

THE PROPOSED A122 (LOWER THAMES CROSSING) DEVELOPMENT CONSENT ORDER

**Note on commitments for multi-modal transport for the transportation of materials
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 the use of the river Thames (**river**) as proposed by the Lower Thames Crossing scheme (**scheme**).
- 1.2. This submission relates in particular to the Environmental Statement Appendix 2.2 – Code of Construction Practice, First iteration of Environmental Management Plan – Annex B: Outline Materials Handling Plan v4.0 (**oMHP**) (REP7-127), but is drafted in the context also of the outline Traffic Management Plan for Construction v 8.0 (**oTMPfC**) (REP8-087).

2. Background

- 2.1. The PLA held a virtual meeting with the Applicant and Thurrock Council on 6 December 2023 to discuss use of the river during construction of the scheme. The PLA understood that the primary purpose of the meeting was to explore whether agreement could be reached between the parties on the wording of the oMHP or, if it was not possible to reach agreement, whether areas of disagreement could be narrowed. This is in accordance with Action Point 3 from ISH12, which required:

These parties [Applicant, Port of London Authority, and Thurrock Council] to continue to discuss refinements to the wording of the oMHP in respect of the commitments for multi-modal transport for the transportation of materials. In particular, the applicant is to consider adding wording to refer to 'environmentally equivalent' in addition to, or instead of, 'environmentally better' when non-road transportation is being considered.

- 2.2. Whilst the Applicant helpfully indicated at the meeting that it would be making a change to the oMHP to address the point raised by the PLA at ISH12 and captured in Action Point 3 of ISH12, in relation to wording which states, as currently drafted, that river use needs to be an environmentally better option, the Applicant was unable at the meeting to provide the precise details of the amendment that it would be making at Deadline 9. Consequently, the PLA is unable to confirm its acceptance or otherwise of the Applicant's proposed amendment.
- 2.3. Disappointingly, the Applicant was unwilling to discuss or consider any other drafting amendments to paragraph 8.3.3 or 8.3.4 of the oMHP which had been the main focus of the PLA's oral submissions at ISH12, including issues relating to a competitive, value for money project and disproportionate delay to programme associated with river use. The Applicant instead indicated that it was content with the wording as drafted and would let the document remain as submitted to the examination at Deadline 7. Given the Applicant's position, the PLA has no choice but to confirm to the Examining Authority (ExA) that it has not been possible for agreement to be reached on the wording of the oMHP. The PLA explained its position in detail in paragraphs 2.12 to 2.18 of its 'Written submissions of oral comments made at ISH12 and ISH14 (PLA 17)' (REP8-162), and put forward its preferred wording for paragraph 8.3.3 of the oMHP at paragraph 2.17 of that document.

3. Use of the River during Construction of the Order Scheme

3.1. Multiple examples can be found throughout the Port of London of projects, at a range of scales, that have been required to investigate and subsequently have used the river for the transport of materials, plant/equipment and waste. This approach is endorsed in a local plan context, as it follows policy SI 15 I of the 2021 London Plan,¹ which states:

Development proposals close to navigable waterways should maximise water transport for bulk materials during demolition and construction phases.

3.2. Well known examples of this approach include the removal of waste from the basement dig undertaken at Battersea Power Station and the delivery of materials by river to Fulham Football Club for the construction of the new riverside stand.

3.3. In the context of most developments on the river, because they are subject to planning applications under the Town and Country Planning Act 1990, river use is secured primarily through a condition on a planning permission which requires the production of a report setting out what the applicant in each case has investigated in terms of river use (direct to site and through the supply chain) and what the applicant commits to in terms of river use. The PLA is then consulted on the submitted details and only when the Local Planning Authority (drawing on the PLA's expertise) is content that the requirements of the condition have been met, will the condition be discharged.

3.4. Commitments to river use have also been replicated on a larger scale for projects authorised at a more outline stage. The requirement for applicants to maximise use of the river is well-established given the sustainability and safety benefits associated with river use. What the PLA is trying to secure through the draft Development Consent Order (**dDCO**) is not anything novel or unique: it has been successfully undertaken at multiple locations on the river in relation to tunnelling works authorised by DCOs and other legislation, as follows:

- the Northern Line Extension project (consented under a Transport and Works Act Order) removed more than 100,000 lorry journeys from the road through the movement of 900,000 tonnes of tunnelling spoil by river, saving more than three million road miles during the construction of the project;
- to date, Thames Tideway Tunnel (consented under a DCO) has moved over 6 million tonnes of project related cargo (construction spoil from the tunnels, aggregates and fill materials, rebar, tunnel boring machines, etc) on the river, with the maximum moved in 2019 being 2 million tonnes, when the tunnel boring machines in the central and western drives were at full speed. The PLA understands this saved the equivalent of 340,000 HGV journeys and 17.1 million HGV miles;
- the Silvertown Tunnel project (consented under a DCO) has removed over 780,000 tonnes of spoil associated with the excavation of the tunnels by barge; and

¹ <https://www.london.gov.uk/programmes-strategies/planning/london-plan/new-london-plan/london-plan-2021>

- Crossrail (consented by way of a hybrid Bill) moved over 5 million tonnes of excavated material from the centre of London by barges and ships saving approximately 500,000 lorry journeys. It also transported the projects 110,000 concrete segments by water with each 1,200t barge used in their transport removing 40 lorry loads from the road network.

3.5. Given the location of the dDCO scheme, the river provides a significant opportunity for sustainable transport, either directly to site through the use of the construction materials aggregates terminal (CMAT) at Tilbury2, or by maximising use of the river through the supply chain by sourcing materials from wharves that meet the Applicant's final mile strategy.

4. The PLA's specific asks

4.1. The PLA considers that the current drafting of the oMHP ensures that sufficient barriers in place to ensure that river use will not be maximised. These barriers need to be removed and there needs to be a balancing of benefits (such as environmental and safety benefits) against any impacts when a decision is being made as to whether a certain material should be transported by water or not.

These barriers are most acutely evidenced by the Applicant's drafting at paragraph 8.3.3 of the oMHP, wherein the Applicant was originally seeking that river use be an environmentally better option than road use and not simply an environmentally equivalent option. The PLA made submissions at ISH12 explaining how river use cannot compete on a price-per-tonne basis with use of HGVs and, therefore, the reference to value for money, without any explanation of what that means, could easily be used by a contractor to ensure that they do not have to transport a material by water because river use will not be the cheapest and consequently not the best value for money. Given contractors' usual focus on cost-savings it is entirely reasonable to expect that if they can use the cheaper option, they will, so river facilities will not be used.

4.2. Rather than providing a commitment to river use, paragraph 8.3.3 of the oMHP effectively rules it out by placing such high barriers to its use. The "commitments" to river use are rendered meaningless and environmental and safety benefits are outweighed by cost considerations when taking decisions as to transport modes.

4.3. In order to ensure that use of the river is maximised during the construction of the dDCO scheme, the PLA considers the suggested amendments set out below are required to be made to the oMHP. The following highlights the substantive changes that are required. Any amendments to the oMHP will require a wider review of the document to check consistency within the document, as well as a review across document given the links between the oMHP and the outline traffic management plan for construction (oTMPFc) etc.

Extract from oMHP	PLA comment
<p>3.2.2 and Table 3.1 sets out the detail required in the construction phase MHP including the forecasted quantity (by weight) of bulk aggregate, as defined under paragraph 6.2.13, related to the part of the works for which the MHP is prepared, and the percentage proportion being imported via port facilities. The cumulative percentage already delivered via port facilities must also be provided.</p>	<p>It is important for this requirement to apply to all materials plant/equipment and waste to be transported by water and not just bulk aggregates (as has been the approach followed by Thames Tideway Tunnel).</p> <p>If, for example, it was proposed to import steel to the north portal, the MHP should include the forecasted quantity, the percentage proportion being imported by port facilities and the cumulative percentage.</p> <p>This is essential for IPs to be able to monitor compliance with all the MHP's river use forecasts and not just aggregate forecasts.</p>
<p>3.5.11 The Contractor would monitor the supply of materials, including the weight of bulk aggregates being delivered from port facilities, to determine the percentage of bulk aggregates imported via the river. This data would be included in the Monitoring Report to be provided at the Traffic Management Forum.</p>	<p>As above: the Contractor needs to monitor the supply of all materials, plant/equipment and waste, including the weight being delivered from port facilities, to determine the percentage of the different materials, plant/equipment and waste being transported by water.</p> <p>If the Contractor only monitors aggregates how will IPs know that the river use forecasts are being met?</p>
<p>4.3.5 The busy navigational channel of the River Thames precludes the potential creation of a new jetty (deep or shallow) on the north side of the river within the Order Limits.</p>	<p>The PLA has set out at section 11 of its Deadline 5 submission – Comments on Applicants submissions at D4 and response to ExA Action Points [REP5-111] how the Applicant had had no discussions with the PLA on this point and that clearly it has been possible to install jetties in close proximity to</p>

Extract from oMHP	PLA comment
	and upstream of the Order Limits. This paragraph should be removed because it is inaccurate and misleading.
Paragraph 6.2.9 Subject to exceptions the Project shall utilise port facilities for at least 80% by weight of bulk aggregates imported to the north portal construction area (“the baseline commitment”)	Currently paragraph 8.3.3 commits to maximise the use of rail and/or river facilities as part of the multimodal transport of bulk aggregates to the whole scheme. Clearly this is different to the baseline commitment set out in paragraph 6.2.9, and the better than baseline commitment in paragraph 6.2.11, and with different barriers applying to different commitments it is very unclear what is actually being committed to.
Paragraph 6.2.11 In addition and subject to the exceptions set out below, the Contractor would engage with aggregate and material suppliers collaboratively maximise utilisation of river transport for the import of bulk aggregates for the north portal construction area beyond the Baseline Commitment so far as this is reasonably practicable (the Better than Baseline Commitment)	As above and in addition, as drafted the better than baseline commitment only relates to aggregates and only to the northern portal but the commitment at 8.3.3 is to maximise aggregates to the whole scheme. If the better than baseline commitment remains it should be a broader commitment encapsulating all bulk materials to be used in the project (e.g. aggregate, bitumen (for asphalt), cement and steel) as well as plant and equipment such as the tunnel boring machine.
6.2.12 sets out the consideration to be given to realising the commitments	Notwithstanding the PLA’s concerns with the wording of paragraph 8.3.3, the considerations listed in 6.2.12 are different to those listed in 8.3.3.

Extract from oMHP	PLA comment
	<p>In addition the Applicant appears to have written itself a shopping list of reasons why river use should not occur, rather than requiring a balancing of potential impacts and benefits; for example, it might cost pence extra per tonne to use the river, but would result in environmental benefits (e.g reduced carbon) or safety benefits from removing HGV's from the roads, and certainty for "just in time" delivery, as river use is not subject to the same uncertainties as the road network in terms of congestion and potential delay.</p>
<p>6.2.13 - the definition of bulk aggregates</p> <p>(ii) excludes cement for the construction of permanent and temporary infrastructure including for the manufacturing of concrete</p>	<p>Whilst the PLA understands that certain specifications may be required of cement, the Applicant's approach is to rule out cement being transported by water rather than keeping river use for cement as an option if it meets the required specification. The PLA had suggested that the reference to cement could be qualified to make it clear that it needed to meet the required specification, but the Applicant has chosen to exclude cement from river use instead.</p>
<p>6.2.14 The Contractor for the temporary and permanent infrastructure at the north portal construction area must explain in the EMP2 submitted for approval by the Secretary of State for that part of the Project how the Baseline Commitment and the Better than Baseline Commitment are addressed</p>	<p>This limits explanation of the river use strategy to the north portal and aggregates. The paragraph needs to be reworded to ensure that it is consistent with whatever ultimately the river use commitments are.</p> <p>As an example, if steel is maximised through the supply chain and it is proposed to bring in steel to the south portal via wharves in</p>

Extract from oMHP	PLA comment
	<p>Northfleet then EMP2 must explain this. Conversely if it is not proposed for a material to be brought in by water this should be explained in EMP2 to allow IPs the opportunity to comment and for their representations to be seen by the Secretary of State prior to approval of EMP2.</p>
<p>8.3.3 [As such] the Project commits to seek to maximise use of rail and/or river facilities as part of the multimodal transport of bulk aggregates to the whole scheme.</p>	<p>The Applicant considers this is a commitment to multimodal transport of <u>all</u> materials, but the wording is clear that it relates only to <u>bulk aggregates</u>. In the PLA’s view it should also apply to all materials, including waste (spoil) if any needs to be transported off site, and plant and equipment such as the tunnel boring machine. The wording needs to be amended to remove the reference to bulk aggregates and to include a reference to materials, plant/equipment and waste.</p>
<p>Where the use of a rail and/or river facility is proven to be an environmentally better option which allows the delivery of a competitive, value for money Project and that does not cause disproportionate delay to the programme, then the Project commits to the use of that facility to transport the material.</p>	<p>The PLA set out at ISH12 and in its written submission of PLA oral comments at DL8 how this wording needs to be amended and has suggested that paragraph 8.3.3 should remove the qualifications that the use of river facilities must be “<i>an environmentally better option</i>” and be “<i>competitive, value for money</i>” and replace it with a requirement that the use of the river “<i>allows the delivery of environmental or other benefits</i>”</p> <p>The PLA submits that the conditions attached to paragraph 8.3.3 should be modified so that this new commitment to use the river</p>

Extract from oMHP	PLA comment
	constitutes a meaningful one. As drafted, there is a shopping list of reasons to avoid using the river, particularly as river use cannot compete with road use on a pence-per-mile basis. There needs to be a balancing of the environmental and safety benefits of river use to allow river use to be retained as a viable option rather than being automatically ruled out.