

October 2022

Reasons for amending Tideway's project licence

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1. About this document

On [8 April 2021](#) and [13 December 2021](#) we consulted on proposed amendments to the conditions that attach to the project licence of Bazalgette Tunnel Limited (**Tideway**). Initially, the amendments were solely to deal with the impact of Covid-19 on Tideway but, subsequently, we agreed to also amend the way a financing mechanism in the project licence works (the Financing Cost Adjustment Mechanism (FCAM)). These licence amendments were made on 16 March 2022, and the details and reasons for these changes can be found [here](#).

In both these above consultations we included information on a proposed change to the Planned System Acceptance Date but said that a change to that date would be made subsequent to the above two changes. We have now [modified Tideway's licence](#) (October 2022) to change the Planned System Acceptance Date from 28 February 2027 to 31st August 2027 and the purpose of this document is to set out our reasons for doing so. The Planned System Acceptance Date is the date at which the operation of the Thames Tideway Tunnel is handed over to Thames Water Utilities Limited (Thames Water).

2. The consultations

The first consultation said the following about our proposal to change the Planned System Acceptance Date:

"4.3 Project delay

Tideway estimates that the project will be delayed by about 6 months as a direct result of Covid-19. If we accept that any delay is due solely to Covid-19, it would require a further licence amendment. The amendment would be to change one of the regulatory milestone dates included in the licence by the length of delay caused by Covid-19. This decision has not yet been taken, however, as it is dependent on Ofwat being satisfied that Tideway can adequately differentiate delay caused by Covid-19 from other causes of delay. If we are so satisfied, we are minded to amend the licence to extend the Planned System Acceptance Date by the length of any delay caused by Covid-19. The Planned System Acceptance Date is set in the licence as a fixed date, namely 28 February 2027. This change is

considered necessary because if there is a delay to the project such that acceptance of the completed asset is not achieved by the Planned System Acceptance Date, Tideway will incur a penalty for the delay. Currently, the weighted average cost of capital (WACC) that applies to the project was set in the competitive bidding process (the Bid WACC). If the project is delayed beyond 28 February 2027, the Bid WACC will decrease by 1% from that date."

The second consultation said:

"We still propose amending the Planned System Acceptance Date to reflect delay caused by Covid-19. However, that change will be made subsequent to the changes proposed above. In our previous consultation we said Tideway's indicative assessment of the delay caused by Covid-19 was six months and our decision to amend the date would depend on whether Tideway is able to satisfy us that it can differentiate delay caused by Covid-19 from other causes of delay. We also said that if the period of delay is substantially more than the 6-months indicative period, we are likely to conduct a further consultation before making a final decision on whether or not to amend the Planned System Acceptance Date. That remains our position, although on the basis of current information we do not expect to need a further consultation."

3. Replies to the consultation

In response to the first consultation, we received two submissions: one from a water company and one from the Consumer Council for Water (CCWater). The response from the water company was supportive of the proposals but did not comment on the proposed change to the Planned System Acceptance Date. The response from CCWater said the following in respect of the change to the Planned System Acceptance Date:

"We agree that any delay to the Planned System Acceptance Date (currently set in the licence at 28 February 2027) should only be made if Tideway can differentiate Covid-related delays from other delays with this project."

4. Background

The Thames Tideway Tunnel (TTT) once constructed, will be a 25 km (16 mile) tunnel running mostly under the tidal section of the River Thames through central London. Its purpose is to capture, store and convey almost all the combined raw sewage and rainwater discharges that currently overflow into the river.

Tideway is the infrastructure provider appointed to deliver the project. It operates under a project licence (**licence**) issued by Ofwat and its sole function is the construction, delivery, and maintenance of the tunnel.

Covid has impacted the TTT project far more extensively than for any other water or sewerage company, leading to delays in construction and a consequent increase in costs for Tideway.

The three main drive sites, which are all brownfield, faced significant operational constraints. They are at least half the size of a typical "efficient" tunneling site because of the central London location. By way of illustration, the drive sites are 10 times smaller than the HS2 tunneling sites for smaller diameter tunnels. The connection shafts are sited at existing combined sewer overflow sites along the Thames riverbank, often in a combination of public open space, main transport routes and at times partly or wholly built out into the river, again constraining site size.

Social distancing measures in such constrained worksites significantly impacted the ability of Tideway to operate at full capacity. In addition, the tunnel is being built through the middle of central London. Prior to the pandemic, most workers travelled to sites using public transport. Although Tideway took steps to facilitate alternative travel plans to reduce the number of staff using public transport, this factor also prevented sites operating at full capacity.

5. Reasons for making the modification

As explained in our consultations, we felt that Tideway managed the disruption caused by Covid-19 well and that they acted for the benefit of the project in a situation that was largely beyond their control. We engaged extensively with Tideway in order to satisfy ourselves that Tideway was able to differentiate

Covid-19 related delay from other delay and we are now satisfied that Tideway has provided sufficient evidence that Covid-19 was the sole cause of five months of delay to the project.

We have however, agreed to change the Planned System Acceptance Date by six months, rather than five months to correct an administrative delay that occurred when the licence was granted. The original expectation was that the licence would be granted in July 2015 but was actually granted on 21 August 2015 and came into effect on 24 August 2015, one month later than expected.

The Planned System Acceptance Date in the licence as granted is stated to be 28 February 2027. This did not, however, take into account the one-month delay in granting the licence, which means that Tideway will be subject to Delay Adjustment(s) calculated pursuant to its licence sooner than would be the case if the licence had been granted when originally expected. By revising the Planned System Acceptance Date by 6-months rather than the 5-months relating to Covid, the effective date on which Delay Adjustments come into effect is corrected.

The modification that has been made is to Appendix 1 of the licence. Paragraph 1.48 of that Appendix now provides as follows:

"“Planned System Acceptance Date” means the date on which Acceptance is scheduled to be achieved, being ~~28 February 2027~~ 31 August 2027".

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