

22 October 2019

Trust in water

Consultation under section 13 of the Water Industry Act 1991 on proposed modifications to Condition T of the licence of Thames Water Utilities Limited

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About this document

This document invites comments on our proposal to modify condition T of [Thames Water Utilities Limited's \(Thames Water\) conditions of appointment](#) (licence). Condition T regulates Thames Water's involvement in the Thames Tideway Tunnel project. The intention is to modify the licence provision that regulates how gains and losses from land sales are shared between Thames Water and customers. It relates only to the sale of land purchased by Thames Water to give effect to the Thames Tideway Tunnel project. This change will give effect to a different sharing arrangement between Thames Water and customers so that Thames Water is incentivised to increase value for customers via the sale of Thames Tideway Tunnel project land.

Under section 13 of the Water Industry Act 1991 (WIA91), we are able to modify the conditions of a company's licence if it agrees to the changes we are proposing to make. Thames Water has agreed to the modification set out in this document.

This document is a Notice under section 13 of the WIA91.

Responding to this consultation

We invite stakeholders to comment on our proposed modification by no later than 19 November 2019. You can email your responses to Richard.Barton@ofwat.gov.uk or post them to:

Richard Barton
Ofwat
Centre City Tower
7 Hill Street
Birmingham B5 4UA.

If you wish to discuss any aspect of this document, please direct your enquiry to Richard Barton on 0121 644 7667 or by email to the email above.

We will publish responses to this document on our website at www.ofwat.gov.uk, unless you indicate that you would like your response to remain unpublished. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with access to information legislation –

primarily the Freedom of Information Act 2000 (FoIA), the Data Protection Act 1998 and the Environmental Information Regulations 2004.

If you would like the information that you provide to be treated as confidential, please be aware that, under the FoIA, there is a statutory 'Code of Practice' which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that we can maintain confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on Ofwat.

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1. Background

1.1 The Thames Tideway Tunnel

The Thames Tideway Tunnel (TTT) is an under-construction 25 km (16 mile) tunnel running mostly under the tidal section of the River Thames through central London, which will capture, store and convey almost all the combined raw sewage and rainwater discharges that currently overflow into the river. The TTT project is of unprecedented scale, size and complexity in the water sector in England and Wales and will be the first project to be delivered under a new regulatory framework. The costs and delivery of the project are shared between:

- Thames Water, which undertakes preparatory and interfacing works for the project; and
- Tideway, the Infrastructure Provider (IP) which finances and is responsible for construction of the tunnel.

1.2 Land acquired for the Thames Tideway Tunnel

As part of the preparatory work to enable the construction of the TTT, Thames Water purchased or acquired rights over land necessary for the construction of the tunnel (TTT project land). Once the tunnel has been constructed, surplus land will be sold.

Under Condition T of Thames Water's conditions of appointment, the disposal of project land is regulated. This condition provides that the profit from any disposal of project land will be fully paid to customers, and similarly, if land is sold at a loss, customers will bear 100% of the loss. This is a departure from the normal sharing arrangement on the sale of land by water companies. For all other land sold by Thames Water, or by any other water company, there is a 50/50 sharing arrangement between the company and customers. In other words, customers will bear half of any loss and any profit will be shared equally between the company and customers.

Given the extent of land purchased for the TTT and the fact that the land is only being held for a relatively short period, it was considered appropriate to change the normal sharing arrangement for the benefit of customers. This was done by means of a licence amendment in 2015, around the same time as the IP was granted a licence.

2. What are the changes that we are proposing and why are we proposing them?

Since the licence amendment in 2015, land values in London have declined. Under the current sharing arrangement, there is no incentive on Thames Water to seek to maximise value from the sale of project land, because if land is sold at a loss, the loss is fully borne by customers.

To rectify this situation, it is proposed to amend the sharing arrangement so that customers only bear 80% of any loss and gain 80% of any benefit. If implemented, this will give Thames Water an incentive to take steps to maximise the value it will get from selling surplus project land.

This change has been discussed with Thames Water which has provisionally consented to the change subject to various adjustments to the calculations to reflect the particular circumstances. These adjustments recognise that portions of the land may need to be retained for operational reasons; the value of some land will be impacted by the presence of the TTT and the Northern Line Extension; and because of the need to acquire some sites quickly, some project land was purchased by Thames Water at an above market rate. If Ofwat agrees to these adjustments, it is not proposed that the adjustments be set out in the licence condition. Rather, they will be dealt with in a performance commitment issued as part of Ofwat's final determinations for the 2019 price review (PR19) due to be published on 11 December 2019.

3. Next steps

This consultation ends on 19 November 2019.

We will then consider the responses received to this consultation and decide whether to proceed with modifying condition T of Thames Water's appointment conditions. If we decide to make the modifications, we will set out the reasons for our decision.