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2 May 2025

Dear Sir/Madam,

The A122 (Lower Thames Crossing) Development Consent Order 2025 – Application for a Correction Order under Schedule 4 to the Planning Act 2008

1 Correction order application

- 1.1 We write further to the Secretary of State making the [A122 \(Lower Thames Crossing\) Development Consent Order 2025](#) (the made DCO) and issuing the [decision letter](#) dated 25 March 2025 (the DL).
- 1.2 Having reviewed the made DCO and DL, National Highways is submitting by way of this letter an application to the Secretary of State pursuant to section 119 of, and Schedule 4 to, the Planning Act 2008 (the 2008 Act) to request the correction of errors in the made DCO. This letter is sent within the relevant period as defined in paragraph 1(6) of Schedule 4 to the 2008 Act.
- 1.3 We set out in Annex A to this letter the matters which we seek to be corrected (column 2 of the table), and the reasoning behind those corrections (column 3 of the table). These are all “correctable errors” within the meaning of Paragraph 1(4) of the Schedule 4 to the 2008 Act as they are considered by National Highways to be errors or omissions in the “decision document” (i.e. the made DCO) and they are not part of the statement of reasons for the decision (i.e. the matters on which correction is sought are not addressed in, or do not reflect the apparent intent of, the DL).
- 1.4 To assist further we also enclose at Annex B (attached separately) a proposed correction order which sets out, in statutory instrument format, the corrections we are seeking. We would be happy to provide a copy of the correction order in Microsoft Word format, and a mark-up of the made DCO showing these corrections in tracked changes, should that assist. We would also be happy to address any queries the Secretary of State may have in response to this request.
- 1.5 Should the Secretary of State consider any of these matters fall outside of the scope of Schedule 4 to the 2008 Act, we ask that the Secretary of State exercise her

powers under either paragraphs 3(3) or (7) of Schedule 6 to the 2008 Act to make the necessary changes to the made DCO.

2 Application by Kent Downs National Landscape team for a correction order

- 2.1 National Highways has also received a copy of a correction order application submitted by the Kent Downs National Landscape team (KDNL). That application seeks a correction from the Secretary of State to the effect that the DCO would include a requirement to replace the existing bridge at Park Pale with a new green bridge. National Highways objects to this proposed “correction” on the basis that it is clearly not an error or omission in the made DDO, and so does not qualify as a “correctable error” under paragraph 1(4) of Schedule 4. This is readily clear from the following:
- i. In their [Recommendation Report](#) (RR) at paragraphs 15.4.106 to 15.4.107 the Examining Authority’s (ExA) concluded that mitigation for impacts on the Kent Downs National Landscape had not gone far enough. In their view a green bridge at Park Pale would mitigate impacts on the AoNB and had been discounted too easily. However, the ExA did not recommend inclusion of a Park Pale green bridge requirement in the DCO. Instead, they held that this was a matter weighed against the Project in the planning balance (see RR paragraphs 15.5.3-15.5.9) but nevertheless ultimately recommended consent on the basis that the benefits of the Project outweighed its impacts. On the matter of the enhanced duty under section 85 of the Countryside and Rights of Way Act 2000 (the CROW Act), the ExA recommended that the Secretary of State re-consult on the matter.
 - ii. The Secretary of State duly did so during the decision-making period.
 - iii. At paragraph 442 of the DL, the Secretary of State agreed with the ExA’s evaluation in 15.4.106 to 15.4.107 of the RR, and recognised that assessment of landscape and visual impacts by the ExA at paragraph 452 of the DL.
 - iv. On section 85, the Secretary of State’s response was to require a funding commitment to be made, as secured by article 65 inserted into the made DCO. The Secretary of State concluded at paragraph 454: *“Mitigation has been contemplated and included as part of the Proposed Development, but in light of the s85 CROW Act duty, options to seek to further the purpose of conserving and enhancing the natural beauty of the Kent Downs National Landscape have not been sufficiently examined prior to the Decision stage. For the reasons set out earlier in this Decision Letter, the Secretary of State considers that the DCO contains an appropriate mechanism for achieving compliance with the duty.”*
 - v. It is plain from this passage that the funding commitment was the Secretary of State’s response in relation to the assessment of impacts on

the Kent Downs National Landscape. There is no suggestion at all in the DL that the Secretary of State intended to include a requirement in the made DCO to secure a green bridge at Park Pale, in addition to the fund.

- vi. This outcome is consistent with the fact that the made DCO contains no land or works powers to create a green bridge at Park Pale. Were this to be introduced as a DCO requirement, it follows that National Highways would be unable to implement under the powers of the DCO which could result in severe adverse delivery implications.

2.2 For the above reasons, National Highways respectfully requests that the Secretary of State refuse KDNL's correction order application.

3 . Programme implications and request for a timely decision

3.1 The matters raised in this request have a direct bearing on the timely implementation of the Lower Thames Crossing project (the Project). National Highways wishes to bring to attention two particular matters in this respect, which emphasise the value of a timely decisions on the correction order requests from both National Highways and KDNL:

- i. **Article 65** – the made DCO requires the agreement to be reached on the financial contribution for the benefit of the Kent Downs National Landscape before the “commencement” of the authorised development. If arbitration is required to determine the contribution, this would have potential adverse programme and cost implications for the Project, in the context of a planned commencement of works¹ in Q4 of 2025. This is not understood by National Highways to be the Secretary of State's intent in circumstances where the commencement works will be taking place north of the River Thames. Hence a correction has been proposed as set on in Annex A to allow the Project to commence as planned. Relatedly, the ability to progress negotiations on the financial contribution between National Highways and KDNL will be materially affected by the outcome of KDNL's correction order application.
- ii. **Schedule 2, paragraph 26(4) – new REAC commitment “HR013”** – the made DCO includes a commitment introducing, if required at the point of road opening, an adaptive speed limit measure between junctions 26 and 27 of the M25 in response to air quality impacts. National Highways has requested a number of corrections to this new commitment, which are explained in detail in Annex A. Amongst these National Highways wishes to highlight the requirement in the made DCO to undertake one year of air quality monitoring before “commencement” of the authorised development. This has significant adverse implications for the delivery of the Project, noting (as above) the planned commencement of Q4 2025. National Highways does not understand this to be the Secretary of State's intent, in

¹ This excludes preliminary works as defined by Schedule 2 to the made DCO, which can take place before “commencement”.

the context of a post-opening mitigation measure which is not required to mitigate construction impacts. National Highways has proposed a suitable correction which retains the intent of committing to a period of pre-opening baseline monitoring, whilst allowing the Project to commence as planned.

- 3.2 For these reasons, National Highways respectfully requests an expeditious decision on the correction order applications by both National Highways and KDNL, and indeed any other parties who may choose to submit one. Accordingly we look forward to hearing from you at your earliest convenience.
- 3.3 Given the potential impact on delivery, should the Secretary of State have any questions, or is minded to disagree with the request, National Highways would welcome the opportunity to provide clarifications if deemed necessary. In the meantime we should be grateful if you would confirm safe receipt of this correction request.

Yours sincerely

Dr Tim Wright

Head of Consents – Lower Thames Crossing

Annex A – Corrections Sought and Justifications

This Annex identifies a number of apparent errors in cross-references to other legislation in the main body of the made DCO, and in its footnotes. These are flagged for correction noting that the Secretary of State may take the view that it is not necessary or appropriate to correct them.

Ref.	Provision and Proposed Correction	Justification
1.	Introductory text, correction to paragraph 1, footnote (b): For “S.I. 20201534,” substitute “S.I. 2020/1534,”	Typographical error.
2.	Article 2, correction to definition of “statutory undertaker” Amend as follows: “ <i>statutory undertaker</i> ” means any statutory undertaker for the purposes of section 127(8) (statutory undertakers’ land) of the 2008 Act, <u>except that in articles 31, 32 and 33 “statutory undertaker” also includes a public communications provider as defined in section 151(1) (interpretation of Chapter 1)(a) of the Communications Act 2003;</u>	The made DCO reduced the extent to which the articles 31, 32 and 33 apply for the benefit of third parties on the basis that “ <i>vesting land in unidentified third parties is not considered desirable</i> ” (DL paragraph 651, page 153, penultimate bullet point). Importantly, the Secretary of State retained reference to “statutory undertakers”, but that term as defined by article 2 of the made DCO excludes public communications providers. We do not believe the Secretary of State intended to exclude these parties, who are tantamount to bodies that qualify as statutory undertakers (e.g. utilities) and the ability to confer or vest rights in public communications providers is a critical aspect of the Project. The same justification which applies to “statutory undertakers” (as defined in article 2 of the made DCO) therefore applies in the context of public communications providers. It should be noted that the public communications providers are already named parties in article 8 to the made DCO.

Ref.	Provision and Proposed Correction	Justification
		The DL does not in any way suggest that the Secretary of State intended to create this outcome and so this amendment to the definition of “statutory undertaker” would restore what we believe to be the Secretary of State’s intent.
3.	Article 2, definition of “street” After “section 48” omit footnote (d) (“The definition of “special road” was amended by paragraph 20(2) of Schedule 2 to the Planning Act 2008”).	The definition of street provided for in s.48 of the 1991 Act was not amended by paragraph 20(2) of Schedule 2 to the Planning Act. Whilst s.48 of the 1991 Act was amended by s.124 Local Transport Act 2008 the amendment did not affect the definition of street that is provided for in the provision.
4.	Article 2, definition of “trunk road”, sub-paragraph (a) Amend as follows – <i>(a) section 10 (general provision as to trunk roads)(b) or 19(1) (<u>certain special roads and other highways to become provisions as to</u> trunk roads)(c) of the 1980 Act;”</i>	Erroneous reference to the title of section 19 of the Highways 1980 Act.
5.	Article 9(5), footnotes (l), (m) and (n) After “sections 40(1) and (2) omit “and 49(1)”	These footnotes provide erroneous reference to section 49(1) of the Traffic Management Act 2004.
6.	Article 15(7) For “GLD roads” substitute “GLA roads”	Typographical error.

Ref.	Provision and Proposed Correction	Justification
7.	Article 16(7) Amend as follows: <i>“a traffic sign which indicates that the national speed limit is in force” means a traffic sign of the type shown in diagram 671 in Part 2 (signs and road markings indicating speed limits) of Schedule 10 (signs for speed limits) to those the Traffic Signs Regulations and General Directions 2016;</i>	Paragraph (7) erroneously omits the full text of the regulations it refers to.
8.	Article 20(12), footnote (c) For “Section13” substitute “Section 13”	Typographical error.
9.	Article 24(3)(c): Amend as follows: <i>(c) the undertaker must consult (with sufficient particulars to identify the tree) the relevant planning authority prior to that activity taking place, <u>except where provision for relevant activity in relation to the tree has already been made in an environmental management plan approved under paragraph 4 of Schedule 2, or a landscape and ecology management plan approved under paragraph 5 of Schedule 2.</u></i>	Article 24(3)(c) will duplicate consultation with local authorities on the removal and lopping of protected trees, where that activity is already addressed in either EMP2 (per paragraph 4 of Schedule 2) or the LEMP (per paragraph 5 of Schedule 2), both of which require consultation with the local planning authority. There is no suggestion in the DL that this duplication was intended by the Secretary of State.
10.	Article 28(6), footnote (a) For “paragraphs 1 and 2 of” substitute “paragraphs 1 and 3 of”	Erroneous legislative reference.

Ref.	Provision and Proposed Correction	Justification
11.	Article 30(6) For “Plots 28/08, 29/253, 29/254, 29/258, 29/259, 29/260 and 29/261” substitute “Plots 28-08, 29-253, 29-254, 29-258, 29-259, 29-260 and 29-261”	These plot references in the made Order do not follow the referencing used elsewhere in the Order and the plans and documents to which it refers. In particular, there should be an em-dash, rather than a forward-slash to identify the relevant plots.
12.	Article 31 Amend paragraphs (4), (10) and (11), and add new (15) as follows: <i>(4) For section 4(1) (execution of declaration), substitute—</i> <i>“(1) The acquiring authority may execute in respect of any of the land which they are authorised to acquire by the compulsory purchase order a declaration in the prescribed form vesting the land in themselves, or in the case of land or a right that they are authorised to acquire for the benefit of a statutory undertaker, <u>specified beneficiary</u> or local authority, in the statutory undertaker, <u>specified beneficiary</u> or local authority in question, from the end of such period as may be specified in the declaration (not being less than 3 months from the date on which the service of notices required by section 6 is completed).”</i> ... <i>(10) In section 8 (vesting, and right to enter and take possession)(a), after subsection (3), insert—</i>	Article 28(1) authorises NH to vest rights and covenants “for the benefit of a statutory undertaker or any other person”, and section 4(1) of the Compulsory Purchase (Vesting Declarations) Act 1981 is critical to this power. The amendments to article 31 in the made DCO significantly limit the power in article 28(1), compared to the final form of National Highways’ draft DCO. The decision letter states at paragraph 651 the amendment was made as “<i>the Applicant vesting land in unidentified third parties is not considered desirable</i>”. However, the effect of the amendment is to prevent the vesting of land in certain third parties which <i>are</i> identified in the made DCO and its supporting documents. It is submitted that this was not the Secretary of State’s intent. Furthermore the amendments to article 31 are inconsistent with other provisions in the made DCO. Accordingly it is requested that this matter is corrected. There are three categories of identified parties to whom the Applicant requires to vest interests in land, which would be enabled by the corrections in column 2: <i>(i) Public communications providers</i>

Ref.	Provision and Proposed Correction	Justification
	<i>“(4) In this section references to the acquiring authority include any statutory undertaker, <u>specified beneficiary</u> or local authority referred to in section 4(1).”</i> ... <i>(11) In section 10(1) (acquiring authority’s liability arising on vesting of the land), after “vested in an acquiring authority” insert “or a statutory undertaker, <u>specified beneficiary</u> or local authority”.</i> ... <u>(15) In this article and article 32 (modification of the 2017 Regulations), “specified beneficiary” means—</u> <u>(a) a specified person as defined by article 40 (special category land); and</u> <u>(b) the beneficiary of a means of access provided under the powers conferred by this Order.</u>	As noted above in row 2 of this table, “public communications providers” do not fall within the definition of “statutory undertaker” in article 2 to the made DCO, notwithstanding that they provide a public utility equivalent to the services provided by energy companies which do qualify as statutory undertakers. This means that article 31 in the made DCO is not fully effective to implement diversions etc. of utilities. The proposed correction at row 2 of the table would rectify this. It is noted that article 8(4) of the made DCO lists those public communications providers in respect of whom diversions etc. are required. <i>(ii) Special category landowners</i> Article 40 of the made DCO provides that special category land, and rights in that land, can vest not only in the undertaker but also directly in a “specified person”, being “<i>a person other than the undertaker for whose benefit the replacement land or rights are being acquired and includes the owner of special category land on the date of the exercise of the relevant powers or a statutory undertaker</i>”. This means “specified persons” are, in fact, identified by the made DCO because replacement land / rights are acquired for the owners of special category land (or rights in it), and those persons are identified in the Book of Reference, which is a document referred to and certified by the made DCO. However, where these

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		persons are not statutory undertakers and local authorities, the replacement land cannot be vested directly into their ownership. Accordingly it is requested that article 31 is corrected to also apply the vesting provision to “specified beneficiaries”, which as defined in the proposed correction includes a “specified person” as defined by article 40. <i>(iii) Beneficiaries of new / relocated private means of access</i> The definition of “specified beneficiary” in the proposed correction also includes the “<i>beneficiary of a means of access provided under the powers conferred by</i>” the made DCO. It is important to be able to vest them directly in the owner of the land that will benefit from the right, particularly where the made DCO limits powers of acquisition to new rights (“blue land” in the Land Plans referred to in article 2). In these circumstances Schedules 8 and 10 to the made DCO determine specifically those locations in which such a private means of access is permitted to be created. Schedule 1 and Part 3 of Schedule 4 identify specific locations of new and relocated private means of access. The Applicant would note that following the making of the Order, the Secretary of State has endorsed the

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		Applicant's proposed drafting of the vesting provisions in the Cambridge Waste Water Treatment Plant Relocation Order 2025 (see article 33). Whilst the Applicant is not requesting that the drafting be reinstated, the Applicant considers the changes identified here (i) ensure the expeditious delivery, including transfer of land interests for identified beneficiaries; (ii) ensure consistency with other terms of the Order; (iii) are correctible errors which do not conflict with the DL and (iv) are desirable to preserve consistency in DCOs.
13.	Article 32(2) After "in the statutory undertaker" insert ", specified beneficiary"	The same justification for a correction applies here as is set out in row 12 of this table in respect of article 31.
14.	Article 40 Amend as follows: (1) On the exercise by the undertaker of the relevant Order powers, subject to paragraph (5) the specified special category land and any rights over that land is not to vest in the undertaker (or any specified person) until— (a) the replacement land has been acquired in the undertaker's name or is otherwise in the name of the persons who owned the specified special category land on the date those powers are exercised; and	This addition is explained in the DL at paragraph 652, which states: <i>"Article 40(1)(c) ... has been inserted to add an extra requirement that the relevant planning authority has certified that the replacement land scheme has been implement [sic] to its satisfaction."</i> In securing this additional requirement, it is submitted that the Secretary of State has unintentionally created a potential adverse programme impact to the efficient and expeditious delivery of the Project. The Applicant is not seeking to remove the requirement for the relevant planning authority to certify the laying out of the replacement land. Instead, it seeks to ensure that the

Ref.	Provision and Proposed Correction	Justification
	(b) the Secretary of State has certified (following consultation by the undertaker with the relevant planning authority) has approved a scheme for the provision of the replacement land including a timetable for the implementation of the scheme has been received from the undertaker; and (c) the relevant planning authority has certified that the scheme has been implement to its satisfaction. (2) On the requirements of paragraph (1) being satisfied— (a) the specified special category land is to vest in the undertaker (or any specified person) and be discharged from all rights, trusts and incidents to which it was previously subject; and (b) the rights to be acquired over the specified special category land are to vest in the undertaker (or any specified person) and the specified special category land is to be discharged from all rights, trusts and incidents to which it was previously subject but only in so far as their continuance would be inconsistent with the exercising by the undertaker of the Order rights. (3) The undertaker must— (a) implement the scheme certified by the Secretary of State under paragraph (1); and	endorsement in the DL and the Examining Authority's (the ExA's) Recommendation Report (RR) of the time-lag between acquisition and replacement of special category land is not circumvented by that requirement. Whilst the made Order permits the taking of temporary possession of special category land in advance of engaging the provisions of article 40, it will be necessary to divert utilities on that land as part of the works (e.g. at Ron Evans Memorial Field and at Orsett Fen). It is necessary for National Highways to be able to acquire new rights over this special category land for the owners and operators of statutory utilities. The effect of the Secretary of State's amendment is that such rights cannot be acquired until the replacement land scheme has not only been "certified", but also been "implemented". This could substantially delay the ability to acquire special category and rights in it, with the potential to extend the time taken to deliver the Project. There is also uncertainty over what will constitute "implementation" of a replacement scheme. There is nothing in the DL to suggest that the above outcome was the Secretary of State's intention. To the contrary, it is clear that the DL endorses the outcome that is sought by this correction to the made DCO: <u>"The Applicant plans to <i>provide the replacement land after the works are complete, meaning the replacement land will be available for public use five</i></u>

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	<u>(b) obtain certification from the relevant planning authority that the scheme has been laid out to its satisfaction,</u> and on the date on which the replacement land <u>is has been certified by the relevant planning authority as</u> laid out and provided in accordance with that scheme, the replacement land is to vest in the person(s) in whom the specified special category land was vested on the date of the exercise of the Order powers (if that replacement land is not already owned by those persons) and is to be subject to the same rights, trusts and incidents as attached to the specified special category land. After “relevant planning authority)” omit “has approved” ... In paragraph (8), relocate the definition of “the specified special category land” so that it is listed in the correct alphabetic location, after the definition of “specified person”.	<u>years after the existing Ron Evans Memorial Field is impacted by the Proposed Development.</u> <i>The uplift in the amount of replacement land being offered reflects the amount of time the playing fields would be closed to the public... the Secretary of State notes the concerns raised regarding the potential impact on the TCCF, both as a greenspace and community endeavour, as a result of the permanent acquisition of 10.14ha of the 46ha of land at TCCF, and the temporary possession (“TP”) of land and permanent acquisition of rights for diversion and modification of utility works covering a further 7.06ha of TCCF for the Proposed Development [ER 17.4.30]. The ExA concluded that there will be a degree of betterment for community and users of TCCF with the provision of the uplift in the amount of replacement land, connectivity benefits arising from its location and the 6.6ha net gain of open space for LBH [ER 17.4.65].</i> <u>The Secretary of State sees no reason to disagree with the conclusions drawn by the ExA.</u>” (Our emphasis) The endorsement of this five year period of closure in this passage of the DL would not be legally possible under the DCO as it was made, because the insertion requiring that the local planning authority’s approval of the replacement land being implemented <i>precedes</i> the vesting of rights or land in the existing open space. In this context, the Applicant notes the ExA were content that “<i>the remaining open space facilities to be lost and the replacements offered and is content that the approaches proposed by the Applicant are justified and within the range of normal</i>

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		<i>practice supported in multiple previous decisions of the SoST</i>". It is therefore requested that the corrections shown in column 2 will align the made Order with the intent in the DL to ensure that satisfactory laying of the replacement land scheme is approved by the relevant local planning authority. This is achieved by moving the obligation in paragraph (1)(c) into paragraph (3), as shown. The replacement land will only vest in the relevant person(s) at the point at which the relevant planning authority has certified that the scheme has been "laid out" (a more precise term than "implemented", and consistent with paragraph (3)). Crucially, however, this does not prevent rights in the related special category land at an earlier point in time. This maintains the Secretary of State's desire for local planning authority approval, without cutting across the time-lag anticipated and endorsed by the DL for the use of special category land. It is highlighted that the scheme certified under paragraph (1)(b) must already include a "timetable for the implementation of the scheme" and that paragraph (3) obliges the undertaker to "implement the scheme".

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15.	Article 48(10) In the definition of “the exempt second protection zone activities”, renumber sub-paragraphs “(g)”, “(h)”, “(i), and “(j)” to “(a)”, “(b)”, “(c)” and “(d)”	Typographical error.
16.	Article 49(17) Omit definition of “owner”	This duplicates the same definition in article 2 which sets out that “... <i>in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement, includes the person entitled to possession of the vehicle under the agreement.</i> ”
17.	Article 49(17) In the definition of “person responsible”, renumber sub-paragraphs “(d)”, “(e)” and “(f)” to “(a)”, “(b)” and “(c)”	Typographical error.
18.	Article 49(17) In the definition of “specified information”, renumber sub-paragraphs “(g)” and “(h)” to “(a)” and “(b)”	Typographical error.
19.	Article 53(1)(a) For “paragraph (5)” substitute “paragraph (4)”	Incorrect cross-reference following deletion of paragraph 2.
20.	Article 53(7) After “2000 Act” insert “(or any other enactment relating to the imposition of road user charges)”	The reference to “any other enactment...” in relation to any future road pricing legislation has been permitted at paragraph 1 of Schedule 12, which is a related provision to ensure that the made DCO does not fetter the discretion of the Secretary of State to impose a road charging for the A122 Lower Thames Crossing under other legislation (e.g. if the regulated asset base delivery model is deployed).

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		The drafting in the made DCO at article 53(7) is therefore not reflective of the stated intent of the Secretary of State elsewhere in the made DCO. There is no basis on which article 53(7) differs from paragraph 1 of Schedule 12. NH considers this amendment is a correctible error on the basis that it reflects the DL which sets out at paragraph 130, in the context of alternative financing, that: <i>“To implement a Regulated Private Entity option, whereby a private sector receives the charging revenue for both the Lower Thames Crossing and the Dartford Crossing, it is considered that primary legislation would be required which would provide the statutory basis for that regime”</i> and further that “...the draft DCO contains a permissive power for the Secretary of State to charge for use of the Lower Thames Crossing tunnels. As <i>that power is permissive, <u>road user charges are capable of being imposed at the Lower Thames Crossing (and the Dartford Crossing) under a separate new charging powers established by primary legislation, instead of imposing charges at the Lower Thames Crossing under the DCO charging regime.</u></i> The Secretary of State would be able to consider any potential different outcomes to those assessed under this Application for the DCO charging regime before using this power.” (Our emphasis)

Ref.	Provision and Proposed Correction	Justification
21.	Article 56(3), footnote (c) For “paragraphs 1 and 3 of Schedule 2 to the Localism Act 2011” substitute “paragraphs 1 and 3 of Schedule 1 to the Localism Act 2011”	The footnote contains an erroneous legislative reference.
22.	Article 65(1), footnote (a) Amend as follows: “Section 85 is amended by paragraph 165 of Schedule 11 to the National Natural Environment and Rural Communities Act 2006 (c. 16) and section 246(6) 245(6) of the Levelling-up and Regeneration Bill Act 2023 (c. 55).	The footnote contains an erroneous legislative reference.
23.	Article 65(2) Amend paragraph (2) and insert new paragraph (8), as follows: (2) The agreement referred to in paragraph (1) is to be made prior to the commencement of <u>any part of</u> the authorised development located south of the River Thames or the tunnel being open for use, whichever is the earlier. ... <u>(8) For the avoidance of doubt, in this article "commencement" has the same meaning as in Schedule 2.</u>	The made DCO introduced article 65 as a new provision. Its purpose is to establish a mechanism to determine the quantum of a funding to be provided Kent Downs National Landscape in response to the enhanced duty under section 85 of the Countryside and Rights of Way Act 2000. Article 65(2) of the made DCO provides that the fund must be agreed, or failing that determined by arbitration and a Secretary of State decision, prior to commencement of the authorised development. The effect of this this is that prior to the funding quantum being settled, the Project can only undertake those preliminary works listed in Schedule 2 to the draft which are excluded from the definition of "commencement".

Ref.	Provision and Proposed Correction	Justification
		As noted above, “commencement” of the Project is planned for Q4 2025. Those “commencement” works will take place to the north of the River Thames, i.e. in a location which does not impact upon the Kent Downs National Landscape. However, should the arbitration process under article 65 be required, it is estimated by NH that this could run until Spring 2026 before a decision is made. This would mean that article 65 result in delay and additional cost to the delivery of the Project, in circumstances where the delayed works have no impact upon the National Landscape. It is submitted that this was not the intent of the Secretary of State, and there is nothing in the DL that suggests that it was. To rectify this matter, it is requested that the Secretary of State correct article 65(2) as shown in column 2, such that the pre-commencement commitment is limited to works south of the River Thames. This will align with the intent of the DL, i.e. to ensure the fund has been agreed before “commencement” works take place in and around the Kent Down Protected Landscape In connection with this NH requests two further corrections to article 65: - Paragraph (2) of the made DCO contains redundant drafting because “commencement” will always come before the tunnel opens. This is not commented on in the DL and appears to arise through the adoption of

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		elements of drafting from National Highway's draft DCO. The proposed correction to paragraph (2) would remove the redundant drafting; and - New paragraph (8) would confirm, for the avoidance of doubt, that "commencement" in this article has the same meaning as in Schedule 2, which also aligns with the definition of "commencement" in the SAC-R itself.
24.	Article 68(4) In (c), for "(public participation in relation to certain applications)" substitute "(public participation in relation to regulator-initiated variations)" In (e), for "(applications to an appropriate authority)" substitute "(appeals to an appropriate authority)"	Erroneous legislative references.
25.	Schedule 1, Work No. 7, sub-paragraph (g)(iii) For "00 metres in length" substitute "600 metres in length"	Typographical error, which requires correction to ensure the made DCO describes the authorised work correctly.
26.	Schedule 1, Work No. MUT10 "For "a62 metres" substitute "62 metres"	Typographical error, which requires correction to ensure the made DCO describes the authorised work correctly.

Ref.	Provision and Proposed Correction	Justification
27.	Schedule 1, Work No. CA5A For “4,512 square metres” substitute “44,512 square metres”	Typographical error, which requires correction to ensure the made DCO describes the authorised work correctly. This work is shown on Sheet 23 of 2.6 Works Plans Volume C. The draft DCO prepared by NH had an erroneously placed comma, describing the area as “<i>approximately 4,4512 square metres</i>”. When correcting the comma placement for the made DCO, the Secretary of State amended to 4,512 instead of the correct 44,512.
28.	Schedule 2, paragraph 3(2), footnote (a) Amend as follows: “Section 85 is amended by paragraph 165 of Schedule 11 to the National <u>Natural</u> Environment and Rural Communities Act 2006 (c. 16) and section 246(6) <u>245(6)</u> of the Levelling-up and Regeneration Bill <u>Act</u> 2023 (c. 55).	The footnote contains an erroneous legislative reference.
29.	Schedule 2, paragraph 4(8) After “Any” omit “preliminary works EMP,”	The made DCO includes an obligation for the Undertaker to produce a “Mitigation Route Map” which will accompany any environmental management plans. However, inclusion of the “preliminary works EMP” in the case appears to be an unintended consequence, because: (i) this is not an outline document for later development and approval, but rather a “fixed” document to enable expeditious commencement of the development; and (ii) because the majority of the other control plans engaged by the mitigation route are not relevant to the preliminary works EMP. Insofar as other mitigation measures are in fact relevant, the preliminary works EMP has incorporated all of the relevant mitigation

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		measures (as per section 1.1.13 of the preliminary works EMP) and so the proposed Mitigation Route Map would be duplicative of the document itself. The purpose of the preliminary works EMP is to control relatively minor works in the early stage of development without the need for approvals under the Requirements contained in Schedule 2 to the Order. The DL does not suggest it was the Secretary of State's intention to complicate delivery of preliminary works in this way and so the amendment seeks to ensure remove the need for further approvals or duplicative content being produced.
30.	Schedule 2, paragraph 9(7)(a) Amend as follows: <i>(7) No part of any building listed under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is to be demolished until—</i> <i>(a) that part of the authorised development <u>which requires the demolition of the building</u> has commenced; and...</i>	The made DCO has introduced additional obligations which the undertaker must discharge prior to demolishing listed buildings. However it is considered that, to reflect the intent of the DL and for precision, further clarity is needed as to what “that part of the authorised development has commenced” means in this context.
31.	Schedule 2, paragraph 21(1)(b) For “under paragraph 23” substitute “under paragraph 22”	Cross-referencing error.
32.	Schedule 2, paragraph 22(4) For “in paragraph 22” substitute “in paragraph 21”	Cross-referencing error.

Ref.	Provision and Proposed Correction	Justification
33.	Schedule 2, paragraph 23(1)(a) For “of paragraph 22(3)” substitute “of paragraph 21(3)”	Cross-referencing error.
34.	Schedule 2, paragraph 26(4), Table 2, first row (REAC ref. no. “HR013”, fifth column (“Commitment”)) <i>Amend as follows: “Appropriate technology and infrastructure would be installed <u>employed</u> to enable, if <u>required</u>, the enforcement authority to enforce a 60mph speed limit in a westbound direction between junctions 26 and 27 of the M25 to ensure that there is no Adverse Effect on Integrity (AEoI) on Epping Forest SAC as a consequence of traffic emissions leading to increases in nitrogen deposition, NOx and NH3. Reasonable and appropriate funding would be provided to the <u>highway and enforcement authority</u> to set a 60mph limit and to undertake enforcement activities, in addition to existing enforcement measures. This technology and infrastructure would be developed through detailed design, in consultation with the enforcement authority and approved by the Secretary of State in consultation with Natural England. Monitoring should commence <u>1 year prior to 2 years after commencement of construction of the A122 Lower Thames Crossing and remain in place for a minimum period of 4 years following commencement of operation to ensure that monitor levels of nitrogen deposition, NOx, NO2 and NH3 (which can be used to determine the vehicle emission related nitrogen deposition) are no higher than the compared to pre-operational values.</u> Annual monitoring reporting should be</i>	NH’s reading of the RR and the DL is that this speed limit is clearly intended to be an “adaptive” mitigation measure i.e. it must be available for deployment, but need not be introduced (or can be removed) if appropriate evidence demonstrates it is not required, and Natural England agrees. Furthermore the DL refers the use of <i>modelling</i> , as well as monitoring. In support of this interpretation, see: DL paragraph 592: “The ExA proposed minor changes to the proposed REAC commitment to <u>ensure that a reduced speed limit is not imposed if it is not required at the time</u> and that the extent and duration of the proposed speed limit reduction is contained to the minimum extent. The ExA also recommended an annual monitoring process to this end [ER D.5.84 and ER 23.6.18]. This was in recognition of the fact that there could be changes in the emissions profile of the vehicle fleet using the SRN in the period between consenting and commissioning the Proposed Development and/or the operational period which might contribute towards a reduction in the adverse effects from traffic emissions considered during Examination [ER D.6.9]. Dialogue between the Applicant and NE will be required, <u>using air quality modelling and monitoring</u> , to identify a

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	reviewed undertaken and include a review of relevant evidence, such as monitoring, traffic data and regional pollution in consultation with Natural England (NE) and adapted if necessary to achieve this. These <u>The 60mph speed limit measures are to be put in place from the commencement of operation, if NE advises (on the basis of pre-operation monitoring and any additional assessment undertaken by the undertaker) that such measures remain required at the point of commencement of operation to prevent an AEol. During the period of monitoring post-operation, the 60mph speed limit may only be imposed (or retained) if the road traffic contribution to nitrogen deposition is above pre-operation levels, back into operation if the outcome from monitoring shows relevant increases in nitrogen deposition, NOx and NH3 which would lead to an AEol, and NE advises, on the basis of monitoring and any additional assessment, that a return to speed limit control and enforcement is required to prevent an AEol that.</u>	threshold for setting a speed limit and the geographical extent of road over which it should apply until the next monitoring point (if necessary varied by the Secretary of State) [ER D.6.11].” (Our emphasis) RR paragraph 20.5.17. “The ExA recommends that the draft REAC measure broadly as proposed by the Applicant should be included in the REAC before the DCO is made and the means to achieve this is discussed further in the DCO Chapter of this Report. However, the ExA notes that it is possible that traffic emissions are changing as low emission vehicles become more widely represented in the road fleet mix and internal combustion engine vehicles are withdrawn from service. The <u>duration of the construction period is such that this dynamic position might reduce or remove the possibility of air quality effects</u> on the Epping Forest SAC amounting to an AEol. For this reason, the ExA proposes minor changes to the draft REAC measure advanced by the Applicant, <u>with a view to ensuring that that a reduced speed limit is not imposed if it is not required at the time</u> and that the extent and duration of the proposed speed limit reduction is contained to the minimum extent. The ExA recommends an annual monitoring process to this end.” (Our emphasis) However, it is submitted that the wording of the commitment in the made Order does not align with this intent.

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		Furthermore, National Highways considers that the assessments demonstrated that there was no AEol during the construction period, and that the intent of the monitoring and, if required, mitigation is to address potential AEol that arise during operation. As such, commencing this monitoring programme prior to construction is not necessary and does not reflect the intent of the ExA in their RR, or the intent of the Secretary of State. National Highways recognises the need for a pre-operational baseline to be put in place, and considers that commencing the monitoring 2 years after the commencement of construction would allow for the development of a robust pre-operational baseline. There are also deliverability issues with the commitment included in the made DCO, and it is submitted that this was not the Secretary of State's intent. In particular: - The made DCO requires one full year of monitoring to be undertaken prior to commencement of the Project. The relevant monitoring equipment is not currently in place and would require the installation of infrastructure, including power supply, to become operational. It is understood that there is no existing monitoring data which can be relied upon to meet this commitment. Given the timescales to get this up and running, this would delay commencement of the Project to Q2/Q3 2026, as compared to the planned commencement in Q4 2025. There is nothing in the DL to suggest that this was the Secretary of State's

Ref.	Provision and Proposed Correction	Justification
		intent, particularly as monitoring of information required to support an operational mitigation measure and adequate information can be collected after commencement, given that the construction of the Project will take a number of years. - The made DCO requires speed limit enforcement technology and infrastructure to be “installed” and developed during detailed design in consultation with various bodies, “in addition to existing enforcement measures”. In fact all of the relevant technology infrastructure already exists on this section of the M25, as a managed motorway, and there is no requirement (nor indeed any reasonable scope for) additional equipment. It is submitted that this element of the commitment erroneously includes the wording of the Project’s speed limit enforcement commitment in relation to the junctions 3-4 of the M2 (see REAC commitment TB025 in the Code of Construction Practice) where no equivalent technology exists at this stage. - It is not clear how, of itself, annual monitoring can be “adapted if necessary to achieve this”, where “this” seems to mean securing that nitrogen levels are not above pre-operational levels. Monitoring will provide information on nitrogen levels but will not, in of itself, lead to a reduction.

Ref.	Provision and Proposed Correction	Justification
		- The Project's technical specialists advise that, from a technical perspective, monitoring in this context would need to comprise atmospheric monitoring of NOx, NO2 and NH3, from which nitrogen deposition can be calculated, as monitoring of nitrogen deposition directly associated with the traffic element is not feasible. The Secretary of State is requested to make the corrections shown in column 2 which are considered to align with the intent of the DL.
35.	Schedule 2 paragraph 26(4), Table 2, second row (REAC ref. no. "RDWE060"), ninth column ("Securing mechanism in DCO") For "EMP2 Requirement 4" substitute "Requirement 8"	New commitment RDWE060 relates to permanent drainage design matters, which are secured by paragraph 8 of Schedule 2 to the made DCO (Requirement 8), and not by Requirement 4. The made DCO may create an expectation that permanent drainage design matters need to be dealt with under EMP2, rather than under Requirement 8 as intended. The DL does not comment on this matter and does not suggest the Secretary of State intended to cause an impediment of this nature to the operation of the secondary consenting process for the Project.

Ref.	Provision and Proposed Correction	Justification
36.	Schedule 2 paragraph 26(4), Table 2, third row (REAC ref. no. “RDWE061”) Amend as follows: Fifth column (“Commitment”) – <i>When consents and new discharges are sought under Art 19(3) or Art 20 of the dDCO the undertaker will seek the views of the drainage authority.</i> Sixth column (“Achievement criteria”) – <i>Drainage authorities are consulted on Art 19(3) and Art 20 proposals</i> Ninth column (“Securing mechanism in DCO”) – After “EMP2 Requirement 4” insert “and Requirement 8”	NH considers that the references to article 20 are erroneous, and do not reflect the intent of the DL. Whilst article 19 (discharge of water) is clearly relevant to RWDE061, Article 20 is concerned with protective works to buildings and does not involve any “consents or discharges”. It is noted that paragraph of the RR at paragraph 12.4.82 states “<i>Article 20 of the dDCO requires the Applicant to submit to the drainage authority plans of the specified work. However there appears to be no requirement to advise a drainage authority before discharging water. In response to ExA questions, IPs considered that a drainage authority may be in a better place to advise on the suitability of such works or a discharge than a riparian owner, particularly on an ordinary watercourse</i>”. That reveals an error in the RR because article 20 does not have this effect – it appears the ExA was in fact referring to paragraph 20 of the protective provisions for drainage authorities at Part 3 of Schedule 14 to the made DCO, and so the ExA’s concern which led to RDWE061 was focussed only on article 19. Finally, it is submitted that the ninth column of the commitment erroneously omits reference to Requirement 8, because Requirement 4 is focussed on construction water discharging – permanent water discharging will be addressed under Requirement 8, so column 9 should refer to both Requirements.

Ref.	Provision and Proposed Correction	Justification
37.	Schedule 2, paragraph 26(4), Table 2 (REAC ref. no. “GS032”), row “Geology and Soils”, column “Commitment” Amend as follows: <i>Where land that is subject to a remediation or restoration condition or agreement pursuant to a minerals or waste consent is taken as a consequence of compulsory acquisition and or temporary possession, the undertaker indemnifies the former operator or beneficiary of the consent against any liability arising due to enforcement by the local planning authority, <u>where that liability arises during and as a result of the undertaker’s possession of the land. In the case of land possessed temporarily, the indemnity ceases to have effect after the land is returned to the owner.</u></i>	The genesis for this commitment is as follows: - The ExA proposed the commitment at table 4848 of paragraph 23.6.20 of the RR. The reasoning given for the commitment was as follows: “<i>Chapter 22 of this Report (Compulsory Acquisition and Temporary Possession) considers representations from Tarmac Building Products Appendix E Table 9 [E9-18] Ltd and Clearserve Ltd Appendix E Table 10 [E10-8] who are subject to land or rights requests where the land is subject to an outstanding minerals or waste consent. It will be important that the undertaker in possession ensures that any performance or liability arising on the land under any consent or condition is complied with</i>”. - In table 3939 at paragraph 22.6.8 of the RR, the ExA recommended that the Secretary of State “<i>consult the Applicant and Clearserve Ltd to amend the REAC (provisionally as a Geology and Soils commitment) to provide that beneficiaries of minerals and waste consents are indemnified against non-performance of restoration and after-care conditions.</i>” - In the table at paragraph 602 of the DL, it was stated that: “<i>The Secretary of State did not consider it necessary to consult on this matter and has instead amended the DCO to reflect the need for this amendment to the REAC, as recommended by the ExA at ER 23.6.20</i>”.

Ref.	Provision and Proposed Correction	Justification
		On the basis of the above, NH understands that it is the Secretary of State's intention to ensure that it is liable for non-performance arising as a result of its possession of the land, because at that point the (former) beneficiary of the consent is not capable of taking action on the relevant non-performance issue. There is nothing in the DL to suggest the Secretary of State intended NH to be liable for <i>historic / legacy</i> enforcement issues that arose prior to NH taking possession of the land, nor for land subject to temporary possession <i>after</i> it has been returned to the landowner / beneficiary of the consent. To ensure that the made Order fully and clearly reflects this intent, NH requests that the Secretary of State corrects the wording of commitment GS032 as shown in column 2. NH considers that this amendment reflects the DL in the context of other broader indemnities requested by a number of interested parties which were rejected by the Secretary of State and the Examining Authority (see, for example, paragraphs 607-8). NH therefore considers this to be a correctible error on the basis that the DL is clear that unfettered indemnities such as this are not endorsed, nor intended, by the Secretary of State. NH wishes to note in this context that Tarmac (one of the two parties identified as raising a concern in this context) subsequently confirmed that "<i>Subject to the anticipated amended Article 68 being submitted and included in the DCO, Tarmac is content with the drafting and the protection afforded and this is a positive step forward</i>"

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		(REP8-190). The amendment referred to was made, and is included in the made Order. The other party, Clearserve Ltd, raised a concern in this context at the Relevant Representation stage. No other submissions or concerns were made. NH wishes to note that likelihood of enforcement action being taken (and in respect of which this indemnity was suggested) is nullified by article 56 of the made Order which confirms that <i>“To the extent any development carried out or used pursuant to a planning permission granted under section 57 (requirement of planning permission) of the 1990 Act or compliance with any conditions of that permission is inconsistent with the exercise of any power, right or obligation under this Order or the authorised development... in respect of that inconsistency, no enforcement action under the 1990 Act may be taken in relation to development carried out or used pursuant to that planning permission, or compliance with any conditions of that permission, whether inside or outside the Order limits”</i>. NH therefore wishes to make clear that the indemnity will not apply to conditions imposed under the 1990 Act, and article 68 ensures there is a mechanism for addressing conditions in any environmental permits relating to waste operations. NH therefore considers that it would be preferable for commitment GS032 to be removed entirely. However, should the Secretary of State disagree, NH would request the amendments suggested above are

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		carried through to ensure the indemnity is limited to its actions.
38.	Schedule 2, paragraph 31, Table 5, fourth column For “<i>the same process as is set out</i>” substitute “<u>a process to be agreed between the parties, including timescales for the provision of funds, which shall be substantially in accordance with the process set out</u>”	During the decision-making stage of the DCO process, NH proposed (on a without prejudice basis) a form of wording for commitment SACR-034 (i.e. in the Stakeholder Actions and Commitments Register), in circumstances where the Secretary of State decided to impose it. NH’s proposal was that the Secretary of State should settle the amount of the funding for the enhancement and conservation of Kent Downs National Landscape, at the point of deciding the DCO application. NH proposed that the fund should be £3m, and that given a fund of the size was similar to the separate compensatory fund already secured for Kent Downs National Landscape, it should be administered in the same way (i.e. the process set out in Schedule 3 to the unilateral undertaking entered into by NH dated 12 December 2023). The Secretary of State ultimately decided to impose SACR-034 but with an entirely new process to determine the amount of the fund, set out at article 65 of the made DCO. Since the ultimate quantum of that sum is not yet known, it may mean that the process set out in Schedule 3 to the unilateral undertaking is not suitable in all respects.

Ref.	Provision and Proposed Correction	Justification
		There is nothing in the DL to suggest that the Secretary of State's decision was intended to result in this outcome, so it is requested that the made DCO is corrected as shown in column 2 to allow proportionate flexibility – i.e. that the parties to commitment SACR-034 agree a process substantially in accordance with Schedule 3 to the unilateral undertaking.
39.	Schedule 3, row “A1089 northbound (Dock Approach Road) to A13 eastbound slip road”, column (2) For “Section of highwayas shown” substitute “Section of highway as shown”	Typographical error.
40.	Schedule 4, Part 1, row “M25 northbound off-slip to M25 junction 29”, column (3) For “sheets 43, 44 and 45” substitute “sheets 42 , 43, 44 and 45”	Typographical error.
41.	Schedule 9, paragraph 2(2), The two references to the made DCO should be amended to: <i>A122 (Lower Thames Crossing) Development Consent Order 2024</i> 2025	Typographical error.
42.	Schedule 14, Part 3, paragraph 19, definition of “drainage authority”, footnote (a) Amend as follows: <i>Section 23 was amended by paragraph 32(3) 192(1) of Schedule 22 to the Environment Act 1995</i>	The footnote contains an erroneous legislative reference.

Ref.	Provision and Proposed Correction	Justification
43.	Schedule 14, Part 7, paragraph 92(1) For “paragraph 86(2) (rremoval of apparatus” substitute “paragraph 86(2) (removal of apparatus)”	Typographical error.
44.	Schedule 14, Part 10, paragraph 129 <i>After “in relation to the construction of the authorised development” omit “and the operation and maintenance of the authorised development within the Port”</i>	The made DCO has erroneously included, at Part 10 of Schedule 14, the wrong form of protective provisions (the PPs) for the benefit of the Port of Tilbury London Limited (PoTLL). This is apparent from the following chronology of events. NH and PoTLL entered into a side agreement relating to the PPs and other matters on 25 September 2024. That agreement contains the agreed form of PPs, and pursuant to that agreement, NH was required to submit those PPs to the SoS for inclusion in the made Order. NH informed the Secretary of State that an agreement had been reached on its letter dated 26 November 2024. Paragraph 3.4 of NH’s letter stated that “...<i>the Applicant has now completed an agreement with the Port of Tilbury London Limited (PoTLL) (as per the notification sent to the Secretary of State by PoTLL). Updates to PoTLL’s Protective Provisions have already [been] made, and the Applicant confirms no further amendments are required to those provisions</i>”. The correct form of protective provisions had already been incorporated into the DCO by NH as part of its earlier 23 July 2024 letter to the Secretary of State, which

Ref.	Provision and Proposed Correction	Justification
		contained a copy of the draft DCO (version 17) including the correct form of PPs. Those PPs remained unchanged in the copy of the draft DCO (version 18) which accompanied NH's 26 November 2024 letter. PoTLL's letter to the Secretary of State dated 27 September 2024 also confirmed that the side agreement (referred to above) had been entered into. The final paragraph of that letter states: "...<i>PoTLL also confirms that the protective provisions included as Part 10 of Schedule 14 to the latest version of the draft Order are agreed, and requests that these are included in the Order if the Secretary of State is minded to grant development consent for the Scheme.</i>" The "latest version of the Order" referred to by PoTLL was version 17, referred to above. Paragraph 651 of the DL states that "<i>in Part 10, text agreed by the Applicant and Port of Tilbury London Limited has been inserted throughout</i>" (our emphasis). However, it is apparent that the text incorporated into the made Order reflected the PoTLL's response to the Secretary of State's 28 March 2024 consultation, which proposed drafting changes to the PPs which did not – for the reasons explained above – ultimately form part of the agreed PPs between the parties. NH accordingly asks that Part 10 is corrected as set out in column 2 of rows 49-58 of this table, to ensure that the made DCO reflects the intent of the DL.

Ref.	Provision and Proposed Correction	Justification
45.	Schedule 14, Part 10, paragraph 130, definition of “specified work” After “Required Easement Width;” omit the word “and” Omit paragraph (e)	See the justification at row 44 of this table.
46.	Schedule 14, Part 10, paragraph 132 Omit sub-paragraph (9) Renumber sub-paragraph “(10)” to “(9)” In the definition of “retained provisions”, for “sub-paragraphs (6) to (9)” substitute “sub-paragraphs (6) to (8)”	See the justification at row 44 of this table.
47.	Schedule 14, Part 10, paragraph 133 Omit heading “Restoration of Port land” and text of paragraph 133 and substitute “Not used”	See the justification at row 44 of this table. Where an entire paragraph is required to be omitted, NH has deployed the convention of retaining the paragraph number with the text “<i>Not used</i>”, so as not to create a need to re-number all subsequent paragraphs and numerous cross-references in the drafting of Schedule 14. Should the Secretary of State prefer to remove the paragraph entirely, then it follows that all subsequent paragraph numbers and cross-references in Schedule 14 will need to be updated.

Ref.	Provision and Proposed Correction	Justification
48.	Schedule 14, Part 10, paragraph 134 In paragraph (1) - omit paragraph (b), and - renumber paragraphs “(c)”, “(d)”, “(e)” and “(f)” with “(b)”, “(c)”, “(d)” and “(e)” Omit sub-paragraphs (4) and (5) Renumber sub-paragraph “(6)” to “(4)”	See the justification at row 44 of this table.
49.	Schedule 14, Part 10, paragraph 136 Omit heading “Construction traffic management protocol within the Port” and text of paragraph 136 and substitute “Not used”	See the justification at row 44 of this table. Where an entire paragraph is required to be omitted, NH has deployed the convention of retaining the paragraph number with the text “<i>Not used</i>”, so as not to create a need to re-number all subsequent paragraphs and numerous cross-references in the drafting of Schedule 14. Should the Secretary of State prefer to remove the paragraph entirely, then it follows that all subsequent paragraph numbers and cross-references in Schedule 14 will need to be updated.
50.	Schedule 14, Part 10, paragraph 140 Omit heading “Land powers” and text of paragraph 140 and substitute “Not used”	See the justification at row 44 of this table. Where an entire paragraph is required to be omitted, NH has deployed the convention of retaining the paragraph number with the text “<i>Not used</i>”, so as not to create a need to re-number all subsequent paragraphs and numerous cross-references in the drafting of Schedule 14. Should the Secretary of State prefer to remove the

Ref.	Provision and Proposed Correction	Justification
		paragraph entirely, then it follows that all subsequent paragraph numbers and cross-references in Schedule 14 will need to be updated.
51.	Schedule 14, Part 10, paragraph 145 Omit heading “Interaction with the Tilbury2 Order and text of paragraph 145 and substitute “Not used”	See the justification at row 44 of this table. Where an entire paragraph is required to be omitted, NH has deployed the convention of retaining the paragraph number with the text “<i>Not used</i>”, so as not to create a need to re-number all subsequent paragraphs and numerous cross-references in the drafting of Schedule 14. Should the Secretary of State prefer to remove the paragraph entirely, then it follows that all subsequent paragraph numbers and cross-references in Schedule 14 will need to be updated.

Annex B – Proposed Correction Order