

# ORGANISATIONAL LICENCE WML-OR25

## Great crested newt – HS2, Phase 1 London to West Midlands



Issued to:

**HS2 Ltd**

### OVERVIEW

This organisational licence is issued to **HS2 Ltd** and permits suitably experienced employees and staff of contractors to undertake certain activities affecting **great crested newts** (*Triturus cristatus*), a European Protected Species (EPS), that would otherwise be unlawful. The licence facilitates the enabling and construction works for a high speed rail line between London and Birmingham (Phase 1)

**HS2 Ltd** ('the Licensee') may authorise other persons to act under this licence. HS2 Ltd, however, remains responsible for the conduct of all activities carried out under the authority of this licence.

Legal limits on the permitted maximum duration of a licence mean that it will be necessary to decide whether to re-issue this licence at two-year intervals for the lifetime of the strategy (Information & Advice note b).

|                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reference              | WLM-OR25                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Organisational Licence | <p>The following annexes form part of this licence:</p> <ul style="list-style-type: none"><li>• WLM-OR25(A) - additional licence conditions</li></ul> <p>The following documents are also integral to this licence:</p> <ul style="list-style-type: none"><li>• GCN Ecology Technical Standard. Part of Ecology Technical Standard (HS2-HS2-EV-STD-000-000017)</li><li>• HS2 Phase One: Great Crested Newt Habitat Management, Maintenance and Population Monitoring Plan (HS2-HS2-EV-PLN-000-000010)</li></ul> |
| Issued under           | <p>Conservation of Habitats and Species Regulations 2010 (as amended) ("the 2010 Regulations")</p> <p>The Wildlife and Countryside Act 1981 (as amended) ("the 1981 Act")</p>                                                                                                                                                                                                                                                                                                                                   |

### IMPORTANT

This licence authorises acts that would otherwise be offences under the legislation referred to above.

Failure to comply with its terms and conditions:

- may be an offence against the 1981 Act or the 2010 Regulations or mean that the licence cannot be relied upon. The maximum penalty available for failing to comply with a condition of a licence under the 1981 Act or the 2010 Regulations is, at the time of the issue of this licence, an unlimited fine and/or a six month custodial sentence; and
- may result in this licence being revoked and/or the refusal to grant future licences.

If the activity that you wish to undertake is not covered by this licence, or if you are unable to comply with any of the terms and conditions which apply to the use of this licence, then you will need to apply to Natural England for an individual licence.

This licence is not a consent or assent for the purposes of Part II of the Act in respect to Sites of Special Scientific Interest. It is your responsibility to get consent or assent if required (see Important Information & Advice note c, below).

**Natural England** hereby authorises<sup>1</sup> **HS2 Ltd** (hereafter referred to as the 'Licensee')

Address: 2 Snowhill, Queensway, Birmingham B4 6GA.

under sections 16(3)(c) and section 16(5) of the 1981 Act and under regulation 53(2) (a), (c) and (e) and regulation 55 of the 2010 Regulations, being satisfied that as regards the purposes specified in this licence that there is no satisfactory alternative and that the actions authorised will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range,

To Carry out the activities detailed in Annex WML – OR25(A) for all life-stages of **great crested newt** (*Triturus cristatus*)

For the purposes of

- Imperative reasons of overriding public interest

Between (and inclusive) 30th March 2017 and 28<sup>th</sup> February 2019

On land Within the consolidated construction boundary of the proposed rail route and land upon which the Licensee has the permission of the owner to operate, within the counties and unitary authorities of: Greater London, Hertfordshire, Buckinghamshire, Oxfordshire, Northamptonshire, Warwickshire, Staffordshire, Solihull and Birmingham. It may also be used on land in the aforementioned counties and unitary authorities where a third party or contractor of a third party owns or has permission to operate, to undertake works which are directly related to the construction of the rail route.

Subject to The Additional Licence Conditions specified below and the terms and conditions in Annexe WML-OR25(A).

Who can use this licence  
(see Definitions) This licence can only be used by employees of the Licensee that it has named as Appointed or Authorised Persons, and by persons they have authorised as Accredited Agents and also by any Assistants working for an Appointed Person or Accredited Agent (see Licence Conditions 1-5). It excludes any person with a recent conviction (see Information & Advice note f).

#### **DEFINITIONS used in this licence**

Appointed Person An employee of the Licensee one of whom is nominated to act as a single point of contact for Natural England with regard to this licence. The Appointed Person is expected to oversee use of the licence, including authorising employees and Accredited Agents to act under the licence, training, record keeping, reporting and compliance.

Authorised Person An employee of the Licensee who has received appropriate training and has sufficient experience to be competent to undertake activities permitted by the licence, and who is authorised to act under the licence by the Appointed Person.

Accredited Agent A suitably trained and experienced member of staff of a contractor undertaking works for HS2 and who is able to carry out work under the

<sup>1</sup> Natural England is authorised to exercise this power in accordance with an agreement made with the Secretary of State under section 78 of the Natural Environment and Rural Communities Act 2006

licence without the personal supervision of an Authorised Person. To carry out work they must be in possession of a document signed by the Appointed Person authorising them by name as an Accredited Agent for the purposes of the licence. Accredited Agents shall produce this authority to any police or Natural England officer on request.

**Assistant**

A person assisting an Authorised Person or Accredited Agent. Assistants are only authorised to act under this licence whilst they are under the direct supervision of either an Authorised Person or Accredited Agent.

## **ADDITIONAL LICENCE CONDITIONS**

### **Authorising people to use this licence (see Definitions)**

1. The Licensee shall nominate an Appointed Person whose details will be provided to Natural England to oversee use of this licence.
2. The Licensee (or the Appointed Person on behalf of the Licensee) may authorise the following to use this licence (authorisations must be in writing):
  - a. Employees of the Licensee (including staff seconded to work directly for HS2) to act as Authorised Persons whilst engaged in official business of the Licensee.
  - b. Employees of contractors of the Licensee to act as Authorised Persons whilst engaged in official business of the Licensee.

### **Working under the licence**

3. The Licensee is responsible for ensuring that:
  - All surveys have been undertaken in accordance with the Field Surveys and Methods Standard and any Addendum to this document (SMR Addendum Volume 5: Appendix CT-001-000/02 November 2013), hereafter referred to as the 'FSMS';
  - Works are undertaken in accordance with the Ecology Technical Standards (HS2-HS2-EV-STD-000-000017 P09, 3 February 2017), hereafter referred to as the 'ETS', and
  - Population and habitat monitoring and maintenance is undertaken in accordance with the HS2 Phase One: Great Crested Newt Habitat Management, Maintenance and Population Monitoring Plan (HS2-HS2-EV-PLN-000-000010 P02 February 2017) (hereafter referred to as the 'GCN HMMPMP')
4. The Licensee must ensure that any variations or new versions of the above documents, where those changes affect the chapters relevant to great crested newts, are submitted to NE for agreement prior to being published for use.
5. All reasonable precautions taken to ensure that unnecessary suffering and harm to the species covered by this licence is avoided.
6. The Licensee is responsible for all activities carried out under this licence by its Appointed Persons, Authorised Persons and their Accredited Agents and Assistants.
7. It is the responsibility of the Licensee to ensure that:
  - a. persons using this licence possess appropriate knowledge, training and experience to undertake licensed activities in accordance with the terms and conditions of this licence and accepted best practice (see Information & Advice note I).
  - b. works are conducted in accordance with good practice and the necessary steps are taken to limit impacts on the species covered by this licence to those which it is not reasonable or

practicable to avoid

8. The Licensee, Authorised Contractors and all persons acting under this licence must comply with the terms and conditions of the following Annexe to this licence:
  - WML – OR25(A) (Additional Conditions),And with the requirements of the Ecology Technical Standard.
9. This licence may only be used on land owned by, or under the control of the licensee within the counties named above.
10. All licensable works must be undertaken in accordance with the additional licence conditions within Annex A of this licence.
11. It is the responsibility of the Licensee to ensure its Authorised Persons and Accredited Agents use appropriate equipment and that they are competent to use such equipment so as to avoid unnecessary suffering. Any Authorised Person or Accredited Agent must do the same for any Assistant under their supervision.

### **Recording and reporting requirements**

12. The licensee shall maintain a record of all activities carried out under the authority of this licence necessary for reporting to Natural England, including (as a minimum):
  - a. a list of all persons authorised to act under the licence and in what capacity (e.g. Authorised Person, Accredited Agent etc.),
  - b. any action undertaken under licence at any site,
  - c. any mitigation or compensation provision,
  - d. any surveying and monitoring conducted,
  - e. any dead or injured great crested newt found on site, and
  - f. any incidents or reports of activities in breach of this licence, including details of steps taken, and any disciplinary, remedial or corrective action.

These records are to be kept until five years after the final licensed action is undertaken and are to be made available for inspection by Natural England at any reasonable time

13. Records created by each Accredited Agent are to be provided to the Licensee in a timely fashion to allow it to submit the Annual Report required by Condition 14 of this licence.
14. Survey and monitoring records are to be submitted to the Local Biological Record Centre and to the relevant national recording scheme (or National Biodiversity Network (NBN) Gateway if there is no appropriate scheme) at intervals stipulated by Natural England.
15. A report (using the template provided by Natural England for this purpose) of activities conducted under this licence between 7<sup>th</sup> March 2017 and 31<sup>st</sup> December 2017 (inclusive) is to be sent by the Licensee to Natural England (at the address given below) by 31<sup>st</sup> January 2018 and for work undertaken between 1<sup>st</sup> January 2018 and 31<sup>st</sup> December 2018 to be submitted by 31<sup>st</sup> January 2019, even if the licence is not used. In the event Natural England does not renew the licence then a further report, covering activities conducted under the licence between 1<sup>st</sup> January 2019 (*day following final date from previous report*) and 28<sup>th</sup> February 2019 (*expiry date*) (inclusive) is to be submitted within four weeks of Natural England notifying the Licensee that the licence will not be reissued. If the licence is re-issued then works for the last period may be included in the new licence.

### **Licence compliance**

16. For the purpose of ascertaining whether the conditions of this licence are being, or have been, complied with, the Licensee and each Authorised Person or Accredited Agent shall permit an officer of Natural England reasonable access to land where operations are being undertaken under this licence.

17. Officers of Natural England shall also be permitted to be present during any operations carried out under the authority of this licence.
18. Any such officer of Natural England may be required to produce his/her identification on demand and will be permitted to be accompanied by such persons as he/she considers necessary for the purpose of the visit.
19. Authorised persons and Accredited Agents shall give all reasonable assistance to an officer of Natural England and any persons accompanying him/her.
20. Failure to comply with the terms and conditions of this licence (including the recording and reporting requirements) will, by default, render this licence null and void and it may not be relied upon until such time that Natural England confirms in writing that its use may resume.
21. Natural England must be informed of all breaches to this licence within 2 working days of the breach becoming apparent. Unless advised otherwise by Natural England, the Licensee must take the necessary steps to address any breaches or poor practice identified as quickly as possible.

Issued by and on behalf of Natural England on

**30th March 2017**

### **IMPORTANT INFORMATION**

- a. This licence is only issued for two years. Please note that the licence may be modified, extended, terminated or revoked at any time by Natural England or the Secretary of State, but this will not be done unless there are good reasons for doing so.
- b. Any requests for information in a licence will be considered under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 as appropriate.
- c. This licence conveys no authority for actions prohibited by any other legislation. For example, anyone acting under this licence is not exempt from the provisions of Section 28H of the Act. This means that Section 28G authorities ('Statutory undertakers etc.') are obliged to give notice to Natural England if they propose to carry out an operation likely to damage a Site of Special Scientific Interest (SSSI). To identify SSSIs and the features for which they are designated, refer to [www.magic.gov.uk](http://www.magic.gov.uk). For further advice or to request assent for an activity please contact the Natural England 'Responsible Officer' for the relevant site(s). Contact details are available from the Natural England Enquiry Service (see below).
- d. No person convicted on or after 1 January 2010 of an offence under the Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992, the Deer Act 1991, the Hunting Act 2004, the Wild Mammals (Protection) Act 1996, the Animal Welfare Act 2006 or the Protection of Animals Act 1911 (all as amended) may use this licence without the permission of Natural England unless, in respect of that offence, either:
  - i. they are a rehabilitated person for the purposes of the Rehabilitation of Offenders Act 1974 and their conviction is treated as spent; or
  - ii. a court has made an order discharging them absolutely.
- e. The common name or names of species given in the licence and any annexes are included by way of guidance only. In the event of any dispute or proceedings, it is the scientific name of a species only that will be taken into account.
- f. Authorised Persons and Accredited Agents are advised to carry a copy of this licence at all times when acting under this licence.

### **Training and experience requirements**

- g. Training must be relevant to the conditions and the activities permitted by the licence and should be undertaken at regular intervals. It is the responsibility of each Authorised Person and Accredited Agent to maintain their expertise at an appropriate level to act under this licence. It is also the responsibility of each Authorised Person and Accredited Agent to ensure that any Assistants under their direct supervision have appropriate training, experience and instruction to undertake the activity they are being asked to do act under this licence.
- h. As a minimum, this must include: identification of European and other Protected Species relevant to the

species and activities authorised by this licence and signs indicating they may be present; undertaking records searches; the ability to identify a rare species, non-native species and populations of significant importance; surveying techniques; best practice guidance and reasonable avoidance measures; mitigation techniques and methods, and compensation requirements and measures; a working knowledge of the Regulations and the Act together with an understanding of offences that may be committed.

### General Welfare Considerations

- i. Persons acting under this licence may photograph any protected species named in this licence in connection with licensed work provided that this causes no additional disturbance or any other harm.
- j. Under the Animal Welfare Act 2006 it is an offence to cause any unnecessary suffering to an animal under the control of man (section 4). This applies to the treatment of animals (including non-target species) held in nets etc.

### The limits of licences

- k. Licences permit action only for the purposes specified on that licence.
- l. Licences do not permit actions prohibited under any other legislation, nor do they confer any right of entry upon land. All relevant animal welfare legislation must be complied with at all times, including the Animal Welfare Act 2006.
- m. No work shall be carried out under this licence on a National Nature Reserve except with the prior written permission of Natural England's 'SSSI Adviser' for the relevant site(s) (contact details available from Enquiry Service – see below ).

### Compliance and enforcement

- n. The Licensee is expected to monitor compliance with the licence and to take action in the event that poor practice and/or non-compliance are identified. A person may be barred from using this licence by Natural England, for example, if that person breaches the conditions of this licence. In these circumstances Natural England will notify the Licensee
- o. Any person to whom Important Information Note 'd' (above) applies will require the permission of Natural England to use this licence. Any such application will be considered on its merits.
- p. Natural England checks compliance with licences and the attached conditions and where breaches occur will apply its published [Compliance and Enforcement Position](#).

### Contact details for Natural England

*For licensing enquiries (& Reporting):*

**Telephone** 0845 601 4523

**Fax** 0845 601 3438

**Email** [wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk)

#### Postal address

Technical Services Wildlife Licensing, Natural England, Horizon House, Deanery Road, Bristol BS1 5AH

*For other enquiries use the Enquiry Service:*

**Telephone** 0300 060 3900

**Email** [enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk)

#### Web

<https://www.gov.uk/government/organisations/natural-england#org-contacts>

### Other useful contacts

**Local Record Centres:** to find out where your nearest Local Record Centre is visit the Association of Local Environmental Record Centres website at: <http://www.alerc.org.uk/find-an-lrc.html>

**Legislation:** to view the full text of the legislation referred to in this licence visit <http://www.legislation.gov.uk>

**Feedback and Complaints:** we welcome and value your compliments, complaints, suggestions and comments about our services. Please see our 'Contact us' section for more details. <https://www.gov.uk/government/organisations/natural-england#org-contacts>

## Using and Sharing Your Information



The data controller is Natural England, Foss House, Kings Pool, 1– 2 Peasholme Green, York, YO1 7PX.

- Your information will be stored and processed in accordance with the Data Protection Act 1998. This Act gives you, as an individual, the right to know what data we hold on you, how we use it, with whom we share it and to ensure that it is accurate. The information will be used by Natural England to undertake licensing functions. To do this we may have to discuss applications, licensing decisions, reports and returns with third parties.
- Natural England recognises there is significant public interest in wildlife licensing and in those who benefit from receiving a wildlife licence. Therefore, we may make information publicly available (for example, survey records are normally made available via the National Biodiversity Network Gateway and to Local Record Centres). Information released may include, but is not limited to, your name or business name, application and licence details as well as reports and returns. Natural England, however, realises that some licensed activities can be sensitive and we will not release information that could harm people, species or habitats. In some cases, for example, this may mean not releasing the names and addresses of individuals or the location of the licensed activity.
- Natural England or its appointed agents may use your name, address and other details to contact you in connection with occasional customer research aimed at improving the services that Natural England provides to you.

We will respect personal privacy, whilst complying with access to information requests to the extent necessary to enable Natural England to comply with its statutory obligations under the Environmental Information Regulations 2004, and the Freedom of Information Act 2000.