



Marine Management Organisation

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Your reference: TR010016

Our reference:
DCO/2018/00021

Our Planning Inspectorate
Reference: 20018151

The Planning Inspectorate
National Infrastructure Directorate

[By Email only]

10 May 2019

Dear Mr Willows,

THE PLANNING ACT 2008 - SECTION 89 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010: A63 CASTLE STREET IMPROVEMENT - HULL ORDER: DEADLINE 2, EXAMINING AUTHORITY'S 'RULE 8 LETTER'

The Marine Management Organisation (MMO) has reviewed the Examining Authority's (ExA) 'Rule 8 Letter', dated 01 April 2019.

The MMO confirmed its status as an Interested Party for the examination of the A63 Castle Street Improvement - Hull Order, within its Relevant Representation, submitted to the Examining Authority (ExA) on 17 December 2018. The MMO's Relevant Representation also justified its interest in the proposed development to the ExA. Specifically, the MMO registered its interest in the proposed development due to the project's association with works to be undertaken within the UK Marine Area, namely:

- The extension of a marina platform to support the foundations of walkway for a new bridge for non-motorised users over the A63 Castle Street at Princess Quay, Hull; and
- The potential construction of a surface water outfall(s) within the Humber Estuary; and
- The Development Consent Order includes a Deemed Marine Licence (DML) under Section 65 of the Marine and Coastal Access Act 2009 (MCAA 2009) and should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of DML conditions.

Further to its Relevant Representation, the MMO has since provided the ExA with our Deadline 1 response. However, it is noted that this deadline response was submitted after the deadline specified within the examination timeline (i.e. on 29 April 2019), an oversight for which the MMO wishes to apologise. As the MMO has not received confirmation from the ExA of receipt of our Deadline 1 response, or indeed whether its



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late response has been accepted, a copy of our submission has been attached to this letter (see **Appendix I**).

In accordance with the deadlines specified under the Examination Timetable for the proposed A63 Castle Street Improvement - Hull, I am writing to provide the MMO's response to the ExA's Deadline 2.

Deadline 2 consists of:

- Comments on Written Representations;
- Comments on any Statement of Common Grounds;
- Local Impact Reports from any Local Authorities;
- Responses to ExA's Written Questions;
- Comments on any additional information/submissions received by Deadline 1; and
- Responses to any further information requested by the ExA for this deadline

Of these items, the MMO considers the following relevant for inclusion in this response:

- Comments on any additional information/submissions received by Deadline 1
- Comments on Written Representations
- Responses to ExA's Written Questions

In drafting this Deadline response letter, the MMO has noted the Applicant's intention to remove the DML from the DCO. Given the Applicant's statement, and the MMO's recognition that a the proposed development does not appear to be associated with any other licensable activities beyond those that have already been granted a marine licence, the MMO wishes to confirm to the ExA its intension to remove itself from the examination process.

1. Comments on Written Representations

1.1 Environment Agency

1.1.1 The MMO note the Environment Agency's comments provided under **paragraph 9.2** of their Written Representation which states the following:

"We understand that Yorkshire Water have confirmed that they will accept the drainage discharge to their sewer."

1.1.2 On the basis that Yorkshire Water have approved drainage discharge to their existing sewage system, it is the MMO's understanding that there is no longer a need for the construction of new discharge structures (i.e. outfalls). Consequently, the MMO considers that there is no longer a requirement to include such activities under the DML, as stated under **paragraph 2.2** of our Deadline 1 response (see **Appendix I**).

2. Comments on any additional information/submissions received by Deadline 1

2.1 Highways England (the Applicant)

2.1.1 The MMO has reviewed the Applicant's Comments on Relevant Representations, submitted to the ExA under Deadline 1, and notes the following statements made with respect to the Organisation's Relevant Representation:

a) PINS reference 12.02:

"Following consultation with the MMO prior to the DCO application submission, the Applicant does not foresee any further works requiring a Marine Licence being undertaken on the Scheme other than those at Princes Quay Bridge for which a Marine Licence has been granted. As a consequence, the DML will be removed from the next iteration of the DCO application."

b) PINS Reference 12.22:

"The Applicant does not foresee any works in the UK Marine Area being undertaken on the Scheme other than those at Princes Quay Bridge for which a Marine Licence has been granted.

The project team is currently seeking agreement with Yorkshire Water to discharge directly into the existing Yorkshire Water Sewer. This will negate the need to outfall to the Humber Estuary and the potential for marine licensing...

...As a consequence, the DML will be removed from the next iteration of the DCO application."

c) PINS Reference 12.30:

"The content of the DML in the DCO application submitted in September 2018 was limited as we were aware that the DML application for Princes Quay Bridge was ongoing and was likely to achieve consent before the examination into DCO (but not before DCO submission). The Applicant does not foresee any further works in the UK Marine Area being undertaken on Scheme."

2.1.2 Based upon the information contained within the application submitted to the ExA by the Applicant for the A63 Castle Street Improvement - Hull Order, and the Deadline responses received thus far in the examination process, the MMO has not identified the existence of any additional marine licensable activities associated with the proposed development beyond what has already been highlighted in our Relevant Representation and Deadline 1 response (see **Appendix I**).

2.1.3 Having reviewed the Written Representations (see **Section 1** of this letter) and the Applicant's Comments on Relevant Representations (see **Section 2** of this letter), submitted to the ExA under Deadline 1, the MMO considers that a DML does not appear to be required for the following reasons:

- a) The MMO has already granted a licence for the marine aspects for the extension of a marina platform to support the foundations of a walkway for a new bridge for non-motorised users over the A63 Castle Street at Princes Quay, Hull (application reference: **MLA/2018/00358**; licence number: **L/2018/00390/1**);
- b) The MMO understands that there is no longer a need for the construction of new discharge structures (i.e. outfalls); and
- c) The MMO has not identified the existence of any additional marine licensable activities associated with the proposed development beyond what has already been highlighted above under **paragraphs 2.1.3(a and b)**.

2.1.4 Further to the points raised above under **paragraph 2.1.2(a)** of this letter, the MMO wishes to confirm to the ExA the Applicant's withdrawal of a recent request to vary marine licence **L/2018/00390/1**, as referenced under **paragraph 3.4** of its Deadline 1 response (see **Appendix I**).

3. Responses to ExA's Written Questions

3.1 The MMO provided its response to the ExA's Written Questions within its Deadline 1 response (see **Appendix II** of this letter).

3.2 Whilst the MMO recognises that a DML does not appear to be required for the proposed Development Consent Order (see **paragraph 2.1.3**), the Organisation wishes to highlight our response to the ExA's Question **1.10.6**, in which it is stated:

"In the event that a DML is not required for this Order (e.g. no activities to be undertaken within the UK Marine Area), the MMO considers that the offshore detonation of Unexploded Ordnances (UXOs) may be granted via the standard marine licensing process.

Regardless of how the offshore detonation of UXOs is granted, the MMO considers that such activities must be fully considered and assessed within the Environmental Statement."

3.3 Further the comments provided under **paragraph 3.2** of this response letter, the Applicant may also require a Marine Wildlife Licence from the MMO for any UXO-related works granted under a Marine Licence. More information on Marine Wildlife Licenses is available here:

<https://www.gov.uk/guidance/understand-marine-wildlife-licences-and-report-an-incident>

4. Concluding Comments

4.1 Given the Applicant's intention to remove the DML from the DCO and the MMO's recognition that a DML does not appear to be required, the Organisation no longer considers itself to be an Interested Party in the examination of the

A63 Castle Street Improvement - Hull Order. Given this, the MMO wishes to confirm to the ExA its intent to remove itself from the examination process.

- 4.2** Whilst a DML does not appear to be required for the A63 Castle Street Improvement - Hull Order, based upon the information provided within the application and during the examination process to-date, the MMO advises that a marine licence may be required for the undertaking of any unforeseen, or presently unidentified activities, within the UK Marine Area (including the offshore detonation of UXOs).
- 4.3** Further to the statement provided under **paragraph 4.2** of this letter, the MMO wishes to signpost both the Applicant and ExA to the following information on marine licensing:

a) Marine licensing exempted activities:

<https://www.gov.uk/government/publications/marine-licensing-exempted-activities>

Please note that the exempted activities have been separated into three categories, based on the level of agreement/notification required. It should also be noted that a number of the exempted activities have conditions attached. The Applicant must therefore ensure that their planned activity is fully compliant with all conditions if they intend to undertake works under as an exempted activity.

b) Self-service marine licensing activities:

Please follow the links entitled 'Introduction – self-service marine licensing guidance' and 'self-service activities table' for general information regarding self-service licensing (including details on general assessment criteria) and the types of qualifying activities (including important caveats), respectively.

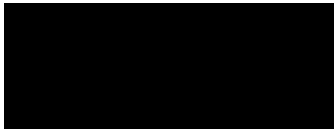
When determining whether a given activity may qualify for self-service licensing, the Applicant may find it useful to consult our interactive online assessment tool, which can be accessed here:

https://marinelicensing.marinemanagement.org.uk/mmofox5/fox/live/MMO_WIZARD/direct?WQ_GROUP_MNEM=APPLICATION_WIZARD

The MMO reserves the right to modify its present advice, or opinion, in view of any additional matters, or information, that may come to our attention.

If you would like to discuss any specific matter further or require additional clarity, please do not hesitate to contact me directly.

Yours sincerely,



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Marine Licensing Case Officer

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Appendix I – MMO Deadline 1 response

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Your reference: TR010016

The Planning Inspectorate
National Infrastructure Directorate

Our reference:
DCO/2018/00021

[By Email only]

29 April 2019

Dear Mr Willows,

**THE PROPOSED A63 CASTLE STREET IMPROVEMENT- HULL ORDER
RESPONSE TO SECTION 88 OF THE PLANNING ACT 2008 (AS AMENDED),
RULE 8 LETTER**

The Marine Management Organisation (MMO) has reviewed the Examining Authority's (ExA) 'Rule 8 Letter', dated 01 April 2019.

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the UK Marine Area. The MMO received notification on 12 November 2018 stating that the Planning Inspectorate (PINS) (on behalf of the Secretary of State for Transport) has accepted an application from Highways England ("the Applicant"), for a DCO for the A63 Castle Street Improvement – Hull proposed development.

The MMO has an interest in this project, as it is associated with the extension of a marina platform to support the foundations of walkway for a new bridge for non-motorised users over the A63 Castle Street at Princess Quay, Hull. The application is also associated with the potential construction of a surface water outfall(s) within the Humber Estuary. The DCO application includes a Deemed Marine Licence (DML) under Section 65 of the Marine and Coastal Access Act 2009 (MCAA 2009) and should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of DML conditions.

In accordance with the deadlines specified under the Examination Timetable for the proposed A63 Castle Street Improvement - Hull, I am writing to provide the MMO's response to the ExA's Deadline 1.

Deadline 1 consists of:

- Comments on any updates to Application Documents submitted by the Applicant before or at the Preliminary Meeting;
- Comments on Relevant Representations (RRs);
- Summaries of all RRs exceeding 1500 words;
- Written Representations (WRs) by all Interested Parties (IPs);
- Summaries of all WRs exceeding 1500 words;
- Statements of Common Ground (SoCG) requested by ExA – see Annex E;
- Response to any further information requested by the ExA for this deadline
- Post-hearing submissions including written submissions of oral cases
- Notification by Statutory Parties of their wish to be considered as an Interested Party by the ExA;
- Notification of wish to speak at any subsequent Issue Specific Hearings (ISH);
- Notification of wish to speak at a Compulsory Acquisition Hearing (CAH);
- Notification of wish to speak at an Open Floor Hearing (OFH);
- Provision of suggested locations and justifications for site inspections for consideration by the ExA;
- Notification of wish to attend an Accompanied Site Inspection (ASI); and
- Notification of wish to have future correspondence received electronically

Of these items, the MMO considers the following relevant for inclusion in this response:

- Comments on any updates to Application Documents submitted by the Applicant before or at the PM;
- Comments on Relevant Representations (RRs);
- Summaries of all RRs exceeding 1500 words;
- Written Representations (WRs) by all Interested Parties (IPs);
- Notification by Statutory Parties of their wish to be considered as an Interested Party by the ExA;
- Notification of wish to speak at any subsequent Issue Specific Hearings (ISH);
- Notification of wish to attend an Accompanied Site Inspection (ASI); and
- Notification of wish to have future correspondence received electronically

1. Summary of the MMO's Relevant Representation

1.1 Following receipt of a Section 56 notification, the MMO submitted our Relevant Representation to the ExA on 17 December 2018. Due to the length of the Relevant Representation, the MMO was unable to submit its comments in full via the PINS website. Instead, a copy of the MMO's full representation has been submitted to PINS via email (A63castlestreet@pins.gsi.gov.uk).

1.2 A summary of the main points raised in the MMO's Relevant Representation to PINS is provided below.

1.3 The MMO provided a summary of the pre-applications engagements held with the Applicant, the Local Planning Authority (Hull City Council), and external consultants (Arup and Sweco). This summary included references to both teleconferences and formal responses to email enquiries and the subject matter addressed.

1.4 Further to the points raised under **paragraph 1.3** of this letter, pre-application engagements primarily concerned a marine licence application for the extension of a marina platform to support the foundations of a walkway for a new bridge for non-motorised users over the A63 Castle Street at Princes Quay, Hull (**MMO reference: MLA/2018/00358**), and covered the following topic areas:

- a) the construction phase of the Princess Quay Bridge;
- b) the relocation of the Spurn Lightship;
- c) the drafting of Habitats Regulations Assessments (HRA), under regulation 63 of The Conservation of Habitats and Species Regulations 2017, and Assessment of Implications on European Sites Screening Report (AIES); and
- d) the potential requirement for a marine licence for the removal and deposit of pontoons, as well as for the construction and operation of the site compounds.

1.5 Further to the points raised under **paragraphs 1.1 to 1.4** of this letter, the MMO also summarised discussions held with the Applicant on 22 November 2018, during which the requirement for further engagement in discussions concerning the development of Statements of Common Ground (SoCG) were highlighted.

1.6 The MMO expressed the opinion that the data and assessments presented in the Environmental Statement (ES) were generally appropriate to the nature and scale of the works associated with this DCO application. Despite this, the MMO identified several issues within the ES and consequently, advised that further consideration of the likely environmental impacts of the proposed development was required. Overall, the revisions to the ES, as recommended by the MMO in our Relevant representation are as follows:

- a) The requirement for the proposal to be assessed against the relevant policies of the East Marine Plan.
- b) The need for the ES to be updated to accurately reflect the consenting status of the Princes Quay Bridge marine works, as already licensed under **MLA/2018/00358**.

1.7 With respect to the scope and content of the DCO, the MMO identified a number of activities that were potentially licensable under MCAA 2009, noting that any such activities to be undertaken within the UK Marine Area must be included and permitted under a DML.

1.8 Further to the point raised under **paragraph 1.7** of this letter, the MMO also advised that that DCO be revised so as to remove reference to the construction of the Princes Quay Bridge, for which a marine licence has already been granted.

1.9 With respect to the scope and content of the DML, the MMO expressed its concern that Schedule 9 of the DCO was not fit for purpose, in its current form. Specifically, the MMO noted that the DML must contain the following information:

- a) A clear definition of all abbreviations and terms referenced;
- b) A accurate descriptions of all works to be licensed within the DML;

- c) A complete list of coordinates for the area(s) within which the licensable works are to be completed; and
 - d) A complete list and details of agreed conditions with which the licensable activities must comply, including those agreed to ensure appropriate mitigation is secured.
- 1.10** The MMO concluded its Relevant Representation by noting the absence of engagement with the Applicant with respect to the drafting of the DCO and its associated DML. In this regard, the MMO invited future engagement from the Applicant to ensure that all marine licensable activities are appropriately considered and captured within any future drafted DML.

2. Comments on Relevant Representations

2.1 Hull City Council

The MMO note Hull City Council's (HCC) intent to submit a written representation on the matter concerning the scope and content of the DCO, unless otherwise resolved in the interim. To this end, the MMO would welcome engagement with both HCC and the Applicant, should they wish to discuss the inclusion of conditions within the DML, or any other matters within the remit of the MMO.

2.2 Historic England

The MMO note Historic England's (HE) concerns regarding, "insufficient detail within the DCO documentation to ensure how harm to the historic environment is minimised and appropriately addressed and secured". To this end, the MMO would welcome engagement with both HE and the Applicant should they wish to discuss the inclusion of conditions within the DML, or any other matters within the remit of the MMO.

2.2 Environment Agency

The MMO note the Environment Agency's (EA) concerns regarding flood risk and the implementation of flood mitigation measures. To this end, the MMO would welcome engagement with both EA and the Applicant should they wish to discuss the inclusion of conditions within the DML, or any other matters within the remit of the MMO.

In addition to the above, the MMO wishes to highlight **Section 2.6.70** of the ES which states:

"A rising main downstream of the pumping station would transfer flow to a receiving network or watercourse. At present, it is proposed to outfall (discharge) directly to the existing Yorkshire Water sewer however if consent is not granted the outfall would discharge to the River Humber through an existing sheet piled wall."

The MMO advise that the construction of new discharge structures (e.g. outfalls) or alteration of existing pipes may have their own requirements for marine licensing should the watercourse in question be considered to be within the UK Marine Area.

Any such activities to be undertaken within the UK Marine Area must therefore be included within the DML.

3. MMO Written Representation

3.1 As noted in our Rule 6 letter response to the ExA, issued on 11 March 2019, the MMO has had no engagement with the Applicant since the submission of our Relevant Representation on 17 December 2018, with respect to the scope and content of both the draft ES and the DCO of the A63 Castle Street Improvement - Hull Order.

3.2 Given the absence of any engagement with the Applicant, the MMO is thus, not able to provide any further comment on the DCO and associated DML beyond what we detailed within our Rule 6 letter response to the ExA and summarised in **Section 1** of this letter. The MMO therefore refers the ExA to our Relevant Representation for full details of the issues and recommendations that we have so far identified with respect to the scope and content of both the draft ES and the DCO of the A63 Castle Street Improvement - Hull Order.

3.3 The MMO wishes to take this opportunity to reiterate our willingness to engage with the Applicant to ensure that all, if any, marine licensable activities are appropriately considered and captured within any future drafts of the DCO and associated DML.

3.4 Whilst the MMO has not directly engaged with the Applicant on issues concerning the scope and content of both the draft ES and the DCO of the proposed development, it should be noted that the MMO has recently received a variation request for the marine licence for the extension of a marina platform to support the foundations of a walkway for a new bridge for non-motorised users over the A63 Castle Street at Princes Quay, Hull (**MMO reference: MLA/2018/00358/1**). Specifically, this request is to permit the removal of pile obstructions from Humber Dock. This request was received by the MMO on 14 March 2019.

3.5 With regards to the variation request **MLA/2018/00358/1**, the MMO has recently issued an Application Update request and subsequently placed the request 'on hold'. The Application Update was opened for the following reasons:

- a)** To enable the applicant to provide an updated method statement.
- b)** To enable the applicant to make necessary changes to the application.

3.6 Further to the point raised under **paragraph 3.5** of this response, the MMO also brought the following items to the Applicant's attention with respect the requested variation:

- a)** The potential requirement for sediment sampling and analysis, undertaken in accordance with an MMO approved Sample Plan.
- b)** Notification that any removal and/or detonation of Unexploded Ordnances (UXO's) at sea would require a separate marine licence.

4. Response to Examining Authority's Written Questions

4.1 Please see [**Appendix II**] for the MMO's response to the ExA Written Questions.

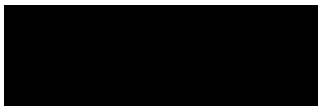
5. Notifications

- 5.1** Given the MMO's responsibilities or monitoring, compliance and enforcement of DML conditions, and the apparent requirement for works to be undertaken within the UK Marine Area, the Organisation would like to notify the ExA of its wish to be considered as an Interested Party for the A63 Castle Street improvement - Hull Order.
- 5.2** As an Interested Party for the A63 Castle Street improvement - Hull Order, the MMO also wishes to notify the ExA of its wish to attend the following scheduled events:
- a) Accompanied Site Inspections
 - b) Issue Specific Hearings
- 5.3** Further to the point raised in **paragraph 5.2** on this response, the MMO will confirm its attendance at any scheduled events closer to the respective dates.
- 5.4** As an Interested Party, the MMO would like to confirm its wish to receive any future correspondence regarding the proposed development electronically. To this end, the MMO would be grateful if you could ensure that those indicated below are added to the distribution list for PINS communications for this case.

The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.

If you would like to discuss any specific matter further or require additional clarity, please do not hesitate to contact me directly.

Yours sincerely,



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Appendix II – Response the Written Questions

Questions directed to the Marine Management Organisation	
Question no.	MMO Response
1.10.5	<p>Under Section 2.2 of the MMO's Relevant Representation, submitted to the ExA on 17 December 2019, the MMO highlighted the need for PINS to have regard to the Marine Policy Statement and the East Marine Plan.</p> <p>The MMO advises that where any licensable works are to be undertaken within the UK Marine Area, the activities must be assessed to ensure that they are compliant with the relevant plans and policies.</p> <p>Whilst the application does makes reference to East Marine Plan, the MMO was unable to find any evidence of the Applicant's consideration of the proposed development against the policy texts.</p>
1.10.6	<p>In the event that a DML is required for this Order (e.g. for the installation of a surface water outfall within the Humber Estuary), the MMO considers that the offshore detonation of UXOs should be captured within the DML. This will negate the need for a separate marine licence being required and associated assessments, and thus, will not hinder the timely completion of the project as the result of having to obtain the necessary consents. The MMO recognises the difficulty in providing an estimate of the possible numbers of UXO and therefore recommends a potential worst case scenario is provided.</p> <p>In the event that a DML is not required for this Order (e.g. no activities to be undertaken within the UK Marine Area), the MMO considers that the offshore detonation of UXOs may be granted via the standard marine licensing process.</p> <p>Regardless of how the offshore detonation of UXOs is granted, the MMO considers that such activities must be fully considered and assessed within the ES.</p>
1.10.7	<p>With respect to Princes Quay Bridge, the MMO confirms that it granted a licence for this aspect of the proposed development on 5 November 2018 (application reference: MLA/2018/00358; licence number: L/2018/00390/1).</p> <p>Based on the details provided by the licence holder, by way of discharging the conditions of the granted marine licence, the MMO understands that the works were due to commence from 15 January 2019.</p> <p>As noted in paragraph 1.1 of our Relevant Representation, during pre-application engagement it was agreed with both the Applicant and the Local Planning Authority (Hull City Council) that the construction of the non-motorised Princes Quay Bridge constituted a discrete project in its own right and could, therefore, be progressed separately from the wider A63 Castle Street Improvement - Hull development. Given this, the MMO considers that the works licensed under MLA/2018/00358 should be removed completely from the draft DCO and its supporting documentation (including the ES).</p> <p>The MMO provided further comments on this topic in paragraph 2.3.2 of our Relevant Representation.</p>

