HS2

Phase 2b (Western Leg) Planning Forum

11 May 2022

Welcome and Introductions

Agenda

Item		Lead	Time
	Welcome and introductions	Forum Chair	10:00
1	Review of actions log	HS2 Ltd	10:10
2	Review of minutes	Forum Chair	10:20
3	Bill update	HS2 Ltd	10:30
4	Planning Regime proposals in the Bill and Planning Memorandum Response to LPA feedback	HS2 Ltd	10:45
5	Environmental Minimum Requirements (EMRs)Responsibilities and relationships with Forum/Sub groups	HS2 Ltd	11:15
6	Update from Sub group meetings	HS2 Ltd	11:45
7	Community engagement update	HS2 Ltd	12.00
8	Planning authority feedback and mattersFeedback from pre-meets with Chair	Chair and Planning authorities	12:15
9	Overview of content for future meetings	HS2 Ltd	12:35
10	Next meeting – 13th July 2022.	All	12:45
11	AOB	All	12:50
	End		13.00

Published meeting minutes can be found here:

www.gov.uk/government/publications/meeting-minutes-for-the-hs2-phase-2b-planning-forum

Review of actions log

Action	Action Owner	Status
ITEM 2: HS2 Ltd to review section 5 of the January 2022 minutes to ensure that they are correct.	HS2 Ltd	Complete. Minutes uploaded to GOV.UK
ITEM 3: HS2 Ltd to update the lookahead of future meetings to include a presentation on U&As	HS2 Ltd	Complete. Scheduled for September
ITEM 4: HS2 Ltd to provide information on the process SLA, specifically who, when and how this will be undertaken with local authorities	HS2 Ltd	In progress
ITEM 4: HS2 Ltd to re-circulate Information Paper C12 to the Forum.	HS2 Ltd	Complete. Email sent on 29.03.2022
ITEM 5: LPAs to provide a joint response on the changes made to Phase 2b Hybrid Bill before the next Planning Forum in May.	LPAs	Complete. Email received on 27.04.2022
ITEM 5: HS2 Ltd to produce a table showing where the primary responsibility for each EMR rests in relation to the sub groups.	HS2 Ltd	Complete. Agenda item 5
ITEM 6: HS2 Ltd to include key issues for each sub group at future meetings.	HS2 Ltd	Complete. Agenda item 6
ITEM 8: HS2 Ltd to provide an update item on petitioning at the next Planning Forum meeting	HS2 Ltd	Complete. Request to amend or remove this action required given that it is a parliamentary responsibility, however a guide to petitioning was circulated to members on 29.03.2022.
ITEM 9: HS2 Ltd to change text from 'June' to 'July' before circulating the slides	HS2 Ltd	Complete.
AOB: LAs to consider offer and discuss at the next LA Chair Pre meet on 20 April.	LPAs	Feedback to be reported at the meeting.

Review of previous meeting minutes

Bill update

HS2 Ltd

Progress in Parliament

Following consideration by the Examiners in February, the Bill was granted dispensation from Standing Orders by the House of Commons Standing Orders Committee on 15 March and the House of Lords Standing Orders Committee on 16 March.

The consultation on the Environmental Statement (ES) and the Equalities Impact Assessment (EqIA) published alongside the Bill closed on 31 March.

ES responses have been handed over to Parliament's Independent Assessor, who will now produce and publish a summary report on the issues raised. Report is expected to be published by the <u>end of May</u>.

EqIA responses will be considered by HS2 Ltd and a response published in due course.

Earliest possible date for Second Reading – the next key stage for the Bill, a major debate on the Bill in the main chamber of the House of Commons – is mid-June. In practice, actual date of Second Reading will depend on a number of factors.

The petition period on the Bill will run from the day after Second Reading, for a minimum of 25 days.

The House of Commons has published guidance on the right to be heard (here) and the Government has published guidance on the approach that it will take on right to be heard challenges (here).

The House of Commons has also published guidance on petitioning (here).

Planning Regime proposals in the Bill and Planning Memorandum

Response to LPA feedback

HS2 Ltd

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
3(8)(9)	(8) Any reference in sub- paragraph (2) or (6) to a description of works does not include works of that description of a temporary nature. (9) For the purposes of sub- paragraph (8), works are of a temporary nature only if the works are intended to remain in place for no longer than two years after the date on which the works are brought into general use'	Temporary works - There was concern that the change would allow some forms of development for up to 2 years that could have a considerable local impact yet not be subject to any control. Further discussion / exemplification by HS2 about what this provision might mean in practice was necessary.	The change presented to the Forum in March seeks only to define 'temporary' in the context of other construction works such as lighting equipment, fencing and noise screens. The change would clarify 'temporary' in this context and would align with the 'temporary' definition for temporary buildings which has been established in the two existing Acts for Phase 1 and Phase 2a. There are no additional powers being sought by this change. These provisions of the Bill effectively give the nominated undertaker the same flexibility as Schedule 2, Part 4, Class A of the General Permitted Development Order (2015). Their inclusion is necessary to ensure the satisfactory construction and delivery of the project. It should be noted that any temporary works are limited by the powers in clauses 1, 2 and 18 of the Bill and the requirements of the Environmental Minimum Requirements. They will therefore be within the scope of the HS2 Phase 2b Environmental Statement. Requiring approval of temporary works would create an unnecessary additional burden on LPAs and HS2.

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
6	'Where— (a) the relevant planning authority is a qualifying authority, and (b) development consists of the use of an authorised site, the route by which anything is to be transported to the site on a highway by a large goods vehicle must be approved by the relevant planning authority' NB – references to 'route' continue across Para 6	Lorry Route proposals – considerable concern that this change reduces effective LPA control over the number of vehicles, axle weights, dimensions of vehicles, monitoring etc. Further explanation/discussion of how this provision of the bill worked with other controls such as Code of Construction Practice to provide an effective framework of control was essential.	Even under the wording of the Phase 1 and 2a Acts the majority of the matters listed in the comment would not be subject to control under paragraph 6 of Schedule 17 (see paragraph 40 of the Phase 2a Statutory Guidance). The change to the Schedule clarifies previous ambiguity at the division of controls between paragraph 6 and the EMRs. Requirements relating to the management of construction lorries are set out in the Code of Construction Practice and the Route Wide Traffic Management Plan. Further discussions on these documents will take place through the Highways Subgroup off the Planning Forum. The Promoter is confident the controls are comprehensive but will consider any suggested changes or additions.

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
12(1)(2)	The nominated undertaker must, after discontinuation of the use of a relevant site, restore the site in accordance with a scheme agreed with the relevant planning authority. 'In this paragraph— "relevant planning authority" means the unitary authority or, in a nonunitary area, the district council in whose area the work is carried out; "relevant site" means a site— (a) on which operations ancillary to the construction of any of the scheduled works have been carried out, and (b) that has been materially altered by those operations'	Site restoration - concerns flagged regarding the definition of the term "materially altered" and the extent to which this change might be used to avoid improving sites post use	The promoter requests further clarification on this comment as there is no requirement for sites to be improved (as with previous phases). The revised text in the Bill clarifies when site restoration may be required to avoid unnecessary work. This change is to avoid the additional burden on all parties of requiring site restoration approval for sites which have not materially altered. Examples of such instances would be the use of a hard standing area for storage or the use of an existing road as an access road.

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
18(1) / 18(7)	"This paragraph applies where a planning authority considers that a request for approval under Part 1 of this Schedule relates to matters which may affect any of the following— (f) a site of a scheduled monument, (g) a battlefield of special historic interest which is registered in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953, (h) a garden or park of special historic interest which is registered in accordance with that section and which is classified as grade I or grade II*, or (i) the demolition, in whole or in part, or the material alteration of a listed building which is classified as grade I or II*'	Statutory consultation requirements – concern that proposals did not require consultation of Historic England on the demolition (whole or substantial part) of Grade II listed buildings. Confusion about the reference to Natural England in HS2 commentary – a typo?	The requirements for consultation with Historic England under Schedule 17 relate to planning approvals. In this planning context, the requirement is for consultation with Historic England on the demolition of Grade I and Grade II* buildings only and mirrors the approach set out in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England)) Order 2015 in relation to normal planning applications. The arrangements for how the Bill dovetails with Listed Building consent requirements and associated consultation with Historic England, including Grade II listed buildings, is covered under Schedule 18 of the Bill and this will be explained in further detail at the Heritage subgroup. The reference to Natural England in the commentary is included as it applies to all of paragraph 18 and roles of both NE and HE have been more clearly defined.

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
24(5)	For the purposes of sub-paragraph (4), the appropriate period is— (a) the period of 8 weeks beginning with the date on which the request, together with any document required by paragraph 16(1)(b) to accompany the request, was received by the planning authority, or (b) such extended period as may be— (i) agreed upon in writing between the authority and the nominated undertaker, or (ii) specified in a notice given to the authority before the end of the appropriate period by the nominated undertaker.	Unilateral extension of determination period by Nominated Undertaker – further discussion of this provision would be helpful – see also commentary regarding changes to Planning Memorandum below	Noted

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
24(5)	'For the purposes of sub- paragraph (4), the appropriate period is— (a) the period of 8 weeks beginning with the date on which the request, together with any document required by paragraph 16(1)(b) to accompany the request, was received by the planning authority'	'Appropriate period for determination' – while in principle this change was welcomed there are serious concerns about the validation process – see commentary on Planning Memorandum below	It should be noted that the change to the drafting from the Phase 2a Act does not alter the operation of the schedule, it simply makes more explicit what was already the case. Also refer to the response the comment on 7.5.1 of the Planning Memorandum below.

Clause	Phase 2b Bill text	Initial LPA feedback commentary	Promoter's Response
30	'In this Schedule— "local environment" means any aspect of the environment that contributes to people's enjoyment of the local area in question'	Definition of Local Environment – concern that focus on people's enjoyment of an area was too narrow in scope – further discussion about HS2 rationale /wider context for change is required	The grounds for refusal are modelled on the grounds in Part 18 of the GPDO (development authorised by a local Act of Parliament). That refers to injury to the amenity of the neighbourhood and it is intended to make clear that here too it is the enjoyment of the environment by people that is the relevant factor, rather than wider effects on the environment. The latter are addressed by other grounds for determination and environmental controls elsewhere in the Bill and the EMRs. It is felt that enjoyment is a wide enough term, especially when viewed in the content of the other grounds for decision makers.

Planning Memorandum

Clause	Phase 2b Planning Memorandum	Initial LPA feedback commentary	Promoter's Response
7.2.1	Qualifying authorities shall work with the Nominated Undertaker or appointed contractor to ensure effective and positive preengagement. The number and frequency of pre-application meetings should be consistent with the scale and complexity of the works being discussed. All requests for further information during the preapplication process shall be requested as early as possible.	Pre engagement process. While the principle of pre-engagement was strongly endorsed there was concern that these changes put considerably more burdens on the LPAs than HS2. Further concerns were raised that the proposals didn't acknowledge that new issues may legitimately be raised by statutory consultees and elected members once the request for approval is with the LPA. Further discussion of this key issue was therefore essential.	While it will place a burden on LPAs, pre-engagement is a well established and important element of the planning system. It is in place to ensure an efficient and smooth process for both the LPA and HS2 aiming to reduce additional burdens, delays and increased cost that can arise where there is ineffective engagement. Information paper C12 sets out DfT's response on Local Authority funding for carrying out HS2 work. We would particularly drawyour attention to section 4 "New burdens" and Table 1. The link is below: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1048818/C12_Local_authority_funding_and_new_burdens_v1.pdf We are aware that issues can be raised by statutory consultees and it is accepted these will need to be addressed as they arise during the determination process. With regard to elected members; if a Council opts to become a qualifying authority and makes the undertakings in the Planning Memorandum those undertakings apply to the Council as a whole, i.e. elected members and officers. It would therefore be the responsibility of the Council to ensure all the commitments in the Planning Memorandum are met including whatever role the Council places on elected members in the process.

Planning Memorandum

Clause	Phase 2b Planning Memorandum	Initial LPA feedback commentary	Promoter's Response
7.2.2	Written comments shall be provided within an agreed timetable and will be a material consideration when a request for approval is being determined by the qualifying authority. The qualifying authority shall make best endeavors to ensure that no new substantive issues are raised during determination that haven't previously been identified during presubmission consultation.	Pre-application . Concerns raised in respect of the first line which states that written comments on pre-application submissions will (emphasis added) be a material consideration. The NPPG sets out that pre-application advice could be a material consideration and it is suggested that the paragraph is amended to reflect this national guidance. In addition, the use of the language best endeavours is again very strong and could place undue burden on LPA's, this should at best be reasonable endeavours	A project of this scale and complexity requires a bespoke pre-application process and cannot rely on the standard NPPG approach. As mentioned in the comment above and following the experiences from earlier phases of the project, it has been designed to ensure that pre-application is given sufficient priority and attention to reduce the risk of delays and additional costs which can have serious implications for the project. It is noted that 'material' does not mean binding and hence the discretion of the planning authority is not unduly fettered by the wording.

Planning Memorandum

Clause	Phase 2b Planning Memorandum	Initial LPA feedback commentary	Promoter's Response
7.4.1	The Act does not provide for a validation process akin to that for applications under the Town and Country Planning Act (1990) and information submitted will not be required to comply with a planning authority's Planning Application Validation Check List	No validation process – while the statement might be legally correct there is considerable concern that without a clear set of expectations on HS2 (Nominated Undertakers) about the information to be submitted with a request for approval, the efficiency and effectiveness of the process would be undermined for all parties. Evidence from earlier phases suggests that standard practices had emerged that could provide a model/template that provided additional clarity for all parties. Further discussion of this key issue was therefore essential.	It is agreed that there will need to clear expectations on the scope of Schedule 17 submissions. Therefore, the content and scope of submissions will be set out in a Planning Forum Notes that will be agreed by members of the Forum. The 2a versions can be found via the following link: HS2 Phase 2a Planning Forum notes for local authorities - GOV.UK (www.gov.uk) Paragraph 7.4.2 of the Planning Memorandum allows agreement between LPAs and HS2 Ltd to delay or pause the determination period if necessary information has been omitted. The Promoter will seek to work with LPAs to ensure they have everything that is required for each submission.

Environmental Minimum Requirements (EMRs)

Responsibilities and relationships with Forum/Sub groups

HS2 Ltd

EMRs Engagement – Planning Forum and Sub-Groups

- Parliament is the decision maker for the EMRs
- However, HS2 Ltd will engage with line of route authorities on them through the Planning Forum and its sub-groups
- The intention is to reach a consensus on the requirements of the EMRs
- The EMRs are draft until the Bill receives Royal Assent so they can be updated as a result of discussions at PF and sub-groups through the Bill process.
- Engagement will be undertaken at the most appropriate meeting specialists working with specialists
- Updates on discussions at sub-groups will be provided to the Planning Forum
- Where consensus cannot be reached at a sub-group the issue may be escalated to the Planning Forum if there is a reasonable prospect of resolution.
- Where relevant a similar process will take place with related assurances and Bill provisions

Broad method for engagement

Topic/document introduced by HS2 Ltd



Authorities provide written comments / questions



HS2 responds at the next meeting with a written response circulated after the meeting



HS2 responds at the next meeting with a written response circulated after the meeting



Authorities can provide comments / questions on the response

Phase 2b Environmental Minimum Requirements (EMRs) – Table of responsibilities

Document	Purpose	Document Owner	HS2 Lead & key contacts	Meeting
General Principles	Overarching document which defines and explains the EMRs.	Department for Transport	Paul Gilfedder – Head of Town Planning Lucy Wilson – Senior Town Planning Manager	Planning Forum
Code of Construction Practice	Sets out the measures and standards of work during the construction period	Department for Transport	Paul Gilfedder – Head of Town Planning	 Highways Sub Group Heritage Sub Group Environmental Health Sub Group Flooding and Drainage
Planning Memorandum	Sets out arrangements and responsibilities for operation of the planning regime and processing of submissions.	Department for Transport	Paul Gilfedder – Head of Town Planning Lucy Wilson – Senior Town Planning Manager	Planning Forum
Environmental Memorandum	Sets out environmental aims for the design and construction of the project.	Department for Transport	Mark Bailey – Head of Natural Environment David Prys-Jones – Biodiversity Manager	Principally National Environment Forum but also Planning Forum
Heritage Memorandum	Sets out how the historic environment will be addressed during the design and construction of the project.	Department for Transport	Helen Wass – Head of Heritage	Heritage Sub Group

Subgroup update HS2 Ltd

Aim of the Planning Forum Subgroups



Enable engagement between members of the subgroup on matters related to environmental health, flooding and drainage, heritage and highways;



Seek agreement and discuss route-wide principles, standards, practices and processes associated with subgroup topic matters;



Report progress, actions and issues as required to the HS2 2b Planning Forum;



To facilitate the integration of subgroup matters into other aspects of the design process.

Previous Subgroup meetings

Subgroup	Date	Meeting topic
EHO Operational Noise Working Group	28.04.22	 Presentation on HS2 Information Paper E9: Control of airborne noise from altered roads and operational railway
EHO (extraordinary meeting)	09.03.22	 Stakeholder queries on the Crewe – Manchester Bill and Environmental Statement (ES)
Heritage	02.03.22 & 10.02.22	1. Contents of the Bill and all of its associated documentation
Highways	22.02.22	 Contents of the Bill and all of its associated documentation
Flooding & Drainage	17.02.22	 Contents of the Bill and all of its associated documentation
EHO	08.02.22	1. Contents of the Bill and all of its associated documentation

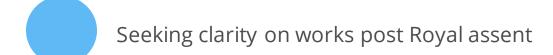
Upcoming Subgroup meetings

Subgroup	Upcoming meeting date	Meeting topic
Heritage	18.05.22	 Introduction to EMRs Heritage memorandum CoCP heritage chapter Introduction to Sch. 18, 19, 20 Next subgroup meeting date
EHO	24.05.22	 EMR general principles CoCP introduction General provisions Air Quality Land Quality Sound, Noise and Vibration Next steps & AOB
Highways	26.05.22	1. TBC
EHO Operational Noise Working Group	30.05.22	 Information Paper E10: Control of ground-borne noise and vibration from the operation of temporary and permanent railways
EHO Operational Noise Working Group	June TBC	 Information Paper E11: Control of noise from the operation of stationary systems Information Paper E12: Operational noise and vibration monitoring framework
Flooding and Drainage	Sept TBC	1. TBC

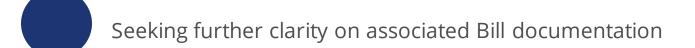
2022 Subgroup activity

2022												
Planning forum Subgroup	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
EHO (AQ, SNV & LQ)		8th	9th		24th				TBC			TBC
EHO Operational Noise Working				28th	30th	TBC						
Heritage		10th	2nd		18th				TBC			TBC
Highways		22nd			26th				TBC			TBC
Flooding and Drainage		17th							TBC			

Subgroup common themes





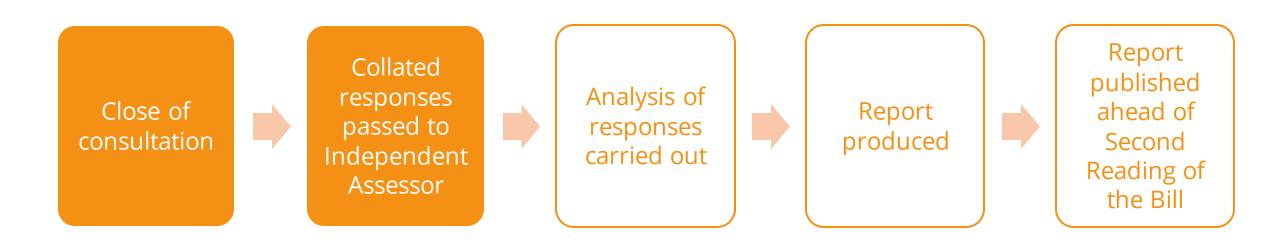


Community Engagement – ES Consultation

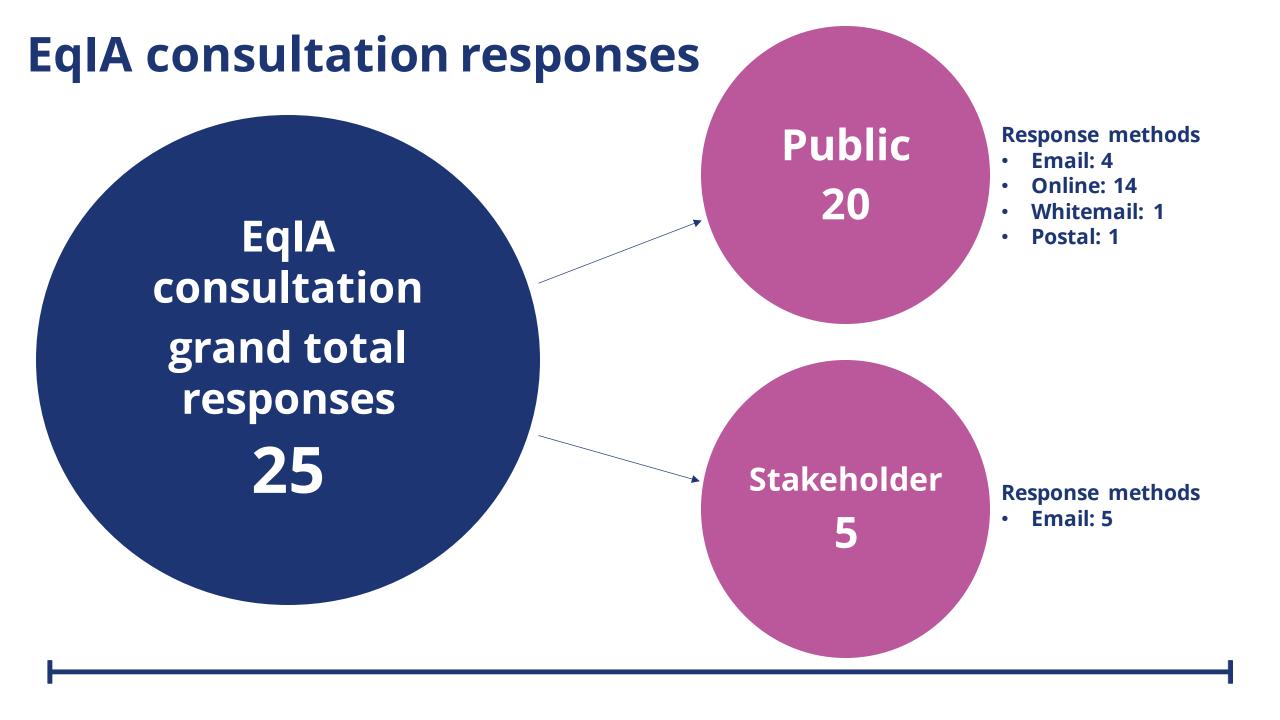
HS2 Ltd

ES and EqIA consultations – Overview

- ES consultation is a hybrid Bill requirement
- ES and EqIA consultations ran between 25 Jan and 31 March 2022
- Independent Assessor appointed by Parliament to analyse ES consultation responses and produce report



ES consultation responses **Public Response methods Email: 5,930** Online: 310 6,250 Whitemail: 5 Postal: 5 **ES** consultation grand total responses 6,391 Stakeholder **Response methods Email: 135** 141 Online: 4 Postal: 2



Engagement statistics during consultation

Engagement channels	Total stat figures (Jan 24 – March 31 2022)
P2B Webpage visits	26,160
ES Navigator tool opens	22,399
YouTube video views	2,004
Webinar registrations	2,737
Webinar attendees	571
Facebook ads reach	453,683
Twitter post impressions	24,256
1-2-1 appointments booked	72

Planning authority feedback and matters

Feedback from pre-meet with Chair

Overview of content for future meetings

HS2 Ltd

Process for engaging on documents

 Sub Group documents (e.g. Heritage Memorandum) go through same process but at sub group meetings. HS2 presents document to PF

After PF document is circulated to PF members

PF members have 21 days to comment If PF members have further comments they can respond in 21 days

HS2 will circulate the written response after PF

HS2 will respond to all comments at PF

Provisional Forward Plan

	13 th July 2022	14 th Sept 2022	9 th Nov 2022	2023
1.	Planning Regime	General Principles of the EMRs	Environmental Memorandum	Meeting dates to be agreed
2.	Planning Memorandum	Environmental Memorandum	Process for becoming a Qualifying Authority	
3.	General Principles of the EMRs	Schedule 17 – lessons learnt.	Statutory Undertakers and reinstated PDRs	
4.	Key Design Elements (KDEs)	Detailed Design - LPA involvement	Draft Statutory Guidance	
5	Sub Groups Update	Undertakings and assurances	Sub Groups Update	
6		Sub Groups Update		

Arrangements for next meeting:

• 13th July 2022

AOB/Questions?

END