

**THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010**

**FIVE ESTUARIES OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER**

**PINS REFERENCE EN010115**

---

**DEADLINE 8: PORT OF LONDON  
AUTHORITY'S COMMENTS ON SUBMISSIONS  
RECEIVED AT DEADLINE 7**

---



**GOWLING WLG**

[www.gowlingwlg.com](http://www.gowlingwlg.com)

## 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 7 submissions.
- 1.2 Documents referred to in this submission are:
- (a) Applicant’s comments on Deadline 6 Submissions (REP7-085);
  - (b) Applicant’s Responses to ExQ3 (REP7-084);
  - (c) Outline Cable Specification and Installation Plan (REP7-040);
  - (d) Outline Sediment Disposal Management Plan (REP7-079);
  - (e) Outline Navigation and Installation Plan (REP7-049);
  - (f) Schedule of Mitigation – Routemap (REP7-059);
  - (g) Statement of Common Ground – The United Kingdom Chamber of Shipping (REP7-066);
  - (h) Comments on any submissions received at Deadlines 6 and 6A – Marine Management Organisation (REP7-097)

## 2 APPLICANT’S COMMENTS ON DEADLINE 6 SUBMISSIONS (REP7-085)

- 2.1 The Applicant sets out their comments on the PLA’s Deadline 6 submissions on pages 14 to 19 of REP7-085 and the PLA has the following comments in response:
- 2.2 **The PLA’s Response to the EXA Suggested DWR Parameter PLA—01 to PLA-10.** The PLA notes the Applicant’s comments but maintains its position regarding the wording of the parameter namely:
- (a) Ultimately there is a three-step process regarding the cables in the export cable corridor: design, implementation and maintenance. If the first step ‘design’ does not take all relevant factors into account, then it is unlikely that the second and third steps will be achieved either. Therefore, the PLA considers that it is appropriate for the offshore design parameter to refer to design.
  - (b) The parameter should also be a condition in the Deemed Marine Licence for the Transmission Assets Schedule 11 (“DML”). The MMO endorsed the PLA’s position in its Deadline 7 “Comments on any submissions received at Deadlines 6 and 6A” (REP 7-097) - see paragraph 1.1.8 to 1.1.10 of REP7-097.
  - (c) The two other references to 5% in this context in schedule 11 are in paragraph 13(g)(ii) and relate to the identification of any cable protection that exceeds a reduction 5% of navigable depth referenced to Chart Datum. The Applicant has noted that within the deep water areas, the depth cannot be reduced, therefore it cannot be reduced in excess of 5%, and reference to that makes no sense. Attempting to add the drafting to this paragraph reduces clarity and adds no additional restriction. The PLA would note, however, that real world experience of the implementation of DCO’s is also relevant. Any inconsistency within the dDCO is an opportunity and with a condition that clearly contemplates reduction in water depth, much time and effort will be spent by the PLA defending proposals to reduce navigable depths at the deep water routes. An amendment to the drafting of condition 13(g)(ii) will prevent this.

- 2.3 **The PLA's Response to Deadline 4 Submissions PLA14 – PLA16:** the PLA's response is covered within the PLA's Response Document to the "10.62 Note on dDCO drafting – Applicant's position on Protective Provisions" (REP7-090), which is submitted at this Deadline 8.
- 2.4 **The PLA's comments on the Draft Development Consent Order (REP5-007) PLA17 – PLA19:** again the PLA's response is covered within the PLA's Response Document to the "10.62 Note on dDCO drafting – Applicant's position on Protective Provisions" (REP7-090), which is submitted at this Deadline 8.
- 2.5 **The PLA's comments on the Outline Navigation and Installation Plan PLA20 – PLA 26:** The PLA's further comments are dealt with in section 4 below.
- 2.6 **The PLA's comments on the Schedule of Mitigation Routemap – PLA27:** The PLA's further comments are dealt with in section 7 below.
- 3 APPLICANTS RESPONSES TO EXQ3 (REP7-084)**
- 3.1 The PLA notes the Applicant's response to question DCO.3.14 in respect of changes to the drafting of condition 4 of Schedule 11, most particularly in respect of subsection (3) that might be necessary to ensure that there would be no inconsistency between the water depths required in the DWRs and the parts of the authorised development that would be outside the DWRs – The Applicant does not consider there to be any inconsistency.
- 3.2 The PLA notes the Applicant's response to NS.3.02 in relation to pre-construction activities within the DWR and would draw the Examining Authorities attention to the area of disagreement regarding the wording in relation to pre-construction activities in the PLA's Response Document to the "10.62 Note on dDCO drafting – Applicant's position on Protective Provisions" (REP7-090), which is submitted at this Deadline 8 (see paragraph 9.34).
- 4. OUTLINE CABLE SPECIFICATION AND INSTALLATION PLAN ("oCSIP") (REP7-040)**
- 4.1 The PLA generally welcomes the updates that were made to the oCSIP at Deadline 7. The PLA notes and disagrees with the amendment at paragraph 1.4.4 which now sees the PLA consulted on the CSIP (the deadline 6 version of the oCSIP (REP6-020) saw the PLA approve the CSIP). The PLA's position in relation to approval of the CSIP is well documented (see for example, the PLA's Response to ExA's ExQ3 Question DCO.3.09 (REP7-113)).
- 5. OUTLINE SEDIMENT DISPOSAL MANAGEMENT PLAN ("oSDMP") (REP7-079)**
- 5.1 The oSDMP has been updated at deadline 7 to include information on the re-positioning of boulders. At paragraph 3.8.4 it is stated *"if boulder[s] are found within the Deep Water Channels and relocating them as close as possible would result in a hazard to the shipping and navigation function of these channels, boulder[s] will be relocated outside of these areas."* This addition appears to conflict with the oCSIP (REP7-040) which states at paragraph 4.2.5 *"Boulders will not be relocated within the DWR areas."*
- 6. OUTLINE NAVIGATION AND INSTALLATION PLAN ("ONIP") (REP7-049)**
- 6.1 The PLA welcomes the updates to the oNIP that were made at deadline 7. Notwithstanding that the PLA considers that it should approve the NIP and any updates, a minor correction is required to paragraphs 2.6.6. At 2.6.6 there is reference to *"Paragraph 2.6.32.6.2"* this should read *"Paragraph 2.6.2"*.

**7. SCHEDULE OF MITIGATION – ROUTEMAP (REP7-059)**

- 7.1 The PLA welcomes the addition of reference to the oNIP in paragraph 1.2.7. For consistency this document should be given the same name as the document to be certified: the Outline Navigation and Installation Plan (emphasis added).

**8. STATEMENT OF COMMON GROUND – THE UK CHAMBER OF SHIPPING (REP7-066)**

- 8.1 The PLA welcomes the UK Chamber of Shipping's support of the PLA's position regarding cable burial and dredging.

**9. COMMENTS ON ANY SUBMISSIONS RECEIVED AT DEADLINES 6 AND 6A – MARINE MANAGEMENT ORGANISATION (REP7-097)**

- 9.1 The PLA welcomes the MMO's deadline 7 submission and the MMO's request for amendments to Schedule 11 of the Deemed Marine Licence. The PLA and the MMO are aligned on the proposed changes. In terms of the areas of difference, the PLA note as follows:

- (a) In paragraph 1.1.12 of REP7-097 the MMO requests that "the PLA is added as a consultee to the following conditions in Schedule 11, Condition 4 (4), 7 (9-15), 8 (2) and Condition 16". This accords with the request made by the PLA save that the PLA would wish to be added as a consultee to condition 17 rather than 16.
- (b) In paragraph 1.1.13 of REP7-097, the MMO requests that "Schedule 11, 13 (1), (1)(a) and (g) is updated to include the following text:

13.—(1) The licensed activities for each stage of construction of the authorised development must not commence until the following (insofar as relevant to that activity or stage of activity) has been submitted to and approved in writing by the MMO, in consultation with, where relevant, Trinity House, the MCA, and UK Hydrographic Office and relevant SNCB **and in the case of Work No 2(c) or works within the Area of Interest the PLA —**

The PLA is content to accept the MMO wording in bold above.

- (c) In paragraph 1.1.14 of REP7-097 the MMO notes that *"the PLA requested an update and addition to Condition 13 (1)(g) and understands as the definition is now included that only one cable laying plan is required. The MMO is content either way as long as it is clear the cable laying plans would be different and not cover the same areas, to reduce the duplication"*.

The PLA would note in response that the PLA suggested adding the following new limb 13(1)(g)(ii) as it is dealing with a different activity:

*"(g)(ii) a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) within the Area of Interest"*.

This limb is dealing with activities generally against the parameter. Meanwhile the next sub-paragraph is dealing with cable protection. This is the limb which reads:

*"a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 3(3) above in the case of cable protection within the Area of Interest and otherwise encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA, the PLA and Trinity House) to be taken to ensure existing*

and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection"

- (d) The PLA would like to see the additional 13(1)(g)(ii) wording added. In paragraph 1.1.15 the MMO asks "*that Condition 13 (1) is consistent – sometimes the wording states, 'in accordance with the outline plan' and sometimes states 'which accords with the principles set out in the outline plan'. The MMO believes that this should always be 'in accordance with' and requests Condition 13 (i, j, k and l) are updated accordingly*".

The PLA had inserted substantially in accordance with at Condition 13(1)(g). The oCSIP and oNIP include specific items of mitigation which the PLA would want to ensure are carried forward into the final plans. The PLA would ask that Condition 13 (g, i, j, k and l) are in fact updated with "*which substantially accords with*" the relevant outline plan".