

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 2

**WRITTEN SUBMISSION ON BEHALF OF THE
PORT OF LONDON AUTHORITY PROVIDING
COMMENTS ON DEADLINE 1 SUBMISIONS**

1.0 Introduction

1.1 This is a written submission made on behalf of the Port of London Authority ("**PLA**") providing comments on certain deadline 1 submissions.

1.2 Documents referred to in this submission are:

1.2.1. Book of Reference (REP1-006) Schedule of Changes to Book of Reference (REP1-019) and Land Rights Tracker (REP1-023)

1.2.2. Works Plans (REP1-005);

1.2.3. Examination Progress Tracker (REP1-028);

1.2.4. Draft Development Consent Order (REP1-002); and

1.2.5. Environment Agency Written Representations (REP1-035).

2.0 Book of Reference (REP1-006) Schedule of Changes to Book of Reference (REP1-019) and Land Rights Tracker (REP1-023)

2.1 Following Compulsory Acquisition Hearing 1 ("**CAH1**") the PLA provided details to the Applicant of the changes required to the Book of Reference ("**BoR**"). These changes are set out in Section 9 of the PLA's Written Representations [REP1-039]. At deadline 1 only plots 1-101, 1-103 and 1-113a have been removed from the PLA's ownership in the BoR [REP1-006]. The following plots which are located above mean high water and are therefore not on the PLA's land, are still incorrectly showing the PLA as owner: 1-095, 1-117a and 2-002. The PLA reiterates that it is not the owner of these plots and the BoR needs to be updated accordingly.

2.2 In addition, clarification and updates are required to the following plots:

- 1-107 - 187 sq.m of trestle carrying disused jetty over the river (River Thames) (Norman Road)
- 1-110 – 100 sq.m of dolphin and bollards
- 1-111 – 2,191 sq.m of jetty and bollards
- 1-116 – 660 sq.m of jetty carrying access over road over the river and bed
- 1-118 – 101 sq.m of dolphin and bollards
- 2-003 – 100 sq.m of river, bed and banks thereof (River Thames) and disused pier (Norman Road)

- 2-005 – 5,759 sq.m of travelling crane and jetty carrying across road over river and bed

2.3 The clarification and updates need to make it clear where the PLA owns the bed of the river and where others own land – for example, at plot 2-005 the PLA only owns the riverbed to mean high water, it does not own the land above mean high water including the road which also forms part of plot 2-005.

2.4 It should also be made clear that the PLA does not own the works that are located in/on/under/over the riverbed – for example, at plot 1-110 the description of the land is 100 square metres of dolphin and bollards and the PLA is shown as owner. Whilst the PLA owns the riverbed within which the dolphin and bollards have been placed, it does not own the dolphin or bollards themselves.

2.5 Finally, it should be made clear on what basis the plot areas have been calculated – for example plot 1-116 appears to be the approach to the jetty (not including the jetty head which is plot 2-005). The description of land refers to 660m² of jetty. Scaling the jetty approach from the PLA's GIS system, the plot would appear to be twice the size of that stated in the BoR.

3.0 Works Plans (REP1-005)

3.1 The PLA notes and welcomes the update to the Works Plans [REP1-005] at deadline 1 which included the labelling of Middleton Jetty on the plans. This update occurred as a result of ongoing discussions with the Applicant regarding the drafting of Article 8 in the dDCO and more specifically 8(11) to make it clear which jetty was being referred to when 8(11) referenced Middleton Jetty.

4.0 Examination Progress Tracker (REP1-028)

4.1 The Applicant's summary in relation to Compulsory Acquisition states that the "PLA have queried the extent of temporary possession land in the River Thames (particularly in the navigation channel)" and that "the Applicant has set out its position in its Written Summary of Oral Submissions at CAH1 in respect of the PLA's concerns." The PLA has reviewed the Applicant's written summary in relation to CAH1 [REP1-027] which advises that "The extent of the temporary powers within the river (including the navigation channel) are provided for to enable sufficient working room for construction of the Proposed Jetty to be carried out. Assumptions have been at the early stage of this large complex development to leave room for innovation to Contractors and encompass worst-case scenarios.

4.2 The document goes on to advise: "The critical construction activities dictating the construction limit extent along the channel are: Dredging and Positioning of dredger and other plant associated with dredging operations. The proposed construction limit (i.e. that land coloured for temporary possession on the Land Plans) allows the Contractor the flexibility to use anchored barges which are one of the most suited plants. The dredging equipment can stay

away from the authorised navigation channel, but the anchor lines will be encroaching. However, the Contractor may select different equipment which will not encroach into the navigation channel. The Applicant considers that the current construction limit is appropriate to give the necessary flexibility to the Contractor to select their dredging equipment and construction plans.”

4.3 Based on the Applicant’s response it is still unclear to the PLA as to why such wide order limits are required and, given the applicant’s response that the use of any anchor barge or other dredging equipment would not encroach into the navigational channel, including order limits to the mid point of the river is clearly excessive. The PLA would expect spud legged barges to be used (but notes and accepts that the Applicant requires flexibility so other equipment may be used). This type of barge is normally secured with secondary anchors which are placed upstream and downstream of the barge, not north to south. The PLA recommends that if the applicant plots a barge (or different equipment) onto a navigational chart with the barge being located on the outside face of the proposed dredge pocket this should demonstrate that the anchor lines would not encroach to the mid point of the river – it is more likely to fall wholly within the boundaries of Work 4C. The PLA would also reiterate that if an activity which had lines extending to the mid point of the river was assessed through the navigational risk assessment it would not be found to be acceptable.

4.4 It is also stated in relation to River Transport – “*Responses from Interested Parties are awaited to the Applicant’s Responses to Relevant Representations (AS-043) on this point.*” The PLA responded in detail in section 8 of its Written Representations [REP1-039] setting out the further information and clarification the Applicant should provide on use of the river. In addition, the PLA would question why the Applicant set out in its Responses to Relevant Representations [AS-043] that Victoria Deep Water Terminal in Greenwich is the only viable option for handling construction material when there are a number of safeguarded wharves in both Greenwich and Bexley which could be potentially be used to source materials, in addition to those in Dartford and Gravesham. There are wharves that handle aggregates (and produce ready mixed concrete and asphalt), steel, forest products and project cargoes associated with the Thames Tideway Tunnel project.

5.0 Draft Development Consent Order (REP1-002)

5.1 The PLA welcomes the updates made to the dDCO [REP1-002] at deadline 1 which were made following discussions between the PLA and the Applicant. These updates include:

- Article 2 Interpretation - addition of the words “*and associated outfall and dolphins*” to the definition of belvedere power station jetty
- Article 2 Interpretation - new definition “*Middleton Jetty*”

- Article 8 Interaction with the 1968 Act – various updates to Article 8 including at sub paragraph (5) a timeframe for the undertaker to provide their consent; the moving of sub paragraph (8) to sub paragraph (10) and the widening of the provisions in sub paragraph (10) in relation to when an appeal under section 69 of the 1968 Act does not apply. Minor amendments were also made to sub paragraph (10) to reflect that a consent is granted subject to conditions. Discussions continue with the Applicant regarding the drafting of Article 8, but it is anticipated that agreement will be reached on the wording of Article 8 shortly
- Schedule 2 Requirements, Requirement 21 – The PLA was added to the list of organisations that need to be consulted on requirement 21 where the ground conditions investigations and assessments strategy relates to the river Thames
- Schedule 12, Part 5, Paragraph 45 a change to the definition of "plans" so that the details submitted to the PLA include details of whether changes to existing structures the subject of a river works licences are required.
- Schedule 12, Part 5, Paragraphs 46(8) and (10) – revisions to the provisions dealing with the process for the variation or extinguishment of river works licences outside of limits of deviation of Work No 4, to better reflect the licence terminology.
- Schedule 12, Part 5, Paragraph 61 – minor drafting amendments have been incorporated as requested by the PLA to ensure that all of the ways in which the PLA's land could be interfered with are captured throughout the clause.
- Schedule 12, Part 5, Paragraph 64 – new sub-paragraph (2) added to provide for consultation with the PLA on any updates to a plan, scheme or strategy.

5.2 The PLA has the following minor comments on the dDCO submitted at deadline 1:

- Schedule 2 Requirements, Requirement 16 – The PLA supports the drafting amendment which deletes the word 'following' and replaces it with the word 'in'. The PLA considers that this amendment makes the drafting of requirement 16 consistent with the drafting of the other requirements
- Schedule 12, Part 5, Paragraphs 45 and 46(10) – there are 'Error! Reference source not found' in the track change draft these should refer to 8(1)(b)(ii)
- Article 8 Interaction with the 1968 Act – sub paragraph (11) the wording of sub paragraph (11) is agreed subject to one amendment which is to change 'dredgings' to 'dredging' which reflects adopted and current wording. Article 8 requires further updates to align with the procedure in Schedule 12, Part 5, Paragraphs 46(8) for the variation or extinguishment of river works licences and the required changes are being

discussed with the Applicant. As noted above the PLA expects to be able to reach agreement on this aspect.

6.0 Environment Agency – Written Representations (REP1-035)

- 6.1 The Environment Agency (“EA”) set out in section 6 of their Written Representations [REP1-035] their comments in relation to the proposed dredging including how, due to the high levels of contamination, it is thought unlikely that the material will be suitable for disposal within a marine environment, and it may require disposal as specialist hazardous waste. In the EA’s view removal dredging, with disposal to landfill, probably would be Water Framework Directive compliant and that a dispersive method of dredging could not be achieved without deteriorating the waterbody.
- 6.2 The material which will be subject to maintenance dredging cannot yet be sampled and therefore the degree of contamination ascertained, however, the PLA understands that the applicant has included removal dredging by backhoe as an embedded mitigation for both the capital and maintenance dredging (see pages 24 and 54 of Mitigation Schedule [REP1-011] in relation to capital dredging and page 62 in relation to maintenance dredging). Removal dredging will restrict many of the environmental impacts associated with dredging but as set out in the PLA’s Relevant Representation [RR-162] it also comes at considerable financial cost and in the PLA’s experience is likely to result in changes being sought post consent which would require re-assessment
- 6.3 Given the Applicant’s response to the PLA’s Relevant Representation [Ref 7.1.11 of AS-043] does not rule out other forms of dredging other than backhoe dredging from occurring – with the Outline CoCP [AS-028] stating in relation to capital dredging (emphasis added) “it *will be undertaken using backhoe dredging, unless otherwise agreed*”, the PLA considers that it should be clarified whether dispersive dredging is being considered and if it is, it should be assessed within the application documents now. The wording “unless otherwise agreed” should be removed from the Outline CoCP.