



Tilbury2 Project Team
National Infrastructure Planning
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Your Reference: TR030003
**Our Planning Inspectorate
Reference:** 20010091
Our Internal Reference:
DCO/2017/00001

By email only

06 July 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 5 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 5 consists of:

- Comments on responses to the Panel's SWQs (if required)
- Responses to any further information requested by the Panel
- Applicant's revised draft DCO
- Any revised or updated SoCGs
- Post hearing submissions including written submissions of oral cases from the June 2018 hearings

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

- Comments on responses to the Panel's Second Written Questions (SWQs) (if required)
- Post hearing submissions including written submissions of oral cases from the June 2018 hearings

1. Comments on responses to SWQs

1.1. Port of Tilbury

1.1.1. Q2.8.47 – the Applicant and the MMO updated the panel on the DML at the hearing on the 28 June 2018 and details of changes requested are detailed in paragraph 2.4 of this response.

2. Post hearing written submissions

2.1. Q3.5.1 - In the most recent version of the DML this has been updated with timings as condition 12 and the MMO agree with this inclusion.

2.2. Q3.13.4 - The MMO understand that Historic England (HE) still have some concerns, but has yet to receive comments on these concerns and as such these discussions are ongoing. However the MMO wish to advise that with regards to part iv, if any UXOs are found, then a separate marine licence would be required for their removal/disposal/detonation.

2.3. Q3.16.6 - As per the MMOs additional submission on 11 June 2018, the information was supplied following the hearings and Cefas were consulted. The MMO are satisfied that the worst case scenario for piling has been fully assessed and are therefore satisfied with the new information.

2.4. Q3.8.27 – The MMO confirmed that they had provided further comments on the DML to the Applicant and that these should be reflected in the next version. For the benefit of the Panel, these changes are detailed below:

2.4.1. Interpretation

2.4.1.1. "mean high water springs" - meaning should be corrected to " means the average throughout the year of the heights of two successive high waters during those periods of 24 hours when the range of the tide is at its greatest"

2.4.1.2. "UK marine licensing area" is defined under section 66(4) of the 2009 Act, however as this definition refers to the "UK marine area", we recommend the applicant also includes the definition of "the UK marine area" under 42 of the 2009 Act.

2.4.2. Contacts

2.4.2.1. Within 2(2), the telephone number for the MMO Marine Pollution Response Team outside office hours is incorrect and should be amended to 0345 051 8464.

2.4.3. Under section 3(4) of the DML, we recommend replacing the wording "No water injection dredging" with " No hydrodynamic dredging", as the supporting documents, including the CEMP, do not state that water injection dredging is the only method of dredging that will be undertaken outside the exclusion zone.

- 2.4.4. Condition 14 - Schedule 11 does not list the Marine WSI as a certified document. The MMO are aware of the discussions between HE and the Applicant and advise that if method statements are required to be approved by the MMO as part of the WSI then this should be a condition within the DML with a 6 week submission prior to works commencing.
- 2.4.5. Condition 15(2) – should be amended to state "where practicable, the licence holder must site concrete and cement mixing and washing areas at least 10m away from...". This is in line with standard marine licence conditions.
- 2.4.6. Condition 18 - can be removed as PoTLL will be a harbour authority for Tilbury2 and as such the dealing with dropped objects will fall to them within their port limits.
- 2.4.7. Condition 17(b) – “condition 2” should be replaced with “paragraph 2(2)”.
- 2.4.8. Conditions 20, 21, 22 and 23 - to be removed, as the DML is not licencing the disposal of materials to sea and, as such, if disposal at sea becomes an option in the future, a separate marine licence would be required. Alternatively, if the disposal is to be a licenced activity then this should be listed under the licenced activities within the DML and these conditions can remain.
- 2.4.9. 25(2) - as per the already removed requirements, this should be removed as the MMO, as a regulator, has the right to request further information at any time during consultation of any submitted document to ensure methods and measures are appropriate or are changed to be so.
- 2.5. Q3.2.29 – the MMO confirmed the Applicants statement that discussions have been had on the DCO outside of the DML and the points of discussion are below for the benefit of the Panel:
- 2.5.1. Art43
- 2.5.1.1. Para 3 - "on the bed of the river Thames" must be changed to "within the UK marine area" to avoid deposit of dredged material anywhere at sea without a marine licence. This is in line with the current wording of similar provisions within HEO/HROs and to keep Tilbury2 in line with other harbour authorities the same wording needs to be used.
- 2.5.2. Extended port limits plan – the difference in harbour limits and order limits was queried as the Applicant is looking to have powers to dredge within their limits of jurisdiction and the approach dredge area is not currently covered within the extended port limits. The MMO asked for clarification on whether the port limits were just for operational/charging purposes or whether these needed to be extended to cover the dredge areas that the port would be maintaining.
- 2.6. Q3.2.1 – Whilst the MMO does not have a direct input into the methods to be used it should be noted that the installation of timber groynes to make new intertidal habitat for mud and saltmarsh, suggests that they will be installed below MHWS and as such will be a licensable activity. As the groynes are not required for the authorised development or associated ancillary works, then they would not be classed as activities authorised by the DCO/DML, and as such a separate marine licence would be required. In this respect, the MMO advise that they be contacted with regards to a licence application as soon as proposals are known so that the marine licence application process can commence and consultation with wider consultees can occur.

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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