

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

FIVE ESTUARIES OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010115

**DEADLINE 3: PORT OF LONDON
AUTHORITY'S COMMENTS ON
SUBMISSIONS RECEIVED AT DEADLINE 2**



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1. Introduction

- 1.1. This is a written submission made on behalf of the Port of London Authority (**PLA**) in respect of comments on Deadline 2 submissions.
- 1.2. Documents referred to in this submission are:
 - 1.2.1. Applicant's comments on Deadline 1 Submissions (REP2-026);
 - 1.2.2. Applicant's Response to EXQ1 (REP2-039);
 - 1.2.3. Marine Management Organisation deadline 2 submission (REP2-054); and
 - 1.2.4. Historic England Written Representation (REP2-053)

2. Applicant's Comments on Deadline 1 Submissions (REP2-026)

- 2.1 The Applicant has responded to the PLA's Relevant Representation (RR-090) on pages 18-20. Their response reflects what was said by both the Applicant and the PLA at Issue Specific Hearing 3 ("**ISH3**") that meetings have been held between the Ports and the Applicant; the Applicant accepts that deeper cable burial (to at least 22m below chart datum) will be required over the deep water routes and that whilst discussions continue over the area for deeper cable burial, it is expected that agreement can be reached by the close of the examination. The PLA can confirm that it has received from the Applicant the plan that was referred to at ISH3 which shows the areas over which the Applicant is proposing deeper cable burial. The PLA is currently reviewing the plan and discussions continue with the Applicant.
- 2.2 Since the close of ISH3, the PLA and the Applicant have met and have reached agreement that chart datum is the datum to be used in the application documents.
- 2.3 In relation to concurrent works, again the Applicant's response reflects what the Applicant said in oral submissions at ISH3. In relation to the Applicant's comment on page 19 that similar commitments should be request by the PLA for potentially overlapping projects, the PLA is an Interested Party for the North Falls development consent order ("**DCO**") application, and the PLA can confirm that the application documents submitted in relation to North Falls include an outline navigation installation plan which includes information on restrictions on concurrent working. The PLA will be making comments on this plan as part of the North Falls DCO application process.
- 2.4 SeaLink is at the pre application stage, and the PLA would expect the SeaLink application to include an outline navigation installation plan. The PLA would comment on that plan, or the absence of any plan, as part of that DCO application process.

- 2.5 The PLA disagrees with the comment that approval of the Navigation Installation Plan ("**NIP**") can only be granted by the Marine Management Organisation ("**MMO**") as regulator. There is no reason why the PLA could not be given approval of the NIP as part of protective provisions for the PLA. Whilst accepting that this application is outside of the PLA's area of jurisdiction, dual consenting is not uncommon on the river Thames and there are many examples of DCO's where there are protective provisions for the PLA and a deemed marine licence. See for example The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014, The Silvertown Tunnel Order 2018, The Port of Tilbury (Expansion) Order 2019 and the proposed A122 (Lower Thames Crossing) Development Consent Order. This means that approval is required from both the PLA and the MMO.
- 2.6 It is also not uncommon for plans to be approved by multiple parties for example, The Silvertown Tunnel Order Schedule 2 Requirements set out at Part 1 (5) various plans that are required to be produced and approved prior to the authorised development being commenced. These include at 5(3) eleven documents that must be approved by the relevant planning authority, the Environment Agency or the PLA. The Thames Water Utilities (Thames Tideway Tunnel) Order 2014 requires the approval of the Scour and Accretion Monitoring and Mitigation Plan by the PLA under its protective provisions, by the Environment Agency under its protective provisions and by the MMO through its deemed marine licence.
- 2.7 The PLA considers that it is entirely appropriate for it to approve the NIP, a document that will have significant implications for vessels entering and exiting the largest Port in the Country, noting the MMO's deferral to the PLA and MCA regarding navigational concerns (para 3.7.4 PD4-014).
- 2.8 The PLA notes the Applicant's comments in relation to dredging and await either an updated version of the outline cable specification and installation plan or a separate sediment disposal plan.
- 2.9 As noted by the PLA at ISH4 the PLA has received a heavily amended version of the protective provisions (drafted for the PLA's benefit) from the Applicant on the morning of ISH4. As explained at ISH4 the PLA wish to ensure that it has sufficient oversight of the activities that potentially affect the Deep Water Routes (**DWRs**) and that this is not left to the MMO. The Applicant's comments on the protective provisions confirm a reluctance on the part of the Applicant to give the PLA the approvals the PLA requires and discussions will continue on the matters that remain to be agreed.

3.0 Applicant's Response to EXQ1 (REP2-039)

3.1 The PLA notes the Applicant's response regarding concurrent working and would reiterate its comments set out at paragraph 2.3 and 2.4 above regarding North Falls and SeaLink.

4.0 Marine Management Organisation deadline 2 submission (REP2-054)

4.1 The PLA supports the MMO's comments regarding the definition of maintain and agrees with the MMO's definition of maintain: "*upkeep or repair an existing structure or asset wholly within its existing three-dimensional boundaries.*" The PLA considers that the Applicant's current definition of maintain would allow for the cables to be adjusted and altered and they could therefore be maintained at a different depth to that which they were originally laid. This would not be acceptable at the DWRs.

4.2 The MMO's response also provides comments on Stakeholders' Deadline 1 submissions. The PLA notes at paragraph 5.3.12 that the MCA and the MMO are discussing an amendment to Schedule 11, Part 2, 4(3) so that it would read:

"the undertaker must not reduce water depth by more than 5% of navigable depth referenced to chart datum unless agreed with the MMO and MCA in writing"

4.3 As the PLA has set out in its previous written submissions and at issue specific hearings there can be no reductions in under keel clearance at the Sunk and Trinity DWRs if these routes are to be dredged in the future to 22m CD. The PLA considers that this highlights why protective provisions are required for the PLA so that the PLA can ensure that the required water depths are protected at the DWRs into the Port of London.

5.0 Historic England Written Representation (REP2-053)

5.1 The PLA notes the comment at paragraph 2.101 of Historic England's Written Representation (REP2-053) regarding the Applicants Outline Marine Written Scheme of Investigation (APP-251) which states:

"Section 6.7.16 discusses the strategies that will be needed for items removed from the seabed. It is stated that conservation strategies will be included in the relevant method statements, but would recommend that a relocation and recovery strategy should also be developed."

5.2 The PLA set out at paragraph 5.2.3 of its Written Representation (REP2-066) how the PLA would want to approve any pre-construction activities that could affect the DWRs because there may need to be restrictions on how the pre-construction activity can be undertaken. The PLA

specifically cited the example of not relocating an archaeological find to or within a DWR. Again the PLA considers that this highlights why the PLA requires protective provisions in order to ensure that the DWRs are not detrimentally impacted by decisions made by others.