

## Register of Requirements within Schedule 2 of the M3 Junction 9 Improvement Development Consent Order “REQUIREMENTS REGISTER”

### Notes:

1. The Secretary of State for Transport granted development consent for the M3 Junction 9 Improvement Development Consent Order (DCO) on 16<sup>th</sup> May 2024. The following are links to useful decision documentation:
  - Secretary of State for Transport's decision letter and statement of reasons [here](#).
  - DCO ([here](#)) as made by the Secretary of State for Transport. The requirements in the register in this document can be found on pages 44 to 49 of the DCO, and the process for discharging the requirements can be found on pages 50 to 51 of the DCO.
  - Examining Authority's report and recommendations to the Secretary of State for Transport [here](#).
2. The made DCO is Statutory Instrument (752 of 2024) and can be found on the Legislation.Gov.UK website.
3. The Department for Transport's National Transport Casework Team will act on behalf of the Secretary of State in determining the discharge of requirements.
4. This Requirements Register is a live document and will be updated as the process to discharge the requirements progresses. The latest version will always be published here <https://community.engage.stantec.com/M3J9library/register.pdf>. This register will be maintained for three years following completion of the project.
5. Requirements are conditions that have been included in the DCO, which control how the project it consents must be implemented (constructed and maintained). Implementing the DCO in accordance with these conditions involves completing consultation and approval processes that have been defined in the DCO. These processes are referred to here and in the DCO as “discharging” the requirements.
6. To capture all changes made to the Requirements Register, a log is located on Page 2. This will be filled in each time a change is made to the register.
7. The comments column may, for example, give further information on the meaning of the requirement, links to documents referred to in the requirement and identifies if the requirement is fulfilled or does not require discharge.
8. Where the Requirement Description refers to a document submitted as part of the DCO application and examination process, links are provided to the [PINS website](#). Where the Requirement Description refers to a document produced after the DCO has been consented, a link is provided to the document stored by National Highways.
9. Any questions or observations regarding the content can be directed to the M3 Junction 9 Improvement project team [M3Junction9Improvements@nationalhighways.co.uk](mailto:M3Junction9Improvements@nationalhighways.co.uk)
10. For brevity in the Requirements Register the following abbreviations are used:

Authorities	Environmental Bodies	Other
SDNP – South Downs National Park Authority	EA – Environment Agency	DCO – Development Consent Order
WCC – Winchester City Council	HE – Historic England	DfT – Department for Transport
HCC – Hampshire County Council	NE – Natural England	SoS – Secretary of State for Transport
		PINS – the Planning Inspectorate

**Updates:**

Number	Document Revision	Date	Description
1	P01	16.09.2024	Draft
2	P02	20.09.2024	Requirement 9 submission
3	P03	11.10.2024	Requirement 11 submission

Requirement No.	Requirement Description	Discharge Document Produced	Statutory Duty Holder to be consulted	Date of Issue to Statutory Duty Holder	Statutory Duty Holder response	Date of Issue to Secretary of State	Secretary of State Approval	Comments
<i>Reference from Development Consent Order</i>	<i>Direct quote from Schedule 2 of the Development Consent Order</i>	<i>All documents produced that are necessary to fulfil/discharge the requirement</i>	<i>Statutory duty holder(s) to be consulted to fulfil/discharge the requirement (e.g. the Local Planning Authority, Local Highway Authority, Natural England, etc.)</i>	<i>Details of when these documents were issued to statutory duty holder(s).</i>	<i>Details of when these documents were returned by the Statutory Duty holder(s)</i>	<i>Details of when these documents were issued to the Secretary of State</i>	<i>Details of when these documents were approved by the Secretary of State, including details of prior consultation of 3<sup>rd</sup> parties by the Secretary of State</i>	<i>Any comments related to the requirements</i>
<b>Part 1</b>								
<b>Interpretation</b>								
1	<p>In this Schedule –</p> <p>“contaminated land” has the same meaning as that given in section 78A(a) of the Environmental Protection Act 1990;</p> <p>“commence” means beginning to carry out any material operation forming part of the authorized development other than environmental surveys and monitoring, archaeological mitigation works, pre-construction ecological mitigation, investigations for the purpose of assessing and monitoring ground conditions and levels, remedial work in respect to any contamination or other adverse ground conditions, erection of temporary means of enclosure, receipt and erection of construction plant and equipment, diversion and laying of services and site clearance, construction of welfare facilities and temporary buildings, temporary display of site notices, information and advertisements, and establishment of construction compounds, and “commencement” is to be construed accordingly;</p> <p>“City Archaeologist” means the individual nominated or appointed as such by the relevant planning authority;</p> <p>“design principles report” means that document certified by the Secretary of State as the design principles for the purposes of this Order;</p> <p>“DMRB” means the Design Manual for Roads and Bridges, which accommodates all current standards, advice and other documents relating to the design, assessment and operation of trunk roads and motorways, or any equivalent replacement to the DMRB published;</p>							

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	<p>“drainage strategy” means the document certified by the Secretary of State as the drainage strategy report being appendix 13.1 of the environmental statement for the purposes of this Order;</p> <p>“Ecological Clerk of Works” means the individual appointed as such by the undertaker;</p> <p>“environmental masterplan” means that plan certified by the Secretary of State as figure 2.3 in the document certified as “the environmental statement - chapter 2 - the scheme and its surroundings - figures (Part 2 of 4) for the purposes of this Order;</p> <p>“EMP (First Iteration)” means the first iteration of the environmental management plan produced in accordance with the DMRB during the preliminary design stage and as certified under article 48 (certification of documents, etc.);</p> <p>“EMP (Second Iteration)” means the second iteration of the environmental management plan produced in accordance with the DMRB, which is to be a refined version of the EMP (First Iteration) including more detailed versions of the outline plans contained or listed within the EMP (First Iteration) or any other plans as required;</p> <p>“EMP (Third Iteration)” means the third iteration of the environmental management plan produced in accordance with the DMRB, which is a refined version of the EMP (Second Iteration) and which relates to the operational and maintenance phase of the authorised development;</p> <p>“European protected species” has the same meaning as in regulations 42 (European protected species of animals) and 46 (European protected species of plants) of the Conservation of Habitats and Species Regulations 2017(a);</p> <p>“flood risk assessment” means the document certified by the Secretary of State as the flood risk assessment for the purposes of the Order;</p> <p>“lead local flood authority” means</p>							

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	<p>Hampshire County Council;</p> <p>“outline Landscape and Ecological Management plan” means that plan certified by the Secretary of State as appendix 7.6 of the environmental statement for the purposes of this Order;</p> <p>“outline traffic management plan” means the document certified by the Secretary of State as the outline traffic management plan for the purposes of the Order.</p>							
<b>Time limits</b>								
2	The authorised development must not commence later than the expiration of 5 years beginning with the date on which this Order comes into force.							
<b>Environmental Management Plan</b>								
3(1)	No part of the authorised development is to commence until an EMP (Second Iteration) for that part, substantially in accordance with the EMP (First Iteration) has been submitted to and approved in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority and local highway authority to the extent that the content of the EMP (Second Iteration) relates to matters relevant to their functions.	See below						
3(2)	<p>The EMP (Second Iteration) must –</p> <ul style="list-style-type: none"> <li>(a) contain a record of all the sensitive environmental features that have the potential to be affected by the construction of the authorised development;</li> <li>(b) incorporate the measures referred to in the environmental statement as being incorporated in the EMP (First Iteration);</li> <li>(c) require adherence of working hours of 07:00 to 19:00 on Mondays to Friday and 07:00 to 13:00 on Saturdays with no working hours on Sundays and public holidays, except for – <ul style="list-style-type: none"> <li>(i) works requiring the full or partial closure of, or otherwise adversely affecting the operation of, the M3, A33, and A34 carriageway;</li> <li>(ii) works associated with the diversion or removal of existing utilities;</li> <li>(iii) works associated with traffic management and</li> </ul> </li> </ul>							

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	<p>(iv) signal changes; works associated with tie-ins to existing carriageways;</p> <p>(v) any emergency works, or works required for engineering, safety, or efficiency purposes;</p> <p>(vi) any works for which different working hours have been agreed with parties who will or may be affected by those works and recorded in the approved EMP (Second Iteration), in which case the EMP (Second Iteration) must require adherence to those working hours; and</p> <p>(vii) as otherwise agreed by the relevant planning authority in advance.</p>							
3(3)	The authorised development must be constructed in accordance with the approved EMP (Second Iteration).							
3(4)	Upon completion of construction of the authorised development the EMP (Second Iteration) must be converted into the EMP (Third Iteration). The EMP (Third Iteration) must be submitted to the Secretary of State for approval within 28 days of the opening of the authorised development for public use.							
3(5)	The authorised development must be operated and maintained in accordance with the EMP (Third Iteration) approved under paragraph (4).							
<b>Details of Consultation</b>								
4(1)	With respect to any requirement which requires details to be submitted to the Secretary of State for approval under this Schedule following consultation with another party, the details submitted must be accompanied by a summary report setting out the consultation undertaken by the undertaker to inform the details submitted and the undertaker's response to that consultation.							
4(2)	At the time of submission to the Secretary of State for approval, the undertaker must provide a copy of the summary report referred to under sub-paragraph (1) to the relevant consultees referred to in the requirement in relation to							

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	which approval is being sought from the Secretary of State.							
4(3)	The undertaker must ensure that any consultation responses are reflected in the details submitted to the Secretary of State for approval under this Schedule, but only where it is appropriate, reasonable and feasible to do so, taking into account considerations including, but not limited to, cost and engineering practicality.							
4(4)	Where the consultation responses are not reflected in the details submitted to the Secretary of State for approval, the undertaker must state in the summary report referred to under subparagraph (1) the reasons why the consultation responses have not been reflected in the submitted details.							
<b>Landscaping</b>								
5(1)	No part of the authorised development is to commence until a written landscaping scheme for that part has been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions; and the local highway authority.							
5(2)	The landscaping scheme prepared under sub-paragraph (1) must be based on the outline Landscape and Ecological Management Plan, environmental masterplan, and EMP (First Iteration)							
5(3)	The landscaping scheme prepared under sub-paragraph (1) must include details of hard and soft landscaping works, including— (a) location, number, species, size, timing and planting density of any proposed planting, including advanced planting; (b) cultivation, importing of materials and other operations to ensure plant establishment; (c) proposed finished ground levels; (d) hard surfacing materials; (e) details of existing trees to be retained, with measures for their protection during the construction period outlined within a Tree Protection Plan and Arboricultural Method Statement; (f) implementation and maintenance timetables for all landscaping works; and (g) landscaping works associated with the provision of any fences and walls which do not serve a							



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	structural or safety purpose for a highway.							
<b>Implementation and maintenance of landscaping</b>								
6(1)	All landscaping works must be carried out in accordance with the landscaping scheme approved under Requirement 5							
6(2)	All landscaping works must be carried out to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised codes of good practice.							
6(3)	Any tree or shrub or chalk grassland planted as part of the landscaping scheme that, within a period of 5 years after planting, is removed, dies or becomes, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted.							
<b>Fencing</b>								
7	Any permanent and temporary fencing and other means of enclosure for the authorised development must be constructed and installed in accordance with the Manual of Contract Documents for Highway Works except where any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development.							
<b>Land and Groundwater contamination</b>								
8(1)	In the event that contaminated material, including impacted groundwater, is found at any time when carrying out the authorised development, which was not previously identified in the environmental statement, the undertaker must cease construction of the authorised development in the vicinity of that contamination and must report it immediately in writing to the Secretary of State, the Environment Agency and the relevant planning authority, and in agreement with the Environment Agency and the relevant planning authority undertake a risk assessment of the contamination, and sub-paragraphs (2) and (3) will apply.							
8(2)	Where the undertaker determines that remediation is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be prepared submitted to and approved in writing by the Secretary of State following consultation with the Environment Agency and the relevant planning authority.							
8(3)	Remedial measures must be carried out in accordance with the approved scheme.							



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<b>Archaeology</b>								
9(1)	No part of the authorised development is to commence until for that part a written scheme of investigation, reflecting the mitigation measures included in the Archaeology and Heritage Mitigation Strategy prepared substantially in accordance with the Archaeology and Heritage Outline Mitigation Strategy appended to chapter 6 of the environmental statement, with provision for sub-written schemes of investigation for each area and each phase (strip, map and sample, geoarchaeological investigation, watching brief) as required, has been prepared in consultation with the City Archaeologist and submitted to and approved in writing by the Secretary of State.	<a href="#">Written Scheme of Investigation</a>	Winchester City Council	[01.08.24] <a href="#">Consultation issued</a>	[21.08.24] <a href="#">Consultation response</a>	[20.09.24] <a href="#">Discharge Application and Cover Letter</a>		
South Downs National Park Authority			[01.08.24] <a href="#">Consultation issued</a>	[22.08.24] <a href="#">Consultation response</a>				
Winchester City Council		[26.08.24] <a href="#">Consultation issued</a>	[19.07.24] <a href="#">Consultation response</a>					
		South Downs National Park Authority	[26.08.24] <a href="#">Consultation issued</a>	[25.07.24] <a href="#">Consultation response</a>				
9(2)	The authorised development must be carried out in accordance with the Archaeology and Heritage Mitigation Strategy and written schemes of investigation referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.	In accordance with documents linked above in 9(1)	As above in 9(1)					
9(3)	A programme of archaeological reporting, post excavation, archiving and publication undertaken in accordance with written schemes of investigation referred to in sub-paragraph (1) must be consulted upon with the City Archaeologist and implemented within a timescale discussed with the City Archaeologist and deposited with the Historic Environment Record of the relevant planning authority within an agreed time period.							
9(4)	Any nationally significant archaeological remains not previously identified which are revealed when carrying out the authorised development must be— (a) retained in situ temporarily and reported to the City Archaeologist and Historic England as soon as reasonably practicable; and (b) subject to appropriate mitigation, including post-excavation process, as set out in the Archaeology and Heritage Mitigation Strategy and consulted upon with the City Archaeologist and Historic England.							
9(5)	No construction operations are to take place within 20 metres from the identifiable extent of the nationally significant remains referred to in sub-paragraph (4) until an appropriate mitigation strategy has been discussed and consulted upon with the City Archaeologist and Historic England, unless otherwise							

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	agreed in writing by the Secretary of State.							
9(6)	On completion of the authorised development, suitable resources and provisions for long term storage of the archaeological archive will be agreed with the City Archaeologist.							
9(7)	References in this paragraph to consultation, reporting, and discussion with the City Archaeologist shall include the nominated archaeologist for South Downs National Park Authority to the extent that it relates to matters relevant to their functions.							
<b>Protected species</b>								
10(1)	In the event that any protected species which were not previously identified in the environmental statement or nesting birds are found at any time when carrying out the authorised development the undertaker must cease construction works near their location and report it immediately to the Ecological Clerk of Works.							
10(2)	The undertaker must prepare a written scheme for the protection and mitigation measures for any protected species that were not previously identified in the environmental statement or nesting birds found when carrying out the authorised development. Where nesting birds are identified works should cease within 10 metres of the nest until birds have fledged and the nest is no longer in use.							
10(3)	The undertaker must implement the written scheme prepared under sub-paragraph (2) immediately and construction in the area specified in the written scheme must not recommence until any necessary licences are obtained to enable mitigation measures to be implemented.							
<b>Traffic Management</b>								
11(1)	No part of the authorised development is to commence until a traffic management plan for the construction of that part of the authorised development, substantially in accordance with the outline traffic management plan, document reference 7.8, has been submitted to and approved in writing by the Secretary of State following consultation with the local highway authority.	<a href="#">Traffic Management Plan</a>	Hampshire County Council	[14.08.24] <a href="#">Consultation issued</a>	[12.09.24] <a href="#">Consultation response</a>	[11.10.24] <a href="#">Discharge Application and Cover Letter</a>		
11(2)	The authorised development must be constructed in accordance with the approved traffic management plan.	In accordance with documents linked above in 11(1)	As above in 11(1)					
<b>Detailed design</b>								

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12(1)	<p>The authorised development must be designed in detail and carried out so that it is in accordance with—</p> <p>(a) the preliminary scheme design shown on the works plans and the engineering and structural drawings and sections;</p> <p>(b) the design principles set out in the design principles report unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority on matters related to its functions and local highway authority on matters related to their functions and provided that the Secretary of State is satisfied that any amendments to the works plans and the engineering drawings and sections showing departures from the preliminary design would not give rise to any materially worse adverse environmental effects in comparison with those reported in the environmental statement.</p>							
12(2)	<p>Where amended details are approved by the Secretary of State under sub-paragraph (1), those details are deemed to be substituted for the corresponding works plans or engineering drawings and sections and the undertaker must make those amended details available in electronic form for inspection by members of the public.</p>							
<b>Surface water drainage</b>								
13(1)	<p>No part of the authorised development is to commence until written details of the surface water drainage system for that part, in accordance with the flood risk assessment and drainage strategy, reflecting the mitigation measures in chapter 13 of the environmental statement and including means of pollution control, have been submitted to and approved in writing by the Secretary of State following consultation with the relevant planning authority on matters related to their functions, the lead local flood authority, the Environment Agency, and the local highway authority where that the surface water drainage system interacts with a highway maintainable at the expense of that local highway authority.</p>							

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13(2)	The drainage system must be constructed and maintained in accordance with the approved details referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State following consultation with the relevant planning authority, the lead local flood authority and the Environment Agency.							
<b>Noise mitigation</b>								
14(1)	No part of the authorised development is to commence until written details of proposed noise mitigation in respect of the use and operation of that part of the authorised development, including low noise surfacing, have been submitted to and approved in writing by the Secretary of State, following consultation with the relevant planning authority on matters related to their functions if required any additional relevant planning authority.							
14(2)	The written details referred to in sub-paragraph (1) must either reflect the mitigation measures included in the environmental statement or, where the mitigation proposed materially differs from the mitigation identified in the environmental statement, the undertaker must provide evidence with the written details submitted that the mitigation proposed would not give rise to any materially new adverse or materially worse adverse environmental effects in comparison with those reported in the environmental statement taking into account the mitigation identified in it.							
14(3)	The noise mitigation must be constructed in accordance with the approved details referred to in sub-paragraph (1) and must be retained thereafter.							
<b>Height Restrictions</b>								
15	Any static unit providing welfare or other facilities within the temporary construction site compound as part of Work No. 38 shall be a single storey unit and shall not exceed a height of 4 metres, the measurement of which being from the external base to the external roof of the static unit but shall not include the depth of any foundation reasonably required to secure the structure or height of any aerial, mast, satellite dish, chimney stack, flue, pipe, solar panel or other equipment reasonably required to be affixed to the static unit.							
<b>Approvals and amendments to approved details</b>								

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16	With respect to any requirement which requires the authorised development to be carried out in accordance with the details approved under this Schedule, the approved details are taken to include any amendments that may subsequently be approved or agreed in writing by the Secretary of State.							