

Lower Thames Crossing

9.47 Schedule of Changes to the draft Development Consent Order during Examination

Infrastructure Planning (Examination
Procedure) Rules 2010

Volume 9

DATE: October 2023
DEADLINE: 5

Planning Inspectorate Scheme Ref: TR010032
Examination Document Ref: TR010032/EXAM/9.47

VERSION: 5.0

Lower Thames Crossing

9.47 Schedule of Changes to the draft Development Consent Order during Examination

List of contents

Page number

Table 1.1 Explanation of Changes to the draft Development Consent Order during Examination	1
-------------------------------------------------------------------------------------------------------------	----------

Table 1.1 Explanation of Changes to the draft Development Consent Order during Examination

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Deadline 1 – 18 July 2023		
Article 2(1)	The following definition has been added: “begin” means beginning to carry out any material operation (as defined in section 56(4) (time when development begun) of the 1990 Act) forming part of the authorised development including preliminary works (as defined in Schedule 2 of this Order);	This change has been made to include a definition for when development has begun. This is to explicitly distinguish it from ‘commence’. The justification for this has been provided in the Explanatory Memorandum [APP-057] at paragraph 6.10.2.
Article 2(8)	The reference to article 8 has been changed to ‘consent to transfer the benefit of Order’	Amendment of a typographical error. This amendment now accurately reflects the title of article 8.
Article 2(10)	‘In this Order, references to materially new or materially different environmental effects in comparison with those reported in the environmental statement must shall not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the environmental statement as a result of the authorised development’	This change from ‘shall’ to ‘must’ reflects the Office for Parliamentary Counsel guidance on the use of the word ‘shall’.
Article 6(2)(g)	‘laterally’ has been changed to ‘vertically’.	Amendment of a typographical error. The relevant subparagraph refers to heights so should refer to vertical limits of deviation, rather than lateral limits of deviation.
Article 6(2)(o)	The words ‘subject to paragraph 99(1) of Schedule 14 of this Order,’ has been inserted at the start of the provision.	This change ensures that the limits of deviation in connection with the tunnels will take effect subject to, and without limitation to, the agreed depth of the tunnels (see further commentary on paragraph 99(1) of Schedule 14 below). This amendment removes any residual doubt that the limits of deviation would conflict with the agreed depth of the tunnels, and therefore the ability of the Port of London Authority (PLA) and others to use the navigable channel. Please see further the Applicant’s response to matters raised in Annex A of the Agenda for Issue Specific Hearing 2
Article 6(2)(p)	The words ‘subject to paragraph 99(1) of Schedule 14 of this Order,’ has been inserted at the start of the provision.	

Provision	Changes made to the draft Development Consent Order	Explanation for Change
		submitted on 6 July 2023 [Document Reference 9.49], as well as its written submission in respect of Issue Specific Hearing 2 [Document Reference 9.11].
Article 8(5)	Changes to company details for organisations listed therein.	This reflects updated information obtained from Companies House in respect of the organisations named in article 8(5).
Article 8(6)	Without limitation on paragraph (5), the consent of the Secretary of State under this article is not required where the powers of article 28(1) (compulsory acquisition of rights and imposition of restrictive covenants) are, with the consent of the undertaker given under article 28(3), proposed to be exercised by a statutory undertaker or any other person rather than by the undertaker.	This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1. In particular, the change ensures consistency between article 28 and article 8, and ensures that only statutory undertakers are able to benefit from the exemption provided in article 8(6).
Article 8(8)	Insertion of new paragraph (8): The Secretary of State must consult the MMO before giving consent under paragraph (1) to the transfer or grant to another person of the benefit of the provisions of the deemed marine licence.	This amendment requires consultation with the Marine Management Organisation (MMO) prior to the transfer of the benefit of any provision of the Order. This amendment is made following discussions with the MMO.
Article 10(2)	Subject to paragraphs (3) and (4), where a highway (other than a trunk road or special road) is altered or diverted under this Order, the altered or diverted part of the highway must, when completed to the reasonable satisfaction of the local highway authority in whose area the street lies and, unless otherwise agreed in writing with the local highway authority, that part of the highway, including any culverts or other structures laid under it, must be maintained by and at the expense of the local highway authority from its completion.	This change makes clear that the altered or diverted part of a highway must be completed to the satisfaction of the local highway authority.
Article 15(1)(f)	the public rights of way and permissive paths described in Part 6 (other public rights of way and permissive paths) of Schedule 5 will be of the type described in column (1) to the	This change specifies that any agreement in relation to public rights of way and permissive parts as set out in the provision must be with the local highway authority as it is the

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	extent described in column unless otherwise agreed with the relevant planning local highway authority.	local highway authority that will have responsibility for such matters.
Article 28(4)	Where in consequence of paragraph (3), a person statutory undertaker other than the undertaker exercises the powers in paragraph (1) in place of the undertaker, except in relation to the payment of compensation the liability for which must remain with the undertaker, that person is to be treated for the purposes of this Order and by any person as being the undertaker in relation to the acquisition of the rights and the imposition of the restrictive covenants in question.	This change ensures consistency with article 28(3) which only refers to statutory undertakers. This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1.
Article 33(2)(b)	The words ' subject to paragraph (8), ' have been inserted at the start of the sub-paragraph.	Following discussions with the PLA, this provision has been agreed. The provision qualifies the ability to acquire easements and restrictive covenants in, on, over or under the river Thames which are outside of the tunnels under paragraph (2)(b) of this article on the basis that article 48 (Protection of the tunnel area) provides the necessary protections. This does not prejudice the acquisition of the subsoil for the tunnels. Paragraph (8) has been agreed with the PLA.
Article 33 (8)	A new sub-article (8) has been inserted: (8) The undertaker may not acquire easements or other new rights or impose restrictive covenants under paragraph (2)(b) on, over or under the river bed of the river Thames for the protection of the tunnels.	
Article 40	The word ' specified ' has been inserted before 'special category land' (in article 40(1), (2)(a)-(b), (3), (6) and (8)).	This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1 for additional clarity. The definition provides further clarity, and is intended to make clear that the 'specified special category land' encompasses those plots in respect of which reliance is placed on sections 131(4) and 132(4) of the Planning Act 2008.
Article 40(6)(a)	must not conflict comply with outline LEMP; and	This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1. Please note plot changes which reflect updated plots have given rise to updated references in article 40.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Article 43(1)	Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take , use, enter upon or in any manner interfere with any land or rights of any description—	This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1.
Article 43(1)	All references to ‘Her Majesty’ have been replaced with ‘His Majesty’.	This change has been made following the coronation of Charles III.
Article 44(1)	(1) The undertaker may operate and use the tunnel area in its capacity, and for the purposes of its functions, as a highway authority.	This ensures that the power to operate and use the tunnels is exercised in relation to this capacity, and for the purposes, of its role as a highway authority. This provision has been requested and agreed with the PLA.
Article 46 (7)	In this article “emergency” means any circumstance whether existing or imminent, which the undertaker Secretary of State considers is likely to cause danger to persons or property, or the environment.	The definition of emergency in this article has been amended so that it is the Secretary of State, rather than the undertaker, as the Secretary of State is the charging authority for the purposes of article 45 and 46.
Article 55	The heading of article 55 has been amended to add ‘etc.’ to the end so it reads: ‘Application of local legislation etc. ’	This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1 as the article relates to both local legislation, and other byelaws.
Article 56 (4)	Any development or any part of a development within the Order limits which is constructed or used under the authority of a permission granted under section 57 of the 1990 Act including permissions falling under sub-paragraph (1) or (3) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and does shall not prevent the authorised development being carried out or used or any other power or right under this Order being exercised	Amendment of typographical error. This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1. In addition, the change from ‘shall’ to ‘does’ reflects the Office for Parliamentary Counsel guidance on the use of the word ‘shall’.
Article 64 (2)	A new sub-article 64 (2) has been inserted:	This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 1. This provision ensures that any

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	'Any matter for which the consent of approval of Secretary of State is required under any provision of this Order is not subject to arbitration.'	matter for which the consent or approval of the Secretary of State is required is not subject to arbitration.
Schedule 1: Works No. 1C	Work No. 1C – as shown on sheets 3 and 4 of the works plans and being the construction of the new A2 eastbound link road, to include— the construction of a new section of highway of two-lane link road, between the eastbound carriageway of the existing A2 mainline and the northbound carriageway of the existing A289, approximately 2,580 metres in length, as shown on sheets 3 and 4 of the rights of way and access plans (reference points 2/11 and A5); the construction of a new section of local road, single carriageway, approximately 75 metres in length, as shown on sheet 3 of the rights of way and access plans (reference points 4/4, to 4/6 and 4/10);	This ensures consistency between Schedule 1 and the Rights of Way and Access Plans [APP-024 , APP-025 and AS-032] in connection with the proposed work.
Schedule 1: Work No. 5V	Work No. 5V – as shown on sheets 3 and 4 of the works plans and being the construction of an improved section of the existing M2 and the improvement works to the A2, to include – as shown on sheet 23 of the works plans and being the diversion of an existing public right of way, to include—	Amendment of typographical error. The deleted text is not relevant to Work No. 5V.
Schedule 1: Work No OHT5	The repeated word 'and' is deleted.	Amendment of typographical error. The erroneously repeated word has been deleted.
Schedule 2 – Requirements Paragraph 1 (1)	The definition of “preliminary works” has been amended as follows: “preliminary works” means operations consisting of archaeological investigations and pre-construction ecological mitigation (including in connection with those investigations or mitigation vegetation clearance), environmental surveys and monitoring, investigations for the purpose of assessing and monitoring ground conditions	The text has been amended to make clear that vegetation clearance can only be carried out in connection with the specific works (i.e. in connection with the surveys, mitigation and access for advanced compound areas).

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	<p>and levels, erection of any temporary means of enclosure, receipt and erection of construction plant and equipment for advanced compound areas, diversion and laying of underground apparatus (except any excluded utilities works) for advanced compound areas, vegetation clearance and accesses for advanced compound areas (and vegetation clearance in connection with those accesses), and the temporary display of site notices or information;</p>	
<p>Schedule 2 – Requirements Paragraph 3 (1)</p>	<p>The authorised development must be designed in detail and carried out in accordance with the design principles document and the preliminary scheme design shown on the engineering drawings and sections, and the general arrangement drawings, unless otherwise agreed in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority and, in respect of the authorised development comprising highways other than a special road or a trunk road, the relevant local highway authority on matters related to its functions, provided that the Secretary of State is satisfied that any amendments to those documents showing departures from the preliminary scheme design would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	<p>This ensures that where the local planning authority and local highway authority are different, any amendments to the preliminary scheme design which involve a local road would be the subject of consultation with the local highway authority.</p>
<p>Schedule 2 – Requirements Paragraph 8 (1)</p>	<p>Surface and foul water drainage 8.—(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation by the undertaker with the relevant planning authority and the relevant highway authority on matters related to its their functions.</p>	<p>This requires consultation with a local highway authority on matters related to their functions, in addition to the local planning authority. This change is made at the request of Transport for London.</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Schedule 2 – Requirements Paragraph 12	<p>Fencing</p> <p>12.—(1) Any permanent and temporary fencing and other means of enclosure for the highway works comprising the authorised development must be constructed and installed in accordance with Volume 1, Series 0300 of the Manual of Contract Documents for Highway Works unless—</p> <p>(a) otherwise specified in the REAC; or</p> <p>(b) any departures from that manual are agreed in writing by the Secretary of State in connection with the authorised development, following consultation by the undertaker with the relevant planning authority or, in respect of the authorised development comprising highways other than a special road or a trunk road, the relevant local highway authority on matters relateds to its their functions.</p>	<p>This requires consultation with the local highway authority instead of the local planning authority where fencing in connection with local roads is proposed to be constructed and installed contrary to the Manual of Contract Documents for Highway Works. This change is made following representations from Transport for London at Issue Specific Hearing 2.</p>
Schedule 2 – Requirements Paragraph 13 (1)	<p>The replacement of the Gammon Field travellers’ site in Thurrock (Work No. 7R) must not commence until details of its layout and design have been submitted and approved in writing by the local planning authority, such approval not to be unreasonably withheld or delayed, following consultation by the undertaker with the local planning authority and any persons it considers appropriate the occupiers of the existing Gammon Field travellers’ site.</p>	<p>This change has been made in response to a question raised by the Examining Authority in Annex A of the Agenda for Issue Specific Hearing 2. It ensures that the occupiers of the existing site, as well as the local planning authority, are consulted prior to the submission of the details for approval to the local planning authority. In addition, it adds the name of the travellers’ site.</p>
Schedule 2 – Requirements 14 (1)	<p>Before the tunnel area is open for traffic, the undertaker must submit written details of an operational traffic impact monitoring scheme substantially in accordance with the wider network impacts management and monitoring plan for approval by the Secretary of State following consultation by the undertaker with highway authority and where different, the relevant planning authority and other bodies identified in Table 2.1 of the outline traffic management plan for construction wider network impacts management and monitoring strategy.</p>	<p>Amendment of typographical error. The relevant document for the purposes of this Requirement is the Wider Network Impacts Management and Monitoring Plan [APP-545].</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Schedule 2 – Requirements 16 (4)	A CEP (Third Iteration) must be submitted to and approved in writing by the Secretary of State as soon as reasonably practicable at developed and completed by the end of the construction, commissioning and handover stage of any part of the authorised development, in accordance with the process set out in the CEP (First Iteration).	This amendment ensures consistency between the provisions of the draft Development Consent Order and paragraph 3.9.2 of the Carbon and Energy Management Plan [APP-552] . In effect, the ‘third iteration’ would be the subject of an approval by the Secretary of State.
Schedules 3 and 5	Updates to references to specified rights of way and their related points on the Rights of Way and Access Plans.	Amendment of typographical errors and the amendments ensure consistency between Schedule 1 and the Rights of Way and Access Plans in connection with the proposed work.
Schedules 8, and 11	Plot updates	These changes comprise changes to plots where these have been the subject of an update in the Book of Reference [AS-042] . These amendments do not connote any new use, but merely reflect plot changes following the provision of the updated Book of Reference.
Schedule 14 – Protective Provisions Paragraph 97 and 98.	The following definition has been inserted: “ begin ” means beginning to carry out any material operation (as defined in section 56(4) (time when development begun) of the 1990 Act) forming part of the authorised development including preliminary works (as defined in Schedule 2 of this Order) and any ground investigations in the river Thames; ”	These amendments confirm that ground investigation works in the river Thames are caught by the provisions in Paragraph 98(1). This amendment has been agreed with, and is made at the request of, the PLA.
Schedule 14 – Protective Provisions Paragraph 99 (1)	Paragraphs 99(1)-(2) have been deleted and replaced with the following text: ‘ The detailed design and construction of the tunnelling works in the river Thames must— provide for a protected dredged navigational channel depth of 12.5m below chart datum with an additional 0.5m to allow for over-dredging attributable to standard dredging methodology; and	This provision ensures that the tunnels forming part of the Project are constructed in a manner to ensure and provide for protected dredged navigational channel depth of 12.5m below chart datum with an additional 0.5m to allow for over-dredging attributable to standard dredging methodology (even where scour protection is required). Please see responses to Annex A of the Agenda for Issue Specific Hearing 2 (submitted on 6 July 2023) for further information.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	ensure that that channel depth can be maintained where scour protection is required.	
Schedule 14 – Protective Provisions Paragraph 104(4)	New provision: (4) The undertaker’s powers of temporary possession and compulsory acquisition of rights and imposition of restrictive covenants under this Order above the river bed of the river Thames in connection with the temporary outfall, permanent outfall, the new water inlet with self-regulating valve and ground investigation works is limited to what is reasonably necessary for the undertaker safely to construct the authorised development.	This provision provides additional assurance that temporary possession and the acquisition of rights for those works above the river bed of the river Thames will be limited to what is reasonably necessary to safely construct the authorised development. The wording in this provision is based on article 30(2) of the Silvertown Tunnel Order 2018 except that (i) it does not refer to a prohibition on taking possession of the ‘entire width of the river Thames’ as, unlike that Order, there are no powers to take temporary possession of the entire width of the river Thames under the draft Development Consent Order and (ii) it extends this to permanent rights which are sought in connection with works above the river bed of the river Thames. At the time of writing this document, the PLA have been provided with the proposed provision but have not responded.
Schedule 14 – Protective Provisions Paragraph 120 (1)	The reference to sub-paragraph 6 has been amended to refer to sub-paragraph 5.	This has been updated to refer to the correct sub-paragraph.
Schedule 14 – Protective Provisions Environment Agency	Various amendments.	With the exception of paragraph 116(5), the Applicant can now confirm that the Protective Provisions (as amended) are now agreed between the Environment Agency and the Applicant. The amendments reflect the agreement reached between the parties.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Schedule 15 – Deemed Marine Licence	Minor updates and insertion of the following at paragraph 24: “(3) The provisions of sections 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 8 (Consent to transfer benefit of Order).”	These updates have been made following comments by the MMO on the Deemed Marine Licence. The newly inserted provision confirms that transfers of the benefit of the Deemed Marine Licence are dealt with under the 2009 Act except insofar as explicitly addressed in article 8.
Schedule 16 – Documents to be Certified	Updates to document references which are proposed to be certified.	These update the relevant documents referenced to ensure they are aligned with the most recent iteration of the relevant documents.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Changes associated with Change Notification 1 (August 2023)		
Schedule 1 Authorised Development Work No MUT6	“Work No MUT6 - as shown on sheets 20, 22, 23 and 24 of the works plans and being the temporary installation of multi-utilities, to include the installation or diversion of underground utilities connections for the construction area Work No. CA5 within a multi-corridor located to the west of East Tilbury and Linford, for approximately 3,184132 metres in length.”	This change gives effect to MRC03.
Schedule 1 Authorised Development Work No. E2	“Work No. E2 – as shown on sheet 2 of the works plans and being the implementation of environmental works to create a compensatory habitat site for nitrogen deposition not used.”	This change gives effect to MRC01. That change means that Work No. E2 will not be delivered.
Schedule 1 Authorised Development Work No. ULH 11	“ Work No. ULH 11 – as shown on sheet 24 of the works plans, the establishment of an utility logistics hub, located south of Muckingford road, of approximately 14,300 9,618 square metres.”	This change gives effect to MRC03.
Schedule 1 Authorised Development Work No. ULK 12	“ Work No. ULH 12 - as shown on sheets 23 and 24 of the works plans, the establishment of an utility logistics hub, located west of the new Tilbury viaduct, of approximately 14,300 8,380 square metres.”	This change gives effect to MRC03.
Schedule 8 Land of which only new rights etc. may be required	Plots 02-01 and 02-03 have been deleted in connection with the provision for access for environmental works to create a compensatory habitat site for nitrogen deposition, and the rights for access to maintain those environmental works”	This change gives effect to MRC01.
Schedule 8	Plots 23-121, 23-128, 23-129, 23-130, 23-132, 23-135, 23-136, 23-139, 23-150, 23-151, 23-153, 23-161, 23-162, 23-	This change gives effect to MRC03.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Land of which only new rights etc. may be required	169 and 23-171 have been deleted in connection with utility works, including the installation or diversion of underground utilities within a multi utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works.	
Schedule 8 Land of which only new rights etc. may be required	Plots “23-123, 23-129, 23-130, 23-132, 23-135, 23-136, 23-139, 23-150, 23-151, 23-153, 23-161, 23-162, 23-169, 23-175, 23-176, 23-177, 23-178 and 23-179 ” have been inserted in connection with the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works.	This change gives effect to MRC03.
Schedule 8 Land of which only new rights etc. may be required	Plot 24-116 has been removed in connection with utility works, including the installation or diversion of underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works; and overhead lines diversion works, including the removal of existing overhead lines and pylons, construction of new overhead lines and pylons and works to existing overhead lines and pylons, and the rights and restrictive covenants to construct, protect, operate, access and maintain those overhead lines diversion works.	This change gives effect to MRC03.
Schedule 8 Land of which only new rights etc. may be required	The following plot reference numbers have been inserted/amended in connection with utility works, including the installation or diversion of underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works: “24-133, 24-148, 24-150, 24-152, 24-165, 24-68 24-174 and 24-176 24-192 and 24-193	This change gives effect to MRC03.
Schedule 8	Plot 24–191 has been inserted in connection with utility works, including the installation or diversion of underground	This change gives effect to MRC03.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Land of which only new rights etc. may be required	utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works; and overhead lines diversion works, including the removal of existing overhead lines and pylons, construction of new overhead lines and pylons and works to existing overhead lines and pylons, and the rights and restrictive covenants to construct, protect, operate, access and maintain those overhead lines diversion works	
Schedule 11 Land of which temporary possession may be taken	Plots 02-01 and 02-03 have been removed in connection with Work No. E2	This change gives effect to MRC01.
Schedule 11 Land of which temporary possession may be taken	Plot 23-144 has been removed connection with Work No. CA5.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 23-124, 23-126, 23-137, 23-140, 23-141, 23-149 have been removed in connection with Work No. CA5.	This change gives effect to MRC03
Schedule 11 Land of which temporary possession may be taken	The following change has been made in respect of the purposes for which temporary possession can be taken over Plot 23-47: Modification of an existing irrigation reservoir and the diversion and modification of irrigation infrastructure, including possible provision of a new groundwater abstraction well; construction of a new flood compensation	This change gives effect to MRC03.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	<p>area; and utility works, including the installation or diversion of underground utilities within a multi-utility corridor; and overhead lines diversion works, including the removal of existing overhead lines and pylons, construction of new overhead lines and pylons and works to existing overhead lines and pylons; and the establishment of a temporary utilities logistics hub for the facilitating logistics works.</p> <p>[In connection with] Works Nos. 5K, FCA1, MU33 and OH4 and ULH12</p>	
<p>Schedule 11 Land of which temporary possession may be taken</p>	<p>The following change has been made in respect of the purposes for which temporary possession can be taken over Plot 23-50:</p> <p>Construction of a new flood compensation area; and utility works, including the installation or diversion of underground utilities within a multi-utility corridor; and overhead lines diversion works, including the removal of existing overhead lines and pylons, construction of new overhead lines and pylons and works to existing overhead lines and pylons; and the establishment of a temporary utilities logistic hub for facilitating utility works.</p> <p>[In connection with] Works Nos. FCA1, MU33, OH4, OH5, and OHT2 and ULH12</p>	<p>This change gives effect to MRC03.</p>
<p>Schedule 11 Land of which temporary possession may be taken</p>	<p>Plot 23-96 has been removed in connection with Works Nos MU28, OH3 and OH4.</p>	<p>This change gives effect to MRC03.</p>
<p>Schedule 11 Land of which temporary</p>	<p>These plots have been removals/insertions have been made in connection with Work No. MU28: “23-98, 23-99, 23-102, 23-103, 23-115, and 23-116 and 23-180</p>	<p>This change gives effect to MRC03.</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
possession may be taken		
Schedule 11 Land of which temporary possession may be taken	Plots 23-178 and 23-179 have been inserted in connection with Work No. MU33.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 23-121, 23-169 and 23-171 have been removed in connection with Work No. MUT6.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 23-131 and 23-152 have been removed in connection with Work No. MUT6.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 23-169 23-175, 23-176 and 23-177 have been inserted in connection with Work No. MUT6.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	The following amendments have been made to the references in connection with Work No. OH5: "24-53, 24-63, 24-67, 24-69, 24-80 and 24-81 and 24-82	This change gives effect to MRC03.
Schedule 11 Land of which temporary	Plot 24-82 has been inserted in connection with Work No. Oh5 and ULH12	This change gives effect to MRC03.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
possession may be taken		
Schedule 11 Land of which temporary possession may be taken	Plot 24 116 has been removed in connection with Works Nos. 5W, MU28, MU34, MUT6, OH3, OH4 and ULH11.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	<p>The following change has been made in respect of the purposes for which temporary possession can be taken over Plot 24–124:</p> <p>Construction of a new public right of way between the new public right of way underneath the Tilbury viaduct and footpath FP61; and utility works, including the installation or diversion of underground utilities within a multi-utility corridor; and overhead lines diversion works, including the removal of existing overhead lines and pylons, construction of new overhead lines and pylons and works to existing overhead lines and pylons; and the establishment of a temporary utilities logistics hub for facilitating utility works.</p> <p>[In connection with] Works Nos 5W, MU28, OH3 and O4 and ULH11.”</p>	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 24-127 and 24-131 have been removed in connection with Works Nos 5W, OH3, OH4 and ULH11.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	<p>The following plots have been removed/inserted in connection with Work No. MUT6:</p> <p>“24-133, 24-148, 24-150, 24-152, 24-165, 24-168 and 24-176 24-192 and 24-193</p>	This change gives effect to MRC03.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Schedule 11 Land of which temporary possession may be taken	Plots 24-143, 24-145, 24-158, 24-169, 24-170, 24-177, 24-179 and 24-184 have been removed in connection with Work No. MUT6	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 24-142, 24-144, 24-151 and 24-154 have been removed in connection with Work No 5W.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plot 24 -157 has been removed in connection with Works No 5W and MUT6.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plot 24-174 has been removed in connection with Works No 5W and MUT6.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plot 24-191 has been inserted in connection with Works Nos. 5W, MU28, MU34, MUT6, OH3 and OH4.	This change gives effect to MRC03.
Schedule 11 Land of which temporary possession may be taken	Plots 24-194, 24-195, 24-196, 24-197, 24-198 and 24-199 have been inserted in connection with Work No. 5W.	This change gives effect to MRC03.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Changes associated with Deadline 2 – 3 August 2023		
Index	Application of local legislation, etc. ⁷	Correct placement of comma added
Article 2	“begin” means beginning to carry out any material operation (as defined in section 56(4) (time when development begun) of the 1990 Act) forming part of the authorised development including preliminary works (as defined in Schedule 2 of this Order), and “begun” and “beginning” shall be construed accordingly;	Change from “of” to “to” to correctly refer to the Schedule; Additional text added to the definition of “begin” to extend to other participles of the word.
Article 2	“business day” means a day other than Saturday or Sunday which is not Christmas Day, Good Friday or a bank holiday under section 1 (bank holidays) ⁽¹⁾ of the Banking and Financial Dealings Act 1971.	A definition of “business day” has been inserted as it used in article 65. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Article 2	“relevant local highway authority” means in any given provision of this Order, the highway authority for the area to which the provision relates;	A definition of “relevant local highway authority” has been inserted. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Article 2	“relevant traffic authority” means in any given provision of this Order, the traffic authority for the area to which the provision relates;	A definition of “relevant traffic authority” has been inserted.
Article 3(3) and (4)	<p>Subject to paragraph (4), Any enactment applying to land within, adjoining or sharing a common boundary with the Order limits (other than land comprising part of the river Thames outside of the Order limits) has effect subject to the provisions of this Order.</p> <p>Except as provided for in article 53 (Disapplication of legislative provisions, etc.) and article 55 (Application of local legislation, etc.), paragraph (3) does not apply to the 1968 Act, the Port of Tilbury Transfer Scheme 1991, the</p>	This amendment confirms that article 3(3) does not apply to the enactments listed in the new paragraph. This amendment is made following a request by the Port of Tilbury London Limited in their Written Representations.

⁽¹⁾ 1971 c. 80.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	<p>Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992 and the Port of Tilbury (Expansion) Order 2019 or any byelaws, general directions or specific directions having effect, made or given under those enactments.</p>	
<p>Article 5(1)</p>	<p>Subject to the provisions of Schedule 14 (protective provisions), Nothing in this Order, or the construction, maintenance or operation of the authorised development under it, affects any responsibility for the maintenance of any works connected with the drainage of land, whether that responsibility is imposed or allocated by or under any enactment, or otherwise, unless otherwise agreed in writing between the undertaker and the person responsible.</p>	<p>This article has been amended to confirm that the maintenance of drainage works is subject to protective provisions. This amendment is made following a request by the London Borough of Havering in their Written Representations.</p>
<p>Article 6(2)(o)</p>	<p>subject to paragraph 99(1) of Schedule 14 of this Order (protective provisions), construct the tunnel with the vertical downward limits of deviation shown on the tunnel limits of deviation plans; and</p>	<p>This sub-article has been amended to cross-refer to the title of the Schedule referenced.</p>
<p>Article 6 (2) (p)</p>	<p>subject to paragraph 99(1) of Schedule 14 of this Order (protective provisions), construct the tunnel with the vertical upward limits of deviation shown on the tunnel limits of deviation plans.</p>	
<p>Article 6(3)</p>	<p>The maximum limits of deviation set out in paragraph (1) and (2)(a) to (o) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation by the undertaker with the relevant planning authority, and, in respect of the authorised development comprising highways other than a special road or a trunk road, the relevant local highway authority, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement.</p>	<p>This sub-article has been amended to clarify that consultation will be carried out by the undertaker. This amendment is made following a request by the London Borough of Havering in their Written Representations.</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Article 8(5)	(x) Port of Tilbury London Limited (company number 02876001, whose registered office is at Leslie Ford House, Tilbury, Essex, RM18 7EH); and	A new body, the Port of Tilbury, has been inserted at (x) and (w) and (y) have been renumbered. This amendment is made following a request by the Port of Tilbury London Limited in their Written Representations.
Article 10, 15, 16, 17, 21, 22 Requirement 4(2), 8(1), 10(2), 11(1), 14(1)	All references to local highway authority changed to 'relevant local highway authority'; reference to "traffic authority" changed to "relevant local traffic authority"	These amendments make use of the new definition for relevant local and traffic highway authority. In instances where the local planning authority is the relevant body with functions, this has been clarified. These amendments are made following a request by the London Borough of Havering in their Written Representations.
Article 12(7)	Where the undertaker provides a temporary diversion under paragraph (4), the new or temporary alternative route is not required to be of a higher standard than the temporarily closed, altered, diverted or restricted street or private means of access specified in column (2) of Schedule 3 but it must be suitable for use by the same type of traffic as that street or private means of access unless otherwise agreed with the street authority.	This article has been amended to specify that a temporary diversion must be suitable for the use by the same type of traffic. This amendment is made following a request by the Port of Tilbury London Limited in their Written Representations.
Article 12(8)	(8) If a street authority which receives an application for consent under paragraph (5) fails to notify the undertaker of its decision before the end of the period of 28 days beginning with the date on which the application was made received it is deemed to have granted consent.	This amendment means that the 28 day period will begin on receipt of an application, and ensures consistency with other deemed consent provisions. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Article 12(9), 17(2), 19(9), 21(8)	New provisions has been included so that an application to which deemed consent applies must include notice of the deemed consent provision itself.	This provides advance notice of the deemed consent provision applying to particular applications. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Article 13(1)	(1) The undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of,	This article has been amended to remove the ability to use this power for maintenance. This amendment is made following a request by the Port of Tilbury London Limited in their Written Representations.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	or in connection with, the construction and maintenance of the authorised development.	
Article 18	The powers under article 18(1) can only be exercised ‘in such manner and to such extent as is may appear to it to be reasonably necessary in connection with the carrying out and maintenance of the authorised development or reasonably convenient.	This further limits the exercise of the powers under article 18 so that they can only be utilised where necessary in connection with the project. The ability to use the powers where ‘reasonably convenient’ has been removed, as has the phrase ‘where it appears [to the undertaker]’ to provide further certainty. This amendment is made in response to comments from the Port of London Authority and the Port of Tilbury London Limited in their Written Representations.
Article 32	(1) Schedule 1 to the 2017 Regulations is modified as follows and without limitation to the other provisions of this article, Form 1 and Form 2 in those regulations shall include such other further consequential modifications as are necessary to enable the compulsory acquisition of rights for identified third parties.	This change is made to ensure that all necessary amendments to the 2017 Regulations are made to permit the vesting of land or rights in third parties. This amendment is made in response to a request from National Grid Electricity Transmission Plc.
Article 48(9)	(9) From the date this Order is made Work No. 5A or Work No. CA5 is begun , the permission under Part IX of the Dangerous Substances in Harbour Areas Regulations 1987 ⁽²⁾ to anchor or berth vessels in the area identified Higham bight anchorage under the licence dated 28 May 1992 with the reference 9/92 may not be varied or otherwise modified without the consent of the undertaker, and that licence ceases to have effect insofar as the vessel is carrying—	This amendment means that the explosive licence referenced will be disapplied on the relevant works being carried out. The justification for this disapplication is set out in the Explanatory Memorandum. This amendment is made in response to comments raised by the Port of London Authority in their Written Representations.
Article 53(4)	(4) Following the expiry of any maintenance period defined in article 36(13), the requirement under the 1968 Act to obtain a works licence under section 66 (licensing of works) of that Act does not apply to anything done within any structure forming part of the authorised development in	This provides further detail on circumstances in which the river works licence regime does not apply in connection with the project. This amendment is made in response to comments raised by the Port of London Authority in their Written Representations.

⁽²⁾ S.I. 1987/37.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	connection with the operation or maintenance of the authorised development, or any other function of the undertaker in its capacity as a highway authority.	
Article 55(5)	(5) Without prejudice to Part 10 of Schedule 14 (protective provisions), to the extent that there is any inconsistency or conflict between any works authorised under this Order, works carried out in connection with the authorised development, or the exercise by the undertaker of the functions conferred by this Order and all or any of the requirements provisions of the Port of Tilbury (Expansion) Order 2019 ⁽³⁾ (“the 2019 Order”) then, in respect of such inconsistency or conflict, there is deemed to be no breach, or non-compliance, of any provision or requirement of the 2019 Order by the Port of Tilbury London Limited or the undertaker and any such inconsistency or conflict is to be disregarded for the purposes of Part 8 of the 2008 Act.	This amendment is explained in the Applicant’s response to the Port of Tilbury’s Written Representations and ensures that a conflict between the project and the Tilbury2 DCO does not give rise to enforcement action. This amendment accords with the request made by the Port of Tilbury London Limited.
Article 61	Deletion of article 61(3)(a) and consequential removal of cross-reference to subparagraph (a) in paragraph (b).	This removes the effect of an application to amend a measure contained in the Stakeholder Actions and Commitments Register in suspending the obligation. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Article 62(4)	Insertion of requirement to notify the relevant planning authority.	This requires a notice to be served on the local planning authority before making an application to the Magistrates in connection with a correction. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Article 64 (2)	Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.	This has been corrected to include “the” which was previously incorrectly left out.

⁽³⁾ S.I. 2019/359.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Article 65(1)	<p>The undertaker may appeal to the Secretary of State in the event that a local authority— refuses an application for any approval under this Order required by—</p> <p>(i) article 12(5) (temporary closure, alteration, diversion and restriction of use of streets); (ii) article 17(2) (traffic regulation – local roads); (iii) article 21(4) (authority to survey and investigate the land); (iv) paragraph 9(6) of Schedule 2; (v) paragraph 13(1) of Schedule 2; or</p>	<p>This makes the local authority approval under paragraph 9(6) of Schedule 2 subject to the appeals provision. This amendment gives effect to a request by the London Borough of Havering to substitute the ability to agree alternative arrangements with the Secretary of State with this appeals provision.</p>
Article 65(15)	<p>(15) In this article “local authority” means the relevant planning authority, the relevant local highway authority, the relevant traffic authority, or, a street authority.</p>	<p>This amendment defined the term “local authority” for the purposes of the appeals provision. This amendment is made following a request by the London Borough of Havering in their Written Representations.</p>
Requirement 7(1)	<p>(1) No part of the authorised development is to begin (except environmental surveys and monitoring) until for that part final pre-construction survey work has been carried out to establish whether European or nationally protected species are present on any of the land affected or likely to be affected by that part of the authorised development, or in any of the trees and shrubs to be lopped or felled as part of the relevant works.</p>	<p>This makes clear the surveys which are required under Requirement 7 itself are not prevented from being carried out because of the use of the word “begin”. The term “begin” includes “preliminary works” which in turn includes environmental surveys. The Requirement will continue to apply to all other preliminary works.</p>
Requirement 7(3)	<p>(3) The undertaker must consult with Natural England and the relevant planning authority on the scheme referred to in sub-paragraph (2) prior to submission to the Secretary of State for approval, except where a suitably qualified and experienced ecologist, holding where relevant and appropriate a licence relating to the species in question, determines that the relevant works do not require a protected species licence.</p>	<p>This amendment requires consultation with the local planning authority in connection with a protected species scheme. This amendment is made following a request by the London Borough of Havering in their Written Representations.</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Requirement 8(1)	(1) No part of the authorised development is to commence until for that part written details of the surface and foul water drainage system, reflecting the mitigation measures set out in the REAC including means of pollution control, have been submitted and approved in writing by the Secretary of State following consultation by the undertaker with the lead local flood authority , the relevant planning authority and the relevant local highway authority on matters related to their functions.	This amendment requires consultation with the lead local flood authority in connection with drainage matters. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Requirement 9(5) and (6)	Deletion of “unless otherwise agreed.. with the Secretary of State”	See change to article 65 explained above.
Requirement 14(3)	(3) The scheme approved under sub-paragraph (1) must be implemented by the undertaker unless otherwise agreed with the Secretary of State following consultation by the undertaker with the relevant local highway authority and where different, the relevant planning authority and other bodies identified in Table 2.1 of the wider network impacts management and monitoring strategy.	This requires consultation with the relevant bodies where the Secretary of State’s approval is sought to cease implementing the traffic impact monitoring scheme.
Requirement 19(1) and Schedule 15	Deletion of definition of “business day”	This is now included in Article 2.
Paragraph 20 of Schedule 2	(1) Where any paragraph in this Schedule requires the undertaker to consult with any authority or statutory body, the undertaker must— notify the authority or statutory body of the effect of paragraph 18(3) of this Schedule;	This provides advance notice of the deemed consent provision applying in connection with applications to the Secretary of State. This amendment is made following a request by the London Borough of Havering in their Written Representations.
Schedule 14 and 16	Updates to cross-references	Corrections of and updates to cross-references.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Deadline 3 (24 August 2023)		
Article 2	Definition of environmental statement updated to include Environmental Statement Addendum	As the Addendum clarifies and corrects elements of the Environmental Statement, the references to the Environmental Statement should include a reference to the Addendum.
Article 2	Insertion of square brackets in the definitions of river works licence, river mooring licence and river dredging licence	The words in square brackets will only be required where the PLA’s Harbour Revision Order is made. These square brackets are intended to reflect that, and have been requested by the PLA. When that HRO is made, the square brackets can be removed. If the HRO is not made, the words in square brackets can be removed. A decision on the HRO is expected before a decision on this DCO application. The Applicant notes this principle applies to the use of square brackets in Article 48.
Article 6, Requirements 6, 7, 8, 12, 14	Insertion of “on matters relevant to their functions” in respect of consultation with local authorities and other bodies.	This ensures that the scope of the consultation proposed to be carried out by the Applicant is related to the relevant body’s functions. These amendments are made following comments from Gravesham Borough Council that the definition of “relevant planning authority” could be refined as in the case of non-unitary areas, the planning functions (for example in relation to mines and minerals) would lay with the country council, rather than the district or borough council. The insertion of “matters relates to their functions” ensures that the relevant authority is only consulted in connection with their distinct functions.
Article 6	Article 6 has also been updated to include “consultation by the undertaker with..” in respect of the relevant highway authority consultation.	This is a clarificatory amendment.
Article 37	New paragraphs (5) to (6) inserted (with consequential amendment to paragraph (3)):	In response to concerns raised by landowners, the Applicant has inserted these provisions which require the Applicant to remove the certain multi-utility and overhead line works

Provision	Changes made to the draft Development Consent Order	Explanation for Change																						
	<p>(5) Subject to paragraph (6) and (7), the undertaker must, unless otherwise agreed by the landowner and any relevant statutory undertaker, when all of the specified work(s) listed in column (1) of the table below has or have been completed, by exercise of the power in paragraph (1)(b) or otherwise—</p> <p>(c) extinguish or otherwise terminate any rights and restrictive covenants which have been created, acquired or imposed for the purpose of the corresponding work listed in the column (1) of the table below; and</p> <p>(d) notwithstanding article 35(5) of this Order, remove any apparatus which has been installed as part of the corresponding work listed in the column (1) of the table below.</p> <table border="1" data-bbox="434 730 1214 1361"> <thead> <tr> <th data-bbox="434 730 824 783"><i>(2) Specified work</i></th> <th data-bbox="824 730 1214 783"><i>(1) Corresponding work</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="434 783 824 868">Work No. CA2</td> <td data-bbox="824 783 1214 868">Work No. MUT1 (outside of Thong Lane bridge)</td> </tr> <tr> <td data-bbox="434 868 824 952">Work No. MU12</td> <td data-bbox="824 868 1214 952">Work No. MUT1 (so far as within Thong Lane bridge)</td> </tr> <tr> <td data-bbox="434 952 824 1005">Work No. MU12</td> <td data-bbox="824 952 1214 1005">Work No. MUT2</td> </tr> <tr> <td data-bbox="434 1005 824 1058">Works Nos. CA3 and CA3A</td> <td data-bbox="824 1005 1214 1058">Work No. MUT3</td> </tr> <tr> <td data-bbox="434 1058 824 1110">Work No. CA5</td> <td data-bbox="824 1058 1214 1110">Work No. MUT4</td> </tr> <tr> <td data-bbox="434 1110 824 1163">Work No. CA5</td> <td data-bbox="824 1110 1214 1163">Work No. MUT5</td> </tr> <tr> <td data-bbox="434 1163 824 1216">Work No. CA5</td> <td data-bbox="824 1163 1214 1216">Work No. MUT6</td> </tr> <tr> <td data-bbox="434 1216 824 1268">Work No. CA5</td> <td data-bbox="824 1216 1214 1268">Work No. MUT7</td> </tr> <tr> <td data-bbox="434 1268 824 1321">Works Nos. CA5 and CA5A</td> <td data-bbox="824 1268 1214 1321">Work No. MUT8</td> </tr> <tr> <td data-bbox="434 1321 824 1361">Works Nos. CA5 and CA5A</td> <td data-bbox="824 1321 1214 1361">Work No. MUT9</td> </tr> </tbody> </table>	<i>(2) Specified work</i>	<i>(1) Corresponding work</i>	Work No. CA2	Work No. MUT1 (outside of Thong Lane bridge)	Work No. MU12	Work No. MUT1 (so far as within Thong Lane bridge)	Work No. MU12	Work No. MUT2	Works Nos. CA3 and CA3A	Work No. MUT3	Work No. CA5	Work No. MUT4	Work No. CA5	Work No. MUT5	Work No. CA5	Work No. MUT6	Work No. CA5	Work No. MUT7	Works Nos. CA5 and CA5A	Work No. MUT8	Works Nos. CA5 and CA5A	Work No. MUT9	<p>following the completion of distinct, specified works. By way of explanation, the authorised development comprises “ABC” diversions, i.e. where existing apparatus is diverted from A to B and then, later, to C. In such cases, these provisions confirm that the “B” apparatus, and the rights acquired in connection with that apparatus, would be removed and the rights on the “C” works being complete. In addition, where rights are acquired in connection with utility connections for construction compounds, and those compounds are completed, the apparatus and the associated rights would be removed. This provides certainty for landowners of the Applicant’s intention that such apparatus and rights would be removed (unless otherwise agreed with both the landowner and the relevant statutory undertaker).</p>
<i>(2) Specified work</i>	<i>(1) Corresponding work</i>																							
Work No. CA2	Work No. MUT1 (outside of Thong Lane bridge)																							
Work No. MU12	Work No. MUT1 (so far as within Thong Lane bridge)																							
Work No. MU12	Work No. MUT2																							
Works Nos. CA3 and CA3A	Work No. MUT3																							
Work No. CA5	Work No. MUT4																							
Work No. CA5	Work No. MUT5																							
Work No. CA5	Work No. MUT6																							
Work No. CA5	Work No. MUT7																							
Works Nos. CA5 and CA5A	Work No. MUT8																							
Works Nos. CA5 and CA5A	Work No. MUT9																							

Provision	Changes made to the draft Development Consent Order		Explanation for Change
	Work No. CA5	Work No. MUT10	
	Work No. CA5	Work No. MUT11	
	Work No. CA6	Work No. MUT12	
	Works Nos. CA6, CA7, CA8A CA8B, CA9, CA10 and CA11	Work No. MUT13	
	Works Nos. CA6, CA7, CA8A CA8B, CA9, CA10 and CA11	Work No. MUT14	
	Work No. CA6	Work No. MUT15 (outside of A128 Brentwood Road)	
	Work No. MU39	Work No. MUT15 (so far as within A128 Brentwood Road)	
	Works Nos. CA8A and CA8B	Work No. MUT16	
	Work No. CA7	Work No. MUT17	
	Work No. CA7	Work No. MUT18	
	Work No. MU45	Work No. MUT19	
	Work No. MU54	Work No. MUT20 (from the A1089 to the A13)	
	Works Nos. CA8A and CA8B	Work No. MUT20 (from Long Lane to Work No CA8A to CA8B)	
	Works Nos. CA9 and CA10	Work No. MUT21 (outside of B122 High Road, Orsett)	

Provision	Changes made to the draft Development Consent Order		Explanation for Change
	Work No. MU60	Work No. MUT21 (so far as within B122 High Road, Orsett)	
	Work No. CA11	Work No. MUT22	
	Work No. CA9	Work No. MUT23	
	Work No. CA9	Work No. MUT24	
	Work No. CA11	Work No. MUT25	
	Work No. CA13	Work No. MUT26	
	Work No. CA13	Work No. MUT27	
	Works Nos. CA13 and CA14	Work No. MUT28	
	Work No. CA14	Work No. MUT29	
	Work No. MU76	Work No. MUT30	
	Work No. CA15A	Work No. MUT31	
	Work No. CA16	Work No. MUT32	
	Work No. OH1	Work No. OHT1	
	Work No. OH4	Work No. OHT2	
	Work No. OH3	Work No. OHT3	
	Work No. OH7	Work No. OHT4	
	Work No. OH6	Work No. OHT5	
	Work No. OH6	Work No. OHT6	
	Work No. OH7	Work No. OHT7	
	Work No. OH7	Work No. OHT8	

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	<p>(6) The obligation in paragraph (5) applies in respect of rights and restrictive covenants which have been created, acquired or imposed and to apparatus installed for or which belongs to a statutory undertaker when, subject to the provisions of Schedule 14 (protective provisions), appropriate facilities and rights in respect of any specified work in column (1) of the table above have been granted to the relevant statutory undertaker.</p> <p>(7) The obligation on the undertaker to remove apparatus in paragraph (5) does not apply if the statutory undertaker is required to remove the apparatus under Schedule 14 (Protective Provisions) or by virtue of an agreement with that statutory undertaker.</p>	
Article 40(12)	Removal of, and updates to Plots, in the definitions contains in article 40(12).	These updates reflect the removal of the designation of replacement land for Claylane Wood (see EA01 in the Second Notification of Change [PD-024]) as well as updates to land plots in relation to the Orsett Fen.
Schedule 1	Removal of Works No. OSC2 and OSC3; minor typographical corrections.	These updates reflect the removal of the designation of replacement land for Claylane Wood (see EA01 in the Second Notification of Change [PD-024])
Requirement 6	Addition of relevant highway authority as consultee.	This is made in response to a request from Transport for London, and ensures the Applicant consults relevant highway authorities in relation to the discharge of these Requirements.
Requirement 8	Addition of Environment Agency as a consultee, and making consultation bodies in paragraph (1) consistent with paragraph (2).	This amendment is made in response to a request from the Environment Agency, and ensures the Applicant consults them in relation to the discharge of this Requirement.
Requirement 9(2)	The authorised development must be carried out in accordance with the scheme referred to in sub-paragraph (1) unless otherwise agreed in writing by the Secretary of State.	Removal of tailpiece. This is made in response to a request from the London Borough of Havering.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Requirement 14	Substituting “strategy” with “plan”	Correction of the relevant document reference.
Paragraph 20	Substituting references to “authority or statutory body” with “person or body”	This change has been made in response to a request from the Emergency Services. Some of the Requirements require consultation with a person or body who may not be a statutory body or an “authority” so this clarifies the intention of the provision.
Schedule 4, Part 4	In respect of the Private means of access from south-eastern quadrant of M25 junction 29 roundabout, the reference has been amended to sheet 45.	Correction of an error; the relevant points relating to this private means of access are on Sheet 45.
Schedule 8 and 11	In respect of the construction of a new outfall from the north portal to the River Thames, including rights to construct, operate, protect and maintain the outfall, Plots 16-45 and 16-46 have been removed but Plot 16-68 has been added	This gives effect to the amendment identified as EA-02 and EA-03 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].
Schedule 8 and 11	Deletion of Plot 23-19 in respect of the implementation of environmental mitigation works to create a site for protected species, and the rights and restrictive covenants to construct, protect, operate, access and maintain those environmental mitigation works; and utility works, including the installation or diversion of underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works. Addition of Plot 23-181 in respect of the same.	This gives effect to the amendment identified as EA05 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].
Schedule 8 and 11	Deletion of Plots 23-27, 23-31, 23-32, and 23-34 in respect of utility works, including the installation or diversion of underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works Addition of 23-32, 23-182, 23-183 and 23-184 in respect of utility works, including the installation or diversion of	This gives effect to the amendment identified as EA04 and EA05 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works.	
Schedule 8 and 11	Deletion of Plots 27-85 and 27-87 and insertion of Plots 27-99 and 27-100 in respect of Provision for access for Overhead lines diversion works, and the rights for access to maintain those overhead line diversion works	This gives effect to plot changes as a result of Land Registry update. This is not a substantive change to the land use in these areas.
Schedule 11	Insertion of Plots 16-67, 16-68 and 16-69 in respect of Provision for temporary outfall of drainage to the River Thames from the north portal of the A122 Lower Thames Crossing	This gives effect to the amendment identified as EA01 and EA02 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].
Schedule 11	Insertion of Plots 23-185 and 23-186 in respect of utility works, including the installation or diversion of underground utilities within a multi-utility corridor, and the rights and restrictive covenants to construct, protect, operate, access and maintain those utility works	This gives effect to the amendment identified as EA05 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].
Schedule 11	Removal of 23-36 and 23-37 in respect of utility works, and temporary storage, laydown areas and working space.	This gives effect to the amendment identified as EA05 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].
Schedule 14, Part 8	Insertion of definitions: <p>“preliminary navigational risk assessment” means the document of that description referred to in Schedule 16 (documents to be certified) certified by the Secretary of State as the preliminary navigational risk assessment and, in connection with any ground investigations in the river Thames, means the “Lower Thames Crossing Ground Investigations Navigational Risk Assessment” (which forms Appendix F of the preliminary navigational risk assessment);</p>	The first definition has been inserted in response to comments made by the Port of London Authority requesting clarity that the Site Investigations Navigational Risk Assessment will apply in respect of ground investigation works in the river Thames. The PLA has confirmed they agree with this insertion. <p>On the second definition, see directly below.</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	<p>“temporary outfall” means the temporary outfall in the river Thames referenced in paragraph 5(2)(a) of Schedule 15 (deemed marine licence) to this Order;</p>	
<p>Schedule 14, Part 8</p>	<p>Insertion of new provision in paragraph 102: (2) Without limitation to paragraph (1), the undertaker must as soon as reasonably practicable seek approval under paragraph 98 for the removal of the temporary outfall in the river Thames and any structure installed in connection with ground investigations in the river Thames where the use of that outfall or structure is no longer necessary in connection with the construction of the authorised development, and as soon as practicable after the grant of that approval must remove that outfall and structure and make good the site to the reasonable satisfaction of the PLA.</p>	<p>This amendment is made following comments by the PLA that the paragraph 102(1) was not clear on the need for removal of temporary works given the reference in that provision to the completion of “permanent” works. The PLA has confirmed they agree with this insertion. A consequential definition of “temporary outfall” was also inserted at their request.</p>
<p>Schedule 14, Part 8</p>	<p>Updates to cross-references</p>	<p>As a result of changes described above, cross-references have been updated.</p>
<p>Schedule 14, Part 10</p>	<p>Updated Protective Provisions for the Port of Tilbury</p>	<p>The Applicant’s preferred set of protective provisions for the Port of Tilbury London Limited have been updated following their response (at Deadline 1) to the Applicant’s proposed protective provisions (included at the point of application submission). The Applicant continues to engage with the Port on these protective provisions and is hopeful agreement will be reached before the end of the examination.</p>
<p>Schedule 15</p>	<p>Updated coordinates for the temporary outfall inserted at paragraph 5(2)(a) of the Deemed Marine Licence</p>	<p>This gives effect to the amendment identified as EA02 as set out in the Second Notification of Proposed Changes to the Planning Inspectorate [PD-024].</p>
<p>Schedule 16</p>	<p>Updates to cross-references</p>	<p>Corrections of and updates to cross-references.</p>

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Changes associated with Change Notification 2 (September 2023)		
Schedule 8 and 11	Plots 28-130, 41-12, 41-17, 41-20 have been removed from Schedule 11 and been replaced by 28-144, 28-145, 41-44, 41-45, 41-50, 41-4, 41-48, 41-47, 41-49 and 41-51. Plots 28-144, 41-44, 41-48, and 41-49 have been added to Schedule 8.	These changes give effect to EC01 and EC02.
Deadline 4 (19 September 2023)		
Article 2	“shall be” has been substituted with “are to be”	This is a minor change which reflects the Office of Parliamentary Counsel’s guidance on not using the word “shall”.
Article 3(3)	(1) Subject to paragraph (4), any enactment applying to land within, adjoining or sharing a common boundary with the Order limits (other than land comprising part of the river Thames outside of the Order limits) has effect subject to the provisions of this Order.	This deletion has been made in response to the PLA’s Deadline 3 submissions. This is on the basis that the enactments relevant to the river Thames are now in article 3(4).
Articles 3(4), 6(3), 15(2), 65	Minor changes to cross-referencing across the Order.	Minor changes to cross-referencing across the Order.
Article 10(8)	New provision confirming maintenance of green elements of green bridges is not transferred to local highway authority.	This provides assurance that the planting and vegetation on a green bridge is not caught by the provisions which provide that maintenance liability rest with local highway authorities. The work numbers referenced in this provision reflect green bridges.
Article 12(7)	Insertion of “uses” after “type of traffic as”	This inserts an omitted word for clarity that a diverted route must be suitable for use by the same type of traffic as uses the closed/restricted street or private means of access.
Article 12(8)	Reference to subsection (11) corrected to (8).	Correition of cross-referencing.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Articles 12(8), 17(11), 19(8), 21(6),	Insertion of “provided the application includes the statement required under paragraph (9)” at end of each provision.	This ensures that the deemed consent will only apply where a statement stating that the deemed consent applies is included in an application made.
Article 35(3) and 36(4)	Deletion of the word “potential”	This change is made in response to comments from Thurrock Council that “potential risk” is too vague. The Applicant does not agree, but in order to progress matters has deleted the word “potential” so that the notice provisions do not bite where there is a risk to the public, surrounding environment or the authorised development. The justification for these provisions is included in the Explanatory Memorandum.
Article 37(8)	New provision: “(8) Insofar as the power under paragraph (1) is used to acquire easements or other new rights or impose restrictive covenants in subsoil, it is subject to article 33(8) (acquisition of subsoil or airspace only).	This amendment is made following comments by the PLA that the same restrictions which apply under article 33 should apply to the exercise of the powers under article 37.
Article 48(9)	Replaced “begun” with “commenced”	This means that the disapplication of the explosive licence would be triggered by the commencement of the works. This amendment has been made in response to comments from the PLA. A related definition of “commence”, cross-referring to Schedule 2 has been inserted.
Article 62	Increase in notice period from 10 days to 28 days. Insertion of new provision: (5) The application under paragraph (2) must include copies of any representations from the relevant local planning authority and any other persons notified.	These changes have been made in response to comments from the London Borough of Havering, and ensure that any representations from the local authority are provided. The Applicant maintains that these provisions are justified and necessary for the reasons set out in the Applicant’s Responses to comments on the dDCO document submitted at Deadline 4.
Article 65	Insertion of new subparagraph: “(c) refuses any approval, consent or agreement which the undertaker is required to obtain from a local authority under	Some measures in the Stakeholder Actions and Commitments Register (e.g., the measure in relation to the replacement of the travellers’ site) and control documents

Provision	Changes made to the draft Development Consent Order	Explanation for Change
	a document, scheme or plan pursuant to article 61 (stakeholder and actions commitments register) or Schedule 2 (requirements) to this Order, or grants such an approval, consent or agreement subject to conditions”.	(e.g., the failure to reach agreement on a DLOA in the outline Traffic Management Plan for Construction) explicitly allow for an appeal to the Secretary of State. This new provision ensures that the process set out in this article applies to those measures.
Article 68	New article – “Interface with waste operation permits”	Please see the Explanatory Memorandum for a full justification for this new article.
Requirement 5	New provision: (3) The undertaker must carry out, and maintain, each relevant part of the authorised development in accordance with the LEMP approved for that part under paragraph (1).	This ensures the undertaker must implement the measures secured under a Landscape and Ecology Management Plan which is approved by the Secretary of State.
Requirement 6	Deletion of duplicated “on matters related to their functions”	Minor correction.
Requirement 7(4)	Insertion of “relevant planning authority”	For consistency with Requirement 7(3).
Requirement 9	Replacing references to “reported” and “notice” with “notified” and “notification”	Minor change made at the request of London Borough of Havering.
Requirement 12	The reference to “or” has been changed to “and”	This confirms that consultation under requirement 12(b) would be with both the local highway authority and the local planning authority. This is made in response to the oral submissions from Gravesham Borough Council at Issue Specific Hearing 7.
Updates to PLA, PoTTL’s and the EA’s Protective Provisions	Various updates.	The Applicant has removed the sole unagreed provision and can confirm that the Protective Provisions for the EA are now agreed. Please see new article 68 for how the Applicant proposes to manage the interface with waste operation permits. The PLA’s Protective Provisions have been updated to secure further coordination on unexploded ordnance, construction risks and methodology for the tunnelling works

Provision	Changes made to the draft Development Consent Order	Explanation for Change
		<p>and to amend the immediate requirement to utilise arbitration by requiring a meeting of senior representatives.</p> <p>The Port of Tilbury’s Protective Provisions have been updated just to clarify the scope of conditions on the approval, ensuring that there is no breach of the Order.</p>
Protective Provisions for Local Highway Authorities	Insertion of new Protective Provisions for Local Highway Authorities.	<p>The Applicant has taken the relatively atypical step of including Protective Provisions for LHAs following the London Borough of Havering’s submission of their preferred set. The Applicant’s protective provisions are not identical to those, but in our view reach an appropriate balance between ensuring local authority input and protection and the delivery of the nationally significant infrastructure project.</p> <p>The Protective Provisions include:</p> <ul style="list-style-type: none"> • Mechanism for design input permitted by LHAs on local roads • Provision of “Detailed Information” relating to local road works • Requirement to use reasonable endeavours to enter into a DLOA. • Maintenance period – 12 months from a provision certificate being issued, NH will have to remedy defects or incomplete works • Requirement to allow for testing of material • Requirement to carry out road safety audits • Requirement to transfer land required for road to LHA
Deemed Marine Licence	<p>Definition of “northern tunnel entrance compound” inserted and used throughout.</p> <p>Further definition of the length and diameter of the temporary outfall.</p>	<p>These changes were requested by the MMO to provide further definition of the northern tunnel entrance compound as well as the temporary outfall into the river Thames.</p>
Schedule 16	Updates to cross-references	Updates to cross-references.

Provision	Changes made to the draft Development Consent Order	Explanation for Change
Deadline 5 (3 October 2023)		
Article 33 and Schedule 10	<p>Update to depths at which subsoil can be acquired in Schedule 10, and the following associated amendments to subparagraph (7) of article 33:</p> <p>(7) For the purposes of paragraph (6) and Schedule 10 (land in which only subsoil or new rights in and above subsoil and surface may be acquired) “the level of the surface of the land” means—</p> <p>(a) in the case of any land on which a building is erected, the level of the surface of the ground adjoining the building;</p> <p>(b) in the case of a river (except in the case of the river Thames as provided in subparagraph (c)), dock, canal, navigation, watercourse or other water area, the level of the surface of the ground covered by water;</p> <p>(c) in the case of the river Thames comprised in plots 15-10, 15-11, 15-12, 16- 42, and 16-43, the level of Ordnance Datum Newlyn; or</p> <p>(d) in any other case, ground surface level, at the time of this Order coming into force.</p>	<p>The revised drafting has the effect of changing the level of reference for the acquisition of the subsoil as set out in Schedule 10 from the ‘level of the surface of the ground covered by water’ to a river bed in reference to Ordnance Datum Newlyn for five identified land plots in the river Thames (15-10, 15-11, 15-12, 16-42, and 16-43).</p> <p>Further explanation for this change is contained in the Tunnel Subsoil Drafting Amendment [AS-100] and it is made following the Examining Authority’s Procedural Decision confirming the amendment does not constitute a change [PD-038].</p>
Article 37	Insertion of reference to article 33.	This change is made at the request of the PLA. It sets out that provisions of article 37 are subject to article 33.
Deemed Marine Licence	Insertion of “working area” in connection with the coordinates of the construction outfall	This is avoid ambiguity that the coordinates provided relate to the construction working area, rather than the asset in question.

If you need help accessing this or any other National Highways information, please call **0300 123 5000** and we will help you.

© Crown copyright 2023.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/

write to the **Information Policy Team, The National Archives, Kew, London TW9 4DU**, or email psi@nationalarchives.gsi.gov.uk.

Mapping (where present): © Crown copyright and database rights 2023 OS 100030649. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

If you have any enquiries about this publication email info@nationalhighways.co.uk or call **0300 123 5000***.

*Calls to 03 numbers cost no more than a national rate call to an 01 or 02 number and must count towards any inclusive minutes in the same way as 01 and 02 calls.

These rules apply to calls from any type of line including mobile, BT, other fixed line or payphone. Calls may be recorded or monitored.

Printed on paper from well-managed forests and other controlled sources when issued directly by National Highways.

Registered office Bridge House, 1 Walnut Tree Close, Guildford GU1 4LZ

National Highways Limited registered in England and Wales number 09346363