

**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)

DEADLINE 1

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



1 INTRODUCTION

1.1 These Written Representations are made on behalf of the Port of London Authority (“**PLA**”) in respect of an application for development consent (“**the Application**”) submitted by Cory Environmental Holdings Limited (“**the Applicant**”) for the construction and operation of a carbon capture plant, storage and marine export terminal (“**the Order Scheme**”). These Written Representations are submitted in pursuance of Rules 8(1)(a), and 10(1), (2) and (4) of the Infrastructure Planning (Examination Procedure) Rules 2010.

1.2 The structure of these Written Representations is as follows:

Section 1 – Introduction

Section 2 – The Port of London Authority and the Port of London

Section 3 – Licensing

Section 4 – Order Limits

Section 5 – Navigation

Section 6 - Dredging

Section 7 – Marine Environment

Section 8 – Use of the River

Section 9 – Land Ownership

Section 10 – Comments on the dDCO

Section 11 – Conclusion

2 THE PORT OF LONDON AUTHORITY AND THE PORT OF LONDON

2.1 The PLA is the statutory port and harbour authority for the tidal River Thames (“**the river**”) between Teddington and the outer Thames Estuary. The Port of London (“**the Port**”) spans the entirety of the river, from the stone pillar (obelisk) at Teddington on the Surrey bank just downriver from Teddington Lock to the outer limits on a line between Margate and Clacton in the North Sea. The PLA is governed by the Port of London Act 1968 (“**the 1968 Act**”) and the PLA falls within the definition of “statutory undertaker” for the purposes of s.8 of the Acquisition of Land Act 1981 as applied by s.127 of the Planning Act 2008.

2.2 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. The PLA also 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.

- 2.3 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. A licence from the PLA is also required, under section 73, for undertaking any dredging or other comparable operations. 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. Further information on licensing and dredging is provided in section 3 below.
- 2.4 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.
- 2.5 The PLA owns approximately 95% of the bed and foreshore of the river from the upstream limits in Teddington to the London Stone/Crow Stone downstream of Canvey Island, with most of the rest being owned by the Crown Estate. The PLA owns the entirety of the riverbed and foreshore within the Order limits as shown on the key plan and sheet 19 of the Works Plans [AS-053].
- 2.6 The PLA is a trust port and is under the auspices of the Department for Transport who appoint the Chair and a minority of Board Members. It has no shareholders and manages the river for the benefit of all river users and future generations. It is obliged to turn its assets, including all profits, to account for the benefit of its statutory undertaking. As part of this obligation, it must also minimise conservancy and other charges payable under the 1968 Act by river users. The PLA is wholly funded by such charges and the other funds it generates and does not receive any central or other Government subsidy.
- 2.7 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 including oil products & chemicals, construction materials (including aggregates and cement), metals and forest products, vehicles, food products and all manner of unitised cargoes in both containers (Lo Lo) and trailers (Ro Ro).
- 2.8 The river is also the UK's most heavily trafficked inland waterway for the movement of freight, with 3.1 million tonnes of cargo moved between terminals within the Port of London in 2023. Principal cargoes include containerised waste (moved by the Applicant from riparian waste transfer stations upstream to Middleton Jetty in Belvedere), construction materials, construction, excavation and demolition waste, recyclates and edible oils & foodstuffs.
- 2.9 Unlike many other large ports, the Port is geographically diverse, with over 70 privately owned and operated terminals (see Figure 1). Over 48,000 jobs depend on port operations and this figure rises to more than 140,000 jobs across port and other operations, tourism and recreation. The Port generates more than £6 billion in economic value added annually.

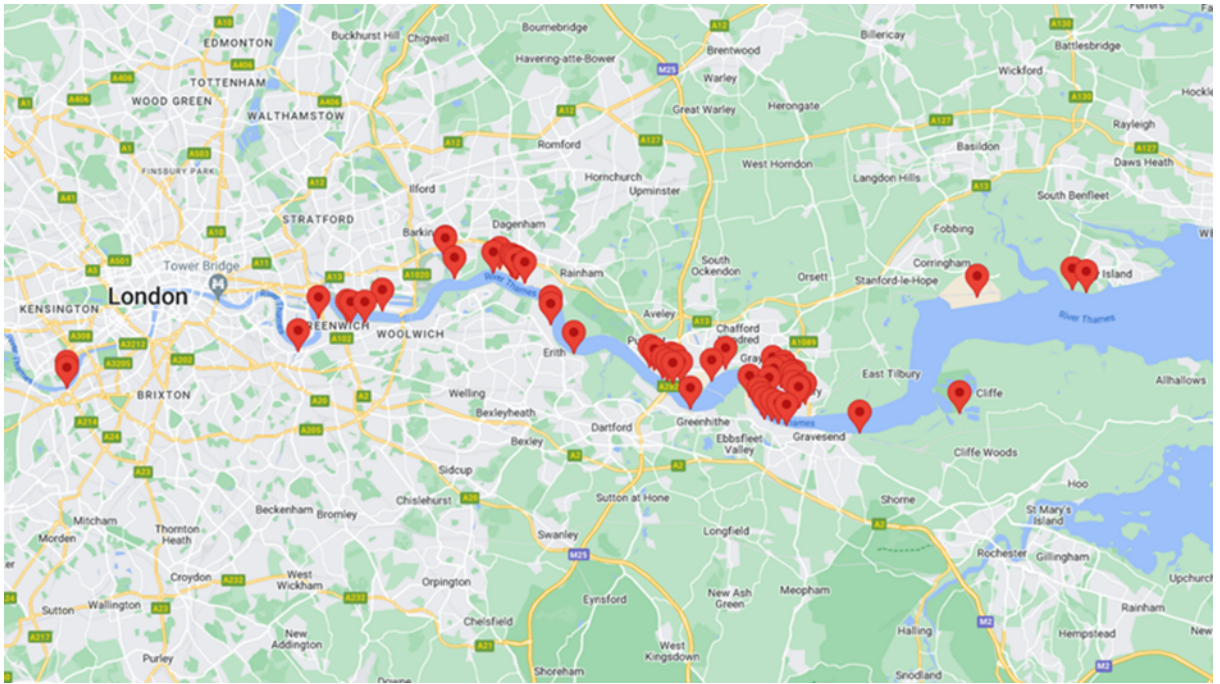


Figure 1: Port of London Terminal locations

- 2.10 The PLA's Thames Vision 2050 sets out the future development ambitions for the Port of London and the river, including a specific priority to facilitate the future growth of the port as a net zero hub. The PLA commissioned Oxford Economics to model long-term port trade forecasts (Future Trade Through the Port of London Alternative Growth Pathways) to underpin the Thames Vision 2050. This forecast sets out that between now and 2050, trade to and from the port will continue to rise to meet growing demand and that by 2050 between 70 – 90 million tonnes of cargo will be handled annually, equating to an increase of 30% – 60% on 2022 levels.
- 2.11 An Economic Impact Study undertaken in 2020 by SQW on behalf of the PLA indicated that 72% of port sector businesses interviewed as part of the survey anticipated growth over the next five years and almost £950m of investment was planned over the same five-year period. This investment has been seen within the Port, with major developments being undertaken at London Gateway Port (Berth 4, with substantial further investment in Berths 5 & 6 recently announced), Port of Tilbury (Tilbury 2) and elsewhere.

3 LICENSING

- 3.1 Sections 66 - 73 of the 1968 Act (attached at appendix 1) set out the statutory controls on works and dredging within the Port of London. In summary these sections provide the PLA with the powers to licence works and dredging, to charge a consideration for works situated on PLA owned riverbed, provide for an appeals process and make it an offence for works to be unlicensed.
- 3.2 The requirements in relation to the licensing of works relate to the construction, placing, altering, renewing, maintenance, or retaining of works. Put simply, this means that a licence to the owner of the works 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. This makes a PLA licence different to a Marine Licence

from the Marine Management Organisation, as that Marine Licence relates only to the activity (such as installing the work) and which will therefore be of limited time duration covering the anticipated construction period.

- 3.3 Whilst the riverbed is, for the most part, owned by the PLA, the works are not owned by the PLA; they are a chattel and the owner of those works must hold the licence. Unlike planning permissions, licences are personal and therefore if the works are sold an application must be made to the PLA by the new owner to retain the works and assume a new licence.
- 3.4 Within the Order Limits there are a number of licensed works, varying in form and scale from the former Belvedere Power Station Jetty to campsheds (to enable barges to lie flat and level on the riverbed during low tide), pipes and bank stabilisation works. The PLA has shared historical information on the location and nature of these works with the Applicant. Discussions are ongoing in relation to the approach that the Applicant proposes to take to these works and the provisions included in the dDCO in Article 7 which deal with extinguishing and varying existing River Works Licences.
- 3.5 The elements of the drafting that continue to be discussed 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 river works licences should not be extinguished or varied if the Applicant will ultimately not be interfering with the works.
- 3.6 An example of this relates to a campshed that is located within the Order Limits and a very small area of the campshed 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. The PLA and the Applicant have discussed amendments to Article 7 relating to this matter and these discussions continue. The PLA has also suggested to the Applicant that a very small amendment to the limits of deviation to work no 4 would remove the campshed from the scope of Article 7. This extent of the required change is shown circled green on the chart extract below and extends to approximately 30m²:-

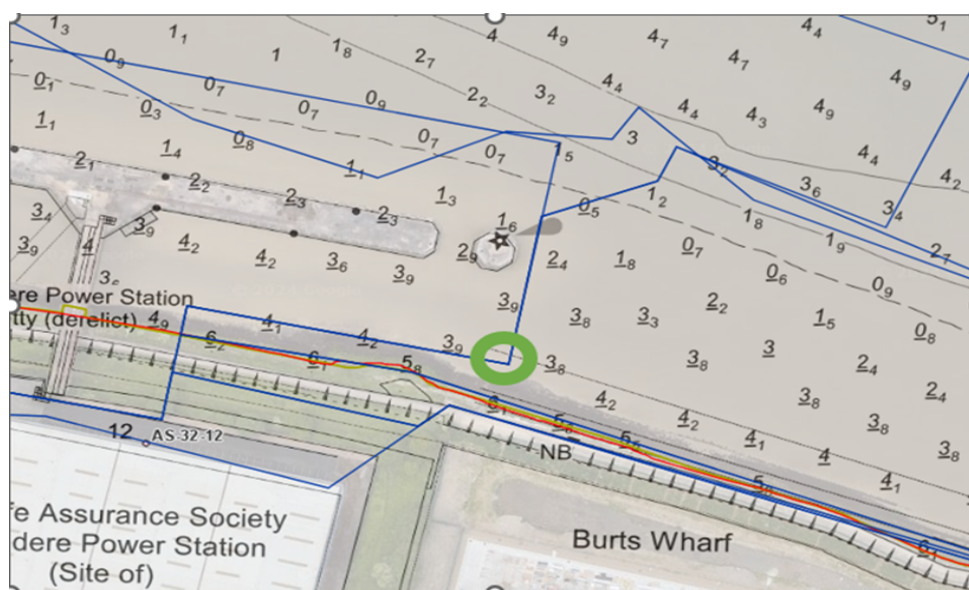


Figure 2 – area recommended for removal from Work 4A.

4 ORDER LIMITS

- 4.1 As set out in the PLA's Relevant Representation [RR-162], the Order Limits as drawn are wide, extending roughly to the midpoint of the river. This means that the authorised channel is included within the Order Limits. The authorised channel is the deepest part of the river and is shown on the charts by pecked lines (PLA Navigation Chart 328 attached at appendix 2). As a general rule the PLA requires new works and any vessels moored at those works to be located outside of the authorised channel and for a 15m buffer to be applied from the channel edge to ensure that smaller vessels have space to navigate outside of the authorised channel.
- 4.2 The proposed jetty (including any vessel moored at the jetty) would meet the PLA's requirements and would be located in excess of 15m from the authorised channel. There are, however, two points related to the Order Limits which are of concern to the PLA:
- (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. This accords with the Applicant's response to the PLA's Relevant Representation [AS-043] where it is stated in table 7-1 that it is the Applicant's intention to tie the dredged pocket to the authorised navigation channel and that their intention is [not] to undertake dredging itself within the authorised channel (although this cannot be completely ruled out at this stage) but the limits of deviation need to allow for any slumping that is associated with it.
 - (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.
- 4.3 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. It states (emphasis added):

“Parameters and limits of deviation

In a situation where the design of the proposed development is contingent on continuing detailed studies and refinement, the environmental assessment will be carried out on a worst case or ‘Rochdale Envelope’ basis. The approach to describing the development in the DCO must then be through parameters setting out the maximum permitted dimensions of the physical elements. However, these must be no more than necessary to accurately contain the proposed development.

Some DCOs require the final positioning of works to be subject to detailed design or site investigation to achieve an optimum scheme. This may be the case with highway proposals or the micro siting of electricity pylons for example. The DCO will usually provide for the precise location of numbered works to be subject to horizontal and/or vertical limits of deviation. In all cases these limits should be specific to the individual works and kept to the minimum.”

- 4.4 The PLA would argue that this direction has not been followed by the applicant. Whilst the Rochdale Envelope approach is acknowledged in PINS Advice Note 9 'Using the Rochdale Envelope', the Advice Note cautions "*this element of flexibility is not to be abused.*" The PLA considers that the Applicant has applied an unnecessary degree of flexibility in the setting of the Order Limits.
- 4.5 The PLA further considers that if the Applicant requires temporary possession of the river extending beyond the most riverward extent of Work No. 4C, then they should provide more details on what reasonably might take place and that as a minimum, 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 and the implications of placing moorings etc within the channel, the pNRA would be unable to demonstrate that what is proposed is as low as reasonably practicable ("**ALARP**") in terms of navigation and that it should therefore not be consented. The PLA therefore considers that as a minimum the Applicant should re-draw the Order Limits back to the edge of Work No. 4C.

5 NAVIGATION

- 5.1 The PLA has been engaging with the Applicant over the navigational implications of those elements of the Order Scheme within the River Thames, movements of vessels to and from the proposed jetty and the relationship between that jetty, the associated vessels loading at the jetty and other vessels transiting to and from the adjacent Middleton Jetty (to service the current Riverside 1 facility and the Riverside 2 scheme currently under construction), to other nearby terminals (notably Ford's Dagenham plant and Heidelberg Materials' Jetty, both on the north side of the river) and also passing through the Reach to wharves and berths upstream.
- 5.2 The Applicant's submitted pNRA has been updated [AS-060] to accommodate the new jetty arrangement and the increased maximum size of tankers loading at the jetty from 15,000 m³ to 20,000 m³ capacity. The PLA notes that, following the issuing of the Rule 8 Letter on 18 November 2024, this most recent revision of the pNRA now reflects the Order Scheme.
- 5.3 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. The PLA understands that the range of assumed vessel passing speeds included in the pNRA is based on the professional judgement of 'the proposed scheme mariner'. The speeds stated within the pNRA are not substantiated by any evidence and the PLA questions whether the assumptions and claims made in the pNRA in relation to this are therefore appropriate.
- 5.4 In the absence of evidence of actual vessel passing speeds, the PLA has itself collected data, which 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 currently does. The PLA acknowledges that some of these passing vessels have a shallow draught, but the pNRA doesn't define what draught is considered 'safe' to pass at over 10 knots, both inbound (west) and outbound (east).

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 for vessels in the Reach.

- 5.5 Due to the potential impact to river users arising from a release of LCO² on the proposed jetty, the PLA considers that further work to refine the results of the Preliminary LCO² 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.
- 5.6 The PLA's position continues to be that 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.

6 DREDGING

- 6.1 The PLA agrees that the Environmental Statement ("ES") should assess the dredging requirements associated with the berth for the whole lifetime of the scheme. It is acknowledged that there will be some uncertainty over the predicted infill and therefore the frequency of required maintenance dredging, although the assumption of an annual maintenance dredging liability of 9,000 m³, equating to approximately 6% of the capital volume, is accepted as reasonable, being of a similar order of magnitude to dredging needs at nearby sites and that the predicted impacts are predominantly regulated by the embedded methodology of backhoe dredging.
- 6.2 The evidence provided that the increased capital dredging required a part of the change application scheme (now the Order Scheme) has no material effect from a coastal processes perspective is limited to a few tables of model statistics extracted from pre-determined locations on the model. The PLA would have expected to see maps showing the spatial variation as the locations extracted may not have been wholly representative of the full magnitude of change.
- 6.3 Notwithstanding that the increase in the dredged depth of the berth pocket is only an additional 0.5 metres and the greatest change will be a further decrease of current speed and bed shear stress within the berth pocket; this will generally lead to a slightly higher amount of infill and hence maintenance dredging. Despite this, the PLA does not conclude that the significance of impacts arising from the increase in depths resulting from the Order Scheme will be materially greater than currently assessed within the ES.
- 6.4 As noted above at paragraph 4.2.(a), the Applicant does not intend to undertake any dredging in the authorised channel and the limits of deviation have allowed for slumping associated with that dredging. Whilst there are general references to construction works and dredging within the pNRA, the only specific reference is in relation to the need for dredging being dependent on project vessel size. There is no mention of maintenance dredging other than when referring to how maintenance dredging on the adjacent Middleton Jetty might affect the project vessels alongside the proposed jetty. 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, which is required prior to marine construction works under Requirement 19 in Schedule 2 of the dDCO.

6.5 The Outline Code of Construction Practiced (“**oCoCP**”) [APP-124] notes that:

"the full CoCP(s) will provide that, in respect of capital dredging: it will be undertaken using backhoe dredging, unless otherwise agreed with the Environment Agency and the MMO (and that it has been demonstrated that any alternative method would not lead to materially worse effects than those reported in the Environmental Statement (Document Reference 6.1))".

6.6 In view of the PLA’s role as consenting authority of both capital and maintenance dredging under the provisions of the dDCO, the PLA also needs to be involved in such approvals and the Outline CoCP should be amended accordingly.

6.7 Additionally, there are other instances within the oCoCP which relate to dredging where there is no reference to the PLA such as paragraphs 6.2.5, 6.3.1 and 6.4.1 and, as above, the role of the PLA as consenting authority should be reflected and included within them.

6.8 The PLA supports in principle that the dredged arisings associated with the Order Scheme (during both capital dredging and maintenance dredging) will be managed in accordance with relevant legislation and will be disposed of offsite (via vessel and only if dredged arisings are deemed suitable for this disposal method and conform with the permits for disposal sites). The PLA furthermore supports the removal of the dredged arisings being undertaken by an appropriately licenced waste carrier.

7 MARINE ENVIRONMENT

7.1 As set out in paragraph 2.2 above, 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 or clarification is required in relation to the following matters:

Marine Biodiversity

7.2 The PLA considers that there is a general omission from Chapter 8 of the ES - Marine Biodiversity [APP-057] of the importance of the River Thames for migratory fish. Whilst paragraph 8.8.92 states that the proposals will have a negligible effect on fish because of the background illumination levels, high turbidity and proposed mitigation, the PLA is not convinced that the ES sufficiently considers the effects of the proposals in relation to the habituation of fish species to these factors and that any effects from the proposals are additional to the baseline. The PLA would normally restrict certain activities, such as carrying out water injection dredging on the ebb tide or when dissolved oxygen is above a certain level, or during certain periods of the year.

Biodiversity Net Gain

7.3 A Biodiversity Net Gain (“**BNG**”) Report [APP-088] has been completed which focuses predominantly on the terrestrial environment. Whilst there is some consideration of the intertidal environment, the PLA requires clarification regarding some of the assumptions that have been made. For example, at paragraph 3.3.5 there are references to the former Belvedere Power Station Jetty and Middleton Jetty being classified as developed land. It is not clear from the BNG report whether only the jetties themselves have been considered and that the habitat

underneath the jetties have been omitted. 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.

- 7.4 In addition, Chapter 7 of the ES – Terrestrial Biodiversity [APP- 056] classifies the former Belvedere Power Station Jetty as being a high tide roost for wintering birds (para 7.6.53). This is not reflected in the BNG report. Notwithstanding this, the Outline Landscape Biodiversity Access and Recreation Delivery Strategy (“**LaBaRDS**”) [APP-129] identifies the former Belvedere Power Station Jetty as a bird nesting feature and proposes creating a new breeding bird habitat. Whether the jetty is a high tide roost or a bird nesting feature would result in different requirements for compensation and the proposed breeding bird habitat would not be a replacement for a high tide roost, particularly for wintering birds.
- 7.5 It is noted that the Water Framework Directive (“**WFD**”) Assessment [APP-106] accepts that there will be a loss of / reduction in intertidal and subtidal habitat; see for example table 6-6 where it is stated that the operation of the proposed scheme will lead to the reduction of intertidal and subtidal habitat available due to the presence of the proposed jetty and if the Belvedere Power Station jetty is retained it will result in an overall net loss of subtidal and intertidal habitat. However, this does not appear to be reflected in the BNG calculations and the BNG Report states that there will be no loss.
- 7.6 The PLA would assert that both the BNG Report and WFD Assessment need to be consistent with one another and with the other application documents. The PLA would request sight of the BNG calculations (preferably in submission of the completed metric in spreadsheet format) to be able to accurately interrogate the Applicant’s conclusions.

8 USE OF THE RIVER

- 8.1 The PLA has reviewed the oCoCP [APP-124] in the context of the Transport Assessment (“**TA**”) [APP 114] and the outline Site Waste Management Plan (“**oSWMP**”) [APP-130] in order to gain the widest understanding of the oCoCP.
- 8.2 The PLA raised concern regarding the oCoCP in its Relevant Representation [RR–162] including the need to maximise the use of the River Thames and the need for the PLA to be consulted on and approve documents which it has an interest in, including the CoCP. Good progress has been made in relation to the latter point and the PLA welcomes the updates that occurred in relation to the Schedule 2 Requirements and in particular Requirement 7 which now provides for consultation with the PLA where the CoCP relates to construction activities in the River Thames. The wording in the CoCP should be amended for completeness that the PLA is a consultee, in conjunction with the London Borough of Bexley on the full CoCP when this is produced by the appointed contractor.

Maximising the Use of the River

- 8.3 The Applicant has 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 references to potential use of the river are only in the context of the materials required to construct the proposed jetty and even this is not guaranteed (see

below). 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. This consideration should include clarification on why the Applicant believes that the effectiveness of Middleton Jetty operations for Riverside 1 and 2 (when operational) will be compromised if it were used for the delivery of construction materials and plant.

Lack of Certainty in the outline CoCP

- 8.4 The lack of certainty within the oCoCP is a matter of concern for the PLA, especially as this document will be a certified document. An example of this can be seen at paragraph 2.12.7 (emphasis added):

“transport of construction plant and materials for the Proposed Jetty (i.e. steel piles, precast concrete units and marine equipment such as fenders) will, where feasible, be via the River Thames“

- 8.5 This provides no certainty that river transport will occur, and it is not clear what factors will influence whether river transport is feasible.

- 8.6 Evidence in the TA which heavily influences the oCoCP also includes deep uncertainty that affects the robustness of the oCoCP. For example, at paragraph 6.2.7 it is stated:

“The origin of the construction related vehicles is currently unknown”

- 8.7 Both the TA and oCoCP cite 50 construction related two way HGV movements (over the course of the day) during the peak of construction. The TA states that these figures are based on professional judgement and knowledge of similar schemes. In addition, the oCoCP states:

“During Site establishment and groundworks, particularly when the ground raising exercise for flood risk purposes will be undertaken, there will be an estimated peak of 72 HGV movements per day (resulting in 144 two-way movements), for a period of approximately three months, depending on the construction programme” (para 2.12.2).

- 8.8 The PLA seeks further clarification on the assumptions used by the applicant for both the construction HGV quantum and the site establishment and groundwork HGV quantum. It also seeks to understand from the Applicant why the origin of the construction related vehicles is currently unknown.

CoCP Community Engagement Plan

- 8.9 The PLA welcomes the development of a Community Engagement Plan for the construction phase of the Order Scheme prior to work commencing onsite. This will be carried out by the contractor. As currently drafted, the PLA has no role in the development of such a plan or for any communications strategy for Works within the River Thames (section 2.9 of the oCoCP). The PLA would wish to be a consultee for these communication activities.

9 LAND OWNERSHIP

- 9.1 As noted during CAH1, there are a number of errors in the Book of Reference (“**BoR**”) [AS-058]. These errors mistakenly identify the PLA as the freehold owner and/or occupier of land which is located above MHW and outside of the PLA registered title. The plots in question are 1-095; 1-101, 1-103, 1-113A, 1-117A and 2-002.
- 9.2 There are also plots within the BoR where the PLA is identified as a freehold owner and occupier. For the avoidance of doubt the PLA is not the owner of the works that are located within these plots: 1-110, 1-111, 1-116, 1-118, 2-003 and 2-005.
- 9.3 At plot 1-107 the PLA is the freehold owner of the riverbed at that location but not of the works mentioned.
- 9.4 The Applicant has been advised of the above and the PLA expects an updated BoR to be submitted to the examination in due course.
- 9.5 As also noted during CAH1 and in the PLA’s Relevant Representation [RR-162] the land over which full compulsory acquisition powers are sought in respect of the PLA’s freehold interest include areas of the riverbed of the river and the foreshore. 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.
- 9.6 Discussions have commenced with the Applicant in relation to the lease arrangements for the permanent works. The PLA is awaiting a plan from the Applicant in order to progress matters further but notwithstanding this, the PLA would expect agreement to be reached by the close of the examination. Discussions have not yet started on arrangements for the temporary possession required by the Applicant and as set out in section 4 above, the PLA are unclear as to what works are envisaged to be undertaken within the area required for temporary possession within plot 2-006 and temporary works located within the authorised channel do not appear to have been assessed within the pNRA [AS-060].

10 COMMENTS ON THE DDCO

- 10.1 As noted above, Article 7 in the dDCO [AS-056] seeks to extinguish or vary existing River Works Licences (“**RWL**”) that have been granted under the 1968 Act and which include the Belvedere Power Station Jetty or any other structures within the limits of deviation for Work No. 4 where such licences exist at the date the Order (if made) comes into force. The trigger for such variation or extinguishment is the earlier of Work No 4 beginning or the Applicant taking possession of the relevant structure either through use of the temporary use or compulsory acquisition powers in the Order or by agreement. Where an existing RWL includes structures beyond the limits of deviation of Work No 4 the licence is varied so structures within the limits of deviation are no longer covered by the RWL.
- 10.2 Article 7 goes on to provide that any existing structure within the limits of deviation for Work No. 4 and for which a works licence no longer subsists as a consequence of Article 7 may remain

and subsist in the river Thames under the authority of, and subject to the terms of, the Order and the requirement to obtain a works licence under section 66 (licensing of works) of the 1968 Act does not apply to the structure.

- 10.3 The PLA would only wish for RWLs to be extinguished in whole or part where the structure is actually being removed and only following actual removal. The fact that a structure is within the limits of deviation of Work No. 4 does not necessarily mean that it will be impacted by the works. The PLA is also concerned about the ability to unilaterally vary existing RWLs. The drafting of the dDCO needs to ensure that, where, structures are not being removed in their entirety, that an effective and enforceable RWL remains in relation to the structures that remain so that these structures are maintained in a good state of repair and subject to the usual controls within the licence. Paragraph 57 of the protective provisions only permits the PLA to require the undertaker to take steps to repair/restore structures where a RWL has been extinguished pursuant to Article 7 where they become abandoned or are in a state of decay.
- 10.4 There are separate provisions within the protective provisions contained at Part 5 of Schedule 12 of the dDCO (paragraph 46) which deal with extinguishment or variation of RWLs outside the limits of deviation of Work No. 4 in certain circumstances which raise similar concern which are outlined below.
- 10.5 Article 7 further restricts the PLA from granting or varying without the consent of the Applicant:
- (a) a RWL under section 66 (licensing of works) of the 1968 Act at any time within the limits of deviation for Work Nos. 4A or 4B; and
 - (b) a dredging licence under section 73 (licensing of dredging, etc). within the area of dredging within the limits of deviation of Work No. 4C that is approved by the PLA under Part 5 of Schedule 12 from the date that such approval is given by the PLA.
- 10.6 Whilst such consent is not to be unreasonably withheld or delayed there are no timescales for approval and yet the PLA is subject to statutory time limits in deciding such licence applications. The right to appeal is also removed by sub-paragraph (8) of Article 7. Timescales have now been agreed with the Applicant and the PLA expect these to be included in the next version of the dDCO.
- 10.7 Sub-paragraph 11 of Article 7 is also not agreed as it appears in the dDCO (revision C) [AS-056] but discussions on agreed wording are being advanced. The PLA expects to reach agreement on the wording of Article 7 shortly.
- 10.8 The PLA and the Applicant have been discussing the need for a change to Requirement 21(1) so that it reads as follows (change underlined):
- "21— (1) No part of the authorised development may commence until a ground conditions investigations and assessments strategy for that part has been submitted to and approved by the relevant planning authority, in consultation with the Environment Agency and where the ground conditions investigations and assessments strategy submitted covers investigations and assessments to carried out in the river Thames, the Port of London Authority."

The PLA understand that the Applicant has agreed to this change.

10.9 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 the following:

(a) Paragraph 46 and related definitions within paragraph 45, in particular the provisions at sub-paragraphs (8) to (10). These provisions provide for the extinguishment or variation of RWLs outside the limits of deviation of Work No. 4 in certain circumstances. As noted above the PLA's concern is to ensure that, where, structures are not being removed in their entirety, that an effective and enforceable RWL subsists in relation to the structures that remain. This is because in relation to abandoned or decayed works, paragraph 57 of the protective provisions, only permits the PLA to require the undertaker to take steps to repair/restore such structures where a RWL has been extinguished pursuant to Article 7. The PLA and the Applicant have recently reached agreement on paragraph 46 of the PLA's protective provisions and the PLA would expect for the agreed drafting to be included in the dDCO which is submitted at deadline 2.

(b) Paragraph 61 sub-paragraph a) requires minors change as shown in bold:

"(a) nothing contained in Part 3 of this Order nor article 38 (statutory undertakers) authorises the acquisition of any interest in, or the acquisition, appropriation, interference, overriding or extinguishment of any right in, on or over, or the imposing of restrictive covenants in any Order land (including airspace and subsoil) if the interest or right or the land to be affected by the restrictive covenant is (at the time of the proposed acquisition, appropriation, interference, overriding, ~~or~~ extinguishment **or the imposition of the restrictive covenant**) the land, airspace, subsoil or a right which is vested in the PLA;"

The PLA understand that the changes are agreed by the Applicant.

(c) Paragraph 64 *Consultation*, the PLA also require the undertaker to consult with the PLA on any updates to a plan, scheme or strategy approved under requirements 7 (code of construction practice), 10 (emergency preparedness and response plan), 11 (lighting strategy), 16 (jetty works environmental design scheme) and 23 (decommissioning environmental management plan) which relate to Work No. 4, prior to submission to the relevant planning authority under requirement 3 (approved details and amendments to them). The PLA understand that this is agreed with the Applicant.

11 CONCLUSION

11.1 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.

11.2 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.

- 11.3 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.
- 11.4 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 and considers that additional work should be undertaken to refine the Preliminary LCO² Release Risk Assessment.
- 11.5 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.
- 11.6 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.
- 11.7 There also needs to be much more consideration and commitment to the use of the river.
- 11.8 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.

APPENDIX 1

EXTRACT FROM THE PORT OF LONDON ACT 1968

PORT OF LONDON ACT 1968
(as amended)

The following is an updated version of the original Port of London Act 1968 as at January 2014. Although every effort has been made to ensure the amendments reflect the current position, the original sources must be consulted where complete accuracy of the wording is required.

This version will be updated from time to time. Any inaccuracies found should be reported to the Port of London Authority.

A few notes have been inserted to assist the reader trace original sources, meanings or cross references, but where acts or orders are referred to these are constantly changing and the notes will, from time to time, be out of date.

The reader should carry out his or her own research as to whether the acts or orders referred to are still in force and still applicable.

Definitions. For "bed", "land" and "the Thames", see s 2(1) ante

(b) Control of works and dredging

66. Licensing of works

- (1) (a) The Port Authority may for a consideration to be agreed or assessed in accordance with section 67 (Consideration for licence) of this Act and on such terms as they think fit, including conditions as to variation and revocation of the licence and reassessment of the consideration from time to time, grant to a person a licence to carry out, construct, place, alter, renew, maintain or retain works, notwithstanding that the works interfere with the public right of navigation or any other public right.
- (b) A works licence granted under paragraph (a) of this subsection to carry out, construct, place, alter, renew, maintain or retain works in, under or over land belonging to the Port Authority shall be deemed to confer on the holder of the licence such rights in, under or over land as are necessary to enable the holder of the licence to enjoy the benefit of the licence.
- (2) Application for a works licence shall be made in writing to the Port Authority and shall be accompanied by plans, sections and full particulars of the works to which the application relates, and in granting any such licence the Port Authority may require modifications in the plans, sections and particulars so submitted.
- (3) If within three months from the date of the making of an application under subsection (2) of this section the Port Authority do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.
- (4) For the avoidance of doubt it is hereby declared that works above mean high water level which do not-
- (a) constitute or form part of an embankment;
- (b) project over the Thames; or
- (c) involve cutting its banks;
- are not subject to the provisions of this Act relating to works licences.
- (5) A works licence may be given under the hand of a duly authorised officer of the Port Authority.
- (6) In the exercise of the powers of a works licence the holder of the licence shall not damage or injuriously affect-
- (a) any submarine cable placed or maintained by the Postmaster General; or
- (b) any undertakers work (as defined in section 195 (For protection of statutory undertakers) of this Act);
- or, without the consent of the Postmaster General or the undertakers concerned, as the case may be, interfere with or adversely affect the operation of any such submarine cable or undertakers work.
- (7) A works licence shall not be required under this section for the carrying out, construction, placing, alteration, renewal, maintenance or retention of any work by a river authority or a drainage authority in exercise of their functions under the Land Drainage Act, 1930, the Land Drainage Act, 1961, or the Water Resources Act 1963.

Notes

General Notes: For further consents required before carrying out certain works under this section, see s.74 post and for exemptions, see s 63(1) ante, and s 187, Sch 8, para 1 post. For certain restrictions, see s 193 post; within the delineated lands as defined by the Thames Barrier Act the provisions of ss 60, 62, 65, 66 and 73 of Port of London Act 1968 are subject to section 48(3) of the Thames Barrier Act 1972.

In the Medway approach area as defined by the Medway Ports Act 1983 as varied by The Medway Ports Authority Harbour Revision Order 1989, the provisions of ss 60, 66, 69, 73 and 120 of Port of London Act 1968 are subject to section 85(3) of the Medway Ports Act 1973.

Postmaster General. *See the note to s 61 ante.*

Undertakers. *ie statutory undertakers; cf the definition in s 121(7) post.*

River authority. *See the note to s 2 ante.*

Definitions. *For "drainage authority", "mean high water level", "river authority" and "the Thames", see 2(1) ante; for "works", see s 2(1) ante, in conjunction with sub-s (4) above.*

Land Drainage Act 1930; Land Drainage Act 1961. *Repealed by the Land Drainage Act 1976, s 117(3), Sch 8 and replaced by provisions of that Act now repealed. The Land Drainage Act 1976 has for the most part been replaced by the Land Drainage Act 1991 and the Water Resources Act 1991. The Water Resources Act 1963 has been repealed by the Water Consolidation (Consequential Provisions) Act 1991.*

67. Consideration for licence

- (1) The consideration for a works licence shall be such [...] as may be agreed between the Port Authority and the applicant or as shall, failing agreement, be assessed in accordance with subsection (2) of this section by an arbitrator appointed on the application of either party, after notice to the other, by the President of the Royal Institution of Chartered Surveyors.
- (2) The consideration shall be the best consideration in money or moneys worth which, in the opinion of the arbitrator, can reasonably be obtained, having regard to all the circumstances of the case including the value of any rights in, under or over land of the Port Authority deemed to be conferred by the licence, but excluding any element of monopoly value attributable to the extent of the Port Authority's ownership of comparable land.
- (3) The assessment of the consideration [...] for a works licence shall not be referred to an arbitrator under this section until the other terms of the licence or, in the case of variation the other terms as proposed to be varied, have been determined.

Notes

The words omitted from sub-ss (1), (3) were repealed by the Port of London Act 1982, s 7, Sch 2.

General Note. *This section does not apply to certain areas; see s 187, Sch 8, para 1 post. See also s 212, Sch 11, para (k) post. See further the General Note to s 66 ante.*

Works licence. *ie a licence under s 66 ante; see s 2(1) ante.*

Arbitrator. *See the note to s 63 ante.*

Definition. *For "land", see s 2(1) ante*

68. Exemption for works authorised or powers conferred before 17th August, 1894

The provisions in this Part of this Act relating to works licences shall not apply to works authorised, or powers to execute, alter or maintain works conferred, under or by virtue of an enactment which came into force before 17th August, 1894.

Notes

General Note. *This section does not apply to certain areas; see s 187, Sch 8, para 1 post. See also s 212, para (k) post.*

Provisions ... relating to works licences. *ie ss 66 and 67 ante, ss 69-72 post, and s 74 post, so far as it relates to s 66 ante.*

Before 17th August 1894. *For the purposes of this Part of this Act, Pt II of the Thames Barrier and Flood Prevention Act 1972,*

is deemed to be an enactment which came into force before 17 August 1894; see s 48(1) of that Act.

Definitions. For "enactment", "works" and "works licences", see s 2(1) ante

69. Appeal to Board of Trade

- (1) An applicant for a works licence who is aggrieved by-
- (a) the refusal by the Port Authority to grant the licence;
 - (b) any term upon which the Port Authority propose to grant the licence (other than the consideration for the licence or its reassessment); or
 - (c) any modification by the Port Authority in the plans, sections or particulars submitted by the applicant;

and a holder of a works licence who is aggrieved by the revocation or variation of his licence by the Port Authority or by the refusal of the Port Authority to vary any term of his licence (other than the consideration for the licence or its reassessment) may within twenty-eight days from the date upon which the Port Authority are under subsection (3) of section 66 (Licensing of works) of this Act deemed to have refused the application or the date upon which the Port Authority notify him of their decision, as the case may be, appeal to the Board of Trade and the provisions in Schedule 4 to this Act shall apply to such an appeal.

- (2) The notification by the Port Authority of their decision shall inform the person notified of his right to appeal to the Board of Trade under this section.
- (3) In any case where the holder of a works licence appeals to the Board of Trade against the revocation or variation of his licence, such revocation or variation shall not have effect until such appeal has been determined.

Notes

General Notes: This section does not apply to certain areas; see s 187, Sch 8, para 1 post.

In the Medway approach area as defined by the Medway Ports Act 1983 as varied by The Medway Ports Authority Harbour Revision Order 1989 SI 1989/775 the provisions of ss. 60, 66, 69, 73 and 120 of Port of London Act 1968 are subject to section 85(3) of the Medway Ports Act 1973.

Board of Trade. See the note to s 60 ante.

Definition. For "works licence", see s 2(1) ante.

70. Works not to be constructed, etc, without works licence

- (1) No person shall carry out, construct, place, alter, renew, maintain or retain works unless he is licensed so to do by a subsisting works licence and except upon the terms and conditions, if any, upon which the licence is granted and in accordance with the plans, sections and particulars approved in pursuance of section 66 (Licensing of works) of this Act.
- (2) A person who contravenes the provisions of this section or who fails to comply with any term or condition upon which a works licence is granted by the Port Authority shall be guilty of an offence and liable to a fine not exceeding [level 5 on the standard scale] and to a daily fine not exceeding [£50].
- (3) The Port Authority may by notice require a person who contravenes the provisions of this section to remove or abate within a reasonable time specified in the notice any works to which the contravention relates and to restore the site thereof to its former condition and, if the person to whom the notice is given fails to comply with the notice, the Port Authority may carry out the work required by the notice and recover the cost of so doing from that person as a debt in any court of competent jurisdiction.

Notes

The reference to level 5 on the standard scale in sub-s (2) is substituted by virtue of the Criminal Justice Act 1982, s 46. (The maximum fine was previously increased to £1,000 by the Port of London Act 1982 s 3(1), Sch 1, Pt I). Under s.37(2) of the Criminal Justice Act 1982, as amended by The Criminal Justice Act 1991, level 5 is now £5,000

The sum of £50 in square brackets in sub-s (2) was substituted by the Port of London Act 1982, s 3(1), Sch 1, Pt I.

Application. *The River Thames (Hungerford footbridges) Order 1999 SI 2981/1999, Sch 13 provides that this Section shall not apply to any works authorised by the Order.*

Section disappplied by Crossrail Act 2008 s.40 Sch 14 para 6(a).

See Crossrail Act 2008 s.40 Sch 14 para 6(a) as to the disapplication of this section.

Definitions. *For "daily fine", "works" and "works licence", see s 2(1) ante.*

Standard scale. *See the note to s 38 ante.*

Exemptions. *See s 63(1) ante, and ss 186(2), 187, 195(3), 197, Sch 8, para 1 post.*

Powers of entry. *See s 90 post*

71. Works to be within nearest parish

So much of any work constructed or placed in accordance with a licence granted under section 66 (Licensing of works) of this Act as is not within any parish and so much of any alteration or extension of any such work licensed under that section shall be deemed for all purposes to be within the parish to which it is nearest.

Notes

Work. *For meaning, see s 2(1) ante.*

Parish. *The urban parishes in England existing immediately before 1 April 1974 were abolished on that date by the Local Government Act 1972, ss 1(10), 20(6), and by virtue of s 179(1), (4) of that Act the reference to a parish is now to be construed, as respects England, as a parish (ie generally a rural parish construed by the name of a parish by s 1 (6) of that Act)*

72. Vesting of embanked land

(1) Where pursuant to a works licence land is reclaimed by embankment and a certificate that the embankment has been completed is endorsed on the works licence by the Port Authority, the land reclaimed by the embankment shall thereupon vest in the owner of the land in front of which the embankment has been made (hereinafter in this section referred to as "the adjoining land") for the like estate or interest as that upon which the adjoining land is then held and subject to, and with the benefit of, the like estates, interests, exceptions, reservations, incumbrances, covenants and conditions (hereinafter in this section referred to as "incidents ") as then attached to the adjoining land and subject to any continuing terms of the works licence.

(2) A certificate under this section may be given under the hand of a duly authorised officer of the Port Authority and may, if the Port Authority and all persons directly affected by any incidents proposed to be modified so agree, contain provisions modifying any incident attaching to the land reclaimed by the embankment.

Notes

Authorised. *As to the authentication of documents given or issued by the Port Authority, see s 183 post.*

Definitions. *For "land" and "works licence", see s 2(1) ante*

73. Licensing of dredging, etc

- (1) Subject to section 74 (Crown property) of this Act, the Port Authority may upon such terms as they think fit, including conditions as to variation and revocation of the licence, grant to a person a licence to cleanse, scour, cut, deepen, widen, dredge or take up or remove material from the bed and banks of the Thames.
- (2) A licence under this section may be given under the hand of a duly authorised officer of the Port Authority.
- (3) A person who cleanses, scours, cuts, deepens, widens, dredges or takes up or removes material from the bed or banks of the Thames and who cannot show that he is acting under and in accordance with a subsisting licence granted under this section shall, without prejudice to any other remedy or proceeding against him, be guilty of an offence and liable to a fine not exceeding [level 4 on the standard scale].
- (4) The issue of a licence under this section shall not confer statutory authority for the carrying out of the work covered by the licence.
- (5) In the exercise of the powers conferred by a dredging licence the holder of the licence shall not damage or injuriously affect
 - (a) any submarine cable placed or maintained by the Postmaster General; or
 - (b) any undertakers work (as defined in section 195 (For protection of statutory undertakers) of this Act);or, without the consent of the Postmaster General or the undertakers concerned, as the case may be, interfere with or adversely affect the operation of any such submarine cable or undertakers work.
- (6) A dredging licence shall not be required under this section by a river authority or drainage authority in exercise of their functions under the Land Drainage Act, 1930, the Land Drainage Act, 1961, or the Water Resources Act 1963.

Notes

The reference to level 4 on the standard scale in sub-s (3) is substituted by virtue of the Criminal Justice Act 1982, s 46. (The maximum fine was previously increased to £500 by the Port of London Act 1982 s 3(1), Sch 1, Pt 1). Under s.37(2) of the Criminal Justice Act 1982, as amended by The Criminal Justice Act 1991, level 4 is now £2,500

General Note. *For further consents required before carrying out certain works under this section, see s 74 post. For certain restrictions, see ss 193, 195(3) and 197 post; within the delineated lands as defined by the Thames Barrier Act the provisions of ss 60, 62, 65, 66 and 73 of Port of London Act 1968 are subject to section 48(3) of the Thames Barrier Act.*

In the Medway approach area as defined by the Medway Ports Act 1983 as varied by The Medway Ports Authority Harbour Revision Order 1989 SI 1989/775, the provisions of ss 60, 66, 69, 73 and 120 of the Port of London Act 1968 are subject to section 85(3) of the Medway Ports Act 1973.

Sub-s (1); Licence. *Where the Port Authority have formed a company to operate the port of Tilbury pursuant to the Ports Act 1991, s 21 post, and property consisting of or comprising works requiring a works licence is transferred to the company under s 22 of that Act, a works licence for the said property is regarded as having been granted to the Company for a consideration agreed or assessed under this section; see s 25 of the 1991 Act post.*

Application.

The Dartford-Thurrock Crossing Act 1988 provides that s. 73 shall not apply to anything done in exercise of any powers granted by the Act.

The River Thames (Hungerford Footbridges) Order 1999, SI 2981/1999, provides that section 73(3) shall not apply to any works authorised by the Order.

Section 73(3) disapplied by Crossrail Act 2008 s.40 Sch 14 para 6(b).

See Crossrail Act 2008 s.40 Sch 14 para 6(a) as to the disapplication of this section.

Authorised. *As to the authentication of documents given or issued by the Port Authority, see s 183 post.*

Standard scale. *See the note to s 38 ante.*

Postmaster General. *See the note to s 61 ante.*

River authority. See the note to s 2 ante.

Definitions. For "bed", "drainage authority", "river authority" and "the Thames", see s 2(1) ante.

Land Drainage Act 1930: Land Drainage Act 1961. Repealed by the Land Drainage Act 1976, s 117(3), Sch 8 (repealed) and replaced by that provisions of that Act. The Land Drainage Act 1976 has for the most part been replaced by the Land Drainage Act 1991 and the Water Resources Act 1991. The Water Resources Act 1963 has been repealed by the Water Consolidation Act (Consequential Provisions) 1991.

74. Crown property

A person licensed by the Port Authority under section 66 (Licensing of works) or section 73 (Licensing of dredging, etc.) of this Act to carry out the works or dredging and raising of gravel, sand, ballast and other substances in, upon or from any part of the bed of the Thames belonging to Her Majesty or a government department shall, in addition to the licence of the Port Authority, require the consent of the Crown Estate Commissioners on behalf of Her Majesty or of the relevant government department, as the case may be, to carry out the works or to dredge and raise gravel, sand, ballast and other substances.

Notes

Crown Estate Commissioners. See the note to s 65 ante.

Definitions. For "bed", "the Thames, and "works", see s 2(1) ante

75. Lands above mean high water level

- (1) In this section "mean high water" means high water of the medium tide between the spring tides and the neap tides.
- (2) This section applies to lands which are submerged by the waters of the Thames at high water of spring tides but not at mean high water and which lie between a line drawn in prolongation of the line marking the former seaward limit and a straight line passing through Margaret Ness on the south bank of the Thames in the London borough of Greenwich and a point true north thereof on the north bank of the Thames.
- (3) A person proposing to carry out on, in or under lands to which this section applies any operation which would or might have the effect of causing those lands or any other lands to be submerged by the waters of the Thames at mean high water shall before commencing that operation give notice of the proposed operation to the Port Authority accompanied by plans, sections and particulars thereof.
- (4) If the Port Authority are of opinion that detriment to the interests of navigation would or might ensue if the proposed operation were carried out they may give notice of that opinion to the person who gave the notice referred to in subsection (3) of this section and, if the Port Authority are of opinion that the proposed operation could be carried out in a modified form without detriment to the interests of navigation, they shall send with the notice plans, sections and particulars of the manner in which the proposed operation could, in their opinion, be carried out without such detriment.
- (5) No person shall commence or proceed with any such operation as is mentioned in subsection (3) of this section
 - (a) unless he has complied with the requirements of that subsection and the Port Authority have informed him that they are of opinion that the operation can be carried out without detriment to the interests of navigation either as proposed by him or in a modified form; or
 - (b) if he is dissatisfied with the decision of the Port Authority, without the consent of the Board of Trade;

and in either case, otherwise than in accordance with plans, sections and particulars approved by the Port Authority or by the Board of Trade, as the case may be.

APPENDIX 2
PLA NAVIGATION CHART

