RAPID Gate Three
Strategic Resource Option – Hampshire Water Transfer and Water Recycling Project

Supporting Annex 6: Programme and Planning

July 2024

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6. Programme and Planning

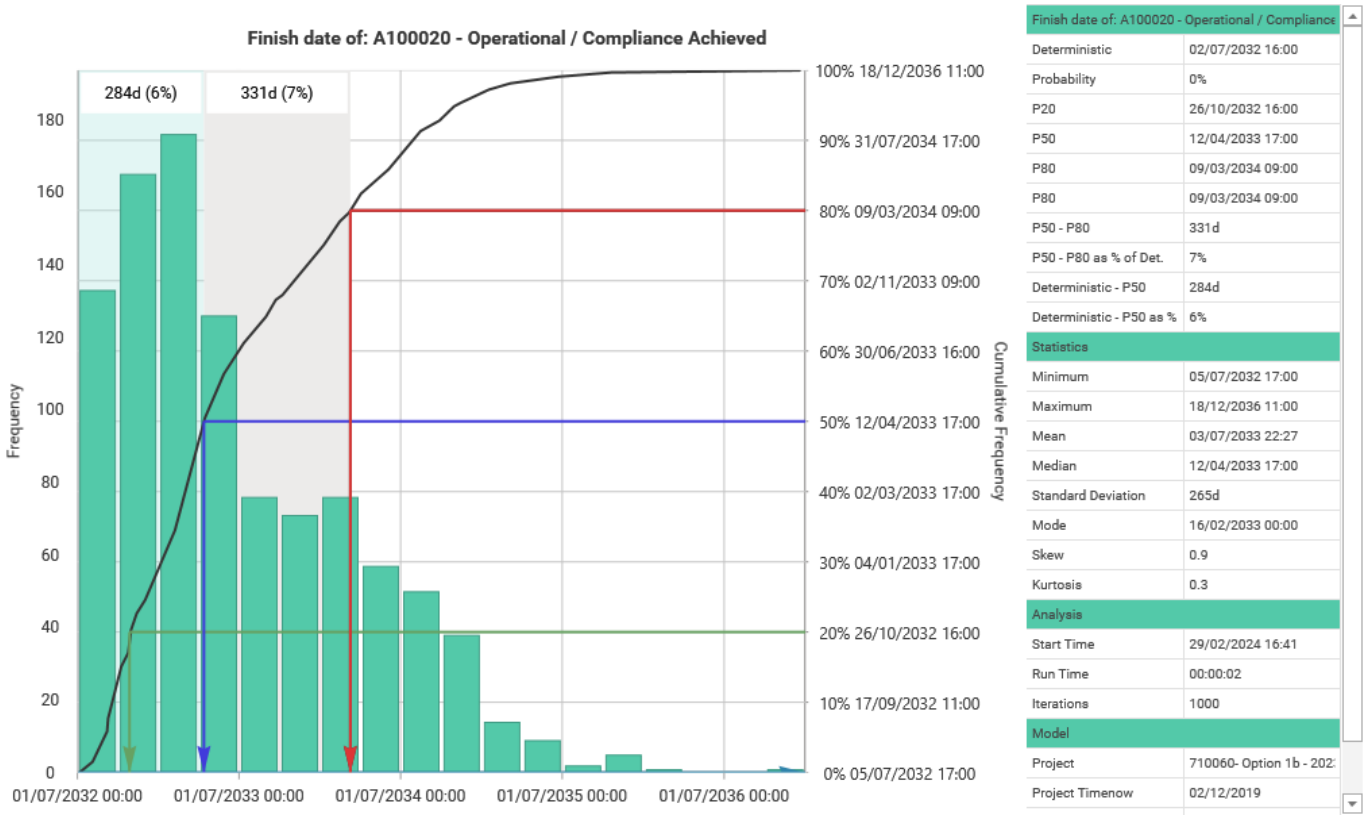
This annex sets out the approaches, considerations, and background information as pertaining to the project schedule, project risks, preparation for Development Consent Order (DCO) application and Land Acquisition strategy as discussed in Chapter 6: Programme and Planning for the Hampshire Water Transfer and Water Recycling Project (HWTWRP). It provides further detail regarding the activities associated with the individual workstreams set out in the project schedule and the processes and approaches that have been followed to achieve the outputs.

6.1 Project Plan

6.1.1 Project Schedule

To identify the forecast delivery dates set out in the project schedule, programme and project risks are mapped against the deterministic dates forecast for each activity in the project schedule. A Monte-Carlo type, Quantitative Schedule Risk Analysis (QSRA), is then ran to model the probabilistic schedule dates. This considers the varying effects and likelihood of each of the associated risks which could result in schedule change and provides an indication of likely completion dates for the identified milestones (Figure 6-1). This enables a statistical prioritisation of the risks affecting the project to inform the decisions and the effort that should be required on risk mitigations.

Trends can be recognised as schedule detail is developed, further risks are identified, and existing risks are mitigated or closed. This provides probabilistic “construction ready” and “operational ready” delivery dates, consistent with the P80 schedule, as set out in Chapter 6: Programme and Planning. The P80 date is an accepted construction standard that is used as a modelled estimate of certainty.



Finish date of: A100020 - Operational / Compliance	
Deterministic	02/07/2032 16:00
Probability	0%
P20	26/10/2032 16:00
P50	12/04/2033 17:00
P80	09/03/2034 09:00
P80	09/03/2034 09:00
P50 - P80	331d
P50 - P80 as % of Det.	7%
Deterministic - P50	284d
Deterministic - P50 as %	6%
Statistics	
Minimum	05/07/2032 17:00
Maximum	18/12/2036 11:00
Mean	03/07/2033 22:27
Median	12/04/2033 17:00
Standard Deviation	265d
Mode	16/02/2033 00:00
Skew	0.9
Kurtosis	0.3
Analysis	
Start Time	29/02/2024 16:41
Run Time	00:00:02
Iterations	1000
Model	
Project	710060- Option 1b - 202
Project Timenow	02/12/2019

Figure 6-1 - Histogram of project completion dates, overlayed with a cumulative probability curve to indicate likelihood of completion by given dates.

The detailed project schedule has been developed in accordance with P80 for individual workstreams activities. This sets out the critical activities and key dependencies until the “construction ready” date of August 2029 (Figure 6-2) and includes the detailed project milestones and activities that are associated with the Water Quality and Drinking Water Safety Plan (DWSP) development and environmental assessment and surveys as described in Chapter 3: Drinking Water Quality and Chapter 4: Environmental respectively (Figure 6-3). The construction activity and plan to the “operational ready” date including the critical activity and key dependencies has also been developed (Figure 6-4).

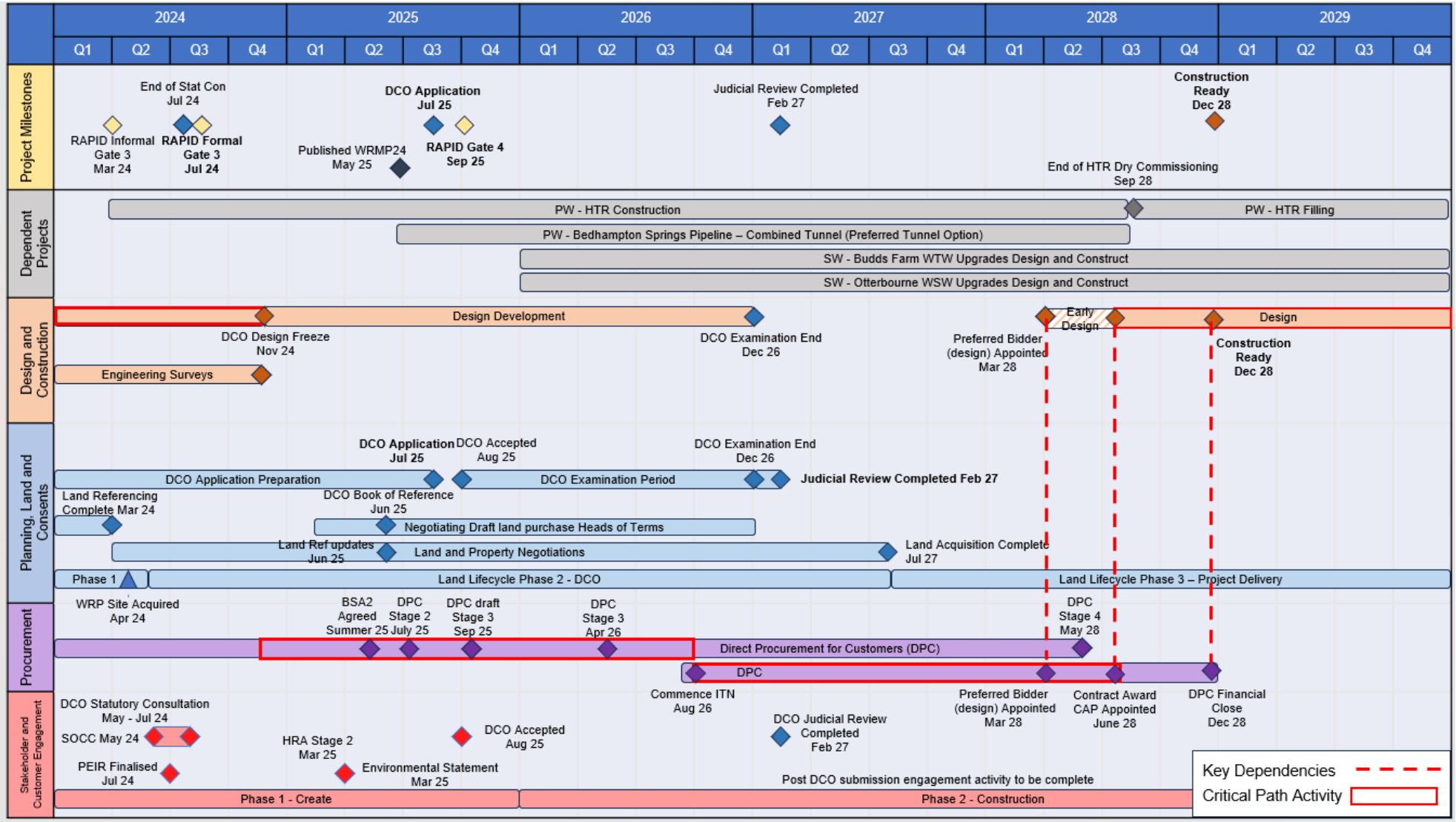


Figure 6-2 - The HWTWRP Programme Schedule to "construction ready" date

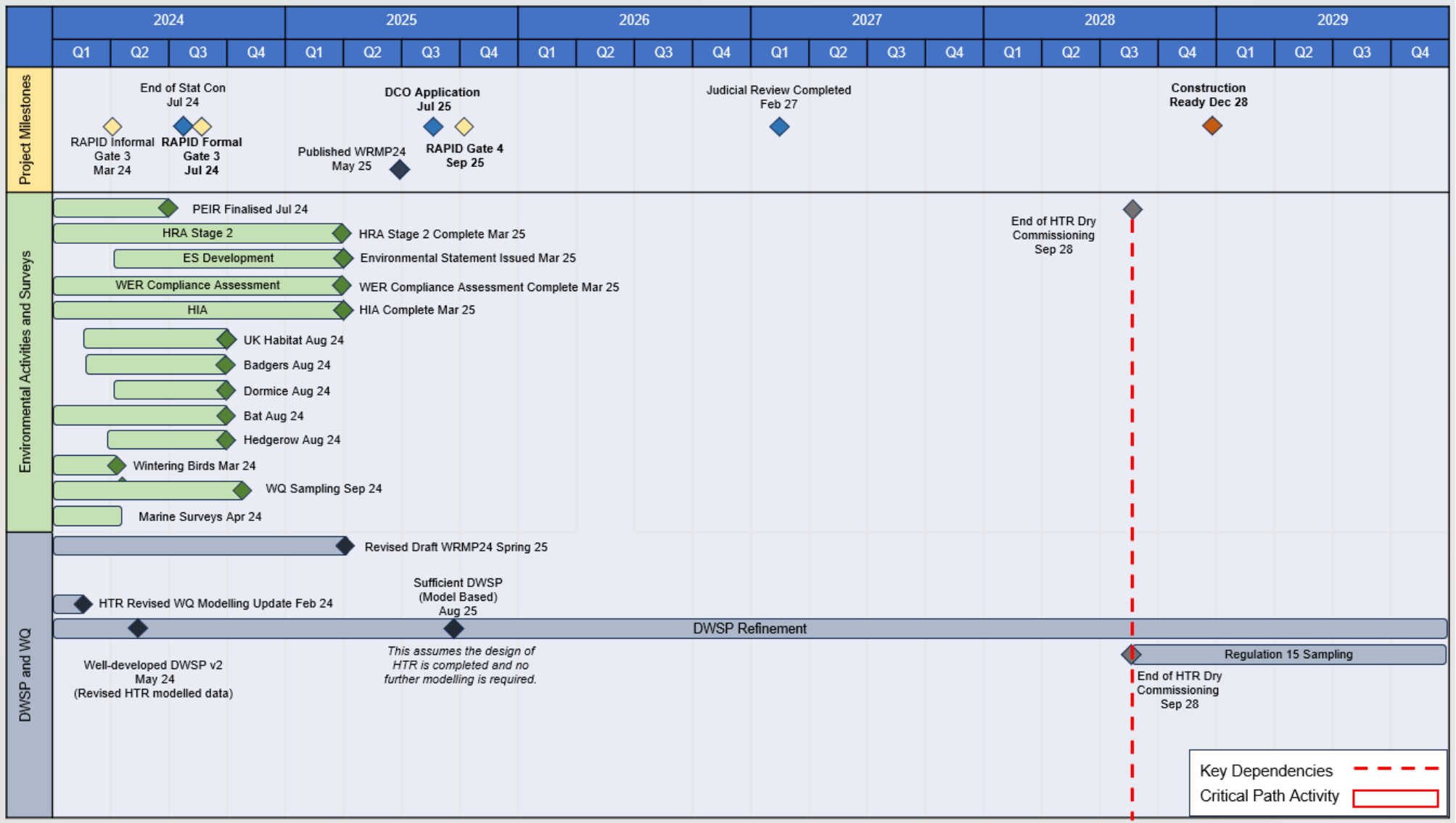


Figure 6-3 - Key project milestones for Environmental Assessments, Surveys, Water Quality Investigations and DWSP Development

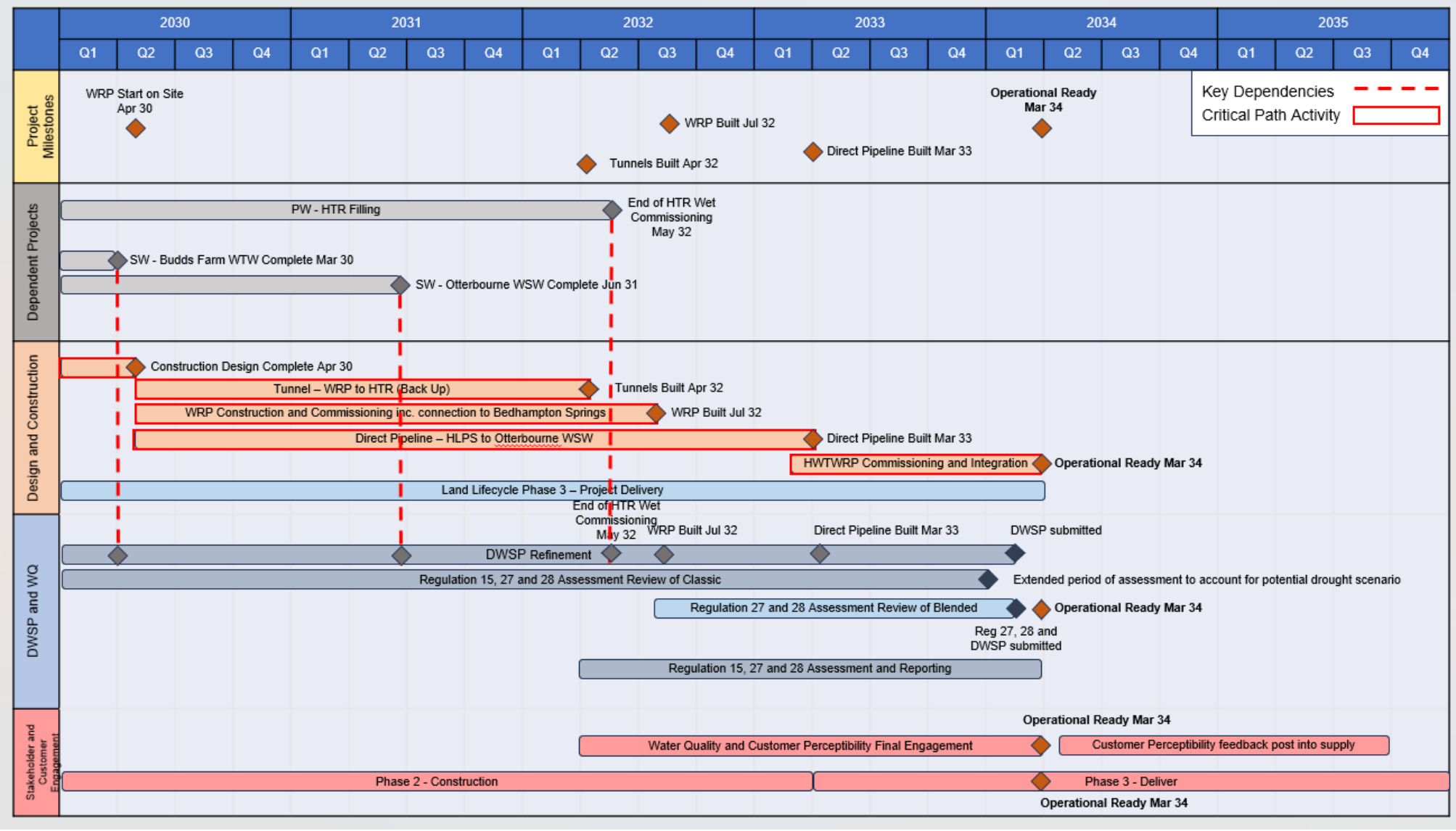


Figure 6-4 - Construction Phase Activities until "operational ready" date.

6.2 Risk Management

The bowtie methodology, as set out in in ISO 31010:2019 Risk management – Risk assessment techniques[1], has been adopted to understand and manage the causes and assumptions that underpin risks (threats and opportunities) to the project. By doing so, risk mitigations can be identified and implemented, decreasing the likelihood of them arising, as well as providing an understanding of their impact. This allows fallback plans to be prepared and in the event that a risk be realised, implemented. The project has adopted two complementary approaches to risk assessment:

- A qualitative scoring system: This approach assigns a ranking to the likelihood and impact of risks (Table 6-1). Further details on the risks to costs and their impact can be found in Annex 8: Solution Costs and Benefits;
- A quantitative scoring system: This approach considers the monetary and schedule change to the delivery plan resulting from the risk occurring. The post-mitigation assessment includes consideration of the monetary and schedule change due to any fallback activity planned in response to the risk. This information will then be used to perform QSRA using Safran Risk modelling software, to provide forecasts for schedule and cost of milestones, and to prioritise the significant risks for treatment.

Table 6-1 - Qualitative scoring system implemented for the risk management of the HWTWRP project

Rank	1	2	3	4	5
Probability	Very Low (<11%)	Low (11 - 30%)	Medium (31 - 50%)	High (51 - 70%)	Very High (>70%)
Time	<1 month <20 days	1 - 3 months 20 - 60 days	3 - 6 months 61 - 120 days	6 - 12 months 121 – 240 days	>12 months >240 days
Cost (In Year)	<£1m	£1m - £2.5m	£2.5m - £10m	£10m - £25m	>£25m
Cost (Lifetime)	<£25m	£25m - £50m	£50m - £75m	£75m - £100m	>£100m

Where proactive mitigations result in additional activities, these will be modelled to account for their effect on cost and schedule forecasts.

6.2.1 Schedule Risks

To identify the highest priority risks, the projects risks are mapped against the schedule to enables a probabilistic model to determine the likely completion dates for milestones (Figure 6-1). This process uses statistical modelling to prioritise the risks that would affect the overall project and each respective milestone. This enables the identification of risk priority relative to those project milestones, identifying those that would result in greatest impact on the project schedule. This process informs the project of the priority risks and mitigations that need be prioritised to ensure delivery of the project in line with the forecast date. The project risks presented in Chapter 6: Programme and Planning are the priority risks that have identified for the forecast “construction ready” and “operational ready” dates reported.

6.2.2 DCO Application Documents

The documents that are proposed to be submitted as part of the DCO application for the project, prior to Gate Four, have been updated since Gate Two (Table 6-2).

Table 6-2 – DCO application documentation

Ref	Document
1	**Volume 1 – Application Form**
1.1	Cover Letter
1.2	Application Form
1.3	Introduction to the Application (including signposting document)
1.4	Project Glossary

[1] ISO 31010:2019

1.5	Notices for Statutory Publicity
1.6	PINS Electronic Index
1.7	Section 55 Checklist
2	**Volume 2 – Plans, Drawings, Sections**
2.1	Location Plan
2.2	Land Plans
2.3	Works Plans
2.4	Access and Public Rights of Way Plans
2.5	General Arrangement Plans
2.6	Plans Showing Statutory/ Non-Statutory Sites or Features for Nature Conservation
2.7	Plans Showing Habitats of Protected Species, Important Habitats or Other Diversity Features
2.8	Plans Showing Water Bodies in a River Basin Management Plan
2.9	Plans Showing Statutory or Non-Statutory Historic or Scheduled Monument Sites
2.10	Other Plans (could include details of design, engineering sections, construction compound plans, drainage, means of vehicular and pedestrian access, means of landscaping).
2.11	Special Category Land Plans (if required)
2.12	Crown Land Plans (if required)
2.13	Vegetation Retention and Removal Plans/ Protected Trees and Hedgerows to be Removed Plans (if required)
2.14	Illustrative Layout Drawing(s)
2.15	Illustrative Elevation Drawing(s)
2.16	Other illustrative material (e.g. CGI's, AVR's or illustrative drainage/surface water drawing)
2.17	Environmental Masterplan(s)
2.18	Site location plan (EIA suggestions)
2.19	Crossing schedule
3	**Volume 3 – Draft Development Consent Order**
3.1	Draft Development Consent Order
3.2	Explanatory Memorandum
4	**Volume 4 – Compulsory Acquisition Information**
4.1	Statement of Reasons
4.2	Funding Statement
4.3	Book of Reference
5	**Volume 5 - Reports**
5.1	Consultation Report
6	**Environmental Statement**

6.1	Chapter 1 – Introduction
6.2	Chapter 2 – Site and Surroundings
6.3	Chapter 3 – Project Description
6.4	Chapter 4 – Planning Policy Context
6.5	Chapter 5 – Methodology and Approach
6.6	Chapter 6 – Air Quality
6.7	Chapter 7 - Biodiversity
6.8	Chapter 8 – Climate Change
6.9	Chapter 9 – Heritage
6.10	Chapter 10 – Landscape
6.11	Chapter 11 – Land Quality
6.12	Chapter 12 – Noise
6.13	Chapter 13 – Socio-economics
6.15	Chapter 14 – Waste
6.16	Chapter 15 -Water
6.15	Chapter 16 – Cumulative Effects
6.16	Chapter 17 – Mitigation
6.17	Chapter 18 – Summary of Residual Effects
6.18	Non-Technical Summary
6.19	Scoping Report and Scoping Opinion
7	**Other Documents**
7.1	Planning Statement
7.2	Transport Assessment
7.3	Outline Traffic Management Plan (~~include Outline Travel Plan, if required)~~
7.4	Framework Construction Traffic Management Plan
7.5	Framework construction travel worker plan
7.6	Outline Construction Environmental Management Plan
7.7	Outline Code of Construction Practice
7.8	Outline Landscape and Ecological Mitigation and Management Strategy
7.9	Statements of Commonality
7.10	Habitats Regulations Assessment
7.11	Statement of Statutory Nuisance
7.12	Other Consents and Licenses
7.13	Flood Risk Assessment

7.14	Water Framework Directive Assessment
7.15	Ground Investigation Report
7.16	Design and Access Statement
7.17	Rights of Way Management Plan
7.18	Outline Written Scheme of Investigation (WSI)
7.19	Outline Operational Environmental Management Plan
7.20	Environmental Masterplan
7.21	Outline Landscape and Ecology Management Plan
7.22	Outline Site Waste Management Plan
7.23	Minerals Safeguarding Assessment
7.24	Piling Risk Assessment
7.25	Soil Management Plan
7.26	Reinstatement Plan
7.27	Invasive Non-Native Species (INNS) Assessment
7.28	Invasive Non-Native Species Management Plan (INNSMP)
7.29	Biodiversity Net Gain Statement
7.30	Hydrogeological Impact Assessment
7.31	Drainage Strategy
7.32	Water Monitoring Strategy
7.33	Water Environment Regulations Compliance Assessment
7.34	Skills and Employment Strategy
7.35	Equalities Impact Assessment

6.3 Other Permits, Licences and Consents

The secondary licences and consents that may be required for the HWTWRP have also been updated since Gate Two (Table 6-3). The table summarises the consents needed (i.e. types of consent) and provides indicative application timings (preparation and determination).

The list, which is not exhaustive at this stage of design development, presents the licences and consents that may be required as part of the solution design, project construction and operational phases of the project. It sets out the current thinking on how these consents will be obtained. Under a DCO consenting route, some secondary consents will be automatically disapplied by the Planning Act 2008 (Category A), some will only be included (or 'deemed') with the agreement of the consenting body (Category B), and the need for others under normal licensing may still apply (Category C). Category C consents will be obtained outside of the DCO under normal consenting procedures relevant to each legislative requirement.

Table 6-3 - Summary of other permits, licenses and consents required for the HWTWRP

Category:	PLC Requirement						
A	**Default disapplication by the DCO**						
B	**Discretion disapplication (agreement with regulated body)**						
C	**Normal licensing applies**						
Theme	**Licence / Consent / Permit or Permission**	**Activity**	**Notes**	**Regulating or Consenting body**	**Timescale to prepare (approx.) (weeks)**	**Timescale for determination (weeks)**	**Category**
Air quality	Environmental Permit	Operation of Part B Activities related to Local Air Pollution Prevention and Control, which involves the processing of used concrete with a mechanical crusher (for use onsite or at another designated site), necessitates the submission of a Mobile Plant Permit Application. Therefore, a permit for crushing and concrete operations in mobile plants is required.	Environmental Permitting (England and Wales) Regulations 2016	LPA /EA	12	4	B
Arboriculture	Tree Preservation Order Consent	Works to trees with TPOs. Project design looking to avoid the removal of TPO trees where possible.	Regulation 13 Tree Preservation Regs 2012	LPA	6	8	B
Arboriculture	Notification of works	Works to trees located within a conservation area		LPA	6	6	A
Arboriculture	Tree Felling Licence	A tree felling licence required where more than 5 m^3 per quarter for non-statutory functions, i.e. for habitat restoration / management.	Forestry Act 1967	Forestry Commission	4	12	B
Arboriculture	Tree felling or lopping (general)	Felling, lopping, pruning, coppicing, pollarding or reduce in height or width any tree/shrub overhanging or within Order Limits (if required for construction, maintenance or operation)	Trees not captured by tree felling licence, in Conservation Area or subject to TPO	/	/	/	A
Construction	Notification	Undertaking of construction project.	Construction (Design and Management) Regulations 2015. The CDM Regs require that the Health and Safety Executive is notified of the construction project. The contractor would issue this notice, in advance of construction commencing.	HSE	1	n/a	C
Construction	Permission	Working in close proximity to fuel pipeline. Route selection looking to avoid this. CLH Pipeline Systems acquired the Government Pipeline and Storage System and has the benefit of Part 4 of the Energy Act. This includes safe operation of pipelines. Protective Provisions can be secured in DCO.	Part 4 Energy Act 2013.	CLH Pipeline System Limited.	TBC	TBC	B
Construction	Building Regulation Consent	Potential to apply to the Water Recycling Plant and pumping stations.	Buildings Regulations 2010	LPA	2	12	C
Cultural Heritage	Exhumation Licence	Any intrusive works. Burials Act 1857 requires a licence to exhume/rebury human remains.	Not currently aware of any burials (exception of WWII crash site under PMRA 1987) within the DCO order limits.	Ministry of Justice	varies	1	B
Cultural heritage	Licence to disturb protected military remains	Any intrusive works	Protection of Military Remains Act 1986 requires a licence for disturbance of classes of military remains (in this case aircraft crashes). There is at least one recorded WWII aircraft crash site adjacent to or within the Order Limits.	Ministry of Defence (JCCC)	2	4	B

Ecology / Biodiversity	Wildlife Licenses	Works that could disturb wild birds or the nest of wild birds	The Wildlife and Countryside Act 1981 sets out offences in relation to the protection of certain protected species and requirements for species licences.	NE	4	5	B
Ecology / Biodiversity	European Protected Species Licence	Works that could disturb European protected species (e.g. badger, bats, great crested newt, listed birds)	Some species may require translocation under licence. The Conservation of Habitats and Species Regulations 2017, regulation 55. Also, Protection of Badgers Act 1992, Section 10.	NE	Species-dependent	5	B
Ecology / Biodiversity	Hedgerow Removal Notice	Works affecting an important hedgerow, if the hedge is: • A rural hedge, more than 20 m long (or any part of such a length); • Less than 20 m long but meets another hedge at each end. Located on or next to: • Land used for agriculture or forestry; • Land used for keeping horses, ponies or donkeys; • Common land; • A SSSI; • A local nature reserve; or • A Public Right of Way (PRoW).	Hedgerows Regulations 1997	LPA	4	5	B
Land	Section 38 Consent	Works within Common Land and / or village greens.	Section 38 Consent, Commons Act 2006. Land referencing to be completed. Route selection seeking to avoid. Can be secured through the DCO, but subsequent additional Common Land Consent procedure may be required depending on impacts on Common Land.	Secretary of State	8 weeks	6 months	B
Land	Permission	Works within Crown Land. Land referencing to confirm, route selection looking to avoid.	Section 135, Planning Act 2008. Compulsory acquisition of rights over Crown Land not available.	Secretary of State	TBC	TBC	C
Marine/ Coastal	Full Marine Licence	Following activities within the UK marine area: • Construction (including laying of cables, maintenance, alteration or improvement of existing structures and assets); or • Deposit or Removal of any substance or object.	The Marine and Coastal Access Act 2009	MMO	12	13	B
Marine/ Coastal	Marine European Protected Species Licence	Works affecting marine protected species		MMO	TBC	5	B
Noise	Section 61 consent (noise and / or vibration)	Approval for noise generating activities during construction	The Control of Pollution Act 1974	LPA	4	5	B
Population and human health / Transport	Temporary Closure Order	Requirement to temporarily close a PRoW. The DCO would include a schedule of roads and PRoW to be closed. However, there would still be a requirement to serve notice of the closure. Closures and diversions are likely to be required at multiple stages.	Road Traffic Regulation Act 1984.	LPA	2	8	A
Population and human health / Transport	Stopping up or extinguishment of a PRoW	Requirement to permanently close or divert a PRoW. The DCO would include a schedule of roads and PRoW to be permanently closed. However, there would still be a requirement to serve notice of the closure. Closures and diversions are likely to be required at multiple stages.	Town and Country Planning (Public Path Orders) (Amendment) (England) Regulations 2013	LPA	2	16	A
Transport	Section 278 highways agreement	Permanent alterations or improvements to a public highway	Highways Act 1980 278. Agreements as to execution of works.	LPA (as Highway Authority)	8	24	C

Transport	Notification	Transport of an Abnormal Load An ‘abnormal load’ is a vehicle that has any of the following: • a weight of more than 44,000 kg; • an axle load of more than 10,000 kg for a single non-driving axle and 11,500 kg for a single driving axle; • a width of more than 2.9 metres; • a rigid length of more than 18.65 metres.	Notification requirements for the movement of Abnormal Indivisible Loads or vehicles by road when not complying with The Road Vehicles (Construction and Use) Regulations 1986 (commonly known as C & U)	Police, Highways Authorities and bridge and structure owners like Network Rail	7	1	C
Transport	Notification	Transport of a Special Load	The Road Vehicles (Construction and Use) Regulations 1986	Police, Highways Authorities and bridge and structure owners like Network Rail	8	10	C
Transport	Temporary Traffic Regulation Order	Applications for road closures and other restrictions which require a Temporary Traffic Regulation Order (TTRO). This includes restrictions on county roads, footpaths and bridleways.	The Road Traffic (Temporary Restrictions) Procedure Regulations 1992	LPA	4	12	C
Transport	Asset Protection Agreement	Works affecting Network Rail Land (Within 15 m)	Can be secured through Protective Provisions in DCO.	Network Rail	12	8	B
Waste	Standard or Bespoke Environmental Permit for using, treating, storing and disposing of waste	Activities involving use, treatment, disposal or storage of waste (e.g. screening and blending of waste, aerosol crushing, composting, etc.)	Environmental Permitting (England and Wales) Regulations 2016	EA	8	16	B
Waste	Exemption for using, treating, storing and disposing of waste	Activities involving use, treatment, disposal or storage of waste (e.g. screening and blending of waste, aerosol crushing, composting, etc.)	Environmental Permitting (England and Wales) Regulations 2016. Changes to exemptions expected in 2024/2025.	EA	8	1	B
Waste	T7 waste treatment exemption	Treatment of waste bricks, tiles and concrete by crushing, grinding or reducing in size Relevant for management of waste where there are plans to reuse the waste material, e.g. for demolition projects with reuse of material.	The Environmental Permitting (England and Wales) Regulations 2016	LPA	4	1	C
Waste	Hazardous Substance Consent	The holding of certain quantities of hazardous substances at or above defined limits.	Planning (Hazardous Substances) Act 1990	LPA	9	8	C
Waste	Standard rules mobile plant permit	The operation of a mobile plant for the treatment of soils and contaminated material, substances or products	The Environmental Permitting (England and Wales) Regulations 2016 (as amended)	EA	9	16	B

Water quality and resources	Ordinary Watercourse Consent (and main rivers)	Works in, over, under or affecting the flow of an ordinary watercourse - applies to both temporary and permanent changes. Environmental Permit granted by the EA under the Environmental Permitting Regime	Land Drainage Act 1991	LPA, EA or Internal Drainage Board	4	8	B
Water quality and resources	Flood Risk Activity Permit	Works on or near a main river, on or near a flood defence structure, in a flood plain or, on or near a sea defence.	Environmental Permitting Regulations 2016	EA	12	4	B
Water quality and resources	Flood Risk Activity Exemption	Works on or near a main river, on or near a flood defence structure, in a flood plain or, on or near a sea defence.	Environmental Permitting Regulations 2016	EA	4	1	B
Water quality and resources	Standard or Bespoke Environmental Permit for dewatering	Discharging liquid or wastewater into surface water that does not comply with the 'Temporary dewatering from excavations to surface water'	Environmental Permitting Regulations 2016	EA	4	12	B
Water quality and resources	Standard or Bespoke Environmental Permit	New water discharge activity (dependent on activity):	Environmental Permitting Regime Water Industry Act 1991	EA	8	12	B
Water quality and resources	Standard or Bespoke Environmental Permit	Potential for this apply to industrial processes	Environmental Permitting (England and Wales) Regulations 2016	EA	8	16	B
Water quality and resources	Abstraction / Impoundment Licence	New requirement to abstract over 20 cubic metres a day and / or impound water by creating a new sluice, weir or dam.	Water Resources Act 1991	EA	12	16	B
Water quality and resources	Temporary abstraction licence	Temporary abstraction of more than 20 cubic metres of water a day over a period of less than 28 days	Water Resources Act 199124A	EA	12	4	B
Water quality and resources	Connection to a mains sewer	Connection to a mains sewer	Water Industry Act 1991 106.— Right to communicate with public sewers.	Local Statutory Water Authority	8	Varies	C
Water quality and resources	New potable mains water connection	New potable mains water connection	Potential for this to apply.	Local Water Authority	8	Varies	C
Water quality and resources	Trade Effluent Consent	For connection of a business to the main sewer supply	Water Industry Act 1991 S.119 - Application for consent.	Local Statutory Water/ Sewerage Authority/ Undertaker	8	8	C

6.4 Land Lifecycle

6.4.1 Efficient and Effective Delivery

As described in Chapter 6: Programme and Planning, the project has acquired support from a specialist external service provider that will ensure efficient and effective delivery can be realised.

- Flexibility of resource levels;
- Value for money through the tendering process;
- Incorporating lessons learnt from other projects being delivered by the service provider;
- The sharing of best practice to promote a common methodology;
- Access to subject matter experts; and
- Access to dedicated DCO systems and processes that maintains overall control and accountability for delivery with the Southern Water (SW) project team.

6.4.2 Land Activities

The land activities conducted to date, have been divided into three phases, aligning with key project milestones in the project schedule (Figure 6-5). This activity includes:

- Land Referencing of route corridors, identifying and engaging with Persons with Interest in Lands (PILs);
- Arranging access to land for environmental and ground investigations;
- Referencing Red Line Boundaries and issuing Land Information Questionnaires; and
- Supporting Non-Statutory Consultation to address PILs issues and concerns.

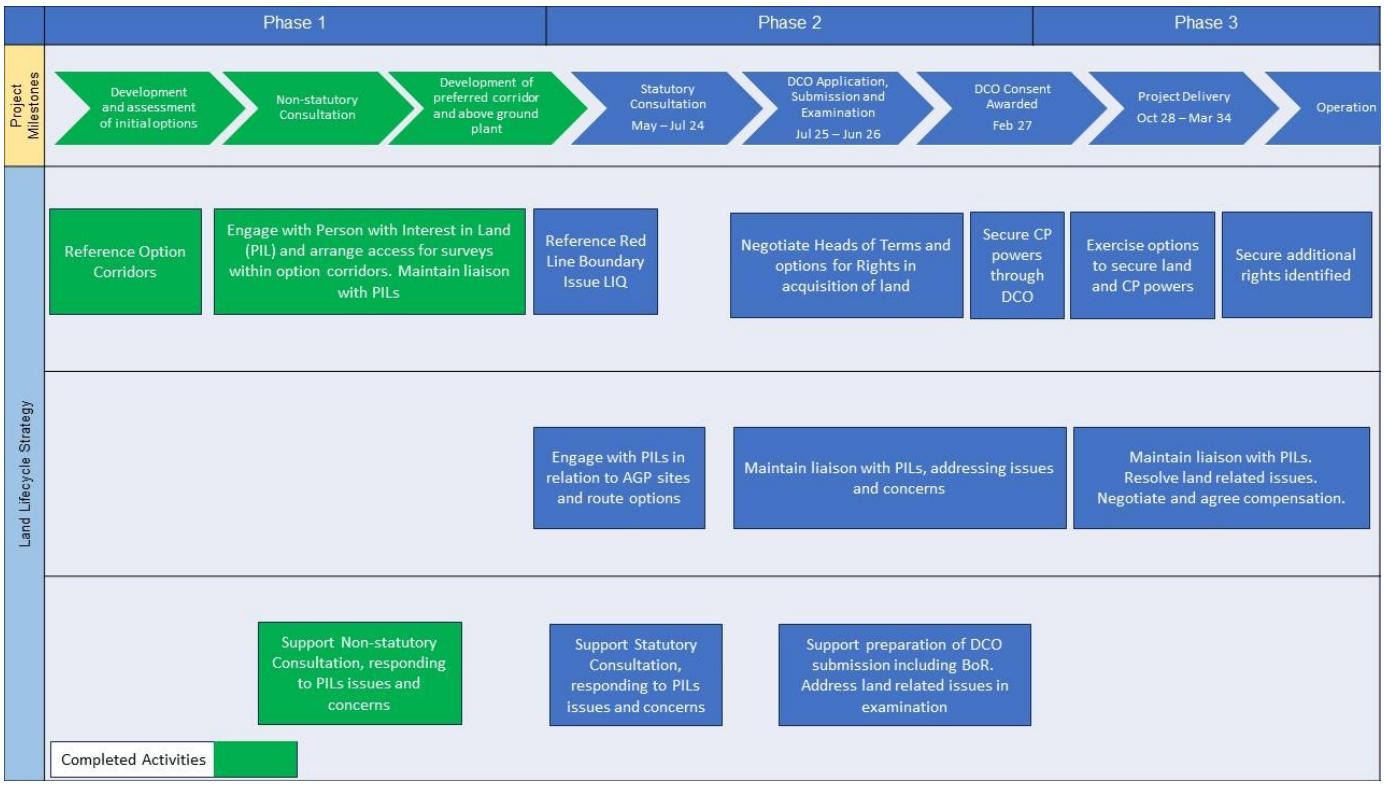


Figure 6-5 - Land Lifecycle activities aligning with key project milestones

6.4.3 Completed Land Activity to Date (Phase 1)

The following land activities have been completed to date:

Referencing Option Corridors, engaging with Persons with Interest in Lands (PILs) and arrange access for surveys:

- Access secured across 338 land interests for an extensive environmental and ground investigation survey programme (see Annex 3: Drinking Water Quality and Environmental) to aid optioneering and preferred solution identification with, in broad terms;
- 80% of access through licence agreements; and
- 20% through service of notice under Section 172 Housing and Planning Act 2016.

Supporting Non-Statutory Consultation and responding to PILs issues and concerns:

- Have addressed land-related issues raised at Non-Statutory Consultation;
- Engaged with PILs in relation to Above Ground Plant (AGP) sites and route options; and
- Negotiations with landowners over location of above ground structures and optioneering of pipeline routes. The information from these discussions has been fed back into the design development process to inform site and route selection.

Referencing Red Line Boundary and issuing Land Information Questionnaires (LIQs):

- 3013 LIQs have been issued to obtain information on interests in land affected by the Project to ensure SW engage with the correct parties at Statutory Consultation; and
- Collation of information is ongoing.
- Supporting Statutory Consultation responding to PILs issues and concerns:
- The Land Entry Team will attend events and address issues and concerns raised during Statutory Consultation; and
- In addition to the phased activities, SW has exchanged on the site for WRP with completion of purchase expected Q2 2024. This has significantly de-risked WRP delivery and provided certainty regarding the location of the central hub of the project.

6.4.4 Future Land Activity (Phases 2 and 3)

Phase 2 of the Land strategy (linked to Statutory Consultation and DCO application) will firm up the preferred location of all proposed assets, incorporating customer and Statutory Consultees feedback into the design used for the DCO application. During this time, the Land strategy will focus on the land and property liaison to address issues and concerns whilst negotiating acquisition rights.

Phase 3 of the Land strategy follows the DCO consent being awarded, from which the team will exercise options or compulsory purchase powers to secure land, together with any additional rights identified. Details of rights, compulsory purchase etc. are detailed further in Chapter 6: Programme and Planning for general awareness.

The land registry information will be regularly refreshed at appropriate intervals including ahead of issuing Heads of Terms to landowners and the preparation of the Book of Reference, both ahead of the DCO Application.

6.5 Strategy for the Securing of Rights and Interests in Land

6.5.1 Permanent Rights and Interests to be Secured

Freehold Acquisition of Land

There will be a requirement to acquire the freehold interest in land where SW is seeking permanent exclusive occupation of that land (to conduct landscaping, biodiversity net gain, HRA mitigation etc.) In exceptional circumstances a long leasehold arrangement may be considered.

Some of the sites where a freehold interest might be required are:

- WRP; and
- AGPs.

Rights in Land Owned by Another

Where SW is laying pipelines in land or on the seabed, it may only require rights to keep, protect and maintain that asset in/on the land owned by another, including rights to access the asset in the future.

Some of the assets/structures for which rights would be required are:

- Pipelines; and
- Outfalls (including washouts) – including rights to discharge.

6.5.2 Temporary Rights

There will be a requirement to occupy some land temporarily for working areas and site compounds associated with construction.

Access to land will also be required in order to:

- undertake survey works ahead of construction;
- inform the site selection process;
- inform the final design;
- as part of application for planning consent (i.e. EIA, HRA and ground investigation surveys); and
- to monitor the impact of the project on the environment after construction.

Rights/interests in land will also be required to deliver mitigation/compensation schemes to address the impacts of the project (including environmental impacts) outside of the immediate works area. The rights/interests required will depend on the type of mitigation/compensation required and may be permanent and/or temporary.

6.6 Securing Rights and Interests in Land

6.6.1 Acquisition by agreement

As a starting point, SW will enter negotiations to acquire any interests in and/or rights over land by agreement as applicants should seek to acquire land by negotiation wherever practicable. However, this is only effective if the landowner is willing to enter into a voluntary agreement. To reach agreement, a premium is usually paid for the interests or rights in the land over and above market value. SW will also look to incentivise the signing up to Heads of Terms and the completion of an option agreement. In line with RAPID expectations (See section 6.4.10 of the main submission) SW will follow a common methodology, once developed, in conjunction with other SROs and neighbouring water companies for a consistent and transparent approach. SW will undertake effective land referencing when acquiring sites by voluntary agreement so that it can be sure it has sufficiently dealt with any interests and rights on the titles it is seeking to acquire.

An exclusivity agreement or option may be entered into to secure the purchase of the land or rights over land at some time in the future once all the necessary consents and permits have been obtained. This provides a certain level of confidence that the land or right will be available when required without fully committing to funding at that time and will protect SW's interest from a landowner entering negotiations with an alternative developer in relation to its land. These arrangements can only be secured by agreement, so they require the landowner to be willing to enter the exclusivity and/or option agreement.

If a landowner is actively marketing, or is intending to market the land, and they anticipate that they will achieve a sale ahead of the rights being exercised by SW they are unlikely to be willing to enter into such an agreement.

Even if SW is able to reach agreement to acquire the land and enters into an option agreement to secure its future right to acquire the right or interest, it may not be comfortable that in doing so it acquires all the rights and interests on the title for the land it is acquiring so it still may seek to compulsorily acquire the title so it can also acquire the rights and interests over that land and take a clean title[2].

Benefits

- Provides flexibility;
- Can be quicker than Compulsory Acquisition (but still need to try to enter into voluntary negotiations);
- More amenable approach; and
- Process is less expensive.

Disadvantages

- Provides no certainty over programme;
- Need to have a willing seller;
- Premium payable over statutory valuation of interest/right; and
- Title not necessarily clean.

6.7 Compulsory Acquisition

When implementing statutory powers of compulsory acquisition, it is necessary to demonstrate and justify the need for the interest or rights being sought. Statutory powers cannot be used speculatively, or to acquire rights in land where there is no current defined need.

Certain statutory undertakings and the Crown are protected from the implementation of compulsory powers. Such powers can only be applied with the consent of the relevant undertaking and/or the Crown.

6.7.1 DCO Powers

Consent for the HWTWRP is being sought through the DCO consenting regime. Section 122 of the Planning Act 2008 gives applicants the power to apply for compulsory acquisition powers over:

- Land that is required for the development to which the consent relates; or
- Land that is required to facilitate or that is incidental to that development; or

[2] A clean title means any existing rights and benefits on the title are acquired so that those who previously had an interest no longer have any rights over the land. There is still a risk in purchasing land by agreement that a third party could at a later date prove they have rights in the land that weren't evident when the land was purchased. Effective land referencing will need to be undertaken to ensure that all rights and interests are identified.

- Land that is required as replacement land for certain special categories of land that are affected by the development.

An application to include these powers in a DCO will be examined as part of the DCO process.

Prior to seeking to rely on any compulsory acquisition powers, SW will need to demonstrate for each plot of land which is to subject to compulsory acquisition that it has attempted to negotiate a consensual acquisition with the respective landowner, and that such attempts have failed. The Secretary of State must also be satisfied that each plot falls under the description of land that is provided in Section 122 of the Planning Act and that there is a compelling case in the public interest for the compulsory acquisition of that land.

Where proposals under a DCO would entail the compulsory acquisition of many separate plots (such as for a linear pipeline route) it may not always be practicable to acquire by agreement each plot of land and it is reasonable to include provision authorising compulsory acquisition to cover all the land required at the outset[3]. SW will still need to demonstrate that it has effectively engaged with landowners and that it has listened to consultation feedback prior to seeking to rely on compulsory acquisition powers and where possible, it should try and reach a voluntary agreement on the commercial terms.

The examination of a DCO application is carried out by the Planning Inspectorate (PINS). Once the examination is complete the PINS will make report to the Secretary of State and will recommend that the DCO is either made (with or without amendments) or is not made. The final decision is then made by the Secretary of State. Applicants are therefore required to justify their proposals for the compulsory acquisition of land during the examination to the satisfaction of the Secretary of State. If the applicant meets all relevant statutory and non-statutory tests, then the powers of compulsory acquisition will be included when the DCO is made. Any decision by the Secretary of State can be judicially reviewed in the Courts and time will need to be built into the programme to allow the judicial review period to pass before the powers are implemented.

The need and justification for the acquisition of land and/or rights must be comprehensive and robust, including demonstrating that all reasonable alternatives to compulsory acquisition have been explored. This includes showing that all alternative options, including alternative sites and routes, technologies and routes of securing the land (i.e. by voluntary agreement), have been explored in order to demonstrate that the rights or interest that are being acquired are the preferred solution.

The full extent of the interests/rights required, including temporary rights, need to be clearly defined and justified from the outset. They must be proportionate and the minimum necessary to deliver the project (while allowing for engineering/construction tolerances), which is important when considering pipeline corridors. Should the required land be changed as the process progresses, there is a risk of having to start the process again with potentially significant timing impacts on the project programme.

It is not possible to compulsory acquire rights or interests in land that are owned by the Crown. which means voluntary agreement must be reached in respect of this land (which includes the seabed). If the acquisition of such land cannot be avoided, it is important to identify all Crown land that is likely to be affected as SW will need to start negotiations early in the process to get the best chance of reaching agreement and not delaying the programme. SW should aim to ensure that voluntary agreement with the Crown is in place no later than the time the application for the project is submitted[4]. Additional provisions also apply to Special Category Land (SCL)

Special Category Land (SCL) and Crown Land were considerations in relation to route optioneering (described in detail at Gate Two as part of the option appraisal process) and have been minimised as a result. SW have identified some SCL and Crown Land within the redline boundaries of the solution however, there is no intention to include freehold acquisition of SCL and Crown Land in the notional solution presented at Statutory Consultation.

Special category land includes:

- Statutory undertakers' land;
- National Trust Land;
- Commons;
- Open space; and
- Fuel or field garden allotments.

6.7.2 Water Industry Act Powers

SW has statutory powers to secure rights and interests in land compulsorily under the Water Industry Act 1991;

Section 155 - The compulsory acquisition of interests in and rights over land required for the purposes of or in connection with the carrying out of its functions authorised by the Secretary of State.

[3] Paragraph 25, DCLG Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land
[4] Paragraph 39, DCLG Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land

S158 and S159 - The right to lay, inspect, maintain, adjust, repair or alter a pipe, or to carry out works requisite for or incidental to the implementation of those rights in streets or other land.

Benefits

- Shows clear intent of SW;
- Clear framework providing;
- Greater certainty over programme;
- Defined valuation process;
- Provides backstop to negotiations by agreement;
- Provides the ability to secure temporary tights (currently only the DCO route);
- Enables imposition of restrictive covenants on land (DCO route only); and
- Provides clean title.

Disadvantages

- Adversarial;
- Inflexible process;
- Time and cost of process;
- Cannot compulsory acquire rights or interest Crown land including in the seabed; and
- High threshold to demonstrate the necessary policy tests for compulsory acquisition powers to be granted.

6.8 Pipelaying Powers

In addition to the compulsory acquisition powers referred to in Section 6.7, SW has statutory powers to lay, maintain and protect pipelines in/on the highway and private land under Section 158 and 159 of the Water Industry Act 1991.

These powers enable the laying of new pipes following the service of a 3 month notice by SW on owners and occupiers of the land. Compensation is negotiated under a statutory framework. Challenges to a notice are heard at a Magistrates Court. The process is therefore far less onerous and a lot more flexible than that for compulsory acquisition.

These powers however do not extend to:

- The freehold acquisition of land – they merely grant rights in land owned by a third party;
- Rights to discharge from pipes - such rights need to be secured by way of an easement secured either through compulsory acquisition powers or by agreement, or by a combination of both; and
- Securing some temporary site compounds related to construction activity – such rights need to be secured by agreement or compulsorily if pursuing a DCO.

There are protective provisions within the Water Industry Act 1991 whereby works can only be carried out on land owned by the Crown and other statutory undertakers with the landowner's consent.

For pipelines and structures on Crown land, the rights will be provided under Licence, incorporated within an existing Master Agreement between SW and the Crown. Crown land may well be impacted by any marine works.

The availability of these statutory powers in the context of the strategic infrastructure project will be considered as part of the wider consenting strategy and that there is a clear justification and demarcation between the project consented under the DCO regime and what SW is seeking to do under its statutory pipelaying powers to ensure compliance with EIA and deliverability requirements.

Benefits

- Provides flexibility;
- Quicker process;
- Process relatively inexpensive; and
- Provides certainty.

Disadvantages

- Only relates to pipelines;
- Only secures rights in land owned by another;
- Does not provide powers to discharge;
- May not secure access for some site compounds; and
- May not meet consenting strategy of the HWTWRP.

6.9 Survey Powers

Powers to enter onto land to undertake surveys are available to SW under a number of legislative provisions (Table 6-4)

Table 6-4 - The legislation and associated powers that are available to support land acquisition

Legislation	Activity	Power/Right
Section 53 Planning Act 2008	DCO	Right to enter land to survey and take levels of land for compliance with the EIA or Habitats Directives in connection with an application for a DCO or a DCO that has been made that includes compulsory acquisition powers for the land in question
Section 172 Housing and Planning Act 2016	TCPA/CPO or DCO	Right to enter land to survey or value in connection with a proposal to acquire an interest in or right over land
Section 168 Water Industry Act 1991	Pipelaying powers	Right to enter premises to undertake survey or tests to ascertain whether it is appropriate or practical to implement relevant works powers (Section 158 and Section 159 refers) or how those powers should be exercised

Access under Section 53 of the Planning Act 2008 must be granted by the Secretary of State, on application to the PINS, and will only be made if the applicant can show it has been unreasonably refused access. This can be a lengthy process as it requires an applicant to show it has tried to reach voluntary access arrangement and there is no statutory timeframe for PINS to determine the application in (it usually takes around 12 months).

SW can serve notice under Section 172 Housing and Planning Act (14-day notice period) and Section 168 Water Industry Act (7-day notice period) to gain access to land to undertake surveys without reference to the Secretary of State.

Access at the early stages of a project is usually negotiated by way of licence as service of notice at such an early stage can be seen as adversarial at a time when SW are seeking to build up relationships. Use of statutory powers of entry for surveys would only be used as a last resort.

6.10 DPC and Rights to the CAP

SW will retain the overriding interest in land though will grant the necessary rights to the CAP to enable them to maintain and operate the assets in an efficient manner.

SW will work with the CAP to identify the most effective and efficient method of securing any additional rights identified after the DCO has been granted. There is the opportunity for the CAP to act as agent for SW in acquiring land rights, including using SW's statutory powers.

6.11 Adoption of Approach

The approach adopted in securing rights and interests in land will depend on the particular circumstances at the time but will always need to be backed by the last resort of compulsory acquisition powers where possible. The decision on the approach will focus on the delivery of efficient outcomes for the Project and Customers.

The detailed plan for how the powers identified above will be combined and/or used is being developed as the actual rights required and their complexity/interaction become better defined and understood during the Statutory Consultation process (during the window leading up to Gate Four). As engagement with landowners matures we will refine our approach and provide detail within the DCO Application.

6.12 Project Organisation and Governance

Figure 6-6 illustrates how the project is organised and governed to support DCO delivery.

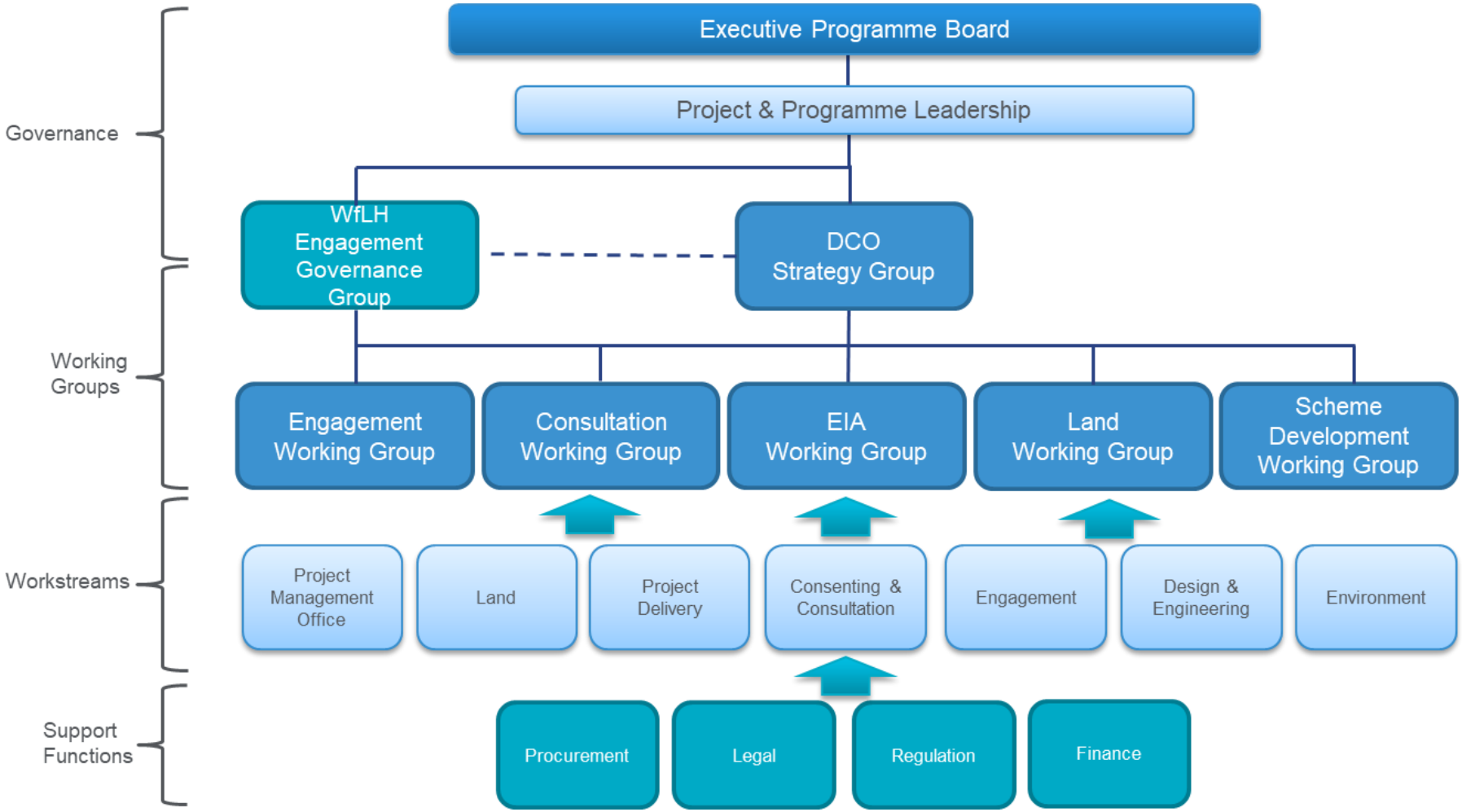


Figure 6-6 - DCO delivery Organisational Model