

Draft Heritage Memorandum Heritage Sub-group consolidated comments & HS2/DfT feedback (24th September 2014)

Updated with Heritage Sub-group comments received Dec 2014 and HS2 response April 2015

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
1	Environmental Memorandum	<p>EM is too specific (only water courses and wetlands) and needs to ensure cross-over issues are adequately covered. Expand to include:</p> <ul style="list-style-type: none"> - historic landscapes and features (not just designed landscapes, and including [missing text?] such as historic lanes); - setting of heritage assets (including landscape restoration and noise/visual mitigation); - evaluation/ mitigation of ecology compensation; - spoil disposal and flood mitigation areas; - potential for heritage benefits arising from compensatory public open space provision; - environmentally sensitive work sites list should include heritage considerations 	<p>The EMRs must be looked at as a set of documents which work in combination - it is not necessary to repeat controls from one document to another.</p> <p>The Environmental Memorandum sets the framework for considering the environmental aspects of the design and construction of HS2 at a project-wide level with the responsible national agencies. Local authorities have a role through the range of approvals that will be required from them and they will have the ultimate local control on many of these topics covered in the Environmental Memorandum.</p> <p>The Environmental Memorandum (EnvM) encompasses the elements highlighted and wording of the EnvM is being reviewed to emphasise the historic aspects, implicit already.</p> <p>In light of comments received, we propose to expand the introduction to the <i>Heritage Memo</i> to include an explanation as to how it relates to the other EMRs.</p>	<p>[CDC]Concerns over how heritage aspects will be catered for by EM, particularly if it is to become the vehicle for dealing with heritage settings; whether heritage concerns and H-SG's comments will be given due attention in the EM review by the Planning Forum; and communication between different disciplines and Forum/ Sub-group areas.</p> <p>Recommended revisions to EM:</p> <ul style="list-style-type: none"> - include clear statement of the intention to have proper regard to the setting of heritage assets - link to the HM for definitions of heritage and refer to NPPF, NPPG and EH Guidance (setting and significance) - Amend para1.2.3 to clarify overlap with HM - Mechanisms for engagement and monitoring in section 3 to apply to EH and LA specialist staff in relation to heritage concerns <p>See Comment 20.</p>	<p>HS2 Ltd's position as stated in the previous response remains.</p> <p>As mentioned previously, the EnvM is currently undergoing review and the comments of the HSG will be taken into account.</p> <p>This will include concerns raised in relation to the setting of heritage assets. It is important to note that the main vehicle for addressing the impact on the setting of all heritage assets, including historic buildings, is through Schedule 16 as discussed elsewhere in this document.</p> <p>Definitions are in the HM, not the EnvM.</p> <p>The EMRs will be reviewed to enhance understanding of the inter-relationship between the HM and EnvM.</p>
2	Heritage Memorandum General	<p>Question approach of introducing a number of EMRs, in particular - cannot see justification for separating Heritage Memo and Planning Memo into separate documents</p>	<p>Lessons learned from Crossrail and HS1 suggest that there is greater clarity in having two separate documents. A separate Heritage Memorandum allows a greater explanation of the approach to heritage and increased clarity regarding requirements.</p> <p>No change proposed.</p>	<p>No further comment.</p>	
3	General	<p>Concerns that (with reference to HS1 and Crossrail experience) strategic and irreversible decisions on heritage assets of all types will be made at national level with:</p> <ul style="list-style-type: none"> - little or no influence from the local planning authority and their conservation staff, besides decisions on the 'dressings' of structures; - or from local stakeholders (namely local heritage groups); and - little regard for important local non-designated heritage assets (specifically Camden's draft local list, many of which are directly affected by HS2) 	<p>The measures set out in the hybrid Bill and the EMRs are needed to ensure that the planning process does not unduly hinder the timely and cost effective delivery of a project of national importance.</p> <p>The main proposed provisions of the planning regime set out in the Bill are explained in HS2 Information Paper B1, The Main Provisions of the Planning Regime. The planning regime set out in the Bill is considered to strike a reasonable balance between enabling local authorities to exercise controls over a range of matters and ensuring that the Proposed Scheme is completed on time and to budget. The Planning Memorandum sets out the measures and behaviours expected of planning authorities in the exercise of their functions under the planning regime, in exchange for the extra controls obtained by signing the Memorandum.</p> <p>The Heritage Memorandum sets out how the historic environment (including heritage assets and their setting), will be addressed during the design and construction of the Proposed Scheme. It provides a framework for the nominated undertaker, English Heritage, local authorities and other stakeholders to work together to ensure that the design and construction of the HS2 works are carried out with respect to the protection of and having</p>	<p>No further comment.</p>	

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			<p>proper regard to the historic environment. This includes designated and non-designated heritage assets.</p> <p>The nominated undertaker in implementing the powers in the HS2 Bill will be subject to a wide range of controls and will need to obtain an extensive range of approvals. These include (but are not limited to):</p> <ul style="list-style-type: none"> - General principles of the EMRs; - Environmental Memorandum; - Heritage Memorandum; - Adoption and implementation Code of Construction Practice; - Planning approvals that will be required under Schedule 16 to the HS2 Bill; - Approval of works to listed building under the heritage agreement (agreed with Local Authorities & English Heritage) process - Approval of works to scheduled monuments under a scheduled monument agreement; and - Seeking approvals under Section 61 of the Controls of Pollution Act; <p>Given this wide range of effective and well tested controls, and the various approvals that are required, we do not accept that the controls imposed on the nominated undertaker are insufficient and that to suggest the overall environmental control processes are weighted against local authorities (and other relevant statutory bodies) is unwarranted.</p> <p>We disagree that there is little regard for non-designated heritage assets; the Heritage Memorandum sets out the high level objectives to be adhered to by the nominated undertaker in relation to the historic environment including designated and non-designated heritage assets, with all heritage assets (both designated and non-designated) addressed within the statements on 'Mitigation: investigation and recording' given in section 5. Non-designated heritage assets will continue to be part of the programme of archaeological and heritage works as the project progresses.</p>		
4	General	Propose that HS2 Ltd should fund salaries and/or pay fees for heritage-related applications	While we recognise local authorities concerns regarding costs it is not material to the consideration of the controls in the EMRs.	No further comment.	
5	Paras 1.1.1 & 2.1.2	Unclear with whom the 'commitment' expressed within the EMRs lies - para1.1.1 refers to 'the overarching commitment by the nominated undertaker', while 2.1.2 refers to the commitment as being that of the SoS. HE recommend refers to either the SoS for Transport or the Government	Thank you for your comments: the terminology will be standardised throughout.	Note intention to standardise but [EH] still feel that commitments within HM should be either that of the government or the SoS and the NU(s) to comply with those commitments when taking forward the scheme.	Terminology reviewed and standardised to be consistent with the other EMRs.
6	Para 1.2.2	'General Principles' omitted as a component of the EMRs	Thank you for your comments: the list will be amended to include 'General Principles' and wording standardised with other EMR documents.	No further comment.	Text amended.
7	Para 1.3.1	a) Suggestion that emphasise that the primary purpose of the HM is 'to state the commitment of the Government with respect to the protection and where appropriate the enhancement of the historic environment, in taking forward the detailed design and construction of phase One...' and 'Further that they will have proper regard to the policies in the	<p>a) Please see our response to point 5 above, which highlights the range of controls in place to ensure that proper regard is paid to the historic environment.</p> <p>Attention is drawn to the approval that qualifying authorities have (ref paragraph 2(5)(a)(iii) and the table in paragraph 3 of Schedule 16 to the Bill. For ease of reference we have extracted the relevant text from Schedule 16.</p>	a) This point relates to the <i>fundamental purpose</i> of the HM. [EH] understand that the aim given in 2.1.2 (to present commitments of SoS) and purpose given in 1.3.1 (framework for parties to work together) are not contradictory but one aim or purpose must be primary.	Propose amendments to 'Purpose and Understanding' section to include paragraph previously numbered as 2.1.2 to emphasise the fact that the HM is the commitment made by the SoS to the historic environment.

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		<p>NPPF relating to the historic environment.'</p> <p>b) There is a lack of a convincing baseline commitment to preserving the historic environment and minimising harm to it; and no attempt to define the level of 'due regard' other than in terms of the NPPF; and suggest make a fundamental commitment to the desirability of preserving a heritage asset or its setting as set out in s16(2) and 66(1) of Planning (LB & CA) Act 1990.</p> <p>c) Lack of specific commitment to and timescales for 'work(ing) together'</p> <ul style="list-style-type: none"> - within the design process; and - in development of WSIs (see comment below) 	<p>Sch 16, para 2(5)(a)(iii)</p> <p>'If the relevant planning authority is a qualifying authority, it may only refuse to approve plans or specifications for the purposes of this paragraph on the ground that—</p> <p>(a)the design or external appearance of the building works ought to be modified</p> <p>(iii)to preserve a site of archaeological or historic interest or nature conservation value,</p> <p>and is reasonably capable of being so modified...'</p> <p>We will review the wording of para 1.3.1 and the last sentence, proposing it be amended to:</p> <p>'...is carried out with proper regard to the historic environment.'</p> <p>Paragraph 1.1.5 of the General Principles of the EMRs states that:</p> <p>'The nominated undertaker will in any event, and apart from the controls and obligations referred to in paragraph 1.3, use reasonable endeavours to adopt mitigation measures that will further reduce any adverse environmental impacts caused by Phase One of High Speed 2, insofar as these mitigation measures do not add unreasonable costs to the project or unreasonable delays to the construction programme.'</p> <p>b) We disagree that the HM lacks a commitment to the historic environment. In the context of a nationally important project the measures set out give a wide range of effective and well tested controls, including the various approvals that are required from local authorities and statutory bodies. We do not accept that insufficient regard is paid to the historic environment.</p> <p>Please see our response to point 3.</p> <p>c) The timescales for formal consultation are set out in the Planning Memorandum as relates to approvals. The Draft Planning Memorandum also requires the nominated undertaker to engage in pre-application discussions with the relevant local authority whenever reasonably practicable.</p> <p>However it should be noted that the location specific WSIs are not a matter for approval by the Local authorities (unless it is in relation to a Heritage Agreement).</p> <p>The nominated undertaker will be required to engage in forward discussions with local planning authorities, English Heritage and other relevant stakeholders about location specific WSI , thus facilitating effective engagement.</p> <p>Matters regarding the design process are addressed in Schedule 16 and the Planning Memorandum in relation to local authority approval.</p> <p>We will review the wording to provide clearer signposting/cross-referencing</p>	<p>b) [CDC] Suggest an outright commitment would help re-establish confidence that an appropriate provision in place of usual controls removed by the Bill.</p> <p>c) [CDC] Note provisions for pre-application discussions in the Bill and verbal re-assurances that there will be detailed discussions about e.g. the content of Heritage Agreements. However "reasonably practical" offers wide scope for interpretation and other scope for outside expert input has not been formally set out. Suggest provide an outline of significant stages for engagement, e.g.:</p> <ul style="list-style-type: none"> - Heritage Agreements and generic or location specific WSIs, with timescales for comment - design of mitigation at a sufficiently early stage to enable heritage priorities and appropriate solutions to be established before design is fixed - monitoring and the effectiveness of mitigation 	<p>Text amended.</p> <p>The HM presents the commitments of the SoS to the historic environment and is considered sufficient.</p> <p>No change proposed.</p> <p>This is not a specific point for the HM. There will be a range of documents prepared that will provide the necessary detail about the purpose and timing of engagement. Approach to engagement set out in information papers G6: Design Development and G1: Consultation and engagement, and the Planning Memorandum</p> <p>Specific arrangements will be discussed at the Heritage Sub-group at an appropriate point.</p>

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			to these other elements of project documentation.		
8	Para 1.3.2	<p>a) To explain why the NPPF is referred to in the HM, it is EH suggested that HS2 include: “An important component of the Government’s National Planning Policy Framework is the protection and enhancement of the historic environment”, which then leads into the subsequent definitions</p> <p>b) BP2 - Query why the final sentence in the NPPF definition (‘Heritage asset includes designated heritage assets and assets identified by the local planning authority (including local listing)’ has been omitted.</p> <p>c) Suggest additional BP to include definition of designated heritage assets</p>	<p>a) We propose to amend the existing text in light of this comment to provide context for the subsequent definitions: ‘An important component of the Government’s National Planning Policy Framework is the protection and enhancement of the historic environment’</p> <p>b) The quote will be extended to include the full NPPF definition.</p> <p>c) In light of this comment we propose to include an additional bullet to state the definition of designated assets from the NPPF: ‘Designated heritage asset: A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation’.</p>		<p>Text amended to include: ‘ The historic environment is an important component of the Government’s National Planning Policy Framework (NPPF). ’</p> <p>Text amended.</p> <p>Text amended.</p>
9	Para 2.1.3, BP2 & section 4	More appropriate to refer to ‘consultation’ (as in earlier draft) rather than ‘engagement’	In light of this comment we propose that the second bullet point be retitled ‘Consultation and engagement’ to reflect the varying types of ‘contact’ and section 4 will be retitled ‘Consultation and engagement’.		Text amended.
10	Para 2.1.3, BP3	Query use of the term ‘mitigation’ - See also Section 5 – ‘mitigation’ comments (17).	<p>The use of the term depends on the context in which it is used.</p> <p>For archaeological works we accept that ‘investigation and recording’ is a more informative shorthand and the document will be reviewed to reflect that throughout.</p> <p>In relation to built heritage, where an impact often relates to setting, the term, mitigation, may be more appropriate.</p> <p>The wording and terminology in relation to this point will be reviewed throughout.</p>		<p>BP3 amended to separate mitigation as distinct from investigation and recording.</p> <p>The wording and terminology reviewed throughout.</p>
11	Para 3.1.1	Suggested greater clarity if paragraph ends ‘in order to conserve and enhance the significance of heritage assets, including their settings, that will be affected by the works authorised by the Act’	The current wording is considered sufficient in relation to the Promoters obligations in designing the works.	[EH] still of the view that there should be a reference to have regard to the need to enhance, as well as conserve, the significance of heritage assets as that would be in accordance with the wording of the NPPF.	<p>This wording is bespoke to the project and offers appropriate commitment to the historic environment. This paragraph is consistent with the grounds for approval (or for imposing conditions in respect of) specified in Schedule 16, which include “to preserve a site of archaeological or historic interest or nature conservation value”</p> <p>This level of detail on the principles of conservation is not appropriate in the context of the EMRs.</p> <p>Further text relating to this point has been added to section 5.2, notably</p>

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				[CDC] Suggest include mention of viability of use as fundamental to the preservation of heritage assets as set out in the NPPF.	5.2.3. It is not considered necessary to mention one specific response to heritage preservations. Sufficient commitment and mechanisms are in place.
12	para3.1.3	a) Useful to include commitment here (or at para5.2.2) to finding appropriate uses or sustainable solutions in situations where listed structures are rendered unviable as dwellings (but are not necessarily demolished)	<p>a) The Promoter does not accept open ended undefined liability, as the compensation and protection measures above are considered sufficient to protect the historic and listed buildings that may be affected.</p> <p>Other projects, such as High Speed One, do not demonstrate that long term use of listed or historic buildings is threatened.</p> <p>There are a number of schemes in place for property owners and businesses to apply to should they consider that there will be an effect.</p> <p>HS2 Ltd has acquired a number of properties under the Exceptional Hardship Scheme, Statutory Blight and Express Purchase provisions (IP C4: Land Acquisition Policy). Some of these properties are Listed Buildings. Listed or historic buildings that are required for construction will be acquired under the relevant Bill powers, or schemes described above, and appropriately managed. For all properties, route-wide professional property management agents have been appointed by HS2 Ltd to manage the estate. Properties that are not required for the operation of HS2 will be disposed of in accordance with the Land Disposal policy, see IP C6: Disposal of Surplus Land.</p> <p>Measures set out in the Code of Construction Practice are designed to manage impacts during construction and this includes heritage assets, and methods to protect the visual amenity of rural and urban areas and in relation to noise and vibration to ensure that 'Best Practicable Means' will be applied during construction works.</p> <p>The Promoters response to the mitigation of construction and operational noise are explained further in HS2 Information Papers E20, E21 & 23.</p> <p>Schedule 16 to the Bill establishes the planning regime under which certain details of the HS2 works will require approval from the relevant local planning authority. For certain of these approvals the grounds which the authority may take into account when considering whether to approve, condition or require a modification to a request for approval include 'to preserve a site of archaeological or historic interest or nature conservation value'. This will ensure that heritage assets will considered through the planning process that will apply to the HS2 works. Further details of the planning regime are set out in HS2 Information Paper B1, The Main Provisions of the Planning Regime.</p>	<p>a) [EH] Still not clear why commitment cannot be given to at least seek to find sustainable uses. This is not the same as accepting 'open ended undefined liability'.</p> <p>[EH] Suggest further discussion informed by an understanding of how widespread issue is likely to be.</p> <p>[CDC] Suggest include commitments to:</p> <ul style="list-style-type: none"> - assess (prior to commencement of works) the environment and viability of heritage assets in use that are sufficiently close to the line to be affected by construction or operation - ensure mitigation during construction will enable the asset's continued use, or that provision is made for its maintenance and security during vacancy - re-assess the environment and viability following completion and eg 6 months after commencement of operation - ensure any further remedial measures necessary to ensure continuation of existing/previous use are put in place - in cases where the use is no longer viable on a reasonable basis, carry out a viability assessment with regard to different options for use and with potential costings for necessary works. Negotiate p.p and l.b.c, and offer tied funding to private owners for any necessary works, or publish as part of any sale by HS2; - engage with the LPA to: establish agreement on the format and standards of the assessments; note LPA concerns with regard to specified individual assets; and to seek pre-application comment as reasonably practical. <p>Suggest a document(s) equivalent to a WSI for certain built heritage assets where impacts on setting and viability could be most severe to:</p> <ul style="list-style-type: none"> - provide baseline assessment of existing setting and viability - inform priorities and appropriate detail for mitigation - provide a baseline for monitoring the effectiveness of the mitigation 	<p>As Volume 1 Cultural Heritage 'Approach to Mitigation' states:</p> <p>"Where there may be an effect on the viability of an asset, potentially leading to dereliction or changes in managements affecting heritage assets, mitigation will be addressed on a case by case basis with the community and any other relevant stakeholders. Mitigation measures will take account of the range of effects that have been identified in the ES."</p> <p>HS2 Ltd is progressing the work suggested by the HS-G to evidence the perceived issue.</p> <p>Another workstream being developed by HS2 Ltd relates to the recording of setting.</p> <p>It is not considered necessary for the HM to reflect these matters in detail.</p>

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		b) Recommend additional para to relate 3 preceding paras: "Sympathetic design of new structures and alterations and the careful integration of heritage assets into construction works will be of particular importance in achieving these objectives."	b) We propose to amend the existing text in light of this comment to include: 'Sympathetic design of new structures and alterations and the careful integration of heritage assets into construction works will be of particular importance in achieving these objectives.'		Text amended.
13	Para 4.1.2	Nominated undertaker 'seeks to engage' – weak as an overarching commitment. EH suggest ' <i>will endeavour to engage</i> '	We propose to amend the existing text in light of this comment to: 'the nominated undertaker shall, whenever reasonably practicable, engage constructively with English Heritage, Local Authorities and other stakeholders on heritage matters' NB this sentence will be reordered within section 4, for clarity.	[EH] When would it not be 'reasonably practicable' to engage constructively with stakeholders? Question why clause is included.	Propose amend text to: 'the nominated undertaker will endeavour to engage...'
14	Para 4.2.2	Suggest addition: HS-G to identify opportunities which may arise from the construction or operation of HS2 for improving the condition of, and enhancing, the historic environment and heritage assets, including their settings. Refer to public engagement (successful for Crossrail)	It is considered that such dialogue is almost always more appropriate at a local level, and they will be developed within the framework of community engagement. It is acknowledged that the HS-G will discuss route-wide opportunities in relation to heritage assets. HS2 Ltd seeks clarity from the HS-G regarding what this means in relation to routewide matters. It is considered that the sentiment is adequately reflected within the existing bullets. Information paper G2, Community Relations, sets out the general principles of community engagement which includes the requirement for the Nominated Undertaker to liaise with appropriate local community projects, employment and educational initiatives.	[EH] Understand that dialogue may well take place at a local level but not clear why a function of H-SG might not be to identify opportunities to improve and enhance the historic environment at something above the local level.	As in previous response, it is considered that this is reflected in the other objectives to "discuss and agree route-wide heritage principles and practices" and "facilitate the integration of heritage matters into other aspects of the design process."
15	Para4.3.1 (EH)	EH propose '...other stakeholders, <i>as appropriate</i> ' (rather than 'where necessary') to suggest stronger aspiration to involve the wider community.	We propose to amend the existing text in light of this comment to 'as appropriate'.	No further comment	Text amended.
16	Section 5 - general	a) Need to be clear that all areas with significant potential will be subject to appropriate field evaluation/ mitigation, not just the known 'heritage assets' published in ES. b) For implementation – helpful to understand the structure and 'chain of command' given the number of archaeological organisations that will need to be involved - query how e.g. environmental mitigation be done in a way which maintains acceptable degree of consistency & quality.	a) Our approach to fieldwork continues to develop and further surveys and investigation will be undertaken in a similar way to other major infrastructure projects, for example High Speed One and Crossrail. The programme of survey is continuing. Section 5.5 of the HM already states the sequence of investigation works and this is considered sufficient. No change. b) HM is the high level overarching document and these matters will be dealt with in those documents named in the HM, notably generic WSI and Location Specific WSI. As with other major infrastructure schemes there will be a number of subsequent documents (listed in the generic WSI) prepared which will set out roles and responsibilities. No change is proposed.	No further comment	
17	Section 5 "mitigation"	As the NPPF makes clear, recording cannot be seen as <i>mitigation</i> and therefore the term should not be used in the HM unless appropriate (as in para5.2.2). In general 'mitigation' should be deleted or replaced with 'investigation and recording' (see paras para 3.1.2 BP3, 5.6.3; 7.2.1; & 7.3.2)	As noted in response to point 10 above, the use of terminology 'mitigation' and investigation and recording' depends on the context in which it is used. For archaeological works we accept that 'investigation and recording' is more informative shorthand and the document will be reviewed to reflect that throughout. For built heritage assets, where an impact often relates to setting, the term 'mitigation' may be more appropriate.	[CDC] Recommend signpost EM from HM in relation to setting and ensure appropriate engagement with agencies and LPAs is provided for (see points 1,2 & 3).	HS2 Ltd's position as stated in the previous response remains. As mentioned previously, the EnvM is currently undergoing review and the comments of the HSG will be taken

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		Similar concerns are raised that there is a strongly archaeological slant to 'mitigation', with emphasis on investigation & recording of assets destroyed or physically damaged. Welcome wording that gives a clearer sense of balance/ definition between different strands of heritage mitigation – see comments on WSIs	<p>As noted earlier the wording and terminology will be reviewed throughout the document.</p> <p>All the EMRs are being reviewed and the points raised are being considered along with other responses.</p> <p>It is proposed to improve the signposting within the Heritage Memorandum to Schedule 16 and the Environmental memorandum, acknowledging comments made in relation to the lack of reference to the historic environment in the Environmental Memorandum are being considered.</p> <p>It is right that the draft Heritage Memorandum and the Environmental Memorandum, as part of the EMRs, should evolve, and be subject to refinement, amendment and expansion. This is because elements of design, assessment and Parliamentary processes may develop during the passage of the Bill. A final version of the EMRs will be produced as and when the Bill achieves Royal Assent. The EMRs build on direct experience from other major infrastructure schemes, such as HS1 and Crossrail.</p>		<p>into account.</p> <p>This will include concerns raised in relation to the setting of heritage assets. It is important to note that the main vehicle for addressing the impact on the setting of all heritage assets, including historic buildings, is through Schedule 16 as discussed elsewhere in this document.</p> <p>The EMRs will be reviewed to enhance understanding of the inter-relationship between the HM and EnvM.</p>
18	Para 5.1.1	Suggest 'minimise' rather than 'constrain' to better indicate the intention, and shorten para to end as '...where unavoidable, to minimise any impacts on the significance of heritage assets.'	We propose to amend the existing text in light of this comment to: '...or, where unavoidable, to seek to reduce any impacts on the significance of heritage assets.'	Revised wording refers to 'the need... to seek to reduce'. [EH] suggest the words 'to seek' be removed for clarity as is unnecessary. Still prefer 'minimise' as is more commonly used in policy and advice docs and offers clearer commitment.	<p>Propose to amend text to: '...or, where unavoidable, to seek to reduce any impacts on the significance of heritage assets.'</p> <p>This is our preferred wording as sufficiently expresses the intent to reduce impacts.</p>
19	Paras 5.2 & 5.3	As section 5 largely relates to archaeological work/ recording, query whether 'Setting of heritage assets' and 'Sustainability' sections would be better located at the end of current section 6.	In light of this comment, the order and location of these sections to be reviewed for clarity.		<p>These paragraphs relate to this section which covers investigation, recording and mitigation. Mitigation includes setting.</p> <p>Our review has concluded that they are appropriately located.</p> <p>The text of section 5.2 has been augmented.</p>
20	Section 5.2	<p>a) Contrary to statements in HM, there is no reference to the mitigation of impacts on the setting of heritage assets in the EM.</p> <p>b) 'appropriate regard will be given' to the setting of heritage assets is rather weak as a commitment –</p>	<p>a) See response to point 1 above.</p> <p>b) We propose to amend the existing text in light of this comment to: 'It is recognised that this work may have implications for the setting of</p>	<p>a) [EH] Contrary to paras 5.2.1 & 5.2.2, the EM does not refer to the mitigation of impacts upon the setting of heritage assets. This does not seem to be addressed in item 1.</p> <p>[EH] The importance of knitting together the Environmental and the Heritage Memorandum needs to be emphasised and attended to in both documents, and it might be some explanatory text could be introduced to do this.</p> <p>See comment 1.</p> <p>b) [EH] Question why the suggested wording (desirability of minimising harm... will be <i>integral</i></p>	<p>a) As stated in item 1, the wording of the EnvM is being reviewed, including the way in which historic aspects such as the setting of heritage assets are addressed. H-SG's comments will be considered as part of the EnvM review. The introduction of the HM explains how the EMRs inter-relate.</p> <p>See previous response – text amended. Additional text has been</p>

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		<p>suggest penultimate sentence reworded as: 'It is recognised that this work may have implications for the setting of heritage assets, and the desirability of minimising harm to the significance of those assets through impact upon their setting will be integral to the design process.'</p> <p>c) In addition to the EM, the HM should commit to provision for mitigation adequate to minimise adverse impact, as most appropriate to the setting, by:</p> <ul style="list-style-type: none"> - Assessing affected assets and their setting, incl. impacts beyond the permitted land-take, both on-site and desk-based - as existing and as impacted by construction and operational visual and environmental (incl. sound) - liaising with LPA & stakeholders to discuss appropriate mitigation that takes into account special qualities of setting that contribute to assets' significance – preferably at least 6 weeks prior to submission - undertaking to monitor the effect of mitigation, with commitment to consider further measures if results are evidently ineffective or in case of outstanding adverse impact on asset's viability <p>d) HM should include commitment to finding appropriate uses/ sustainable solutions where listed structures are rendered unviable as dwellings (here or in para 3.1.3).</p> <p>Concern over impacts on setting affecting viability of usable/ working assets and perception of their significance, incl. from close construction work & temporary vacancy or blight leading to deterioration. An LPA would take this into account in determining any application (in line with NPPF), so suggest NU should when determining options for mitigation, and allow for:</p> <ul style="list-style-type: none"> - initial review of assets possibly affected; - assessment of mitigation options; - commitment to effective and appropriate mitigation; - monitoring impacts and consider further measures for outstanding viability issues <p>engagement with LPA and other stakeholders</p>	<p>heritage assets, and the desirability of reducing harm to the significance of those assets through impact upon their setting will be a key consideration during the design process.'</p> <p>c) The impact of the Proposed Scheme on the setting of heritage assets has been undertaken and is presented in the ES. During the development of the design of the scheme, the detail of mitigation solutions will be developed.</p> <p>It is considered that the issues raised are sufficiently addressed. We draw attention specifically to the General Principles of the EMRs and to Schedule 16.</p> <p>d) Please refer to the response to point 12 a) above.</p>	<p><i>to the design process</i>) would not be acceptable – describing this as a 'key consideration' does not offer the same level of commitment.</p> <p>[CDC] Refer to points 1,2, 3 & 7c) Clarify the means and phasing of engagement and allow for monitoring the effectiveness of mitigation as suggested for other environmental issues.</p> <p>[CDC] See 12.</p>	<p>incorporated into the HM to highlight the design matters, for example 5.2.3. No further change proposed.</p> <p>See response to 7c)</p> <p>Propose include relevant statements from HS2 Ltd.'s design policy (information paper D1):</p> <p>'The design contributes to the government's pursuit of sustainable development, as set out in the NPPF, which involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life; the design of all visible elements of the built and landscaped environment are sympathetic to their context, environment and social setting.'</p> <p>See response to 12.</p>
21	Section 5.5 & para 5.5.1	'Investigation and recording' rather than 'heritage investigation' or 'heritage mitigation', to align this with the S5 heading	We propose to amend the existing text in light of this comment to: 'investigation and recording' for consistency, where appropriate.	No further comment	Text amended.
22	Para 5.5.1, BP4	May be helpful to state that the purpose of the investigation works is to record and advance understanding, as advised in paragraph 141 of the NPPF, rather than simply to record that which is lost.	We propose to incorporate additional wording in light of this comment to section 5.5: 'The investigation works will seek to advance our understanding of the past.'	No further comment	Text amended.
23	Para 5.5.1	a) Under 5.5.1 and later – add the development of generic and site specific research agenda and	a) It is not the purpose of the HM to provide this level of detail. The commitment to enhance understanding is sufficient, as is the	No further comment	

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
		<p>strategies which could be linked to both landscape zones and themes.</p> <p>b) Useful to include cross references to later details in BPs, i.e. refer to para5.6.3 in BP3 and para5.6.5 in BP4</p> <p>c) BP4 should say post excavation (assessment, analysis and publication) and post built heritage recording, or post excavation programme</p>	<p>commitment to produce of routewide and locally specific documentation. No change is proposed.</p> <p>b) It is considered that there is sufficient legibility in the document for a cross reference to be unnecessary.</p> <p>c) We propose to revise BP4 in light of this comment to read: 'archaeological and built heritage post excavation/recording (assessment, analysis, publication and archiving)'.</p>		Text amended.
24	Para 5.5.2	Unclear on what paragraph is intending to say. If this is the intention, state that the heritage investigation programme will be fully integrated with the overall construction programme and that integration will be continuously reviewed to ensure that sufficient time is allowed for investigation without undue impact on the construction timetable.	We propose to revise this wording in light of this comment to provide greater clarity: 'The heritage investigation programme will be fully integrated with the overall construction programme and that integration will be continuously reviewed to ensure that sufficient time is allowed for investigation without undue impact on the construction timetable. The management of construction activities is set out in the CoCP.'	No further comment	Text amended.
25	Section 5	<p>a) Development of WSIs - no timescales for consultation provided and no specific remit for the sorts of assets and impacts that will be involved</p> <p>b) Lack of provision for input to the design of mitigation to the setting of assets. Engagement needs to allow for fair consideration of issues and options before the constrained 8-week approval process begins</p> <p>c) A 'WSI' does not make adequate promise for built heritage assets in need of more practical intervention and there is no provision with regard to setting - 'Written Scheme of Mitigation' more appropriate. Otherwise HM reads primarily as a document for archaeological assets and there will be concern that built heritage is not provided for in a positive manner.</p>	<p>a) See response to 7 c) above.</p> <p>b) See responses to points 3 and 20 c) above.</p> <p>c) A location specific WSI which addresses built heritage matters is a requirement to set out the works to be undertaken in terms of investigation and recording of a built heritage asset. A generic WSI for built heritage is being prepared and will be issued to the HS-G for review and comment.</p> <p>As is standard within the heritage industry, WSIs are prepared to set out the required protection, recording and investigation works necessary in connection with development. Where there are specific 'mitigation' works are required in light of the heritage significance of an asset, and if these works comprise, for example, noise barriers and landscape works then these will be addressed through other project mechanisms already noted throughout this response.</p>	<p>[CDC] WSIs are essentially an archaeological/evidential tool and other than generalised planning provision and commitment to engage, there is no equivalent means for impacts on settings. Refer to 11 & 12 and suggestion to produce an equivalent form of document.</p>	<p>There seems to be some confusion over the purpose of the WSI. See previous response to 5c).</p> <p>In terms of engagement - see response to 7c)</p> <p>See response to 12. This is not a requirement under the NPPF. The impact on setting has been assessed in the ES and further work on the project's approach to the recording of setting is under development.</p>
26	5.4	The quality and suitability of the staff and design work is critical and can hopefully be secured by management arrangements.	This is addressed in section 5.4 of the HM and is considered sufficient as it sets out the parameters of such individuals and companies who will undertake specialist work.	No further comment	
27	5.6	Supporting this opportunity to prepare an overall research framework	See comment 23 above.	No further comment	
28	para5.6.3	<p>a) See 'mitigation' above. Suggest that para starts with 'The approach to heritage assets may include...'</p> <p>b) Query regarding the terminology of 'enabling works'?</p>	<p>a) It is considered that this sufficiently reflects the scope of works to be undertaken.</p> <p>b) enabling works are those activities required in order to enable construction e.g. utility diversion.</p>	b) Suggest the word 'works' has been inadvertently omitted in present draft.	Text amended.

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
		c) How much time will be available for such redesign and investigation/ discussion.	c) See comments 3 and 7c) above.		
29	Para 5.6.5	It is imperative that a commitment be given that artefacts and records will be given a suitable repository. The commitment only to work with EH and other bodies to find one is insufficient. While EH is happy to provide advice and help in this area, the obligation must lie with the Secretary of State. A key issue and must include funding (suggest liaison & cost sharing with other major infrastructure projects)	As set out above, the Nominated Undertaker will work with English Heritage and local authorities to identify suitable repositories to enable the deposition of the artefacts and records generated by the heritage investigation programme, and this approach will be discussed with the Heritage Sub-group and other relevant stakeholders, such as museum organisations. The Promoter recognises the need to deposit the HS2 archaeological and heritage archive appropriately. Lessons learned from other major infrastructure projects, such as the Channel Tunnel Rail Link, will be taken into account. It should be noted that general lack of museum archive storage is a national problem – and one that the Promoter, English Heritage, local authority museum services and archaeological officers are keenly aware of. Not all local authorities have comparable facilities available. A meeting of all relevant stakeholders to address museum storage is proposed for Autumn 2014.	[EH] recognise difficulty of this issue (and efforts being made to resolve it) but there must be a clear commitment to the appropriate deposition of finds - the current commitment to 'work with' other bodies is not sufficient. Any developer would be expected to clearly commit to depositing finds appropriately, and HS2 should not be an exception.	Text in section 5.6.5 amended. The Promoter recognises the need to deposit the HS2 archaeological and heritage archive appropriately and is committed to working with EH and LAs to find solutions that are most acceptable to each party involved. As part of the development of the detailed design for HS2, strategies for the physical and digital archive are being prepared and interested members of the Heritage sub-group have attended meetings/workshops.
30	Para 5.6.7	LEMPs – need to have a procedure/ process to ensure they do include all known and potential heritage assets.	LEMPs are addressed in Information Paper D3: Code of Construction Practice. This is not a matter that required further explanation in the Heritage Memorandum.	No further comment	
31	Section 6 (including paras 6.1.1, 6.1.4 & 6.1.3)	a) Terminology needs reconsidering. If it is the intention that this applies only to assets of national importance, i.e. that meet the SoS's criteria for scheduling & fall within the meaning of paragraph 139 of the NPPF, the phrase 'national importance' should replace 'national significance' in section 6 (including paras 6.1.1 & 6.1.4). b) Query use of the phrase 'exceptional national importance' – and the kind of 'exceptional' assets that go beyond the 'national importance' sufficient for scheduling to be considered. EH happy to discuss in more detail to ensure the necessary mechanism for	a) In light of this comment we will review the use of the wording in relation to 'national importance' and 'significance'. b) The procedure for unexpected discoveries of national importance will be developed will be consulted on via the Heritage Sub-Group.	[EH] Specific point may have been misunderstood. 'National importance' is the recognised term for heritage assets that are offered the highest possible level of protection available in England (i.e. scheduled monuments). 6.1.3 identifies the	Text retained. The Unexpected Discoveries of National Importance procedure will set out the routes, roles and responsibilities for how these paragraphs apply. HE and the HS-G will be consulted on its development. The retention of the reference to <i>exceptional</i> national importance provides a mechanism, should consultees consider it necessary, to extend the time available for investigation or to require preservation. This allows the opportunity, should the case be made (as was done on HS1) for heritage matters to take priority over construction, but acknowledging that this is a decision to be made at SoS level.

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
		dealing with unexpected discoveries is offered.		test at which the SoS may extend the period of investigation; this is said to apply to remains of <i>exceptional</i> national importance. It is hard to imagine what remains would actually fall into such a category.	
32	Para 6.1.2	The term 'Preservation by record' is now largely defunct (see other 'mitigation' comments) and should be replaced.	As noted earlier in light of similar comments, the terminology throughout will be revised to 'investigation and recording' where appropriate.	No further comment	Text amended.
33	Para 7.2.1	<p>a) Should refer to schedule 17 (listed buildings), not 18 (scheduled monuments)</p> <p>b) Delete 'It is proposed' and 'which would usually be' from 2nd sentence</p> <p>c) No commitment given to Heritage Agreements for listed buildings which might be subsequently listed (Schedule 17, para 1(1)(b))</p> <p>d) Remove 'mitigation measures' from final sentence (see comments above) and suggest 'These Heritage Agreements will ensure that appropriate measures are in place, either to safeguard the asset or to ensure investigation and recording instead.</p> <p>e) Alternatively suggest change whole paragraph to: 'A Heritage Agreement will be made with each affected local authority and with English Heritage, in respect of works authorised by the bill that would normally require listed building consent. These agreements will cover the specific arrangements for each of the listed buildings identified in Table 1 of Schedule 17 and those that are not identified in Table 1 but fall within para 1 (2) of Schedule 17 (designations on or after 30th September 2013). These Heritage Agreements will ensure that measures are in place for the protection, conservation, enhancement, investigation, recording and advancement of knowledge, as appropriate, of the listed buildings.'</p>	<p>a) The HM will be updated to reflect final Bill schedule numbering.</p> <p>b), c), d), e) In light of comments received, revised wording is proposed: 'It is proposed that a Heritage Agreement will be made with each affected local authority and with English Heritage, in respect of works authorised by the Bill that would normally require listed building consent. These agreements will cover the specific arrangements for each of the listed buildings identified in Table 1 of Schedule 17.</p>	<p>c) [EH] concerned that there is no provision referred to in the HM for dealing with buildings that might subsequently be listed. Require acknowledgement that a heritage agreement would be entered into in relation to them.</p>	<p>Text amended.</p> <p>Text amended.</p> <p>c) Listed buildings listed after 30 Sept 2013 are not listed buildings for the purposes of works authorised by the Bill and as such will not be subject to Heritage Agreements in relation to any works to demolish or alter them under Bill powers. As non-designated heritage assets they will however be subject to appropriate investigation and archaeological recording in accordance with the generic and site specific WSIs.</p>
34	Para 7.2.3	a) Request to include commitment to Heritage Agreements for buildings listed in Table 2 of Schedule 17 (as suggested in earlier drafts); there is no provision for engagement for Table 2 LBs, despite the fact that the works may be invasive and require alteration normally subject to LB Consent.	<p>a) Heritage Agreements will be in place for those listed buildings named in table 2 of Schedule 17. In light of the comments it is proposed to provide the following text to clarify this: 'Paragraph 2 of Schedule 17 to the Bill disapplies some of the legislation under the Planning (Listed Buildings and Conservation Areas) Act 1990 for</p>	No further comment	

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
		<p>b) No provision for consequences to assets not specified in sched.17 – engagement welcomed.</p> <p>c) Clarification of purpose of “affixing apparatus for measurement...” (para 2 of Sched.17) needed – this is pointless unless a commit to rectifying any problems in an appropriate manner. The monitoring and commitment to rectify should also extent to viability issues & outstanding harm to setting.</p>	<p>those listed buildings specified in Table 2 of that Schedule, specifically with regards to works to maintain or restore their character, or for the affixing of monitoring apparatus. This has the effect of removing the need for listed building consent for works to protect the listed building from adverse effects, such as ground settlement as a result of HS2 works. It is proposed that a Heritage Agreement will be made with each affected local authority and with English Heritage, setting out arrangements for the obtaining of approvals for any protective or monitoring works to these buildings (but for the Bill) would normally require listed building consent. The nominated undertaker will liaise with the local authority and English Heritage during the preparation of the methodology for the works.’</p> <p>b) Schedule 17 specifically addresses listed buildings. Where a property listed before 30 September 2013 has been omitted from either table then the NU will be required to follow existing legislation.</p> <p>c) The undertaking by the Secretary of state, in relation to Schedule 17, requires Heritage Agreements to be consulted and agreed with EH and the relevant LA. These agreements will include all works necessary to preserve the significance of the asset.</p>		
35	Para 7.3.1	Schedule 18, not 19, and paragraph 2 rather than paragraph 1.	The HM will be updated to reflect the final numbering of the Bill and its Schedules.		Text amended.
36	Para 7.3.2	<p>a) Delete ‘It is proposed that’ and ‘be of a type’ and ‘normally’ from 1st sentence.</p> <p>b) Should include commitment to Heritage Agreements for monuments which might be scheduled in the future which are affected by the works authorised by the Bill.</p> <p>c) Suggest final sentence: ‘...will ensure appropriate investigation and recording or safeguarding measures are in place.’ (See ‘mitigation’ & para 7.2.1 above)</p>	<p>a) In light of the comment it is proposed to revise the wording for greater clarity to: ‘It is proposed that a Heritage Agreement will be made with English Heritage and this agreement will cover the site specific arrangements for scheduled monument in respect of the HS2 works that would usually require scheduled monument consent.’</p> <p>b) In preparing the works to be authorised by the Bill, account was taken of all monuments scheduled before 30th September 2013, and these are the monuments for which we propose to enter into scheduled monument agreements. Were a monument to be scheduled in the future which is affected by HS2, it would be necessary to examine the situation on a case by case basis, but the other mechanisms would still apply.</p> <p>No changes to the current wording are proposed.</p> <p>c) In light of the comment it is proposed to amend the wording to: ‘This agreement will ensure that appropriate investigation and / or protection measures are in place.’</p>	<p>a) [EH] Still unclear why revised wording commences with ‘It is proposed that...’ Suggest: ‘A Heritage Agreement will be made...’ since that is the intention.</p> <p>[EH] As with 33c), this still does not make provision for the case where an asset is scheduled in the future. It cannot be effectively dealt with on a ‘case by case’ basis. Not clear what ‘other mechanisms’ are referred to in the final sentence, but a simple commitment to enter into a Heritage Agreement with respect to any future scheduled monument would seem a straightforward resolution.</p>	<p>It is the intention to enter into such agreements, however ‘It is proposed...’ will remain to allow for the possibility that one party does not agree one. If that occurred then some other approach will need to be taken.</p> <p>As with 33c), assets scheduled in the future would not be scheduled monuments for the purposes of works authorised by the Bill and as such will not be subject to Heritage Agreements in relation to any works to demolish or alter them under Bill powers. As non-designated heritage assets they would be subject to appropriate investigation and archaeological recording in accordance with the generic and site specific WSIs.</p> <p>Text amended.</p>
37	Para 8.1.2	Unclear on what the ‘project specific regime’ here was	In light of the comment it is proposed to revise the wording to:	No further comment	Text amended.

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
		intended to be.	'the nominated undertaker will develop a 'Burial Grounds, Human Remains and Monuments Procedure' to implement the legal requirements of Schedule 19 to the Bill. This paper will be developed by HS2 Ltd , who will consult with English Heritage, the Heritage Sub-Group and other relevant stakeholders, regarding it.'		
38	Para 8.1.5	<p>a) See para3.1.2 BP5 comment. Careful wording noted ('consideration will be given to the need for...') does not commit HS2 to full archaeological investigation of post-medieval burial grounds. This section should to avoid mixing legal and archaeological requirements.</p> <p>Although the extent will be subject to consideration, in accordance with forthcoming EH guidance, the need for archaeological investigation of burial grounds needs to be acknowledged as a principle – so change 2nd sentence to: 'Where burial has occurred over 100 years ago consideration will be given to the extent of archaeological excavation.</p> <p>b) Concerns over the archaeological impacts, namely the former burial ground at St James' Gardens and the lack of in-house archaeological expertise, concluding that HS2 needs to ensure full arrangements (including consultation procedures) are in place in the HM and PM for full archaeological input into HS2-related proposals.</p>	<p>a) Although the Promoter recognises that archaeological excavation appropriate to the significance of burials over 100 years old is likely in all cases, the Promoter does not agree that this should be an automatic response. In light of the comment it is proposed to revise the wording to: 'Where burial has occurred over 100 years ago consideration will be given to the extent of archaeological investigation.'</p> <p>b) London boroughs receive specialist archaeological planning advice from GLAAS and liaison with GLAAS will continue.</p>	<p>a) The issue remains that the current wording commits only to <i>considering</i> the need for archaeological investigation. As defined under 5.5.1 of the HM, investigation appears to encompass desk-based assessment, evaluation and excavation and we believe that a commitment should be given to investigation (as defined) at some level, even if that subsequently leads to the conclusion that excavation may not be appropriate.</p>	<p>Removal of 'the need for' is considered sufficient. It is proposed to revise the wording to: 'Where burial has occurred over 100 years ago consideration will be given to the extent of archaeological investigation and recording.'</p>
39	NEW General – Conservation Areas (additional comment Dec'14)			<p>[EH] Should reference be made to conservation areas in the HM. These are no longer mentioned presumably because of the change in law from the need for CA consent for demolition to the need for planning permission instead. However there remains a duty under S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act to pay special attention to the desirability of preserving or enhancing the character or appearance of buildings and other land in conservation areas when exercising planning functions under the Planning Acts, and we wonder if this should be covered somewhere in the HM as after all a conservation area is a designated heritage asset.</p>	<p>The HM's use of the term 'heritage asset' is consistent with the NPPF and the definitions provided confirm that the term encompasses designated heritage assets including conservation areas.</p>
40	NEW General (additional comment Dec'14)			<p>[EH] Suggest HM refers to duty under S66 of the 1990 Act referred to above, in respect of listed buildings and their settings again when exercising planning functions to have special regard to the desirability of preserving the buildings and its setting or any features of special architectural or historic interest which it possesses.</p>	<p>The combination of controls under Schedule 16 and statements made on Design in HS2 Ltd.'s design policy (information paper D1: Design Policy) satisfactorily address this issue.</p>
41	NEW General – consultation arrangements			<p>[CDC] Concern that certain site specific matters would be subject to approval by County, rather than District, Council who lack specialist built</p>	<p>The "relevant planning authority" referred to in Schedule 16 is the unitary authority or, in a non-unitary</p>

No.	Reference – (Nov.2013)	Issue	HS2/ DfT Response	H-SG comments Dec. 2014	HS2 Response April 2015
	(additional comment Dec'14)			heritage staff. Recommend issue is addressed in EM to ensure District is notified of proposals affecting heritage assets or copied into consultation.	area, the district council in whose area the development is carried out.