ANNEX G1

Consenting Strategy Report

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

STSources SRO
Severn Trent Water

Consenting Strategy

Severn Trent Sources (Netheridge) - Strategic Resource Option

Prepared by Fisher German LLP on behalf of
Severn Trent Water

FISHER GERMAN

Project Title

Severn Trent Sources (Netheridge) - Strategic Resource Option

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1. Introduction

1.1 The Netheridge proposal forms part of the Severn Trent Sources Strategic Resource Option (STS SRO) and is one of the source options to support the Severn to Thames Transfer (STT) SRO. The project is progressing through the Regulators' Alliance for Progressing Infrastructure Development (RAPID) process. The SRO involves the provision of new on-site treatment at the Netheridge Waste Water Treatment Works (WwTW) and the diversion of existing treated effluent water to a new discharge point on the River Severn. It is proposed that the effluent diversion would facilitate the guaranteed sweetening flows for the STT SRO which is being promoted by Thames Water.

1.2 Of the 35 Ml/d discharge to the River Severn that the Netheridge transfer scheme could provide, 20 Ml/d could provide the required flow augmentation for the sweetening flow abstraction, at times where the hands of flow would otherwise prevent abstraction from the River Severn, with the remainder providing discharge to facilitate supported flow abstractions to the STT Interconnector SRO. It is anticipated that the necessary sweetening flow abstraction for the Netheridge effluent diversion would only be required outside of the winter period.

1.3 If it is determined that the Netheridge scheme is the preferred option for providing the guaranteed source of sweetening flows it will be necessary to simultaneously deliver the Netheridge scheme with the STT SRO. Without a guaranteed source of sweetening flows, the STT would be unable to operate due to seasonal flows or climatic conditions. It is therefore necessary to augment flows in the River Severn and secure that sweetening flow. Netheridge WwTW scheme would provide the sweetening flow.

1.4 The Netheridge element of the STS SRO comprises the installation of new, and advanced, teritary water treatment process within the operational site boundary of the Netheridge site and a new offsite pipeline to transfer the treated effluent from the Netheridge WwTW to the River Severn.

1.5 Fisher German (FG) have been appointed to provide land and planning support to STW to inform the Gate 2 submission for the STS SRO Netheridge. We have reviewed information contained within the Gate 1 report and have been provided with a pipeline route plan. We have reviewed the proposed development to identify land and planning constraints. [redacted]

1.6 This consenting strategy has been prepared to support the Gate 2 process [redacted]

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2. Proposed Development

2.1 The proposed development involves diverting up to 35Ml/d of existing treated effluent from an existing discharge point to a new discharge point on the River Severn, as river flow augmentation.

2.2 Based on the Gate 1 ST Sources SRO output, it is understood that the Netheridge scheme would comprise two key components. The first is the provision of advanced tertiary effluent treatment at the Netheridge WwTW to maintain the current Water Framework Directive status of the receiving waterbody. The second is the installation of approximately 18.25km of new below ground transfer pipeline with various options to link and this report is based on options to discharge into the River Severn. The source will provide additional flow to support the STT SRO being promoted by Thames Water in times of drought and in times of need.

2.3 There are several routing options with alternative discharge points under consideration at this stage. They are primarily designed around the Option 1 corridor. The preferred routing options are listed below as follows:

- Option 1 – route begins at Netheridge STW [redacted] and then travels northeast for approximately 18.25km until it reaches the River Severn [redacted] near Deerhurst.

- Option 2 – initially fed by Option 1, but discharging [redacted], near The Haw.

- Option 3 – initially fed by Option 1, but discharging [redacted], near Gloucester Quays.

- Option 4 – option from Netheridge STW discharging [redacted] to the south of the site, [redacted] Note that this option is currently not intended to be fed by the Option 1 pipeline.

2.4 Option 1 and 2 are understood to both be preferred options at this stage.

2.5 Within the existing operational site at Netheridge the following additional treatment works would need to be installed to support the STS SRO, see Figure 1 below:

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Figure 4.3 STS SRO: Netheridge WwTW treatment for STT SRO
(Diagram for illustrative purposes only)

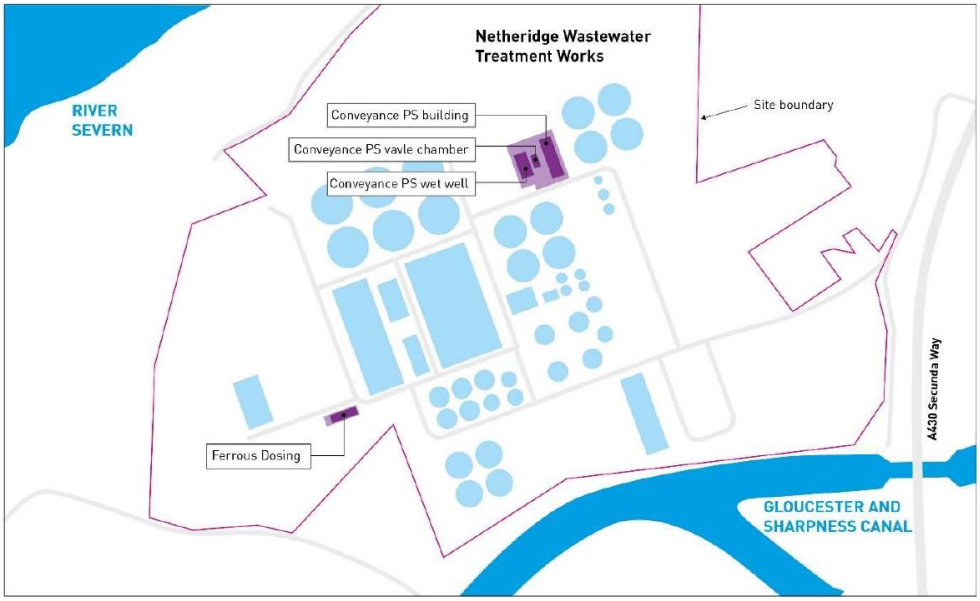

Figure 1 - Extract from Gate 1 submission, July 2021.

2.6 The above ground elements of the proposed development would comprise the new treatment assets within the Netheridge WwTW and outfall. The proposed changes to the waterbodies are being fully investigated by Severn Trent and their environmental consultants in consultation with the key stakeholder the Environment Agency who are integral to the RAPID process.

2.7 The temporary impacts associated with the installation of the pipeline below ground include the requirements for working areas, compounds and vehicle access points. The methodology for installation would be a combination of directional drilling for crossing points and open cut. The pipeline should be a largely buried asset and once reinstated the route should be returned to existing land uses wherever possible, save for any requirements for above ground chambers for washouts, valves etc. Whilst the chosen consenting strategy will cover these requirements, they should be designed so as to mitigate the impact on land use, and therefore compensation. [redacted]

3. Gate 1 Consenting Strategy

3.1 The Gate 1 report submission for STS SRO, '*Strategic regional water resource solutions – Preliminary feasibility assessment'* dated 05 July 2021, sets out the consenting options available from a land and planning perspective. The report acknowledges that the typical consenting route for new water infrastructure is to submit planning applications and use permitted development rights under the Town and County Planning Act 1990 (TCPA). However, the report states that due to the national significance of the STS SRO project means that consenting options for Nationally Significant Infrastructure Projects (NSIP) need to be considered. It is noted that the options for STS SRO do not automatically meet the NSIP criteria but that the national significance of the project offers potential to use this consenting regime.

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3.2 For the STS SRO project, the preferred consenting route at Gate 1 was to utilise the Town and Country Planning Act 1990 route unless further feasibility requires options under the NSIP regime to be considered. The gate 1 submission reviewed consenting options for new treatment at Netheridge and a new pipeline to Deerhurst water treatment works (WTW). The submission states that the proposed route involves a circa 12km pipeline around the western edge of Gloucester before travelling cross country to Deerhurst. It is noted that similar and longer pipelines are regularly delivered via the TCPA route.

3.3 The gate 1 submission anticipates that planning permission could be granted within nine months of submission and assessed the risk of refusal and/or call in by the Secretary of State as low.

3.4 The three consenting options identified in the gate 1 submission are summarised as follows:

- Preferred option: TCPA – permitted development and/or planning applications.
- Alternative option 1: a Development Consent Order under the Planning Act 2008 after seeking designation of the project by DEFRA under Section 35 of the Act as an NSIP.
- Alternative option 2: associated development of the STT SRO DCO under section 115 of the Planning Act 2008.

3.5 The gate 1 submission states that the final decision on the consenting route will take account of numerous considerations, including evaluation of the specific consenting risks of delivering the project, the comparative timescales, stakeholder relationships and landowner considerations regarding access to land. The submission notes that it is expected that any project that is part of a NSIP could be involved in a process lasting up to three years and this will be factored into decision making on the best approach.

3.6 The gate 1 report indicated that the next steps would be to investigate in more detail the options for a consenting strategy and this report provides the information required. The next sections of this report review the land lifecycle and planning aspects of the proposed consenting strategy

4. Land Lifecyle

4.1 The tertiary water treatment processing is proposed to be constructed within existing Severn Trent owned land. Whilst there is a general assumption that the necessary land rights, such as access, exist for the proposed development, due diligence should be undertaken to verify that the required services are available. If they are not, investigation into the securing of rights for additional service requirements should be undertaken. Any deficiencies will need to be addressed as part of the wider land rights strategy.

4.2 The majority of the pipeline infrastructure is expected to be situated in private land. As such necessary legal rights will be required to facilitate the development.

4.3 The Water Industry Act 1991 affords Severn Trent the right to undertake relevant works under notice through the application of section 168 (Entry for works purposes) and section 159 (Power to lay pipes in other land), with relevant pipework referred to under section 158 and supported by section 219 (General interpretation).

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4.4 Section 158 (7) (a) makes reference to relevant pipework in relation to a water undertaker as:

"references to a water main (including a trunk main [but not including a pipe laid in pursuance of section 66B(3)(a)(ii) above which is used for the purpose of supplying water other than for domestic or food production purposes or laid in pursuance of section 66B(3)(a)(iii) above]), resource main, discharge pipe or service pipe"

4.5 Legal advice confirms that the pipework proposed under this SRO meets the definition of a 'trunk main' as outlined in section 219:

"resource main" means (subject to subsection (2) below) any pipe, not being a trunk main, which is or is to be used for the purpose of—

(a) conveying water from one source of supply to another, from a source of supply to a regulating reservoir or from a regulating reservoir to a source of supply; or

(b) giving or taking a supply of water in bulk;

4.6 [redacted]

4.7 It should be noted that the use of statutory notices under the Water Industry Act 1991 does not result in the pipeline being protected by an easement. Assets covered by the statutory provisions of the Water Industry Act 1991 are afforded rights referred to in section 159 (1):

(1)Subject to the following provisions of this section, to section 162(9) below and to the provisions of Chapter III of this Part, every relevant undertaker shall, for the purpose of carrying out its functions, have power—

(a)to lay a relevant pipe (whether above or below the surface) in any land which is not in, under or over a street and to keep that pipe there;

(b)to inspect, maintain, adjust, repair or alter any relevant pipe which is in any such land;

(c)to carry out any works requisite for, or incidental to, the purposes of any works falling within paragraph (a) or (b) above.

[redacted]

4.8 [redacted]

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4.9 [redacted]

4.10 Sections 155 and Schedule 13 of the Water Industry Act 1991 provide powers of compulsory purchase both in support of works covered by statutory notices, and those falling outside those provisions, subject to the criteria set out in those sections/schedule. [redacted]

4.11 Whether or not CPO powers can be applied, or whether a DCO is relied upon, there are certain restrictions and limitations on the availability and use of compulsory powers, and statutory noticing powers, for example in relation to Crown land or special category land (such as land owned by the National Trust and statutory undertakers, and land forming part of a common, open space, or fuel or field garden allotment) - detailed advice will be required once the land referencing is complete.

4.12 [redacted]
Where rights cannot be agreed prior to the DCO submission, negotiations will continue prior to and during the examination. In all instances, the use of compulsory powers should be applied as a last resort.

4.13 [redacted] The working area for the main pipeline route could be acquired temporarily under DCO, enabling it to be handed back to landowners following reinstatement. It should be noted that land can also be taken on a temporary basis under the statutory noticing powers of the Water Industry Act 1991 where those powers apply.

4.14 [redacted]

4.15 As a DCO provides the ability to acquire a right in land, if chosen as the consenting strategy, easements would form the basis of agreement and right in land for the pipework allowing for the construction, operation, maintenance and decommissioning of the pipeline without having to acquire the freehold of the land outright. Easements are enacted by deed in perpetuity, or through a compulsory acquisition, and, upon registration at the Land Registry, run with the land and bind future landowners and derivative interests such as tenants and other occupiers of the land to their terms.

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4.16 Easements are the standard industry mechanism for securing land rights for pipelines where the Water Industry Act 1991 is not utilised.

4.17 [redacted]

4.18 [redacted]

4.19 The overall approach to securing land and/or rights in land under a DCO would be to apply for the compulsory purchase of all land or rights as required within the Order limits, and only exercise those powers where voluntary rights cannot be reasonably secured from the landowner, or where the landowner is unable to provide adequate rights due to complication with landownership or other third-party rights or covenants.

4.20 Some interests in property required may have existing rights or covenants which may restrict the use of the land for the required purpose. [redacted]

4.21 Landowners affected by the exercise of these compulsory powers of acquisition will be compensated according to the 'compensation code'. The compensation code is a collective term for the principles deriving from Acts of Parliament and case law, relating to compensation for compulsory acquisition. Its general purpose is to provide fair compensation for those whose property has been compulsorily acquired for public works.

5. Planning Policy Context

5.1 This section of the report identifies the planning policy documents relevant to the proposed development.

Draft National Policy Statement (NPS) for Water Resources Infrastructure (November 2018)

5.2 This draft document sets out Government policy for the development of nationally significant infrastructure projects (NSIPs) for water resources in England. This NPS is intended to be used as the primary basis for preparing applications for development consent, for examination by the Examining Authority and for making decisions by the Secretary of State (SoS0 in considering development consent applications for water resources infrastructure, that fall within the definition of NSIPs, as defined in Sections 27, 28 and 28A of the Planning Act 2008. However, it is important to note that this document is still going through consultation and has not yet been formally adopted.

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5.3 The government has stated in the draft document that they are committed to a twin track approach to securing resilient water supplies, which requires both new water resources and further action to reduce demand for water.

5.4 The draft NPS states that where a development does not meet the current requirements for an NSIP set out in the Planning Act, but the SoS considers the project to be nationally significant under Section 35 of the Planning Act, the SoS may direct that a water resources infrastructure development should be treated as a development for which development consent is required. This could apply to infrastructure types in the field of water that do not meet the definition of an NSIP for water resources; provided the relevant requirements of section 35 are satisfied. Where a water resources infrastructure project is treated as a development for which development consent is required through section 35 of the Planning Act 2008, the NPS may be a material consideration.

5.5 It is stated at para 1.1.9 that in England the water resources NPS may also be a material consideration in making decisions on applications for development that fall within local authority planning regime (for example under the Town and Country Planning Act 1990).

5.6 The draft NPS confirms that applications for development consent for water resource projects may also include 'associated development' within the meaning of the Planning Act. Development that does not fall within the definition of water resources infrastructure or associated development may require a separate application for planning permission to the made to the LPA (para 1.3.2).

5.7 The draft NPS makes reference to the requirement to demonstrate need for a project in a DCO application. It is stated at paragraph 1.4.5 that the SoS will consider applications for development consent for infrastructure projects meeting the criteria in section 27, 28 and 28A of the Planning Act. These projects need to be present in final Water Resources Management Plans (WRMP) which the SoS will have permission to publish. If the project is in a final published WRMP the need for that scheme will have been demonstrated in line with government policy and the applicable statutory requirements and does not need to be revisited as part of the application for development consent. Therefore, if the criteria is met and project within a final WRMP then need does not required to be demonstrated in the application for a DCO. Where a section 35 direction is made in relation to a scheme which has been identified as a preferred option in a final WRMP, the NPS would apply. In relation to section 35 referrals that are not present in a WRMP these should be dealt with on a case by case basis and the application would need to demonstrate that the project meet the needs for nationally significant water resources infrastructure.

5.8 In the table titled 'Options for addressing demand' the development of new water resources infrastructure is presented as an option. It is stated that "*water storage systems will be required to support transfers, along with other schemes such as desalination and effluent reuse that provide a high level of resilience to longer term drought periods'* (page 13).

5.9 This document states that water transfers are important for enhancing the resilience of water supplies by improving connectivity between areas of water surplus and those facing a deficit. The draft NPS states that overall, there is currently a surplus of water for England, due to surpluses in the North and Southwest outweighing deficits in the South and East. This high degree of regional variability highlights the need for a more strategic approach to managing water resources, and water transfers have an important role to play. Transfers can move water from areas of surplus to areas that need it. In some cases, this can be through existing infrastructure such as rivers and canals but other channels and pipes and supporting infrastructure may also be required.

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5.10 Under the heading 'other infrastructure' it is stated that '*other infrastructure or technologies, not specified in the Planning Act that do not meet the definition of an NSIP, may be considered under the Planning Act following a direction by the SoS under section 35*'. Importantly it states that '*this could include other options to enhance the storage capability of the water supply system and water available for use, including but not limited to aquifer re-charge and effluent re-use schemes*' (para 2.6.14).

5.11 Paragraph 2.6.15 states that recycled water can have the advantage of being a constant, reliable supply of water and may reduce the amount of water extracted from the environment. The draft NPS states that whilst not identified as a separate water resource activity in the Planning Act, large scale effluent reuse is likely to result in large transfers. In such circumstances the transfer may qualify as an NSIP, when assessed against the relevant threshold in the Planning Act or through a section 35 referral. It is likely that treatment and other supporting infrastructure should be considered as associated development.

5.12 Paragraph 3.1.2 states that subject to the detailed policies and protections in the NPS and the legal constraints set out in the Planning Act, there is a presumption in favour of granting development consent for water resources NSIPs that fall within the need for infrastructure established in the NPS. The examining authority and SoS should take into account its potential benefits including the facilitation of economic development, including job creation, housing and environmental improvement and any long term or wider benefits and the potential adverse impacts including any longer term and cumulative adverse impacts as well as any measures to avoid, reduce or compensate for any adverse impacts (para 3.1.3). Regard also has to be had to any local impact report submitted by a local authority in accordance with the Planning Act.

5.13 Paragraph 3.8.3 recognises that other separate environmental consents may be required. In deciding a DCO application, it is stated that '*the SoS should focus on whether the development is an acceptable use of the land, and the impact of that use, rather than the control of processes, emissions or discharges themselves*'. Decisions under the Planning Act should complement but not duplicate those taken under the relevant pollution control regime.

5.14 Paragraph 3.8.6 if applicants wish to twin track DCO and Environmental Permits, the EA recommends submitted the permit at least 6 months prior to a DCO application.

National Planning Policy Framework (NPPF)

5.15 National policy is set out in the NPPF which was updated in July 2021. This framework seeks to ensure sustainable forms of development and good design, alongside the protection and enhancement of the environment.

5.16 Paragraph 20 of the NPPF states that strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy.

5.17 Paragraph 153 states that Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures.

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Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts.

Local Development Plans

5.18 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. If the Town and Country Planning Act 1990 route option is followed and separate planning applications are submitted to each of the local authorities, then the applications will be determined in accordance with the relevant Local Development Plan. The draft water resources NPS states that the NPS may also be a material consideration in making decisions on applications within the TCPA route.

5.19 These plans include:

- Joint Core Strategy 2011 - 2031 Gloucester, Cheltenham and Tewkesbury (Adopted December 2017)

5.20 Part 5 of the Joint Core Strategy includes a set of infrastructure policies, which include Policy INF2: Flood Risk Management and Policy INF6: Infrastructure Delivery. Policy INF 2 aims to ensure new development will not be at risk of flooding itself or increase the flood risk of anywhere else. Policy INF 6 makes reference to the Infrastructure Delivery Plan and also aims to ensure that there is sufficient provision of infrastructure to support new development.

5.21 The plans contain specific policies which guide development, development management policies, environmental and heritage related policies.

Emerging Local Development Plans

5.22 As the Joint Core Strategy was only adopted in December 2017 there is no emerging planning policy at present. The 3 councils have been working towards its immediate review which so far comprises an 'Issues and Options' consultation document which was published in July 2018. They are now working on a draft plan which responds to the issues and options document, however there is no timescale for this yet.

6. Planning Constraints

6.1 The proposed development includes the installation of advanced tertiary water treatment processing facilities within the operational site at Netheridge treatment works. This would involve new additional infrastructure to be provided within the existing site. The information available to date of the extent and nature of the equipment required is shown in Figure 1.

6.2 The current preferred pipeline route extends beyond the Severn Trent operational site into private land. The route has been reviewed to identify constraints. These include environmental designations, heritage designations, planning policy designations (adopted), planning history and public rights of way. [redacted] Flood zones have not been checked as this is flood compatible development and planning history has not been checked in the jurisdictional areas of Gloucester City Council due to the absence of search facilities as a result of a cyber-attack. [redacted] Further planning history checks

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will be required periodically as the project develops as new planning applications and permissions could be granted at any time (recommend quarterly or six-monthly checks).

6.3 [redacted]

[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

6.4 [redacted]

6.5 The majority of the route is within a Mineral Safeguarding Area and the route crosses multiple Public Rights of Way.

6.6 Sites such as Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar sites are protected by the Conservation of Habitats and Species Regulations 2017 as amended (known as the Habitats Regulations). A habitats regulations assessment (HRA) must be carried out by a competent authority to test if a plan or project proposal could significantly harm the designated features of a European site. The nearest designations to the proposed pipeline comprise Walmore Common SPA and Ramsar (approximately 5.7km) and Cotswolds Beechwoods SAC (approximately 6.7km). Confirmation would be required regarding any potential impacts on any sites at part of the screening process to check if the proposed development is likely to have a significant effect on the site's conservation objectives. If at the screening stage there are not anticipated to be significant effects further assessments are unlikely to be required. If there are likely to be potentially significant impacts then an Appropriate Assessment is likely to be required.

7. Stakeholder Engagement

7.1 Proactive engagement with stakeholders, in this case Local Authorities, is essential for the successful consenting, planning and delivery of this scheme. This section reviews the stakeholder engagement which has been undertaken for this scheme and provides details of some of the initial feedback received.

7.2 The proposed route passes through two separate local planning authority areas as summarised below:

- Gloucester City Council – approximately 5.45km
- Tewkesbury Borough Council - approximately 12.8km

7.3 Gloucester City Council and Tewkesbury Borough Council are not unitary authorities and therefore, Gloucestershire County Council also covers these areas. [redacted]

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7.4 [redacted]

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7.5 [redacted]

7.6 [redacted]

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8. [redacted]

8.1 [redacted]

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9. Assessment of Consenting Options

9.1 The preferred consenting route option at Gate 1 was to secure planning permission through the TCPA 1990 route. The gate 1 report summarises the options as follows:

- Preferred option: planning permissions under TCPA.
- Alternative option 1: a Development Consent Order under the Planning Act 2008 after seeking designation of the project by DEFRA under Section 35 of the Act as an NSIP.

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- Alternative option 2: associated development of the STT SRO DCO under section 115 of the Planning Act 2008.

9.2 This section explores each option. It reviews the process and context and summarises strengths, weaknesses, opportunities and threats of each option drawing in advice provided by Severn Trents legal advisors.

Town and Country Planning Act (TCPA) 1990

9.3 The preferred option at Gate 1 was to follow the Town and County Planning Act 1990 route. This would involve utilising permitted development rights if the proposal did not constitute development requiring Environmental Impact Assessment (EIA). If the proposed development was deemed to require an Environmental Statement then permitted development rights would not apply. In this circumstance, the consenting process would involve the submission of planning applications to the Local Authority in which each part of the application site is located. In order to secure land rights, there would need to be the application of the statutory noticing powers afforded by the Water Industry Act 1991 for the pipeline route selected, subject to the legal advice provided.

9.4 Severn Trent Water are a statutory undertaker for the supply of water and benefit from extensive Permitted Development Rights under the Town and Country Planning (General Permitted Development) (England) Order 2015. In Part 13 in 'Class A – Water or Hydraulic power undertakings' and 'Class B – Development by or on behalf of Sewerage Undertakers'.

9.5 Permitted development rights are set out in Class A and state that development for the purposes of their undertaking as statutory undertakers for the supply of water or hydraulic power consisting of, amongst others, comprises:

> *(A) 'development not above ground level required in connection with the supply of water or for conserving, redistributing or augmenting water resources, or for the conveyance of water treatment sludge; …*
>
> *(E) the installation in a water distribution system of a booster station, valve house, meter or switch gear house;*
>
> *(G) any other development in, on, over or under operational land other than the provision of a building but including the extension or alteration of a building'.*

9.6 The development not permitted within sub section (E) includes the installation of a station or house exceeding 29 cubic metres in capacity, and in sub section (G) comprises plant and machinery which exceeds 15 metres in height or the height of anything it replaces, whichever is the greater and additional restrictions relating to extension or alterations to buildings. Class B is similar in terms of the extent of permitted development rights for sewage related infrastructure.

9.7 The installation of the new water pipeline below ground, and the installation of new plant and machinery for water treatment within the operational Netheridge site (provided the maximum height does not exceed 15m), could be considered permitted development assuming the proposed development falls within the undertakings of the statutory undertaker. The proposed installation of any buildings exceeding 29 cubic metres in capacity; new above plant and machinery on non-operational land and new/modified access points off classified roads would require express planning permission.

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9.8 Permitted development rights can only be utilised where the development proposed does not require an Environmental Impact Assessment (EIA). The proposed development does not wholly fall within Schedule 1 section 12 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 where an EIA is mandatory as technically the pipeline is not a water resource transfers between river basins. However, the potential impacts associated with the proposed pipeline and water transfer would in practice be very similar. The installation of the pipeline is considered to fall within the description of development within Schedule 2 Part 10 Infrastructure projects (L) installation of long distance aqueducts where the threshold is if the area of the works exceeds 1 hectare. The pipeline route is approximately 18km in length and would require an area of works considerably in excess of 1ha, as the threshold would be reached it is necessary to consider whether the project is likely to have significant effects on the environment. [redacted]

9.9 The proposed development would be subject to the submission of a formal request for an EIA screening opinion from the LPA's in order to determine whether an Environmental Statement would be required. If the LPA's either individually for various sections, or collectively, deem that the pipe route requires EIA then the permitted development rights would not apply for the pipeline route and express planning permission would be required.

9.10 Planning applications would need to be submitted to the relevant LPA in which the proposed development is located and as a minimum would require the submission of a duly completed application form and notices served; application fee; full set of scaled plans; environmental and technical information; planning, design and access statement and development management plans.

9.11 The statutory timescales for determining planning applications are 8 and 13 weeks for a non-EIA development and 16 weeks for EIA development. In light of the nature of the proposed development and potential for delays due to resource constraints it would be appropriate to assume at least a 9 - 12 months determination period to build in contingency. This assumes that a decision would be issued by the Local Planning Authority and does not account for an appeal which if a public inquiry is required would considerably length the timescales. [redacted]

9.12 A SWOT analysis is set out in the table below to highlight the benefits and drawbacks of the TCPA route.

Strengths	Weaknesses
• Specific elements could be considered permitted development eg on site plant and machinery at Netheridge assuming undertaking falls within role as statutory undertaker. • Approach utilised for other long pipelines /water infrastructure across England eg Birmingham Resilience Project/Strategic	• Project must be considered as a whole for the purposes of EIA. • Requirement for separate EIA screening/planning applications to two LPA's. • TCPA is not designed to be effective for consenting long distance cross boundary linear schemes.

Pipeline Alliance albeit not for SRO/water transfer projects. • Severn Trent would be in control of their own consenting process. • Process is tested and familiar. • [redacted] • Water Industry Act 1991 may provide powers of entry to undertake relevant works. Where these powers are available, they provide relatively streamlined programme opportunities when compared to DCO/CPO. • [redacted] • Water Industry Act 1991 powers backed by CPO availability, where those powers apply. • Water Industry Act 1991statutory noticing powers provide rights of temporary possession where those powers apply.	• Potentially require changes to governance and a planning performance agreement to enable cross boundary collaboration between LPA's. • A planning appeal would considerably lengthen timescales. • Potential for Judicial Review of LPA decision. • Compulsory land acquisition powers are not supported within the TCPA process as part of a planning application and would be required as a separate consent. Whilst it is unlikely that CPO would be required under this consenting strategy, specific design/access requirements are undefined for the discharge points. • Additional consents required eg discharge of condition applications. • [redacted]
Opportunities	**Threats**
• A less regulated and in-depth consultation exercise would be required before the applications could be submitted. • This option is likely to be faster than a DCO if the statutory timescales are adhered to. • Option to lodge an appeal with the Planning Inspectorate if planning applications are undetermined or refused. • Where relevant, Water Industry Act 1991 provides CPO availability. • Opportunity to deal with compensation under the provisions of the Water Industry Act 1991 where these powers can be relied upon. There would be a cost association with the negotiation of easements under DCO ahead of examination. • Arguably increased agility with reference to Crown Land due to the more segmented nature of TCPA/WIA as a consenting strategy, when compared to DCO which would be threatened as a whole.	• Local politics influencing decision making at Planning Committee eg in relation to flood issues. • Two planning applications would be required. This could lead to inconsistent consents being granted at different times. • It would be determined in accordance with adopted development plans which do not have relevant policies. • Appeal would add to project timescales and costs. • Consent from protected undertakers still required outside the DCO/CPO process. Note that there are a high number of crossings associated with the route corridor. Note that this applies to both consenting options. • Where Water Industry Act 1991 noticing powers can be relied upon, easements do not form the resultant right in land and these would need to

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	be obtained separately (or in place of) if desired.. • CPO may be refused in the absence of consent for the STT SRO.

Development Consent Order

9.13 An alternative option is to secure consent through a Development Consent Order (DCO) which was introduced under the Planning Act 2008 (Planning Act). A Development Consent Order (DCO) is the means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP). Developments which are of sufficient qualifying size are classed as Nationally Significant Infrastructure Projects (NSIPs) are consented pursuant to the Planning Act 2008 and if granted, are authorised by a DCO. This typically includes energy, transport, water and waste projects. The aim of the process is to streamline the decision-making process for major infrastructure projects. The DCO process allows for applicants to secure consent for the principal element of the development and elements which are subordinate but integral to the development. The Act also allows for a range of other consents to be included within the DCO and for provisions to be applied or disapplied.

9.14 A DCO is a statutory instrument (i.e. a standalone legal order) which will contain the majority of powers necessary to deliver a project. These powers typically include the ability to close and divert highways, to carry out street works, and to compulsorily acquire land and rights as necessary to deliver the project although it may still be necessary to obtain some other consents such as environmental permits via separate processes.

9.15 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 set out the procedures for determining whether an Environmental Impact Assessment is required. If the proposal is deemed to be EIA development, an Environmental Statement (ES) must be submitted as part of the DCO. The purpose of the ES is to explain the likely effects which will occur as a result of the scheme during both construction and operation. It is important that the document covers the measures which will be set out to avoid, prevent, reduce or offset any significant effects on the environment.

9.16 The DCO application is made to the Planning Inspectorate who will consider the application and make a recommendation to the Secretary of State. Once a DCO application is submitted it will be subject to the statutory timetable. This by contrast is designed to be a relatively fast moving process which avoids some of the delays associated with potentially controversial applications being determined at local authority level or on appeal. There are six stages of the NSIP process: pre-application, acceptance, pre-examination, examination, recommendation and decision and post decision. A summary of the key stages is summarised below:

- Pre-application - Before an application is submitted, the applicant must carry out consultation on their proposal with key stakeholders, consultees and the public. Comprehensive land referencing and surveys. Environmental Impact Assessment and preparation of Environmental Statement, other environmental assessments eg Habitat Regulations Assessment if required.
- Acceptance – This stage begins when the application for a development consent order is submitted to the Planning Inspectorate. There is a 28-day period for the Planning

Inspectorate, on behalf of the Secretary of State, to decide if the application meets the standards required for examination.

- Pre-examination – This is the stage where members of the public can register themselves as an Interested Party by making a Relevant Representation (a written summary of their views on the application). This is also the stage where an Examining Authority is appointed, and all Interested Parties will be invited to a Preliminary Meeting. There is no formal timeframe for this stage, but it usually takes approximately three to four months.
- Examination – The Planning Inspectorate has up to 6 months to examine the application. During this stage Interested Parties are also able to provide more information and views on the application. The examination is primarily written with several (often extensive) rounds of questions with strict short term deadlines. There is also likely to be a number of oral hearings, revisions to the DCO and a consistent requirement to adapt method statements and mitigation schemes throughout to try to reach common ground with stakeholders.
- Recommendation and Decision – A report is prepared by the Planning Inspectorate to the relevant Secretary of State, within three months of the Examination period finishing, which provides a recommendation. The relevant Secretary of State then has a further three months to either grant or refuse the development consent application.
- Post Decision – Following the decision, there is a six-week period where the decision can be challenged in the High Court.

9.17 From the Planning Inspectorate accepting an application to making a decision, the whole process should last in the region of 16 months. This would follow at least 12 months of pre-application consultation and extensive survey work. There is considerable front loading of the preparation for a DCO application which has a particular focus on the need to consult with options at a stage where the community and stakeholders have a meaningful opportunity to influence the eventual project. In addition, full information is required to be provided for the options considered but rejected. The pre-application requirements of the DCO process are extensive.

9.18 It is recommended that the applicant discusses the application with the Planning Inspectorate before the application is submitted. This will help ensure that the information submitted is prepared and organised in an appropriate manner, giving them a higher chance of being accepted for examination. Notice must in any event be given to the Planning Inspectorate of the intention to submit of it is for EIA development.

9.19 It is important that the proposal is sufficiently developed and supported by extensive consultation prior to submission as post submission changes which would result in a materially different scheme will not be permitted.

9.20 The applicant of a DCO must pay fees to cover the cost of the casework done by the Secretary of State. These fees are payable at different stages throughout the process including at the time of submitting an application, when the application is accepted for examination, when the formal examination commences, when the formal examination is completed. These fees can vary depending on how many people are on the examining authority panel and the number of days that are expected to be needed for the formal examination.

9.21 Where works are included in a DCO, consent is granted for everything in one decision and nothing can be undertaken until that consent is granted and comes into force. In addition, sufficient detail needs to be provided about the various elements of the project so they can be fully described and

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assessed. It is not possible to secure an 'outline' consent for certain elements and leave substantial details to be provided at a later time.

9.22 The particular wording of the DCO requirements (which have the same function as planning conditions) will determine if some elements of works can begin before the details of all the elements have been approved. It is common to seek to allow some phased delivery of work under a DCO, but it cannot be guaranteed that work on one element could begin until certain details are approved for the whole project; commonly key controls such as the Code of Construction Practice or Environmental Management Plans have to be in place before any substantial works can commence.

9.23 In the event works are permitted under a DCO there is no need to obtain a separate planning permission. However, this does not prevent elements that are 'associated development' from also being consented and constructed via a planning permission or permitted development rights separately.

Section 28 Water Transfer NSIPs

9.24 The Planning Act sets out thresholds above which certain types of major infrastructure projects are considered to be nationally significant and require development consent. The thresholds are generally in reference to the size and scale of the project. Water transfer projects are only NSIPs for the purposes of section 14 of the Planning Act 2008 (and therefore only require a DCO) if they meet the criteria set out in section 28. The relevant criteria are:

(1) *Development relating to the transfer of water resources is within section 14(1)(n) only if—*

(a) the development will be carried out in England by one or more water undertakers,

(b) it is expected that—

(i)the deployable output of the facility to be constructed as a result of the development will exceed 80 million litres per day, or

(ii)the additional deployable output of the facility to be altered as a result of the development will exceed 80 million litres per day,

(c) the development will enable the transfer of water resources—

(i)between river basins in England,

(ii)between water undertakers' areas in England, or

(iii)between a river basin in England and a water undertaker's area in England, and

(d) the development does not relate to the transfer of drinking water.

(2) In this section—

- "river basin" means an area of land drained by a river and its tributaries;
- "water undertaker" means a company appointed as a water undertaker under the Water Industry Act 1991;
- "water undertaker's area" means the area for which a water undertaker is appointed under that Act.

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9.25 The development is proposed to be carried out by Severn Trent Water as a statutory water undertaker and therefore criterion a) is met.

9.26 'Deployable output' is defined in the Planning Act 2008 as:

'in relation to a given facility, the annual average volume of water that can be produced per day from that facility under drought conditions, having regard in particular (where applicable) to—

A) *the hydrological yield of the facility;*

(a) *the quantity of water licensed for abstraction;*

(b) *the state of the local environment;*

(c) *the properties of any—*

(i) pumping plant;

(ii) well;

(iii) aquifer;

(iv) raw water main;

(v) aqueduct;

(vi) transfer main;

(vii) output main;

(e) any water treatment processes;

(f) any requirements relating to water quality;

9.27 Legal advice provided states that for criterion b) the 'deployable output' must be "expected to" exceed 80Ml/d. In relation to the Netheridge discharge pipeline, the pipeline would have the ability to transfer up to 35 megalitres of water per day (Ml/d). Of the 35 Ml/d discharge to the River Severn that the Netheridge scheme could provide, 20 Ml/d could provide the required flow augmentation for the sweetening flow abstraction, at times where the hands of flow would otherwise prevent abstraction from the River Severn, with the remainder providing discharge to facilitate supported flow abstractions to the STT. The legal advice states that it is not necessary that the facility operates at over 80Ml/d on a daily basis, only that it is capable of doing so. In this case, the proposed transfer is substantially below the threshold and criterion b) is not met.

9.28 Criterion c) requires that the project enables the transfer of water between river basins or water undertakers' areas in England. The transfer from Minworth to the River Severn would not meet the criteria as the transfer remains within the Severn Trent statutory undertakers area. However, as this project 'enables' the transfer to another undertaker, legal advice states that it may be arguable that this criterion may be met.

9.29 In considering criterion d) legal advice considers that there is no definition of 'drinking water' in the Planning Act 2008. In such cases the normal UK definition will apply and drinking water is that which meets the necessary standards of purity and cleanliness to be supplied for consumption by humans. We understand that the water to be transferred by the Project will be treated discharge

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from Netheridge which will mix with the existing water which comes from various sources. This water would not meet the standards required for it to be acceptable as 'drinking water' and will require treatment following abstraction before it could be supplied to consumers. The transfer is therefore not drinking water and criterion d) is met.

9.30 If the NSIP criteria in section 28 are met the DCO route must be followed. However, if a project falls outside of these types or thresholds, it is still possible to apply to use the DCO regime. Section 35(1) of the Planning Act states that the SoS may give a direction for development to be treated as development for which development consent is required.

9.31 The provisions of Section 35 of particular relevance are:

- the development is or forms part of a project (or proposed project) in the field of water;
- the development would (when completed) be wholly in England or waters adjacent to England up to seaward limits of the territorial sea; and
- the SoS thinks the project (or proposed project) is of national significance, either by itself or when considered with one or more projects (or proposed projects) in the same field.

9.32 To obtain a Section 35 Direction, the applicant must submit a request to the Secretary of State who has 28 days to decide if the proposal is of 'national significance' either by itself or when considered with one or more projects (or proposed projects) in the same field.

9.33 There are no detailed statutory criteria for determining what development may be granted a section 35 direction. DEFRA has not issued a policy statement on how it intends to approach section 35 requests. The Draft NPS refers to a number of scenarios where a section 35 direction could, in theory, be made but all the references are very high level.

9.34 The factors considered in a DEFRA consultation in 2017 in revising the NSIP thresholds for water projects should be specifically addressed where applicable. These include whether a project will:

a) will serve a substantial number of people;

b) is likely to have a significant economic impact, or is important for driving growth in the economy;

c) is of a substantial size;

d) will have an impact across an area wider than a single local authority area;

e) is important to the delivery of a nationally significant infrastructure project or other significant development;

f) makes a significant contribution to environmental objectives; or

g) will require multiple consents or authorisations, and which, in consequence, would benefit from the single authorisation process offered by the NSIP planning process.

9.35 Section 35 direction cannot be issued where a TCPA application for the relevant works has already been made. Whilst it is possible to keep consenting options open during the pre-application phase once a planning application has been made then the relevant works cannot be included in a section 35 direction. It is accordingly necessary to determine if a section 35 direction will be sought as a strategic decision as it is not available to allow opt-in the DCO process where a TCPA application has been made but encounters consenting issues. There is,

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however, no legal prohibition on including works within a DCO as associated development where a planning application has been made. In such circumstances it would, however, be important to consider the publicity and reputational effects of doing so.

9.36 A number of Section 35 directions have been issued in the past for other infrastructure projects. [redacted] On 31 May 2022 the SoS for the DEFRA issued a Section 35 Direction relating to the Hampshire water transfer and water recycling project. The proposed project relates to the construction of new water transfer and water recycling infrastructure for the purposes of water supply. The SoS was of the view that the proposed development by itself is nationally significant and should be treated as a development of national significance.

9.37 A Section 35 Direction would be required to be obtained for the Netheridge ST Sources SRO to confirm that the pipeline development would qualify as an NSIP. However, the proposed water transfer is substantially below the volume transfer criteria set out in section 28 and is considered unlikely to be form a project considered to be nationally significant in its own right.

Section 29 Waste Water Treatment NSIPs

9.38 The waste water treatment NSIP threshold is set out in Section 29 of the Planning Act 2008 which provides;

'(1) The construction of a waste water treatment plant is within section 14(1)(o) only if the treatment plant (when constructed)—

(a) will be in England, and

(b) is expected to have a capacity exceeding a population equivalent of 500,000.

…

(2) The alteration of a waste water treatment plant is within section 14(1)(o) only if—

(a) the treatment plant is in England, and

(b) the effect of the alteration is expected to be to increase by more than a population equivalent of 500,000 the capacity of the plant'

9.39 As the new tertiary treatment proposed at the Netheridge site are an addition to the existing facility and would not comprise construction of a new waste water treatment plant they would accordingly not fall within section 28(1). As the works would add to the existing treatment process so that the water to be discharged meets the standards required to maintain the water quality of the receiving water body. On that basis, it can be assumed that the works do not provide significant new capacity for treating water and would not exceed the threshold of providing capacity for a population equivalent of 500,000 people. Therefore, the works would not fall within section 28(2).

9.40 The new treatment works would not alone constitute an NSIP in their own right. It is not considered that a section 35 case could be made solely for the new treatment works proposed at Netheridge to be considered as an NSIP.

9.41 A SWOT analysis is set out in the table below to highlight the benefits and drawbacks of the DCO route for the STS Netheridge SRO:

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Strengths	Weaknesses
• Offers a one stop shop for the DCO including deemed planning permission plus powers of compulsory purchase. • Coordinated, comprehensive consenting approach to assess the impacts across two separate Local Planning Authorities areas. • A single decision will be made by a single authority rather than two separate decisions. • The consenting timings are more rigid and predictable. • Removes the risk of local political matters influencing the decision-making process. • Engagement of protected undertakers in terms of consenting is required by the DCO. • DCO would include all aspects of the development, including those that would otherwise not be covered by statutory noticing powers afforded by the Water Industry Act 1991 where they apply, including deemed planning permission, plus powers of compulsory purchase. • DCO allows temporary possession to be taken where land is not required on a permanent basis and rights to be acquired permanently (as opposed to just freehold possession).	• NSIP threshold for water transfer not met in terms of volume transfer. • S35 application would be required – case potentially difficult to make as volume transfer threshold not met and potentially scheme lacks complexity with more local impacts. • Draft water resource NPS, no final version issued to date. Still a material consideration but less wight attributed to it. • Potential requirement to cojoin with other SRO's eg STT SRO for environmental and cumulative impact assessment and to quantify economic, social and other benefits. • No other water DCO projects at pre-application stage or taken through the system to date. • Substantial number of surveys and documents required to submit for the DCO application. • Extensive pre-application consultation requirements. • This option is likely to be more expensive than the TCPA route. • Less flexibility to amend route outside limits of deviation once DCO made. • Additional consenting by protected undertakers still required, albeit backed by the DCO. • Defined timetable allows less scope for evolution of the scheme post application compared to TCPA. • [redacted]
Opportunities	**Threats**
• Recognition of scale and significance of project – potential for impacts across a wider than local area including two LPA's and waterbodies. • Ability to include multiple consents and powers required for delivery in one consent.	• Potential for proposal to be considered too small scale and DEFRA determine that the scheme does not comprise and NSIP. • This option requires extensive consultation with stakeholders and the community to be undertaken before the application can be submitted.

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• Severn Trent would be in control of their own consenting process.	• The level of scrutiny during the examination of a DCO application is usually greater than with a TCPA application and requires substantial client input. • [redacted] [redacted]

Associated Development to STT SRO DCO

9.42 Another option is to pursue consent for the proposed development as 'associated development' as part of the wider STT SRO DCO project promoted by Thames Water.

9.43 Section 115 of the Planning Act provides that, in addition to the development for which development consent is required under Part 3 of the Act consent may also be granted for associated development.

9.44 Associated development is defined in the Planning Act as development which is associated with the principal development. Sub-sections (2) to (4) of 115 of the Planning Act set out other requirements relating to associated development. Associated development can include development in England and in waters adjacent to England. A guidance note was published in April 2013 by DCLG to help those who intend to make an application for development consent under the Planning Act to determine how the provisions of the Planning Act in respect of associated development apply to their proposals.

9.45 Section 5 of the guidance notes states that it is for the SoS to decide on a case by case basis whether or not development should be treated as associated development. In making this decision the Secretary of State will take into account the following core principles:

(i) The definition of associated development, as set out in paragraph 3 above, requires a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development or help address its impacts.

(ii) Associated development should not be an aim in itself but should be subordinate to the principal development.

(iii) Development should not be treated as associated development if it is only necessary as a source of additional revenue for the applicant, in order to cross-subsidise the cost of the principal development. This does not mean that the applicant cannot cross-subsidise, but if part of a proposal is only necessary as a means of cross-subsidising the principal development then that part should not be treated as associated development.

(iv) Associated development should be proportionate to the nature and scale of the principal development. However, this core principle should not be read as excluding

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associated infrastructure development (such as a network connection) that is on a larger scale than is necessary to serve the principal development if that associated infrastructure provides capacity that is likely to be required for another proposed major infrastructure project. When deciding whether it is appropriate for infrastructure which is on a larger scale than is necessary to serve a project to be treated as associated development, each application will have to be assessed on its own merits. For example, the Secretary of State will have regard to all relevant matters including whether a future application is proposed to be made by the same or related developer as the current application, the degree of physical proximity of the proposed application to the current application, and the time period in which a future application is proposed to be submitted.

9.46 'Associated development' should be directly related to the principal development and help support its construction and operation, it should be proportionate in scale and be typical of development brought forward alongside that type of principal development.

9.47 It is considered that the proposed Netheridge works would not be required in the absence of the STT SRO project and that it otherwise satisfied the requirements of the definition of 'associated development'. The principal element of the STT SRO project comprises a new interconnector pipeline from the River Severn to the Thames Water network. The "interconnector" pipeline is considered a nationally significant infrastructure project by Thames Water and will therefore require authorisation via a development consent order under the Planning Act 2008. The "interconnector" SRO and DCO would be delivered and operated by Thames Water. In order for the SRO project to properly function, further works consisting of the addition of the tertiary treatment facility at the existing Netheridge WwTW and the construction of a transfer pipeline to link either into the River Severn or directly to the "interconnector" pipeline will be required.

9.48 At this stage, it is understood that the project team for the STT SRO are recommending that ST Netheridge Sources SRO could be considered to constitute 'associated development' due to the likely reliance it will have on ST Sources as a sweetening flow which is considered a critical element of the scheme and this is supported by legal advice.

9.49 If the Netheridge works are progressed as 'associated development' to the STT SRO, whether or not the works are granted consent will depend entirely on whether the DCO is granted. Even if the Netheridge works are entirely acceptable in planning terms in their own right, as 'associated development', they would not be consented if the main NSIP failed. In contrast, if the main NSIP succeeds you can legitimately expect the Netheridge Works to follow suit. The balance of consenting risk is therefore likely to directly relate to that of the main NSIP.

9.50 If the Netheridge works are to be consented as 'associated development' they will form part of the wider DCO application and therefore become bound into its programme and procedural requirements. As indicated in the DCO section of this report, such projects have long pre-application 'lead in' periods due to the lengthy and often multi stage consultation process, EIA processes and application submission requirements.

9.51 If consented as 'associated development' to the STT DCO the Netheridge scheme would need to be constructed, operated and maintained in accordance with the terms of the DCO and in particular its requirements (the DCO equivalent of planning conditions) and protective provisions.

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This is likely to be a different and potentially more prescriptive approach to that in relation to non-DCO projects.

Strengths	Weaknesses
• Offers a one stop shop for the DCO including deemed planning permission plus powers of compulsory purchase. • If the main NSIP DCO succeeds you can legitimately expect the Netheridge Works to follow suit. • Coordinated, comprehensive consenting approach to assess the impacts across multiple LPA areas. • A single decision will be made by a single authority rather than separate planning permissions. • The consenting timings are more rigid and predictable. • Removes the risk of local political matters influencing the decision-making process. • Engagement of protected undertakers in terms of consenting is required by the DCO. • DCO would include all aspects of the development, including those that would otherwise not be covered by statutory noticing powers afforded by the Water Industry Act 1991, including deemed planning permission, plus powers of compulsory purchase. • DCO allows temporary possession to be taken where land is not required on a permanent basis and rights to be acquired permanently (as opposed to just freehold possession).	• Potential for delays and increase timescales. • Draft water resource NPS, no final version issued to date. • No other water DCO projects at pre-application stage or taken through the system to date. • Substantial number of surveys and documents required to submit for the DCO application. • Extensive pre-application consultation requirements. • This option is likely to be more expensive than the TCPA route. • Less flexibility to amend route outside limits of deviation once DCO made. • Additional consenting by protected undertakers still required, albeit backed by the DCO. • Defined timetable allows less scope for evolution of the scheme post application compared to TCPA. • Scheme would need to be constructed, operated and maintained in accordance with the terms of the DCO and in particular its requirements (the DCO equivalent of planning conditions) and protective provisions. • Restrictions on implementing and exercising powers under the DCO once consented. • [redacted]
Opportunities	**Threats**
• Recognition of scale and significance of project – potential for impacts across a wider than local area including twoLPA's and waterbodies.	• As 'associated development' not consented if NSIP DCO fails. • Lack of control as another statutory undertaker would be the applicant for the SRO.

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• Ability to include multiple consents and powers required for delivery in one consent.	• DCO is a different and potentially more prescriptive approach to development than in relation to non-DCO projects. • This option requires extensive consultation with stakeholders and the community to be undertaken before the application can be submitted. • The level of scrutiny during the examination of a DCO application is usually greater than with a TCPA application and requires substantial client input. • [redacted]

Other Consents and Licences

9.52 This section sets out the secondary licences and consents which may be required for the ST Sources SRO scheme. If the DCO route is followed this would include a number of the secondary licences and consents required as a single overarching consent. If the TCPA route is followed, then the majority of the consents listed in the table below would need to be obtained separately.

Activity	Licence / Consent	Regulating Body	Notes	DCO Inclusion
Works within a SSSI	SSSI Assent	Natural England	[redacted]	Can be superseded by the DCO
Works that could disturb European protected species	European Protected Species Licence	Natural England		Technically possible but never agreed to be included in a DCO as there is insufficient detail available on the timing of works and approach to mitigation etc at the DCO stage.
Works affecting an important hedgerow	Hedgerow Removal Notice	Local Planning Authority		Routinely included in DCO's as is consent to works to hedgerows not classed as important.
Works to trees with Tree Preservation Orders	Tree Preservation Order Consent	Local Planning Authority		Routinely included in DCO's.
Requirement to temporarily close a PRoW	Temporary Closure Order	Local Planning/ Highway Authority	Multiple	Routinely done through an article of the DCO negating the need for a separate closure order.

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Requirement to permanently close or divert a PRoW	Stopping up or extinguishment of a PRoW	Local Planning/ Highway Authority		Routinely done through an article of the DCO negating the need for a separate closure order, but case must be made for replacement or diversion route or why that is not required.
Works in, over, under or affecting the flow of an ordinary watercourse	Ordinary Watercourse Consent	LPA or Internal Drainage Board		Have been routinely disapplied in DCO's however, the EA has recently started objecting to this.
Works on or near a main river, on or near a flood defence structure, in a flood plain	Flood Risk Activity Exemption	Environment Agency		
New water discharge activity	Standard or Bespoke Environmental Permit	Environment Agency		
Approval for noise generating activities during construction	Section 61 consent (noise and / or vibration)	Local Planning Authority		Usually obtained separately by a contractor closer to the time the works concerned would be carried out and specific plant details are known.
Permanent alterations or improvements to a public highway	Section 278 highways agreement	Local Planning/ Highway Authority		
Transport of an Abnormal Load	Notification	Police, Highways Authorities		Not included, road booking will also still need to be undertaken separately.
Applications for road closures and other restrictions which require a Temporary Traffic Regulation Order (TTRO). This includes restrictions on county roads, footpaths and bridleways.	Temporary Traffic Regulation Order	Local Highway Authority		Routinely done through an article of the DCO negating the need for an order.
Works affecting Network Rail Land (Within 15 m)	Asset Protection Agreement	Network Rail		Not strictly a planning consent, similar in nature to landowner consent, routinely done in parallel with the DCO.

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Works within Common Land	Section 38 Consent	Planning Inspectorate (on behalf of DEFRA)	[redacted]	Cannot be included.

10. Preferred Consenting Option

10.1 This section sets out the current preferred consenting strategy based on the information available to date, input from Severn Trent and their legal advisors. In summary, the proposed development which forms the ST Sources Netheridge SRO comprises:

- provision of new advanced tertiary treatment processes for existing effluent within the Netheridge WwTW to maintain the current WFD status of the receiving waterbody;
- new transfer pipeline of approximately 18km in length to a new discharge point on the River Severn.

10.2 It is considered that the tertiary treatment processing works at the Netheridge site and the associated pipeline in isolation would not meet the Planning Act 2008 criteria for a water or waste water NSIP. A section 35 application is unlikely to be successful as a standalone application. The proposed development within the Netheridge site is not of a scale or complexity which would make it nationally significant to make a DCO necessary. In addition, the proposed volume transfer is substantially below the NSIP threshold and given the size and scale of the proposed development it is potentially more likely to have smaller scale predominately local level impacts. In practice and on balance, it is considered that a section 35 direction could be difficult to obtain given the size and scale of the proposed development and predicted volume transfers.

10.3 Therefore, the ST Sources SRO Netheridge works could potentially be consented through the following options:

- as 'associated development' as part of the STT SRO DCO;
- a planning application submitted pursuant to the Town and Country Planning Act 1990 (ahead of or in tandem with the consenting process for the STT DCO).

10.4 Based on the criteria for 'associated development' set out in the DCLG Guidance published in April 2013, the Netheridge scheme as part of the STT SRO:

- support the operation of the principal development;
- be subordinate to the principal development;
- is proportionate to the nature and scale of the principal development;
- be a kind of development that is usually necessary to support a water supply project.

10.5 The Netheridge works could form 'associated development' to the STT SRO DCO. As 'associated development' to the STT SRO DCO it would be assessed within the documents as part of this DCO. An applicant has the choice of seeking to consent 'associated development' through planning permission rather than a DCO. Whether the planning application route is appropriate will depend upon the prospects of the planning application being determined swiftly by the local planning authorities without an appeal or material objection.

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10.6 [redacted]

[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

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[redacted]		
[redacted]	[redacted]	[redacted]

10.7 It is understood that the preferred consenting option for Severn Trent is to seek to include the new tertiary treatment works required within the Netheridge WwTW and the water transfer pipeline to the River Severn as 'associated development' to the STT SRO Interconnector DCO. STW are likely to progress as a joint applicant and named undertaker.

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11. Next steps

11.1 This section sets out high level next steps for Severn Trent in developing and actioning the consenting strategy in relation to the ST Sources Netheridge SRO.

11.2 It is understood that the preferred consenting option for Severn Trent is to seek to include the new tertiary treatment works required within the Netheridge WwTW and the water transfer pipeline to the River Severn as 'associated development' to the STT SRO "Interconnector" DCO. The works proposed within the Netheridge WwTW and subsequent transfer would form one of a number of sources to supply the STT SRO. The next steps for Severn Trent from a consenting perspective would be as follows:

i) appoint legal advisors to represent Severn Trent and agree contractual arrangements with Thames Water to include the additional treatment works at Netheridge and transfer pipeline as 'associated development' within the STT SRO DCO. It is expected that this agreement would seek to include STW as a joint applicant and named undertaker and agreement to roles, responsibilities and conduct of the DCO application process.

iii) In accordance with the contractual arrangements set out in i) it is expected that Severn Trent would be involved with Thames Water in appointing a legal and consultant team to deliver the DCO application. The actual drafting of the DCO text is undertaken by lawyers and the legal team take a key role in leading the DCO application. A team of designers, environmental experts, technical, PR/communication experts and planning consultants would be required to develop the material required to support a DCO application. [redacted]

iv) Severn Trent would need to progress design development of the new tertiary treatment works proposed at Netheridge WwTW and transfer pipeline to include site boundary (permanent and temporary); dimensions of buildings and associated infrastructure; extent and nature of the construction works and construction programme. It would also be necessary to provide a description of the processes to be undertaken on site and information about the volumes of water available to supply the transfer. At the non-statutory consultation stage a clear design proposal is required which at this stage can include options, however, there should be sufficient detail provided to encourage engagement and comment. For the Environmental Impact Assessment scoping stage a full description of the proposed development is required, design development principles and enough detail about the processes for the environmental specialists to understand the potential impacts associated with the proposed development. At the statutory consultation stage detailed designs are required to include scheme layout, work descriptions, land assembly plans, elevations of above ground structures and visualisations of proposed development. In order to submit the DCO application the list of documents [redacted] include detailed designs, plans and sections to show limits of deviation.

v) Comprehensive technical and environmental survey work would be required to inform the development of the Environmental Impact Assessment. A team of specialist consultants would be required to be appointed to assess the impacts. It would be expected that this would be agreed as part of the contractual arrangements in point i)

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above and given the ST Sources Netheridge works would form 'associated development' would be led by Thames Water. The consultant team would need access to Netheridge and the pipeline corridor to undertake surveys and the matters to be assessed include impacts upon population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydro-morphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape. [redacted]

vi) Comprehensive consultation and engagement forms a key component of the DCO application preparation, this comprises non statutory consultation and statutory consultation. Severn Trent would be part of this and involved in engagement particularly with Gloucester City and Tewkesbury Borough Council [redacted] and would ensure continuity in approach and aim to protect the future relationship for other works at the Netheridge site. [redacted]

vii) Severn Trent would provide input into the other documents which form part of the DCO [redacted] This would include supporting the development of the planning policy case, planning policy compliance monitoring and planning input into the development of the proposals. Severn Trent would provide input into the case for the proposed development drawing attention to the extensive operation undertaken at the Netheridge WwTW; the existing operational land status of the proposed development site and other planning history information which would support the case for development within the site.

viii) [redacted]

ix) [redacted]

11.3 The key planning risks and management strategy to consenting the ST Sources SRO are summarised in the table below:

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Risk	Risk Description	Risk Mitigation
DCO route	Proposed development is 'associated development' to the STT SRO DCO. Most expensive option as STW would need to resource support for the design, EIA work and other application documents as well as active participation in the Examination. Would still need a contractual agreement in the background between Thames and Severn Trent as to the conduct of the application May have to comply with project wide commitments unless the Netheridge works could be ring-fenced to its own commitments as part of the DCO. Severn Trent may have to accept concessions made to secure consent for the wider project. Works and ongoing maintenance likely to have to be exercise in accordance with the DCO requirements rather than via statutory powers under the WIA	Severn Trent appoint legal advisors to represent Severn Trent and agree contractual arrangements with Thames Water to include the additional treatment works at Netheridge and transfer pipeline as 'associated development' within the STT SRO DCO. It is expected that this agreement would seek to include STW as a joint applicant and named undertaker and agreement to roles, responsibilities and conduct of the DCO application process.
TCPA route	If the TCPA route is used the consenting period could be unacceptably long compared to the DCO route. This is due to the risk of planning appeals and also additional consents being required separately.	Severn Trent and appointed team would need to develop a robust and comprehensive engagement strategy with the LPAs, consultees and other statutory bodies and seek to secure 'planning performance agreement' (PPA) arrangements.
TCPA refused	One of the TCPA applications could be refused by one of the Local Planning Authorities or a statutory body could object to one of the TCPA applications.	Severn Trent and appointed team to consult with the relevant stakeholders to ensure any potential objections to the scheme are mitigated as early as possible. Scope for submission of a single application to both with appointment of lead authority. Appeal would enable the application to be determined by Planning Inspectorate.
[redacted]	[redacted]	[redacted]

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		[redacted]
Water Resources Infrastructure NPS adoption	The NPS which is relevant to the SRO is still at a draft phase. There is a risk this is not progressed to adoption. This is still a material consideration but less weight should be attributed to it.	Severn Trent and other water companies engage with DEFRA to understand timeframes for adoption.

The following appendices have been redacted.

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[redacted]

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[redacted]

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[redacted]

[redacted]

[redacted]

APPENDIX G – Land Interest Risk Register

[redacted]

APPENDIX H - DCO Indicative Programme

[redacted]

[redacted]

APPENDIX I - Highways Extent Searches