

**THE PROPOSED A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER**

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**Responses to comments on Written Representations  
submitted on behalf of  
the Port of London Authority**

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## 1. Introduction

1.1. This is a written submission made on behalf of the Port of London Authority (**PLA**) in respect of comments on written representations submitted at Deadline 2.

1.2. Documents referred to in this submission are:

- 1.2.1. Marine Management Organisation Deadline 2 Submission - Comments on Applicant's submissions at Deadline 1 and Written Representations (REP2-088);
- 1.2.2. Port of Tilbury London Limited Deadline 2 Submission - Comments on Applicant's and Interested Parties Submissions at Deadline 1 (REP2-115);
- 1.2.3. National Highways Comments on Written Representations (WRs) Appendix A - Statutory Environmental Bodies (REP2-046);
- 1.2.4. National Highways Comments on Written Representations (WRs) Appendix E - Ports (REP2-050); and
- 1.2.5. National Highways Comments on LIRs Appendix H – Thurrock Council (REP2-062 – REP2-066)

## 2. Marine Management Organisation (MMO) - Comments on Applicant's submissions at Deadline 1 and Written Representations (MMO's Comments) - (REP2-088)

2.1. Para 1.7 of the MMO's Comments states that:

*The MMO notes the PLA comments at 22.19 to 22.21 regarding the PLA's position on dredging as part of the application. The MMO does not consider the excavation of the trench to allow a pipe to be laid before being reburied as dredging, the MMO will maintain a watching brief on this issue and provide comments were required.*

2.2. The Examining Authority is asked to note that, whilst the activity cited may not be considered dredging for the purposes of a marine licence, it would constitute dredging under the Port of London Act 1968 (the **1968 Act**) and would ordinarily require a dredging licence under section 73 of that Act.

## 3. Port of Tilbury London Limited (PoTLL) - Comments on Applicant's and Interested Parties Submissions at Deadline 1 (PoTLL's Comments) - (REP2-115)

3.1. The PLA notes PoTLL's concern, as set out at para 3.1.10 of PoTLL's Comments, that protective provisions for the benefit of the PLA at Part 8 of Schedule 14 to the dDCO are tied to the maintenance period set out at Art. 36 – being 5 years - and not to the indefinite maintenance period as set out in Art. 4 of the dDCO. The dDCO provides that application of the licensing regime under the 1968 Act will resume after the maintenance period (except for works in the tunnel); however, it is unclear whether any issues arising from, for example, discharges through the permanent outfall could be addressed by the PLA in the context of its protective provisions relating only to the five-year maintenance period.

**4. National Highways Comments on Written Representations (WRs) Appendix A - Statutory Environmental Bodies (Applicant's Comments – SEB) (REP2-046)**

- 4.1. At page 31 of Applicant's Comments – SEB, points from the PLA's WR (REP1-269) are addressed. In respect of port development and tunnelling considerations, the Applicant states: "The concerns by the PLA [about the achievability of agreed dredge levels] are therefore unfounded as the limits of deviation take effect subject to the agreed dredging depths". The PLA takes issue with this assertion, and in light of the numerous submissions it has made previously as to its concerns about the compatibility of the flexibility of the tunnel design and the agreed dredge depths, maintains its concerns in this respect which it does not consider to be unfounded.
- 4.2. Further, the Applicant appears to believe that tunnelling is subject to approval by the PLA as a specified work (as defined at paragraph 98 of Schedule 14 to the dDCO) – stating that "under the PLA's protective provisions, approval will have to be provided in connection with specified works (which includes the tunnelling works)". This is factually incorrect. Paragraph 98(1) states explicitly that the PLA's approval is not required for any tunnelling works forming part of a specified work. Paragraph 99 relates to the design and function of the tunnelling works in which there is no provision for the PLA to approve, rather, if it is not satisfied, that the design requirement can be met the matter may be referred to arbitration. There is a nuance, therefore, in the operation of paragraphs 98 and 99 whereby the PLA cannot approve the tunnel design, having only the ability to object to it.
- 4.3. More generally, in terms of tunnel depth, the PLA has engaged with the Applicant extensively over the years with regard to this matter and has since 2020 set out its requirements in relation to channel depth and width. Previous submissions by the PLA set out how the documents submitted by the Applicant have contained contradictory information which has not allowed the PLA to be able to conclude that its requirements would be met. The PLA's WR (REP1-269) set out how the Flotation Sensitivity Check that was produced by the Applicant needs to be updated and it should be submitted to the examination to allow full scrutiny of the document
- 4.4. The PLA needs to be satisfied that any updated Flotation Sensitivity Check and the details before the PLA and the ExA are consistent in terms of the works for which authorisation is sought under the dDCO and across all the documents in order that the PLA can have certainty that its requirements will be met. The PLA has been clear to the Applicant that it needs to consider all the information together in the round and consequently it has not agreed to the amendments to paragraph 99 of Schedule 14 in the latest version of the dDCO submitted at Deadline 2 (REP2-005).
- 4.5. Page 33 of Applicant's Comments – SEB includes that "the contractors TBM proposal is part of the procurement process and not something that would be included within the DCO" and also that the "application assesses the use of the most likely form of TBM" . The PLA suggests that this is the wrong approach to assessment. There are different risks associated with different types of TBM and a reasonable worst case assessment needs to be undertaken if the Applicant is not willing to rule out certain types of TBM at this stage.

- 4.6. The Applicant's comments regarding scour protection (page 33) do not address the PLA's point – it is not that the PLA wishes to use scour protection, rather the PLA seeks confirmation or evidence from the Applicant that it has considered the potential for scour and if scour was to occur at what level would intervention be required and what would that intervention look like. The Applicant has assumed 0.5m scour protection but has not provided the details that lead to this assumption.
- 4.7. In respect of points made by the Applicant on anchor penetration at pages 33 to 34, the assessment referred to appears to have been based on a non-dredged scenario. The PLA considers that if it utilises its agreed dredge level, it would take the river bed to the top of the first protection zone, which presumably would be an issue for the Applicant, and not one which is addressed here. In addition, the Applicant appears to misunderstand the point on jack up barges (JUB), as it is the Applicant's JUBs which would be used in connection with ground investigation work which are of concern, not necessarily those of any third parties which would be controlled through Article 48.
- 4.8. The PLA notes that if UXO is found during construction, the Applicant must alert the emergency services (see page 34). However, the PLA would like to understand the Applicant's UXO risk mitigation strategy and be reassured that if UXO is found some distance from the tunnel in the river, and which may not necessarily require bomb disposal for the construction of the tunnel, it could be left in situ in the river and not affect the PLA's ability to dredge.
- 4.9. In terms of use of the river for the transport of people, the Applicant's response at page 35 does not address the PLA's point that it is not developing plans for the movement of construction workers in a way that facilitates use of the river. The Gravesend-Tilbury ferry is the most obvious example of this, but it remains no part of the Applicant's scheme to provide transport – e.g. a shuttle bus – from the ferry to the construction sites.
- 4.10. Other interested parties, including Gravesham Borough Council, Kent County Council and Thurrock Council have raised the importance of cross-river transport (see the Applicant's responses to LIRS at REP2-058, REP2-059 and REP2-062-066 respectively), and that simple measures now, such as shuttle buses from Tilbury, could facilitate sustainable transport of people to worksites.
- 4.11. In terms of river use for transport of materials, the Applicant responds to the PLA (page 36 of Applicant's Comments – SEB) by stating:

*Expanding the river use commitment, which may give the impression that it would reduce the number of vehicles that use the road network because the movements will be undertaken via the river. The conclusion then drawn would be that fewer vehicles would mean fewer adverse effects, providing a benefit from an environmental perspective. However, when assessing the Project as a whole, this is not the case due to the proximity of the river to compounds other than the northern tunnel entrance compound increasing the extent of reliance on the road network by those vehicles. In addition, an*

*expanded river commitment may potentially result in larger volume of truck movements in more concentrated areas around the few suitable port facilities.*

- 4.12. The PLA does not agree that increased river-based transport will necessarily cause an increase in HGV movements in more concentrated areas around port facilities and the Applicant's use of "potentially" underlines this.
- 4.13. Existing wharves will be subject to controls through their planning permissions and/or environmental permits. These will limit the number of HGV movements and may also include noise and air quality controls. They are often located in employment areas with good access to the strategic road network.
- 4.14. As an example, wharves within Gravesham are safeguarded and many are located within the Swanscombe Peninsula East Riverside Industrial area within the Northfleet Embankment & Swanscombe Peninsula East opportunity area with the local plan supporting the retention and expansion of industrial and port related employment uses during the plan period. A range of materials are handled at wharves in Gravesham including cement, aggregates, spoil steel and project cargoes such as tunnel segments.
- 4.15. It is unclear why materials cannot be sourced from these wharves and transported by HGV via the strategic road network. Clearly any proposal to source materials from wharves on the south side of the river would need to be acceptable to Gravesham Council - it is considered that the PLA, Gravesham and the Applicant should work together to establish what might be possible (and the Applicant can then make appropriate commitments accordingly).
- 4.16. It is noted that the transportation of cement that forms part of river use commitment is a matter under review by the Applicant.
- 4.17. The issue of transport of materials by water was also raised by Medway Council in the context of utilising wharves at Cliffe. In its response to that (Comments on LIRs Appendix G – REP2-061, page 21), the Applicant appears to consider that new or upgraded facilities are required in order for river transport to occur rather than sourcing material through the supply chain by utilising existing facilities such as those at Cliffe. It is unclear why the Applicant thinks that the journey that an HGV makes from the wharf to a construction compound would be different to that made by an HGV from a land based site. Once the HGV has left the wharf it is unclear what the impediment would be to it supplying materials for the Southern Tunnel Entrance compound. Whilst the use of facilities such as those at Cliffe would not completely eliminate HGV movements it could make a substantial contribution to reducing the number of miles that materials do have to be transported by road.
- 4.18. At page 37 of the Applicant's Comments – SEB, it draws attention to Table 3.1 of the outline Materials Handling Plan (**oMHP**) and states that this lists information which will be required in each MHP; it does not include any reference to maximising river use or sharing investigations on why any material or facility has been discounted. The PLA notes that paragraph 6.2.14 of the oMHP requires the contractor to explain in EMP2 how the Baseline Commitment and Better than Baseline Commitment are "addressed". However, there is no clear requirement for the contractor to meet the Better than

Baseline Commitment and therefore little weight should be given to the Better than Baseline Commitment. In addition, so many exemptions have been written into the oMHP that it is questionable whether even the Baseline Commitment needs to be met, let alone the Better than Baseline Commitment.

4.19. In the context of the points raised by the PLA on environmental matters, the PLA notes the following issues in respect of the Applicant's response(s) in Applicant's Comments – SEB:

4.19.1. The Applicant has discounted the use of the river for the transport of materials, stating that south of the river the use of the river would result in 'unacceptable biodiversity impacts' (REP2-061, page 21), without providing any assessment for this assumption.

4.19.2. The Applicant has stated that the PLA raised potential issues relating to 'increased nitrogen deposition on designated habitats', whereas the PLA actually referred to intertidal habitats, which are different. This is specifically in relation to saltmarsh as nitrogen sensitive habitats.

4.19.3. The Applicant claims that underwater noise has been considered, however, the specific issue raised relates to underwater noise from tunnelling activities on waterfowl who feed underwater. These species are features of the Thames Estuary and Marshes SPA.

4.19.4. The lighting plan and its approval only relates to navigational safety and not environmental effects on the river.

## **5. National Highways Comments on Written Representations (WRs) Appendix E - Ports (Applicant's Comments – Ports) - (REP2-050)**

5.1. The PLA notes that the Applicant's Comments - Ports does not include reference to the PLA, addressing its comments rather as an "Environmental Statutory Body". Notwithstanding which, the PLA draws attention to the Applicant's consideration of policy and the planning balance, at page 10, and its statement that it "agrees the National Policy Statement for Ports is a potentially important and relevant consideration". The PLA considers that the National Policy Statement for Ports is both relevant and important to the decision of whether to grant development consent for the dDCO scheme. The ExA is asked to note that this matter is addressed in much greater detail in a joint note on ports policy (**Ports Joint Note**) which has been prepared by Port of Tilbury London Limited, DP World London Gateway and the PLA, and which will be submitted to the examination at Deadline 3.

## **6. National Highways Comments on LIRs Appendix H – Thurrock Council (Applicant's Comments – Thurrock) - (REP2-062 to REP2-066)**

6.1. As with the Applicant's Comments – Ports, the Applicant responds to comments made by Thurrock Council on the applicability of the National Policy Statement for Ports. In its response headed "Page 49 NPS for Ports" (page 14 of Part 1 – REP2-062), the

Applicant states that it “has not assessed the impacts of the Project against the Ports NPS”.

- 6.2. As previously noted, the PLA considers that the National Policy Statement for Ports is a relevant and important consideration for the decision maker and the matter is addressed further on the Ports Joint Note referred to above.