

**PLANNING ACT 2008  
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010**

**APPLICATION BY CORY ENVIRONMENTAL HOLDINGS LIMITED**

**FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR  
THE CORY DECARBONISATION PROJECT**

**(REF: EN010128)**

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**DEADLINE 1**

**SUMMARY OF WRITTEN REPRESENTATIONS  
BY THE PORT OF LONDON AUTHORITY**

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## **1 THE PORT OF LONDON AUTHORITY AND THE PORT OF LONDON**

- 1.1 The PLA is the statutory port and harbour authority for the tidal River Thames (“**the river**”) between Teddington and the outer Thames Estuary. The PLA is governed by the Port of London Act 1968 (“**the 1968 Act**”) and is a “statutory undertaker”.
- 1.2 The river is home to the Port of London, the country's largest port which handled 51.6 million tonnes of cargo in 2023. It handles a diverse range of cargoes and is geographically diverse, with over 70 privately owned and operated terminals.
- 1.3 The PLA's statutory functions include responsibility for conservancy, hydrographic surveying, the consenting of works and dredging to Mean High Water (“**MHW**”), managing navigational safety and controlling vessel movements in accordance with the Port Marine Safety Code. These duties, and particularly the conservancy duty, mean that the PLA must ensure the river is fit to be used safely for navigation by all users.
- 1.4 Any third party wanting to carry out any works in, on, under or over the river to MHW must first obtain the PLA's consent, in the form of a licence under section 66 of the 1968 Act, or in the case of dredging or other comparable operations section 73. The PLA provides moorings in the river and licenses their provision by others. As the body responsible for licensing river works and moorings, the PLA must have special regard for the unimpeded use of and access to licensed works by the PLA's existing licensees.
- 1.5 The PLA's general duties and functions also include the promotion of the use of the river for freight and passengers as an important and sustainable transport corridor into the capital city.

## **2 LICENSING**

- 2.1 The licensing of works in the river in sections 66 to 73 of the 1968 Act relate to the construction, placing, altering, renewing, maintenance, or retaining of works. A licence to the owner of the works (a river works licence (“**RWL**”)) needs to be in existence before that work is placed in the riverbed and a licence needs to continue to be in existence (with associated obligations on the Licensee) until the works are removed in their entirety.
- 2.2 Within the Order Limits there are a number of licensed works, varying in form and scale. Discussions are ongoing in relation to the approach that the Applicant proposes to take to these licensed works and the provisions included in the dDCO in Article 7 which deal with extinguishing and varying existing RWLs for these licensed works.
- 2.3 The discussions relate to the timing for the variation of any existing licences that are both inside and outside of the limits of deviation of Work No. 4 or are located wholly outside of the area of Work No. 4. The PLA believes that it and the Applicant agree that extant RWLs should not be extinguished or varied if the Applicant will ultimately not be interfering with the works.
- 2.4 An example of this relates to a campshed that is located within the boundary of Work 4A. If this campshed is not to be impacted by Work 4A, the PLA considers that the extant licence should remain unaltered and Article 7 in the dDCO needs to be amended accordingly.

### 3 ORDER LIMITS

- 3.1 There are two points related to the Order Limits which are of concern to the PLA, namely:
- (a) The limits of deviation for Work No. 4C extend into the authorised channel. The Engineering Plans – Proposed Jetty Indicative Drawing [APP-017] shows dredge slopes extending to but not within the authorised channel.
  - (b) The Land Plans [AS-052] show that plot 2-006 extends beyond Work No. 4C to the midpoint of the river. Schedule 10 *Land of which temporary possession may be taken* states that temporary possession of plot 2-006 may be taken to undertake Work No. 4 including temporary moorings.
- 3.2 The guidance published by the Ministry of Housing, Communities and Local Government (“**MHCLG**”) on the “*Content of a Development Consent Order required for a Nationally Significant Infrastructure Project*” makes it very clear that Order Limits should be kept to a minimum. The PLA would argue that this direction has not been followed by the Applicant and that the Applicant has applied an unnecessary degree of flexibility in the setting of the Order Limits.
- 3.3 Moreover, if the Applicant requires temporary possession of the river extending beyond the most riverward extent of Work No. 4C, then the preliminary Navigational Risk Assessment (“**pNRA**”) [AS-060] should be updated and an assessment undertaken of temporary possession being taken of the authorised channel to the midpoint of the river. The PLA contends that, given the importance of the authorised channel and the need for it to remain unimpeded for vessels exercising the public right of navigation, the pNRA would be unable to demonstrate that what is proposed is as low as reasonably practicable (“**ALARP**”) in terms of navigation and should therefore, not be consented.
- 3.4 As a minimum the Applicant should, therefore, re-draw the Order Limits back to the edge of Work No. 4C.

### 4 NAVIGATION

- 4.1 The PLA has been engaging with the Applicant over the navigational implications of vessel movements associated with the Order Scheme. Discussions are progressing with the Applicant on the pNRA. Whilst the PLA is broadly content with the main risk categories, scoring and the associated proposed mitigation measures, the PLA does not agree with the range of vessel passing speeds within the pNRA and the resulting effects of this on the conclusions reached within the pNRA.
- 4.2 The PLA's collected data shows that there are more vessels transiting past the jetty (and moored vessel) at above 10 knots than can be called ‘rare’, as the pNRA suggests. As such, the PLA considers that additional work should be undertaken by the Applicant to consider passing distances from the proposed berth, draught effects on varying tides and what the evidenced base for genuine passing speeds is for vessels in the Reach. The design and construction of the proposed jetty and its associated infrastructure to safely moor vessels loading this cargo must be appropriate for the existing navigational conditions found in this Reach.

- 4.3 Due to the potential impact to river users arising from a release of LCO<sup>2</sup> on the proposed jetty, the PLA considers that further work to refine the results of the Preliminary LCO<sup>2</sup> Release Risk Assessment referred to within the pNRA Update is required. This work should provide further assessment of the frequency of vessel contact (and location of any contact) with the proposed jetty and details of any necessary additional mitigation measures.

## 5 DREDGING

- 5.1 The risks, impacts and associated mitigations of any capital or maintenance dredging operations on navigation generally and within the authorised channel in particular, need to be thoroughly assessed within the NRA required prior to marine construction works under Requirement 19 in Schedule 2 of the dDCO.
- 5.2 In view of the PLA's role as consenting authority of both capital and maintenance dredging, the provisions of the dDCO, in this regard need to include the involvement of the PLA in such approvals. The role of the PLA as consenting authority should also be reflected and included within the Outline Code of Construction Practice ("**oCoCP**") [APP-124].

## 6 MARINE ENVIRONMENT

- 6.1 The PLA has duties under section 48A of the Harbours Act 1964 to have regard to environmental matters and the environmental impact of works for which it has a consenting function. The PLA considers that further information/clarification is required in the Environmental Statement in relation to Marine Biodiversity, as well as whether the Belvedere Power Station Jetty is a high tide roost or a bird nesting feature for birds.
- 6.2 The assumptions that have been made in the Biodiversity Net Gain ("**BNG**") Report [APP-088] regarding the former Belvedere Power Station Jetty and Middleton Jetty being classified as developed land also requires clarification as developed land significantly reduces the baseline biodiversity value and would affect the BNG calculations. Given that intertidal sediments are a high distinctiveness habitat, this could be significant.
- 6.3 The Water Framework Directive ("**WFD**") Assessment [APP-106] accepts that there will be a loss of / reduction in intertidal and subtidal habitat which is inconsistent with the BNG calculations and the BNG Report which state that there will be no loss. They should be consistent.

## 7 USE OF THE RIVER

- 7.1 Where the Code of Construction Practice relates to construction activities in the River Thames, the Applicant has agreed that the PLA will be a consultee, in conjunction with the London Borough of Bexley and the oCoCP needs to be updated to reflect this. The Applicant has otherwise failed to illustrate how use of the river will be maximised in the policy context of The London Plan 2021 Policy 7.26: *Increasing the use of the Blue Ribbon Network for freight*. Both the TA [APP 114] and the oCoCP [APP-124] focus heavily on land side road-based construction and delivery. The PLA therefore reiterates its point made in its Relevant Representation [RR 162] that there needs to be much more consideration and commitment to the use of the river.

- 7.2 The PLA welcomes the development of a Community Engagement Plan for the construction phase of the Order Scheme prior to work commencing onsite would wish to be a consultee for these communication activities.

## **8 LAND OWNERSHIP**

- 8.1 As noted during CAH1, there are a number of errors in the Book of Reference (“**BoR**”) [AS-058]. The Applicant has been advised of these errors and the PLA expects an updated BoR to be submitted to the examination in due course.
- 8.2 The PLA objects to the compulsory acquisition of its freehold interest and supports the inclusion of paragraph 61 of the PLA’s protective provisions. Paragraph 61 specifically disapplies the compulsory acquisition or temporary possession of any interest in any Order Land which is vested in the PLA. Paragraph 61 also excludes the acquisition or extinguishment of any right in, on, or over, any Order land if the interest or right is at the time of the proposed acquisition vested in the PLA.
- 8.3 Discussions have commenced with the Applicant in relation to the lease arrangements for the permanent works. Discussions have not yet started on arrangements for the temporary possession required by the Applicant and the PLA are unclear as to what works are envisaged to be undertaken within the area required for temporary possession within plot 2-006.

## **9 COMMENTS ON THE DDCO**

- 9.1 As noted above Article 7 in the dDCO is not yet agreed but the PLA expects to reach agreement on the wording of Article 7 shortly.
- 9.2 The PLA and the Applicant have agreed a change to Requirement 21(1) which is expected to appear in the next dDCO.
- 9.3 Protective provisions have been included in the dDCO for the benefit of the PLA in Part 5 of Schedule 12. Negotiations to settle these have continued since the PLA’s Relevant Representation [RR-162]. The protective provisions as they appear in dDCO Revision C [AS-056] are agreed with the exception of Paragraph 46 and 64. The PLA and the Applicant have recently reached agreement on these paragraphs and the PLA would expect for the agreed drafting to be included in the dDCO which is submitted at deadline 1.

## **10 CONCLUSION**

- 10.1 As the body responsible for licensing river works and moorings, the PLA must have special regard for the unimpeded use of and access to licensed works by the PLA’s existing licensees. The PLA’s general duties and functions also include the promotion of the use of the river for freight and passengers as an important and sustainable transport corridor into the capital city.
- 10.2 Within the Order Limits there are a number of licensed works, varying in form and scale. Discussions are ongoing in relation to the approach that the Applicant proposes to take to these licensed works and the provisions included in the dDCO in Article 7 which deal with extinguishing and varying existing RWLs for these licensed works within the Order Limits for Work No 4.

- 10.3 The fact that the Order Limits extends into the authorised channel is of significant concern to the PLA given the importance of the authorised channel and the need for it to remain unimpeded for vessels exercising the public right of navigation. As a minimum the Applicant should, therefore, re-draw the Order Limits back to the edge of Work No. 4C.
- 10.4 Whilst the PLA is broadly content with the main risk categories, scoring and the associated proposed mitigation measures within the pNRA, the PLA does not agree with the range of vessel passing speeds within the pNRA and the resulting effects of this on the conclusions reached within the pNRA.
- 10.5 The risks, impacts and associated mitigations of any capital or maintenance dredging operations on navigation generally and within the authorised channel in particular, need to be thoroughly assessed within the NRA required prior to marine construction works under Requirement 19 in Schedule 2 of the dDCO. In view of the PLA's role as consenting authority of both capital and maintenance dredging, the provisions of the dDCO, in this regard and the oCoCP need to be updated to reflect the PLA's role.
- 10.6 Having regard to the PLA duties under section 48A of the Harbours Act 1964 to have regard to environmental matters and the environmental impact of works for which it has a consenting function, the PLA requires further information/clarification on a number of matters relating to the marine environment within the ES and the BNG Report.
- 10.7 There also needs to be much more consideration and commitment to the use of the river.
- 10.8 The PLA otherwise expects to reach agreement on Article 7 in the dDCO and, subject to the recently reached agreement on the protective provisions being incorporated in the next version of the dDCO, the protective provisions which benefit the PLA are expected to be agreed.