



The Planning Inspectorate

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To all interested parties and affected persons

Your Ref:

Our Ref: EN010049

Date: 11 November 2014

Dear Sir/Madam

Planning Act 2008 (as amended) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) (EPR) – Rule 17 and Rule 8(3)

Application by Tidal Lagoon (Swansea Bay) Plc for an Order Granting Development Consent for the Tidal Lagoon Swansea Bay

Notification of procedural decision and change to the timetable

In accordance with the examination timetable, the Panel has now issued the [Report on Implications for European Sites](#) (RIES) and a [draft Development Consent Order](#) (DCO), including some changes proposed by way of consultation. These can be found on the project page of the National Infrastructure pages of the Planning Portal.

The Panel have inserted a number of comments and queries throughout the draft DCO and where appropriate have highlighted the party from whom a response is required. In addition, the Panel has also decided to issue a request for further information, as set out in Annex A to this letter.

The deadline for comments on these documents, and responses to the requests set out in this letter, is **Tuesday 25 November 2014** (Deadline VI) as set out in the examination timetable.

This is the last deadline in the examination timetable. To assist the Panel, parties are requested to only submit representations on topics as directed through this letter.

Examining Authority

On behalf of the Panel, I am also writing to confirm an update on membership of the Panel. Mr Gideon Amos, having led the Panel for five months, has decided, with effect

from Monday 10 November 2014, to step down from membership of the Panel in order to pursue other areas of professional work, potentially including public office. In order to safeguard the impartiality of the examination Mr Amos decided to play no part in the authorisation of this letter which has instead been authorised by Messrs Gibbs, Lloyd-Jones, Widd and Dr Harrison, the remaining and continuing members of the Panel, as Examining Authority for this application.

Yours Sincerely,

Katherine Chapman

Case Manager on behalf of the Panel of Examining Inspectors

Annex A: Request for further information

Annex B: Tidal Lagoon (Swansea Bay) Amendment to Examination timetable

Annex A: Request for further information

Compulsory Acquisition

R1. The Panel request that **the applicant** submit an up to date table showing all plots where statutory undertakers have made representations and therefore triggered ss127 or 138 PA 2008 and how these have been resolved, including cross reference to any documents in the examination detailing the withdrawal of representations. It is emphasised that until a representation is withdrawn, the Panel must examine whether the evidence presented demonstrates that the tests in ss127 and 138 have been met in respect of each relevant plot.

R2. The Panel request that **the applicant** submit an up to date table showing the relevant plots for the purposes of ss131 and 132 and clearly identifies where, in its submitted documents, its evidence demonstrates that the tests thereunder have been met.

R3. The Panel request statements either directly from the appropriate Crown authorities (**the Crown Estate, the Welsh Ministers and any relevant government department**) or forwarded by **the applicant** setting out the current position in relation to the necessary Crown consents under s135.

Development Consent Order

R4. **The applicant** and **any other interested party** is requested to comment on the implications of Planning Inspectorate [Advice Note 15](#) (Drafting Development Consent Orders) which has recently been issued and includes generic drafting advice for DCOs. **The applicant** is asked to include appropriate compliant amendments in its next version of the DCO.

R5. **The applicant** is requested to ensure that they submit their comments on the consultation DCO in the following formats:

- Word version showing tracked changes from the 4 November version;
- PDF version showing tracked changes from the 4 November version;
- Word version, clean but with tracked changes accepted, in the form of the current Statutory Instrument template, together with a SI validation report;
- PDF version, clean, in the validated form;
- Word version showing tracked changes from the original application version of the DCO to the DCO submitted for deadline VI;
- PDF version showing tracked changes from the original application version DCO to the DCO submitted for deadline VI.

R6. In relation to jurisdiction over the offshore works (see 'Planning, etc. jurisdiction' - draft Article 54 in the applicant's latest draft DCO) the Panel's understanding to date is that, whether or not planning permission became necessary for any particular works as a result of the change in jurisdiction, the normal marine licensing regime regulated by NRW would continue to apply across the offshore environment of the proposed works. The **Welsh Government** is requested to provide:

- written confirmation of this or otherwise, and
- its view as to the acceptability of the proposed extension of jurisdiction for the purposes of the specified Acts contained in an Order proposed to be made under the Planning Act 2008, having regard to the devolution settlement.

[The Panel notes that in its letter of 25 July (prior to the hearing of 31 July), the Welsh Government sought further justification for the extension of jurisdiction in relation to marine matters including marine licensing enforcement; however, no further concern about the extension of jurisdiction has been subsequently expressed. The final paragraph of the letter of 3 September appeared to acknowledge that the extension of jurisdiction was necessary, and its letter of 7 October responding to the applicant's draft statement of common ground and identifying outstanding concerns about the draft DCO did not mention this issue at all.]

Environmental Information

R7. Interested parties, specifically **Natural Resources Wales (NRW)** and **the applicant** are requested to discuss the figures presented in the applicant's Table 1, Summary of sediment sources and volumes, which can be found on pages 5 & 6 of the ABP Mer "Note in response to panel's request for information arising from Issue Specific Hearing commencing 21 October 2014, and attempt to produce agreed figures. **NRW** are requested to provide comment on the practicality of the applicant's proposal for mitigating against adverse consequences of potential mud accretion within the western bay by "dredging/scraping the intertidal areas to remove deposited muds".

R8. **The applicant** and **NRW** are requested to advise the Panel, through the submission of a note, on the scope for altering or adjusting dredge disposal practices as a means of mitigating against excessive mud accretion within the Western Bay.

R9. **The applicant** is requested to provide confirmation that the text in paragraph 5.0.0.3 (within Part C, on page 18) of the 4 November 2014 edition of the Construction Environmental Management Plan (CEMP) is correct. For the avoidance of doubt, this states, 'TLSB will not undertake piling during the hours of darkness or poor visibility as shown on the piling plan TLP-SWANSEA BAY-141003-V0.2'. This matter remains outstanding as the most recent edition of the Piling Plan, which was submitted into the Examination at Deadline IV in October 2014, shows that one piling area (Area F Slurry wall in bund wall) will take approximately 6 weeks 24/7.

To assist in the timely processing of written representations submitted by the deadline specified, we request that interested parties send, where practicable, electronic copies of their submissions as email attachments, to Swanseatidal@infrastructure.gsi.gov.uk on or before **Tuesday 25 November 2014**. Electronic attachments should be clearly labelled with subject title and not exceed 12MB for each email. Should electronic submissions include documents of 300 pages or more, interested parties are advised to send to the Planning Inspectorate, by post, three additional full paper copies of their submission. Timely submissions in advance of the deadlines set in the timetable are encouraged.

Annex B: Tidal Lagoon (Swansea Bay) Amendment to Examination timetable

Item	Matters	Due Dates 2014
14	<p>Deadline VI(Final)</p> <p>Final deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Comments on the Report on the Implications on European Sites (RIES) • Comments on any changes to the DCO in the consultation draft only (including any revised DCO from the applicant). • Comments received on public consultation • Comments on Paper of Alternative DCO Drafting • Responses to Rule 17 request for further information 	Tuesday 25 November
15	The ExA is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.	Wednesday 10 December

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.