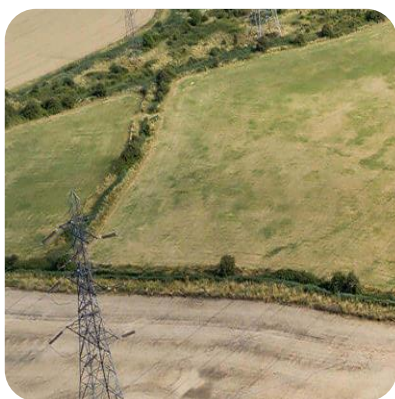




Statement of Common Ground with the Marine Management Organisation

Draft 3, March 2021



1 STATEMENT OF COMMON GROUND

1.1 Introduction

- 1.1.1 This is the third draft Statement of Common Ground between the applicant, Thurrock Power Ltd (TPL), and the Marine Management Organisation (MMO). It relates principally to the deemed marine licence (DML) that TPL has applied for, for which the MMO will be the regulator. It deals with and references the key points raised in the MMO's Deadline D submission of 25 January 2021 (MMO ref. DCO/2018/00015; PINS ref. PDD-005).
- 1.1.2 The additional numbering provided in certain bold subheadings, in the sections below, refers to sections of the MMO's Deadline D submission.
- 1.1.3 The SoCG is presented for discussion with the MMO under three sections, which cover:
1. matters that TPL proposes could be agreed at this stage;
 2. matters that are currently under discussion between TP and the MMO; and
 3. matters where there remains disagreement between the MMO and TPL at the date of preparing the SoCG.

1.2 Matters that are agreed

5.1 Sediment sampling for dredging

- 1.2.1 The applicant provided the sediment sampling data in the MMO template on 14 October 2020 and clarified that the lab used for the PAH analysis was Socotec, which holds the relevant accreditation. The applicant provided further clarification on 16 March 2021 that the laboratory used for the particle size analysis (PSA) analysis was Kenneth Pye Associates Limited. MMO can confirm that this laboratory is validated for the analysis of PSA. The applicant also confirmed that the unit for polychlorinated biphenyls (PCB), and organochlorine pesticides (OCP) is 'microgram/kilogram' (µg/kg). An updated template has been provided to the MMO to reflect this. The sediment analysis has been undertaken in accordance with MMO guidelines.
- 1.2.2 The current sediment contamination analysis indicates that water injection dredging (WID) is a suitable dredge method. TPL and the MMO agree that additional sediment sampling in the area of the dredge pocket and at depth (depending on the confirmed dredging depth) is required and will be undertaken prior to construction. Requirement 12 of the DCO secures additional sediment sampling within the river prior to any construction work commencing, in accordance with a plan to be approved by the MMO in consultation with the PLA.
- 1.2.3 TPL will also duplicate the wording of Requirement 12 in the DML.

1.2.4 5.2 Inclusion of maintenance dredging within the DML

- 1.2.5 At the Port of London Authority (PLA)'s request, any maintenance dredging will fall outside the DML and will therefore require a licence. The MMO agrees with the PLA that a separate marine licence must be applied for in addition to any other necessary consents if maintenance dredging details are not confirmed at this stage. Method statements will be prepared and sediment sampling carried out to support such applications as required by that process at the time an application for any maintenance dredging is made.
- Although the MMO has suggested that maintenance dredging should be included within the DML, the PLA opposes this and TPL has therefore accepted that it should not be. TPL has agreed with the PLA that a dredging licence will be required for maintenance dredging and would not therefore propose to add this to the DML. TPL has amended article 10 seeking to make it clearer that these licensing requirements will apply to maintenance dredging.

DCO drafting

- 1.2.6 The MMO's comments on drafting are noted with thanks and have been taken into account in drafting the DCO.
- 1.2.7 TP has also decided to make some of the dimensions in Tables 1 and 2 of Schedule 8 in the draft DCO (the DML) into maximum figures rather than have +5% or +10% parameters, to align with the design envelope in the ES.

5.3 Location of culverts

- 1.2.8 TP confirms that no culverts are proposed within the marine environment.

5.5 Bird monitoring plan

- 1.2.9 Requirement 20 deals with bird monitoring for Works 10 and 11. TPL will move this requirement to the DML as the bird monitoring is in the marine rather than terrestrial environment.

6.3 Construction Management Plan

- 1.2.10 The MMO have commented that the Construction Management Plan should also be submitted for consultation with Natural England. Natural England will be identified as a consultee in this part of the DML.

6.8 Period for determination

- 1.2.11 TPL is concerned that the MMO request for a 6 month determination period is unduly long. While TPL notes MMO's comments, TPL's original drafting was designed to allow for an efficient consultation and decision-making process, akin to what would be expected of a TCPA determination. The MMO recognises the concerns from the project team and note that a 3-month determination period is reasonable. This is consistent with the period agreed with the PLA.

Habitats Regulations Assessment Report (HRAR) (ref. A5.2, PINS ref. PDC-039)

- 1.2.12 TPL notes the MMO's comments on the HRA. TPL is actively responding to NE's comments on the HRA. The MMO defers to Natural England on this matter.
- 1.2.13 TPL confirms that the primary method of dredging will be by WID, and a back hoe excavator may also be used to remove some material for disposal in at a licensed location onshore (in the terrestrial environment).
- 1.2.14 There are no proposals for gas pipeline infrastructure in the marine environment.

Tentacled lagoon worm

- 1.2.15 The MMO advises that the applicant engages with Natural England with regard to protected species in Natural England's role as the Statutory Nature Conservation Body but not with regard to licensing. The MMO's Marine Conservation Team is responsible for wildlife licensing..

1.3 Matters that are under discussion

5.4 MMO involvement in the causeway decommissioning plan

- 1.3.1 TP proposes that the MMO would be the regulator for the marine elements of the causeway decommissioning plan and MMO approval would be required for these. The principle of this is accepted however it is noted that further amends to the DCO drafting are required to make this change function across requirements. TPL is addressing that and considers it likely that the easiest solution will be to create a new definition of discharging authority which will include the MMO. A further draft will be provided for the MMO's review once this has been updated.
- 1.3.2 The MMO notes that decommissioning works are likely to be licensable under the Marine and Coastal Access Act (2009) but due to overlapping jurisdictions the MMO is not the only regulator which may need to give consent.

6.2 and 6.13 Seasonal restrictions on working and 6.13 conditions relating to breeding and wintering birds etc

- 1.3.3 TPL notes that no seasonal restrictions on working, including dredging at this location, are necessary. A site-project-specific assessment of temporary effects on water quality due to dredging and mobilisation of sediment during construction of the causeway is provided in ES Volume 3, Chapter 17: Marine Environment and ES Volume 6, Appendices 17.2: Hydrodynamic Modelling and Sediment Assessment and 17.3: Water Framework Directive Assessment. These assessments of these temporary effects do not predict a deterioration in water quality in this part of the Thames Estuary due to the proposed development and therefore no effect on the SPA / Ramsar site is likely. The HRAR Document (ref. A5.2, PINS ref. PDC-039) supports the conclusion that no further mitigation is required (and therefore no need for seasonal restrictions on dredging).
- 1.3.4 The MMO is currently in discussions with the Environment Agency (EA) and Natural England (NE) regarding the need for any seasonal restrictions within the DML. The MMO will keep the Applicant informed of any progress made on this matter when available.
- 1.3.5 As a matter of principle, TPL wishes to avoid duplication of other Requirements under the DML. The MMO welcomes the proposed addition of the Bird Monitoring Plan and additional sampling as conditions in the DML. The MMO welcomes the amendment of the approach to archaeology control to include within the DML a condition securing the marine written scheme of investigation (WSI) and will provide further comments following the revision of the DML.
- 1.3.6 TPL notes that the scale of works associated with Tilbury 2 are of a different scale and being at a different location the same conditions or Requirements should not automatically be applied to works associated with this application. Such an approach would not be evidence based and would not satisfy the MMO's 5 tests.

6.4 “marine written scheme of investigation” and 6.12 marine archaeological monitoring

- 1.3.7 TPL proposes that the marine written scheme of investigation (WSI) is separated from the terrestrial WSI and will be secured in the DML rather than through the requirements. The MMO welcomes the amendment of the approach the archaeology control to include within the DML a condition securing the marine written scheme of investigation (WSI) and will provide further comments following the revision of the DML.

6.10 Arbitration

- 1.3.8 TPL understands that the source of the MMO concern on this point is any potential interaction between the arbitration provisions, and the approvals process where the MMO is acting as regulator. TPL advise that the arbitration provisions would not supplant or supersede the MMO's regulatory role under, in particular, the DML. The MMO have requested that this is made clearer in the DCO. TPL will propose new wording on this point for the MMO to consider. The MMO welcomes this and will provide further comments upon revision of the DML.

1.4 Matters that are not agreed

- 1.4.1 None at the time of drafting this SoCG