 'over and above' entitlement to any of the water in the reservoir for Portsmouth Water. Mr Wintringham, on behalf of the Applicant, explained that it was important context that the reservoir was replacing a decades-long reliance on abstraction from the river Test and river Itchen, and that therefore the level of certainty required for customers and the customers' investment was very high. Providing water to the Applicant's customers is the absolute purpose of the Havant Thicket Reservoir and the Project. Mr Wintringham agreed with the description of the situation as unprecedented: one company is building a reservoir on behalf of another company's customers. Southern Water has to have complete reliance on that. Mr Wintringham confirmed in relation to funding that the reservoir was being funded by Portsmouth Water on the basis that Southern Water's customers would pay for it. Mr Owen confirmed that the provisions within article 5 and Schedule 8 reflected the level of certainty that the Applicant's customers required for this level of investment and the certainty required for the public water needs. Mr Owen, on behalf of the Applicant, in response to the comments from Mr Jobbins and Water Matters Community in relation to planning, confirmed that the Applicant had had a helpful meeting

Agenda item	Written summary of the Applicant's oral submissions
	with Mr Jobbins and had been able to clarify what article 5(8) did and did not do. Mr Owen explained that article 5(8) was completely necessary because without it, the Applicant could not use the reservoir or the pipelines to and from Bedhampton Springs for the Project, as a planning condition had been imposed on both the reservoir and the pipelines stating they could only be used for spring water. He stated that this would clearly not work for the Project and that the draft DCO makes provision to deal with this. Mr Owen confirmed that there was no impact on the section 106 agreement that PW has entered into in relation to the reservoir. Mr Owen confirmed that the effect of article 5(8) was not to give PW the freedom to breach its planning permissions and avoid enforcement action; it would not have that effect. It is a very limited provision, carefully drafted to deal only with the planning condition point mentioned. The provision is required in order for the Project to be allowed to use the reservoir and related infrastructure, but it should not be a cause for concern. Mr Owen further confirmed that so far as Schedule 8 was concerned, there was a large amount of detail. Schedule 8 is not intended to deal with commercial matters but deals with what is required for the Project to be proceeded with, including the certainty required for financing.
Item 6 - Actions, next steps and closing remarks	Please see Table 3-2.

3.2 Actions from ISH1

3.2.1 Table 3-2 sets out the actions included in the Action Points from Issue Specific Hearing 1 (ISH1) [EV5-009] and details the action reference, the relevant party, and the Applicant's response.

Table 3-2 Actions from ISH1

Ref	Action	Relevant party	The Applicant's response
ISH1-01	Applicant to provide at Deadline 1: (a) in spreadsheet form the raw data relating to the pilot trials at Budds Farm and Peel Common Wastewater Treatment Works; (b) information about any difficulties encountered when sampling certain chemicals (e.g. sending samples away to other companies for analysis); and (c) a further explanation of the methodology that informed the parameters that were used for the water quality modelling of Havant Thicket Reservoir.	The Applicant	(a) The Applicant has provided the raw data relating to the pilot trials at Budds Farm and Peel Common Wastewater Treatment Works as a single Excel file titled The Applicant's response to ISH1 action 1(a) (Document reference 8.17, DCO Volume 8, Version 0). (b) and (c) The Applicant has provided information about the difficulties encountered when sampling certain chemicals, and provided additional explanation of the methodology that informed the parameters for water quality modelling of the Havant Thicket Reservoir, in The Applicant's response to ISH1 post hearing action 1(b) and 1(c) (Document reference 8.14, DCO Volume 8, Version 0). This document also includes additional information about water recycling in response to comments made during the hearing, notwithstanding that the regulation of the output of the water recycling plant is a matter for the environmental permitting regime and beyond the scope of the Examination.
ISH1-02	Applicant to prepare a note at Deadline 1 on construction works at Bedhampton Springs including the need for retained flexibility for works at that location, on	The Applicant	The Applicant has responded to this action in Appendix A.

Ref	Action	Relevant party	The Applicant's response
	how aquifers will be protected during works and how those protections are to be secured.		
ISH1-03	Applicant and Portsmouth Water to provide at Deadline 1 information about how and at what stage consumers will be informed that they may receive water derived from the scheme, including when the areas or supply zones that could receive that water will be identified, and how concerns about drinking water safety and the change in source will be addressed.	The Applicant and Portsmouth Water	The Applicant has responded to this action in Appendix B. The Applicant cannot respond on behalf of Portsmouth Water and its customers.
ISH1-04	Applicant to provide at Deadline 1 a glossary of correct terminology to use when discussing water recycling.	The Applicant	The Applicant has responded to this action in Appendix C.
ISH1-05	Applicant to provide at Deadline 1 an updated version of the Other Consents and Licences Position Statement [APP-055] to reflect the fact that the Applicant has commenced a pre-application process with the Environment Agency in relation to abstraction licensing.	The Applicant	The Other Consents and Licences Position Statement (Document reference 5.4, DCO Volume 5, Version 1) has been updated at Deadline 1 to address this action.
ISH1-06	Applicant to provide at Deadline 1 a note on the interface between provisions of the draft DCO and the regulatory	The Applicant	The Applicant has responded to this action in Appendix D.

Ref	Action	Relevant party	The Applicant's response
	role of Environment Agency, the Water Services Regulation Authority (Ofwat), the Regulators' Alliance for Progressing Infrastructure Development (RAPID) and the Drinking Water Inspectorate. The note should explain the interfaces between the DCO, environmental permitting, drinking-water regulation and the Ofwat/RAPID processes in relation to the water environment, water quality and public health, identifying the respective roles of each regime and any material dependencies between them.		
ISH1-07	Environment Agency, the Water Services Regulation Authority (Ofwat), the Regulators' Alliance for Progressing Infrastructure Development (RAPID) and the Drinking Water Inspectorate to provide written statements on the scope of their role in relation to the regulatory frameworks that apply to the Project. The statements should explain how each body's role interfaces with the draft DCO and the other relevant regimes in relation to the water environment, water quality and public health,	Environment Agency, Water Services Regulation Authority (Ofwat), Regulators' Alliance for Progressing Infrastructure Development (RAPID) and the Drinking Water Inspectorate	This action is not directed at the Applicant.

Ref	Action	Relevant party	The Applicant's response
	identifying any material dependencies between them.		
ISH1-08	Portsmouth Water to provide written submissions on its position on article 5 of, and Schedule 8 to, the draft DCO [APP-023].	Portsmouth Water	This action is not directed at the Applicant.
ISH1-09	Applicant and Portsmouth Water to provide a joint summary of the position on the right to water in Havant Thicket Reservoir in BSA (Bulk Supply Agreement)1 and how this is reflected in current BSA2 discussions.	The Applicant and Portsmouth Water	The agreed joint summary note is provided at Appendix E to this document. The note sets out the agreed commercial position in relation to the bulk supply of up to 21Ml/d under BSA1, and the position being negotiated under BSA2 to reflect the use of Havant Thicket Reservoir for the Project, and confirms the continuance of Portsmouth Water's restricted rights to water. It is on the basis of PW's restricted rights to water in BSA1 and those restricted rights which have been negotiated under BSA2 to date, and the related capacity of Portsmouth Water's plant and equipment at Bedhampton Springs, that Schedule 8 to the draft DCO secures for PW abstraction of up to 25 Ml/d from the HTR.

Appendix A The Applicant's response to action ISH1-02

A.1 Introduction

A.1.1 This Appendix is in response to ISH1-02, *'Applicant to prepare a note at Deadline 1 on construction works at Bedhampton Springs including the need for retained flexibility for works at that location, on how aquifers will be protected during works and how these protections are to be secured'.*

A.1.2 Section A.2 outlines why flexibility has been retained within the application in relation to the pipeline route and construction methodology at the Bedhampton Springs site. Section A.3 outlines the assessment of impacts to the Bedhampton Springs within the Application, Section A.4 summarises the control measures and Section A.5 outlines the protective provisions.

A.2 Retained Flexibility at Bedhampton Springs

A.2.1 The Applicant has undertaken extensive engagement with Portsmouth Water to develop the location of the Pipelines between the WRP site and Bedhampton Springs (Work No. 3) within the Bedhampton Springs site. This has considered the following potential constraints and uncertainties:

- The groundwater and springs, designated as a Source Protection Zone 1, which the abstractions at Bedhampton Springs relies on to provide source water. The Applicant acknowledges that below ground works may have the potential to affect water quality, or directly impact Portsmouth Water's existing infrastructure.
- The Applicant is aware of the network of existing utilities across the Bedhampton Springs site, works associated with Portsmouth Water's pipelines to Havant Thicket Reservoir and plans for development at the site in the future.
- Access roads and footpaths, which could be temporarily or permanently impacted by construction of the Pipelines.
- Environmental constraints, including the Hermitage Stream, the Old Mill Dam watercourse, a veteran tree and other large trees, and the species these habitats support.
- There is optionality for the connection point into Portsmouth Water's pipelines to Havant Thicket Reservoir and so the route of the Pipelines has not yet able to be confirmed.

A.2.2 Noting the above constraints and uncertainties, and the early stage of design, the Applicant's scheme development process determined that retaining flexibility within the Bedhampton Springs site was required. This flexibility is retained within the Work No. 3 area on Sheet 4 of the Works Plans [AS-008]. Within this area, the flexibility enables the pipeline to be routed around the constraints listed above, to the connection point with Portsmouth Water's infrastructure in a yet-to-be-determined location. The exact route of the Pipelines will involve an iterative

design process to be carried out post-consent, to identify the final route of the pipeline, the extent to which it is above or below ground, and the construction methodology required. The iterative design process will be informed by engagement with Portsmouth Water, as well as further investigations and risk assessment as set out below, to ensure that the final construction of the pipeline is carried out safely and does not cause harm to the aquifer or Portsmouth Water's assets.

A.2.3 As well as providing flexibility for the route of the pipeline, the Applicant has provided flexibility for the pipeline to be located either above or below ground, as described in paragraph 3.3.26 of ES Chapter 3 (Description of the Proposed Development) [APP-082]. This allows the Applicant to locate the pipelines above ground up to a height of 3m (in line with design principle PL_7) so that the pathway for potential impacts to the springs is reduced. However, this may not be possible given the other constraints on site, particularly where the pipeline must cross access roads. Accordingly, the Applicant has retained flexibility to locate the pipelines below ground where appropriate to avoid site constraints in co-ordination with Portsmouth Water. It is recognised that laying the pipeline underground by trenchless methods would present an unacceptable risk to the aquifer, and accordingly the Applicant has restricted the use of trenchless construction within the vicinity of Bedhampton Springs, as set out in Appendix A of the Outline CEMP (Document reference 7.1, DCO Volume 7, Version 1), reference RTC_B_1.

A.2.4 Due to the various constraints and lack of certainty over the detailed design for Portsmouth Water's Havant Thicket Reservoir project, flexibility is required in this part of the Project until the detailed design stage. The Applicant does not currently have a preference as to which route and construction method is preferred, but the final design will be subject to the controls and protections that are secured by the draft DCO [APP-023]. Implementing the mitigation measures set out in Section A.3, and securing Portsmouth Water's approval of the detailed design as required in the protective provisions for Portsmouth Water (set out in Section A.4), ensures that the Pipelines can be brought forward in a way that manages the various constraints and environmental effects, whilst ensuring a deliverable design in this location.

A.3 Assessment of Impacts

A.3.1 The assessment of impacts and potential significant effects on the Source Protection Zone 1 related to Bedhampton Springs is undertaken in ES Chapter 19 Water environment (Document reference 6.1, DCO Volume 6, Version 1), which notes the potential for shallow open-cut excavation in Bedhampton Springs, as stated in Table 19-57. This assessment reports that there are no likely significant effects on Bedhampton Springs on the basis of control measures which are secured in the Design Principles (Document reference 5.11, DCO Volume 5, Version 1), Outline CEMP (Document reference 7.1, DCO Volume 7, Version 1 for document 1 of 3) and Outline WMP (APP-204)

Hydrogeological Impact Assessment

A.3.2 The Hydrogeological Impact Assessment [APP-198], which supports ES Chapter 19 Water Environment (Document reference 6.1, DCO Volume 6, Version 1), was developed to identify receptors potentially susceptible to hydrogeological impacts, using the source-pathway-receptor concept, and subsequently inform the monitoring and mitigation measures that would be required. This includes the specific monitoring and mitigation requirements within the Source Protection Zones, as outlined in Section A.4 below.

A.3.3 The Applicant acknowledges what Portsmouth Water says about the description of this part of the Project in paragraph 5.5.2 of the Hydrogeological Impact Assessment [APP-198] within its Relevant Representation (RR-253). However, it is clear when taking Chapter 19 (Document reference 6.1, DCO Volume 6, Version 1) and the Hydrogeological Impact Assessment [APP-198] as a whole, including paragraph 5.5.6 which discusses excavation or drilling within the karst chalk, that the description of the Project as set out in ES Chapter 3 Description of the Proposed Development [APP-082], including the optionality for this aspect of the Project, was in scope when undertaking the assessment. The reporting on the outcomes of the assessment therefore reflects this optionality, including open cut excavations in this area (as noted in Section A.3.1 above). As confirmed in ES Chapter 19 (Document reference 6.1, DCO Volume 6, Version 1, no significant environmental effects are likely from the construction of the Project in this area.

A.3.4 The mitigation and monitoring measures arising from the Hydrogeological Impact Assessment were subsequently developed taking into consideration that flexibility is required at Bedhampton Springs, including the potential for shallow excavations to avoid site constraints, as the detailed design is progressed.

A.3.5 The control measures are described in Section A.4 below.

Foundation Works Risk Assessment

A.3.6 Portsmouth Water in its Relevant Representation [RR-253] questioned the Outline Foundation Works Risk Assessment [APP-417], specifically Table 3-3 of the assessment which sets out the hydrogeological setting of the proposed tunnel route and shafts. With regards to the Mill Lane East shaft, Portsmouth Water specifically queried if the shaft had been properly categorised as Table 3-3 of the oFWRA [APP-417] states ‘no’ in response to the question of whether a structure is “in groundwater SPZ and abstractions within 250 m?”. To confirm, this table will record ‘yes’ only if both elements of the question are true. That is, the shaft would need to be both within a Source Protection Zone and within 250m of an abstraction for ‘yes’ to be recorded.

A.3.7 As is confirmed within Table 3-3 of the assessment, the shaft is located outside of the Source Protection Zone of the abstraction at Bedhampton. The SPZ is located approximately 35m to the north of the shaft location. The Applicant notes in Table 3-3 of the Outline Foundation Works Risk Assessment [APP-417] that

the shaft is in proximity to the Bedhampton Springs abstraction point, being approximately 155m northeast of the shaft location. Notwithstanding this, the Applicant took a precautionary approach and progressed both the Mill Lane East and Mill Lane West shafts for further assessment, as confirmed in paragraph 4.6.4 of the oFWRA [APP-417]. The summary of the receptors in Table 4-8 further confirmed that Mill Lane East was given a 'Very High' sensitivity to ensure a conservative, worst case assessment. Mill Lane East was also assessed under pollution scenario 3 and pollution scenario 4.

A.3.8 Portsmouth Water requests in paragraph 5.4.8 of RR-253 under PW28 that the screening answer is corrected in order to bring Portsmouth Water into the consultation regime. The Applicant has not amended the outline FWRA as requested as doing so would introduce an error into the assessment, because the location of the shaft is outside of the SPZ1. The Applicant has reviewed the drafting of commitment LQGC8 in the outline Construction Environmental Management Plan (Document reference 7.1, DCO Volume 7, Version 1 for document 1 of 3) and has updated this to clarify explicitly that consultation with Portsmouth Water on the detailed FWRA will be required in relation to the construction of the Mill Lane shafts, located just outside of SPZ1.

A.4 Control Measures

A.4.1 Requirement 3 of Schedule 2 to the draft DCO [APP-023] requires that *'authorised development must be constructed substantially in accordance with the relevant design principles',* which are set out in the Design Principles Document [APP-076].

A.4.2 Design principle PL_4 (Document reference 5.11, DCO Volume 5, Version 1) states that the Project should seek to minimise works that interact with the chalk within SPZ1 and SPZ1c as far as reasonably practicable. It notes that where interaction with the chalk in SPZ1 or SPZ1c cannot be avoided, works are to be undertaken in line with the measures in the Outline CEMP (Document reference 7.1, DCO Volume 7, Version 1 for document 1 of 3).

A.4.3 Requirement 6 of Schedule 2 of the draft DCO [APP-023] requires *'No part of the authorised development may commence until a construction environmental management plan for that part has been submitted to and approved in writing by the relevant planning authority'* and *'A construction environmental management plan submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline construction environmental management plan.'*

A.4.4 Section A.3 of the Outline CEMP (Document reference 7.1, DCO Volume 7, Version 1 for document 1 of 3) specifically restricts trenchless crossings in the Bedhampton Springs area, which would be the highest risk to the SPZ1.

A.4.5 For any shallow excavation works required in the SPZ1/1c due to site constraints, the Outline CEMP (Document reference 7.1, DCO Volume 7, Version 1 for document 1 of 3) measure WE2 requires that *'The Contractor will prepare a Risk Assessment and Method Statement (RAMS), specific to works within Source Protection Zones (SPZ; most critically SPZ1 and 1c) in accordance with the*

Outline Water Monitoring Plan, and will be submitted for approval separately to the CEMP in accordance with the corresponding requirement contained in Schedule 2 to the draft DCO. The RAMS will include a description of the construction methodologies to be used, evidence of past successful utilisation within karstic chalk and SPZ1, identification of key risks to the aquifer (e.g. slurry loss, turbidity etc) and control measures to reduce risks.' It should be noted that a risk assessment cannot be carried out at this stage of the design as the location for the connection to Portsmouth Water's infrastructure has not yet been determined and the route to this location has not yet been designed. The risk assessment plays an integral part in the iterative detailed design of the pipeline route and methodology, with any unacceptable risks identified being addressed through changes to the detailed design.

A.4.6 Outline CEMP (Document reference 7.1, DCO Volume 7, Version 1 for document 1 of 3) measure LQGC8 requires *'The Contractor will undertake detailed FWRAs in line with CL:AIRE's Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. The detailed FWRAs will provide an assessment for each of the proposed foundation types for the WRP, associated structures and AGP, and an assessment of construction methodologies for trenchless construction works, tunnels and shafts respectively. The detailed FWRAs will include detailed Piling Risk Assessments and an assessment of other foundation types. The detailed FWRAs will be undertaken in consultation with the EA and the relevant local planning authority. In a Source Protection Zone 1 (SPZ1), and in relation to any works relating to the Mill Lane East shaft and the Mill Lane West shaft, where penetrating the chalk or other sensitive groundwater areas where trenchless construction, tunnelling or foundations are proposed, the detailed FWRA will be undertaken in consultation with the EA, relevant local planning authority and the relevant water company and permits or consents will be obtained prior to any works (including enabling works) commencing in the SPZ or for the Mill Lane East shaft or the Mill Lane West shaft (if required).'*

A.4.7 Requirement 16 of Schedule 2 of the draft DCO (APP-023) requires *'No part of the authorised development may commence until a water monitoring plan for that part has been submitted to and approved in writing by the relevant planning authority, in consultation with the Environment Agency'* and *'The water monitoring plan submitted for approval under sub-paragraph (1) must be substantially in accordance with the outline water monitoring plan.'*

A.4.8 Portsmouth Water is identified within the Outline Water Monitoring Plan (APP-204) as a stakeholder to be consulted in relation to monitoring works, trigger levels and actions plans for works proposed within its Source Protection Zones, such as Bedhampton Springs.

A.4.9 The Outline Water Monitoring Plan in paragraph 4.3.1 requires *'During the construction works a watching brief will be employed to detect any unknown karst dissolution features when working directly on/within chalk or where overburden to chalk is anticipated to be less than 10m.*' and subsequently in paragraph 4.3.4 that *'mitigation employed will be agreed in advance with the relevant stakeholders'* which includes Portsmouth Water for all works within their Source Protection Zones.

A.4.10 In addition to the control measures noted above, any excavations or shafts that require abstraction in excess of 20m^3/d (which would cover the majority of excavations and shafts within the Chalk) would be subject to an abstraction licence from the Environment Agency.

A.4.11 'Substantially in accordance with' has been defined in paragraph 1 of Schedule 2 to the draft DCO [APP-023] as meaning that the plan or detail should in the main accord with the document to which the phrase refers to and where the proposal varies from that document the proposal must not give rise to any materially new or materially different environmental effects in comparison with those reported in the Environmental Statement. This acts as a control to ensure that the detailed design of the Project will remain within the scope of the assessment and the outcomes reported in the Environmental Statement, which are controlled by the documents secured in the Requirements, and, as noted above, concluded no likely significant effects on the quality or quantity of Bedhampton Springs Public Water Supply. It should also be noted that the use of 'substantially in accordance with' in the context of Requirements is established drafting for development consent orders, and has been found to appropriately balance the need for certainty that mitigation will be delivered with the need for flexibility to enable advancements in best practice to be accommodated and to ensure the most appropriate mitigation is applied based on the detailed design.

A.5 Protective Provisions

A.5.1 The approach has been discussed with Portsmouth Water and the Applicant understands that it was agreed that further progress on the exact routing, design and construction methodology for the Pipelines within the Bedhampton Springs site would require the involvement of the Contractor who will be appointed post-consent. Flexibility is therefore retained so that a design and engineering solution can be identified and agreed, as it is not possible to finalise the solution at this time.

A.5.2 The Applicant is actively discussing the form of protective provisions with Portsmouth Water. In addition to the controls on the detailed design secured through the draft DCO [APP-023], there are further controls specific to Portsmouth Water in the protective provisions at Part 3 of Schedule 10 to the draft DCO. The protective provisions require Portsmouth Water to approve a plan for any 'specified work', being a work that may adversely affect any apparatus. Portsmouth Water has the right to request testing and surveys under paragraph 24(2) and the works must not be commenced until the plan has been approved. This ensures that Portsmouth Water has oversight and control of any proposed works that could affect its supply network.

Appendix B The Applicant's response to action ISH1-03

B.1 Future customer communications on the change of source for drinking water

B.1.1 The starting point is the statutory obligations on the Applicant as a water undertaker. In particular:

a. section 68(1)(a) of the Water Industry Act 1991, a water company has a statutory duty to supply wholesome water;

b. section 68(1)(b) of the Water Industry Act 1991 also places the duty on a company, so far as reasonably practicable, to ensure, in relation to each source or combination of sources from which water is supplied, that there is, in general, no deterioration in the quality of the water which is supplied from time to time from that source or combination of sources; and

c. regulation 4(1) of the Water Supply (Water Quality) Regulations 2016 that water supplied that is intended for human consumption is regarded as wholesome in accordance with the conditions in the regulation, including strict concentrations or values for a broad range of parameters that should not be exceeding to ensure drinking water is acceptable to consumers in appearance, odour and taste.

B.1.2 The Applicant will ensure ongoing compliance with its statutory duties to supply wholesome water following the change of source from the Project. The recent Water Industry Performance Insights: Joint Regulator Report (29 October 2026) illustrates that the Applicant has a strong track record for its performance against drinking water safety testing across its network, with a 99.98% pass rate across the treated water network in 2025, which is above the industry average rate.

B.1.3 An important part of supplying wholesome water is customer acceptability. The Applicant has recognised since it started considering new water recycling infrastructure that thorough customer engagement on the process and change of source will be a key aspect of customer acceptability. The Applicant is committed to an ongoing programme of public and stakeholder engagement alongside the introduction of the new source of water.

B.1.4 In particular, as part of the Regulators Alliance for Progressing Infrastructure Development (RAPID) Gate Three final decision for the Project, Priority Action 7 (PA7) required the Applicant to submit a detailed plan setting out how customers who would receive water from a different or blended source would be engaged ("the PA7 plan"). The PA7 plan was subsequently provided to the Drinking Water Inspectorate (DWI) and RAPID in accordance with PA7.

B.1.5 The PA7 plan builds on the phased approach established in the Applicant's Water Recycling Engagement Strategy ("the Strategy"), as set out in Annex 9 of the Gate Three submission. The Strategy comprises three phases: Phase 1 – Create, covering the pre-application and consenting stage; Phase 2 – Construct, covering construction of the Project; and Phase 3 – Deliver, covering launch and

implementation. The Project is therefore moving through a wider programme of engagement in which the focus and audiences develop as the Project progresses towards operation.

B.1.6 The PA7 plan provides for a dedicated change-of-source engagement phase before purified recycled water is introduced as a source of raw water for public supply. This dedicated phase will commence in full approximately two years before switch-on of the new water source. The timing and approach have been developed in collaboration with the DWI so that communications can be timely, accurate and informed by sufficiently mature Project information. The approximate two-year period before switch-on is also identified in the Applicant's Statement of Engagement [APP-072].

B.1.7 The dedicated engagement period will allow engagement to develop progressively as switch-on approaches. Wider customer research undertaken by BritainThinks[1] in 2022 found that most household customers preferred to be notified of a change in water source three to six months in advance, with a reminder closer to the time. The PA7 plan therefore provides a framework within which information can be provided progressively, with more specific and targeted communications delivered as switch-on approaches and the customers potentially affected are confirmed.

B.1.8 Before the dedicated change-of-source phase commences, ongoing engagement will continue to build customers' understanding of the need for the Project, water scarcity and the role of water recycling. During the dedicated phase, communications will become increasingly specific to the proposed change in source and to the customers who may be affected. Customers will be informed that they may receive water derived from the Project, provided with information about the proposed change in source, and given opportunities to ask questions and raise concerns, including regarding drinking water safety and quality. The detailed approach will be finalised closer to implementation, incorporating customer insight, stakeholder feedback and regulatory input.

[1] BritainThinks, Strategic Resource Options: Communicating Changes to Water Supply – Full Report, commissioned by Anglian, Affinity, Cambridge, Southern, Thames and Severn Trent Water, June 2022.strategic-resource-options-communicating-changes-to-water-supply-june-2022.pdf

B.1.9 The potential geographical area that could receive a change in water source has already been identified at a high level through network modelling. The PA7 plan includes a map showing the approximate area predicted through modelling to receive a change in water source, reproduced at Figure 1. The map provides the current indication of the area that could receive water derived from the Project.



Figure 1 Approximate SW area predicted through modelling to receive a change in water source

B.1.10 The area that could receive a change in water source is therefore understood at a high level at this stage. The detailed geographical area and customers potentially affected will be confirmed as Phase 3 (Deliver) is approached, reflecting the network configuration and operational arrangements then expected at switch-on. This will enable the dedicated change-of-source engagement to be targeted towards the Applicant's customers identified as potentially receiving water derived from the Project, using the most mature network and operational information available at that time.

B.1.11 The dedicated engagement will expressly address customer concerns regarding drinking water safety and quality and the implications of the change in source. Customers will be provided with clear information about the source of the water,

how water derived from the Project is treated, how drinking water quality will continue to be protected, and the safeguards, monitoring and regulatory oversight that will apply. The Applicant's engagement approach has been informed by DWI research[2] on public perceptions of water recycling, including the importance of explaining drinking water standards and monitoring arrangements and providing clear information about the quality and safety standards applicable throughout the treatment process.

B.1.12 Customers will be informed through a range of channels appropriate to the confirmed geographical area and customer groups. Potential channels identified in the PA7 plan include customer emails and text messages, bill inserts, stakeholder briefings, media activity, targeted social media, dedicated water scarcity and water recycling webpages, face-to-face community engagement, schools and community groups and, where appropriate, site visits. The combination and timing of these channels will be finalised closer to implementation, taking account of the confirmed customer geography, customer insight, stakeholder feedback and regulatory inputs.

B.1.13 In addition, as outlined in the Applicant's WRMP24 Position Statement [PDA-004], the Applicant received permission to publish its final WRMP24 in August 2026. Annex 2 of the permission to publish letter sets out actions that Defra expects to be progressed and completed by Southern Water within 12 months from the date of the letter (after publication of the WRMP24). These actions include:

Provide additional details to address stakeholder concerns raised regarding the health and safety of water recycling, including the HWTWRP. Southern Water will include signposting to additional information in the public domain and the regulatory frameworks in place such as the RAPID gated process or commit to providing further public information where necessary for customers to find out how the company is addressing the concerns being raised.

B.1.14 This further illustrates that the Applicant is required to undertake such communication as a condition of the water resources planning process which, along with the Applicant's wider statutory obligations, including customer acceptability being a key principle for supplying wholesome water, means that the Examining Authority and Secretary of State can have confidence that this is already a requirement on the Applicant and it does not need to be considered further in the DCO process. This position aligns with the Gateshead principle and paragraph 3.8.3 of the National Policy Statement for Water Resources Infrastructure (NPSWRI), as further explained in Annex F to this document.

[2] Drinking Water Inspectorate (DWI) (2022). Public Perception of Water Recycling for Drinking Water Use. DWI 70/2/348, Cranfield University. Published 20 December 2022. Available at: Public Perception of Water Recycling for Drinking Water Use.

Appendix C The Applicant's response to action ISH1-04

C.1.1 To provide clarity, the Applicant, in table 3-3, has collated the terms that should be used when discussing the water recycling process. These terms have been extracted from the Application Glossary [APP-007].

Table 3-3 Water recycling terminology

Term	Meaning
Advanced treatment process	This is the recognised term to describe the multi-barrier water recycling treatment process within the Water Recycling Plant to turn highly treated wastewater into purified recycled water. For the Proposed Development, the main stages are: • Microfiltration/Ultrafiltration membrane process: Treated wastewater is pumped through a set of Microfiltration/Ultrafiltration membranes that act as a physical barrier that removes suspended solids, bacteria, some viruses, and protozoa from treated wastewater and this process is seen as a high-efficiency pre-treatment for reverse osmosis. • Reverse osmosis: a semi-permeable membrane is used to remove dissolved ions, phosphorus and impurities (such as smaller viruses and pharmaceuticals). • Ultraviolet with advanced oxidation process: Ultraviolet light and a small dose of hydrogen peroxide are applied to break down persistent chemicals and ensure safety through disinfection of the water. • Granular Activated Carbon: Carbon contactors have been designed to adsorb any residual peroxide, and other compounds formed during oxidation. • Treated water conditioning: Minerals (such as calcium and magnesium salts) are added back to stabilise the purified recycled water ready for transfer to Havant Thicket Reservoir.
Drinking water	Water that has been treated to strict regulatory standards, ready for supply to domestic and non-domestic customers as drinking water.
GAC Adsorption	Carbon contactors have been designed to adsorb any residual peroxide, and other compounds formed during oxidation.

Term	Meaning
Microfiltration	Treated wastewater is pumped through a set of Microfiltration/Ultrafiltration membranes that act as a physical barrier that removes suspended solids, bacteria, some viruses, and protozoa from treated wastewater and this process is seen as a high-efficiency pre-treatment for reverse osmosis.
Potable water	Water that is treated and tested to meet drinking-water quality standards, making it safe for people to drink and use in food preparation or other activities where it may be ingested
Recycled water	Purified water that has been produced by taking treated wastewater and removing remaining impurities using advanced treatment techniques.
Reject water	During the water recycling process, reject water is produced. Reject water is water containing impurities removed from the treated wastewater and released using the existing Eastney Transfer Tunnel and Eastney Long Sea Outfall.
Reverse Osmosis	A semi-permeable membrane is used to remove dissolved ions, phosphorus and impurities (such as smaller viruses and pharmaceuticals).
Source water	Water that is used as a source for drinking water. For the Proposed Development, this water is treated to strict regulatory standards at the Otterbourne Water Supply Works before being supplied to customers. Some submissions refer to 'raw water' rather than 'source water'. 'Source water' is the more appropriate term.
Treated wastewater	Wastewater that has been treated to strict regulatory standards and is typically released to rivers or the sea.
UV-AOP	Ultraviolet light and a small dose of hydrogen peroxide are applied to break down persistent chemicals and ensure safety through disinfection of the water.
Wastewater	A combination of water from kitchens, bathrooms, sinks and taps (in domestic and non-domestic properties) and rainwater from roads and roofs, that is transported to, and cleaned at, a wastewater treatment works.

Appendix D The Applicant's response to action ISH1-06

D.1.1 The Applicant has set out below an overview of the regulatory roles of the Environment Agency (EA), the Water Services Regulation Authority (Ofwat), the Drinking Water Inspectorate (DWI) and the Regulators Alliance for Progressing Infrastructure Development (RAPID) and how their roles interface with the draft Development Consent Order (DCO) [APP-023].

Environment Agency

D.1.2 **Overview of the EA's responsibilities**: The EA is the environmental regulator for the water sector in England. It has a statutory role to secure the proper use of water resources and to allocate water for people, the economy, and the environment. The EA has a general duty under s6 of the Environment Act 1995 to promote the conservation and enhancement of inland and coastal waters, and the flora and fauna that are dependent on the aquatic environment. Section 6(2) provides a further duty for the EA to take such action as is necessary or expedient for the purpose of conserving, redistributing or otherwise augmenting water resources, and for the purpose of securing proper (and efficient) use of water resources. Importantly, that duty expressly does not relieve water undertakers from the obligation to develop water resources for the purpose of performing their duties under section 37 of the Water Industry Act 1991 (WIA 1991) (general duty to maintain a water supply system).

D.1.3 Accordingly, the EA's interest is one of promoting and protecting the natural water environment. This duty operates in tandem with, but distinct from, the duty of water undertakers to develop new water resources infrastructure – something that is overseen by Ofwat.

D.1.4 **Overview of the EA's role on the Project**: the EA has multiple roles across the Project lifecycle:

a. it is involved in all stages of water resources planning, from identifying and quantifying future national needs of public water supplies through its National Framework for Water Resources to advising the Secretary of State on the assessment of each company's water resources management plan, including the Applicant's WRMP24 which was recently given permission to publish (see [PDA-004];

b. as part of the RAPID Gated Process, which was established to provide a seamless regulatory interface to identify and address regulatory issues for progressing strategic infrastructure projects;

c. as a relevant stakeholder in the DCO consenting process, that has been consulted and engaged on the design and assessment of the Project and has the benefit of protective provisions in Part 5 of Schedule 10 to the draft DCO [APP-023]; and

d. as a relevant regulator in relation to various licences, consents and permits required for the Project as set out in the Other Consents and Licences Position Statement [APP-055].

D.1.5 In its role of environmental regulator protecting the natural water environment, the EA has two key roles in relation to the Project: the first is the issue and enforcement of an environmental permit for the discharge from the Water Recycling Plant and Eastney Long Sea Outfall; the second is the issue and enforcement of abstraction licences for the removal of water from Havant Thicket Reservoir. The requirement for an abstraction licence exists because Havant Thicket Reservoir is connected to natural water resources, through compensation flows that are secured through the EA's third key role, beyond the scope of the Project, being the issue of the impounding licence to Portsmouth Water for the construction and filling of Havant Thicket Reservoir. Finally, the EA is responsible for various other consents, including in relation to flood risk activities during the construction of the Project.

D.1.6 The primary legislation relating to abstraction and impounding is the Water Resources Act 1991. The primary legislation relating to ensuring that discharges to water are not polluting is the Environmental Permitting (England and Wales) Regulations 2016.

D.1.7 **Interface with the DCO:** the key interfaces between the draft DCO [APP-023] and the EA's statutory role and responsibilities relate to the various water consents and the approach to obtaining the necessary approvals. Further information is set out in the DCO application in the 'Other Consents and Licences Position Statement' [APP-055]. The Applicant has been undertaking the pre-application process in respect of the discharge permit for some time, with work carried out to understand the information required by the EA to assess and determine the parameters for the discharge permit. The Applicant has also started the pre-application process in respect of the Abstraction Licence and is engaging with the EA throughout this process.

D.1.8 **Abstraction licensing:** an abstraction licence is required under the section 24 of the Water Resources Act 1991 to take water from any water source connected to the wider environment – in this case, it is required for the Project to abstract water from Havant Thicket Reservoir. The abstraction licensing regime specifies the location of the abstraction, the volumes of water that may be abstracted, and the conditions required to ensure that abstraction is sustainable. Once granted, the licence protects the abstraction rights so that the licence holder can rely on the water being available for them to abstract. Schedule 8 to the draft DCO [APP-023] modifies the existing regulatory regime to:

a. secure the rights to abstract the water to meet the need for the Project, including by restricting abstraction by others to the volumes to be shared under the bulk supply agreements underpinning SW's WRMP24;

b. move the point of abstraction away from the reservoir to enable individual licences to be granted; and

c. secure the shared infrastructure from regulatory change that may not adequately consider the two projects combined.

D.1.9 A detailed explanation of the modifications to the existing regime in Schedule 8 is set out in the Appendix to the Explanatory Memorandum [APP-024]. In summary, the fundamental purpose of the Project is to provide resilience to the Applicant's public water supply by making provision for the recycling of water, and for its conveyance to and from Havant Thicket Reservoir for storage, and thereafter for its transfer into the Applicant's public supply. The modifications to the provisions set out in Schedule 8 are necessary to safeguard the practical fulfilment of these purposes and so are clearly within the scope of what may be included in a development consent order.

D.1.10 **Environmental permitting:** a water discharge activity permit is required under the Environmental Permitting (England and Wales) Regulations 2016 to regulate the discharge of recycled water into the Havant Thicket Reservoir. A water discharge activity permit is also required for the discharge of reject water via Eastney Long Sea Outfall.

D.1.11 Schedule 8 to the draft DCO [APP-023] modifies the existing regulatory regime to provide the Applicant with an oversight of potential future applications to discharge water into Havant Thicket Reservoir. The modifications are required because the Applicant will not own the reservoir and so it is necessary that its views are appropriately considered in relation to any future applications that could be detrimental to the performance of the Project as a source of supply to the Applicant's customers. The modifications to the regime in Schedule 8 can be summarised as:

d. Paragraphs 22 to 24 would require the Applicant's consent for an application to be made for a new or varied discharge permit.

e. Paragraph 25 would enable the Applicant to appeal to the Secretary of State against the grant of a water discharge activity permit.

f. Paragraph 26 would give the Applicant standing to be heard in any determination of an application for a water discharge activity permit.

g. Paragraphs 27 and 28 deal with small scale discharges that, while being exempt for the requirement for a permit, must be registered with the EA. Respectively, they require the Applicant to be notified of any such exemptions and, in relation to discharges of sewage effluent prevents such exemptions being used.

h. Paragraphs 29 to 31 require the Applicant to be a consultee in respect of an application for a water discharge activity permit (or a variation to an existing permit) and require it to be notified of any such determinations.

D.1.12 Finally, the draft DCO [APP-023] seeks to disapply the requirement to obtain an environmental permit in relation to flood risk activities only. It does so only in relation to the flood risk activities that are not exempt, enabling the existing simplified permitting regime to be used for "low risk" watercourse crossings. For more complex flood risk activities, the protective provisions in Part 5 of Schedule 10 apply. This ensures that appropriate regulatory oversight for flood risk activities is retained, but it is provided for directly under the DCO rather than through the separate permitting regime. The form of protective provisions is being discussed with the EA.

Ofwat

D.1.13 **Overview of Ofwat's regulatory role**: Ofwat is the economic regulator for the water sector. Its duties are laid down in sections 2 and 3 of the WIA 1991 and require it to:

a. further the consumer objective to protect the interests of consumers, wherever appropriate by promoting effective competition;

b. secure that water companies properly carry out their statutory functions, including ensuring that there is sufficient water supply to meet demand;

c. secure that water companies can finance the proper carrying out of their statutory functions;

d. secure that water supply licensees and sewerage licensees properly carry out their licensed activities and statutory functions; and

e. further the resilience objective to secure the long-term resilience of water companies' water supply and wastewater systems; and to secure that they take steps to enable them, in the long term, to meet the need for water supplies and wastewater services.

D.1.14 **Interface with the Project**: the Applicant regularly engages with Ofwat on the development and funding of the Project, including through the established regulatory processes of the business planning and 'Price Review' regulatory cycle, as part of its role in RAPID and under the Direct Procurement for Customers process. The Project has successfully passed through all relevant Ofwat delivery milestones under these processes to date.

D.1.15 In particular, Ofwat has overseen the funding of the Project from the initial early development stages through to allocating funding for delivery and operation of the Project, in accordance with its duties under the WIA 1991. A key consideration of the need for funding is the certainty that a new water resources infrastructure project will deliver a water supply that is needed to meet the water demand (current and future). The feasibility of new water resources infrastructure and ability to supply water to customers is fundamental to Ofwat's role in approving funding for the delivery of new infrastructure.

D.1.16 The funding required to deliver the Project was included as part of the Applicant's 5 yearly business plan submission to Ofwat (AMP8 covering 2025-2030, submitted in 2023). Ofwat reviewed the proposals and assessed the efficiency and financeability of the business plan before setting price limits, as part of the 5 yearly regulatory cycle, in its 'Final Determination' that allows the Applicant to fund its overall activities including the efficient delivery of the Project. Where project construction continues beyond the 5-year allowances, the remaining costs will be included in future business plans and funded from price limits set by Ofwat at that time.

D.1.17 In addition, Ofwat is an integral part of the RAPID Gated Process, through which further checks and controls on project feasibility and efficiency of expenditure have been undertaken throughout the concept design, development and planning stages of the Project. At each 'Gate', the Applicant submitted technical information on the Project, including overall expenditure, and Ofwat considered

the efficiency of expenditure and confirmed if development funding would be released to continue work on the Project until the next 'Gate'.

D.1.18 The Project has successfully passed through Gates 1 to 3 already, with a decision on Gate 4 being due imminently. Gate 4 represents a checkpoint that was scheduled by RAPID shortly after the submission of the application for development consent. Ofwat's assessment at Gate 4 will focus on matters not covered by the DCO process or other permit or consent applications, such as cost assessment and efficiency of spend.

D.1.19 As set out in the Case for the Project [APP-057], significant efficiencies are achieved through integration of the Project with the consented Havant Thicket Reservoir scheme. By sharing infrastructure with Portsmouth Water, the Project reduces construction impacts, avoids duplication and is expected to deliver substantial cost savings compared to the delivery of standalone infrastructure for the amount of new water needed. These efficiencies contribute directly to value for money for customers. Moreover, in combination with Havant Thicket Reservoir, the Project represents considerably better value for money for the quantity of water provided than for the reservoir on its own, along with significantly increased drought resilience.

D.1.20 **Interface with the DCO**: there is no direct interface between the DCO and Ofwat's regulatory regime. However, the Applicant is working with Ofwat in respect of how the dispute mechanism in article 5(9) of the draft DCO will work in practice. This includes how it will interact with the regulator's role when a dispute arises between companies in relation to economic regulation, which is a separate but related process.

D.1.21 **NPSWRI interface and compliance**: in setting out the process of economic regulation, the NPSWRI requires at paragraph 2.5.12 that the Applicant includes a statement of the planned financial arrangements and how the Project delivers value for money. These requirements are addressed within the Funding Statement [APP-026] and section 4 of the Case for the Project [APP-057] respectively.

Drinking Water Inspectorate

D.1.22 **Overview of the DWI**: the DWI is the regulator for drinking water quality and has responsibilities under the WIA 1991 relating to the sufficiency and quality of water supplies. The DWI provides independent reassurance that public water supplies in England and Wales are safe, and that drinking water quality is acceptable to consumers, by regulating the quality of public supplies and enforcing the Water Supply (Water Quality) Regulations 2016.

D.1.23 Under section 86 of the WIA 1991, the DWI is empowered to investigate potential breaches of the duty to provide wholesome water. In emergency situations, the DWI's role is to investigate the incident and gather evidence to support the investigation. They also have powers to bring forward enforcement action or legal proceedings should there be sufficient evidence to do so.

D.1.24 The DWI does not have a direct role in the preparation of the WRMP, but the duties on companies under section 68 of the WIA 1991 need to be taken into account in the preparation of the WRMP.

D.1.25 Additionally, the DWI is responsible for ensuring compliance with the Security and Emergency Measures Direction 2022 (SEMD) which obliges water undertakers to maintain a water supply in the interests of national security, and to mitigate the effects of any civil emergency that may occur. This includes reviewing water undertakers' annual assessments and audits, including in relation to Critical National Infrastructure, and taking any necessary compliance and enforcement actions.

D.1.26 **Interface with the Project**: Once the Project is constructed, the DWI will be the relevant regulator for ensuring that water supplied to the public through the Otterbourne Water Supply Works is safe and of an acceptable quality to customers. The introduction of the Project into the network is a new source for the Applicant's customers. Sampling is required in order to demonstrate that the new source water is suitable to be treated to drinking water standards. The requirements for wholesomeness, as well as monitoring and sampling obligations, are set out in the Water Supply (Water Quality) Regulations 2016.

D.1.27 The starting point when considering the provision of drinking water is the statutory obligations on the Applicant as a water undertaker, as set out in paragraph B.1.1 of Annex B to this note.

D.1.28 The Applicant will ensure ongoing compliance with its statutory duties to supply wholesome water. The recent Water Industry Performance Insights: Joint Regulator Report (29 October 2026) illustrates that SW has a strong track record for its performance against drinking water safety testing across its network, with a 99.98% pass rate across the treated water network in 2025, which is above the industry average rate

D.1.29 **Process for DWI drinking water approvals:** the approvals process is a separate regime to the consenting process and can only be undertaken once the Project has been constructed and the new source water is available for testing. An overview of that process, which will be undertaken at the appropriate point in the Project delivery schedule with oversight from the DWI, is set out below:

a. Information on the new source of water must be submitted to the DWI (acting on behalf of the Secretary of State) (Regulation 15) in advance of it being supplied to customers, at least one month before the source is used, so that the DWI can establish that the new source and the proposed treatment of it will comply with the Applicant's duties under s68(1) WIA 1991 to provide wholesome water and ensure no deterioration in the quality of the water;

b. The submission must include the outcome of risk assessment of the new source and treatment at Otterbourne Water Supply Works and the connected supply system (including the transfer from Havant Thicket Reservoir) to confirm that it would not create a significant risk of potentially being a danger to human health or it is likely to be unwholesome (under Regulation 27). The outcome of the risk assessment will be published in the Applicant's Drinking Water Safety Plan, which will be submitted to the DWI (Regulation 28), along with the results of sampling undertaken at the identified abstraction point(s) (Regulation 15 and 17).

c. The data in the submission will enable the Applicant to confirm to the DWI (and the Secretary of State) that the water treatment at Otterbourne is suitable to provide wholesome water and ensure no deterioration in water quality. The Applicant must include any mitigation relied upon in reaching the conclusions in the risk assessment (Regulation 28).

d. Following submission of the data under Regulation 15, the Secretary of State (upon advice from the DWI) has powers to serve the Applicant a notice to stop the use of the source, or to add conditions to the use of the source, including in relation to the reliance of any measures to mitigate potential risks (Regulation 28).

e. The Applicant is under an ongoing obligation to keep the risk assessment required by Regulation 27 under continuous review, ensuring ongoing compliance with the Regulations. If the Applicant became aware of any factors that make it likely that the risk assessment would establish a significant risk of potentially causing danger to human health or that the water is unlikely to be wholesome, it must notify the Secretary of State (Regulation 27(5)).

D.1.30 **Interface with the DCO**: The draft DCO modifies Regulation 17 to clarify that the sampling point for the monitoring sites for the purpose of Regulation 17(6) for Havant Thicket Reservoir will be at the Reservoir rather than at Bedhampton Springs, which is the abstraction point for the purpose of the Water Resources Act 1991 and the abstraction licence. No other modifications are made in the draft DCO. Importantly the testing, sampling and risk assessment obligations to ensure the Applicant's statutory duties relating to the new source and treatment process at Otterbourne Water Supply Works will be met and are not modified as part of the DCO. The effect is that the standard drinking water regulatory regime applies in full to the water removed from Havant Thicket Reservoir and transferred to water supply works for treatment (at Otterbourne in relation to the Applicant's supply, and at Farlington in relation to PW's supply).

D.1.31 Discussions are ongoing with the DWI about the sampling requirements in relation to the reservoir, depending on the point at which recycled water first enters the reservoir. It is noted that different requirements may apply depending on whether water from Havant Thicket Reservoir has been used for a public water supply prior to the first discharge of recycled water into the reservoir.

D.1.32 The statutory obligations on the Applicant to supply wholesome water and for the testing and approvals process for a new source will be triggered by the introduction of the new source into the Applicant's network. It does not therefore need duplicating with additional statutory obligation in the DCO – this principle is established in law (the *Gateshead* principle) and in policy (paragraph 3.8.3 NPSWRI) as further explained in Annex F to this note. The Applicant has not identified any way in which the Project is not compatible with the existing regulatory regime, and so further modification in the draft DCO is not required.

RAPID

D.1.33 **Overview of RAPID's role:** the Regulators' Alliance for Progressing Infrastructure Development (RAPID) was established to identify and address

regulatory issues for progressing strategic infrastructure projects identified in Price Review 2024 (PR 24) (and previously in Price Review 2019 (PR19)). The alliance consists of Ofwat, the EA and the DWI.

D.1.34 It was established to provide a single point of coordination for large-scale water resources infrastructure that aims to drive environmental benefits, support economic growth and provide resilience for future generations. This is in recognition that such projects will interact with each regulator's regime at various point in the project lifecycle.

D.1.35 Since PR 19, RAPID has operated a 'gated process' relating to the funding of investigations and development of water resources solutions. As part of the gated process, companies provide technical design and assessment information on potential solutions identified to meet the water resources need with the aim of demonstrating that they are technically feasible and that expenditure has been incurred efficiently. The technical information is considered by the regulators that make up RAPID to inform their decision on whether the various solutions can progress to the next 'gate' in the 'gated process'.

D.1.36 **Interaction between water resources planning and the gated process**: the 'gated process' follows on from the water resources planning process and considers feasibility of the major infrastructure solutions at a project level (as opposed to the plan level in the WRMP). However, the long lead in times for such projects means that the five yearly water resources planning process has overlapped with the gated process as the Applicant prepared its WRMP24.

D.1.37 As set out in the NPSWRI at paragraph 2.5.18: "*the Environment Agency's National Framework for water resources sets out the strategic water resources need. Regional groups then develop a more detailed assessment of need and develop optimal solutions to meet it, and this will be reflected in companies' individual WRMPs. RAPID assist with the timely development of the strategic options"*.

D.1.38 **Overview of the gated process for the Project**: The focus of the gated process to date has been on the early design, feasibility and assessment of solutions and to help consider strategic alternatives to ensure that companies are progressing the option that represents best value for money. It focuses on the early development of solutions rather than duplicating existing regimes such as the planning and consenting processes, where the relevant regulators already have a role.

D.1.39 For the Applicant, this includes the consideration of nine strategic alternatives to meet the water resources need at Gate 1 (September 2020) and an extensive options appraisal process to select the Project as the best value solution for progression to the next stage at Gate 2 (December 2021). This process is reported in detail in the Scheme Development Report [APP-073-075]. The RAPID regulators considered the technical information and supported the selection of the Project as the preferred option in its Gate 2 'Final Decision' in May 2022.

D.1.40 The Applicant provided RAPID with an update on the preparation of the DCO application at Gate 3 (July 2024), which was designed to be a checkpoint on the way to solutions being prepared for the relevant consenting process. Gate 4 is timed after solutions have had their planning applications accepted – the

Applicant submitted its Gate 4 submission in July 2026, following acceptance of the DCO application in June 2026. Ofwat's website confirms that the timing of Gate 4 was designed by RAPID to avoid duplication between the roles of the examining and decision-making bodies for the planning applications (in this case, the DCO process).

D.1.41 Accordingly, whilst RAPID does not itself have a direct regulatory role, it was formed under Ofwat's regulatory function and plays a crucial role in coordinating the regulators to ensure that investment in new water infrastructure can progress. Each regulator plays an active role within RAPID, which provides a structured and iterative opportunity to assess whether a project is feasible in respect of the matters within the individual regulator's remit.

D.1.42 In response to action 6, in the Examining Authority's Action Points from Issue Specific Hearing 1 (ISH1) [EV5-009], to provide an overview of the interface with the Ofwat/RAPID regulatory process in relation to the water environment, water quality and public health, the Applicant confirms that each of these areas has been reported on as part of its submissions to RAPID. A key component of the gated process has been a technical report on the Project and initial environmental feasibility assessments, which is informed by an initial environmental assessment and considers the requirements of the Water Framework Directive Assessment and Habitats Regulation Assessment processes. The level of assessment that supported the RAPID process is inevitably at a high level, due to the early stage of design of the Project. Importantly, these assessments are undertaken on a non-statutory basis as they were designed to inform early feasibility of the solution to enable RAPID to consider whether development funding should be granted for work to continue to the next gate. They were not intended to duplicate the statutory assessments that take place under the DCO process to inform the Secretary of State's decision on whether to grant consent, or any other statutory consenting process for other consents and licences.

D.1.43 **Water environment:** the Applicant has undertaken initial early stage assessments aligned with the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (WFD) at Gates 1 and 2, and at Gate 3 and 4 it has reported to RAPID on the WFD assessment work that is being undertaken as part of the DCO process (the statutory process for this assessment). As an example, at Gate 3 the Applicant reported to RAPID on the key challenges emerging from the Water Environment Compliance Assessment that it was developing in consultation with the EA as part of the Environmental Impact Assessment for the DCO application. Assessment information on the water environment has formed a key part of the Applicant's submissions on feasibility and risks for the Project throughout the process to inform RAPID's decision on whether the Project should progress to the next gate.

D.1.44 **Drinking water quality and public health:** the Applicant has updated RAPID at each gate on drinking water quality and public health, including on progress made on developing its drinking water safety plan for the Project in accordance with statutory obligations and DWI guidance. This has been informed by data from its water recycling pilot plant, engagement with relevant stakeholders, including the DWI, and technical risk assessments. Part of the drinking water safety plan is assessing and mitigating any public health risks associated with the Project.

Providing evidence on the technical feasibility of drinking water quality, safety and risk to public health is a key part of providing evidence to support the progression of the Project as the preferred option for supply to the Applicant's customers.

D.1.45 The DWI has confirmed in its submission at Procedural Deadline A [PDA-038] that "*Neither development consent nor progression through the Regulators' Alliance for Progressing Infrastructure Development (RAPID) process removes or replaces those obligations….Through RAPID, the Inspectorate scrutinises the drinking water quality and security aspects of scheme development. Its assessment considers the risks associated with the proposed source and the implications for the downstream drinking water supply system, including supplies from the Otterbourne treatment works….At RAPID Gate 3, the Inspectorate considered that the project could progress, while identifying matters requiring further evidence on water quality risk assessment, consumer engagement and security. The Gate 4 submission records that all Gate 3 priority actions had been closed by January 2026. This represents progress in scheme development, but closure of those actions does not constitute final regulatory assurance or discharge the companies' continuing statutory duties*".

D.1.46 Therefore, whilst drinking water quality and safety to public health was considered throughout the RAPID gated process, the DWI is clear that its role in regulating drinking water supplies through its statutory process is not replaced by consideration in the RAPID or DCO processes.

D.1.47 As set out in the Case for the Project [APP-057], the Project has been subject to extensive regulatory scrutiny by Ofwat, the EA and the DWI through the RAPID process, including detailed options appraisal, cost and benefit assessment and ongoing review of cost efficiency. At each stage, the Project has been confirmed as being technically feasible and representing best value compared to alternative options capable of meeting the same needs.

D.1.48 The RAPID Gated Process has recently been brought into Ofwat's Major Water Infrastructure Programme that brings together the Gated Process and Ofwat's commercial and procurement processes into a single, transparent end to end lifecycle.

D.1.49 **Interface with the DCO:** there is no direct interface between the draft DCO [APP-023] and the RAPID process, as the DCO process is a statutory consenting regime and RAPID is an alliance of regulators that doesn't have its own regulatory function. The respective regulators that together comprise RAPID will interface with the draft DCO individually, as set out iD.1.7above.

Appendix E The Applicant's response to action ISH1-09

E.1.1 The DCO has been drafted against the background of:

1. SWS' reliance on the Havant Thicket Reservoir (HTR) and the connected Hampshire Water Transfer and Water Recycling Project to meet the need set out in SWS' Water Resource Management Plan (WRMP) 2019 & 24 (one of the primary drivers for which is the required reductions to licensed abstraction amounts from the Rivers Test and Itchen);
2. the parties have agreed that the second bulk supply agreement in respect of the HTR between PW and SWS (BSA2) will not make provision for any potential PW future WRMP requirements from the HTR, which would, if required, and if able to be supported by water available in the HTR, be a matter for a hypothetical future "BSA3"; and
3. SWS customers are funding the reservoir, which is being financed by PW (in a manner which minimises SWS customer bill impact), constructed by PW and will be owned and operated by PW, to meet SWS' water supply need.

E.1.2 SWS' position, on behalf of its customers, is therefore that it requires certainty that its investment being made will secure the future water supply to be provided by that investment in accordance with SWS' WRMP24.

Introduction

E.1.3 The HTR is being built by PW to enable a bulk supply to SWS' customers. The current bulk supply agreement in respect of the HTR between the parties (BSA1) is a displacement bulk supply whereby PW supplies water to SWS at Gaters Mill from its network and then rebalances such supply volumes by abstracting volumes from the HTR to be used for PW's customers. BSA1 contains restricted rights for PW to access water in the HTR. Not only are PW's customers not paying for the HTR, but they are being specifically remunerated for that lack of access through the regulatory 'economic profit' regime.

E.1.4 During the negotiation of BSA2, PW has agreed with SWS that BSA2 need not make provision for PW's potential future needs from the HTR and as a consequence PW's rights to access water from the HTR under BSA2 will remain restricted.

PW's right to water from the HTR under BSA1

E.1.5 Under BSA1, dated 29 January 2021, the agreed scenarios in which PW will be able to abstract water from the HTR are limited to the following:

4. **Permitted Usage Amount**: An amount of water equivalent to the aggregate of:
    5. the volume supplied by PW to SWS at Gaters Mill;

6. volumes equivalent to those which PW expected to supply to SWS at Gaters Mill but SWS later cancelled after the permitted deadline under BSA1 (so-called "Late Cancellation Volumes"); and
7. a "sweetening flow" volume of 365 Ml per year,

in each case: (i) subject to an annual availability period after which time such volumes will cease to be available for abstraction by PW; and (ii) such volumes of water will be free of charge to PW.

8. **Short-Term Emergency**: A right for PW to abstract water from the HTR for no longer than 24 hours in defined emergency scenarios. Such volumes of water are free of charge to PW.
9. **Long-Term Emergency**: A right for PW to abstract water from the HTR for longer than 24 hours in defined emergency scenarios. PW must make payment to SWS for such volumes of water.
10. **Ad-hoc use**: Any additional volumes which PW wishes to abstract will require SWS' prior written consent (not to be unreasonably withheld or delayed). PW must make payment to SWS for such volumes of water.

PW's right to water from the HTR under BSA2

E.1.6 BSA2 will amend and restate BSA1 and is in the process of being negotiated between the parties. BSA2 will regulate each party's further role with respect to the HTR which will, utilising the Hampshire Water Transfer and Water Recycling Project, permit SWS to abstract water directly from the HTR for onward treatment at SWS' Otterbourne water treatment works and additionally allow the HTR to be filled using SWS' Water Recycling Plant. Under BSA2, the agreed scenarios in which PW will be able to abstract water from the HTR will be limited to the following:

11. **Permitted Usage Amount**: An amount of water equivalent to the aggregate of:
    12. the volume supplied by PW to SWS at Gaters Mill, subject to a rolling 90-day availability period after which time such volumes will cease to be available for abstraction by PW; and
    13. a "sweetening flow" volume of up to 365Ml per year with any limitation on daily usage to be agreed

    in each case, such volumes of water will be free of charge to PW.
14. **System Losses**: As PW will provide wholesome treated water to SWS at Gaters Mill (post system losses through treatment, leakage etc) but abstract raw water from the HTR (pre system losses), PW will be entitled to abstract a specific volume (to be agreed) to effectively compensate it for system losses when abstracting water from the HTR to Farlington for treatment. Such volumes of water will be free of charge to PW.
15. **Compensation flows**: Any volumes necessary for PW to comply with: (i) an impoundment licence granted by the Environment Agency in respect of the HTR; (ii) Laws (to be defined in BSA2); and/or (iii) Directions (to be defined in

BSA2). Such volumes of water are not to be used for supply by PW and will be free of charge to PW.

16. **Short-Term Emergency**: On broadly similar terms to BSA1, a right for PW to abstract water from the HTR for no longer than 24 hours in defined emergency scenarios. Such volumes of water are free of charge to PW.

17. **Long-Term Emergency**: On broadly similar terms to BSA1, a right for PW to abstract water from the HTR for longer than 24 hours in defined emergency scenarios. PW must make payment to SWS for such volumes of water.

18. **Ad-hoc use**: Any additional volumes which PW wishes to abstract will require SWS' consent and such consent will be at SWS' absolute discretion. PW must make payment to SWS for such volumes of water.

E.1.7 The parties have agreed that, if PW requires a bulk supply from the HTR in the future, a BSA3 will be explored at that time.

Appendix F Gateshead principle note

F.1.1 New water resources infrastructure, such as the Project, must pass through a number of different regulatory processes throughout the project lifecycle. This includes water resources planning, economic regulation, planning permission and other consents and licences needed to construct and operate the project. These processes are overseen by a range of regulators and government departments, which further adds to the complexity of navigating different regimes and differing priorities and duties of relevant regulators and authorities.

F.1.2 It is a well-established principle that regulatory processes should avoid unnecessary duplication, particularly where the same matter has already been, or will be, assessed through another regime. Requiring substantially the same assessment to be undertaken, or controls to be imposed, under different regimes risks imposing a disproportionate regulatory burden without any further regulatory benefit. This principle is established in law and policy.

F.1.3 The *Gateshead* 'no duplication' principle [*Gateshead MBC v Secretary of State for the Environment* [1995] Env LR 37] confirms that, in the absence of evidence to the contrary, planning decision-makers are entitled to assume that a parallel, specialised regulatory regime (such as environmental permits managed by agencies like the Environment Agency) will operate effectively to control specific impacts, such as emissions or pollution.

F.1.4 Reliance on this principle in DCO decision-making is well established and has been followed in several recent DCO decisions, including The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 where the Secretary of State said in paragraph 4.17 of her decision letter that she was "*satisfied that the relevant pollution control and environmental regulatory regimes will be properly applied and enforced by the EA. As the EA note, these matters, including cumulative effects, will be considered in the Environmental Permit and the Secretary of State has no reasons to believe that the Environmental Permit variation application would not be granted. Consequently the Secretary of State considers that further consultation is not required.*"

F.1.5 The application of the *Gateshead* principle in DCO decision-making has been upheld by the High Court in the recent Immingham Eastern Ro-Ro Terminal (IERRT) case[3].

F.1.6 The case concerned the DCO for the IERRT project, which was granted consent by the Secretary of State for Transport in October 2024. A judicial review challenge was subsequently made against the Secretary of State's decision on grounds that included the Secretary of State's failure to take into account environmental information in breach of Regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations). The claimant argued that the Secretary of State was unable to assess the environmental effects of part of the project and so was required to limit the scope of the project to the areas that were assessed. The claim was unsuccessful and,

[3] R (on the application of Associated Petroleum Terminals (Immingham) Ltd and Humber Oil Terminals Trustee Ltd) v Secretary of State for Transport (Harbour Master for the River Humber, intervening) [2025] EWHC 1992 (Admin)

in providing the court's judgment, Saini J (as he then was) relied upon the *Gateshead* principle which the judge said was supported by an "established line of authority". Two important points from this case are relevant to the examination of the DCO application for this Project and provide legal authority for the approach taken by the Applicant.

F.1.7 First, a DCO decision-maker may properly rely on the *Gateshead* principle. The DCO should not duplicate other regimes, and the decision-maker should assume that the regulatory processes under those regimes will operate effectively. The following paragraphs of the judgment provide authority for this:

a. paragraph 59: "*In short, a decision maker on a development consent order can properly have regard to statutory controls outside of the planning regime on the basis of the Gateshead Principle"*; and

b. paragraph 60: "*The decision-maker is "entitled to rely on the operation of those controls with a reasonable degree of competence on the part of the responsible authority", despite the fact that "mistakes may occur in any system of detailed controls" (Milne, at [128]). The decision-maker is entitled to "have regard to, and rely upon, the existence of a stringently operated regulatory regime for future control" (An Taisce, at [46]). The decision-maker "will have to form a judgment as to whether those gaps and uncertainties [in the current environmental information] mean that there is a likelihood of significant environmental effects, or whether there is no such likelihood because it can be confident that the remaining details will be addressed in the relevant regulatory regime" (An Taisce, at [48], citing R (Jones) v Mansfield District Council [2004] 2 P & CR 14)*."

F.1.8 Secondly, it is established that not all environmental impacts are required to be known at the DCO decision-making stage if they will be addressed by and under another regulatory process, provided there is sufficient information for the decision-maker to conclude that the Environmental Statement is adequate under the EIA Regulations. The following paragraphs of the IERRT case provide authority for this position:

c. Paragraph 48 (by reference to paragraph 51 of the An Taisce[4] case): "*if the environmental impact assessment process is not to be an obstacle to major developments, the planning authority (in this case the Defendant) must be able to grant planning permission so as to give the necessary assurance if it is satisfied that the outstanding design issues – which may include detailed design changes – can and will be addressed by the regulatory process."*

d. Paragraph 62: "*It follows that the Defendant (the Secretary of State) was entitled to conclude that the* Environmental *Statement was adequate and that there was no likelihood of significant environmental effects because any remaining gaps in the details of the project would be addressed by the statutory controls over navigation in the Humber and the Port. On the evidence before the Defendant, and before me, there exists a very robust process (consistent with the PMSC) which ensures that any 'new' vessel*

[4] R (An Taisce (The National Trust for Ireland)) v Secretary of State for Energy and Climate Change [2014] EWCA Civ 1111

which is seeking to enter the Port is reviewed as to its navigational and operational acceptability, taking into account the specifics of that vessel".

F.1.9 In addition, this principle is confirmed in relevant national planning policy. The Applicant has set out in paragraph 4.3.62 of its Planning Policy Statement [AS-014] that the National Policy Statement for Water Resources Infrastructure states: "*3.8.3. In deciding an application, the Examining Authority and Secretary of State should focus on whether the development is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. The Secretary of State should assess the potential impacts of processes, emissions or discharges to inform decision making, but should work on the assumption that, in terms of the control and enforcement, the relevant pollution control or other consenting regime will be properly applied and enforced. Decisions under the Planning Act 2008 should complement but not duplicate those taken under the relevant pollution control regime*."

F.1.10 The Applicant's approach, set out in its Other Consents and Licences Position Statement (Document reference 5.4, DCO Volume 5, Version 1), is therefore robust. It does no more than apply an established legal principle, also reflected in adopted government policy and in the approach consistently taken in DCO decision-making. The Secretary of State, in making her decision to grant consent, should assume that these other regulatory regimes will operate efficiently. This applies to future abstraction licensing, environmental permitting of the Water Recycling Plant and its discharges at the Eastney Long Sea Outfall and Havant Thicket Reservoir, and drinking water approvals. The presumption must be that those regimes, as they will apply with the relevant modifications set out in Schedule 8 to the draft DCO [APP-023], will be operated and enforced effectively. There is no evidence to suggest the contrary, nor any rational basis for concluding, that the other consents and licences will not be granted by the relevant regulator, and so there is no need to duplicate those regulatory processes as part of the DCO.


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