

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

FIVE ESTUARIES OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010115

**DEADLINE 6: PORT OF LONDON
AUTHORITY'S COMMENTS ON SUBMISSIONS
RECEIVED AT DEADLINE 5**



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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 comments on Deadline 5 submissions.
- 1.2 Documents referred to in this submission are:
- (a) Applicant’s comments on Deadline 4 Submissions (REP5-073);
 - (b) Draft Development Consent Order (REP5-007);
 - (c) Outline Navigation and Installation Plan (REP5-031);
 - (d) Schedule of Mitigation – Routemap – Rev B (REP5-041);

2 APPLICANT’S COMMENTS ON DEADLINE 4 SUBMISSIONS (REP5-073)

- 2.1 The Applicant sets out their comments on the PLA’s Deadline 4 submissions on pages 48 to 52 of REP5-073.
- 2.2 The PLA can confirm, following its oral comments at ISH6, that the PLA and the Applicant have reached agreement in relation to the area over which deeper cable burial needs to occur. This area is shown on figure 2.1 of the outline Cable Specification and Installation Plan (“**oCSIP**”) [REP4-019]. At the Trinity it is the area shown by the blue pecked lines to allow future dredging to 22m below chart datum (“**CD**”) over a 1 km width. At the Sunk it is the area shown in black and titled “*Sunk Area A*” to allow future dredging to 22m below CD over a 1 km width. An area either side of this is shown in yellow hatch and titled “*Sunk Area B*” and would allow future dredging to 19m below CD 200m either side of Sunk Area A.
- 2.3 The PLA consider that based on PIANC guidance 1km is a sufficient width for a 2 way channel for now and in the future based on the agreed expectation for future vessel sizes.
- 2.4 The PLA has discussed with the Applicant the profile of the cables where this deeper cable burial was to occur and had been advised that the commitment to install to allow dredging to 22m below CD applies to the whole of Sunk Area A – cables will then rise to the surrounding installation depth outside the deep water route (“**DWR**”) area but will not be less than 19m below CD within the Sunk Area B and that the gradient at which the cables will be installed with Sunk Area B will be a maximum of 1:5. As discussed at ISH6 the PLA expects and the applicant confirmed that an update will be made to the oCSIP to secure this point.
- 2.5 The PLA expects following a productive meeting with the Applicant on 5 February 2025 and post meeting correspondence changes to the deemed Marine Licence to make it clear where water depths could be reduced by 5% and where the requirements set out in paragraph 2.2 will apply.
- 2.6 Regarding approvals of the PLA as set out in ISH7 there is precedent for protective provisions recognising the need and permitting the PLA to approve activities outside of its area and we have included as part of the Deadline 6 submissions (see the PLA’s Representations made to the ISH6 and ISH7) a copy of the London Gateway Harbour Empowerment Order. As set out at ISH 7 it is not uncommon for there to be more than one approving body for a document and in the PLA’s experience it has been possible to meet all consenting bodies requirements in one plan. Moreover, the various Ports have a common goal as recognised by the ExA in its questioning.
- 2.7 Regarding the Applicant’s reference to there being nothing in the Applicant’s proposals which could, in any way, prevent the PLA from complying with the Port Marine Safety Code – For all UK Harbour Authorities and other marine facilities berths and terminals (November 2016). The point the PLA is making is that the PLA’s responsibility extends beyond its jurisdictional limits

and does extend to the seaward approaches (see the PLA's response to the Action Points arising from ISH7) and it is over simplistic to suggest that the responsibility for safety of navigation in the area in which the project is proposed sits with the MCA. Hence why there is precedent of the PLA approving activities through protective provisions outside of its jurisdictional limits.

- 2.8 Regarding PLA approvals as explained at ISH7 the PLA is looking to approve certain plans that are to be submitted to the MMO (the CSIP and the Navigation and Installation Plan ("**NiP**") prior to submission.

3 DRAFT DEVELOPMENT CONSENT ORDER (REP5-007)

- 3.1 The PLA has no comments to make on the amendments that were made to the dDCO at deadline 5.
- 3.2 Following ISH7, the PLA and the Applicant met on 5 February 2025 to discuss offshore protective provisions for the benefit of the PLA. Following a productive meeting the PLA and the Applicant are intending to update the draft protective provisions and to meet again prior to deadline 7 with a view to making further progress. Whilst it is unlikely that full agreement will be reached on the protective provisions, the parties have been able to narrow the scope of the areas of disagreement and it is anticipated that further progress can be made prior to deadline 7. It is currently the intention to submit a joint set of protective provisions at deadline 7 which will clearly identify the agreed drafting and the areas which are not agreed.
- 3.3 The PLA and the MMO have arranged to meet on 17 February 2025 and an update will be provided on this meeting at deadline 7.

4 (C) OUTLINE NAVIGATION AND INSTALLATION PLAN (REP5-031)

- 4.1 The PLA welcomes the updates that were made to the outline Navigation and Installation Plan ("**oNiP**") [REP5-031] at Deadline 5 including the clarification that the document will continue to be updated as necessary until the end of the operation and maintenance phase. Decommissioning works will then be considered as part of the Decommissioning Plan.

- 4.2 The PLA considers that the following amendments are still required to the document:

- (a) Restricted Ability to Manoeuvre ("**RAM**") vessels are the only ones being de-conflicted/restricted from working concurrently but other vessels listed in the indicative operations summary, which were previously considered as RAM, are now removed from the list in the project vessel activities tables and therefore could be used concurrently with other operations. It is not clear now which project vessels will fall under the concurrent working with other projects rule. For example, at paragraph 2.4.3 it states UXO clearance is RAM but in Table 3.2 they no longer are.

RAM vessels have prescribed rules which other vessels understand and comply with. There is concern that the various other operations/activities will be harder to manage as these vessels may consider themselves restricted without actually being so. For example, a boulder clearance vessel travelling at 1 knot may say it cannot move out of the way of a deep draft vessel due to its slow speed.

The Hazard and Operability ("**HAZOP**") workshop therefore should not just be for RAM vessels but should include all project vessels operations.

- (b) Paragraph 2.6.3 of the oNiP allows for the document to be submitted to the MMO even though IP's may not have provided their agreement to the document. As set out in the PLA's deadline 5 response this creates the risk that the document could be approved by the MMO despite the concerns of the Port. Through protective provisions, if the PLA considered it necessary, it could refuse consent which provides for a much more robust

approach to this critical issue and ensures that there is joined up consideration and effective communication between all stakeholders.

- (c) Paragraph 2.6.5 allows for updates to the NiP, which is welcomed, however these updates do not require approval. It is understood that the Applicant is currently considering this point and therefore the PLA does not intend to provide any further comments on this matter at deadline 6.
 - (d) Paragraph 3.1.8 refers to a 22m under keel clearance from CD being maintained. For consistency the wording should also refer to the 19m under keel clearance (see paragraph 3.1.7)
 - (e) Paragraph 4.2.5 refers to '*other designated person*' in place of a Pilot. The PLA has concerns about this. If it is determined a Pilot is needed on board to assist in the RAM operations then it does not make sense to replace that person with someone who is unlikely to have the navigational decision making abilities. It would be preferential here to just leave it at Pilot. It is also recommended that this should be an option available for all project vessels, considering the now more limited list of vessels which are RAM.
- 4.3 The PLA has also previously commented regarding paragraph 2.4.1 and when the NiP will apply from. The PLA and the Applicant have discussed this matter during their meeting on 5 February 2025 and it is understood that drafting will be included in the PLA protective provisions relating to activities such as pre construction surveys.

5 SCHEDULE OF MITIGATION – ROUTEMAP – REV B (REP5-041)

- 5.1 The Schedule of Mitigation Routemap "*summarises, all mitigation proposed in the Environmental Statement.*" Paragraph 1.2.7 sets out the offshore ES chapters and supporting documents which Section 2 relates to. It is noted that this now includes the oCSiP and the outline Sediment Disposal Management Plan. However, it does not include the oNiP. The PLA would question why the oNiP has not been included. Additionally, given the discussions regarding the ECC and the DWR's it is questioned whether there should be a specific mitigation measure commitment relating to this point in the Schedule of Mitigation. At the moment there are references to being compliant with MGN 654 and its annexes including in relation to reductions of no more than 5% in under keel clearance and the SAR Checklist but nothing about the need to ensure that where the ECC crosses the DWR the cables are installed and maintained at the depths specified in the oCSiP.