

# Statement of Common Ground with the Port of London Authority

Final version, June 2021



# 1 INTRODUCTION

## 1.1 Purpose of this document

- 1.1.1 This is the Statement of Common Ground (“SoCG”) between the Applicant, Thurrock Power Ltd (“TPL”), and the Port of London Authority (“the PLA”). It sets out the matters which have been agreed. There are no matters which are not agreed.
- 1.1.2 In the rule 6 letter dated 21 September 2020 and the subsequent procedural decision letter dated 2 November 2020, the Examining Authority (“the ExA”), requested a SoCG between TPL and the PLA to cover the material covered in those letters. This request was based on the PLA’s initial relevant representation and submissions during the Preliminary Meeting. Since then, TPL has withdrawn the proposal to create saltmarsh mitigation in the river and has submitted a large amount of further environmental information, including in relation to the proposed causeway and an assessment of effects on navigation on the river in the form of a preliminary Navigational Risk Assessment.
- 1.1.3 This SoCG reflects the current position between the parties, in particular where matters have moved on from the relevant representation and subsequent PLA submissions, including in light of the changes to the application and following further discussions and engagement between the parties. The comments in the tables below refer to updated versions of a number of application documents

## 2 MATTERS THAT ARE AGREED

	<b>Topic</b>	<b>Agreement</b>
	<b>Design of the causeway</b>	
1.	Principle	The principle of the construction and use of a causeway and berthing pocket of the design set out in the Concept Design of Causeway for Delivery of Abnormal Indivisible Loads document (APP-130), is acceptable subject to adequate controls being imposed by the DCO, in particular through the Requirements and Protective Provisions for the benefit of the PLA and to adoption as part of the application of a reduced Limit of Deviation for Work no.10 as in Sheet 6 of the draft Rev 3 of the Works Plans provided by TPL to the PLA on 18 February 2021.
2.	Concept design and the DCO drafting  DCO schedules 1 and 2 requirement 4, 7	TPL and the PLA agree that the final design of the causeway will come forward post consent as a detailed design which must be within the Order limits and the scope of what has been assessed in the ES, which was based on work done in the Concept Design of Causeway for Delivery of Abnormal Indivisible Loads document (APP-130). It is also agreed that the maximum parameters set out in the marine licence constrain the final design of the causeway and that the description of the causeway in the marine licence must reflect the description given in schedule 1.  The wording included in schedule 2, requirement 4 (5 and 6) (Detailed Design) of the DCO is agreed to meet the PLA's requests that the design of the causeway be constrained.
3.	Unauthorised use of causeway	Natural England have requested that unauthorised use of the causeway should be discouraged by Thurrock Power Ltd.  The PLA do not object to the intended approach (which includes gating the causeway) subject to erection of signs with contact details on the river side of such gates for use by stranded persons where emergency use of the causeway has been required. The PLA agree that the signage requirement set out in paragraph 1.2.2 of the revised version of PDC-053 (Restrictions on Causeway Access) is acceptable.
4.	<b>Operation of the causeway</b>	The operation of the causeway will be controlled through the PLA's Protective Provisions and Requirements in the DCO and, in particular, through the process set out in the required Navigational Risk Assessment ("NRA"). The details of the Protective Provisions and Requirements were agreed.
5.	<b>Effect on the marine environment</b>	The ES contains initial assessment of impacts on the marine environment. The parties have agreed that it will be supplemented by further surveys and sampling prior to construction which will be subject to the approval of the PLA through the process provided for under the requirements and the PLA's Protective Provisions.
6.	Sediment sampling and contamination	The parties have agreed that further sediment sampling will be required prior to construction and can be undertaken once the detailed design is available to inform sampling locations. This will be secured by revised drafting in Requirement 12.  The parties have also agreed revised drafting to secure the use of dredging methods appropriate to the levels of contamination found in sampling, by requiring removal not dispersal of contaminated material.  Sediment sampling works will required to be approved by the PLA under the Protective Provisions.

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7.	Monitoring and addressing impacts	The parties have agreed amended drafting in the PLA's Protective Provisions which would adequately provide for the carrying out of river bed surveys, a scour and accretion monitoring and mitigation plan, and monitoring and remediation of sedimentation.
8.	<b>Navigational Safety</b>	The preliminary Navigational Risk Assessment is agreed. That assessment demonstrates that the causeway of the design set out in the Concept Design of Causeway for Delivery of Abnormal Indivisible Loads document (APP-130) can be constructed and operated without creating an unacceptable risk to navigational safety.
9.	The final NRA	The preliminary Navigational Risk Assessment identifies a number of risk mitigations which will be finalised in the final assessment.  The parties have agreed that the DCO will secure through a Requirement in Schedule 2 that a final Navigational Risk Assessment will be substantially in the form of the preliminary Navigational Risk Assessment. This will be carried out prior to commencement of construction and will detail the final mitigation required.
10.	<b>Any necessary consents and licences</b>  Land	The PLA is the owner of the riverbed for much of that stretch of the river and all of the riverbed currently included within the Order limits for this DCO. It is also the statutory harbour authority. No compulsory acquisition of the PLA's land is proposed or agreed. However, the parties have agreed that a licence will be sufficient to allow TPL to construct the causeway on the riverbed and bring it into use. Both parties agree that there is no known impediment to such a licence being able to be issued at the appropriate time.  The PLA will grant TPL a licence under section 66 of the Port of London Act 1968 ("the 1968 Act") to retain the causeway over their land during the operational period and such licence may be granted for consideration to be agreed or assessed in accordance with section 67 of the 1968 Act, There is no known impediment to such a licence being able to be granted.
11.	Maintenance dredging	The DCO, as amended, does not and is not intended to authorise maintenance dredging in operation. Maintenance dredging will require a dredging licence from the PLA under s.73 of the 1968 Act to be applied for and obtained by TPL in accordance with the PLA's requirements in force at the time of application.
12.	<b>Matters raised in Representations</b>  Design of the flood gate works	The detailed design of the flood gate works falls within the remit of the Environment Agency, not the PLA. The PLA does not require further detail of those works at this time and this can be addressed through detailed design.  The PLA's concern would be where such works extended over the river only. It has been confirmed that it is not proposed to undertake gate works from the river. If works extended over the river, PLA approval would be required under the Protective Provisions.
13.	DCO drafting – Art 1	Definition of order land; wording is now agreed.
14.	Maintenance dredging – DCO drafting - article 5	The parties have agreed that the wording added to article 5(1) to clarify that the maintenance power does not grant development consent maintenance dredging addresses the PLA's concern.
15.	DCO drafting – Art 38 (previously 37) Power to dredge	The parties were agreed on the proposed DCO wording in article 38 (Power to Dredge) subject to the replacement of the word "of" with the word "within" in article 37(1). TPL have made this amendment and it is shown in REP4-003. The wording of article 38 is now agreed
16.	DCO drafting – requirements generally	Changes have been agreed with regard to clarifying the role of the PLA and MMO as discharging authorities.
17.	DCO drafting – schedule 1 description of Work No 10	The description of Work no. 10 is now agreed.

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18.	DCO drafting – requirement 14(2)	The wording of requirement 14(2) is now agreed.
19.	DCO drafting – requirement 18 – alternative AIL access	The amended wording of requirement 18 as part of the DCO submitted at Deadline 2 is agreed, including the definition of environmental acceptability within part 5(a) of the requirement.
20.	DCO drafting – requirement 19 – causeway decommissioning plan	TPL and the PLA agree that TPL would be required to obtain licences under the 1968 Act for decommissioning works. However, the PLA will still need to be involved in the approval of the Causeway Decommissioning Plan to ensure it does not contain anything incompatible with its licensing. In addition, the parties are agreed that details of vessel movements and a further assessment of shipping and navigation risks would need to be provided through the Causeway Decommissioning Plan. The wording of requirement 19 is now agreed.
21.	DCO drafting - protective provisions	The Protective Provisions in favour of the PLA are agreed.

Signed for and on behalf of the **Port of London Authority**:

Name

Title

Date

Signed for and on behalf of **Thurrock Power Limited**

Name

Title

Date