



Tilbury2 Project Team
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

Your Reference: TR030003
**Our Planning Inspectorate
Reference:** 20010091
Our Internal Reference:
DCO/2017/00001

By email only

22 May 2018

Dear Panel,

**RE: TILBURY2 – SECTION 89 AND THE INFRASTRUCTURE PLANNING
(EXAMINATION RPROCEDURE) RULES 2010: EXAMINING AUTHORITY’S “RULE 8
LETTER”**

The Marine Management Organisation (MMO) has reviewed the Examining Authority’s (ExA) ‘Rule 8 Letter’ dated 26 February 2018 and the following constitutes the MMOs formal response to deadline 4 as set out in this letter.

The MMO is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area. The MMO received notification on 29 November 2017 stating that the Planning Inspectorate (PINS) (on behalf of the Secretary of State for Business, Energy and Industrial Strategy) has accepted an application from Port of Tilbury London Limited (the Applicant), for a DCO for the Tilbury2 port development.

The redevelopment of the Tilbury2 site itself will comprise the development of a new harbour facility in the form of an operational port. A number of key components are proposed within the port, with the two principal proposed uses being a Roll on Roll off (RoRo) terminal, located south of Substation Road, and a Construction Materials and Aggregates Terminal (CMAT) to the north of Substation Road.

The MMO has an interest in this project because the development contains the improvement and extensions to the existing river jetty and dredging of the River Thames within the tidal extent. 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. The DCO application also includes provisions changing the powers or duties of a harbour authority. Under article 145 of the Planning Act 2008 (as amended) (the 2008 Act), (5) a DCO may include provisions in relation to a harbour authority, in particular, (a) any provision which could be included in a harbour revision order under section 14 of the Harbours Act 1964 (the 1964 Act) by virtue of any provision under Schedule 2 of the 1964 Act. The MMO have delegated responsibility for harbour orders under the 1964 Act and as such will also provide comments on these aspects.

Deadline 4 consists of:

- Responses to the Panel's Second Written Questions (SWQs) (if required)
- Comments on any information previously requested by the Panel
- Comments on any information submitted by the Applicant or Interested Parties/Affected Persons at Deadline 3

Of these items, the MMO considers the following relevant matters in relation to:

- Responses to the Panel's SWQs
- Comments on any information submitted by the Applicant or Interested Parties/Affected Persons at Deadline 3

1. Responses to SWQs

1.1. SWQ 2.8.34

1.1.1. The MMO advise that they are correctly not identified under this Article as permissions granted by them are done so under the DML. Any relevant timescales are stated within the conditions of the DML.

1.2. SWQ 2.8.47

1.2.1.1. i. The contents of the DML are still under discussion with the Applicant.

1.2.1.2. ii. Agreed

1.2.1.3. iii. As mentioned above, the contents of the DML are still under discussion although as stated in our deadline 3 response, it is the MMOs position that dredging be secured through the DML so that the correct control measures can be implemented via submission of method statements and sediment sampling requirements.

1.2.1.4. iv. Agreed

1.2.1.5. v. It was the MMOs understanding that this was to be updated in the next revision of the DML but it is noted that that this has yet to be done. This is to be updated in the next revision.

1.2.1.6. vi. As above, it was the MMOs understanding that this was to be updated in the next revision of the DML but it is noted that that this has yet to be done. This is to be updated in the next revision.

1.2.1.7. vii. No comment from MMO

1.2.1.8. viii. The co-ordinates listed under paragraph 3(3) and 3(4) are yet to be updated but these will include the boundaries of marine works and WID exclusion zone respectively. The description of 3(4) is to be updated with an accurate description of the use of this exclusion zone, i.e. limiting works in this area to extraction dredging only. Discussions on further condition wording are ongoing.

1.2.1.9. ix. No comment from MMO

1.2.1.10. x. Whilst the MMO agree with the Panel that this information should be included in a sediment sampling condition, it is the understanding of the MMO that paragraph 12 relates to non-dredging activities that may require riverbed excavations. The MMO have requested a separate condition for dredging requirements, as was originally drafted, but this has since been removed by the Applicant. Such sediment analysis requests must also be submitted 6 months prior to the licenced activity commencing to enable sufficient time for plan creation, sample collection, sample analysis and the production of the required method statement which would be expected at least 6 weeks prior to commencement.

1.2.1.11. xi. No comment from MMO

1.2.1.12. xii. Whilst this question is directed at the Applicant the MMO would like to advise that this wording is in place due to early comments made by the MMO in relation to restriction of timescales. The MMO has standard processes which cannot be altered and therefore a definitive timescale cannot be imposed on the MMO as the regulator.

1.3. SWQ 2.16.8

1.3.1. The MMO requested a standalone version of this updated appendix to aid targeted consultation with our scientific advisors Cefas. The timeframe from when the document was supplied was not within agreed consultation response periods for such documents. As such the MMO is not in a position to respond to this at present. However, a copy of the comments will be provided to the Applicant and Panel as soon as they have been received.

2. Comments on information submitted at deadline 3

2.1. Updated Environmental Statement Appendix 17A

2.1.1. As 1.2 above, the MMO requested a standalone version of this updated appendix to aid targeted consultation with our scientific advisors Cefas. The timeframe from when the document was supplied was not within agreed consultation response periods for such documents. As such the MMO is not in a position to respond to this at present. However, a copy of the comments will be provided to the Applicant and Panel as soon as they have been received.

2.2. EA

2.2.1. The MMO can confirm that, as mentioned in section 4.2 of the EA response, the applicant must demonstrate compliance with the Water Framework Directive prior to each dredge campaign. This can be done via the submission of a method statement under the DML or if maintenance dredging is not to be included within the DML, as a standalone marine licence.

2.3. NE

2.3.1. The MMO welcomes NEs comments on mitigation in relation to noise generation and dredging operations and can advise that periods of no dredging and no piling have been secured through the DML and that any method statement produced for the different activities will be sent to NE for consultation prior to submission to the MMO for approval. The MMO also advise that sediment sampling for contamination is required prior to any dredging as secured through the DML. Any additional mitigation NE deem to be required that can be secured through the DML should be communicated to the MMO.

2.4. Sheet 3 of works plan

2.4.1. The MMO note that the exclusion zone co-ordinates are still in a form where they lie outside the red line boundary, this should be updated in the next revision in order to fit with the red line boundary.

2.5. Revised DCO/DML

2.5.1. The MMO note that there are no updates to the DML within this revision of the DCO and have discussed this with the Applicant. For clarity to the Panel the requested changes are detailed below:

2.5.1.1. Inclusion of maintenance and capital dredging as licenced activities

2.5.1.2. Inclusion of maintenance dredging method statement condition

2.5.1.3. Inclusion of maintenance dredging sampling condition

2.5.1.4. Activities listed in paragraph 3 so that it is clear what activities are being licenced and therefore controlled by the DML.

2.5.1.5. Co-ordinates updated to reflect the marine boundary of works.

2.5.1.6. Exclusion zone co-ordinates description changed to “no WID dredging or extraction dredging only within... unless agreed with the MMO” or similar wording.

- 2.5.1.7. Addition of inclusion of WFD assessment within the method statement submission
- 2.5.1.8. Consideration of Historic England's requested condition regarding the Marine WSI
- 2.5.1.9. Updating of dredging and piling restrictions
- 2.5.1.10. Removal of last sentence of condition 4 due to the sentence being made redundant by the preceding parts
- 2.5.1.11. Removal of the last sentence of condition 19 due to this not conforming to standard wording used by the MMO for this condition.
- 2.5.1.12. Removal of condition 9 (Access). Access relating to an inspection is within the power of the MMO to be undertaken at any time and, whilst prior notice is given where vessel access is required, prior notification is not required.

If you would like to discuss any specific matter further or require additional clarity, please do not hesitate to contact me directly.

Yours Sincerely

A black rectangular box redacting the signature of Heather Hamilton.

Heather Hamilton
Marine Licensing Case Officer
D +44 (0)208 225 7692
E heather.hamilton@marinemanagement.org.uk