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To all interested parties and  
affected persons

Your Ref:

Our Ref: EN010049

Date: 2 December 2014

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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**

**Request for further information**

The Examining Authority (ExA) has reviewed the responses submitted for deadline VI of the examination on 25 November 2014 and requests the following questions be addressed by the interested parties identified and any others who wish to comment. **Please note that the deadline for receipt of responses is 5pm on 8 December.**

R1 Salmon and Freshwater Fisheries Act 1975 and the Eels (England and Wales) Regulations 2009

To **TLSB plc and Natural Resources Wales (NRW)**: TLSB plc's latest draft DCO (25 November 2014) provides in Article 48, that certain requirements under the Salmon and Freshwater Fisheries Act 1975 and the Eels (England and Wales) Regulations 2009 are not to apply to the development. NRW in its submission of 25 November takes an opposing view of the legal position.

TLSB plc and NRW are asked to elaborate on:

(i) Their respective views of the legal position, and;

(ii) On the justification for exempting the development from each of these requirements in the event that the Secretary of State considers it is legally possible to do so. In relation to the Eels Regulations, the ExA additionally invites expressions of view as to how the proposal for a tidal lagoon operating without screens would sit with the objectives of the Western Wales River Basin District Eel Management Plan and would relate to the purpose for such plans set out in Article 2(4) of Council Regulation (EC) No 1100/2007.

## R2 Western Training Wall Re-instatement

To **TLSB**: TLSB is asked to clarify what consents are required to secure the re-instatement of the western training wall and if re-instatement is proposed as 'an ancillary and necessary work' where is it listed as a Part 1B work.

## R3 NRW Response on s150 of the Planning Act 2008 (PA2008)

To **TLSB**: In the Note in respect of consents under s150 of the PA2008, submitted at Deadline VI, TLSB refers to a response from NRW as being at Appendix D but there is no Appendix D. Please provide a copy of that Appendix or a reference to where the document can be found within material already submitted.

## R4 Draft S106

To **TLSB plc, City and County of Swansea Council (CCSC) and Neath Port Talbot Borough Council (NPTBC)**: The s106 agreement, if completed, may form a significant factor in the determination of this application if the Secretary of State considers that certain elements of the project cannot be lawfully included in the DCO.

(i) The Panel raises the following queries in relation to the draft submitted by the applicant as part of the deadline 6 material.

Clause 1.1 - Is the term "Education Facility" one that should be included within the definitions?

Clause 1.1 - Please forward a copy of what is intended to be Plan 1 or provide an indication of where the plan is to be found in existing documentation.

Clauses 3.4 and 5.4 - Please provide clarification of the term "sufficient interest" as used in clauses 3.4 and 5.4.

## R5 Construction Environmental Management Plan (CEMP)

To **TLSB plc**: The ExA notes that TLSB Plc proposes to address reversing alarms within Part C of section 13 of the CEMP but asks TLSB Plc to confirm that the reference in paragraph 13.0.0.3 of the CEMP submitted on 25th November 2014 should be to "audibility" beyond site boundaries and not to "availability".

### **Important**

This is the final deadline for submissions in the timetable for examination of this application.

The ExA will complete and close its examination of the application as soon as it has considered the responses, and may do so before 10 December 2014, which is the latest date by which the examination must be completed.

All interested parties should therefore ensure that their responses are received by 5pm on 8 December 2014. **Submissions received after the close of the examination cannot be taken into account by the ExA.**

Yours Faithfully,

*Simon Gibbs*

**Simon Gibbs**  
**Lead Member of the Panel of Examining Inspectors**

Annex A: Tidal Lagoon (Swansea Bay) amended timetable

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Item	Matters	Due Dates 2014
15	<p><b>Deadline VII</b></p> <p>Final deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> <li>• Comments on responses received on deadline VI</li> <li>• Submission of any outstanding s106 agreements or other obligations</li> </ul>	Thursday 4 December
16	<p><b>Deadline VIII</b></p> <p>Final deadline for receipt by the ExA of:</p> <p>Responses to Rule 17 questions set out in letter dated 2 December 2014</p>	Monday 8 December
1	<p>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.</p>	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.