



Thames to Affinity Transfer

Supporting Document G:

Planning, consenting and land acquisition strategy

Notice

Position Statement

- This document has been produced as the part of the process set out by RAPID for the development of the Strategic Resource Options (SROs). This is a regulatory gated process allowing there to be control and appropriate scrutiny on the activities that are undertaken by the water companies to investigate and develop efficient solutions on behalf of customers to meet future drought resilience challenges.
- This report forms part of suite of documents that make up the 'Gate 2 submission.' That submission details all the work undertaken by Thames Water and Affinity Water in the ongoing development of the proposed SROs. The intention of this stage is to provide RAPID with an update on the concept design, feasibility, cost estimates and programme for the schemes, allowing decisions to be made on their progress and future funding requirements.
- Should a scheme be selected and confirmed in the companies' final Water Resources Management Plan, in most cases it would need to enter a separate process to gain permission to build and run the final solution. That could be through either the Town and Country Planning Act 1990 or the Planning Act 2008 development consent order process. Both options require the designs to be fully appraised and in most cases an environmental statement to be produced. Where required that statement sets out the likely environmental impacts and what mitigation is required.
- Community and stakeholder engagement is crucial to the development of the SROs. Some high level activity has been undertaken to date. Much more detailed community engagement and formal consultation is required on all the schemes at the appropriate point. Before applying for permission Thames Water and Affinity Water will need to demonstrate that they have presented information about the proposals to the community, gathered feedback and considered the views of stakeholders. We will have regard to that feedback and, where possible, make changes to the designs as a result.
- The SROs are at a very early stage of development, despite some options having been considered for several years. The details set out in the Gate 2 documents are still at a formative stage and consideration should be given to that when reviewing the proposals. They are for the purposes of allocating further funding not seeking permission.

Disclaimer

This document has been written in line with the requirements of the RAPID Gate 2 Guidance and to comply with the regulatory process pursuant to Thames Water's and Affinity Water's statutory duties. The information presented relates to material or data which is still in the course of completion. Should the solution presented in this document be taken forward, Thames Water and Affinity Water will be subject to the statutory duties pursuant to the necessary consenting process, including environmental assessment and consultation as required. This document should be read with those duties in mind.

Executive Summary

Introduction

Delivery of T2AT will require planning permission, land, environmental permits for abstraction and discharge of water, and a range of secondary consents.

The interactions between these different processes and the related activities TW&AW are engaged with concerning their Water Resource Management Plans 2024 (WRMP24) and Water Resources South East's Regional Resilience Plan are being managed carefully. The WRMP process is important to establish planning need for a T2AT option to be advanced as a project, the approach of the draft National Policy Statement (NPS) for Water Resources

T2AT comprises two options based on the source of the raw water, Lower Thames Reservoirs (LTR) and Beckton Reuse Indirect (BRI).

This document is required by RAPID for Gate 2 submissions and has been prepared to address the general requirements of the process and specific comments made on the Gate 1 submissions. It:

- Describes the preferred and alternative consenting routes – based on DCO with TCPA as a fall back.
- Identifies the other non DCO / TCPA consents and licences, including in detail in Annex 1
- Sets out a strategy for land acquisition and describes integration of this into the consenting programme and other aspects of project delivery.
- Describes activities proposed to support the planning, land acquisition and consenting processes including managing risk and stakeholder engagement. It cross refers as appropriate to other parts of the T2AT Gate 2 submission.
- Schedules the main T2AT DCO / TCPA deliverables and likely responsibilities for their completion.
- Concludes positively on the general planning and land feasibility of T2AT.

Overview of work undertaken since RAPID Gate 1

TW&AW have assessed and refined T2AT options informed by the requirements of the DCO/ TCPA process, other consenting regimes and the requirements for land.

T2AT will require to be consented by DCO if it meets criteria and exceeds relevant thresholds set in the PA2008. Alternatively it may be consented by DCO on direction of the Secretary of State after a request for such by TW&AW. Or the project may require planning permission from the Local Planning Authorities and compulsory acquisition powers under TCPA procedures.

Consultation and engagement, set out in Supporting Document F: Project Delivery Plan has been considered carefully in the light of the requirements of the DCO and TCPA processes alongside those of WRMP24. Specific regard has been had to avoiding potential confusion over the purposes of different consultations, avoiding 'consultation fatigue' and focussing on hard to reach groups.

Early attention in consultation will be on route selection with reference to Options Refinement work undertaken for Gate 2.

Preferred Consenting Route

The reasons for focussing on the DCO and TCPA processes are explained with reference to the non-suitability of the Hybrid Bill alternative.

The relationship of a DCO process to the draft NPS for Water Resources Infrastructure and in turn the WRMP24 is set out. The draft NPS states that if an NSIP is included in a final published NPS the need for the project will have been demonstrated. In the TCPA regime the draft NPS would be material but not determinative.

A comparison of the TCPA and DCO regimes for the T2AT options is considered. There would be at least two TCPA applications for LTR and four for BRI. There are options for co-ordinating TCPA activities in cooperation with the LPAs. A single Environmental Impact Assessment (EIA) could support whichever T2AT option were advanced. TCPA approaches may be more flexible to design changes but DCO presents more certainty. If a DCO there would be one DCO application.

There are differences in consultation requirements and processes between the two approaches but a best practice approach to either will be quite similar.

A DCO can contain a wide range of other consents whereas these would have to be handled separately in the TCPA regime.

There are land rights and supplementary consents opportunities within the DCO regime and potential to include wider Associated Development.

The processes for securing TCPA consents or a DCO are set out with reference to the pre- and post-application and post-consent stages. The ability to build flexibility into the process are set out with reference to the alternative process of amending a DCO once it has been “made”. There is a strong preference to use the opportunities to achieve flexible implementation.

TW&AW prefers the DCO consent route because of its lesser complexity compared to multiple TCPA applications and greater certainty. Given the future programme for T2AT, which includes deferral to 2028 and the preference for the larger LTR option, it is proposed during this deferral period to have discussions with the Planning Inspectorate (PINS) and Defra to confirm either that the chosen T2AT option is an NSIP and hence automatically in the DCO regime or that it may be directed to be a DCO project, for which credible grounds are identified.

Other consents and licences

A summary is provided of the environmental permit process by which abstraction and discharge consent will be given. This will be separate to the DCO or TCPA processes.

Secondary consents are then set out and listed with specific note made where these may be included in the DCO. Annex 1 is a detailed document outlining these, which has been prepared by Mott MacDonald.

Strategy for land acquisition and land rights

With a preference for acquiring land and rights to land needed to deliver T2AT voluntarily and by negotiation, nevertheless the potential existence of compulsory purchase powers within a DCO or via CPO procedures will be an important aspect of TW&AW acquiring all the land and rights it needs for delivery of a T2AT option.

The land acquisition strategy will be aligned with the consenting strategy and the stakeholder engagement strategy. It will be designed to ensure information and support on land is available across the project team. It will support robust justification of inclusion of DCO powers as required in the DCO and ensure land matters are dealt with before DCO submission so far as possible. For the alternative TCPA approach it will ensure TCPA permissions are sought in such a way to assist subsequent CPO activity. It will resolve matters that might cause reputational issues for TW&AW.

The land acquisition strategy interfaces with all other key aspects of the project, in particular design. The process for securing land through the pre- and post-application stages and implementation are set out reflecting the dual approach of seeking voluntary agreements whilst being ready to include compulsory powers in the DCO.

The interaction between land acquisition and general consultation is set out, reflecting that landowners are a specific group within the wider spectrum of consultation and may be fully engaged with or distant from the local community.

Interests in land required may be permanent or temporary and the different options for achieving appropriate interests are mapped out along with the process for compensation.

The approaches to statutory undertakers, exempt and special interest parties and types of land are set out.

TW&AW has considered its approach to land very carefully and the resulting strategy, which incorporates elements of flexibility, will achieve the acquisition of the rights and the land necessary for successful implementation of a T2AT option.

Pre planning activities to support the consenting process

In addition to preparing for the DCO or TCPA applications as set out in chapter 3 environmental survey and design work are being undertaken by TW&AW to support inputs to RAPID and the WRMPs and in advance of the DCO work.

Land referencing work has been underway for some time assisting the understanding of the area and preparing for the Book of Reference and Land Plans that will be needed for DCO submission. The work has also supported the safeguarding of land within the development plan.

Environmental surveys examining terrestrial and aquatic habitats have been and continue to be undertaken. These are reported in Supporting Document B1 and B2. Habitats Regulations Assessment work, Water Framework Directive Assessment and Biodiversity Net Gain and covered in Supporting Documents B4, B5 and B6 respectively.

As well as being undertaken for the specific purposes inherent in the Supporting Document titles, this work is being co-ordinated to facilitate an EIA Scoping Report and ultimately the Environmental Statement itself.

Design is being undertaken iteratively with environmental surveys and with regard to the specific design expectations of the draft NPS and with reference to Climate, People, Places and Value which are the design themes promoted by the National Infrastructure Commission (NIC).

Feedback from Stakeholder Engagement and design of the strategy for consultation are being considered within design, survey and land work.

It is also important pre-planning activities consider interaction with other SROs and this is being done specifically in regard of the SESRO, Severn to Thames Transfer, and London effluent re-use SROs.

A risk register for T2AT includes specific planning, land acquisition and consenting risks which are summarised. These include risks associated with uncertainty about whether the project can be consented via a DCO, the seeking of a direction for that (if necessary) and risks pertaining to the TCPA route, including political risk, should that be the route taken. Mitigation of risks is identified with none, taking account of mitigation, considered significant threats to success.

Main application deliverables

To assist planning adequate systems and resources for effective delivery of T2AT, the principal components of a DCO application are set out. Legislation and guidance is listed and then some 33 specific deliverables that will be required for a duly made application are set out. In each case and to assist in resource and systems planning the generic lead is identified. TA&AW has assembled and will continue to maintain an appropriately qualified and experienced team and bolster that team as the demands of the process change during the DCO lifecycle.

Should the TCPA route be followed broadly the same suite of documentation will be required.

Conclusions and Next Steps

TW&AW demonstrate a high level of certainty over the planning, land acquisition and consenting options for T2AT. TW&AW's recommendation at Gate 2 that the larger of the LTR options be focussed on but deferred with indefinite deferral of BRI creates a higher degree of focus and certainty than that which affected the Gate 2 work as a whole. Hence the central conclusion to focus on confirming (or otherwise) the DCO route for T2AT during the deferral period.

The DCO process is well understood and is proven and the interactions between it, RAPID, WRMP and Environmental Permitting and Secondary Consents understood and mapped out. Likewise the TCPA alternatives are understood.

There is a good appreciation of risk and mitigation.

The scope and content of a DCO including Associated Development are understood.

Thames Water's experience with Thames Tideway stands it in good stead for a successful outcome of another major NSIP project.

The draft NPS for Water Infrastructure is favourable to the project and will explicitly support projects in published WRMPs, which TW&AW are preparing to include T2AT.

This report addresses the requirements for Gate 2 identified by RAPID's review of the T2AT Gate 1 submission.

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1. Introduction

1.1 Purpose of the report

1.1. This report forms Supporting Document G to the submissions by Thames Water and Affinity Water (TW&AW) for Gate 2 of the Regulators' Alliance for Progressing Infrastructure Development (RAPID) in respect of the Thames to Affinity Transfer Option (T2AT). The T2AT project forms one of a number of nominated Strategic Regional Water Resource Options (SROs) nationwide.

1.2. This report provides the following.

- a) It identifies the requirements for securing planning permission or an equivalent development consent for the preferred T2AT option described in TW&AW's Gate 2 Reports, including risks and outline costs (prepared for TW&AW by Savills).
- b) It outlines the strategy for the acquisition of land and rights over land, as a part of the consenting approach.
- c) It provides an overview of the environmental permits required for the scheme, particularly abstraction, discharge and transfer licences required from the Environment Agency.
- d) It outlines the secondary consents that might be required by the scheme, subsequent to a Development Consent Order (DCO), or to Town and Country Planning Act 1990 (TCPA) permission, to and environmental permits (Mott MacDonald), this is set out in full in Annex 1.

1.3. The speed and ease with which a planning permission and a compulsory purchase order or a development consent can be secured for major water infrastructure has obvious implications for project delivery. The planning and compulsory purchase order processes impose their own requirements and timescales that do not align automatically with water industry plans and investment programmes. TW&AW recognised from the outset that the reconciliation of these external influences with their own regulatory obligations is a precondition for effective project assessment, programming and ultimate delivery.

1.4. Accordingly, this report examines how consenting requirements for the preferred T2AT option relate to the following.

- The progress of T2AT through the RAPID Gate stages.
- The preparation of TW&AW's Water Resource Management Plans 2024. WRMP24 is particularly relevant from a planning perspective because of the reliance that Defra's draft National Policy Statement for Water Resources places on WRMPs for establishing the need for major water infrastructure related DCOs. The draft NPS would be highly material to TCPA planning applications.

- The development of a Regional Resilience Plan by Water Resources South East ¹. Work on the Regional Resilience Plan is underway with a final plan due for publication in 2023, alongside the water companies' Water Resource Management Plans.

1.5. The relationship between these water industry strategies and the consenting that it requires for any of the subsequent water infrastructure is important because:

- the strategies play an important role in substantiating the need case for new infrastructure (as established through the draft National Policy Statement for Water Resources). This has implications for the timing of applications for planning consent;
- appropriate public consultation on industry plans can help a water company to demonstrate a coherent and staged process of pre-application consultation. This can be relevant particularly to projects that constitute Nationally Significant Infrastructure Projects (NSIPs) under the Planning Act 2008, for reasons explained in the next chapter of this report.

1.2 Feedback from RAPID Gate 1

1.6. The T2AT Gate 1 report identified three consenting routes potentially available for T2AT development depending on circumstances, namely planning permission under the Town and Country Planning Act 1990, Development Consent under the Planning Act 2008 and a Hybrid Act of Parliament. For each route the report explained the qualifying criteria, the powers granted and not granted by the consent, the consenting process and generic timeline, the need for environmental impact assessment (EIA), consultation requirements and general risks. The relationships with RAPID, WRSE and WRMP24 were also considered.

1.7. Under the Planning Act 2008, drinking water transfers with an output of more than 80 million litres per day qualify as NSIPs for which a Development Consent Order (DCO) must be sought. T2AT options that meet this threshold would need to be consented by means of a DCO. T2AT options below the 80 MI/d threshold or which were drinking water transfers would be consented by means of conventional (TCPA) planning applications to the local planning authorities for the areas through which the project would pass, unless the Secretary of State was to direct that the project nonetheless constituted an NSIP ².

1.8. At the end of 2021 RAPID published its *Standard gate one final decision for Thames*

¹ WRSE is made up of an alliance of the six water companies that cover the South East region of England, including Thames Water and Affinity Water. Its aim is to secure the water supply for future generations through a collaborative, regional approach to managing water resources.

² Under section 35 of the Planning Act 2008 the Secretary of State may give a direction for development to be treated as development for which development consent is required. A project promoter can apply to the Secretary of State for a s.35 direction. This process is considered in chapter 3 of this report.

to Affinity Transfer. The findings and recommendations of this Gate 1 decision are considered in the main Gate 2 Report to RAPID. In respect of the planning aspects of concern here, section 4.3.3 *Programme and planning* of RAPID's decision concluded:

Our assessment of the programme and planning considered whether Thames Water and Affinity Water presented a programme with key milestones and whether its delivery is on track. The assessment also considered the quality of the information provided on risks and issues to solution progression, the procurement and planning route strategy and subsequent gate activities with outcomes, penalty assessment criteria and incentives.

We consider that the progress and quality of the gate one investigation completed by Thames Water and Affinity Water regarding the programme and planning, risks and issues and the procurement and planning route strategy for T2AT has been good. Going into gate two, a full risks register should be shared with the Environment Agency to ensure a work programme is in place to address environmental risks.

- 1.9. The final risk register for the purpose of the Gate 2 submission is presented in Supporting Document F: Project Delivery Plan.

1.3 Overview of the preferred T2AT options

- 1.10. T2AT is intended to provide a transfer of raw water from existing or proposed new sources available from Thames Water's London Water Resource Zone (WRZ) to Affinity Water's Central Region (WRZ 3 or 4). The definitive description of the preferred T2AT options presented at RAPID Gate 2 is provided in Supporting Document A1a and A1b: Concept Design Reports. Two options, based on different sources of raw water, are proposed – the Lower Thames Reservoir option and the Beckton Reuse Indirect option. These options are summarised as follows.

- 1.11. Approaching the end of Gate 2 work TW&AW have concluded the LTR option is viable with a clear preference for the larger 100MI/d sub option. The BRI options therefore will be deferred post Gate 2 but maybe reconsidered in the future if circumstances change. In making this judgement TW&AW have considered matters examined in Gate 2 and hence this report presents conclusions on all LTR and BRI options.

1.2.1 Lower Thames Reservoir option (LTR)

- 1.12. The Lower Thames Reservoir Transfer Option proposes to abstract water from Thames Water's Lower Thames reservoirs (specifically Wraysbury and Queen Mother reservoirs) via Affinity Water's existing Wraysbury tunnel to a proposed connection at the existing Iver water treatment works (WTW) in West London. This raw water would be diverted to a proposed new WTW (referred to hereafter as the 'Iver 2 WTW'). The treated water would then be conveyed by pipe to Harefield to use available storage capacity at the existing Harefield service reservoir (SR).

1.13. The LTR option has been designed to accommodate 57.5MI/d and 115MI/d raw water flows. These inputs would be required to ensure a 50MI/d and 100MI/d deployable output of drinking water to Affinity Water. As such the lower throughput falls below the 80MI/d threshold for NSIP status and the higher throughput would qualify the project automatically as an NSIP, if it is not a drinking water transfer. The implications of this uncertainty are considered in chapter 3 of this report.

1.14. The principal components of the LTR option are as follows.

- A connection into the existing Wraysbury tunnel at the existing Iver WTW and a new raw water pumping station;
- A new raw water transfer pipeline from the new raw water pumping station at Iver WTW to the proposed Iver 2 WTW; and
- A clean water transfer pipeline from the proposed Iver 2 WTW to the existing Harefield SR. The pipeline would be approximately 14 km long.

1.2.2 Beckton Reuse Indirect option (BRI)

1.15. The Beckton Reuse Indirect option involves the abstraction of raw water from the River Lee flood relief channel near to the existing Thames Water intake channel for the King George's Reservoir to the east of Enfield in North London, for transfer to a new WTW nearby. From there, drinking water would be conveyed by pipeline to the existing Brookmans Park SR between Hatfield and Potters Bar in Hertfordshire. A new treated water pipeline would then convey some of this water to North Mymms and thence directly into the Affinity Water's existing drinking water transfer network.

1.16. Whilst a proportion of the raw water arises naturally in the River Lee catchment, the scheme will be supported by the indirect transfer of recycled water from the Beckton or Mogden effluent reuse scheme in the London Effluent Reuse SRO. The proposed abstraction point would be located on the River Lee, downstream of the outfall from the proposed Beckton or Mogden reuse scheme, guaranteeing an appropriate volume of water.

1.17. The BRI option has been designed to accommodate 57.5MI/d raw water flows, to ensure a 50MI/d deployable output of drinking water to Affinity Water. This is significantly below the 80MI/d threshold for NSIP status. A larger 115MI/day transfer remains an option and this higher throughput would qualify the project automatically as an NSIP.

1.18. The principal components of the scheme are as follows.

- An intake and raw water pumping station from the Rive Lee flood relief channel, adjacent to King George's reservoir.
- A raw water transfer pipeline to a new WTW nearby.
- A treated water transfer pipeline from the new WTW to Affinity Water's existing Brookmans Park SR. The pipeline would be approximately 19km.

- A new pumping station adjacent to Brookmans Park SR, in the event that an insufficient head of water is available for gravity flow.
- A treated water transfer pipeline from Brookmans Park SR to Affinity Water's existing North Mymms WTW, to the west of Potters Bar.

1.4 Requirements for Gate 2 and the structure of this document

1.19. In April 2022 RAPID published *Strategic regional water resource solutions guidance for gate two*. In respect of the planning, consenting and land considerations addressed in the current report, section 7.2 of RAPID's guidance (page 23) advised as follows.

7.2 Planning and consenting route

A land and planning strategy for the solution should be provided. This should cover:

- *The preferred planning route for the solution and the key planning steps, including justification where applying for a section 35 direction in England where appropriate and the impact on the programme schedule.*
- *The strategy for obtaining other regulatory consents needed for construction and operation. This should include identification of consents needed and indicative application timings in relation to applications for planning and other consents. For likely DCO applications, consideration of which consents could be included within a DCO.*
- *The land lifecycle, including strategy and plan for effectively delivering it and explaining how the approach will support the effective and efficient delivery of planning consent, land acquisition, and delivery of the programme.*
- *How solution owners will ensure they will put in place adequate systems and resources, and that there are effective and efficient processes and governance arrangements for delivering the planning and land acquisition process.*
- *Initial thinking on the customer journey for all those who will be affected by the project and how solution owners will ensure a good experience for them.*
- *Risks and issues relating to land and planning and explaining how the strategy supports the management/mitigation of the risks.*

In addition, please provide an update on work done to date to support the proposed land and planning process, including any pre-planning activity such as land referencing or field surveys.

1.20. In response to this guidance, this report is arranged as follows.

- **Chapter 2** provides an overview of the work related to planning, consenting and land acquisition that has been undertaken in preparation for the T2AT Gate 2 submission.
- **Chapter 3** describes the preferred consenting routes for T2AT. These comprise a combination of a DCO application under the Planning Act 2008, planning applications to local authorities made under the Town and Country Planning Act 1990 and the granting of a compulsory purchase order by the relevant Secretary of State. Amongst other things the chapter identifies the main sequence of activities involved in securing consent through the recommended preferred route.
- **Chapter 4** identifies other consents and licences likely to be required to enable the project to be built and operated.
- **Chapter 5** sets out the proposed strategy and plan for acquiring the land and land rights required to deliver the preferred T2AT solution. The chapter explains how the land strategy will be integrated into the programmes for securing consent for the project and for delivering the project on the ground.
- **Chapter 6** describes the activities proposed and in development to support the T2AT consenting and land acquisition process, including measures to manage and mitigate risk and the proposed strategy for stakeholder engagement. Where these entail systems, resources and governance arrangements described in other documents in the T2AT Gate 2 submission, chapter 6 provides a summary and clear cross-referencing to avoid repetition.
- **Chapter 7** provides a schedule of the main T2AT planning application and DCO application deliverables and the proposed responsibility for their development and completion.
- **Chapter 8** offers concluding observations on the general feasibility of T2AT from a planning and land perspective. It includes a route map and timeline for taking the T2AT project forward towards consent, showing the proposed relationships with future RAPID Gates and the completion of WRMP24.

2. Overview of work undertaken since RAPID Gate 1

2.1 Introduction

- 2.1. The assessment and refinement of options described in TW&AW's RAPID Gate 2 reports has been informed by consideration of the consenting strategy for the companies' emerging SROs. Any SRO will need to secure a range of consents, permits, land rights and agreements before implementation can proceed. These consenting requirements can exert a considerable influence on the timing, cost and feasibility of a major project. They can also give rise to particular demands that, if not acknowledged during the formative stages of a project, can cause delay and uncertainty later on.
- 2.3. This chapter describes how TW&AW have taken these considerations into account during their work for RAPID Gate 2. It begins with a summary of the circumstances in which planning and environmental law and policy require consideration to be given to options before a preferred site, route or design is selected, and proceeds to explain how the T2AT project has responded to this. It then documents how the consenting strategy for the preferred T2AT option has been refined, and identifies associated requirements for consultation and engagement.

2.2 Options assessment

- 2.4. Inherent in the preparation of WRMPs and in the RAPID gated process are obligations to define and appraise the options available for meeting future water supply needs. As exemplified by the T2AT project, the process typically begins with consideration of a large number of engineering and locational options, the list of which is progressively narrowed down through a staged process of consultation and shortlisting until a single preferred option is identified.
- 2.5. The planning system imposes specific requirements for applicants to consider alternative sites for development in particular circumstances, and the extent to which an applicant has done this can be scrutinised closely at the consenting stage. A material failure to fulfil obligations to consider alternatives might result in the application being refused. It can also impede the project promoter's ability to secure land and rights over land through compulsory acquisition.
- 2.6. Section 3.5 of the draft NPS sets clear expectations in respect of the consideration of alternatives, and is cited here in full.

3.5 Assessing alternatives

3.5.1. *The applicant should comply with all legal obligations and policy set out in this NPS on the assessment of alternatives. In particular:*

- *The Environmental Impact Assessment Directive requires projects with significant environmental effects to include a description of the reasonable alternatives studied by the applicant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the project on the environment;*
- *There may also be other specific legal obligations requiring the consideration of alternatives, for example, under the Habitats and Water Framework Directives; and*
- *There may be policies in this NPS requiring consideration of alternatives, for example the flood risk sequential test and the assessment of alternatives for developments in National Parks, the Broads and Areas of Outstanding Natural Beauty (AONB).*

3.5.2. *Relevant information from the WRMP options appraisal process (see section 3.1.5) will be useful to demonstrate how alternative options have been considered.*

2.7. Some of the specific circumstances in which, from a planning perspective, alternative sites might need to be considered include the following.

- **Flood risk** - Defra and the Environment Agency require a sequential test to be applied to establish the vulnerability of development to flooding.
- **Nature conservation** – including where there would be significant harm to biodiversity resulting from a development (see paragraph 180 of the government’s National Planning Policy Framework (NPPF), July 2021). As explained in para. 3.5.1 of the draft NPS for water, there are specific legal obligations to consider alternatives under the Habitats Regulations.
- **Water Framework Directive** – for which one of the derogation tests is whether the benefits of the project cannot be achieved by a significantly better environmental option.
- **Green belt** – for which consideration of whether ‘very special circumstances’ exist to justify development in the green belt are generally assessed in the light of what alternatives are available.
- **Landscape** - paragraph 3.5.1 of the draft NPS highlights the need to consider alternatives when contemplating development in an AONB. NPPF para. 177 does likewise, advising that the consideration of such applications ‘*should include an assessment of . . . the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way . . .*’.

- **Cultural heritage** - the requirement for ‘clear and convincing justification’ for the harm to or loss of a designated heritage assets (draft NPS for water section 4.7 and NPPF para. 200) can often include an assessment of alternatives.
- **Agricultural land** - an assessment of alternative sites and schemes might be required to substantiate why such a loss of the best and most versatile agricultural land is justified.
- **Land acquisition** – Applicants seeking compulsory acquisition powers over land must demonstrate a compelling need for the infrastructure and that compulsory acquisition is in the public interest in the location proposed, and an assessment of alternatives can form an important part of this justification.

2.8. In addition to the various policy and regulatory reasons for the consideration of alternative sites and schemes, summarised above, there are pragmatic reasons why a balanced and transparent review of options is desirable, including the local community’s interest in understanding how a site was selected and the project promoter’s commercial and regulatory interest in ensuring that the chosen option is consentable, deliverable and cost-effective to build and operate.

2.9. Options appraisal involves an accumulation of knowledge and takes place in a constantly-evolving policy, regulatory, technological and environmental context, which can give rise to questions about assumptions made earlier in a project. With these considerations in mind, TW&AW’s assessment of options has taken the following form for the purpose of RAPID Gates 1 and 2:

Gate 1

- The identification of ‘unconstrained options’, an inclusive list of 33 potential means of meeting defined operational requirements.
- Initial screening to eliminate unfeasible options and those with a clearly superior alternative. This screening exercise reduced the number of options to a ‘feasible list’ of 23.
- Secondary screening to assess and compare the merits of options on the feasible list, based upon multiple criteria. A ‘constrained list’ of eight options survived secondary screening, with dismissed options recorded in a Rejection Register.
- Options in the constrained list then became the subject of a process of refinement, including indicative site and route selection, with the outcomes reported in the RAPID Gate 1 submission for T2AT.

Gate 2

- For Gate 2 the assessment of options has included detailed technical, environmental and planning appraisals with the intention of identifying workable, deliverable solutions. The detailed methodology is described in Supporting Documents A4: Options Appraisal Methodology and A5: Options Refinement Report and is not repeated here.

- The work has included consultations with stakeholders including local authorities, Historic England and National Highways.
- The clear conclusions reached in Gate 2 establish a preferred option for T2AT which is LTR at 100M//d. This is based on a sound and clearly reasoned explanation and therefore increases significantly both the likelihood this version of T2AT will be included in WRMP24 and, it follows, that the draft NPS when adopted will clearly establish need whether that be definitively for an NSIP or as a material consideration.

2.3 Refinement of the consenting strategy

- 2.10. As is set out further in 3.7, following Gate 1 the potential to use a Hybrid Bill approach to T2AT consenting has been discounted leaving a Development Consent Order (DCO) under the Planning Act 2008 (PA2008) Nationally Significant Infrastructure Project (NSIP) procedure or conventional planning applications under the Town and Country Planning Act 1990 (TCPA1990) as the two options for T2AT.
- 2.11. The PA2008 identifies a series of qualifying thresholds for NSIP projects. The thresholds for water industry NSIPs were amended by the Infrastructure Planning (Water Resources) (England) Order 2019. Under the 2019 Order, water transfers with an output of more than 80 million litres per day (Ml/d) qualify as NSIPs.
- 2.12. Not all of the T2AT transfer solutions considered exceed these thresholds, with the implication that some options would need to be consented by means of planning applications made locally in accordance with the TCPA1990, unless the Secretary of State designated the option as an NSIP under section 35 of the PA2008.
- 2.13. During its preparations for the RAPID Gate 2 submission TW&AW have given consideration to the practical logistical requirements for making applications for both a DCO under the PA2008 and planning permission under the TCPA1990. For both consenting routes the water companies have taken into account the relationship between these applications and the programmes for RAPID and WRMP 24. The outcome of this analysis is reported in later chapters of this report.
- 2.14. The inclusion of water treatment works in the T2AT options presents a complication to the consenting route as water will be raw as it enters T2AT but will emerge from it, c15 to 20 kilometres away, as drinking water. Section 28 of the Planning Act 2008 sets criteria for water transfers to be NSIPs which (for options exceeding 80 Ml/d), T2AT will meet save for uncertainty about whether T2AT meets the final criterion which is that it is “not a transfer of drinking water”. As the water transferred enters the system as raw water the overall system cannot be said to be a drinking water transfer. Nevertheless this is a matter that may require confirmation with PINS prior to registration as an NSIP or possibly the use of Section 35 to direct the project into the NSIP regime. Alternatively as set out in 2.11 above it is possible the whole project may require to be consented via the TCPA.
- 2.15. It is noted TW&AW’s intention is to focus on the larger LTR option which at 100 Ml/d

exceeds the PA2008 Section 28 size threshold. The remaining uncertainty about it being an NSIP rests on the drinking water point, for which a section 35 Direction may be needed. The project meets criteria pertinent in section 35 cases³. Regarding sustainable development it is already apparent housing development is being frustrated by a lack of water and can only be sustainable if the supply of water to it is also sustainable. Hence it is likely a DCO could be used. Nevertheless the alternative of TCPA consenting is also considered in this strategy.

2.4 Consultation and engagement planning

- 2.16. Section 9 of the Main Gate 2 document sets out a timeline for community engagement after Gate 2. A particular aspect of concern in the relationship between the RAPID and WRMP workstreams and the eventual preparation and submission of a DCO or planning applications for the final T2AT project is the potential for confusion amongst affected communities over the process through which the proposals are emerging. There is a risk of consultation fatigue and this can be compounded if the same project can feature in separate consultations undertaken for different purposes.
- 2.17. In response, consultations held by TW&AW will include a clear explanation of the overall decision-making context for T2AT and the particular purpose of individual rounds of consultation within that framework. New and different consultation approaches will be used to maintain interest and with a particular focus on traditionally “hard to reach” groups. Messaging will however be consistent in style and graphic design. Amongst other things it is hoped that this will assist stakeholders to align their responses with matters in hand whilst being reassured that there will be fair opportunities to raise additional concerns in subsequent consultation events.
- 2.18. On a related point, the DCO application process includes a substantial commitment to consultation at the pre-application stage. Typically this includes at least one round of statutory consultation in accordance with sections 42 and 47 of the Planning Act 2008, supplemented by one or more rounds of non-statutory consultation. Consultations can be about the project overall or defined aspects of it, such as landscape or highways and traffic. For TCPA applications best practice is to follow a similar approach, and would be followed if that consent route were taken.
- 2.19. By explaining clearly the purpose of individual consultation exercises and always setting them in the wider context, TW&AW aim to ensure that consultations on WRMP24 can provide a sound platform for pre-application consultations on a future T2AT DCO submission, should this be the appropriate consenting route. Rather than launching a programme of pre-application consultations in isolation once the DCO or TCPA application process is formally initiated, TW&AW intend to show consideration for the feedback received about T2AT through earlier consultations and to use this as a foundation for further stakeholder engagement. This approach will be set out

³ These criteria are (1) the project is economically significant in growing the economy (2) has impacts across more than one local authority area (3) is of substantial size (4) is important to delivery of another NSIP (5) would otherwise require multiple consents – see paragraphs 3.67 to 3.78..

in the Statement of Community Consultation (SoCC) for the project, which TW&AW will prepare in accordance with section 47 of the Planning Act 2008 should the intention to submit a DCO application be formally confirmed.

- 2.20. In respect of planning applications made under the TCPA1990 there is no comparable statutory obligation to undertake stakeholder consultations at the pre-application stage. However, TW&AW are committed to undertaking pre-application engagement, and consultation will be carried out with consultees and the public in order to guide scheme refinement and definition of environmental mitigation and safeguards. A DCO-based approach would be used to consultation with preparation of a Statement of Community Consultation and this would have particular regard to the Statements of Community Involvement of the affected LPAs.
- 2.21. For both the DCO and TCPA approach a co-ordinated strategy would be created and followed to ensure correct, timely and consistent consultation relating to other consents referred to in Chapter 4. If the TCPA approach is followed then there will be more of these and working with LPA officers and stakeholders will be important to achieve clear and consistent messaging.
- 2.22. In both DCO and TCPA approaches an early emphasis will be on explanation of the route selection with reference to the Options Refinement work undertaken for Gate 2 and reported separately in Supporting Document A5: Options Refinement.

3. Preferred consenting route

3.1 Introduction

- 3.1. This chapter describes the consenting routes considered during RAPID phase 2 for the T2AT project. It begins by outlining the range of consenting options reviewed by TW&AW and proceeds to describe the primary routes that remain under consideration – DCO applications made under the PA2008 and planning applications made under the TCPA1990. The chapter also examines the circumstances under which it might be expedient to seek a section 35 direction under the PA2008 in order to secure NSIP status for the project.
- 3.2. Planning permission under the TCPA 1990 grants consent to develop and use land, subject to conditions, but powers to compulsorily acquire the necessary land and rights would require confirmation of a compulsory purchase order from the relevant Secretary of State.
- 3.3. A potentially much more extensive range of consents and rights can be sought under the umbrella of a DCO, but in any event, additional consents and licences will be required to build and operate the T2AT project. These additional consents and licences are identified in chapter 4 of this report.

3.2 Consenting routes considered

3.2.1 Overview

- 3.4. The T2AT Gate 1 report identified three potential primary consenting routes for T2AT – namely planning permission under the Town and Country Planning Act 1990 (TCPA1990), Development Consent under the Planning Act 2008 (PA2008) and a Hybrid Act of Parliament.
- 3.5. For each consenting route the Gate 1 report explained the qualifying criteria, the powers granted and not granted by the consent, the consenting process and generic timeline, the need for environmental impact assessment (EIA), consultation requirements and general risks. From a procedural standpoint the report remains current and for brevity will not be recited in full here.
- 3.6. In respect of the decision as to which consenting routes are available and appropriate for T2AT, TW&AW have reviewed the available options for Gate 2 and arrived at the same conclusion. The qualifying thresholds for water industry NSIP projects remain as set out in the Planning Act 2008 Sections 27 and 28 as amended by the Infrastructure Planning (Water Resources) (England) Order 2019. Water transfers with an output of more than 80 million litres per day (ML/d) qualifying as NSIPs provided they are not transfers of drinking water. Not all of the T2AT options qualify as NSIPs as a matter of course on the basis of the 80 ML/d, in which case a conventional planning permission under the TCPA1990 must be sought in the absence of a section 35 direction under the PA2008 confirming that the project has NSIP status. Although the T2AT options cannot be construed as drinking water

transfers as the water abstracted for transfer is raw and only becomes drinking water during its passage through the infrastructure proposed, it is possible a section 35 direction might be required to bring them into the Planning Act 2008 process.

- 3.7. The other consenting option considered for T2AT during Gate 1 – a Hybrid Act of Parliament remains available. Hybrid Bills are initiated by the government to assist the delivery of major infrastructure that is considered to be in the national interest and which would affect many private interests significantly. This consenting route was employed for “mega projects” such as the Channel Tunnel, the Dartford Crossing, Crossrail and High Speed 2.
- 3.8. Hybrid Bills are promoted only exceptionally and in the current context it would need to be demonstrated that other available consenting routes are unsuited to the task. This is not considered to be the case for T2AT. For qualifying projects the PA2008 affords a proven consenting route capable of delivering a DCO for major infrastructure on a timely basis. The application process is well established and provides extensive opportunities for community and stakeholder engagement. Once a DCO application has been made it enters a closely timetabled process of acceptance, pre-examination, examination, reporting and determination that assists accurate project programming.
- 3.9. In the event that a T2AT option not complying with PA2008 Section 28 NSIP criteria failed to secure NSIP status through an application to the Secretary of State for a section 35 direction, it would be all the more unlikely that the project – having already been judged not to be of national significance - could be promoted by means of a Hybrid Bill. Based on the above and this assumption, the Hybrid Bill option receives no further consideration in this report and beyond Gate 2.
- 3.10. In the circumstances set out in paragraph 3.9, TW&AW would use the TCPA1990 process with applications to the local planning authorities set out in 3.15 and 3.18 below.
- 3.11. The TCPA1990 and PA2008 consenting routes will now be reviewed in turn, with consideration given to the number of applications that would be required, environmental impact assessment requirements, the policy basis for establishing project need, additional planning-related consents required, land rights, project coordination requirement and the ability to amend a scheme after consent has been secured.

3.2.2 TCPA 1990 planning permission

- 3.12. The T2AT RAPID Gate 1 Report summarised the generic process and timeline for securing planning permission for a major project under the TCPA 1990. This description remains current and for brevity will not be recited. With the leading options for T2AT now clear it becomes possible to identify with more precision the form that a planning submission under TCPA 1990 is likely to take and the steps that TW&AW will take to maximise the chances of a successful outcome.

3.13. There are options permissible under the TCPA1990 process and the LPAs' own procedures for special planning application determination processes to be adopted, such as special committees and the use of delegation powers to allow officers to make decisions. The specific and unusual circumstances of the planning applications required for T2AT are such that these approaches and potentially others would be discussed with the LPAs and potentially adopted to aid smooth progression of planning applications whilst retaining appropriate levels of scrutiny.

3.2.2.1 *How many planning applications?*

3.14. Planning applications will need to be submitted to each local planning authority (LPA) through which the project will pass. Each LPA will determine the application for the section of the project within its jurisdiction individually.

3.15. ***For the LTR option***, planning applications will need to be submitted to two LPAs - Buckinghamshire Council - a unitary authority formed in April 2020 - and Hillingdon Council, a London Borough Council. The boundary between the two generally follows the course of the River Colne, which the T2AT pipeline will need to cross.

3.16. A third influential planning authority of relevance to the LTR option is the Mayor of London. The Town and Country Planning (Mayor of London) Order 2008 (S.I. 2008 no. 580) sets criteria under which London's borough councils must refer planning applications to the Mayor of London for comment. These criteria include development in the metropolitan green belt that surrounds Greater London. Most of the preferred T2AT route in Hillingdon is in the green belt, so Hillingdon Council will be obliged to refer the T2AT planning application to the London Mayor⁴.

3.17. The Mayor has six weeks to provide comments on the application, assessing whether it complies with the London Plan policies. This consultation is known as 'stage one'. The application would then be considered by Hillingdon Borough Council's planning committee, which will decide whether to grant or refuse permission. Hillingdon Council will then be required to refer the application to the London Mayor for a final decision, known as a 'stage two' referral. The Mayor will have 14 days in which to decide whether to:

- allow Hillingdon Borough Council's decision to stand; or -
- direct that Hillingdon Borough Council refuses the planning application; or -
- take over the application, with the Mayor thus becoming the local planning authority.

3.18. ***For the BRI option*** the list of LPAs to which planning applications would need to be submitted is as follows:

- Enfield Council, a London Borough Council;
- Epping Forest District Council in the county of Essex;

⁴ None of the land affected by either LTR or BRI options is Metropolitan Open Land.

- Broxbourne Borough Council in the county of Hertfordshire;
- Welwyn Hatfield Borough Council in the county of Hertfordshire.

3.19. With sections of the T2AT route in Enfield passing through the metropolitan green belt, the planning application to Enfield Borough Council would need to be referred to the London Mayor under the Town and Country Planning (Mayor of London) Order 2008. The same approach as in paragraph 3.17 would be pursued. For the sections of BRI outside Greater London a two-tier system of district and county authorities prevails and Essex County Council and Hertfordshire County Council will be consultees, albeit without the directive powers available to the London Mayor.

Summary

3.20. At least two planning applications would need to be submitted for the LTR option and at least four planning applications for the BRI option. Working in a spirit of co-operation, LPA preferences for different possible TCPA application strategies would be taken into account. LPAs may prefer (or not) a single planning application be prepared for each are, including applications for development potentially not contiguous with the main pipeline and treatment works sites, such as:

- temporary construction laydown areas and storage compounds;
- permanent development required to deliver biodiversity net gain (BNG) commitments, which might include earthworks and the creation of new water bodies.

3.21. The number of planning applications would increase if LPAs prefer separate planning applications for development on non-contiguous sites or if the sites for works compounds or BNG were in a local authority area separate from and additional to those already identified.

3.22. There is an enhanced level of risk with the requirement for multiple planning applications from several LPAs, including but not limited to:

- the risk of inconsistencies in an approval including planning conditions, and s106 obligations.
- The potential for refusal of part of the route.
- The impact of political interference and pressures.

3.23. Section 3.2.2.6 (below) identifies the means of reducing this risk through close LPA liaison and the pro-active encouragement of cooperation between LPAs. As with EIA documentation (see 3.28 below) there may also be other common information pertaining to more than one planning application that is used multiple times in support of different applications. Such standardisation will be used so far as possible and acceptable to LPAs.

3.24. The TCPA approach set out in this section is the fall back should the project not be either definitively an NSIP or no secure a section 35 direction into the Planning Act

2008 regime. Much of the mitigation of the ensuing risk - which is largely of complexity and politicisation of decision making – is in the careful co-ordination of work and the close attention to the central relationships with LPAs referred to below.

- 3.25. Sufficient time exists both to prepare the ground for T2AT in seeking appropriate safeguard or allocation policies within development plans and to create robust working relationships with LPAs whilst the project is deferred to 2028 and thereafter to expeditiously advance planning applications whilst allowing sufficient time for appeal should that be necessary.

3.2.2.2 *Environmental impact assessment*

- 3.26. Environmental impact assessment (EIA) is a process that aims to improve the environmental design of a development proposal and provide decision-makers with sufficient information about the likely significant environmental effects of implementing a project. The results of the EIA are reported in an environmental statement (ES) that is submitted with the planning application.

- 3.27. TW&AW's T2AT Gate 1 report considered the generic need for EIA for the T2AT project. Having reviewed the qualifying criteria for EIA and taken into account the scale of the T2AT options under consideration, TW&AW assumed at Gate 1 that EIA will be required in all instances, and took this into account in the projected timeline for consenting T2AT under the TCPA1990 planning application route.

- 3.28. With T2AT options having been refined for RAPID Gate 2, TW&AW have reviewed the project in the light of the qualifying criteria for EIA set out in Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Schedule 2 of these Regulations identifies thresholds for development that might require EIA depending on factors including its nature, size and location. In respect of water industry projects these include:

10(i) Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1);

(l) installation of long distance aqueducts (where the area of works exceeds 1 hectare);

(n) Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule 1;

(o) Works for the transfer of water resources between river basins not included in Schedule 1.

- 3.29. The applicable threshold guiding the need for EIA is that *'the area of the works exceeds 1 hectare'*. All of the options under consideration in this report would exceed this threshold. For Schedule 2 projects, applicants can apply to the LPA for an EIA screening opinion to confirm whether EIA is required. However, given the scale of the T2AT options under consideration, this report assumes that EIA will be required in all instances.

- 3.30. Whereas multiple planning applications would need to be submitted for the LTR and BRI options for the TCPA1990 consenting route, a single ES would be prepared for the whole project. The ES would be structured in such a manner that enabled the reader to identify the likely significant environmental effects in individual local authority jurisdictions whilst understanding the overall impacts of the proposed development.
- 3.31. EIA would follow a ‘Rochdale envelope’ or ‘parameters’ approach to identify worst case but acceptable effects. The actual effects of the implemented project would usually be much less. This approach deals with uncertainty and mostly avoids lengthy post consent amendments.

3.2.2.3 *Project need*

- 3.32. TW&AW will need to demonstrate clearly the need for the scheme. Whereas for an NSIP project the inclusion of the project in a published final WRMP affirms that the need for that scheme will have been demonstrated in line with government policy, (see para. 1.4.5 of the draft NPS for water), the position is different in respect of planning applications made under the TCPA1990. According to para. 1.1.9 of the draft NPS for water:

In England, this NPS may also be a material consideration in making decisions on applications for development that fall within local authority planning regimes (for example under the Town and Country Planning Act 1990). Whether, and to what extent this NPS is a material consideration, will be judged on a case by case basis.

- 3.33. This is a standard provision in all published NPSs and is expected to be included in the final version of the NPS for water.
- 3.34. From a policy perspective the LPAs will give primacy to relevant policy in their own local plans when determining TW&AW’s planning applications. This is in accordance with section 38(6) of the Planning and Purchase Act 2004, which requires that:

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 3.35. For this reason, once the preferred T2AT project is confirmed, TW&AW will engage with the LPAs in an effort to secure positive local plan policy provisions for the project, against which future planning applications can be considered⁵. In addition, the planning applications will be accompanied by a Planning Statement that:

- articulates the need case for T2AT;

⁵ By similar means, TW&AW have secured a safeguarding policy for the SESRO site in the relevant local plan.

- draws attention to the draft NPS for water and the relevance of the WRMP process;
- explains how the proposals respond to relevant local plan policy across the various LPA jurisdictions.

3.2.2.4 *Additional planning-related consents required*

3.36. Alongside the planning applications, TW&AW might potentially need to apply to the LPAs for a range of other consents including the following:

- Listed Building Consent for works affecting a listed building. The preferred site for the WTW at Iver includes a listed former farmhouse, for example.
- Section 211 consent for works affecting trees within Conservation Areas;
- Tree Preservation Order consents for work affecting protected trees; and
- Consent to remove hedgerows, sections of which will need to be removed to enable pipeline construction.

3.37. Chapter 4 of this report identifies the further consents and licences required to build and operate T2AT in addition to those available under the Planning Acts.

3.2.2.5 *Land rights*

3.38. As stated above, the granting of the required planning applications does not provide the powers necessary to compulsorily acquire land and rights required for the project. These powers can only be granted to TW&AW by the confirmation of a compulsory purchase order (CPO) by the relevant Secretary of State.

3.39. This process requires the relevant planning permissions to be in place before the confirmation of the CPO. The sequence of this process means that the decisions to grant planning and confirm CPOs are often not concurrent.

3.40. In respect of the of powers to undertake street works in the event that the project is promoted via the TCPA1990 route, TW&AW as statutory undertakers would use section 50 of the New Roads and Street Works Act 1991.

3.41. As with land referencing for ownership TW&AW would identify each utility owning infrastructure along the route. A specialist service provider would be used to gather this information. Each would be contacted with regular updates programmed and from this initial contact a programme of design and delivery affecting each interface would be established and subsequently monitored through implementation.

3.2.2.6 *Project coordination*

3.42. In order to secure consent under the TCPA1990 in a coordinated manner, TW&AW would set up a T2AT working group for senior LPA officers, to shadow the project from the pre-application stage to its implementation. The aim would be to secure agreement and consistency between the LPAs on matters including:

- detailed pipeline route alignment, including where local authority boundaries are crossed;
 - EIA scoping and the content of the planning application;
 - arrangements for pre-application public consultations;
 - the range of consents required from the LPAs;
 - the programme for determining the planning applications, once submitted;
 - drafting of planning conditions and any planning obligations required under section 106 of the TCPA1990.
- 3.43. The LPA working group would include representation from the London Mayor’s office and, additionally in the case of the BRI option, Essex and Hertfordshire County Councils.

3.2.2.7 *Post determination / consent*

- 3.44. TCPA planning permission can be appealed against. This reflects in part the sometimes political nature of decision making as well as the fallibility of LPAs in determining sometimes complex policy issues. In contrast a DCO refusal cannot be appealed against although both DCO and TCPA decisions may be challenged by Judicial Review in the basis of their lawfulness. A planning appeal for a TCPA refusal of one of the major components of T2AT is likely to take between 6 and 12 months because it is likely a public inquiry would be needed. Appeals are to PINS and may be “called in” for SoS final determination.
- 3.45. It is common for design amendments to be sought for large infrastructure projects once the primary consent is secured. The need to make such changes arises typically from changes of circumstance on the ground, agreements arrived at with landowners and the owners of utilities infrastructure affected by the project and refinements identified during detailed engineering design.
- 3.46. If the primary consent is secured by means of a TCPA1990 planning permission, approval for subsequent design changes can be secured by the following means, depending on their nature and scale.
- Under section 96A of the TCPA1990, a ***non-material amendment*** may be applied for a minor change to the planning permission that does not breach any conditions originally placed on the consent or conflict with local plan policy. The guideline time limit for determination is 28 days. Because the amendments are by definition non-material, it is unlikely that further environmental information would need to be submitted under the EIA Regulations 2017. There is no appeal mechanism for Section 96A applications.
 - For ***minor material amendments*** to a project with planning permission in which the revised scheme is not substantially different from the one which has been approved and in which (as is usual) the approved plans are listed in a condition, Section 73 of the TCPA1990 allows amended plans to be submitted for approval.

Other conditions might also be subject minor material amendments via Section 73. The outcome will be a new planning permission with otherwise the same planning conditions (when relevant) that applied to the original consented scheme. Section 73 applications are considered to be a new planning application for the purpose of the EIA Regulations 2017. The guideline time limit for determination will be the same as for a new planning application, being 16 weeks for projects subject to EIA.

- In the event that the ***design changes are more extensive*** or involve an amendment to the development site boundary, then a completely new planning permission must be sought.

3.47. The judgement of what is non-material, material or more extensive is made by the LPA and there are no fixed definitions.

3.48. If Section 73 planning permission is refused by the LPA, the applicant has the right of appeal. Depending on the significance of the application this could be an inquiry and hence 6 to 12 months with an inquiry (see 3.44 above) or maybe quicker by written representation or hearing.

3.2.3 PA2008 Development Consent Order

3.49. The T2AT RAPID Gate 1 Report summarised the generic process and timeline for securing planning permission for a major project under the TCPA1990. This description remains current and for brevity will not be recited. Instead this section identifies for the purpose of comparison some important points of difference between TCPA1990 planning applications and PA2008 DCO applications from the perspective of the T2AT project.

3.2.3.1 How many DCO applications?

3.50. The T2AT project would be the subject of a single DCO application, regardless of how many local authority jurisdictions it crosses. Precedents for this include the DCOs made for a grid connection for the Hinkley C nuclear power station, which follows a 57 km long route from Bridgewater to Avonmouth, and Esso's Southampton to Heathrow aviation fuel pipeline, which will be 97 km in length. Both of these projects pass through multiple local authority jurisdictions. Thames Tideway Tunnel⁶ remains one of the largest and most complex projects so far consented by a DCO.

3.51. Furthermore, the DCO is drafted by the applicant and refined during the examination process, enabling the applicant to ensure that the Order reflects the requirements of the project. As such there will be a single set of DCO Requirements - similar to planning conditions – covering the whole project.

3.2.3.2 Environmental impact assessment (EIA)

3.52. NSIPs are the subject of bespoke EIA regulations – the Infrastructure Planning

⁶ The Thames Water Utilities (Thames Tideway Tunnel) Order 2014; SI 2014 No. 2384.

(Environmental Impact Assessment) Regulations 2017. The project thresholds for EIA are the same as those described earlier in the chapter in respect of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Given the scale of the T2AT options under consideration, this report assumes that EIA will be required in all instances.

- 3.53. As with the TCPA1990 consenting route, a single ES would be prepared for the whole project under the DCO regime, and the ES would be structured in a way that enabled the reader to identify the likely significant environmental effects in individual local authority jurisdictions whilst understanding the overall impacts of the proposed development. The Rochdale approach would be followed as set out in paragraph 3.31.

3.2.3.3 *Project need*

- 3.54. In accordance with Part 2 of the Planning Act 2008 the national need for major infrastructure is set out in National Policy Statements (NPS), which are approved in Parliament. The overall need for a project does not need to be established afresh on a scheme by scheme basis for proposals that comply with the NPS.

- 3.55. The draft NPS for water sets out the need and government's policies for the development of nationally significant infrastructure projects relevant to water resources in England. It aims to ensure that where nationally significant water resources infrastructure is needed, it can be delivered in a timely manner to a high standard. According to paragraph 1.4.5 of the draft NPS for water:

If an NSIP is included in a published final WRMP, the need for that scheme will have been demonstrated in line with government policy, and the applicable statutory requirements, and does not need to be revisited as part of the application for development consent. The Examining Authority and the Secretary of State should therefore start their assessment of applications for infrastructure covered by this NPS on that basis.

- 3.56. The confirmation of need through the WRMP process adds certainty to the subsequent consenting process for individual projects.

3.2.3.4 *Additional planning-related consents required*

- 3.57. In the event that they are required, the additional planning-related consents identified in paragraph 3.31 above – Listed Building Consent, Conservation Area Consent, Tree Preservation Order Consents and consent to remove hedgerows – can be incorporated into the DCO.

3.2.3.5 *Associated development*

- 3.58. A DCO application can also include a very wide range of 'Associated Development' (AD), which may be off-site but which is necessary to help deliver the main development. Subsequent amendments to AD can usually be achieved with LPA

approval, hence do not require amendment of the DCO. It is therefore advantageous for there to be wide consideration of what is AD. AD of benefit to T2AT might include:

- new or improved vehicular and pedestrian access;
- alterations to roads, footpaths and bridleways;
- temporary haul roads;
- railway works including sidings, passing loops, level crossings, and lines for moving aggregates during construction;
- public transport infrastructure;
- electricity, water, wastewater and telecommunications networks;
- electricity generation or storage for operational purposes;
- landscape works;
- flood defences and mitigation;
- creation of compensatory habitats and green spaces;
- noise barriers;
- relocation of statutory undertakers' equipment;
- alteration of watercourses;
- pumping stations, water transfer tunnels, pipelines and kiosks;
- temporary accommodation during construction.

3.2.3.6 Land rights and supplementary consents

3.59. A DCO can grant rights to compulsorily acquire land, extinguish private rights over land or impose restrictive covenants and other similar powers. It can also incorporate a range of other consents (see chapter 4), obviating the need for separate applications. These include rights to undertake street works, identify landowners, enter land for surveys, remove or undertake works to protected trees and hedgerows, override easements and discharge water. The DCO will include Protective Provisions that define how existing utilities infrastructure will be protected during the development.

3.2.4 Project coordination

3.60. If the PA2008 consenting route is followed, TW&AW would seek - as with the TCPA1990 option - to set up a T2AT working group for senior LPA officers, to shadow the project from the pre-application stage to its implementation. The terms of reference of the working group would be adjusted to reflect the demands of the PA2008 process and would include:

- briefing on the role of the LPA in the DCO process;

- detailed pipeline route alignment, including where local authority boundaries are crossed;
- EIA scoping;
- arrangements for pre-application public consultations, which are a significant feature of the DCO application process and would be described in a Statement of Community Consultation (SoCC), on which the LPAs would be consulted prior to publication;
- the detailed drafting of the DCO;
- drafting of DCO Requirements (similar to planning conditions) and any planning obligations required under section 106 of the TCPA1990.

3.2.4.1 *Post-consent*

3.61. In the event that design amendments are required once a DCO has been made, planning judgement again applies on the question of whether the change is non-material, material or constitute a new project. *The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011* (as amended) sets out the following procedures.

- In the case of **non-material changes** the applicant will publicise and consult upon the proposed changes and sends the application, consultation feedback and the applicants response to consultation to the Secretary of State. The Secretary of State then determines the application if the information submitted is complete. There is no statutory timetable for preparing, submitting and determining the application but overall the process might take 6-12 months.
- For **material changes** the applicant publicises and consults upon the changes and then applies to the Secretary of State. The Secretary of State then decides whether or not an examination is required. If no examination is required, the application will proceed to determination following a further period in which representations can be made. If an examination is considered necessary, an examining body of planning inspectors will be appointed, an examination held following a preliminary meeting, and a report is then submitted by the examining body to the Secretary of State for consideration and determination. There is no statutory timetable for this but overall the process might take 12-18 months.
- If **the changes to the project are extensive**, a new DCO must be sought, a process that will take at least 30 months from inception to determination.

3.62. Given the extended timelines for applying for amendments, the process for seeking approval of non-material and material changes has been used only rarely by DCO applicants. Instead, applicants generally seek to build flexibility into their DCO applications through such measures as the specification of 'limits of deviation' for the detailed siting of physical infrastructure and by adopting a parameters-based approach to EIA, known as the 'Rochdale envelope'.

3.63. Applicants might also seek to define as much of the project as possible as Associated

Development (explained above), because amendments to Associated Development can be sought by means of a locally-made planning application as opposed to a formal DCO amendment.

3.64. In the event that the Secretary of State declines to make a DCO, the applicant may seek a challenge on a point of law but has no right of appeal.

3.2.5 Discussion

3.65. Table 1.1 summarises the respective advantages and disadvantages of the planning application and DCO consenting routes as highlighted earlier in this chapter.

Table 3.1: Comparison of the planning application and DCO application consenting routes

	Planning application TCPA1990	DCO application PA2008
Administrative complexity	<p>TW&AW would retain considerable discretion over the extent, nature and timing of pre-application public consultations.</p> <p>At least two planning applications would be made for the LTR option and at least four for the BRI option.</p> <p>Residual risk of inconsistency in the planning permissions granted by individual LPAs – e.g. planning conditions.</p>	<p>Comprehensive pre-application public consultations would be required, undertaken in accordance with a published Statement of Community Consultation.</p> <p>A single DCO application would be made for the LTR or BRI options, with a single set of DCO Requirements applying to the entire project.</p>
EIA	<p>EIA scoping opinions would need to be sought from each local authority through whose area the project would pass.</p> <p>A single ES would be prepared for the whole project.</p>	<p>A single EIA scoping opinion would be requested from the Secretary of State in each case.</p> <p>A single ES would be prepared for the whole project.</p>
Demonstration of project need	<p>The NPS for water (currently a draft) would be a material consideration as would WRMP24.</p>	<p>Need would be established if the project is included in a WRMP and the draft NPS adopted as drafted.</p>
Additional consents required	<p>Planning permission would authorise the development and use of the required infrastructure.</p> <p>A wide range of other consents would need to be sought to enable implementation.</p>	<p>A wide range of supplementary consents and rights could be included in the DCO.</p>

	Planning application TCPA1990	DCO application PA2008
	Local agreements would need to be sought for works affecting third party utilities and for street works	
Land rights and supplementary consents	A CPO would be required and, as part of that process, protective provisions would be given to third party utilities.	The DCO could include rights to acquire land and secure land rights and to undertake street works and works affecting third party utilities.
Project coordination	Local authorities would be encouraged to adopt a cooperative and coordinated approach to T2AT consenting; but no compulsion to do so.	Local authorities have a clearly prescribed role in the DCO application process.
Post-consent	<p>A range of relatively simple locally-administered procedures are available to accommodate design amendments.</p> <p>If planning permission is refused, the applicant has a right of appeal.</p> <p>Refusal may be Judicially Reviewed (even after appeal).</p>	<p>Amending a DCO is an arduous and time-consuming process, although the risk of having to seek amendments can, with foresight, be minimised.</p> <p>If the Secretary of State declines to make a DCO there is no right of appeal.</p> <p>Refused DCO may be Judicially Reviewed.</p>

3.66. Each consenting approach has its merits but the PA2008 route is considered to offer a balance of benefit for the T2AT options, as follows:

- Reduced complexity – a single application as opposed to several;
- Enhanced powers – a DCO can incorporate a much wider range of powers and rights than a TCPA1990 planning application;
- Clarity on the role of LPAs, with less opportunity for politically-inspired obstruction to the determination process for the project as a whole;
- Clarity on the applicant’s duty to consult at the pre-application stage;
- Clarity on the need for the project, with the national need to the fore;
- Greater programme certainty – the examination and determination process is closely timetabled.
- Reasonable chance of success – to date, c.95% of all DCO applications to reach determination have been successful.

3.67. As noted, T2AT only assumes NSIP status if its output exceeds 80MI/d and it is

considered not to be a transfer of drinking water. Some options have a lower throughput. This being the case and view of the balance of benefit identified in this chapter, it will provisionally be TW&AW's intention to apply to the Secretary of State for a direction under section 35 of the PA2008, by means of which the project would become an NSIP for which a DCO must be sought.

3.68. T2AT offers unique benefits and these would be stressed in a section 35 direction request. The clearest expression of the tests that the Secretary of State is likely to apply in considering a possible s.35 direction request from TW&AW is contained in a Policy Statement published by the government alongside the Infrastructure Planning (Business or Commercial Projects) Regulations 2013. The tests are as follows.

i). whether a project is likely to have a significant economic impact, or is important for driving growth in the economy.

3.69. A reliable and resilient water supply is as fundamental to sustainable economic growth as it is to life itself. Stress on water shortages is already a serious constraint to residential and other development in parts of the south east.

ii). whether a project has an impact across an area wider than a single local authority area.

3.70. T2AT would require physical infrastructure across several local authority jurisdictions, and its benefits, in terms of water supply, would be felt across Affinity Water's area⁷.

iii). whether a project is of a substantial physical size.

3.71. T2AT is evidently a project of substantial physical size.

iv). or - whether a project is important to the delivery of a nationally significant infrastructure project or other significant development.

3.72. T2AT facilitates a wide range of significant development - residential, mixed use and commercial that otherwise would be potentially sterilised by having unacceptable effects on the water environment by way of drawing resources at damaging levels.

3.73. T2AT forms a significant part of the wider WRSE strategy for future water supply in the south-east England.

3.74. In the event that the 80MI/d threshold is not met or it is concluded the project is a drinking water transfer, TW&AW will refine its case for securing NSIP status through a section 35 direction request during RAPID Gate 3 or more likely before the

⁷ Affinity Water supplies 3.6 million people in parts of Bedfordshire, Berkshire, Buckinghamshire, Essex, Hertfordshire, Surrey, the London Boroughs of Harrow and Hillingdon and parts of the London Boroughs of Barnet, Brent, Ealing and Enfield. The company also supplies water to the Tendring peninsula in Essex and the Folkestone and Dover areas of Kent.

proposed Gate 2 update in June 2024.

- 3.75. Having reaffirmed that the Planning Act 2008 process is the preferred consenting route for T2AT, the final section of this chapter describes the consenting route in further detail.

3.3 Primary consenting route for T2AT

3.3.1 The process: pre-application

- 3.76. When an NSIP project promoter has sufficient confidence in the definition of the project and its preferred location, the Planning Inspectorate (PINS) can be notified of the intention to make a DCO application. PINS administers DCO applications on behalf of the Secretary of State who will ultimately be responsible for its determination – in this case, the Secretary of State for Environment, Food and Rural Affairs. Notification is in itself a simple process in which the promoter provides an outline written description of the proposals, an indication of the programme for submission of the application and a GIS shapefile for all of the land to which the DCO is likely to apply.
- 3.77. Once PINS has received the notification it will set up a web page for the project on the National Infrastructure Planning website⁸. Engagement between the applicant and PINS during the preparation of a DCO application is a transparent process, with correspondence and the minutes of meetings normally be posted on the project web page.
- 3.78. In keeping with this commitment to transparency, an early duty for the applicant following notification is the preparation of a Statement of Community Consultation (SoCC), as required under section 47 of the 2008 Act. This explains how the applicant intends to carry out consultation with the local community. Before drawing up the statement, the promoter must consult the relevant local authority (or authorities if the land needed for the project crosses local authority boundaries), giving them 28 days in which to respond.
- 3.79. Thereafter the successive rounds of non-statutory and statutory consultations provided for in the SoCC become milestone events in the pre-application stage of a DCO project. Consultation feedback and the applicant's response to it will be recorded in detail in a Consultation Report submitted with the DCO application. The adequacy of consultation will be a significant consideration in the Secretary of State's decision as to whether to accept the DCO application, once made, for examination. Relevant local authorities will be consulted on this point.
- 3.80. Another early task for the applicant, though not obligatory, will be the submission of an EIA scoping report to the Secretary of State⁹. Once in receipt of the Secretary of

⁸ <https://infrastructure.planninginspectorate.gov.uk/>

⁹ Applications for an EIA scoping opinion are made under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (S.I. 2017 No. 572).

State's scoping opinion, work on the project can proceed in a focused manner through iterative rounds of survey and assessment, consultation and design refinement until the project is in a suitable stage of maturity and refinement to allow the DCO application to be made.

- 3.81. The 2008 Act provides powers to facilitate the survey and assessment work required during the preparation of a DCO application and its supporting documents. These include section 52: *Obtaining information about interests in land* and section 53: *Rights of entry to land*¹⁰. In addition, Regulation 11(3) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 requires public bodies to provide the applicant with any information in their possession that is considered relevant to the preparation of the environmental statement, on request and subject to conditions set out in the 2017 Regulations.
- 3.82. Chapter 5 of this report describes the pre-planning activities proposed to support the consenting process. Landmark events during the formal pre-application stage of a DCO project will include the following.
- Discussions with landowners on access to and for the purpose of surveys, and on the future acquisition of land and land rights where required. Control of land for the purpose of the project might be temporary to enable construction or permanent where operational development is proposed.
 - Non-statutory public consultations. These might concern the project in the round or specific aspects of it, such as options for temporary and permanent road access.
 - At least one round of statutory consultation, undertaken in accordance with section 42: *Duty to consult* and section 47: *Duty to consult local community* of the PA2008. In reality this minimum requirement will be exceeded.
 - Detailed dialogue with local authorities and with relevant statutory consultees identified in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (S.I. 2009 No. 2264). These include the Environment Agency, Historic England, Natural England, National Highways and the local highways, health, police, fire and rescue services.
 - Regular dialogue with the Planning Inspectorate's Infrastructure Planning Unit, including updates on the timing of the DCO application and discussions about the composition of the Examining Authority's 'panel' of planning inspectors, to be appointed once the application has been made.
 - An iterative process of design refinement and assessment, including where appropriate the further testing of alternatives, reflecting the feedback received during consultations.
 - Production of the main application deliverables identified in chapter 7 of this report, including a Consultation Report that will describe the consultations that the applicant has undertaken and explain how the submitted scheme responds to

¹⁰ Section 172 of the Housing and Planning Act 2016 provides applicants with an alternative and more administratively convenient means of securing rights to enter and survey land.

consultation feedback in accordance with section 49: *Duty to take account of responses to consultation and publicity* of the PA2008. Another important submission document is the Book of Reference, a definitive record of the land interests that the project would affect.

3.3.2 The process: post-application

- 3.83. Once a DCO application has been made, the Planning Inspectorate, acting on behalf of the Secretary of State, has 28 days in which to review submitted documents and decide whether the application is in a suitable state to be 'accepted' for examination. If it is, the application moves into a pre-examination phase in which the application is publicised, with 'interested parties' (IPs) invited to register their interest and submit 'relevant representations', summarising their views on the proposals. The relevant representations assist the examining authority (ExA) to identify particular issues of concern that warrant investigation during the examination of the application.
- 3.84. During the pre-examination period TW&AW will aim to conclude extensive Statements of Common Ground with local authorities, statutory bodies and other parties whose interests are affected by the proposals.
- 3.85. Approximately 4-6 months after a DCO application has been accepted for examination, a Preliminary Meeting will be held to discuss the procedure for the examination of the application. The examination itself normally begins immediately after the preliminary meeting and follows a closely-timetabled six month process.
- 3.86. The examination features the publication of rounds of written questions by ExA, to which the applicant and other identified parties are typically given three weeks in which to respond; submissions of Local Impact Reports by local authorities and detailed 'written representations' by IPs; opportunities for parties to comment on each other's submissions, and round-table hearings on specified matters including environmental topics and land acquisition. Before the close of the examination, applicants will normally submit updated versions of the draft DCO and the Book of Reference.
- 3.87. Once the examination closes, ExA has three months in which to report its findings and recommend a decision to the Secretary of State. (S)he then has a further three months in which to decide whether the DCO is 'made' (i.e. granted) or not.

3.3.3 The process: post-consent

- 3.88. Once a DCO is made a series of actions follow before development can commence. If the DCO includes compulsory land acquisition powers, these can be used to acquire the necessary land and land rights. This can either be done using a general vesting declaration or through the service of notices to treat and of entry, depending on the methods chosen by the applicant. If the applicant has not agreed compensation with a landowner, the matter can, as a last resort, be referred to the Upper Tribunal

(Lands Chamber) for resolution.

- 3.89. TW&AW will also put in place community engagement arrangements that will operate throughout the construction process, in conjunction with the main contractor or contractors for the project. These arrangements will include provision for prompt investigation and responses to any complaints.

4. Other consents and licences

4.1 Introduction

- 4.1. The previous chapter of this Appendix sets out the route for the principal consenting activity that would lead to a Development Consent Order or Town & Country Planning Act planning permissions. As an operational water project there will of course also need to be abstraction and other permits to facilitate the interface with the water environment, specifically the river systems. The regulator for these is the Environment Agency. There will also need to be a wide variety of other consents covering multifarious regulatory areas to deliver the construction and operation of the scheme.
- 4.2. This chapter provides firstly a summary of the abstraction permits and other permits related to the water environment. Atkins has prepared an initial draft permit strategy for water which covers all of the SROs that Thames Water is involved with. The aspects of that document relevant to T2AT are drawn out in Section 4.2 below.
- 4.3. The chapter then lists in Section 4.3 the secondary consent requirements, namely all those consents, licences and other processes envisaged that are additional to principal consents. These are set out fully in Annex 1.
- 4.4. Section 150 of the Planning Act 2008 provides for other consent requirements to be removed if the regulator concerned has consented to this. It might hence be possible for say abstraction licencing then to be included in the DCO. However the EA regime for abstraction and discharge licencing via Environmental Permits is complex and endures as a regulatory regime for the whole lifetime of a project. It is considered unlikely the EA would so consent to inclusion of these processes within a DCO or that it would be beneficial for that to happen.
- 4.5. For some of the other consents the Planning Act 2008 explicitly allows them to be included in a DCO and this is indicated in section 4.3. For the others Section 150 might also apply and they might be included in a DCO, with the consent of the normal consent giving regulator. At this stage and in order to not over-complicate the DCO process, it is assumed that would not happen.

4.2 Abstraction licencing

- 4.6. TW&AW's abstractions in the Lower Thames region are currently subject to the Lower Thames Operating Agreement (LTOA), the legislative basis of which is the Water Resources Act 1990 (Section 20). The LTOA factors in considerations such as navigation, environmental and water quality objectives and flood risk management as well as containing protocols for abstraction from the river in different flow conditions.
- 4.7. The T2AT LTR option would use water abstracted from the Thames via Wraysbury and Queen Mother reservoirs. BRI would use water extracted from the River Lee flood relief channel, related to commensurate upstream discharge of treated

effluent from either Mogden or Beckton WWTW. This effluent in turn would be diverted from its current destination. Downstream of the proposed abstraction point the Lee becomes tidal before flowing into the Thames. Whilst these proposals do not affect current abstractions from the Thames, nevertheless the LTOA considers environmental and water quality characteristics in the Thames Tideway.

- 4.8. The permit strategy considers, in addition to operations and water supply, environmental opportunities.
- 4.9. Within the LTOA an existing licence (the “M2 licence”) facilitates and controls Thames Water’s existing abstraction activity into the Lower Thames Reservoirs. Amendment to this licence may be the means to regulate the LTR arrangements and facilitate the additional abstraction volume that would be required. Affinity Water also has an existing abstraction at Sunnymeads, which could be modified to facilitate additional abstraction for T2AT, if required.
- 4.10. For BRI new licence would be required to facilitate abstraction from the River Lee and this would of necessity interact with regulation of the Beckton / Mogden origin effluent discharge to the Lee.
- 4.11. Other components and considerations of the LTOA which would need consideration to achieve T2AT would be:
 - Thames Conservancy Act 1933 concerning river levels (LTR option only).
 - Thames Tideway water quality management (both options).
 - Discharge of water into the Thames from SESRO (if built) to balance the additional flows abstracted (LTR option only).
 - Flood management specifically the Maidenhead, Eton and Windsor Flood Alleviation Scheme (MEWFAS) and the River Thames Scheme (LTR option only).
 - Other existing licences, particularly abstractions including RWE Didcot, South East Water Bray, and non-strategic abstractions eg for agriculture.
- 4.12. Three broad approaches to licencing of abstractions and discharges necessary to achieve T2AT are being considered. These approaches form part of a broader consideration of all SROs affecting the Thames and the supply of water to Affinity Water from the Thames Water area. These are:
 - Least change – using the current licences and amending them as necessary;
 - Holistic change – reconstructing the LTOA to reflect the situation once the current WRSE, RAPID and Ofwat processes of SRO selection have been completed; or
 - A hybrid of the above two approaches.

4.3 Secondary consents

- 4.13. A wide range of permits and consents will be required to deliver either of the two options. Annex 1 to this document provides a comprehensive list of those considered likely to be required, identifying those which may be included in the DCO without invoking Section 150 of the Planning Act 2008 (see 4.4 and 4.5 above). A summary list is provided below.
- 4.14. In general, the list of likely secondary permits and consents is common between the LTR and BRI options. BRI uniquely raises the prospect of works possibly affecting a Site of Special Scientific Interest (SSSI) (specifically the Chingford Lakes SSSI) and LTR, uniquely, works affecting a Listed Building (farmhouse within Iver WTW is a Grade II Listed Building).
- 4.15. The list of secondary consents is set out in Table 4.1 which shows:
- The title of the permit or consent and the authority from which it will be sought;
 - The legislative basis;
 - Whether the consent or permit affects LRT and BRI (both) or just BRI and why; and
 - Whether the consent might be included in a DCO (notwithstanding para 4.4 and 4.5 above).
- 4.16. Some of the consents referred to below relate to planning processes (eg Listed Building consent) and are referred to within Chapter 3 above and some to abstraction licensing and are referred to in section 4.2 above. Nevertheless it is considered helpful to have a comprehensive list of what is likely to be required in addition to the principal consents. Please see the notes following the table concerning Local Planning Authorities (LPAs) and Highway Authorities.

Table 4.1: Secondary consents

	Permit or Consent/ Authority	Legislative basis	Affects LRT and BRI (both) or just BRI	May be within DCO?
1	SSSI Assent Natural England	Section 28E of the Wildlife and Countryside Act 1981	BRI re Chingford Lakes SSSI	N
2	Habitats Regulations Secretary of State DEFRA	Conservation of Habitats and Species Regulations 2017	Both	N
3	European Protected Species Licence, Natural England	Conservation of Habitats and Species Regulations 2017	Both	N
4	Wildlife Licence Natural England	Conservation of Habitats and Species Regulations 2017	Both	N
5	Badger licence Natural England	Protection of Badgers Act 1992	Both	N
6	Hedgerow Removal Notice	Hedgerow Regulations 1997	Both	Y

	Permit or Consent/ Authority	Legislative basis	Affects LRT and BRI (both) or just BRI	May be within DCO?
	LPA			
7	Tree Preservation Order Consent, LPA	Town and Country Planning (Tree Preservation) (England) Regulations 2012	Both	Y
8	Trees in Conservation Area notification, LPA	Section 211 of the Town and Country Planning Act 1990	Both	Y
9	Tree felling licence Forestry Commission	Forestry Act 1967	Both	Y
10	Listed Building Consent LPA	Planning (Listed Buildings and Conservation Areas) Act 1990	LTR only	Y
11	Land Drainage Consent LPA	Land Drainage Act 1991	Both	Y
12	Flood Risk Activity Permit or Exemption	Environmental Permitting (England and Wales) Regulations 2016	Both	N
13	Environmental Permit (dewatering) Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N
14	Environmental Permit (surface water discharge) Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N
15	Water Abstraction Licence Environment Agency	S24, 24A, 25, 32 Water Resources Act 1991	Both	N
16	Potable connection Water company	Water company	Both	N
17	Trade Effluent Consent Water company	Section 118 Water Industry Act 1991	Both	N
18	Environmental Permit (waste) Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N
19	EP exemption for waste bricks Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N
20	Waste carrier registration Environment Agency	Waste (England and Wales) Regulations 2016	Both	N
21	Environmental Permit (low impact operation) Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N
22	Environmental Permit (local air pollution) LPA	Environmental Permitting (England and Wales) Regulations 2016	Both	N
23	Environmental Permit (medium combustion plant – ie generators) Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N
24	Noise and / or vibration consent LPA	Control of Pollution Act 1974	Both	N
25	Mobile plant permit standard rules Environment Agency	Environmental Permitting (England and Wales) Regulations 2016	Both	N

	Permit or Consent/ Authority	Legislative basis	Affects LRT and BRI (both) or just BRI	May be within DCO?
26	Temporary Traffic Regulation Order (PRoW) Local Highway Authorities	Road Traffic Regulation Act 1984	Both	Y
27	Section 278 Agreement Local Highway Authorities	Highways Act 1980	Both	Y
28	Notice of Street Works Local Highway Authorities	New Road and Street Works Act 1991	Both	Y
29	Highway works permit Local Highway Authorities	Traffic Management Act 2004	Both	Y
30	Abnormal load transport permit Local Highway Authorities/ SoS Transport/ police/ structure owners	Road Vehicle (Authorisation of Special Types) (General) Order 2003 / Road Traffic Act 1988	Both	N
31	Temporary Traffic Regulation Order Local Highway Authorities	Road Traffic Regulation Act 1984	Both	N
32	Basic Asset Protection Agreement, Network Rail	none	Both	N
33	Hazardous Substances Consent, LPA	Planning (Hazardous Substances) Act 1990 and Regulations 2015	Both	N
34	Section 38 Common Land/ Village Green Consent SoS DEFRA	Planning Act 2008	Both	Y
35	Crown Consent SoS DEFRA	Planning Act 2008 (s 135)	Both	Y
36	Notification of Construction Project (F10), HSE	Construction (Design and Management) Regulations 2015	Both	N
37	Building Regulations Approval, LPAs	Building Regulations 2010	Both	N
38	Notice of Demolition LPAs	Building Act 1980 (s80)	Both	N

4.17. Annex 1 contains details of the interplay of these with either the DCO or TCPA principal consenting route. Some elements can be superseded by a DCO and there are timings issues with some procedures being capable of being followed in parallel with either DCO or TCPA planning, some requiring to be in parallel and others for which the process by necessity follows planning permission (whether by DCO or TCPA).

4.18. In the above table

- LPAs are:
 - For LTR the Councils referred to in paragraph 3.13 above.
 - For BRI those listed at paragraph 3.16 above.
- Highways Authorities are:

- For LTR the Councils referred to in paragraph 3.13 above and Transport for London
- For BRI the London Borough of Enfield, Essex County Council and Hertfordshire County Council and Transport for London

5. Strategy for land acquisition and land rights

5.1 Introduction

- 5.1. The purpose of this chapter is to provide a land strategy for the T2AT. The strategy sets out the recommended steps for T2AT to take to secure the necessary land and rights in land required for its delivery.
- 5.2. This chapter contains the following sections.
- Section 5.2: Background and acquisitions by agreement
 - Section 5.3: Objectives of the Land Acquisition Strategy
 - Section 5.4: Interfaces with other elements of the project
 - Section 5.5: Programme for the land elements of the project
 - Section 5.6: Interface between Land elements and the consultation processes
 - Section 5.7: The acquisition of land and interests in land
 - Section 5.8: Statutory Undertakers
 - Section 5.9: Parties exempt from powers of compulsory acquisition; and special interest categories
 - Section 5.10: How land related DCO requirements will be discharged
 - Section 5.11: Operational requirements relating to land

5.2 Background and acquisitions by agreement

- 5.3. The Water Industry Act 1991 provides various land acquisition powers to TW&AW in their roles as statutory water undertakers. These powers would not, however, provide them with all the powers necessary for the project because of the nature of the project and the extent of the powers contained within the 1991 Act.
- 5.4. As a result, powers of compulsory acquisition will have to be granted to TW&AW by a DCO or Compulsory Purchase Order (CPO).
- 5.5. Parties seeking powers of compulsory acquisition are required to enter into negotiations with landowners and occupiers before an application for those powers is made. It is also normally commercial good practice to do so because it reduces costs and risks. The early start of those discussions increases the chances of agreeing terms with the parties concerned, and decreases the risk of objections being made and heard at the DCO Examination, to TCPA applications or a CPO Inquiry.
- 5.6. It will also be important to include discussions with landowners as part of an overall

stakeholder engagement strategy to ensure compliance with the relevant statutory requirements.

- 5.7. As a result, TW&AW's land acquisition strategy will need to include the requirements to enter into those discussions as early as possible. The goal of entering into agreements would be to cover the following:
- Entering into options to acquire land;
 - Agreement on the commercial terms of the acquisition, including any additional requirements; and
 - An undertaking from the land owners and occupiers not to object to the DCO application, planning applications or CPO application.
- 5.8. To reduce the risk of not entering into those agreements before the relevant examination, or being required to enter into unfavorable agreements, these discussions must start as early as possible and have the necessary information available for terms to be agreed. This is one of the interfaces with other parts of the project team.
- 5.9. The discussions with land owners is likely to require the following information:
- Extent of land required permanently;
 - Extent of land required temporarily;
 - An indication of what the structures will look like;
 - An overview of the construction process and timing; and
 - Mitigation of adverse impacts during construction and operation of the infrastructure.
- 5.10. Powers of compulsory acquisition are likely to be needed because T2AT will require land and rights to be acquired from third parties both temporarily and permanently. Given the nature, size and likely location of the infrastructure to be built by the project, it is unlikely that all the required land and rights land could be acquired by agreement from landowners.
- 5.11. In addition, it is likely for the project to need to gain vacant possession from some of the occupiers. This would be difficult to do without the benefit of a statutory mechanism to enforce owners and occupiers giving up their ownership and occupation of it.
- 5.12. As a result, powers of compulsory acquisition will be required. The process of gaining a CPO (see below) can be beneficial to the owners and occupiers land.
- 5.13. First, it allows them to participate in the powers of compulsory acquisition being granted by the relevant Secretary of State. This process allows them to make representations to that process, to ensure their views are heard and recorded. This also gives them an opportunity, prior to the powers of compulsory acquisition being

confirmed, to secure some benefits through negotiation that might not, necessarily, be available once the powers of compulsory acquisition have been confirmed.

- 5.14. Secondly, the use of powers of compulsory acquisition provides certainty to land owners and occupiers regarding the basis of the compensation claim they could submit for the acquisition of their land or rights in land.
- 5.15. It should be noted, however, that the compulsory acquisition process can be difficult for some landowners and so TW&AW will try to carry out land acquisitions in advance of the CPO process being used, in line with Government guidance.
- 5.16. In order to receive a powers of compulsory acquisition, the project will need to show an overriding public interest to acquire the land compulsorily. This fundamental tenet for the granting of compulsory purchase powers will draw significantly on many areas of the project's preparation, particularly the needs case (established in the NPS).
- 5.17. In addition, the project promoter will need to show it has tried to acquire the necessary land by agreement from the landowners.

5.2.1 DCO

- 5.18. The DCO process allows for powers of compulsory acquisition to be incorporated into the DCO for the project. In effect, this will allow the necessary CPO-related statute to be incorporated into the DCO, providing TW&AW with the ability to use CPO powers to acquire the land and rights necessary for the project. This is similar to the structure and purpose of the Water Industry Act 1991 (as amended) which is used by TW&AW for the implementation of their capital delivery programmes in each AMP.
- 5.19. The process of drafting the compulsory acquisition element of the DCO application requires that a sufficiently detailed design of the project exists so that the necessary land and rights can be included.

5.2.2 TCPA1990

- 5.20. The TCPA1990 consenting route would involve gaining the planning permissions necessary for the project and then, following receipt of those planning permissions, obtaining a compulsory purchase order specifically for the project. This would contain very similar powers, potentially the same, granted in the powers of compulsory acquisition element of the DCO. The granting of those powers is however a different process.

5.3 Objectives of the land acquisition strategy

- 5.21. Whichever consenting strategy is chosen, the following are guiding objectives for the land acquisition strategy.

- A. To be aligned with the consenting strategy for T2AT.
- B. To be aligned with the stakeholder engagement strategy for the project.
- C. To ensure land related information and support is provided to other parts of the project when required.
- D. To develop a robust justification for the inclusion of powers of compulsory acquisition in either consenting route.
- E. To ensure land related matters are dealt with before the submission of either consenting application as far as possible.
- F. To resolve any land related matters that might cause reputational issues for TW&AW.

5.22. The following are detailed objectives for the land acquisition strategy.

- To set out the interfaces with other elements of the project the land elements will support, and be supported, by other aspects of the project team.
- To set out the overall programme for land elements of the project.
- To set out how the timely delivery of access to land for will be delivered.
- To set out how land matters interface with the consultation processes and how these interfaces will be managed.
- To gather and maintain the data necessary to produce a book of reference for the DCO or CPO application.
- To set out how land and interests in land will be acquired, both under and outside of the powers contained within the DCO or CPO.
- To set out how the DCO will contain evidence of a compelling case for the DCO to contain a CPO, or for a stand-alone CPO to be granted, is in the public interest.
- To set out how all special and exempt categories of land owners will be identified and managed, and how clean title will be provided for land acquired.
- To set out how compensation claims will be minimised.
- To set out how land related DCO requirements (if any) will be discharged.
- To set out how post construction land matters will be dealt with.
- To set out how TW&AW's operational requirements will be fulfilled by the land elements of the project.

5.23. Each of these objectives are dealt with in the following sections of this chapter.

5.4 [Interfaces with other elements of the project](#)

5.24. Whichever consenting route is chosen, it is important for the land elements of the project to be worked in closely with the other elements of the project design. This will reduce the risk of not identifying the necessary land or rights in land to be acquired. It will also extend the possibilities of reducing cost and identifying other opportunities to enhance the delivery of the project, and/or opportunities to

enhance the area around it for the benefit of local people and TW&AW.

- 5.25. The land adviser will interact regularly with the advisory team covering the following aspects of the project:
- Legal and Counsel;
 - Planning;
 - Design, Engineering and Construction;
 - EIA;
 - Stakeholder Engagement;
 - Finance and Accounting (particularly regarding the Funding Statement, a key requirement of the DCO process);
 - Operations; and
 - TW&AW's Biodiversity Net Gain Team.
- 5.26. These interfaces require alignment across the project, captured in the consenting strategy and evolving during the life of the project.

5.5 Programme for land elements of the project

- 5.27. The land acquisition strategy needs to align with the overall programme for the project. For the most part, this requires the land elements to be carried out at the right to time ensure they support the project at all stages. This is true for the pre-DCO application phase, the DCO application examination and the implementation of the DCO once granted (see below). It is also true for the TCPA consenting route because of the links between the details of the planning permission (once granted) and the need to use the CPO once confirmed. TCPA planning application processes and CPO processes can run concurrently and to do so requires careful co-ordination.
- 5.28. There is, however, one area where it is important for other elements of the project to support the land element. This is as the design freezes ready for the consultation events. At these points, the design elements must be ready to provide accurate information in time for the land requirements to be calculated with enough time before the consultation events. This is important because the land requirements will be important in the communication to external stakeholders, particularly the landowners and occupiers impacted by the project.
- 5.29. The programme for either consenting route will be driven by a number of requirements such as: ecological survey seasons, stakeholder consultation event timing and the time required for design phases. Once these are known, the land elements can be programmed to support the other elements of the project.
- 5.30. During this phase of the project, access to carry out surveys will be an important land element supporting the rest of the project.

- 5.31. Another main element of land support during this phase will be providing a point of contact with landowners and occupiers for the rest of the project. Land issues tend to be the focus of a project at this stage, partly because of the access requirements of the surveys, but also because landowners and occupiers will realise the land elements of the project are at the “coal-face” of their interaction with the project.
- 5.32. The preparation of the application documents for either consenting route will require a programme to be made and agreed between the various parties involved. The length and inter-related nature of these documents means that TW&AW and its various advisers and will be reliant on each other to produce documents and information to allow them to deliver their outputs ready for the submission of the application.
- 5.33. Internally, an important land element will be the estimation of costs and risk impact from land related activities. The main one will be the estimation of compensation payable to landowners and occupiers. Another area of growing importance is the interaction with TW&AW obligations, both current and future, to provide Biodiversity Net Gain, and how this can be accommodated (financially and physically) in the arrangements agreed with landowners.

5.5.1 DCO Examination or CPO Inquiry

- 5.34. The land elements to be prepared for the DCO examination or CPO Inquiry will depend on the issues raised by the examining panel. These will become known as the examination phase of the process progresses, and can be accommodated at that time.

5.5.2 Implementation of the DCO or Planning Permissions and CPO

- 5.35. The implementation of the DCO or Planning Permissions and CPO may seem distant, but early preparation for it, in addition to the work carried out for the preparation of the either application, will be imperative. This includes the construction work necessary to satisfy the DCO requirements or Planning Permission Conditions. Some of these are likely to be pre-implementation requirements, meaning the main construction activities can not start until they have been fulfilled.
- 5.36. In the same way, contractual requirements within agreements with landowners may require work, construction or otherwise, to be undertaken before the main construction activities can proceed on their land. Programming these events and co-ordination of the land and construction elements is important for a successful project.

5.6 The interface between land elements and the consultation processes

- 5.37. Consultation is an important part of both the DCO and TCPA application processes. The project will have its own specific requirements for the relationship between stakeholder engagement and the land element of the project.

- 5.38. In addition to the consultation and stakeholder engagement activity and as the project progresses, engagement with landowners, occupiers and interested parties (including their agents, solicitors and other advisers) will be necessary.
- 5.39. One of the land related documents required for the DCO and CPO applications is a book of reference. This provides details of all the landowners and occupiers whose land will be acquired. Within the Consultation Report there is also a requirement to confirm the parties listed in the book of reference have received communication from the project. This relationship will be managed by the land and communication teams using the transfer of data between the database containing the data to produce the book of reference and the system to be used to produce the Consultation Report.

5.7 The acquisition of land and interest in land

- 5.40. Land and interests in land can be acquired within the DCO, or the standalone CPO, or by agreement. Within CPO law, acquiring authorities are required, and are encouraged, to negotiate with landowners to see if the acquisition of the necessary land can be negotiated and agreed with landowners before the use of the CPO. This extends to trying to agree the acquisitions before the submission of the DCO application.
- 5.41. Objectors have the right to object in order to protect their rights and positions in negotiations. Landowners do sometimes also use their right to object to the DCO in order to agree better terms for the acquisition of their land compared with those received by the use of the CPO.
- 5.42. There is a balance to be struck between agreeing terms for an acquisition that might cost more than using compulsory acquisition powers and the issues raised by having an objection to the DCO, planning application or application for a CPO. These can only be decided at the time by looking at the commercial position of the parties. There is, however, generally, a tendency to want to agree terms have fewer objections to deal with at the examination or an Inquiry.

5.7.1 The nature of land and interest in land to be acquired

- 5.43. Land and rights will be acquired to allow the construction and operation of the infrastructure. There are several categories of land, as follows, but the list will evolve as the design process continues.
- The freehold of the infrastructure footprint and associated landscaping;
 - The freehold of the access to the infrastructure from the existing public highway (for subsequent adoption by the highways authority as part of s278 agreement(s))¹¹;

¹¹ See Chapter 4

- The freehold of land for the modification of existing highways (for subsequent adoption by the highways authority as part of s278 agreement(s));
- The freehold of land required for any pumping stations and access to them from the public highway;
- The freehold of land required for mitigations works, such as the planting of trees for land scape mitigation (if any) (and rights if access to those areas);
- Rights needed for the installation of infrastructure needed under Network Rail land;
- Rights needed for the installation of infrastructure needed by other statutory undertakers; and
- Temporary rights needed to occupy land for the purposes of construction.

5.7.2 Acquisition of land by CPO powers

- 5.44. As stated above, to reduce the number of objections to the relevant applications, the land acquisition strategy will aim to enter into agreements with all the relevant land owners and occupiers in advance of the relevant hearings. If an agreement to acquire land has been entered into, that land will still be included within the CPO. This provides legal certainty for the acquisition and will be done with the knowledge of the landowner.
- 5.45. The CPO, in either form, will allow TW&AW to use compulsory powers to acquire the land needed both temporarily and permanently. The mechanism to use these powers requires the service of a Notice to Treat on the landowner, followed by a Notice of Entry so the land can be occupied by the project. These two notices can be served at the same time. The Notice of Entry has a 3 month expiry time, after which entry to the land can be taken. If this is opposed, a warrant can be obtained from the Magistrates Court and can be enforced by bailiffs.
- 5.46. An alternative mechanism is to use a General Vesting Declaration. This would allow TW&AW to obtain the title to the land three months after serving a notice on the landowners.
- 5.47. It is possible to take possession of land by agreement. Where over-arching agreements have been entered into with landowners (see above) the timing of taking possession of the land will have been agreed. If this is not the case, and it is necessary to take possession of the land before the service of expiry of a notice of entry, then the landowner is likely to require a financial consideration.
- 5.48. This strategy needs to include details to cover the payment of advance compensation where entry to land has been made.
- 5.49. The settlement of claims resulting from the service of Notices to Treat or the use of a General Vesting Declaration can, and more likely will, take place after entry is taken onto the land. This will require a regular review of the compensation budget.

5.50. The settlement of compensation must be in accordance with the CPO code¹². This is a legal requirement on TW&AW. If the parties are unable to agree the settlement of a claim, then it is referred to the Upper Tribunal (Lands Chamber).

5.8 Statutory Undertakers

5.51. There are statutory requirements for consultation with Statutory Undertakers¹³. The likely main categories of Statutory Undertakers include the following.

- Electricity;
- Gas;
- Water (Thames Water (see 10.7));
- Sewerage (Thames Water (see 10.7));
- Electronic Communications; and
- Railways.

5.52. The land acquisition strategy will need to cover the likely requirements of the Statutory Undertakers, how these will be discussed and how they will be documented.

5.53. Statutory Undertakers will require their existing assets¹⁴ to be protected from the project's construction activities and the details of any new assets required from them to be documented.

5.54. In addition, the project may need to acquire land from Statutory Undertakers¹⁵. This process will be combined into the discussions with the Statutory Undertakers in relation to their assets (see paragraph above).

5.55. The project may need to acquire any land or rights required by the Statutory Undertakers for the installation of new assets required by the project. These requirements will, ideally, be identified so they can be included with the DCO or CPO application. If they are not, the project will have to rely on the Statutory Undertaker using its normal powers to obtain the necessary land or rights.

5.56. To achieve the ideal position, it is essential to have a joined up approach to each Statutory Undertaker. This should involve the legal, design and land elements of the project team to discuss and agree the protective provisions with the Statutory Undertakers. These will form the basis of the agreement to be entered into with the Statutory Undertaker to ensure it will not object to the DCO or CPO application.

5.57. Formal discussions with TW&AW should follow the normal process via their

¹² This is a commonly used term to refer to all CPO related legislation.

¹³ As defined in the Planning Act 2008 and related statute.

¹⁴ s138 Planning Act 2008

¹⁵ s127 Planning Act 2008

respective Developer Services Teams.

5.9 Parties exempt from powers of compulsory acquisition; and special interest categories

5.9.1 Exempt parties

5.58. Compulsory purchase powers contained within either the DCO or a standalone CPO will not be exercisable against the Crown, which includes the Ministry of Defence. This may also include mines and minerals owned by the Crown.

5.9.2 Special interest category

5.59. To date, the land referencing has only identified Network Rail as a special interest landowner. It is likely the project will require permission to install infrastructure across Network Rail's land.

5.60. In addition, Common land and open space will need to be identified under the special interest category with the book of reference and dealt with appropriately under the Planning Act 2008.

5.10 How land related DCO requirements will be discharged

5.61. During the process of arriving at the DCO application, consideration should be given to how any DCO requirements or Planning Permissions conditions may involve land related tasks or management.

5.11 Operational requirements relating to land

5.62. As they become known, operational requirements relating to land should be considered to ensure the necessary land and rights are included in the DCO or CPO application.

6. Pre-planning activities to support the consenting process

6.1 General approach to EIA and related assessments

- 6.1. Chapter 3 of this report outlined the main activities undertaken during the pre-application phase of a DCO project. This chapter explains the work that TW&AW are undertaking to understand the environmental context of the preferred T2AT options and inform outline design. A single EIA would be prepared whether the project were consented under PA2008 DCO procedures or TCPA1990. Procedural variations between the systems are referred to below.
- 6.2. Whereas this work is required to support the water companies' inputs to RAPID and their WRMPs, it has the potential to provide a sound foundation for the consenting process. To this end, TW&AW identified the requirements of the consenting process at an early stage, with inputs from planning, property, legal and environmental advisers, and are ensuring that work undertaken for the purposes of RAPID and WRMP24 will be of continuing utility for the T2AT project at the consenting stage. Whether under DCO or TCPA EIA Regulations. EIA would follow a 'Rochdale Envelope' approach using 'parameter plans' to achieve flexibility for future design iteration (see paragraph 3.31).
- 6.3. This chapter expands upon TW&AW's approach to pre-planning activities under the following headings:
- *6.2 - Land referencing*
 - *6.3 - Environmental surveys*
 - *6.4 - Design iteration*
 - *6.5 - Stakeholder engagement*
 - *6.6 - Relationship with other SROs*
 - *6.7 – Risk*

6.2 Land referencing

- 6.4. TW&AW will accumulate knowledge of land ownerships and land rights in connection with the T2AT project. This work will facilitate engagement with landowners and occupiers (see section 6.5 below) and will assist the project team to secure the land access rights required for the purpose of the necessary environmental surveys. It will also help the project team to understand landowners' intentions with regard to the use of land, which is pertinent in respect of possible future land acquisition.

6.3 Environmental surveys

- 6.5. To inform options assessment, design refinement and RAPID and WRMP24 decision making, TW&AW commissioned extensive environmental studies. These are described in the terrestrial and aquatic Environmental Appraisal Reports (Supporting

Documents B1 and B2 to the main Gate 2 Report), the Habitats Regulations Assessment (Supporting Document B4), the Water Framework Directive Assessment (Supporting Document B5) and the Biodiversity Net Gain Report (Supporting Document B6) and will not be recited here.

- 6.6. These studies will provide a sound foundation for the focused environmental impact assessment (EIA) that will be undertaken in preparation of the DCO application for the chosen option. With this in mind the environmental studies are employing survey methodologies recognised as good practice in EIA. Survey methods and outputs have informed dialogue between TW&AW and relevant government agencies including the Environment Agency and Natural England.
- 6.7. The survey findings will facilitate the drafting of an EIA Scoping Report, through which TW&AW will apply to the Secretary of State for an EIA scoping opinion under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. The environmental information provided will promote accurate scoping. If the TCPA route is followed the Scoping Report will be very similar and will be submitted to the LPAs under the TCPA EIA Regulations 2017. The LPA working group will be a key forum for co-ordination of their responses which relate chiefly to the EIA as it considers aspects within each LPA's administrative area.

6.4 Design iteration

- 6.8. The consenting process will also be supported by the iterative design work underway at the current pre-planning stage. This work is described in the Design Concept Report (Supporting Document A1 to the main Gate 2 Report) and has been informed extensively by the environmental surveys described above.
- 6.9. The need for and benefit of an iterative process of options assessment and design refinement is outlined in chapter 2 of this report. As noted, section 3.5 of the draft NPS for water sets clear expectations with respect to the consideration of alternatives. In respect of design specifically, section 3.6: *Criteria for 'good design' for water resources infrastructure* of the draft NPS states that:

3.6: Criteria for 'good design' for water resources infrastructure

3.6.1. Good design is a key aspect of sustainable development, creates better places and helps make infrastructure projects acceptable to communities. Good design should save money, reduce risk, add value, support environmental enhancements and create a legacy that looks good and works well. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement with communities, local planning authorities and other interests . . .

3.6.2. To ensure good design is embedded within the project development, a project board level design champion could be appointed and a representative design panel used to maximise the value provided by the infrastructure. Design principles⁷² should be established from the outset of the project to guide the development from conception to operation. NSIPs covered by the NPS will

present very different design challenges in terms of their specific visual impacts and the need to incorporate engineering, safety and operational considerations.

3.6.3. There may be opportunities for the applicant to demonstrate good design in terms of site layout and design measures relative to existing landscape and historical character and function, landscape permeability, landform and vegetation whilst integrating biodiversity and nature conservation interests.

3.6.4. The applicant should provide sufficient information in its application to demonstrate how the design process was conducted (including stakeholder engagement) and how the proposed design evolved. Where a number of different designs were considered, the applicant should set out the reasons why the favoured choice has been selected. The Examining Authority and Secretary of State will take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security standards which the design has to satisfy. Appropriate weight should be given to outstanding or innovative designs which promote high levels of sustainability.

Footnote 72: Design principles should take into account any national guidance on infrastructure design, published by, for example, the National Infrastructure Commission.

6.10. TW&AW are employing a balanced range of options assessment criteria, including planning, environmental and sustainability in addition to engineering feasibility, operability and cost. At the consenting stage the outcome of this work will be presented in the environmental statement (ES) that accompanies a future DCO application, in compliance with draft NPS advice (above) and Schedule 4 para. 2 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, which states that an ES should include:

A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

6.11. Footnote 72 if the draft NPS for water (cited above) advises that ‘*design principles should take into account any national guidance on infrastructure design, published by, for example, the National Infrastructure Commission*’ (NIC). As the Design Concept Report (Supporting Document A1 to the main Gate 2 Report) explains, TW&AW have adopted the design principles and objectives set out in *Climate, people, places, value: design principles for national infrastructure* (NIC, 2020) for the T2AT project. This document sets three design principles as follows:

- *Appreciate the wider context*
- *Engage meaningfully*
- *Continually measure and improve*

6.12. Under four main headings the NIC report sets the following design objectives:

- **Climate** – *mitigate greenhouse gas emissions and adapt to climate change*

- **People** – reflect what society wants and share benefits widely
- **Places** – provide a sense of identity and improve our environment
- **Value** – achieve multiple benefits and solve problems well.

6.13. By following this approach now it is intended that conceptual design work undertaken for the purposes of RAPID and WRMP24 will facilitate the refinement of a mature design solution at the later consenting stage, compliant with draft NPS policy and NIC guidance and able to withstand detailed scrutiny at the DCO examination stage.

6.14. An approach adapted from the above DCO based approach would be adopted for TCPA applications. Co-ordination between the different LPAs via the Working Group will be key (see paragraph 3.59).

6.5 Stakeholder engagement

6.15. Supporting Document D to TW&AW's main Gate 2 Report sets out the Stakeholder Engagement Strategy for the T2AT project. From the point of view of future consenting, chapter 2 (above) sets out the measures that TW&AW propose to explain the purpose of individual consultation rounds clearly, so as to minimise confusion amongst affected communities over the process through which the proposals are emerging and avoid the risk of consultation fatigue.

6.16. Chapter 2 of this report also describes how TW&AW propose to show consideration for the feedback received about T2AT through earlier consultations and to use this as a foundation for further stakeholder engagement. This approach will be set out in the SoCC for the project, which TW&AW will prepare in accordance with section 47 of the Planning Act 2008 once the intention to submit a DCO application has been formally confirmed. If advanced under TCPA a DCO-like approach would be followed.

6.6 Relationship with other SROs

6.17. The pre-planning work for T2AT is taking into account the interface between T2AT and other SROs including:

- **South East Strategic Reservoir Option (SESRO)** – strategic storage in the upper Thames basin that would enable water abstraction from the Thames via the T2AT LTR option at acceptable and resilient rates.
- **Severn to River Thames Transfer (STT)** - which involves the transfer of raw water from the River Severn to the River Thames through a new interconnector. This option is joint activity between United Utilities, Severn Trent Water and Thames Water.
- **London effluent reuse** - options to enable additional treatment of wastewater effluent in London, allowing subsequent transfer of new resources or replacement for new river abstractions. Water from this SRO could be transferred

to the Lee Valley, from where the T2AT BRI option could transfer water into Affinity Water’s storage and supply network.

- 6.18. This work includes consideration of what should form the appropriate boundary or connection point between SROs for the purposes of consultation and consenting. It also includes consideration of what should be included in the assessment of cumulative and in-combination effects from an EIA perspective.

6.7 Risk

- 6.19. Pre-planning activities are taking risk into account. TW&AW are maintaining a Risk Register for T2AT that includes planning, consenting and land acquisition risks. These risks, and the safeguarding measures implemented or proposed by TW&AW, are identified in table 2.1 below. Several of these risks are common to DCO and TCPA approaches and TCPA specific risks are highlighted.

Table 6.1: Generic planning, consenting and land acquisition risks and current and proposed safeguards

Identified risk		Response
1.	Failure to secure a s35 Direction	Need to use the TCPA1990 application processes which brings additional risks of complexity.
2.	Failure to identify and weigh environmental constraints accurately.	Detailed desktop analysis of constraints. Field survey work. Consultations with local planning authorities and statutory agencies.
3.	The designation of new environmental protected areas - e.g. SSSIs, for which the notification criteria are subject to occasional review, promoting new sites to be designated.	Dialogue with the relevant statutory agencies. Environmental consultants and legal advisers instructed to highlight potential changes in designation criteria.
4.	A changing policy context, including publication of an NPS for Water Resources materially different to the consultation draft.	Policy monitoring, directly and through WRSE.
5.	Emergence of other development proposals on the T2AT site.	T2AT site and pipeline route safeguarding or allocation to be sought in relevant local plans.

Identified risk		Response
		Monitoring of planning applications for other development in the safeguarded area and the submission of representations to the local planning authority.
6.	Failure to make a compelling case for the preferred T2AT option in WRMP24 – through which the need for the project will be established for consenting purposes.	Preparation and submission of a fully articulated case for the proposed solution for the purpose of WRMP24. Options Refinement work undertaken and reported in Supporting Document A5: Options Refinement.
7.	The DCO/CPO application is not accepted for examination/inquiry.	Extensive pre-application consultations will be undertaken to pass the ‘adequacy of consultation’ test at the DCO acceptance stage. The DCO application will comprise a comprehensive array of documentation produced by experienced practitioners in accordance with relevant regulations including the <i>Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</i> and the <i>Infrastructure Planning (Environmental Impact Assessment) Regulations 2017</i> .
8.	Failure to secure consent for all elements of the project.	Close legal scrutiny of the emerging DCO application will be maintained to ensure that all scheme elements included in the DCO application are capable of being consented by the Secretary of State. If TCPA route close management of consents process.
9.	Failure to secure all of the powers and land rights sought in the DCO/CPO.	The Book of Reference and Land Plans will be kept under regular review. A fully-articulated case will be made to justify the compulsory acquisition powers and land rights sought in the DCO.
10.	Failure to demonstrate a compelling need case for compulsory acquisition purposes through a reliable site selection process.	Site and scheme selection will be justified at the scale of the project overall and for the individual acquisition or land rights sought. The phased approach to options assessment described in chapter 2 of this report and the maintenance of a rejection register are designed to mitigate this risk.
11.	Failure to secure all of the other consents and licences outside the DCO on the terms required to deliver the project.	A fully-articulated case will be made to justify the further consents required outside the framework of the DCO. Close management of the consents process.
12.	Failure to secure the DCO/CPO.	An iterative design approach informed by extensive consultation and comprehensive environmental impact

Identified risk		Response
		<p>assessment is designed to minimise the risk that the Secretary of State declines to make a DCO.</p> <p>In general the Planning Act 2008 consenting route has a good track record of delivering viable consents for major infrastructure. Approximately 95% of DCO applications that have reached the examination stage have been successful.</p>
13.	TCPA1990, risk of inconsistencies in planning approval, including conditions, including those relating to construction arrangements and working hours, and the s106 agreement.	<p>Draft a uniform set of reasonable and fair conditions with submission of the application.</p> <p>Provide detailed s106 HoT's with submission of the application.</p>
14.	Under TCPA the potential for refusal of part of the route.	<p>Close working with LPAs, early warning of issues and specific responses to address them.</p> <p>Seeking supportive development plan policies during deferral period pre 2028.</p> <p>If planning permission is refused, the applicant has a right of appeal.</p>
15.	<p>Potential political interference, and the need to secure separate consents and land acquisitions.</p> <p>Greater risk for TCPA route as decision making by locally elected LPAs.</p>	<p>Extensive pre-application consultation early on in the process.</p> <p>A dedicated public relations team to manage the process.</p> <p>Close working with LPA officers to achieve co-ordination between LPAs and also to define protocol for decision making (paragraph 3.13 refers).</p>
16.	Judicial Review of decision to grant DCO or TCPA planning permission, leading to it being quashed.	<p>Close legal attention to the form and drafting of the DCO/ planning application and discussion with PINS/ LPA.</p> <p>Elaboration if necessary at DCO Examination. To ensure the Examining Authority and Secretary of State/ LPA are as well informed and advised as possible.</p> <p>Support defending Secretary of State/ LPA at JR and representations indicating quashing not in wider interest ie if the fault had been considered by the SoS would he/ she have refused the DCO?</p>

	Identified risk	Response
17.	Unlawful decision to not “make” DCO or planning permission.	Judicial Review proceedings against the Secretary of State/ LPA.

- 6.20. TW&AW both review the risk register on a regular basis, including aspects relating to planning and consenting. The experience of other DCO applications and relevant planning applications will be monitored to identify and respond to particular risk areas.

7. Main application deliverables and responsibilities

7.1 Introduction

- 7.1. Depending on the final size of T2AT (above or below the 80 MI/d threshold for being an NSIP) and status of the project in respect of drinking water transfer it may be necessary to seek a section 35 direction to have it brought within the Planning Act 2008 process. This is a short process. Legislation allows the Secretary of State 28 days to issue or refuse a direction or longer if clarifications are required. A recent highly relevant example is a section 35 direction issued to Southern Water in respect of Water Transfer and Recycling in Hampshire. Clarifications were required but nevertheless in response to a request dated 6 April 2022 a direction was issued 31 May 2022.
- 7.2. If a section 35 direction is sought that will be done very early in Gate 3 or for the proposed Gate 2 update in June 2024 and will henceforth define the nature of the planning and consenting work. As it seems now that T2AT will be a 100 MI/d project and will not constitute a drinking water transfer it also seems highly likely section 35 will not need to be invoked. If it is for the reasons established in paragraphs 3.64 to 3.71 above it also seems highly likely a direction would be issued, which is supported by the recent Hampshire case. Therefore this chapter focusses on the DCO option for consenting.
- 7.3. This chapter identifies the main components of a future DCO application for the T2AT project. The list of documents is largely prescribed by primary and secondary legislation and also reflects guidance published by the Planning Inspectorate (PINS). Accordingly this chapter reflects the requirements of the following law and policy.
- ***Planning Act 2008 (as amended)*** – the primary statute, section 37 of which identifies the essential requirements for a DCO application including the role of the Consultation Report.
 - ***The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009*** - these regulations (which are a Statutory Instrument) prescribe various matters in connection with the making of an application for development consent. Regulations 3 and 4 set out the procedural requirements for publicising a proposed application. Regulations 5 and 6 deal with the making of the application itself and provide for an application form, which is set out in Schedule 2 of the 2009 Regulations.
 - ***The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017*** – Regulation 14 and Schedule 5 of this Statutory Instrument identify the essential information that an environmental statement (ES) for an NSIP project must contain. Very similar but separate regulations related to EIA under TCPA 1990.
 - ***The draft National Policy Statement for Water Resources Infrastructure*** (DEFRA, November 2018) – chapter 3 of which sets out the key design, environmental, health, safety and security principles against which a DCO application should be

examined, and chapter 4 of which identifies the range of information that will be expected to enable the impacts of a proposed development to be evaluated.

- ***PINS Advice Note 6: Preparation and submission of application documents (version 10)*** – appendix 3 of which comprises the checklist that PINS uses when deciding whether to accept a submitted DCO application for examination.
- ***PINS Advice Note 7: Environmental Impact Assessment: preliminary environmental information, screening and scoping (version 7)*** – the annex to which provides detailed guidance entitled *Presentation of the environmental statement*.
- ***PINS Advice Note 13: Preparation of a draft Development Consent Order and Explanatory Memorandum (version 3)***.
- ***PINS Advice Note 14: Compiling the Consultation Report (version 3)***.
- ***PINS Advice Note 15: Drafting Development Consent Orders (version 2)***.
- ***Guidance in the form of 16 documents published by government on the PINS Infrastructure Planning website¹⁶ informs approaches on various aspects of the Planning Act 2008 process.***

7.2 Deliverables

- 7.4. Table 3.1 below lists the main deliverables for a T2AT DCO application. Responsibility for producing these deliverables can only be defined in general terms for the purpose of RAPID Gate 2. However, TW&AW will only employ suitably qualified professionals to compile application documents. In respect of the environmental statement specifically, TW&AW are conscious of their obligations under Regulation 14(4) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 as follows:

(4) In order to ensure the completeness and quality of the environmental statement—

(a) the applicant must ensure that the environmental statement is prepared by competent experts; and

(b) the environmental statement must be accompanied by a statement from the applicant outlining the relevant expertise or qualifications of such experts.

- 7.5. In addition TW&AW will ensure that T2AT project team members apply recognised best and good practice techniques and methodologies in their respective areas of work.

¹⁶ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/guidance/T2AT-planning-consenting-and-land-acquisition>

Table 7.1: The main deliverables required for a future Development Consent Order application for the T2AT project.

Note: Other than where indicated, the documents listed are required to be submitted under Regulation 5 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

	Application document	Generic lead responsibility
	<i>Application submission</i>	
1.	Application form	Solicitor
2.	Guide to the application	Solicitor
3.	Documents list	Planning consultant
	<i>Plans and drawings</i>	
4.	Land plans	Land referencing agent and chartered surveyor
5.	Works plans	Design engineers and landscape architects
6.	Access and rights of way plans	Highways consultant and landscape architect
7.	Statutory and non-statutory nature conservation sites, habitats and features plan	Ecologist
8.	Statutory and non-statutory historic environment sites, habitats and features plan	Cultural heritage adviser
9.	Crown land plan (if applicable)	Land referencing agent and chartered surveyor
10.	Development parameters plans	Design engineers and landscape architects
11.	Illustrative master plan and section diagrams	Design engineers and landscape architects
12.	Highway general arrangements plans	Highways engineer
13.	Future highways maintenance plans	Highways engineer
14.	Traffic Regulations plans	Highways engineer
15.	Rail general arrangement drawings (if required)	Railway engineer
16.	Rail terminal drawings (if required)	Railway engineer
17.	Rail sections (if required)	Railway engineer

Application document		Generic lead responsibility
	<i>Draft Development Consent Order</i>	
18.	Draft Development Consent Order	Solicitor
19.	Draft Explanatory Memorandum	Solicitor
	<i>Compulsory acquisition information</i>	
20.	Statement of Reasons	Solicitor and chartered surveyor
21.	Funding Statement	Water companies with the solicitor
22.	Book of Reference	Land referencing agent
	<i>Other statutory reports and statements</i>	
23.	Consultation Report (required under Section 37(3)(c) of the Planning Act 2008)	Communications consultant with inputs from the project team
24.	Statutory Nuisance Statement	Solicitor
25.	Shadow Habitats Regulations Assessment Report or No Significant Effects Report	Ecologist
	<i>Environmental impact assessment</i>	
26.	Environmental Statement (including figures, tables and appendices)	EIA consultant team, coordinated by the planning consultant
27.	Environmental Statement non-technical summary	EIA coordinator
28.	Secretary of State's/ LPAs' EIA scoping opinion(s)	Received on application
	<i>Other documents</i> <i>(Not required under the APFP Regulations 2009)</i>	
29.	Design and Access Statement	Design engineers, landscape architects and the planning consultant
30.	Planning Statement	Planning consultant
31.	Outline Construction Method Statement and programme	Project engineer
32.	Biodiversity Gain Statement (likely to be included in APFP after 2024)	Ecology consultant
33.	Explanatory report summarising the water industry regulatory context including the WRMP	Planning consultant and project solicitor

Application document	Generic lead responsibility
and RAPID processes	

- 7.6. For a TCPA approach broadly the same suite of documentation will be required for the (two or four plus) TCPA applications themselves and the secondary consents. Each application would be tailored to the LPA in which that part of the project were proposed. So far as possible documentation including the Environmental Statement would relate to the project as whole and bespoke planning statements would accompany applications to each LPA.

8. Conclusion and next steps

8.1 General planning feasibility

8.1 Two consenting routes remained under consideration for the T2AT project leading to Gate 2, depending on the water output of the selected scheme and, if below the 80MI/d threshold for NSIP status and or considered a drinking water transfer, the option of securing NSIP status through a section 35 direction under the PA2008.

8.2 TW&AW's recommended approach at Gate 2 is that LTR at 100MI/d be the only option taken forward with other options deferred. As a whole it is proposed T2AT be deferred to 2028, reflecting the reliance on other SROs coming forward as precursors. It is recommended Gate 2 be revisited in 2024. During this period TW&AW will engage in dialogue with PINS and the Secretary of State to confirm the DCO status of the project and will, if necessary, submit a request for a section 35 direction. Thereafter and moving into deferred Gate 3 there will be clarity on the consenting route.

8.3 Ultimately the project might be delivered through either DCO or TCPA consenting route although, for the various reasons given in chapter 3 of this report, TW&AW's clear preference is for a DCO application under the PA2008.

8.4 Amongst other things the PA2008 consenting route provides enhanced confidence that an implementable consent can be secured for T2AT within a predictable timeframe. This conclusion reflects the following considerations:

- The process for preparing, applying for, examining and determining a DCO for major infrastructure is proven. A wide range of major infrastructure projects has followed the process through to implementation. Procedures are well defined, expert professional support is available and comprehensive guidance is available for all participants in the DCO application process.
- With this experience comes an understanding of potential risks and pitfalls, including those identified in chapter 6 of this report, and how they can be countered.
- The scope and content of a DCO application can be clearly defined, with the implication that the additional consents that would be required to implement and operate the proposed development can likewise be defined with reasonable certainty – as discussed in chapter 3 of this report.
- Once a DCO application has been submitted the examination and determination process is closely timetabled, providing a measure of certainty about when the outcome will be known. This enables the applicant to work up a relatively reliable implementation programme – predicated obviously on the prospect that the DCO application will be successful.

- Thames Water has experience of a previous DCO project, namely the Thames Tideway Tunnel for which a DCO was made in 2014¹⁷. Lessons from this experience will be incorporated into the T2AT project, should it secure approval to proceed through the RAPID and WRMP24 processes.
- 8.5 The feasibility of the proposed consenting approach for T2AT is likely to be reinforced once the National Policy Statement for Water Resources is approved in Parliament and published in its final form. As para. 1.1.2 of the draft NPS for water explains, the NPS ‘will be used as the primary basis for preparing applications for development consent, for examination by the Examining Authority and for making decisions by the Secretary of State in considering development consent applications for water resources infrastructure’.
- 8.6 The draft NPS for water explicitly acknowledges the potential of water transfer solutions for enhancing the resilience of water supply (paras 2.6.8 – 2.6.10). As noted in chapter 3 of this report, if an NSIP is included in a published final WRMP, the need for that scheme will have been demonstrated in line with government policy and the applicable statutory requirements, and does not need to be revisited as part of the application for development consent (para 1.4.5). If the adopted version of the draft NPS for water retains these provisions, the task of seeking consent for SROs will be facilitated by the resulting clear establishment of the need for T2AT.
- 8.7 With reference to the Gate 2 requirements listed in paragraph 1.12 of this report:
- A preferred planning route is identified. It may be necessary for a Section 35 direction to be sought should PINS and the Secretary of State conclude T2AT to be a drinking water transfer which, as it involves the abstraction of raw water and its conveyance to another water utility’s area with conversion to drinking water occurring after abstraction, they should not. The now preferred T2AT scheme exceeds the NSIP thresholds in the Planning Act 2008. The fallback (TCPA) has been examined and is considered to be achievable within the project timescales.
 - Chapters 3 and 4 and Annex 1 of this report establish the consenting strategy for construction and operation including indicative timings and which might be included in a DCO. Seeking of development plan support for the project is recommended during the deferral period and would particularly assist the TCPA (fallback) route.
 - The land lifecycle is set out in Chapter 5 cross referencing with the DCO and identifies land acquisition programme delivery.
 - Systems and resources are addressed in Supporting Document F: Project Delivery Plan.
 - The customer journey is considered within Chapter 6 of this document and

¹⁷ The Thames Water Utilities (Thames Tideway Tunnel) Order 2014; SI 2014 No. 2384.

more generally within Supporting Document D: Stakeholder Engagement.

- Risks and their proposed mitigation are set out in Chapter 6 and are included in Supporting Document F: Project Delivery Plan.
- Chapter 2 updates on work undertaken since Gate 1 to support the land and planning process.

Glossary

Acronym	Explanation
2008 Act	Planning Act 2008
AD	Associated Development
AMP	Asset Management Plan
AONB	Area of Outstanding Natural Beauty
APFP	Applications: Prescribed Forms and Procedure – from Infrastructure Planning Regulations 2009
BNG	Biodiversity Net Gain
BRI	Beckton Re-use (Indirect)
CPO	Compulsory Purchase Order
DCO	Development Consent Order
DEFRA	Department for Environment Food and Rural Affairs
EA	Environment Agency
EIA	Environmental Impact Assessment
EP	Environmental Permit
EPR	Environmental Permitting Regulations
ES	Environmental Statement
ExA	Examining Authority
HoT	Heads of Terms
HSE	Health and Safety Executive
IP	Interested Party
JR	Judicial Review
LIR	Local Impact Report
LPA	Local Planning Authority
LTOA	Lower Thames Operating Agreement
LTR	Lower Thames Reservoirs
MEWFAS	Maidenhead, Eton and Windsor Flood Alleviation Scheme
Mm³	million cubic metres
MW	MegaWatts
NIC	National Infrastructure Commission
NPPF	National Planning Policy Framework
NPS	National Policy Statement

NSIP	Nationally Significant Infrastructure Project
Ofwat	"Office of Water" - the economic regulator of the water sector under the Water Industry Act 1991
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
RAPID	Regulators' Alliance for Progressing Infrastructure Development
SESRO	South East Strategic Reservoir Option
SoCC	Statement of Community Consultation
SoS	Secretary of State (eg for Environment Food and Rural Affairs; for Transport)
SR	Service Reservoir
SRO	Strategic Resources Option
SSSI	Site of Special Scientific Interest
T2AT	Thames to Affinity Transfer
TCPA1990 / TCPA	Town and Country Planning Act 1990
TW	Thames Water
TW&AW	Thames Water and Affinity Water
WRMP24	Water Resource Management Plan 2024
WRSE	Water Resources South East (alliance of 6 water companies in SE England)
WRZ	Water Resource Zone
WTW	Water Treatment Works
WwTW	Wastewater Treatment Works

Annex 1: Secondary Consents Summary

Introduction

The table below sets out the secondary licenses and consents that may be required for the preferred options for the Thames to Affinity Transfer Strategic Resource Option: Lower Thames Reservoir Option and Beckton Reuse Indirect Option. The list, which is not exhaustive at this stage of design development, presents the licences and consents that may be required as part of the solution design, scheme construction and operational phases of the project. The required consents and licences differ depending on the chosen consenting route for the scheme.

Lower Thames Reservoir Option

Activity	Licence / Consent / Permit or Permission	Regulating or Consenting Body	Legislative Requirement	Indicative Timescale to Prepare Application Documents	Indicative Timescale for Determination	Notes	Permitting Approach DCO	Permitting Approach TCP
Works within, or with the ability to affect, a European designated Habitat Site	Habitats Regulation Assessment (HRA)	Secretary of State	<p>Conservation of Habitats and Species Regulations 2017</p> <p>The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive and the 2017 Habitats Regulations.</p>	<p>6 weeks</p> <p>HRA report will need to be complete as part of the application for consent.</p>	At point of project consent	Informal HRA undertaken at Gate 2 suggests the scheme will not have adverse effects on the integrity of Habitats Sites, but this will need to be reviewed at future stages. Likely that HRA report would be required as part of application for consent.	Parallel to DCO	Parallel to TCP
Works that could disturb European Protected Species	European Protected Species Licence	Natural England	<p>Conservation of Habitats and Species Regulations 2017</p> <p>It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting places. EPS Licences can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence.</p>	Species-dependent	30 days	<p>Potentially required as desk-based assessment has indicated the potential for the presence of European Protected Species (bats, dormice, natterjack toads, otter, great crested newt, smooth snakes and sand lizards). Some species may require translocation under licence.</p> <p>Preliminary Ecological Appraisal would be required followed by surveys and Ecological Impact Assessment.</p>	Parallel to / post-DCO	Post TCP
Works that could disturb protected species	Wildlife licence	Natural England	<p>Section 16 Wildlife and Countryside Act 1981</p> <p>An application for a licence to displace any species protected under Schedule 5 or 8 can be made under section 16(3)(c) in the event that, prior to construction, the presence of such species is confirmed within any part of the site and the impacts on them cannot be avoided.</p> <p>It is an offence intentionally to kill, injure or take any wild bird or the nest of a wild bird included in Schedule ZA1 of the Wildlife and Countryside Act 1981 unless under</p>	Species-dependent	30 days	<p>Potentially required as desk-based assessment has indicated the potential for protected species.</p> <p>Preliminary Ecological Appraisal would be required followed by surveys and Ecological Impact Assessment.</p>	Parallel to / post-DCO	Post TCP

			and in accordance with the terms of a licence.					
Works affecting badgers	Licence for work affecting badgers	Natural England	<p>Protection of Badgers Act 1992</p> <p>Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett.</p> <p>Licences can be obtained to allow works to proceed close to active badgers setts, as works that would cause disturbance as defined by Natural England.</p>	4 weeks	30 days	<p>Potentially required as desk-based assessment has indicated the potential for badgers.</p> <p>Preliminary Ecological Appraisal would be required followed by surveys and Ecological Impact Assessment.</p>	Post DCO	Post TCP
Works affecting an important hedgerow	Hedgerow Removal Notice	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	<p>Hedgerow Regulations 1997</p> <p>A hedgerow removal notice must be served by either the owner of the hedgerow or a 'relevant utility operator' (as defined by the Hedgerow Regs 1997, if to be removed by or on behalf of that operator) who is not the owner, following which the LPA will either serve on that person written notice that the hedgerow may be removed, or the 42 day period has expired without the LPA serving a hedgerow retention notice (Regulation 5).</p>	4 weeks	6 weeks or at point of project consent	<p>Aerial photography indicates the presence of hedgerows along pipeline route, these have the potential to be important – this would need to be confirmed through survey.</p> <p>Regulation 6(1)(e) of the Hedgerow Regulation permits hedgerow removal if it is required for development authorised by a planning permission or deemed planning permission – potentially disapplied by grant of a DCO/TCP planning permission.</p> <p>Preliminary Ecological Appraisal would be required followed by hedgerow condition survey and Ecological Impact Assessment.</p>	Potentially included in DCO	Potentially included in TCP
Works to trees with Tree Preservation Orders (TPO)	Tree Preservation Order Consent	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	<p>Town and Country Planning (Tree Preservation) (England) Regulations 2012</p> <p>Regulation 13 states that subject to the exceptions in regulation 14, no person shall (a) cut down;(b) top;(c) lop;(d) uproot;(e) wilfully damage; or(f) wilfully destroy, any tree to which an order relates, or shall cause or permit the carrying out of any of the activities in sub-paragraphs (a) to</p>	6 weeks	8 weeks	<p>Potentially required as desk-based assessment confirmed construction works could be in proximity to TPOs.</p> <p>Tree survey followed by Arboriculture Impact Assessment and Method Statement would be required.</p>	Potentially included in DCO	Potentially included in TCP

			(f) to such a tree, except with the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.					
Works to trees located within a Conservation Area	Notification of works	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Section 211 of the Town and Country Planning Act 1990 Under Section 211, the outcomes are either: the local authority makes a TPO to protect the tree; or does not make a TPO and allows the work to go ahead.	6 weeks	6 weeks	Potentially required as desk-based assessment confirmed construction works could be within Harefield Conservation Area. Tree survey followed by Arboriculture Impact Assessment and Method Statement would be required.	Potentially included in DCO	Potentially included in TCP
Tree felling	Tree Felling Licence	Forestry Commission	Forestry Act 1967 Section 10: An application for a felling licence may be made by 'a person having such an estate or interest in the land on which the trees are growing as enables him, with or without the consent of any other person, to fell the trees.'	4 weeks	12 weeks	Potentially required as whilst impacts to trees would be avoided, some trees may require felling. Tree Felling Licence required where more than 5m ³ per quarter for non-statutory functions, i.e. habitat restoration / management. Tree survey followed by Arboriculture Impact Assessment and Method Statement would be required.	Potentially included in DCO	Potentially included in TCP
Works in, over, under or affecting the flow of an ordinary watercourse	Land Drainage Consent	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Land Drainage Act 1991 Section 23(1) of the Land Drainage Act 1991 provides that no person shall erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction or erect a culvert in an ordinary water course or alter a culvert in a manner that would be likely to affect the flow of an ordinary watercourse, without the consent of the drainage board concerned.	4 weeks	8 weeks	Potentially required for works taking place in, over or near a watercourse designated as an ordinary watercourse. Section 120(3) of the Planning Act 2008 states that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Section 120(4) and Schedule 5 state that this may include in particular the diversion of navigable or non-navigable watercourses. Section 23(6) of the Land Drainage Act states that nothing in this section shall apply to any works carried out or maintained under or in pursuance of any Act or any order having the force of an Act. The DCO is an order having the	Not required.	Post TCP

						force of an Act, so land drainage consent would not be required. Flood Risk Assessment would be required.		
Works on or near a main river, on or near a flood defence structure, in a flood plain or, on or near a sea defence	Standard or Bespoke Flood Risk Activity Permit Or Flood Risk Activity Exemption	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Environmental Permits are granted to the 'operator' of a regulated facility (Regulation 13). The 'operator' is the person who has control of the facility (Regulation 7). The regulator (the EA in England) may transfer an Environmental Permit to a proposed transferee on the joint application of the operator and proposed transferee (Regulation 21).	4 weeks	12 weeks (7 weeks for exemptions)	Desk based assessment has required that Flood Risk Activity Permits would be required. Flood Risk Assessment would be required.	Post DCO	Post TCP
Discharging liquid or wastewater into surface water that does not comply with the 'Temporary dewatering from excavations to surface water.'	Standard or Bespoke Environmental Permit for dewatering	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Requires most waste management activities and discharges to surface or groundwater to have a permit. However, there are some exceptions to this, being activities that do not need a permit, but the exemptions generally need to be registered with the Environment Agency.	4 weeks	12 weeks	Desk-based assessment confirmed this consent would potentially be required to discharge dewatering and site drainage into watercourses or soakaways.	Post DCO	Post TCP
New water discharge activity	Standard or Bespoke Environmental Permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 An environmental permit is required for any standalone water discharge or groundwater activity – standalone means the activity is not part of a waste operation, installation or mining waste operation.	8 weeks	12 weeks	Potentially required for new WTW.	Parallel to DCO	Parallel to TCP
Temporary abstraction of more than 20 cubic metres of water a day over a period of less than 28 days and / or	Water Abstraction Licence (if required)	Environment Agency	Sections 24, 24A, 25 and 32 Water Resources Act 1991 A Water Abstraction Licence may be required pursuant to the Water Resources Act 1991 from the	12 weeks	28 days	Desk-based assessment confirmed this consent would potentially be required.	Post DCO	Post TCP

impound water by creating a new sluice, weir or dam.			Environment Agency by the contractor for the abstraction and/or impounding of water for construction works or during operation.					
New potable mains water connection		Local Water Authority	N/A	8 weeks	Varies	Potentially required for new WTW.	Post DCO	Post TCP
For connection of a business to the main sewer supply	Trade Effluent Consent	Local Water Authority	Section 118 Water Industry Act 1991 A consent to discharge trade effluent to the public sewer may be required pursuant to the Water Industry Act 1991 from the sewerage undertaker if the contractor needs to discharge effluent to the local sewerage network. If trade effluent is discharged to the public sewer without consent or authorisation the occupier of the premises shall be guilty of an offence.	8 weeks	Up to 2 months	Potentially required for new WTW.	Post DCO	Post TCP
Activities involving use, treatment, disposal or storage of waste (e.g. screening and blending of waste, aerosol crushing, composting, etc.)	Standard or Bespoke Environmental Permit for using, treating, storing and disposing of waste Or Exemption for using, treating, storing and disposing of waste	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Require most waste management activities to have a permit. However, there are some exceptions to this, being activities that do not need a permit, but the exemptions generally need to be registered with the Environment Agency.	8 weeks	Up to 4 months (5 working days for exemptions)		Post DCO	Post TCP
Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size	T7 waste treatment exemption	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Environmental Permitting (England and Wales) Regulations 2016	4 weeks	5 working days	Requirement to be confirmed through ground investigation.	Post DCO	Post TCP

Activities involving transport of waste	Waste carrier registration	Environment Agency	Waste (England and Wales) Regulations 2011 All waste carriers, brokers or dealers must register with the Environment Agency.	1 day	Up to 1 week		Post DCO	Post TCP
Operation of Part A1 Low Impact Installation	Standard or Bespoke Environmental Permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 A permit is required before defined activities can be lawfully brought into operation.	8 weeks	4 months	Potentially required for the new WTW.	Parallel to DCO	Parallel to TCP
Operation of Part B Activities related to Local Air Pollution Prevention and Control	Standard or Bespoke Environmental Permit	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Environmental Permitting (England and Wales) Regulations 2016 A permit is required before defined activities can be lawfully brought into operation.	12 weeks	4 weeks' notice of deployment	Potentially required for the new WTW.	Parallel to DCO	Parallel to TCP
Standby generators	Medium Combustion Plant (MCP)/ Specified Generator (SG) Environmental Permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Medium Combustion Plant Directive (MCPD) permits are standalone permits. They only cover emissions of SO ₂ , NO _x and dust to air.	8 weeks	12 weeks	Depending on the operation hours and size of the standby generators at the new WTW, an MCP/SG environment permit may be needed.	Parallel to DCO	Parallel to TCP
Approval of noise generating activities during construction	Section 61 consent (noise and / or vibration)	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Control of Pollution Act 1974 Section 61 provides for prior consent to emit noise from construction sites.	4 weeks	4 weeks	Desk-based assessment confirmed the consent may be required due to proximity of development to residential / sensitive receptors. Noise assessment would be required.	Post DCO	Post TCP
The operation of a mobile plant for the treatment of soils and contaminated material, substances or products	Standard rules mobile plant permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Allow the operator to operate mobile plant. The mobile plant shall be for the treatment of soils and the treatment of contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters.	8 weeks	Up to 4 months	Desk-based assessment confirmed the consent may be required Ground investigation would be required.	Post DCO	Post TCP

Temporary closure of a Public Right of Way (PRoW)	Temporary Traffic Regulation Order (TTRO)	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Road Traffic Regulation Act 1984 Applications for road closures and other restrictions which require a TTRO. This includes restrictions on county roads, footpaths and bridleways.	2 weeks	8 weeks	Required as pipeline route would be constructed in, along or near to local roads and PRoW. The DCO / TCP would include a schedule of roads and PRoW to be closed. However, there would still be a requirement to serve notice of the closure. Closures and diversions could be required at multiple stages.	Potentially included in DCO	Potentially included in TCP
Permanent alterations or improvements to a public highway	Section 278 highways agreement	Local Highways Authorities (Buckinghamshire Council; London Borough of Hillingdon; Transport for London)	Highways Act 1980 Allows developers to enter into a legal agreement with a Highway Authority to make permanent alterations or improvements to a public highway, as part of a planning approval.	8 weeks	Up to 6 months	Potentially required to create new permanent access points, or to enable construction activities.	Potentially included in DCO	Potentially included in TCP
Works in the highway	Notice of Street Works	Local Highways Authorities (Buckinghamshire Council; London Borough of Hillingdon; Transport for London)	New Roads and Street Works Act 1991 Statutory undertakers, or those granted a street works licence (under section 50 of NRSWA), have a legal right to carry out street works. Section 58 of the New Roads and Street Works Act 1991 refers to restrictions following substantial road works like resurfacing or reconstruction of the public highway. It prevents statutory undertakers from completing works that would cause disturbance to the highway surface without prior approval.	4 weeks	12 weeks	Required as pipeline route would be constructed in, along or near to local roads and PRoW.	Potentially included in DCO	Potentially included in TCP
Works in the highway	Permit	Local Highways Authorities (Buckinghamshire Council; London Borough of Hillingdon; Transport for London)	Traffic Management Act 2004 Permit schemes under the Traffic Management Act 2004 provide that the Applicant would need to book time on the highway through a permit.	4 weeks	12 weeks	Required as pipeline route would be constructed in, along or near to local roads and PRoW.	Potentially included in DCO	Potentially included in TCP

Transport of Special and / or Abnormal Load	Permit for transport of abnormal loads (if necessary)	Secretary of State, Highways England, Transport for London, Local Highway Authority or the police and bridge owners (if any) as appropriate	<p>Road Vehicles (Authorisation of Special Types) (General) Order 2003/Road Traffic Act 1988</p> <p>The Road Vehicles (Construction and Use) Regulations 1986 (Construction and Use Regulations) are the primary legislation for the construction and maximum dimensions for all vehicles. The Road Vehicles (Authorisation of Special Type) General Order 2003 permits the use of vehicles and/or loads, which cannot comply with the maximum permitted weight, either gross or axle weight, for the class of vehicle being used for transporting a load. It also contains the regulations for loads, which exceed the maximum width permitted by the Construction and Use Regulations, agricultural vehicles and many other miscellaneous vehicles. The legislation is in the most part permissive in that (with some exceptions) providing the haulier complies with the requirements of notification procedures, an abnormal load can be moved without the need for any permit or authorisation.</p>	8 weeks	1 week	<p>An 'abnormal load' is a vehicle that has any of the following:</p> <ul style="list-style-type: none"> - a weight of more than 44,000kg - an axle load of more than 10,000kg for a single non-driving axle and 11,500kg for a single driving axle - a width of more than 2.9 metres - a rigid length of more than 18.65 metres 	Post DCO	Post TCP
Temporary restrictions to traffic and PRoW	Temporary Traffic Regulation Order	Local Highways Authorities (Buckinghamshire Council; London Borough of Hillingdon; Transport for London)	<p>Road Traffic Regulation Act 1984</p> <p>Applications for road closures and other restrictions which require a Temporary Traffic Regulation Order (TTRO). This includes restrictions on country roads, footpaths and bridleways.</p>	4 weeks	12 weeks	<p>Planning consent would provide the power under the DCO to temporarily stop up, alter or divert any street within the Order limits or red line boundary. However TTROs can be sought where construction activities require temporary restrictions to the public highway, which would include those outside the Order limits or red line boundary. Therefore if construction activity requires any restrictions to the public highway that are not included in the DCO or TCP, TTROs would need to be discussed with the relevant highway authority after planning consent is granted and before works commence.</p>	Post DCO	Post TCP

Works affecting Network Rail Land (within 15m)	Basic Asset Protection Agreement (BAPA)	Network Rail	N/A	12 weeks	8 weeks	Desk based assessment has identified the potential requirement for a BAPA, depending on proximity of construction works to Network Rail land.	Parallel to DCO	Parallel to TCP
Hold certain quantities of hazardous substances at or above defined limits	Hazardous Substances Consent	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon)	Planning (Hazardous Substances) Act 1990 and Planning (Hazardous Substances) Regulations 2015 Sites which are to hold certain quantities of hazardous substances at or above defined limits (as detailed in Schedule 1 to the Planning (Hazardous Substances) Regulations 2015) are required to obtain consent from the 'Hazardous Substances Authority'. This body is usually the relevant local planning authority, which would consider any such application for consent in consultation with the Health and Safety Executive.	9 weeks	8 weeks		Parallel to DCO	Parallel to TCP
Works within Common Land and / or Village Greens	Section 38 Consent	Planning Inspectorate	Section 38 of the Planning Act 2008	8 weeks	6 months	Land referencing to be completed.	During DCO	Post TCP
Works within Crown Land	Crown Consent	Secretary of State	Section 135 of the Planning Act 2008 Consent to acquire third party interests in Crown land.	8 weeks	6 months	Land referencing to be completed.	During DCO	Post TCP
Construction works	F10 – Notification of Construction Project	Health and Safety Executive	Construction (Design and Management) Regulations 2015 The Construction (Design and Management) Regulations 2015 require particulars of the Project to be notified to the Health and Safety Executive in advance of construction.	1 week	N/A		Post DCO	Post TCP
Building of operational buildings where those buildings are staffed and therefore not covered by the	Building Regulation Approval	Local Planning Authorities (Buckinghamshire Council; London	Building Regulations 2010	2 weeks	12 weeks	Operational buildings may require Building Regulations approval if they are manned and therefore not covered by the exemption set out in Building Regulations 2010, Regulation 9 and Schedule 2 'Exempt Buildings and Work' – 'Part	Post DCO	Post TCP

exemptions set out in Building Regulations 2010		Borough of Hillingdon)				CLASS2' – 'Buildings not frequented by people'. This would be sought by the contractor.		
Works or demolition, alteration or extension to a listed building that affects its character as building of special architectural or historic interest.	Listed Building Consent	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Planning (Listed Buildings and Conservation Areas) Act 1990 The requirement applies to all types of works and to all parts of those buildings covered by the listing protection (possible including attached and curtilage buildings or other structures), provided the works affect the character of the building as a building of special interest.	2 weeks	8 weeks	Potentially required if the Indicative WTW Site is taken forward as there is a Grade II listed building on the site. Heritage Statement would be required.	Potentially included in DCO	Parallel to TCP
Demolition works	Notice of Demolition	Local Planning Authorities (Buckinghamshire Council; London Borough of Hillingdon), gas and electricity suppliers and occupiers(s) of adjacent buildings.	Section 80 Building Act 1984 Notice of intended demolition must be given to the Local Authority, the public gas and electricity suppliers, and the occupier(s) of any adjacent building, not less than 6 weeks before demolition works start.	2 weeks	N/A	Demolition potentially required for new WTW.	Post DCO	Post TCP

Beckton Reuse Indirect Option

Activity	Licence / Consent / Permit or Permission	Regulating or Consenting Body	Legislative Requirement	Indicative Timescale to Prepare Application Documents	Indicative Timescale for Determination	Notes	Permitting Approach	Permitting Approach
							DCO	TCP
Works within, or with the ability to affect, a SSSI	SSSI Assent	Natural England	Section 28E of the Wildlife and Countryside Act 1981 The consent is personal to the owner / occupier of the land included in the SSSI. Where consent is required for operations within a SSSI, this must be sought from NE by the owner / occupier so that those operations may be lawfully carried out.	4 weeks	28 days	The Indicative Intake Location is adjacent to the Chingford Reservoirs SSSI and construction works may be required within the SSSI boundary.	Parallel to DCO	Post TCP
Works within, or with the ability to affect, a European designated Habitat Site	Habitats Regulation Assessment (HRA)	Secretary of State	Conservation of Habitats and Species Regulations 2017 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive and the 2017 Habitats Regulations.	6 weeks HRA report will need to be complete as part of the application for consent.	At point of project consent	Informal HRA undertaken at Gate 2 suggests the scheme will not have adverse effects on the integrity of Habitats Sites, but this will need to be reviewed at future stages. Likely that HRA report would be required as part of application for consent.	Parallel to DCO	Parallel to TCP
Works that could disturb European Protected Species	European Protected Species Licence	Natural England	Conservation of Habitats and Species Regulations 2017 It is an offence to deliberately kill, capture or disturb European protected species, and to damage or destroy their breeding sites or resting places. EPS Licences can be obtained to allow persons to carry out activities that would otherwise be prohibited, without committing an offence.	Species-dependent	30 days	Potentially required as desk-based assessment has indicated the potential for the presence of European Protected Species (bats, dormice, natterjack toads, otter, great crested newt, smooth snakes and sand lizards). Some species may require translocation under licence. Preliminary Ecological Appraisal would be required followed by surveys and Ecological Impact Assessment.	Parallel to / post-DCO	Post TCP
Works that could disturb protected species	Wildlife licence	Natural England	Section 16 Wildlife and Countryside Act 1981 An application for a licence to displace any species protected under Schedule	Species-dependent	30 days	Potentially required as desk-based assessment has indicated the potential for protected species.	Parallel to / post-DCO	Post TCP

			<p>5 or 8 can be made under section 16(3)(c) in the event that, prior to construction, the presence of such species is confirmed within any part of the site and the impacts on them cannot be avoided.</p> <p>It is an offence intentionally to kill, injure or take any wild bird or the nest of a wild bird included in Schedule ZA1 of the Wildlife and Countryside Act 1981 unless under and in accordance with the terms of a licence.</p>			Preliminary Ecological Appraisal would be required followed by surveys and Ecological Impact Assessment.		
Works affecting badgers	Licence for work affecting badgers	Natural England	<p>Protection of Badgers Act 1992</p> <p>Badgers and their setts are protected under the Protection of Badgers Act 1992, which makes it illegal to kill, injure or take badgers or to interfere with a badger sett.</p> <p>Licences can be obtained to allow works to proceed close to active badgers setts, as works that would cause disturbance as defined by Natural England.</p>	4 weeks	30 days	<p>Potentially required as desk-based assessment has indicated the potential for badgers.</p> <p>Preliminary Ecological Appraisal would be required followed by surveys and Ecological Impact Assessment.</p>	Post DCO	Post TCP
Works affecting an important hedgerow	Hedgerow Removal Notice	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	<p>Hedgerow Regulations 1997</p> <p>A hedgerow removal notice must be served by either the owner of the hedgerow or a 'relevant utility operator' (as defined by the Hedgerow Regs 1997, if to be removed by or on behalf of that operator) who is not the owner, following which the LPA will either serve on that person written notice that the hedgerow may be removed, or the 42 day period has expired without the LPA serving a hedgerow retention notice (Regulation 5).</p>	4 weeks	6 weeks or at point of project consent	<p>Aerial photography indicates the presence of hedgerows along pipeline route, these have the potential to be important – this would need to be confirmed through survey.</p> <p>Regulation 6(1)(e) of the Hedgerow Regulation permits hedgerow removal if it is required for development authorised by a planning permission or deemed planning permission – potentially disapplied by grant of a DCO/TCP planning permission.</p> <p>Preliminary Ecological Appraisal would be required followed by hedgerow condition survey and Ecological Impact Assessment.</p>	Potentially included in DCO	Potentially included in TCP

Works to trees with Tree Preservation Orders (TPO)	Tree Preservation Order Consent	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Town and Country Planning (Tree Preservation) (England) Regulations 2012 Regulation 13 states that subject to the exceptions in regulation 14, no person shall (a) cut down;(b) top;(c) lop;(d) uproot;(e) wilfully damage; or(f) wilfully destroy, any tree to which an order relates, or shall cause or permit the carrying out of any of the activities in sub-paragraphs (a) to (f) to such a tree, except with the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.	6 weeks	8 weeks	Potentially required as desk-based assessment confirmed construction works could be in proximity to TPOs. Tree survey followed by Arboriculture Impact Assessment and Method Statement would be required.	Potentially included in DCO	Potentially included in TCP
Works to trees located within a Conservation Area	Notification of works	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Section 211 of the Town and Country Planning Act 1990 Under Section 211, the outcomes are either: the local authority makes a TPO to protect the tree; or does not make a TPO and allows the work to go ahead.	6 weeks	6 weeks	Potentially required as desk-based assessment confirmed construction works could be within Harefield Conservation Area. Tree survey followed by Arboriculture Impact Assessment and Method Statement would be required.	Potentially included in DCO	Potentially included in TCP
Tree felling	Tree Felling Licence	Forestry Commission	Forestry Act 1967 Section 10: An application for a felling licence may be made by 'a person having such an estate or interest in the land on which the trees are growing as enables him, with or without the consent of any other person, to fell the trees.'	4 weeks	12 weeks	Potentially required as whilst impacts to trees would be avoided, some trees may require felling. Tree Felling Licence required where more than 5m3 per quarter for non-statutory functions, i.e. habitat restoration / management. Tree survey followed by Arboriculture Impact Assessment and Method Statement would be required.	Potentially included in DCO	Potentially included in TCP
Works in, over, under or affecting the flow of an ordinary watercourse	Land Drainage Consent	Local Planning Authorities (London Borough of Enfield; Epping Forest DC;	Land Drainage Act 1991 Section 23(1) of the Land Drainage Act 1991 provides that no person shall	4 weeks	8 weeks	Potentially required for works taking place in, over or near a watercourse designated as an ordinary watercourse.	Not required.	Post TCP

		Broxbourne BC; Welwyn Hatfield BC)	erect any mill dam, weir or other like obstruction to the flow of any ordinary watercourse or raise or otherwise alter any such obstruction or erect a culvert in an ordinary water course or alter a culvert in a manner that would be likely to affect the flow of an ordinary watercourse, without the consent of the drainage board concerned.			Section 120(3) of the Planning Act 2008 states that an order granting development consent may make provision relating to, or to matters ancillary to, the development for which consent is granted. Section 120(4) and Schedule 5 state that this may include in particular the diversion of navigable or non-navigable watercourses. Section 23(6) of the Land Drainage Act states that nothing in this section shall apply to any works carried out or maintained under or in pursuance of any Act or any order having the force of an Act. The DCO is an order having the force of an Act, so land drainage consent would not be required. Flood Risk Assessment would be required.		
Works on or near a main river, on or near a flood defence structure, in a flood plain or, on or near a sea defence	Standard or Bespoke Flood Risk Activity Permit Or Flood Risk Activity Exemption	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Environmental Permits are granted to the 'operator' of a regulated facility (Regulation 13). The 'operator' is the person who has control of the facility (Regulation 7). The regulator (the EA in England) may transfer an Environmental Permit to a proposed transferee on the joint application of the operator and proposed transferee (Regulation 21).	4 weeks	12 weeks (7 weeks for exemptions)	Desk based assessment has required that Flood Risk Activity Permits would be required. Flood Risk Assessment would be required.	Post DCO	Post TCP
Discharging liquid or wastewater into surface water that does not comply with the 'Temporary dewatering from excavations to surface water.'	Standard or Bespoke Environmental Permit for dewatering	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Require most waste management activities and discharges to surface or groundwater to have a permit. However, there are some exceptions to this, being activities that do not need a permit, but the exemptions generally need to be registered with the Environment Agency.	4 weeks	12 weeks	Desk-based assessment confirmed this consent would potentially be required to discharge dewatering and site drainage into watercourses or soakaways.	Post DCO	Post TCP

New water discharge activity	Standard or Bespoke Environmental Permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 An environmental permit is required for any standalone water discharge or groundwater activity – standalone means the activity is not part of a waste operation, installation or mining waste operation.	8 weeks	12 weeks	Potentially required for new WTW.	Parallel to DCO	Parallel to TCP
Temporary abstraction of more than 20 cubic metres of water a day over a period of less than 28 days and / or impound water by creating a new sluice, weir or dam.	Water Abstraction Licence (if required)	Environment Agency	Sections 24, 24A, 25 and 32 Water Resources Act 1991 A Water Abstraction Licence may be required pursuant to the Water Resources Act 1991 from the Environment Agency by the contractor for the abstraction and/or impounding of water for construction works or during operation.	12 weeks	28 days	Desk-based assessment confirmed this consent would potentially be required.	Post DCO	Post TCP
New potable mains water connection		Local Water Authority	N/A	8 weeks	Varies	Potentially required for new WTW.	Post DCO	Post TCP
For connection of a business to the main sewer supply	Trade Effluent Consent	Local Water Authority	Section 118 Water Industry Act 1991 A consent to discharge trade effluent to the public sewer may be required pursuant to the Water Industry Act 1991 from the sewerage undertaker if the contractor needs to discharge effluent to the local sewerage network. If trade effluent is discharged to the public sewer without consent or authorisation the occupier of the premises shall be guilty of an offence.	8 weeks	Up to 2 months	Potentially required for new WTW.	Post DCO	Post TCP
Activities involving use, treatment, disposal or storage of waste (e.g. screening and blending of waste, aerosol)	Standard or Bespoke Environmental Permit for using, treating, storing	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Require most waste management activities to have a permit. However, there are some exceptions to this, being activities that do not need a	8 weeks	Up to 4 months (5 working days for exemptions)		Post DCO	Post TCP

crushing, composting, etc.)	and disposing of waste Or Exemption for using, treating, storing and disposing of waste		permit, but the exemptions generally need to be registered with the Environment Agency.					
Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size	T7 waste treatment exemption	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Environmental Permitting (England and Wales) Regulations 2016	4 weeks	5 working days	Requirement to be confirmed through ground investigation.	Post DCO	Post TCP
Activities involving transport of waste	Waste carrier registration	Environment Agency	Waste (England and Wales) Regulations 2011 All waste carriers, brokers or dealers must register with the Environment Agency.	1 day	Up to 1 week		Post DCO	Post TCP
Operation of Part A1 Low Impact Installation	Standard or Bespoke Environmental Permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 A permit is required before defined activities can be lawfully brought into operation.	8 weeks	4 months	Potentially required for the new WTW and Raw Water Pumping Station.	Parallel to DCO	Parallel to TCP
Operation of Part B Activities related to Local Air Pollution Prevention and Control	Standard or Bespoke Environmental Permit	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Environmental Permitting (England and Wales) Regulations 2016 A permit is required before defined activities can be lawfully brought into operation.	12 weeks	4 weeks' notice of deployment	Potentially required for the new WTW and Raw Water Pumping Station.	Parallel to DCO	Parallel to TCP
Standby generators	Medium Combustion Plant (MCP)/ Specified	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Medium Combustion Plant Directive (MCPD) permits are standalone	8 weeks	12 weeks	Depending on the operation hours and size of the standby generators at the new WTW, an MCP/SG environment permit may be needed.	Parallel to DCO	Parallel to TCP

	Generator (SG) Environmental Permit		permits. They only cover emissions of SO2, NOx and dust to air.					
Approval of noise generating activities during construction	Section 61 consent (noise and / or vibration)	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Control of Pollution Act 1974 Section 61 provides for prior consent to emit noise from construction sites.	4 weeks	4 weeks	Desk-based assessment confirmed the consent may be required due to proximity of development to residential / sensitive receptors. Noise assessment would be required.	Post DCO	Post TCP
The operation of a mobile plant for the treatment of soils and contaminated material, substances or products	Standard rules mobile plant permit	Environment Agency	Environmental Permitting (England and Wales) Regulations 2016 Allow the operator to operate mobile plant. The mobile plant shall be for the treatment of soils and the treatment of contaminated material, substances or products, for the purpose of remedial action with respect to land or controlled waters.	8 weeks	Up to 4 months	Desk-based assessment confirmed the consent may be required Ground investigation would be required.	Post DCO	Post TCP
Temporary closure of a Public Right of Way (PRoW)	Temporary Traffic Regulation Order (TTRO)	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Road Traffic Regulation Act 1984 Applications for road closures and other restrictions which require a TTRO. This includes restrictions on county roads, footpaths and bridleways.	2 weeks	8 weeks	Required as pipeline route would be constructed in, along or near to local roads and PRoW. The DCO / TCP would include a schedule of roads and PRoW to be closed. However, there would still be a requirement to serve notice of the closure. Closures and diversions could be required at multiple stages.	Potentially included in DCO	Potentially included in TCP
Permanent alterations or improvements to a public highway	Section 278 highways agreement	Local Highways Authorities (Transport for London; London Borough of Enfield; Essex County Council; Hertfordshire County Council)	Highways Act 1980 Allows developers to enter into a legal agreement with a Highway Authority to make permanent alterations or improvements to a public highway, as part of a planning approval.	8 weeks	Up to 6 months	Potentially required to create new permanent access points, or to enable construction activities.	Potentially included in DCO	Potentially included in TCP

Works in the highway	Notice of Street Works	Local Highways Authorities (Transport for London; London Borough of Enfield; Essex County Council; Hertfordshire County Council)	New Roads and Street Works Act 1991 Statutory undertakers, or those granted a street works licence (under section 50 of NRSWA), have a legal right to carry out street works. Section 58 of the New Roads and Street Works Act 1991 refers to restrictions following substantial road works like resurfacing or reconstruction of the public highway. It prevents statutory undertakers from completing works that would cause disturbance to the highway surface without prior approval.	4 weeks	12 weeks	Required as pipeline route would be constructed in, along or near to local roads and PRow.	Potentially included in DCO	Potentially included in TCP
Works in the highway	Permit	Local Highways Authorities (Transport for London; London Borough of Enfield; Essex County Council; Hertfordshire County Council)	Traffic Management Act 2004 Permit schemes under the Traffic Management Act 2004 provide that the Applicant would need to book time on the highway through a permit.	4 weeks	12 weeks	Required as pipeline route would be constructed in, along or near to local roads and PRow.	Potentially included in DCO	Potentially included in TCP
Transport of Special and / or Abnormal Load	Permit for transport of abnormal loads (if necessary)	Secretary of State, Highways England, Transport for London, Local Highway Authority or the police and bridge owners (if any) as appropriate	Road Vehicles (Authorisation of Special Types) (General) Order 2003/Road Traffic Act 1988 The Road Vehicles (Construction and Use) Regulations 1986 (Construction and Use Regulations) are the primary legislation for the construction and maximum dimensions for all vehicles. The Road Vehicles (Authorisation of Special Type) General Order 2003 permits the use of vehicles and/or loads, which cannot comply with the maximum permitted weight, either gross or axle weight, for the class of vehicle being used for transporting a	8 weeks	1 week	An 'abnormal load' is a vehicle that has any of the following: - a weight of more than 44,000kg - an axle load of more than 10,000kg for a single non-driving axle and 11,500kg for a single driving axle - a width of more than 2.9 metres - a rigid length of more than 18.65 metres	Post DCO	Post TCP

			load. It also contains the regulations for loads, which exceed the maximum width permitted by the Construction and Use Regulations, agricultural vehicles and many other miscellaneous vehicles. The legislation is in the most part permissive in that (with some exceptions) providing the haulier complies with the requirements of notification procedures, an abnormal load can be moved without the need for any permit or authorisation.					
Temporary restrictions to traffic and PRow	Temporary Traffic Regulation Order	Local Highways Authorities (Transport for London; London Borough of Enfield; Essex County Council; Hertfordshire County Council)	Road Traffic Regulation Act 1984 Applications for road closures and other restrictions which require a Temporary Traffic Regulation Order (TTRO). This includes restrictions on country roads, footpaths and bridleways.	4 weeks	12 weeks	Planning consent would provide the power under the DCO to temporarily stop up, alter or divert any street within the Order limits or red line boundary. However TTROs can be sought where construction activities require temporary restrictions to the public highway, which would include those outside the Order limits or red line boundary. Therefore if construction activity requires any restrictions to the public highway that are not included in the DCO or TCP, TTROs would need to be discussed with the relevant highway authority after planning consent is granted and before works commence.	Post DCO	Post TCP
Works affecting Network Rail Land (within 15m)	Basic Asset Protection Agreement (BAPA)	Network Rail	N/A	12 weeks	8 weeks	Desk based assessment has identified the potential requirement for a BAPA for sections of the pipeline which cross Network Rail land.	Parallel to DCO	Parallel to TCP
Hold certain quantities of hazardous substances at or above defined limits	Hazardous Substances Consent	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Planning (Hazardous Substances) Act 1990 and Planning (Hazardous Substances) Regulations 2015 Sites which are to hold certain quantities of hazardous substances at or above defined limits (as detailed in Schedule 1 to the Planning (Hazardous Substances) Regulations 2015) are required to obtain consent from the 'Hazardous Substances Authority'. This body is usually the relevant local	9 weeks	8 weeks		Parallel to DCO	Parallel to TCP

			planning authority, which would consider any such application for consent in consultation with the Health and Safety Executive.					
Post TCP	Section 38 Consent	Planning Inspectorate	Section 38 of the Planning Act 2008	8 weeks	6 months	Land referencing to be completed.	During DCO	Post TCP
Post TCP	Crown Consent	Secretary of State	Section 135 of the Planning Act 2008 Consent to acquire third party interests in Crown land.	8 weeks	6 months	Land referencing to be completed.	During DCO	Post TCP
Construction works	F10 – Notification of Construction Project	Health and Safety Executive	Construction (Design and Management) Regulations 2015 The Construction (Design and Management) Regulations 2015 require particulars of the Project to be notified to the Health and Safety Executive in advance of construction.	1 week	N/A	The contractor would issue this notice, in advance of construction commencing.	Post DCO	Post TCP
Building of operational buildings where those buildings are staffed and therefore not covered by the exemptions set out in Building Regulations 2010	Building Regulation Approval	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Building Regulations 2010	2 weeks	12 weeks	Operational buildings may require Building Regulations approval if they are manned and therefore not covered by the exemption set out in Building Regulations 2010, Regulation 9 and Schedule 2 'Exempt Buildings and Work' – 'Part CLASS2' – 'Buildings not frequented by people'. This would be sought by the contractor.	Post DCO	Post TCP
Demolition works	Notice of Demolition	Local Planning Authorities (London Borough of Enfield; Epping Forest DC; Broxbourne BC; Welwyn Hatfield BC)	Section 80 Building Act 1984 Notice of intended demolition must be given to the Local Authority, the public gas and electricity suppliers, and the occupier(s) of any adjacent building, not less than 6 weeks before demolition works start.	2 weeks	N/A	Demolition potentially required for new WTW.	Post DCO	Post TCP

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