

Infrastructure Planning (Examination Procedure) Rules 2010

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

Hearing Agendas: Issue Specific Hearings

This document sets out agendas for the Issue Specific Hearing commencing on 16 September 2014.

Participation in hearings

- All interested parties are invited¹ to attend the hearings.
- Each interested party is entitled to make oral representations at the hearings² (subject to the Examining authority's power to control the hearings).
- Interested parties who have already indicated their wish to take part are listed in these agendas.

Conduct and management of hearings

- The Planning Act 2008 (PA2008) provides that the Examining authority (ExA) will probe, test and assess evidence through direct questioning of persons making oral representations at hearings. Except where identified in these agendas, questioning will be by the Examining authority, who will ensure participants have a fair chance to put their case and benefit from their entitlement to make oral representations³.
- Items 5.3 and 5.4: Cross questioning of NRW by applicant and of applicant by NRW is allowed for.
- These agendas are indicative and may be amended by the ExA. The ExA will identify the matters to be considered at the start of each hearing⁴.
- Oral representations (including those made in response to questions) must be based on the relevant or written representations made by the person by whom (or on whose behalf) the oral representations are made⁵. However, where an agenda item includes matters, such as new amendments to the draft Development Consent Order (DCO), which have not been the subject of any written representation to date and an interested party wishes to respond (including for example to provide

¹ Guidance for the examination of applications for development consent for Nationally Significant Infrastructure Projects, DCLG, 2010

² S91 & S93 Planning Act 2008 (PA2008)

³ S91 & S93 PA2008. Entitlement to participate is subject to the Examining authority's powers of control over the hearing.

⁴ Rule 14(2) The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR)

⁵ Rule 14(3) EPR

an alternative wording), oral representations on new evidence may be made, but the interested party is requested to bring six written copies of their intended representation, for the benefit of the ExA and others taking part in the hearing⁶.

- Where an agenda item refers to an amendment to the draft DCO, this is without prejudice to the Panel's recommendation or the Secretary of State's decision on whether or not an Order should be made.

⁶ Rule 17 EPR

Issue specific Hearings

Venue: Brangwyn Hall, The Guildhall, Swansea SA1 4PE

Date: Tuesday 16 September 2014

Time: Room open from 9.30am

Business commences at 10am on all hearing days. Breaks will be taken at convenient times during the hearing as directed from the Chair, including at approximately 1.00pm for an hour each day.

This agenda sets out points to be covered over the hearing scheduled to commence on 16 September 2014.

AGENDA

DAY 1

- 1. Welcome and Introduction**
- 2. Modifications to the Application / Project as Described**
 - 2.1 Removal of ultra violet storm water treatment** confirmation of modification to the DCO;
 - 2.2 Removal of option to locate turbine housing at location "B"** (Environmental Statement figure 4.13) confirmation of modification to the DCO;
 - 2.3 Removal steelwork fabrication area** (assumed to be for turbine assembly) and status of other works listed i to iv at paragraph 22.5.2.14 of the Environmental Statement and in appendix 3.9.1 of applicant's response to Panel's questions;
 - 2.4 Removal of proposal to use sheet piling for a cofferdam** around the turbine housing structure as described in the Environmental Statement.
- 3. New/Additional Information and Examination Procedure**

To confirm availability for public inspection of:

 - i. Habitats Regulations Report on Cetaceans/Pinnipeds of August 2014;
 - ii. Updated Habitats Regulation Assessment (HRA) and Appendices, dated July 2014;
 - iii. Water Framework Directive Assessment of August 2014;
 - iv. Revised Operation, Construction, and Adaptive Environmental Management Plans of August 2014;
 - v. Updated Flood Consequence Assessment of July 2014;

- vi. New Plan of Proposed Piling Activity July 2014 (Applicant's Response to Written Questions Appendix 3.7.1);
- vii. Replacement Appendix 9.5 to the Environmental Statement and associated new information on fish of July 2014 (Appendices to Applicant's Response to Written Questions).

4. General Project Issues

4.1 Content of principal development

- i. The contribution of the proposed project to renewable energy and other sustainable development policy objectives, including the innovative nature of the project;
- ii. Legal test of whether all the development proposed "is or forms part of" (s31) an NSIP (s14) PA2008 and relevance of other precedents, policy and/or guidance;
- iii. Including questions for the Welsh Government and other interested parties on the acceptability of the scope of the principal development in the light of the devolution settlement and other factors.

4.2 Control of future uses of land and buildings

Whether the uses of the land and buildings within the proposed Order limits would be adequately controlled by current drafting of the DCO and/or by the uses described on the certified plans and drawings.

4.3 Non-material changes and appropriate authority

Including questions for the Welsh Government and other interested parties on whether draft Article 4 of the DCO should be withdrawn given that the decision maker, Secretary of State for Energy and Climate Change (SSECC) is established by primary legislation (s153 and Schedule 6 PA2008) as the appropriate authority to make decisions on non-material changes to DCOs.

NB. Secretary of State for Transport's (SST) decision on Daventry International Rail Freight Terminal (DIRFT) was that he does "not consider that it is appropriate for the Order to alter the provisions in the 2008 Act as to 'the appropriate authority' for agreeing to modify or discharge development consent obligations".

4.4 Securing delivery of scheme elements and Requirement 5

- i. Extent to which the DCO and draft Requirement 5 would allow key elements of the project not to be built at all and/or built entirely differently from the way described on the Planning Drawings;
- ii. Whether all elements within the Planning Drawings are principal development and whether such drawings should be considered works plans;

- iii. Whether the delivery of the application as applied for (as opposed to only the electricity generating elements) may be secured through the DCO.

NB. SST's decision on DIRFT (ibid) that it would be "inappropriate and unacceptable" for an "Order, as secondary legislation, to seek to circumvent the provisions set out in the 2008 Act for amending" the "development consent granted by this Order" (the latter phrase quoted from the application version of the DIRFT DCO as struck out by the ExA and the SST).

4.5 Decommissioning (Article 40)

- i. Need for decommissioning measures in the case of decommissioning before the end of the stated life of the project, and DCO/ Development Consent Obligation (DCOb) provisions to secure delivery of appropriate decommissioning /appropriateness of timescales in revised Article 40;
- ii. Necessity for a decommissioning fund to provide against impacts of early decommissioning (for example see Preesall Saltfield Underground Gas Storage Report and recommendation).

4.6 The Development Consent Obligation (DCOb)

- i. Identifying the key aspects of mitigation the DCOb would contain;
- ii. Whether consent should be dependent on the signing of a DCOb.

5. Effect of the Lagoon on Coastal Processes within Swansea Bay

5.1 Introduction by Mr Gibbs, Panel Member, including assessment of the state of play following responses to the Panel's Questions and representations made at Deadline III.

5.2 Erosion Extent of current understanding of the forces of erosion and deposition at work in Swansea Bay. *Cross questioning of NRW by applicant and of applicant by NRW.*

5.3 Further hydrological modelling and whether this would significantly assist in predicting the impact on coastal processes of the existence of the proposed lagoon?

Items 5.3 and 5.4: Cross questioning of NRW by applicant and of applicant by NRW. No evidence in chief is required. Evidence to be examined at the Hearings has already been provided in Parties' Relevant and Written Representations and in responses to the Examining authority's Questions. Not more than one witness each for each topic for the applicant and for NRW is expected to appear. Five minutes for each opening and closing summary is likely to be sufficient and all intervening questioning should be concluded within a period of 40 minutes.

5.4 Potential physical consequences for

- i. The Kenfig shoreline and Kenfig Burrows;
- ii. Crymlyn Burrows;

- iii. Foreshore of Blackpill, taking account of natural variability in foreshore conditions as evidenced for example by responses to Q4.5 on effects of winter storms in early 2014;
- iv. Sandy beaches of Swansea and Aberavon (Aberafan)

5.5 Mitigation and Monitoring

- i. Beach nourishment / removal of sand;
- ii. What would effective monitoring consist of and how could it be achieved? Is this secured through the outline Management Plans/DCO?

6. European Sites / Habitats Regulations Assessment (HRA)

6.1 Introduction by Mr Gibbs, Panel Member, including starting point set by NRW's communication dated 12 August 2014.

6.2 Shadow HRA of July 2014.

6.3 Kenfig SAC and issues relating to dredge disposal

How would proposals in an Adaptive Environmental Management Plan relating to Kenfig feature within an appropriate assessment under HRA having regard to Figure 1 in Advice Note 10 (August 2013).

6.4 Porpoises and HRA

Issues arising from the applicant's August 2014 Shadow report to inform HRA: Cetaceans and Pinnipeds- Any other issues relating to Habitats Regulations, including whether consideration would have to be given to Porpoises within an appropriate assessment under the Habitats Regulations.

DAY 2

7. Other Protected Sites and Species

7.1 Impacts on Marine Mammals

- i. The potential impacts arising from piling and injury from turbine collision upon marine mammals and mitigation for this;
- ii. Establishing whether a European Protected Species (EPS) Licence will be forthcoming from NRW's Marine Licensing Team, ensuring that the requirements of the Habitats Regulations in respect of harbour porpoise (ie maintaining favourable status) will be upheld;
- iii. Any other construction or operation activities that could cause offences under the Habitat Regulations and would require a licence (e.g. installation of the wall and vessel movements);
- iv. To seek clarification that the Environmental Statement (ES)/HRA has assessed the potential impacts of piling and construction noise upon grey seals.

7.2 Kenfig SSSI & National Nature Reserve

- i. Site of Special Scientific Interest (SSSI) impacts and the Wildlife and Countryside Act 1981;
- ii. Any necessary consent from NRW for beach nourishment.

7.3 Blackpill SSSI

- i. To consider the impacts upon Blackpill SSSI and its SSSI features (Sanderling and Ringed Plover) and to establish how mitigation (beach nourishment) will be delivered and monitored if the sediment transport pattern and the biotopes of the intertidal zone on Blackpill SSSI are altered;
- ii. Any necessary consent from NRW for beach nourishment;
- iii. How do the DCO/Construction Environmental Management Plan (CEMP) requirements address the timing of works, avoiding disturbance of Sanderling in the autumn?

7.4 Crymlyn Burrows SSSI

- i. To establish how much disturbance to Crymlyn Burrows SSSI will occur, given the applicant's recent commitment to install the grid connection cable along the Fabian Way Conservation verge/cycleway;
- ii. Any necessary consent from NRW for beach nourishment.

7.5 Swansea Bay Site of Importance for Nature Conservation

The adequacy of the ES regarding the Swansea Bay SINIC features.

7.6 European Protected Species & Licences

To consider other European Protected Species for which licences would be required outside the DCO process.

7.7 Sabellaria

To consider issues regarding the translocation of the Sabellaria reef, including how it will be supervised and monitored, and the likely success of translocation.

7.8 Benthic Ecology

Availability of additional information prepared by the applicant on sub-tidal benthic ecology surveys (which has been made available to NRW), so that it can be relied upon in the examination process.

7.9 Other Species (including Reptiles) Protected under the Wildlife & Countryside Act 1981

Any mitigation measures applied to avoid offences, such as timing of vegetation clearance and/or translocations.

7.10 Monitoring & Mitigation

- i. Securing of inter-tidal monitoring be delivered through the DCO/Operation Environmental Management Plan (OEMP);
- ii. Mitigation and monitoring of coastal birds including the provision of an island for roosting birds and how this will be delivered;
- iii. Delivery of the aspects of the Bio-security risk assessment and whether this contains sufficient details to ensure that invasive non-native species strategies are available if necessary;
- iv. Delivery of ecological mitigation is to be delivered through the DCO/OEMP/CEMP.

8. Water Framework Directive (WFD) and Flooding

8.1 Sewer

The adequacy of the ES on the matter of the relocation of the foul sewer outfall outside the TLSB walls.

8.2 Sediment contamination

Likelihood of the release of metals from Swansea Bay sediment during dredging and construction works, the potential for this happening and the likely impacts.

8.3 Water Quality in the Lagoon

- i. The basis for assessment of changes under the WFD;
- ii. Revised WFD Assessment of August 2014;
- iii. Application of Section 4.7 derogation in respect of Swansea Bay.

8.4 Flooding

The risk and consequences of waves overtopping the Mumbles sea-front area and the requirements of TAN15 on this matter.

9. Socio-economic: Economy, Tourism & Recreation

9.1 Employment

- i. Projected net gain of jobs (including accuracy of ES paragraph 22.5.3.16);
- ii. Extent to which projected job growth impacts depend upon location of steelwork fabrication (assumed turbine assembly area) now removed.

9.2 Recreational Use of the Lagoon

- i. Progress on the provision of the community fund - What is the fund for and how will it be delivered?;
- ii. How will the relocation of the foul sewer outside the TLSB walls be positioned to ensure that in times of storm water discharge, the foul sewer outlet contents do not get transported back into the lagoon through the turbine areas or sluice gates with the tide, and impact on water quality for recreational uses of the lagoon including swimming, sailing and fishing?;
- iii. Human safety with respect of use of the lagoon in the vicinity of the turbines;

- iv. It appears that draft DCO Article 41B may give TLSB the right to discharge anything to water. Is this correct?

10. Fish and Recreational Fishing

- i. Impacts on migratory fish -Trends in salmon and sea trout populations in Rivers Tawe and Neath;
- ii. Confidence in modelling relating to impacts on Migratory Fish.

DAY 3

11. Commercial Fishing, Shipping and Navigation

11.1 Commercial Fishing

For Mr Wisby:

- i. Confirming the location of Oxwich and its distance from the site. What percentage of your time is spent in this area?;
- ii. Are you now in meaningful discussions with the Applicant as regards compensation for loss of fishing grounds and potential income in the Lagoon area?;
- iii. In your opinion will whelk potting return to the end of the outfall area when it has been relocated?;
- iv. For the Owners of the Sites for the Cultivation of Mussels and Oysters off the Mumbles;
- v. Are you satisfied with the Applicant's ES where in Chapters 7, 8 & 9 no interaction with the project is predicted?

Participants generally:

- vi. The reported under-recording of offshore catches from the Swansea Bay area (due to the nature of the data gathering exercise omitting catches from small fishing boats);
- vii. Whether the impacts upon sprat populations have now been assessed;
- viii. Use of Acoustic Fish Deterrents and their impacts upon other species;
- ix. Introduction of Spawning Material and the likelihood of the introduction of non-native invasive species in this process;
- x. Timing of construction of the turbine housing slurry wall area so that it avoids impacting upon the herring spawning season;
- xi. How the operational monitoring of mitigation on fish will be implemented and how this is addressed in the DCO/OEMP.

11.2 Navigational Issues

For Neath Port Authority:

- i. Are you entirely satisfied with the proposed realignment of the Training Wall?;
- ii. Have you held discussions with the Applicant re protective provisions especially extra dredging?;
- iii. How many working wharves and how many ships entered the port last year?

For the Applicant:

- iv. Could you please explain how the lagoon seawall will provide an 'overall sheltering effect' when the swell is from the South West or West South West?;
- v. You state that 60 to 70% of the wave energy will be absorbed by the lagoon wall but what effect will the remaining wave reflection have on commercial, fishing and recreational craft entering and leaving Swansea by the dredged channel;
- vi. Have you carried out any ship simulation studies to confirm your conclusions?;
- vii. As a tug is required for vessels over 125m so the probability of an allision between this class of ship and lagoon wall is low ie in the event of steering gear, engine failure or total blackout could the tug tow or push the vessel away from the seawall;
- viii. The most likely allision would be between a small commercial vessel, fishing or recreational craft. These allisions may or may not be head on or side on depending on the weather and if the steering is working. However, in the event of an allision taking place there is a strong probability that the vessel would be holed perhaps in more than one place with resulting pollution and danger to life. How would you deal with the threat to life and possible pollution?;
- ix. Both the Royal Yachting Association (RYA) and Associated British Ports (ABP) see the need for an Active Safety Management System and the establishment of a safety zone around the turbine housing and sluice gate structure. Furthermore, notice alone will not provide suitable mitigation. ABP contends that such mitigation measures should be in operation for the whole life of the project. What is your opinion on this?;
- x. Requirement 31(e) of the DCO refers to the installation of protective dolphins. Do you intend to install these along the western lagoon wall as mitigation for the potential danger to life and to damage to vessels? If not, what mitigation do you propose for this area?;
- xi. Requirement 31(1) of the DCO refers to your scheme to secure the safety of navigation being submitted to the relevant planning authority. In 31(1) you refer to the Planning Authority, do you mean Port Authority? Will this scheme be submitted before the end of the examination?;
- xii. Are you confident that you will reach agreement with the Port Authority to allow the safe passage of commercial vessels without delay, including tugs, using the approach channel inwards and outwards during construction? How will this be managed in both the Swansea and Neath approach channels?;
- xiii. How will the passage of recreational vessels be managed during this period in both the Swansea and Neath approach channels?;
- xiv. From the Statement of Common Ground (SOCG) it appears that you will be responsible for maintenance dredging at Swansea, the Neath and Port Talbot during construction of the Project. Is this correct?

12. Landscape and Visual Impacts and Heritage

- i. Merits of the consideration of the concept of a tipping point;
- ii. Methodology of Assessment;
- iii. Resource implications;
- iv. Limits of deviation: Adequacy of the Zone of Theoretical Visibility (ZTV) assessment on the limits of deviation on both the sea walls and the onshore and offshore buildings;
- v. Adequacy of nominated viewpoints, accepting the need for the Panel to make unaccompanied inspections from viewpoints 5-The Knab, Mumbles Pier, 6-Mumbles Hill Nature Reserve, 4-Headland Road, St Thomas Hill and 21-Pant y Celyn Road, Townhill;
- vi. Bearing in mind especially viewpoint 17 Crymlyn Burrows, the balance between significant impacts / adverse impacts;
- vii. Impact on Gower Area of Outstanding Natural Beauty (AONB);
- viii. Assessment of potential new viewpoints i.e. from sea wall / visitor centre looking inland towards Swansea;
- ix. **For NRW:** Relevance to Countryside Council for Wales' (CCW) Welsh Seascapes document (Ref in page 535 of TLSB to NRW response to Deadline III document);
- x. Confirmation that because no Assessment of the Significance of Impact of Development on Historic Landscape has been asked for; this is no longer a concern;
- xi. Adequacy of DCO to deal with:
 - a) Heritage Assets (page 14 and 15 of CCSC's SoCG including proposed changes to the DCO)Second World War Artefacts
 - b) Appropriate control of night lighting systems
 - c) Re-positioning of East Pier Harbour Light.

DAY 4

13. Construction, Noise and Traffic

- i. The adequacy of parking provision including that for major events;
- ii. Vehicle Occupancy Rates;
- iii. Sustainable travel – the shared use path, progress on the provision of a cycle way into Swansea town centre and bus provision;
- iv. Use of the on-site rail head for material importation;
- v. Impact of HGV movements on the rear of residential properties;
- vi. Working hours for HGV deliveries and collections by road, avoiding peak commuting times;
- vii. Lorry sheeting and internal road cleaning;
- viii. Controlling the use of reversing alarms on the construction site, especially in relation to their use outside normal hours of work;
- ix. Potential impacts from HGV movements if construction is delayed
- x. Air quality around Fabian Way and how the TLSB may assist in monitoring this;
- xi. Working hours and seasonal adjustments for piling operations, avoiding impacting on herring spawning times and disturbance to harbour porpoise;
- xii. Provision of the Piling Statement/DCO Requirement to include requirements for soft starts, cetacean monitoring and procedures to be implemented if piling is required during hours of darkness;

- xiii. Provision for the safety and security requirements of the TLSB during the construction, operational and dismantling phases in the DCO;
- xiv. Delivery of CCS highway requirements (as stated in their Local Impact Report (LIR)) and how these and the other transport and construction mitigation requirements will be secured in the DCO/CEMP;
- xv. Schedule 1, Part 3, Requirement 18 is entitled, 'control of noise during construction' but only covers matters of noise monitoring. The words, 'control and' should be added prior to the word, 'monitoring' (2nd Line).

14. Adaptive Management

14.1 Dealing with Uncertainty of outcomes in a dynamic environment

14.2 The Adaptive Environmental Management Plan August 2014

15. Other Consents required for the Development to become Operational

Insofar as not otherwise covered within the above agenda items.

- i. Given the requirement on the application form (box 24) to list any other consents required and the description on the application form of document 5.6 as "a comprehensive list", the meaning of the phrase "additional licences dependent upon the works agreed."
- ii. Number of species/licences for which European Protected Species Licences would be required (if not covered above);
- iii. Exact nature of planning permissions that would be required under the Town and Country Planning Acts and reasons for this given the single consenting approach of the PA2008;
- iv. Likelihood that each of the 18 consents listed in Document 5.6 (and any additional consents required) would be granted;
- v. Clarification that Sections 127/132/135/136/138 and 146 PA2008 are matters covered by the application and on which the Panel will be reporting to the SSECC and are not separate processes/ consents, or legal submissions as to why the contrary may be the case.

16. Procedure at Compulsory Acquisition Hearing

16.1 Crown Land

Need for evidence of consent in relation to the acquisition of rights over Crown Land.

16.2 Extent of Plots Required

Need for overlay plans with the land plans in order to identify the works proposed and the extent of the land take required for all of the plots of land.

16.3 Open Space Land

The need for evidence in relation to the Panel's examination of open space land under s131 and 132 PA2008 as amended.

16.4 Statutory Undertakers' Land & Apparatus

The need for evidence in relation to the Panel's examination of statutory undertakers' land and apparatus under s127 and 138 PA2008 as amended.

16.5 Progress on Protective Provisions

Availability of Protective Provisions to be submitted to the examination.

16.6 Questioning by Affected Persons/Interested Parties

Whether there is a case for any affected person to question another affected person and/or vice versa, at any future hearing session, including whether there is a case for any such cross questioning to be permitted by the Panel at any Compulsory Acquisition Hearing.

ANNEX: PROSPECTIVE AGENDA ITEMS FOR OCTOBER DCO ISSUE SPECIFIC HEARING

The items below are provided for information only and may be subject to change given the provision that Panel should identify the matters to be considered at the start of each hearing⁷.

1. Maintenance (Article 2): Consideration of whether the following constitute maintenance:

- i. Clear
- ii. Refurbish
- iii. Demolish
- iv. Decommission
- v. Improve

2. Maintenance (Article 5): Whether the following are in fact further development rather than maintenance and their appropriate scope/extent:

- i. Altering position of apparatus (terrestrial and in tidal waters) (Article 5);
- ii. Erection of "offices and other buildings , yards, engines, machinery, apparatus, apparatus, structures and other works" (Article 5);
- iii. Junctions and communications / steps and ramps;
- iv. Embankments, aprons, abutments retaining walls, wing walls, culverts "and other such works as the undertaker thinks fit";
- v. Alteration of course of watercourse;
- vi. Landscaping and other mitigation works;
- vii. Works for the benefit or protection of premises;
- viii. Decommissioning and demolition.

3. Commence: This definition refers to the start of material operations as defined in s56(4) of the Town and Country Planning Act 1990 (TCPA1990) but specifically excludes a number of operations which could potentially involve quite major works. Justification for the exclusion of these other operations from the meaning of material operations/potential amendment.

4. Waterfront public realm: Whether this term (occurring in Part 1 of Schedule 1) should be defined.

5. Development consent etc granted by the Order Article 3(2):

This Article is wide ranging and grants development consent for additional works (listed within 3(2)) and deviates from the former model provisions in doing so. Whether these works described in Article 3(2) would be better identified and described in Schedule 1 Part 1 for clarity and certainty. They would then fall within the authorised development definition and Article 3(2) could be deleted.

⁷ Rule 14(2) EPR

6. Reference to authorised development Article 3(3) and 3 (5)

If the descriptions of works were removed from this article (as above) to Schedule 1 Part 1 then these paragraphs should then refer to the “authorised development” (rather than referring both to “scheduled works” and to “development authorised by this Order” as at present) to achieve precision of drafting and enforceability.

7. Limits of deviation Article 3(4) & (5)

- i. Whether the limits of deviation proposed are reasonable;
- ii. Clarifying that no limits of deviation apply to any development carried out in accordance with the Planning Drawings.

8. Defence to proceedings in respect of statutory nuisance Article 8

- i. Any amendments to Article 8;
- ii. How will the applicant’s complaints procedure be delivered, including the publication of complaints received and how they were resolved?
- iii.

9. Local Authorities’ Consent Article 10 for inclusion of powers under the Road Traffic Regulation Act 1984 [13.4].

10. Article 46 Certification of plans etc.

- i. Whether any sections should be certified (or works plans described as sections) given the reference to sections in Article 3;
- ii. Whether any of the Planning Drawings should become works plans / certified drawings;
- iii. Need to certify or otherwise secure the delivery of the development in accordance with the plan TLP-SWANSEA BAY – 140625 25/06/2014 Piling Areas;
- iv. Need to certify or otherwise secure the delivery of the development in accordance with the plan 1117:WMP:001 Rev 1 26/06/2014 Construction Masterplan;
- v. Need to certify or otherwise secure the delivery of the development in accordance with the plan TLSB-270614-V0.1 June 2014 Sabellaria Translocation;
- vi. The need to list those drawings / documents to be certified in this Article.

11. Appropriateness of Tailpiece “unless otherwise approved” etc Requirements 6(2), 6(4), 12(3), 16(1), 19(2), 21(2), 22(2), 23(2), 24(3), 25(3), 26(3), 27(3), 28(3), 29(3) and 31(3)

Including questions for the Welsh government and other interested parties and in view of the limitation of the effect of the tailpieces proposed by the applicant in draft Requirement 1 and the objections contained in the Written Representations of Neath Port Talbot County Borough Council.

NB. Paragraph 4.6.2 of Planning Policy Wales and Welsh Office Circular 35/95 ‘The use of Conditions in Planning Permissions.’

**12. Accordance of plans with outlines & their certification
R6(1), R22 & R23**

- i. Whether the final CEMP, AEMP, Operational Phase Travel Management Plan and Major Events Travel Management Plan should be "in accordance with" or only "substantially in accordance with" the final Outlines submitted to this examination;
- ii. Need for reference to the Operation Environmental Management Plan.

13. Definition of commencement Requirement 8(4)

14. Discharging of requirements and Draft Schedule 6

Whether the draft Schedule as derived from the Hinkley Point C Order or the provisions of the TCPA1990 as used in other Orders is appropriate.

15. Access to open Space Land and Requirements

Whether public access over open space land would be permanently secured in view of the applicant's response to the examining authority's question 13.31 referring to a new requirement 35 (This item may also be considered in the Compulsory Acquisition Hearing).

**16. Vagueness in Description of the Further Development Draft
Part 1 of Schedule 1**

Whether the following terms "Describe as fully as possible" the works (as proposed in the former Model Provisions) and should remain in the Part 1 of Schedule 1:

- i. "including" in defining further development
- ii. "mitigation" in defining further development
- iii. "enhancements" in defining further development
- iv. "whether or not shown on the plan" in defining further development;
- v. "waterfront public realm" how this has been described and assessed in the Environmental Impact Assessment and whether this is not in fact part of the authorised development and should be an identified Work;
- vi. "habitat creation (including mariculture)" – what habitats, where described (including where in the Environmental Impact Assessment) and why these would not be covered by the landscaping provisions;
- vii. "navigational aids" whether these are buildings or not (lighthouses, buoys) and whether these are not in fact Ancillary Works and should be located in such a Part/Schedule and how these have been described and assessed in the Environmental Impact Assessment ;
- viii. "internal site roads and vehicle parking" why these would not be covered by the Planning Drawings and Landscaping provisions;
- ix. "workshops and stores" whether these are buildings and of what size location, temporary or permanent whether this is not in fact part of the authorised development and should be an identified Work and how these have been described and assessed in the Environmental Impact Assessment;

- x. "demolition of buildings and structures" whether the power to demolish buildings and structures should be limited to identified buildings and structures and how has this been described and assessed in the Environmental Impact Assessment
Eg. Network Rail (Ipswich Chord) Order 2012, Part 1 of Schedule 1
"(a) demolition of the former cold store building at the Harris Factory site;"
<http://infrastructure.planningportal.gov.uk/projects/eastern/ipswich-rail-chord/>
- xi. "footpaths" and (j) "lighting columns and lighting" why these would not be covered by the Planning Drawings and Landscaping provisions;
- xii. What is a "safety/emergency point" and how has it been described and assessed in the Environmental Impact Assessment?