



# Marine Management Organisation

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The Planning Inspectorate  
National Infrastructure Directorate

**Your reference:** TR010023  
**Our internal reference:**  
DCO/2017/00003  
**Our Planning Inspectorate  
Reference:** LLTC-SP079

**[By Email only]**

13 May 2019

Dear Mr Morgan,

## **1. THE PLANNING ACT 2008 - SECTION 89 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010: LAKE LOTHING THIRD CROSSING, LOWESTOFT ORDER – ISSUE SPECIFIC HEARING 3 NOTIFICATION**

- 1.1** As the Marine Management Organisation (MMO) will not be attending Issue Specific Hearing 3 on 14 May 2019, I am writing to provide an update on the matters remaining to be agreed between the MMO and the Applicant (Suffolk County Council), namely the drafting of the DML for the proposed development. This is especially relevant given the topic area of Issue Specific Hearing 3 (i.e. for matters relating to the Draft Development Consent Order).
- 1.2** The MMO wishes to highlight to the Examining Authority (ExA) that engagement has continued with the Applicant subsequent to the most recent Statement of Common Ground (SoCG) submission (**SCC/LLTC/EX/113**).
- 1.3** Under the most recently agreed SoCG, the MMO confirms that the only remaining outstanding issues with regards to the wording of the Deemed Marine Licence (DML) were as follows:
  - a)** The inclusion of a “Notice of Determination” condition, as referenced under Part 5(23) of the most recent version of the dDML (**SCC/LLTC/EX/108**); and
  - b)** The inclusion of timescales binding on the MMO.
- 1.4** The MMO maintains a position that the inclusion of a “notice of determination” condition within a Deemed Marine Licence (DML) is not appropriate in most instances.
- 1.5** However, in this instance, should the Applicant choose to proceed with the inclusion of such a “Notice of Determination” condition within the draft DML, the MMO confirms that it does not intend to make any further representations on this matter. This decision is on the basis that the Applicant has indicated agreement to the MMO’s suggested revisions to the dDML.



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1.6 Details of the suggested revisions to the dDML and the background to the relevant discussions are provided below.

## 2. Outstanding Issues on DML

2.1 Throughout SoCG discussions the MMO has maintained a position that it does not support the drafting of the DML to include a “Notice of Determination” condition. This argue has been made on the basis that “Notice of Determination” conditions:

- a) Have the potential to fetter the MMO’s ability as a regulatory authority to make determinations, in accordance with provisions of the Marine and Coastal Access Act 2009 and the DML; and
- b) Are not consistent with the drafting of stand-alone marine licences (see **PINS advice note Annex B to PINS Guidance Note 11**).

2.2 After reviewing the revised wording of the dDML, submitted to the ExA under Deadline 9, the MMO acknowledges the steps taken by SCC to revise the wording to address the concerns listed under **paragraph 2.1(a)** of this letter and detailed within previous representations submitted to the ExA.

2.3 Regarding concerns listed under **paragraph 21(b)**, it should be noted that, short of removing the condition, this issue cannot be fully addressed. However, the MMO acknowledges the Applicant’s requirement to have a more prescriptive framework around how determinations will be made.

2.4 The MMO therefore considers that, subject to agreement on timescales discussed below, adequate steps can be taken to address concerns raised under **paragraphs 21(a)** and **21(b)** of this letter.

### 2.5 Timescales:

2.5.1 The MMO acknowledges that the intended purpose of specifying timescales within the DML is to provide some certainty with regards to programme of works. However, the MMO advises this outcome is best achieved through a revision to the included timescales across all conditions to ensure they are consistent, clear and indicative. Specifically:

- a. Part 2(4)
- b. Part 3(6)
- c. Part 4(8)
- d. Part 5(23)

2.5.2 The MMO licensing team operates with an extensive remit and limited resource and is unable to ring-fence staff resource to prioritise projects (aside from cases where a separate commercial agreement is in place, i.e. Thames Tideway). Nonetheless, the MMO wishes to highlight that it does not unnecessarily delay determinations. Taking account of team resource, internal processes associated with determinations and the length of mandatory consultation windows, the MMO advises, that in most cases, the process time to

determination exceeds 8 weeks. In cases associated with dredge/disposal activities the process time to determination is certain to exceed 8 weeks.

- 2.5.3** Whilst the pre-works submissions associated with this application are less complex than that of an offshore windfarm, for example, they are nonetheless part of a major infrastructure project and therefore likely to include a degree of complexity in the determination process above the norm.
- 2.5.4** In the interests of taking a proportionate approach, the MMO advises that a period of **13 weeks** (as listed under **paragraph 1.3(b)**) be adopted across the DML as the most realistic timescale for determination. This timescale is consistent with the MMO Licensing team's Key Performance Indicators for determining standard marine licence applications and would also avoid the default position on all submissions requiring a notice of extension in most cases.

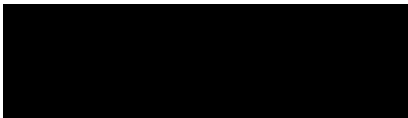
### **3. Concluding Statements**

- 3.1** This MMO wishes to inform the ExA that the comments presented under **Section 2** of this letter were provided to the Applicant via email on 10 May 2019.
- 3.2** Whilst the MMO has yet to receive a formal response to our comments on the outstanding issues concerning the wording of the DML, it is our understanding that the Applicant intends to amend the relevant conditions to refer to a specified timeframes of **13 weeks** (as listed under **paragraph 1.3(b)** of this letter).
- 3.3** Provided the wording of the DML is amended to according to the comments presented under **Section 2** of this letter, the MMO wishes to confirm to the ExA that it does not intend to make any further representations beyond those previously made during the examination process.

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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