

SILVERTOWN TUNNEL

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8.64 Document Explaining DCO Amendments

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Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

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0	27/01/2017	David Rowe (TfL Lead Sponsor)		For Deadline 3

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SILVERTOWN TUNNEL

EXPLANATION OF AMENDMENTS MADE TO THE DRAFT DCO (REV 3)

1. INTRODUCTION

- 1.1 This document provides a commentary on changes made to the draft Development Consent Order ("dDCO") in the version submitted at Deadline 3 (27 January 2017) (DCO Revision 3), compared with the version of the draft DCO submitted at Deadline 2 (14 December 2016 - DCO Revision 2). The Applicant's revised draft DCO (Revision 3) is document 3.1 (Revision 3), and an electronic comparison between the two versions has also been submitted.
- 1.2 In broad terms the changes made in the latest dDCO have been made for the following reasons:
- 1.2.1 changes arising from continued discussions with the host boroughs and other local authorities, statutory undertakers and landowners;
 - 1.2.2 changes arising from points raised at the second ISH on the dDCO on 19 January 2017 ("the ISH"), and at the other issue-specific hearings on traffic and environmental topics which took place on 17 and 18 January 2017; and
 - 1.2.3 other points which the Applicant has identified as requiring amendment since the initial version of the dDCO was submitted with the application.

2. TABLE OF CHANGES TO THE DRAFT DCO

Provision in revised draft DCO and/or issue	Brief description and explanation
Articles 2	<p>Following comments made at the ISH, the Applicant has reflected the ExA's suggestion by including the words 'unless otherwise stated' in article 2(1).</p> <p>The definition of "flood risk activity" has been amended to reflect the revised regulations which came into force on 1 January 2017. The amendment in articles 3(1)(p) and 14(6) has been made for the same reason.</p> <p>The definition of "the river area" has been amended to refer to Work Nos. 20A and 20B – the Port of London Authority ("PLA") has requested this change in the course of on-going discussions between the parties, and revised works plans have been submitted at Deadline 3 to reflect the consequential minor change in labelling. However, as noted below, the need for this definition is under review.</p>
Article 3	<p>Following discussions with the PLA, the Applicant has deleted reference to the Port of London (Consolidation) Act 1920, as the majority of this enactment was repealed by the Port of London Act 1968. The one provision of the 1920 Act saved by the 1968 Act is not relevant to the scheme.</p>
Article 4	<p>Following comments made at the ISH, the Applicant has, for clarity, replaced the word 'adjacent' with 'adjoining' in article 4(2) (to reflect current legislative practice – see, for example, the Town and Country Planning (General Permitted Development) (England) Order 2015).</p>

Provision in revised draft DCO and/or issue	Brief description and explanation
	Further, to deal with a concern raised by the PLA at the ISH, wording has been added to article 4(2) such that it would not apply to any part of the river Thames located outside of the Order limits.
Article 17	<p>Following discussions with the PLA, the Applicant has amended article 17 to make clear that it does not confer any extra powers to undertake works, but instead places conditions on the Applicant's use of the river and deals with the mechanics of suspending rights of navigation.</p> <p>The article has also been expanded out, for clarity, to extend to any part of the river Thames within the Order limits. As such, the Applicant is reflecting on the need for the definition of 'the river area' – however, it is likely this will be needed for the proposed new 'river restrictions' article the Applicant is currently discussing with the PLA and intends to include in the next iteration of the dDCO.</p> <p>It should also be noted that there are some 'placeholder' cross-references to the protective provisions for the benefit of the PLA. Discussions on these are progressing well, and the Applicant hopes to include an amended set of agreed protective provisions in the next iteration of the DCO.</p>
Article 29	<p>Following discussions with the PLA, references to article 17 have been deleted to reflect the fact that it does not, in itself, confer powers to undertake any works in addition to those in Schedule 1. As noted above, article 17 has been amended to make this clear.</p> <p>In addition, the wording has been amended to reflect discussions with the PLA about the interaction between temporary possession of the river and suspension of navigation.</p> <p>In addition, following discussions at the ISH, article 29(4) has been amended such that any notice of temporary possession served on an owner or occupier of land must include the work related to which the Applicant requires temporary possession.</p> <p>Minor amendments have been made in respect of the payment of compensation for occupation of the river, also as a result of on-going discussions with the PLA.</p>
Article 30	Similar amendments have been made to this article as have been made to article 29, to reflect discussions with the PLA about the interaction between temporary possession of the river and suspension of navigation.
Article 39	At the request of the PLA, clarificatory wording has been added to this article to reflect the fact that the regime under the Port of London Act 1968 will apply to any maintenance activities undertaken beyond the five year 'maintenance period' as defined in article 30.
Article 43	A definition of 'emergency' has been included in this article following a request by the Royal Borough of Greenwich. For further commentary on this article, further to discussions held at the ISH, please see the Applicant's summary of oral submissions made at the ISH (document reference: 8.62) submitted at Deadline 3.
Article 58	Having given the amendments made to this article at Deadline 2 further reflection, and following discussions at the ISH, the Applicant has

Provision in revised draft DCO and/or issue	Brief description and explanation
	<p>amended this article to delete the word 'exclusive' in article 58(6) and to include temporary possession powers, rather than compulsory acquisition powers only. This means that any transferee must demonstrate to the Secretary of State's satisfaction that it has sufficient resources to discharge compensation liabilities in respect of both compulsory acquisition and temporary possession.</p>
Schedule 1	<p>Further to a suggestion from the ExA at the ISH, the Applicant has amended Work Nos. 1(a) and (c) (erroneously referred to as (c) and (e) in the previous version of the dDCO) in respect of the wording referring to the power to construct a cellular tunnel.</p> <p>Work No. 20 has been split out into Work Nos. 20A and 20B further to a request from the PLA to better define the area within which the temporary jetty can be constructed. Revised works plans have been submitted at Deadline 3 to reflect the 'split' of Work No. 20. Work No. 20A is the more defined area within which the temporary jetty can be constructed and Work No. 20B reflects the previous Work No. 20 boundary within which associated dredging and other works can take place. For clarification, the power to undertake refurbishment works to the existing NAABSA berth has also been included in Work No. 20B (which the Applicant considers was covered by the ancillary works 'catch all' in Schedule 1 previously).</p> <p>In addition, further to discussions with the PLA, paragraph (k) of the 'catch-all' in Schedule 1 has been amended, such that the Applicant would have the power to maintain the depth of the river bed to a certain level. However, this would be subject to the controls in the protective provisions for the benefit of the PLA.</p>
Schedule 2, Paragraph 1 of Part 1	Definitions have been added to reflect amendments to requirements elsewhere in Schedule 2.
Schedule 2, Paragraph 3(2) of Part 1	<p>Reference to the Silvertown Tunnel Stakeholder Design Consultation Group has been added to reflect the changes made to the Design Principles submitted at Deadline 2. These arose from on-going discussions with interested parties.</p> <p>The word "consult" has been added in place of "engage" further to a request made by the London Borough of Newham at the ISH.</p>
Schedule 2, Paragraph 5 of Part 1	<p>Following further reflection, the Applicant has removed reference to preparing the subsidiary plans to the Code of Construction Practice ("CoCP") 'in the manner specified' and 'in the specified manner' in subparagraphs (2) and (3) respectively as it is considered that this wording does not add anything to the interpretation of the provisions.</p> <p>In addition, as part of discussions between the Applicant and the Environment Agency, it has been agreed that the Environment Agency does not need to approve the flood warning and evacuation plan element of the emergency plan – as such reference to this distinct element has been deleted and will be simply covered under the preparation of the emergency plan under paragraph 5(2)(c).</p>
Schedule 2, Paragraph 7 of Part 1	The Applicant has deleted the first part of the paragraph as it considers that this does not add anything to the interpretation of the provision and has been queried by some interested parties.

Provision in revised draft DCO and/or issue	Brief description and explanation
Schedule 2, Paragraph 12 of Part 1	This provision has been amended to reflect comments made by both interested parties and the ExA at the ISH and other hearings. The provision has been restructured to make clear that (a) any written details submitted for approval must include the details of the retention and maintenance regime of the proposed mitigation which must then be complied with; and (b) the proposed mitigation must include low noise surfacing on all newly constructed or resurfaced roads (except any roads within the new tunnel, on certain parts of the northern approaches or where the results of the road safety audit require a road to have an alternative surface).
Schedule 2, Paragraph 13 of Part 1	Further to comments made at the ISH and other hearings, the Applicant has added in a requirement to comply with a bus strategy which will be explicit about the principles for cross-river bus services and how they will be delivered and planned with the boroughs. A first draft of the bus strategy was submitted as Appendix A to the Applicant's responses to the principal issue FWQs (REP1-178). An updated version of the strategy will be submitted into the examination at Deadline 4 – for more information on this topic, please see the Applicant's Update Note submitted at Deadline 3 (document reference 8.59).
Schedule 2, Paragraph 16 of Part 2	Further to discussions with the London Borough of Newham, a new subparagraph (3) has been added to require the Applicant to submit a 'statement of conformity' with any applications for discharge under the requirements.
Schedule 2, Paragraph 17 of Part 1	Reference has been added to 'working' days, following discussions with the London Borough of Newham.
Schedule 7	Amendments have been made to simply reflect the splitting of Work No. 20 into Work Nos. 20A and 20B.
Schedule 9	Further to a suggestion from the ExA at the ISH, "TfL" has been included in the definitions, together with wording around its sub diaries (to reflect article 2), such that the byelaws can operate on a 'standalone' basis.
Schedule 12	<p>Co-ordinates have been added to the dDML to reflect a request by the Marine Management Organisation. The point references are shown on the revised works plans submitted at Deadline 3.</p> <p>In addition, following discussions with both the Marine Management Organisation and the Environment Agency, wording has been added to licence condition 4(1) such that the Environment Agency must be consulted before any construction method statement is approved.</p> <p>A consequential amendment has been made to licence condition 10, to reflect the 'splitting' of Work No. 20.</p>
Schedule 14	The list of documents to be certified has been amended to reflect revisions to documents being submitted at Deadline 3 and to pick up some other documents previously submitted by the Applicant.