

## Thurrock Flexible Generation Plant

Table of amendments to the draft Development Consent Order between version 3 (PDC-009) to version 4 (Deadline 2 submission)



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Article / Paragraph	Amendment	Reason
Article 1 Definitions, and Article 40 (1) Certification of documents	Deletion of documents not referred to in the dDCO.	Reviewed as requested by FWQs.
Article 1 Definitions, and Article 40 (1) Certification of documents	Insertion of new definition and certified document: <a href="#">“preliminary navigational risk assessment” means the document certified as the preliminary navigational risk assessment for the operation of the Thurrock Flexible Power Generation Plant Causeway, Revision R03-00 prepared by Nash Maritime limited and dated 11 December 2020 by the Secretary of State for the purposes of the Order;</a>	The preliminary navigational risk assessment is referred to in various schedules. It has also been agreed with the PLA that the applicant would seek to include this as a certified document.
Article 1 Definitions	Insertion of moved definition: <a href="#">“business day” means a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;</a>	This term is used in various schedules, so the definition was moved to article 1 rather than being repeated.
Article 1 Definitions	Amendment of definition of “Order land” to read; means the land which is required for <del>or affected by</del> the authorised development shown on the land plans <a href="#">and described in the book of reference</a> ;	Change requested by the PLA and agreed by the applicant.
Article 1 Definitions	Insertion of new definition: <a href="#">“outline marine written scheme of archaeological investigation” means the document certified as the outline marine written scheme of archaeological investigation applying below Mean High Water Springs by the Secretary of State for the purposes of the Order;</a>  Amendment of related definition: “outline written scheme of archaeological investigation” means the document certified as the outline written scheme of archaeological investigation <a href="#">applying above Mean High Water Springs</a> by the Secretary of State for the purposes of the Order;	The MMO requested that the marine WSI be moved from the requirements to the DML so that it can be enforced by the MMO. The marine scheme has therefore been separated out from the terrestrial scheme requiring a new definition and amendment to the previous definition.



<b>Article 6 Operation of generating station</b>	<p>Amended:</p> <p>6—(1) The undertaker is authorised to use and operate the <del>generating station</del><u>authorised development</u> for which development consent is granted by this Order.</p> <p>Paragraph (1) does not relieve the undertaker of any requirement to obtain any permit or licence under any legislation that may be required from time to time to authorise the operation of <del>a generating station</del><u>the authorised development</u>.</p>	<p>Reviewed as requested by FWQs.</p>
<b>Article 10 Disapplication of legislation etc.</b>	<p>Article 10 has been restructured and new paragraph (2) inserted:</p> <p>10—(2) The following enactments do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of the authorised development or any maintenance of any part of the authorised development —</p> <p><del>(a) sections 66 to 75 of the Port of London Act 1968(+);</del></p> <p><del>(b)</del><u>(a)</u> the West Tilbury Commons, West Tilbury, Essex, Bye-Laws, made by the Conservators of West Tilbury Commons, under the powers of the Commons Regulation (West Tilbury) Provisional Order Confirmation Act 1893;</p> <p><del>(c)</del><u>(b)</u> the provisions of any byelaws made under, or having effect as if made under, paragraphs 5, 6 or 6A of Schedule 25 (byelaw making powers of the authority) to the Water Resources Act 1991;</p> <p><del>(d)</del><u>(c)</u> the provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991;</p> <p><del>(e)</del><u>(d)</u> regulation 12 (requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016 in respect of a flood risk activity (including works affecting sea defences) only;</p> <p><del>(f)</del><u>(e)</u> sections 23 and 30 of the Land Drainage Act 1991; and</p> <p><del>(g)</del><u>(f)</u> the provisions of the Neighbourhood Planning Act 2017 in so far as they relate to the temporary possession of land under articles 28 and 29 of this Order.</p> <p>(3) <u>Except as provided for in paragraphs 9(3), 9(4) and 17(2) of Part 6 of Schedule 9, sections 66 to 75 of the Port of London Act 1968 do not apply in relation to the construction of any work or the carrying out of any operation for the purpose of or in connection with, the construction of any part of the authorised development.</u></p>	<p>This article has been restructured to make it clear that that the disapplication of the Port of London Act only applies during construction, and licences under that Act will be required for maintenance works. This change was requested by and agreed with the PLA.</p>

<b>Article 16 Discharge of water</b>	Insertion into article 16(1) 16 – (1) <del>The</del> <a href="#">Subject to paragraphs (3) and (4), the</a> undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, maintenance or use of the authorised development and for that	As requested in FWQs
<b>Article 18 Removal of human remains</b>	Various minor amends to align with the difference between Order limits and Order land.  Deletion of erroneous repetition at the end of paragraph 18(5).	For consistency and so that the power applies to the order limits and is not excluded from the PLA area should it be required.  As requested in FWQs
<b>Article 29 Temporary use of land for maintaining the authorised development</b>	Amendment of paragraph (11): (11) In this article “the maintenance period” means the period of 5 years beginning with the date on which <del>that part of the authorised development is first operational</del> <a href="#">the generating station forming Work No 1A first exports electricity to the national electricity transmission network.</a>	As requested in FWQs

**Article 36 Works in the river Thames: conditions**

Numerous amendments:

36—(1) Subject to the provisions of this article, ~~during the construction of the authorised development~~ notwithstanding any rule of law, the public right of navigation will be—

- (a) temporarily suspended during the construction of Work no.10, over any part of the river Thames that is situated within the Order limits ~~may be temporarily suspended~~, and
- (b) permanently extinguished before operation of Work no.10, over any part of the river Thames that is situated with the Order limits,

with the written approval of the PLA.

(2) Not later than 28 days prior to the proposed commencement date of any suspension or extinguishment of the public right of navigation, the undertaker must apply to the PLA for approval under paragraph (1) for such suspension ~~(except in the case of an emergency when the undertaker must give such notice as is reasonably practicable)~~ or extinguishment.

(3) An application for approval under paragraph (2) must provide details of the proposed suspension or extinguishment, including particulars of—

- ~~(a)~~ (c) its commencement date;
- ~~(b)~~ (d) ~~its~~ the duration of any suspension; and
- ~~(c)~~ (e) the affected area,
- ~~(d)~~ (f) and must include an explanation of the need for ~~the~~ any proposed suspension.

(4) The PLA may in relation to any application for approval made under paragraph (2) impose reasonable conditions for any purpose described in paragraph (5).

(5) Conditions imposed under paragraph (4) may include conditions as to—

- (a) the limits of any area subject to a temporary suspension or permanent extinguishment of the public right of navigation;
- (b) the duration of any temporary suspension;
- (c) the means of marking or otherwise providing warning in the river Thames of any area affected by a temporary suspension or permanent extinguishment of the public right of navigation; and

Amendments requested by the PLA in order to allow for extinguishment as well as suspension of the public right of navigation where affected by Work no 10.

(d) the use by the undertaker of the area subject to any temporary suspension so as not to interfere with any other part of the river Thames or affect its use.

(6) Following an approval of any suspension [or extinguishment](#) given by the PLA under this article or determined in accordance with article 44 (arbitration), the PLA must issue a notice to mariners within ~~12~~<sup>21</sup> days of the approval, giving the commencement date and other particulars of the suspension [or extinguishment](#) to which the approval relates, and that suspension [or extinguishment](#) will take effect on the date specified and as otherwise described in the notice.

(7) Subject to paragraph (8), an application for approval under this article is deemed to have been refused if it is neither given nor refused within 28 days of the PLA receiving the application under paragraph (2).

(8) An approval of the PLA under this article is not deemed to have been unreasonably withheld if approval within the time limited by paragraph (7) has not been given pending the outcome of any consultation on the approval in question that the PLA is obliged to carry out in the proper exercise of its functions.

[\(9\) If any of the conditions set out in paragraph \(10\) is satisfied in relation to any land which forms part of the river and is land over which public rights of navigation have been permanently extinguished pursuant to paragraph \(1\)\(b\) the PLA may issue a notice to mariners that the land \(or any part of it\) is available for navigation, and on the issue of such notice the public rights of navigation are re-established in relation to that land.](#)

[\(10\) The conditions referred to in paragraph \(9\) are the following:](#)

[\(a\) construction of Work no.10 is not commenced on the land within 5 years of the permanent extinguishment of rights over the land pursuant to article 36\(1\)\(b\);](#)

[\(b\) having been commenced, construction of Work no.10 on the land ceases and for this purpose construction will be deemed to have ceased if—](#)

[\(i\) work to construct or carry out Work no.10 has ceased for 20 years; or](#)

[\(ii\) the undertaker has confirmed to the PLA in writing that the land is no longer required for Work no.10 or that the undertaker does not object to the public rights of navigation over the land being re-established;](#)

[\(c\) if any tidal work constructed on the land is removed pursuant to paragraph 15 of Part 6 of Schedule 9.](#)

	<del>(9)</del> (11) The undertaker may not exercise the powers of paragraphs (1)(a) after completion of construction of Work no.10.	
Article 37 Power to dredge	<p>Replacement of sub-paragraph (4)</p> <p><del>In respect of any activities falling within paragraph (1), this Order is deemed to be 'legislation' falling within section 75(3) (exemptions for certain dredging etc. activities) of the 2009 Act.</del></p> <p><u>(4) The exercise of the powers of this article is subject to the requirements of Schedule 9 as to the PLA's approval of dredging proposals and the payment of compensation for the sale by the undertaker of any dredged material.</u></p>	<p>The PLA requested deletion of sub-paragraph (4) and the applicant has agreed.</p> <p>The new sub-paragraph (4) is a combination of a requested addition from the PLA and the bringing into the article by the applicant of the limitation on when compensation is payable which was specified in the protective provisions.</p>
<b>Schedules</b>		
Schedule 1, Work no. 10	<p>Addition to description of Work no 10</p> <p>Work no. 10 – A gated causeway with crane platforms, extending from above mean high water springs <del>to</del><u>into</u> the <del>foreshore</del><u>river Thames</u>, and a berthing pocket for barges, <del>and</del> <u>including:</u></p> <p><u>(a) the construction and use of a causeway constructed of solid foundations, with a precast concrete pad running surface; and</u></p> <p><u>(b) creation by dredging, use and maintenance of a berthing pocket.</u></p>	<p>The PLA have submitted that they consider that the description of Work no 10 and the licensed activities in the DML must be identical, the applicant does not agree as these two descriptions serve different purposes. The works descriptions are a high level of what the DCO authorises in terms of construction and use. The DML contains technical detail such as the volume of material which may be deposited within the river to actually effect the construction described in Schedule 1. It is not necessary to include the technical detail set out in the DML in the works description in the same manner as it is not necessary to specify the stack heights of the power station in Work 1A; those are</p>



		<p>set out in the design parameters in the requirements, not in schedule 1.</p> <p>The applicant has however amended the description so that it reflects the wording used in the DML before that wording begins to specify the technical detail.</p>
<b>Schedule 1, further development</b>	<p>Deletion of duplication of permitted preliminary works and insertion of;</p> <p>(i) <u>in relation to Work no. 10, works for the accommodation or convenience of vessels (including but not limited to berthing and mooring facilities, ladders, buoys, bollards, fenders, rubbing strips and fender panels, fender units and pontoons);</u></p>	Insertion requested by the PLA
<b>Schedule 2</b>  <b>Requirement 1 interpretation</b>	<p>New definition:</p> <p><u>“concept causeway design” means the report entitled Concept Design of Causeway for Delivery of AILs (document number A7.8) prepared by AECOM Infrastructure &amp; Environment UK Limited, revision D dated 11 February 2020;</u></p>	<p>The applicant and the PLA have been in discussion on the status of this document. The applicant has agreed that the detailed design of the causeway should accord with this concept design, this therefore needs to be defined to allow use in requirement 4.</p>
<b>Schedule 2</b>  <b>Requirement 1 interpretation</b>	<p>New definition:</p> <p><u>“discharging authority” means any body responsible for giving any consent, agreement or approval required by a requirement included in Part 1 of this Schedule, or for giving any consent, agreement or approval further to any document referred to in any such requirement;</u></p>	<p>Various requirements will need to be discharged by Thurrock Council, the MMO and the PLA depending on the subject matter and accordingly whose jurisdiction that falls within. The addition of ‘discharging authority’ simplifies the approach to having multiple bodies.</p>
<b>Schedule 2</b>  <b>Requirement 1 interpretation</b>	<p>New definition:</p> <p><u>“navigational risk assessment” means assessment of any potential risk of the specified works, and must contain the following information:</u></p> <p><u>(a) existing navigational features including extent of authorised channels, existing navigational structures and constraints;</u></p>	<p>To define the navigational risk assessment required under requirement 17.</p>

	<p><a href="#">(b) tidal characteristics;</a></p> <p><a href="#">(c) existing river uses;</a></p> <p><a href="#">(d) general navigational arrangements;</a></p> <p><a href="#">(e) existing site specific issues;</a></p> <p><a href="#">(f) existing navigational risks;</a></p> <p><a href="#">(g) proposed navigational strategies;</a></p> <p><a href="#">(h) delivery schedules; and</a></p> <p><del>(a)</del><a href="#">(i) such other details as agreed between the undertaker and the PLA; and</a></p>	
<p><b>Schedule 2</b></p> <p><b>Requirement 1</b> <b>interpretation</b></p>	<p>New definition:</p> <p><a href="#">“requirement consultee” means any body named in a requirement as a body to be consulted by the discharging authority in discharging that requirement.</a></p>	<p>To assist in the interpretation of the Schedule.</p>
<p><b>Schedule 2</b></p> <p><b>Requirement 2 Notice</b> <b>of commencement of</b> <b>authorised</b> <b>development</b></p>	<p>Addition of MMO to requirement:</p> <p>Notice of commencement of the authorised development must be given to the relevant planning authority <a href="#">and the MMO</a> within 7 days of the date on which the authorised development is commenced.</p>	<p>To reflect that the MMO are the planning authority for the marine area.</p>
<p><b>Schedule 2</b></p> <p><b>Requirement 4</b> <b>Detailed design</b></p>	<p>Separation of Work no 10 from the terrestrial elements and new sub-paragraphs concerning the detailed design of Work no 10:</p> <p>(5) <del>The</del><a href="#">No construction of Work no.10 may commence until the detailed design of that work has been submitted to and approved by the MMO in consultation with the PLA.</a></p> <p>(6) <a href="#">The detailed design for Work no 10 submitted under sub-paragraph (5) must be generally in accordance with the concept causeway design.</a></p>	<p>To reflect that the detailed design of Work no. 10 is separable from the terrestrial detailed design, with each being approved by a different discharging authority.</p> <p>Sub-paragraph (6) requiring that the causeway design be in accordance with the concept design is the applicant’s proposed drafting in response to a request from the PLA that this constraint be specified.</p>

<b>Schedule 2</b>  <b>Requirement 10</b> <b>Surface and foul water drainage</b>	New sub-paragraph (3):  <a href="#">The details submitted under sub-paragraph (1) must be in accordance with the concept drainage strategy certified under article 40.</a>	This is to ensure that the details submitted accord with and include all the matters specified in the concept drainage strategy.
<b>Schedule 2</b>  <b>Requirement 12</b> <b>Contaminated land</b>	Various amends and new sub-paragraph (5)(b)  (b) <a href="#">details of an alternative method of dredging to the use of water injection dredging if the further sediment sampling and analysis carried out in accordance with sub-paragraph (3) identifies that the sediment contains contaminants which, in the reasonable opinion of the MMO or the PLA, make the use of water injection dredging unsuitable for the construction of Work no.10.</a>	Amendment requested by the PLA.
<b>Schedule 2</b>  <b>Requirement 13</b> <b>Archaeology</b>	Exclusion of Work no. 10	To reflect that marine archaeology is secured by a condition of the deemed marine licence and is not included within this requirement. That change was requested by the MMO.
<b>Schedule 2</b>  <b>Requirement 14</b> <b>Landscaping and Ecological Management Plan</b>	Separation of Work no.10  (1) <del>No</del> <a href="#">Other than Work no.10, no</a> part of the authorised development can commence until a LEMP for that part...  (2) <a href="#">Construction of Work no.10 must not commence until a monitoring programme for saltmarsh colonisation and mudflat habitats has been submitted to and approved by the MMO in consultation with Natural England and the PLA.</a>	Work no. 10 does not require a LEMP as the matters are controlled the deemed marine licence conditions, but does required a separate monitoring programme which will be discharged by the MMO.
<b>Schedule 2</b>  <b>Requirement 16</b> <b>Operational Noise</b>	Amendments to provide for approval of the monitoring plan by Thurrock Council and of any mitigation.  (1) Between 23.00 and 07.00 hours, noise arising from normal operation of the site may not exceed a rating level of 45 dB L <sub>Ar,Tr</sub> at any residential property which is lawfully inhabited at the date of the making of this Order.	In response to the points raised in relevant representations and FWQs.

	<p>(2) The level set out in sub-paragraph (1) is to be as measured in accordance with British Standard 4142:2014+A1:2019 (Methods for rating and assessing industrial and commercial sound) and British Standard 7445-3:1991 (Description and measurement of environmental noise. Guide to application to noise limits) or any standards replacing those.</p> <p><del>(3) Noise monitoring must be undertaken by the undertaker:</del></p> <p><del>(a) in as close proximity as the undertaker can lawfully access, or at a point representative of, the residential property known as Havers Lodge; and</del></p> <p><del>(4)</del>(3) Prior to the commencement of the authorised development, the undertaker must submit a plan to the relevant planning authority for approval detailing how noise monitoring will be undertaken during construction and within a six month period beginning with the date of first commercial export of electricity from Work 1A; <u>That plan must specify a monitoring location point, which must be in as close proximity as the undertaker can lawfully access, or at a point representative of, the nearest residential property which is lawfully inhabited at the date of the making of this Order.</u></p> <p><del>(5)</del>(4) Noise monitoring must be undertaken by the undertaker in accordance with the plan approved under sub-paragraph (3); and the results of this monitoring must be submitted by the undertaker to the relevant planning authority <u>at the intervals set out in the plan.</u></p> <p><u>(5) Where the results of the monitoring undertaken in accordance with sub-paragraphs (3) and (4), show any exceedance of the level set out in sub-paragraph (1), the undertaker must include details of proposed, within 10 working days, submit to the relevant planning authority for approval a mitigation or remedial plan detailing how the exceedance will be mitigated and including a timetable for carrying out any works and a programme for implementation of required to deliver such works mitigation.</u></p> <p><u>(6) The undertaker must comply with any plan approved under sub-paragraph (5).</u></p>	
Schedule 2	<p><b>Insertion of new requirement:</b></p> <p><u>Navigational risk assessment</u></p> <p><u><del>—(1)the results</del> Construction of Work no.10 must not commence until a final navigational risk assessment has been submitted to the relevant planning authority</u></p>	<p>In order to secure the final NRA.</p> <p>This wording has been amended following discussion with the PLA.</p>



**Requirement 17**  
**Navigational risk**  
**assessment**

and approved in writing by the PLA following consultation with the Port of Tilbury London Limited.

(2) The final risk assessment submitted under sub-paragraph (3)-1 must be substantially in the form of the preliminary navigational risk assessment.

(3) Work no. 10 must be constructed and operated in accordance with the final navigational risk assessment or any update or revision of the navigational risk assessment approved under sub-paragraph (4).

(4) No material change to the operation of Work no.10 may be implemented until a revised navigational risk assessment reflecting the proposed change has been submitted to and approved by the PLA following consultation with the Port of Tilbury Limited.

(5) Prior to any marine operation, a detailed passage plan for that marine operation must be approved the PLA following consultation with the Port of Tilbury Limited.

(6) A passage plan submitted under sub-paragraph (5) must include the measures to reduce operational risk identified in the navigational risk assessment including but not limited to:

(a) pilotage requirements in accordance with the applicable PLA pilotage directions;

(b) specific procedures including holding procedures, safe tidal operating windows for the berthing operation, weather limitations, emergency response procedures and navigational constraints; and

(c) a marine operations plan addressing interaction with the Port of Tilbury.

(7) The PLA may request any amendment to or revision of any passage plan approved under sub-paragraph (5) at any time and the marine operation to which it relates may not be commenced until the revised or amended passage plan has been approved the PLA.

(8) Any marine operation must be operated in accordance with the passage plan approved under sub-paragraph (5) or as amended or revised under sub-paragraph (6).

(9) In this requirement “marine operation” means any movement to and from the causeway by a vessel delivering an abnormal indivisible load, and includes tugs or other supporting vessels required for that movement.

Sub-paragraph (6) seeks to address the Port of Tilbury London Limited’s request that the mitigation secured in the preliminary NRA is secured in the dDCO without inappropriately constraining the final NRA and the PLA’s decision making in approving that final NRA.

<p><b>Schedule 2</b></p> <p><b>Requirement 18</b> <b>Review of access for abnormal indivisible loads</b></p>	<p>Various amendments:</p> <p>18—(1) <del>Within</del><u>No later than</u> five years from the <del>date</del><u>commencement</u> of <del>final commissioning operation of the</del> Work <del>1 no. 1A</del>, the undertaker must submit a report of the review of access options for transportation of <del>abnormal indivisible loads (AIL)</del><u>AILs</u> to or from Work <u>no. 1</u> in writing to the relevant planning authority.</p> <p>(2) <del>If a</del>, <u>in the opinion of the relevant planning authority, an environmentally acceptable</u>, permanent, feasible and economic alternative to <u>the</u> use of the causeway to be constructed as Work <u>no. 10</u> for AIL access is identified in the report submitted under sub-paragraph (1), then the <u>relevant planning authority must notify the</u> undertaker <del>must</del><u>of that decision in writing. Where such notice is issued the undertaker must:</u></p> <ul style="list-style-type: none"> <li>(a) submit applications for any consents required for that alternative AIL access within 6 months of the date of the <del>submission of the review, and issue of a notice under this sub-paragraph by relevant planning authority, and</del></li> <li>(b) advise the relevant planning authority of the outcome of any applications under this sub-paragraph which were not determined by <del>relevant</del><u>that</u> planning authority within five business days of the undertaker being notified of that outcome.</li> </ul> <p>(3) Where all the consents required to create and <del>or</del> use <u>the</u> alternative AIL access are granted, the causeway to be constructed as Work <u>no. 10</u> and the changes to the sea-defence wall to be carried out as Work <u>no. 11</u> must be decommissioned in accordance with requirement <del>18(3)-19(4)</del>.</p> <p>(4) (a) Where the review undertaken under sub-paragraph (1) does not identify <del>a</del><u>an environmentally acceptable</u>, permanent, feasible and economic alternative to <u>the</u> use of the causeway to be constructed as Work <u>no. 10</u> for AIL access, or the necessary consents to create or use such an access are not granted, then the undertaker must carry out a subsequent review within five years of the later of;</p> <ul style="list-style-type: none"> <li>(i) the submission of the review under sub-paragraph (1); or</li> <li>(ii) the undertaker notifying the relevant planning authority of the refusal of consent under sub-paragraph 2(b)<del>);</del>.</li> </ul> <p>(b) <del>where</del><u>Where, in the opinion of the relevant planning authority,</u> the review undertaken under this sub-paragraph identifies an environmentally acceptable, permanent, feasible and economic alternative to <u>the</u> use of the causeway to be constructed as Work <u>no. 10</u> for AIL access which was not identified in the</p>	<p>To clarify the scope of the requirement and role of Thurrock Council.</p>
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previous review, sub paragraphs (2), (3) will apply as if the report had been submitted under sub-paragraph (1).~~7~~.

- (c) Where a subsequent review undertaken under this sub-paragraph does not identify ~~a~~an environmentally acceptable, permanent, feasible and economic alternative to the use of the causeway to be constructed as Work no.10 for AIL access, then a further review will be required at each five year interval as if the subsequent review had been submitted under sub-paragraph (1).

(5) In this requirement, ~~a~~an environmentally acceptable, permanent, feasible and economic alternative means:

- (a) that the environmental impacts of the alternative are determined by the relevant planning authority to be likely to be acceptable to any authority from whom consent would be required to construct or operate the alternative access (which view is without prejudice to any later decision made by it in any statutory capacity or in determining any application received), having regard to the assessment criteria applicable at the time of undertaking the review, which criteria may include environmental impact assessment and assessment of the impact on protected species and habitats, and taking account of any mitigation which can be delivered without prejudicing the ability of the alternative to comply with paragraphs (b), (c) and (d) of this sub-paragraph;

- ~~(a)~~(b) that the alternative route is available and will remain so for the ~~flexible generation plant's operating~~operational lifetime and decommissioning of Work no. 1;

- ~~(b)~~(c) that transport of AIL via the alternative route is ~~feasible and~~ practicable, taking into account factors including but not limited to the physical characteristics of the AILs and the route (such as load limits and clearance), the agreement of landowners and having all of the consents required to create and/or use the alternative route; and

- ~~(c)~~(d) that the alternative route costs no more than 10% more than the cost of shipment from the port of delivery, berthing and unloading at the causeway.

(6) In this requirement "AIL" means abnormal indivisible load and includes the generating station engine blocks.

<p><b>Schedule 2</b></p> <p><b>Requirement 19</b> <b>Causeway decommissioning plan</b></p>	<p>(1) Where in accordance with requirement <del>17(3), 18</del>, the causeway to be constructed as Work <u>no. 10</u> is to be decommissioned, the undertaker must, within <del>6</del><u>six</u> months of the undertaker receiving all of the consents for which applications were made under requirement <del>17</del><u>18</u>(2), submit a causeway decommissioning plan to the <del>relevant planning authority</del><u>MMO</u> for approval in consultation with the <u>relevant planning authority</u>, the Environment Agency, <u>Natural England</u> and <u>the PLA</u>.</p> <p>(2) Where Work <u>no. 1</u> permanently ceases operation and no <del>Causeway</del><u>causeway</u> decommissioning plan has previously been approved under this requirement, the undertaker must, within <del>6</del><u>six</u> months of the operation of Work <u>no. 1</u> ceasing, submit a causeway decommissioning plan to the <u>MMO for approval in consultation with the relevant planning authority</u><del>for approval</del>, <u>Environment Agency, Natural England and the PLA</u>.</p> <p>(3) The causeway decommissioning plan must include:</p> <ul style="list-style-type: none"> <li>(a) a description of the decommissioning works and methods for Works <u>no. 10</u> and <u>11</u>;</li> <li>(b) a description of environmental management measures to be employed <u>including pollution control, traffic management and public rights of way management</u>;</li> <li>(c) details of the reinstatement of the sea defence wall altered as part of Work <u>no. 11</u>;</li> <li><u>(d)</u> details of the restoration of mudflat <u>and coastal saltmarsh</u> habitat;</li> <li><del>(d)</del><u>(e)</u> <u>details of any barge or other vessel movements required and measures to avoid shipping or navigation risks</u>; and</li> <li><del>(e)</del><u>(f)</u> <u>a timetable for implementation</u>.</li> </ul> <p>(4) Decommissioning of Works 10 and 11 must be carried out in accordance with the approved causeway decommissioning plan.</p>	<p>As requested by interested parties.</p>
<p><b>Schedule 2</b></p> <p><b>Requirement 19 Bird Monitoring</b></p>	<p>Deletion of requirement:</p> <p><del>No part of the Works 10 or 11 can commence until plan for the carrying out of foreshore bird passage and wintering bird survey and monitoring and including:</del></p>	<p>This requirement has been superseded by a condition of the DML as requested by the MMO.</p>



<b>Schedule 2</b>  <b>Requirement 20</b> <b>Operational hours</b>	<p>Insertion of new requirement:</p> <p><a href="#"><u>Work no. 1A (the gas fired electricity generating station) may only be operated for the purposes of generating electricity up to a maximum of 4,000 hours per calendar year.</u></a></p>	Although this has been stated in the ES and will be secured by the environmental permit, to address some interested parties' submissions the applicant has added this requirement.
<b>Schedule 2</b>  <b>Requirement 21</b> <b>Details to accord with</b> <b>Environmental</b> <b>Statement</b>	<p>Insertion of new requirement:</p> <p><a href="#"><u>Any plans, schemes or other documents which require approval by discharging authority pursuant to any requirement must comply with the parameters set out in the Environmental Statement and, where applicable, the outline plans certified under article 40.</u></a></p>	To address some interested parties submissions the applicant has added this requirement.
<b>Schedule 2</b>  <b>Requirement 22, 23,</b> <b>24 and Part 2</b>	Various amends to change 'relevant planning authority' to 'discharging authority'.	Consequential to other changes.
<b>Schedule 8, Deemed</b> <b>marine licence, Part 1</b>	<p>Insertion of new definition:</p> <p><a href="#"><u>"the UK marine area" has the meaning given to it in section 42 (UK marine area) of the 2009 Act.</u></a></p>	As requested by the MMO.
<b>Schedule 8, Deemed</b> <b>marine licence, Part 1</b>  <b>Paragraph 3 Details of</b> <b>licensed marine</b> <b>activities</b>	<p>Amends to change 'authorised development' to 'licensed activities'.</p> <p>Amends to tables 1 and 2 to reflect where parameters have been change to maximums to better align with the ES.</p> <p>Amends to table 3 reflect the reduction in area for Work no. 10.</p>	For clarity and as requested by the PLA.

<p><b>Schedule 8, Deemed marine licence, Part 2</b></p> <p><b>Condition 9 Construction method statement</b></p>	<p>Amend to add Natural England:</p> <p>(1) The licence holder must submit a method statement for approval by the MMO, <del>following</del><a href="#">in</a> consultation with the Environment Agency <del>and Natural England</del>, at least 6 weeks prior to the commencement of any licensed activity.</p>	As requested by the MMO.
<p><b>Schedule 8, Deemed marine licence, Part 2</b></p> <p><b>Condition 12 Spills, etc. paragraph(b)</b></p>	<p>Amends to details:</p> <p>(b) report any <del>spill of</del> oil, fuel or <del>chemicals into</del><a href="#">chemical spill within</a> the marine <del>area</del><a href="#">environment</a> to the MMO Marine <del>Pollution</del>Pollution Response Team within 12 hours <del>of</del><a href="#">in line with the approved marine pollution contingency plans if one is available, by contacting [REDACTED], (within office hours) or [REDACTED] (outside office hours) or [REDACTED] at all times if other number are unavailable, or dispersants@marinemanagement.org.uk</a><del>spill occurring;</del></p>	As requested by the MMO.
<p><b>Schedule 8, Deemed marine licence, Part 2</b></p> <p><b>Condition 13 Coatings and treatments</b></p>	<p>Insertion of new condition:</p> <p><a href="#">The licence holder must ensure that any coatings and any treatments are suitable for use in the River and are used in accordance with either guidelines approved by the Health and Safety Executive or the Environment Agency.</a></p>	As requested by the MMO.
<p><b>Schedule 8, Deemed marine licence, Part 2</b></p> <p><b>Condition 14 Sediment sampling</b></p>	<p>Insertion of new condition:</p> <p><del>—</del><a href="#">(1) The undertaker must, prior to the commencement of the licensed activities, carry out further sediment sampling of the river bed and analysis of those samples.</a></p> <p><a href="#">(2) The further sediment sampling and analysis carried out under sub-paragraph (1) must be carried out in accordance with a plan which has been submitted to and approved by the MMO and the PLA.</a></p> <p><a href="#">(3) The plan described in sub-paragraph (2) must include—</a></p>	The MMO requested that this be included in the DML as well as in the requirements.

	<p><u>(a) details of the sampling locations with surface, mid and depth levels which will provide a representative sediment assessment; and</u></p> <p><u>(b) details of an alternative method of dredging to the use of water injection dredging if the further sediment sampling and analysis carried out in accordance with sub-paragraph (2) identifies that the sediment contains contaminants which, in the reasonable opinion of the MMO or the PLA, make the use of water injection dredging unsuitable for the licensed activities.</u></p> <p><u>(4) The results and analysis of the further sediment sampling carried out in accordance with the plan approved under sub-paragraph (2) must be provided to the MMO and the PLA.</u></p> <p><del>(2)</del><u>(5) Where the further sediment sampling and analysis carried out in accordance with sub-paragraph (2) identifies, in the reasonable opinion of the MMO or the PLA, that the sediment contains contaminants no water injection dredging must be carried out for the licensed activities and dredged material must be removed to a licenced waste disposal site.</u></p>	
<p><b>Schedule 8, Deemed marine licence, Part 2</b></p> <p><b>Condition 15 Marine archaeology</b></p>	<p>Insertion of new condition:</p> <p><u>—(1) No licensed activity with the potential to affect buried archaeological assets can be commenced until a written scheme of marine archaeological investigation has been submitted to and approved by the MMO.</u></p> <p><u>(2) The scheme approved under sub-paragraph (1) must be substantially in accordance with the outline marine written scheme of archaeological investigation, and identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.</u></p> <p><u>(3) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.</u></p> <p><del>(2)</del><u>(4) Any archaeological works must be carried out in accordance with the approved marine written scheme of archaeological investigation.</u></p>	<p>The MMO requested that this be included in the DML rather than in the requirements.</p>
<p><b>Schedule 8, Deemed marine licence, Part 2</b></p>	<p>Relocation of requirement to DML condition:</p> <p><u>—(1) — No part of the licensed activities can commence until a plan for the carrying out of foreshore bird passage and wintering bird survey and monitoring and including:</u></p>	<p>The MMO requested that this be included in the DML rather than in the requirements.</p>

<b>Condition 16 Bird Monitoring</b>	<p><a href="#">(a) details of pre-commencement surveys to be carried by the undertaker;</a></p> <p><a href="#">(b) details of the monitoring to be carried out by the undertaker during construction;</a></p> <p><a href="#">(c) details of post-construction monitoring to be carried by the undertaker; and</a></p> <p><a href="#">(d) how the results of surveys and monitoring are to be provided to Natural England.</a></p> <p><a href="#">(e) has been submitted to and approved by the relevant planning authority in consultation with Natural England.</a></p> <p><del>(3)</del><a href="#">(5) The surveys and monitoring must be carried out in accordance with the approved details and to a reasonable standard in accordance with recognised codes of good practice.</a></p>	
<b>Schedule 8, Deemed marine licence, Part 2</b>	<p>New paragraph 22 inserted:</p> <p><a href="#">Arbitration not to apply</a></p> <p>22. <a href="#">Article 44 (Arbitration) does not apply to any decision made by the MMO under this Schedule.</a></p>	The MMO have raised a concern that the arbitration article would supersede their regulatory role under the DML by allowing decisions to be taken to arbitration. The applicant does not agree that the article does that as regulatory decisions are not a 'dispute' between the parties. However, to resolve the MMO concern, this insertion is proposed.
<b>Schedule 9 Protective provisions, Part 2</b>	New part 2 in favour of Anglian Water Services Limited	As agreed with Anglian Water Services Limited.
<b>Schedule 9 Protective provisions, Part 4</b>	The protections in favour of the Environment Agency have been substituted with the Agency's standard provisions under amendment by the applicant.	Updated following the provision of the standard protective provisions by the Agency.
<b>Schedule 9 Protective provisions, Part 6</b>	The protective provisions in favour of the Port of London Authority have been amended following discussion with the PLA.	To incorporate changes requested by the PLA.
<b>Schedule 9 Protective provisions, Part 8</b>	The proposed protections in favour of the Port of Tilbury London Limited have been added	The provisions are described as 'proposed' as the applicant has not yet had any comments on these from the Port.



**Schedule 9 Protective provisions, Part 9**

Placeholder added for protective provisions in favour of Highways England for the Lower Thames crossing DCO project.

The scope of these provisions is under discussion and has not yet been agreed.