THE PROPOSED A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER

Written submissions of oral comments made at ISH12 and ISH14 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 oral submissions made at:

1.1.1. Issue Specific Hearing 12 on Social, Economic and Project Delivery Matters, held 23 November 2023 and 28 November 2023 **(ISH12)**; and

1.1.2. Issue Specific Hearing 14 on the draft Development Consent Order, held 28 November 2023 (**ISH14).**

2. Summary of oral submissions made by the PLA at ISH12

Agenda item 4 b) Code of Construction Practice (CoCP) (1st Iteration)

i) The ExA will ask the Applicant about the relationship between the CoCP and dDCO: what is the basis for security for this document?
• Are relevant IPs clear about security?
• Is security viewed as appropriate?

2.1. The PLA has comments in respect of the relationship between the dDCO (REP7-091) and the CoCP (REP7-123). Requirement 4(2) at Schedule 2 to the dDCO secures an Environmental Management Plan (EMP2) that is substantially in accordance with the CoCP. It requires the EMP2 to be submitted to and approved by the Secretary of State (**SoS**) following consultation with the various bodies (including the PLA) identified in table 2.1 of the CoCP. The PLA takes no issue with this securing mechanism.

2.2. Requirement 4(3) of the dDCO sets out that EMP2 must: be written in accordance with ISO14001; reflect the mitigation measures as set out in the REAC; and list the nine measures or plans that the EMP2 must include.

2.3. The PLA notes the difference between:

2.3.1. the documents that are required to be included within EMP2 and which are secured through Requirement 4(3) such as a Materials Handling Plan, Waste Management Plan, etc; and
2.3.2. the plans that will be produced by the contractor <u>following approval</u> of EMP2, such as the Construction Logistics Plans (**CLPs**).

2.4. This distinction is set out at paragraph 2.3.10 of the CoCP EMP1 (REP7-123) which states "*There is a distinction between matters which are to be included as part of EMP2 which is submitted to the SoS for approval and matters which are required under or pursuant to the EMP2 which will be implemented following the approval of EMP2*." These latter plans are not subject to the same consultation requirements nor signed off by the SoS and are submitted to the Applicant for approval.

2.5. A plan that does not form part of EMP2 but will be produced following the approval of EMP2 is the CLPs. The PLA has concerns about the lack of review of these CLPs by interested parties (**IPs**); neither it, nor any other IPs including local authorities, will have an opportunity for comment on the CLPs. The PLA, and other IPs are asked to trust that the Applicant will carry out an effective "auto-review" of these documents. The PLA

accepts that although not necessarily every document will form part of the EMP2 and therefore will not necessarily be seen by the SoS, each of these CLPs should nevertheless be subject to consultation with the PLA and other relevant IPs.

Agenda item 4 b)

iii The ExA will ask IPs about the content of the CoCP

- ***Is content appropriate?***
- ***Are any revisions sought?***
- ***How should the REAC be managed – should it become a freestanding control document?***

2.6. The PLA has met with the Applicant since the October ISHs, and prior to Deadline 7; the PLA and the Applicant understand each other's positions in respect of use of the river/control documents and the point is addressed by the Examining Authority (ExA) in its third Written Questions (**ExQ3**) at Q4.2.2, to which the PLA has responded to at Deadline 8.

2.7. In terms of the PLA's specific comments on the D7 CoCP, the PLA had suggested that the plans required as part of EMP2 should include a lighting plan. The Applicant did not agree to this. The PLA then suggested amended wording to section 6.8 of the CoCP, which deals with site lighting in general, to require the production of a River Safety Lighting Management Plan (**RSLMP**). As at the time of ISH12, under the CoCP a plan needs only to be prepared "insofar as that lighting is reasonably expected to adversely affect any vessels using the River Thames" (paragraph 6.8.5); it is then left to the contractor to decide whether a lighting management plan is required and whether they might adversely affect vessels. In the PLA's view, this is the incorrect way to approach the matter, as the contractor is not the correct body to make such a decision. There is a requirement in section 6.8.7 to engage with the PLA and Thurrock Council on the RLSMP, but that only applies in the event that the Applicant decides to actually produce such a plan.

2.8. The PLA requests the removal from section 6.8.5 of the CoCP of the qualification that a RSLMP only has to be produced "insofar as that lighting is reasonably expected to adversely affect any vessels using the River Thames", so that a RLSMP is required to be produced and Thurrock Council and the PLA are engaged with.

2.9. The PLA has repeatedly raised the need for the PLA to be involved with the production of environmental incident control procedures in the event of any incident which impacts, or has the potential to impact, the river. Environment incident control is dealt with at paragraph 6.10.3 of the CoCP. That paragraph requires that emergency procedures will be produced "with engagement with the emergency services, the Environment Agency and highway authorities". It makes no reference to the PLA. By way of example, if there was an oil pollution incident from the northern portal worksite it is the PLA-managed and -operated Thames Oil Spill Clearance Association (**TOSCA**) that the Applicant would need to rely on to collect and/or contain any oil in the river, but which is currently not provided for in the drafting. It would therefore make sense for the PLA to be included within the list referred to at paragraph 6.10.3.

2.10. Given the importance of the Register of Environmental Actions and Commitments (**REAC**), the PLA's view is that it would be helpful to have the REAC required to be a separate document to be certified under Schedule 16. As currently drafted, it sits within EMP1 itself within the CoCP and the reader has to know where to find it (Environmental Statement Appendices Appendix 2.2 – Code of Construction Practice, First Iteration of

Environmental Management Plan v6.0 (REP7-123)) and arguably only those heavily involved with the examination process would know where to look.

2.11. A search of the Planning Inspectorate's document library would not, for example, signpost a member of the public to the REAC. A standalone reference in Schedule 16 would assist because it would allow easier identification of the document which is arguably necessary to understand how the dDCO project is authorised. In the PLA's view, the REAC is a key document and it should be certified in its own right by the Secretary of State and the PLA is pleased to note that the Applicant agreed at ISH 12 to have a think about this.

Agenda item 4 h) Outline Materials Handling Plan (oMHP)

2.12. The PLA has previously made submissions on the oMHP (see REP6-160); comments made concern interests which go wider than those of the PLA. Since those submissions, the PLA and the Applicant have met twice and an updated oMHP was submitted at Deadline 7 which includes a number of points of clarification requested by the PLA such as: the inclusion of precast elements in the definition of bulk aggregates; a review mechanism after the approval and implementation of a derogation; and additional text to make it clear that wharves present opportunities for use of the river at all compounds, in addition to the north portal construction area when considering the better than baseline commitment (para 8.2.20 and 8.2.21).

2.13. The PLA welcomes the general positive direction of the additional text at paragraph 8.3.3 of the oMHP which recognises the benefits of river use and commits to seek to maximise the use of rail and/or river facilities as part of the multimodal transport of bulk aggregates to the whole scheme. Whilst this means that the commitment extends beyond merely the north portal, which is positive, there are certain elements of the commitment that, in the PLA's view, could benefit from clarification and being qualified in a more reasonable way.

2.14. First, it is not entirely clear whether the last sentence of paragraph 8.3.3 is a qualification of that commitment or is a separate commitment. The PLA suggests that the drafting should be updated to clarify the position.

2.15. Secondly - and the PLA's key issue in this respect - the commitment to maximise the use of river facilities is significantly watered down by the last sentence of paragraph 8.3.3. This states that the commitment only applies where the use of a rail and/or river facility is: "an environmentally better option", meaning that it needs to be not merely equivalent, but better; "which allows the delivery of a competitive, value for money project"; and "does not cause disproportionate delay to the programme".

2.16. Taking the three qualifications to paragraph 8.3.3 together means that this commitment is weak and is unlikely to result in any additional use of river facilities. Use of river facilities would happen if that option was environmentally better, better value for money, more competitive, *and* had limited impact on the programme, but that combination is unlikely to ever be the case.

2.17. To contextualise the caveats to the commitment at paragraph 8.3.3, the ExA is asked to note that river transport is usually more expensive than road, which is potentially why the Applicant is reluctant to commit more fully to it. The requirement for river use not to cause "disproportionate delay" to the programme is subjective and it may easily be seen how any delay could be considered "disproportionate". Further, the PLA would question what

a "competitive" project means. Paragraph 8.3.3 should remove the qualifications that the use of river facilities must be "an environmentally better option" and be "competitive, value for money" and replace it with a requirement that the use of the river "allows the delivery of environmental or other benefits". The PLA submits that the conditions attached to paragraph 8.3.3 should be modified so that this new commitment to use the river constitutes a meaningful one.

2.18. The PLA and the Applicant are continuing to discuss this matter and it is hoped that further progress can be made before the close of the examination. If it is not possible to reach agreement then the PLA will ensure, in line with the ExQ3 that the position reached is reported in the final PADS statement for the PLA to be submitted to the Examination at Deadline 9.

3. Further written submissions in relation to ISH12

3.1. The PLA had a number of matters to raise in relation to agenda items at ISH12, but which it did not make specifically in oral submissions as the ExA, at the closing of part 1 of ISH12 on Thursday 23 November, instructed IPs to make submissions only on matters that affected other parties, and to keep those matters which concerned only the Applicant and themselves to written submissions. Consequently, matters which the PLA had intended to address but which were not raised in the PLA's oral submissions are dealt with below.

ISH12 – Agenda item 4 a) The approach to project control

i The ExA will ask the Applicant to provide an overview of the operation of the proposed Control Documents with reference to the Lower Thames Crossing Mitigation Route Map [REP4-203] (MRM).

3.2. The Mitigation Route Map (**MRM**) (REP4-203) was submitted at Deadline 4; the PLA set out at paragraph 2.3 of its Deadline 5 submission (REP5-111) how there is an incorrect reference in relation to marine biodiversity which refers to a minimum tunnel cover of 0.9 tunnel diameter (i.e. 14.4m). This level of tunnel cover, which was referenced in Chapter 9 of the ES, was inconsistent with measurements in other documents and raised problems with the design. The PLA had previously raised the issue with the Applicant and in the PLA's Deadline 2 submission (REP2-091) and the Applicant amended the minimum tunnel cover in Chapter 9 the ES to state that the main tunnel will be constructed with "adequate" cover, rather than giving a specific. However, MRM still refers to 0.9 tunnel diameter, and should be updated to be consistent with the ES.

ISH12 – Agenda item 4 c) Outline Traffic Management Plan for Construction (oTMPfC)

3.3. In relation to the Outline Traffic Management Plan for Construction, the PLA has been added as a permanent attendee of the sub-group that monitors and manages the derogation process related to the use of port facilities and this is welcomed.

3.4. However, the PLA's outstanding issue remains the scope of the commitment relating to monitoring. Text was added by the Applicant at Deadline 5 to the oTMPfC at paragraph 2.4.21(f) relating to monitoring; however, this deals only with the monitoring of aggregates being transported to the northern portal. The PLA raised the point at ISH8 that materials handling and monitoring should deal with other materials and not just the northern portal (see REP6-160). This point has not been addressed in the most recent (Deadline 7) version of the oTMPfC. In the PLA's view, the document should be amended so that the commitment is widened to ensure the monitoring of all materials identified for transport on

water, not just those being used to transport aggregates for construction of the dDCO scheme.

ISH12 – Agenda item 4 d) Framework Construction Travel Plan (fCTP)

3.5. The PLA set out at paragraph 8.2 of its Deadline 5 response (REP5-111) why the PLA should have a role in the formulation of site specific travel plans (**SSTP**s) which might interface with the river, in terms of what river use may be possible. The PLA indicated that it would be willing to accept a limited consultation provision in respect of matters relevant to its functions under the Port of London Act 1968 (**PLA 1968**).

3.6. From a review of the Applicant's Deadline 7 submissions, the Applicant does not appear to have altered its position. The Applicant's argument remains that the PLA does not need to be a consultee in relation to SSTPs as it does not have a statutory remit on the use of the highway. Such an approach ignores the PLA's statutory role in relation to the river and the PLA's expertise in terms of the transport upon it. The PLA's view remains that it ought to be consulted on any SSTPs which might have an interface with the river.

ISH12 – Agenda item 4 e) Stakeholder Actions and Commitments Register (SACR)

3.7. At Deadline 6 a new commitment (SACR-017) was added to the Stakeholder Actions and Commitments Register v4.0 (REP6-051) by the Applicant. This commitment relates to the Tunnel Design and Safety Consultation Group (**TDSCG**). The PLA has set out at section 3 of its Deadline 7 submission (REP7-225) why it considers that is should be a named beneficiary of this group.

3.8. In summary, the PLA has a clear interest and expertise in tunnelling design and safety and has had a similarly consultative role on other recent tunnelling projects, including Silvertown. While there are some pertinent issues that are (rightly) being deferred to the detailed design period, it is important to ensure that, during detailed design, the views of relevant parties are sought and considered. In the PLA's view, it ought to be a member of the TDSCG; given how important some of the issues to be considered by that group are to the river and river users, it is appropriate that the PLA form part of the group, and the PLA awaits a response from the Applicant on this matter.

4. **Summary of oral submissions made by the PLA at ISH14**

Agenda item 3 a) Discussion of and guidance on dDCO Commentary matters

- ***The ExA will provide an opportunity for IPs to seek guidance on dDCO Commentary Matters***
- ***Matters flagged by IPs as being unclear or in dispute may be discussed***

4.1. In respect of Article 18 (Powers in relation to relevant navigations or watercourses), the PLA has taken the position that it is content with the drafting of Article 18 in light of the latest amendments to the dDCO and on the basis that the Applicant's intention is that this provision is limited to dealing with interference with private rights of navigation.

4.2. The ExA has also raised the issue of houseboats, their possible relocation and whether this could give rise to any interference with ECHR Article 8 rights. The PLA is able to provide reassurance on this point: there are no houseboats on this stretch of the river. The tidal range, which is around 7 metres at this point, and the location mean that

conditions are not favourable for houseboats. Consequently, there are not any residential moorings which would be relocated as a result of the authorised development.

4.3. Please see also the PLA's response to the ExA's dDCO Commentary at QD24 in respect of Article 18.

4.4. In terms of the drafting, and interaction of, Article 53 (Disapplication of legislative provisions, etc.) and Schedule 14 protective provisions, the PLA makes two points.

4.5. The first relates to cabling. The PLA has previously raised its concern that the dDCO authorises the use of the tunnel for third party utility works, such as telecoms cabling which were not required for the authorised development. The PLA is grateful for the amendments made by the Applicant in the Deadline 7 dDCO (REP7-091) which clarifies that utility works in the tunnel which are not required directly or solely in connection with the new highway will require a river works licence under PLA 1968 in the usual way.

4.6. The second, more substantive, point relates to dredging. The PLA has made comments previously about dredging (see paragraph 2.2 of its Deadline 5 Submission – REP5-111). which remain outstanding: it is not clear from the Application documents whether dredging forms part of the authorised development or not.

4.7. From the PLA's perspective, and in the context of how dredging is defined in PLA 1968, under which a licence to dredge the river is granted in its review of the Application documentation, it appears that the Applicant will be carrying out dredging. However, the Applicant has repeatedly stated to the PLA that it will not.

4.8. If the Applicant does carry out dredging, it may be a problem for the PLA because section 73 of PLA 1968 which controls dredging in the river Thames, is disapplied by Article 53 of the dDCO. The effect is that if there is dredging, the PLA will have no control over it because it is not covered under the PLA's protective provisions. The Applicant has justified this disapplication on the basis that it will not be dredging.

4.9. If dredging does form part of the authorised development – and the PLA and other IPs have made numerous submissions as to the very wide scope of the definition of "authorised development" in the dDCO – and, consequently, dredging is a specified work for the purposes of Part 8 of Schedule 14 to the dDCO (**PLA's protective provisions**), then the protection of those provisions will take effect.

4.10. However, if dredging does not form part of the authorised development, and is therefore not a specified work as defined in the PLA's protective provisions, then the disapplication of section 73 of PLA 1968 will not take effect and a licence to dredge must be obtained in the usual way.

4.11. The PLA accepts, in light of the foregoing, that it has some measure of protection either way, that is, whether dredging forms part of the authorised development or not. However, the PLA does need to know which regime will apply and requires certainty as to the matter.

4.12. In order to address this ambiguity, the PLA suggests that the Applicant amends the relevant documents, being, for example, Chapter 9 of the Environmental Statement (**ES**) (APP-147) and the Mitigation Route Map (**MRM**) (REP4-203). Chapter 9 of the ES states at paragraph 9.6.30 that there are no dredging operations, but that same paragraph also states that a trench will be required within the intertidal zone (i.e. within the river) which

will require material to be excavated and backfilled. That activity is unequivocally dredging: as defined in PLA 1968 dredging includes "any operation…to take up or remove material from the bed and banks of the Thames" (s73). The MRM indicates that dredging is envisaged by the Applicant. "Other consents" on numbered page 11 states that "Such works could include…dredging".

4.13. This inconsistency and issue should be resolved either by the Applicant making it clear in the MRM that no dredging will be carried out, which would also require an amendment to Chapter 9 of the ES and need to be reflected in the dDCO, or by an amendment on the face of the dDCO which makes it clear that dredging falls within the definition of a specified work. The PLA understands that the Applicant is willing to consider the latter approach and it looks forward to seeing the Applicant's proposed revised drafting.

Agenda item 4 a) i) Definition of 'Commence' and 'Begin'

4.14. Article 2 of the dDCO includes a definition of "begin", but not of "commence". The PLA is told by the Applicant that this is precedented but the PLA remains unclear as to what that precedent is. While the Applicant named a precedent at ISH14, this approach to the drafting remains highly unusual within the context of made DCOs, and it does appear to the PLA to be an unnecessarily complicated one.

4.15. The PLA's particular concern is that as currently drafted the dDCO only requires that development begin not less than five years after the DCO comes into force. The PLA has suggested an amendment to Requirement 2 in Schedule 2 to the dDCO, namely that there should also be a requirement that the dDCO scheme be commenced within that same five-year period.

4.16. Without such an amendment, if the Applicant begins preliminary works, even minor ones such as GI or digging a trench, the DCO will have effect indefinitely. The Applicant would then be able to commence the development at any future time. This leaves the PLA, and other IPs, uncertain as to when the authorised development will be carried out.

4.17. The dDCO therefore seems to be giving the Applicant unusually wide leeway as to when it might actually commence the proposed development, which may result in blighting land unnecessarily. The PLA has previously raised its concerns in this matter in submissions at Deadlines 1 (REP1-269), 2 (REP2-091), 4 (REP4-345) and 7 (REP7-225), as it has been raised by other IPs.

4.18. The PLA would welcome the more conventional drafting approach that is set out in the ExA's dDCO Commentary, and would be grateful if the Applicant could consider more carefully whether the flexibility afforded by its current drafting is strictly necessary, as it comes at a cost to interested parties.

Agenda item 4 c) Dispute resolution for DCO processes

ii
- ***Arbitration***
- ***The role of the SoS***
- ***The role of other statutory authorities***

4.19. The PLA has certain issues in respect of dispute resolution, as provided for in paragraph 99 of the PLA's protective provisions as currently drafted. Paragraph 99 deals with consulting the PLA in relation to design of the tunnelling works. Sub-paragraph 99(4)

allows the PLA, in the event of a dispute, to refer certain matters to arbitration if agreement cannot be reached between the parties; sub-paragraph 99(5) then provides that if a matter is referred to arbitration, tunnelling work should not begin until the dispute is settled.

4.20. The issue that the PLA has identified is that this process is significantly weakened by sub-paragraph 99(6), which provides that if a matter proceeds to arbitration, the Applicant can unilaterally decide at any point to override the arbitration to refer the matter to the SoS. An arbitrator is then compelled to make a decision that is consistent with that of the SoS.

4.21. In considering the practical implications of this, the following may apply. In the event that there is a dispute between the Applicant and the PLA as to tunnelling design, the matter is referred to an arbitrator with the relevant expertise to consider the dispute. If, hypothetically, the Applicant were to consider that the arbitration was not proceeding favourably for it, it could in theory refer the matter to the SoS in the hope of getting a more favourable decision. In doing so, it could be perceived as this process being used in order that the Applicant gets a second bite at the cherry. This was a point raised by the PLA at ISH14 and, although the Applicant responded on other matters, this was not a point which they contested.

4.22. The PLA asks the ExA to note that it distinguishes this provision from other dispute provisions elsewhere in the dDCO. Disputes may be referred to the SoS under other parts of the dDCO, but these are either where the parties fail to agree on arbitration as a route to resolution, or on appeal. The process proposed for the PLA under sub-paragraph 99(6), where the Applicant can unilaterally intervene to override an arbitration process under this dDCO, is unique and provides the Applicant with an unwarranted degree of control over the dispute resolution process.

4.23. In the PLA's view, there is no need for such a provision. As noted, there are examples across the dDCO where matters are referred to arbitrators; in none of those is it deemed necessary for a central Government department to be retained as a back-up option for the Applicant. The Applicant's argument appears to be that referring a matter to the SoS rather than an arbitrator would make for a faster process. The PLA does not believe that there is any evidence for this, unless there has been commitment made by the SoS on this subject of which the PLA is unaware. The Applicant is not in a position to say that referral to the SoS would be quicker, because it cannot know that: the length of time taken for the SoS to take decisions rightly varies, because the Department for Transport has plenty of calls on its time which it must balance at any particular moment.

4.24. It is worth clarifying – given that the Applicant raised this point – that the PLA does not in any way doubt the SoS's competency in dealing with such a matter, rather the PLA is pointing out that the arbitrator already has competency which makes the PLA question the Applicant's ostensible reason for granting itself the ability to unilaterally override the arbitration process.

4.25. Why, therefore is this unprecedented power in sub-paragraph 99(6)? Neither in this nor any other DCO has it been deemed necessary for the Applicant to take such a power. The key question, as highlighted out by the ExA, is what is the mischief that needs to be managed here?

4.26. The Applicant stated in its previous submissions and at ISH14 that the mischief is uncertainty over timing of the arbitration process. This is a common problem for

Applicants and as such – as the ExA also pointed out – it has a common solution. This is the inclusion in the dDCO of the now highly standardised Arbitration Rules which are commonly included in DCOs. The PLA has made a separate submission in relation to the Arbitration Rules at Deadline 8, where it sets out its proposed drafting to solve this problem in the way that is now commonly accepted for DCOs, rather than the novel and unjust approach proposed by the Applicant.

4.27. The PLA has a further outstanding point in relation to the PLA's protective provisions. Paragraph 104 deals with remedial works where there is a material change to the riverbed, and the PLA has raised with the Applicant the need for reference to "material" to address the fact that what is material in the context of the river may be different from what is material in the context of the project as a whole. Consequently, from the PLA's point of view, paragraph 104 should deal with materiality only so far as the river is concerned.

5. Further written submissions in relation to ISH14

5.1. The PLA has identified further matters, specifically in relation to outstanding points on the drafting of the dDCO. These matters were not raised in the PLA's oral submissions at ISH14 and the PLA wishes to make them now as written submissions.

Agenda item 3 a) Discussion of and guidance on dDCO Commentary matters

5.2. Article 2 (Interpretation) – definition of "authorised development". The PLA has made submissions previously (REP1-269, section 7) on the fact that it considers the scope of what may be considered authorised development under the dDCO to be too wide. Article 2 defines it as: "the development described in Part 1 of Schedule 1 (authorised development) and any other development authorised by this Order, or any part of it, which is development within the meaning of section 32 (meaning of development) of the 2008 Act". The PLA considers that this definition to be too broad and imprecise, and causes uncertainty as to the extent of development authorised by the dDCO and, as a consequence, what development may engage the river. The PLA would like the definition of "authorised development" to be restricted to what is described in Schedule 1 to the dDCO.

5.3. Article 8 (Consent to transfer benefit of the order). The PLA maintains its position that the scope of parties to whom the benefit of the dDCO, and the powers it confers, may be transferred without the consent of the Secretary of State is far too wide. The PLA has previously made this submission in documents (REP1-269, REP3-218 and REP7-225), and has made the point repeatedly to the Applicant.

5.4. Article 25 (Compulsory acquisition of land). The PLA maintains its position that, on principle, its land and interests ought not to be subject to powers of compulsory acquisition in the dDCO. Acquisition of land required should be achieved by means of a negotiated property agreement. The Applicant maintains powers of compulsory acquisition in the current draft of the dDCO. The PLA has responded to the Applicant's draft heads of terms and awaits the Applicant's comments on the PLA's proposed amendments.

5.5. Schedule 10 (Land in which only subsoil, &c may be acquired). At Schedule 10 to the dDCO, the PLA notes the removal of Plot no 16-41 and the inclusion of Plot no 16-70, which has the effect of that (renumbered) plot now being subject to powers of temporary possession. This is acceptable to the PLA, subject to the matter of Mean High Water (**MHW**) level, previously referred to in the PLA's Deadline 4 submission (REP4-343) being

resolved. As noted, the PLA needs to ensure that the MHW level shown on the relevant Application plans is correct, and the PLA awaits the Applicant's response to this matter.