



Marine Management Organisation

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TR010043
Our reference:
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Our internal reference:
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By Email only

28 November 2019

Dear Dominic Young,

Application by Norfolk County Council for an Order Granting Development Consent for the Great Yarmouth Third River Crossing

Marine Management Organisation (MMO) response to Deadline 3

The MMO is an Interested Party (IP) for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area.

The MMO has an interest in this project because the development includes the construction of a new double-leaf bascule bridge over the river Yare, with associated licensable activities occurring both over and within the marine environment. 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 Great Yarmouth Third River Crossing, I am writing to provide the MMO's response to Deadline 3.

Deadline 3 consists of:

- Post-hearing submissions including written submissions of oral case
- Comments on Local Impact Reports (LIRs)
- Comments on responses to the Examining Authority's written questions and requests for information (ExQ1)
- Revised dDCO from Applicant
- Revised/updated Statement of Common Ground (SoCG) (if any)
- Comments on any additional information/submissions received by D2
- Responses to any further information requested by the Examining Authority (ExA)

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



1. Post-hearing submissions including written submissions of oral case

1.1. On behalf of the MMO, Adrian Clarke (Marine Licensing Case Manager) and Adam Tillotson (Marine Licensing Case Officer) attended Issue Specific Hearing 1, on 19 November 2019, and Issue Specific Hearing 2, on 20 November 2019.

1.2. Comments raised by the MMO at the Issue Specific Hearings are summarised below.

Issue Specific Hearing 1

1.3. The MMO did not make any comments at Issue Specific Hearing 1.

Issue Specific Hearing 2

1.4. The MMO referred to the Planning Inspectorate (PINS) Annex B Advice Note Eleven in which it states '*wherever possible...any deemed licence is generally consistent with those issued independently by the MMO*' to support their request that information, such as the project description and conditions that are pertinent to the licensable activities in the marine area, are referenced in the dDML, whether or not the same information is contained elsewhere in the dDCO.

1.5. Following review of Article 67, the MMO highlighted that the applicant had agreed 20 March 2019 to delete the arbitration clause from the dDML and that Article 67 should be amended to clarify that it is not applicable to the MMO.

1.6. As well as the applicant, the MMO noted the positive meeting held with WSP before the Issue Specific Hearing 2 commenced. Of the points discussed at this meeting, the MMO highlighted to the Inspector Article 49 (1) (b), which states '*the undertaker may...(b) deepen, dredge, scour, cleanse, alter and improve the bed of the river Yare for the purposes of maintaining the authorised development.*' The MMO suggested that this is amended as the applicant has stated there is no requirements for dredging during the operational phase of the Scheme and any dredging during this phase would be undertaken under the existing Licence L/2016/00376/1 held by Great Yarmouth Port Commission as part of its continuing regime to maintain the navigation.

1.7. MMO / WSP 20 November 2019 meeting

1.7.1. The MMO met with WSP, who represents the applicant, to discuss the dDCO/dDML and Fisheries Memorandum. This meeting was noted in Issue Specific Hearing 2 by both the applicant and MMO. Key comments raised by the MMO are summarised below:

Description of the works:

1.7.2. Currently the development description terminology differs between Schedule 1 and the dDML. The MMO suggested that work numbers (e.g. Work No. 6A) are referenced in 'Details of licensed marine activities' so it is clear which elements of the development are within the marine area and licensable. It is acknowledged that some work package components will not be listed as they are not within current marine area boundaries or the marine area boundary once the permanent structures have been constructed.

1.7.3. Design parameters of key components within the marine area should be added to DML, for example total length of sheet piles and number/diameter of tubular piles.

Dredging:

1.7.4. The MMO suggested that articles/paragraphs from dDCO/dDML that infer the undertaker can undertake capital dredging activities that will result in disposal to sea and/or maintenance dredging, for example Article 49 (1) (b) of the dDCO, should be amended or deleted.

Written Scheme of Investigation (WSI):

1.7.5. The MMO understands that the WSI has been agreed with Historic England in principle and that archaeological investigations (core samples) will be undertaken within the marine area. Although it is stated elsewhere within the dDCO, Schedule 2 Part 1 Article 13 (1), that the authorised development must be constructed in accordance with the archaeological WSI, the MMO suggest compliance with the WSI is conditioned in the dDML. As detailed above, any deemed licence should be consistent with those issued independently by the MMO.

Monitoring:

1.7.6. Within the Fisheries Memorandum the applicant has proposed to monitor underwater noise levels throughout the in-river piling activities. The MMO are yet to advise whether underwater noise monitoring is necessary. Any agreed monitoring associated with works in the marine area will need to be conditioned in the dDML.

MCMS

1.7.7. Returns (notices) are processed via the MMO's Marine Case Management System (MCMS). The MMO has asked the applicant to define MCMS in the interpretation section of dDML and replace 'email' with 'MCMS' in Part 1 Article 2 (3) of the dDML.

Navigation conditions

1.7.8. The inclusion of navigation conditions were discussed, however the applicant assured the MMO navigational considerations have been addressed elsewhere in the dDCO, for example Part 6, and Part 7 Article 63 protects the rights, duties, and/or privileges of Trinity House.

1.7.9. It was noted in Issue Specific Hearing 1 that navigation of the river Yare will be temporarily suspended on up to three occasions for a maximum of 72 hours. The dDML currently includes a sub-condition (Part 2, 4 (1) e) to issue a notice to mariners (NtM) 10 working days prior to commencement of works. The MMO suggest that an additional sub-condition is added to the dDML requiring the licence holder to issue a notice to mariners 21 days prior to navigation of the river Yare being suspended.

2. Comments on LIRs

2.1. The MMO reviewed the two separate LIRs submitted by Norfolk County Council and Great Yarmouth Borough Council. The MMO has no significant concerns to raise. It is noted that Norfolk County Council have also recommended that the

applicant considers specific species (River lamprey, European eel, Smelt) further in the ES. The MMO have requested a more detailed description of migratory fish in the river Yare and appropriate assessment of underwater noise and vibration impacts. The applicant has provided Fisheries Memorandum (version 3) 25 November 2019 which the MMO are currently reviewing.

3. Comments on responses to the ExQ1

3.1. The MMO has reviewed other IPs responses to the ExQ1 and have no significant observations or concerns to raise.

4. Revised/updated SoCG (if any)

4.1. As detailed in section 1 the MMO has proposed further changes to dDML. These amendments are to be recorded in the MMO SoCG. The SoCG contained in Appendix J of Document NCC/GY3RC/EX/021: Statement of Commonality for Statements of Common Ground at Deadline 2 needs to be updated.

5. Comments on any additional information/submissions received by D2

5.1. The MMO has reviewed Document NCC/GY3RC/EX/016: Responses to Written Representations, dated 22 October 2019. Since these comments were submitted the MMO and WSP have had a further conference call (15 November 2019) and a meeting (20 November 2019) to clarify the comments in our Written Representation and discuss additional comments above. The following is an update on the MMO Written Response comments/D2 applicant responses and a summary of comments that are under discussion.

Draft DML / DCO

5.1.1. As detailed in section 1, the MMO suggests the following changes are made:

- To the dDML increase the accuracy of the licensable works in the marine area and align with the development description elsewhere in dDCO; add development design parameters; add temporary suspension of navigation NtM sub-condition; add WSI compliance condition; replace reference to 'email' with 'MCMS';
- To the dDML and dDCO amend or delete dredging articles/paragraphs as necessary.

Policy and planning

5.1.2. No further comments.

Licensing requirements

5.1.3. As detailed in section 1, it is suggested, in the dDML, that the accuracy of the licensable works in the marine area is improved and aligned with the development description elsewhere in dDCO.

Dredge and Disposal

5.1.4. References to dredge and disposal should be amended or deleted from the dDCO/dDML as necessary.

Fisheries and Underwater Noise

5.1.5. The MMO clarified to the applicant the information that is outstanding in writing (14 November 2019). This was discussed on a conference call 15 November 2019 and during a meeting with WSP 20 November 2019. In

response, the applicant has provided Fisheries Memorandum v3 which is currently being considered by the MMO to determine if it addresses all fisheries comments.

Coastal Processes

- 5.1.6. The MMO discussed coastal processes comments on a conference call 15 November 2019. The applicant confirmed that they will provide a comparison between climate change flow velocities and those used in the day one scenario model. This should demonstrate that the sediment model presented would remain valid under the climate change scenario for the lifespan of the bridge.

Historic England

- 5.1.7. As detailed in section 1, the MMO suggest compliance with the WSI is conditioned in the dDML.

Natural England

- 5.1.8. The MMO has discussed with Natural England (NE) their concerns/comments regarding the proposed GYTRC. The MMO does not deem it necessary to include any further conditions in the dDML, however will consult NE on method statements submitted to the MMO.

Changes to scope of development

- 5.1.9. The applicant has assured the MMO that it is unlikely the scope of the development will be amended. Should any changes be made these will need to be included in the dDML.

Impacts on river access

- 5.1.10. The MMO notes the applicant is working with IPs to address concerns regarding impacts on river access during the construction and operation phases of the development. As detailed in section 1, the MMO suggest an additional NtM sub-condition regarding the temporary suspension of navigation during the construction phase. The MMO has no further comments regarding impacts on river access.

Environment Agency

- 5.1.11. The MMO has discussed with Environment Agency (EA) their concerns/comments regarding the proposed GYTRC and are aware some remain outstanding. The MMO does not deem it necessary to include any further conditions in the dDML, however will consult EA on method statements submitted to the MMO.

6. Responses to any further information requested by the ExA

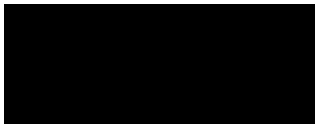
- 6.1. The MMO has reviewed the Examining Authority's written questions and requests for information, issued on 1 October 2019. None of the questions were directed to the MMO.

- 6.2. The MMO is not aware of any further request by the ExA for further information from the MMO after 1 October 2019.

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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