

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

**NORTH FALLS OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER**

**PINS REFERENCE EN010119**

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**DEADLINE 4: WRITTEN SUMMARY OF ORAL  
REPRESENTATIONS MADE ON BEHALF OF  
LONDON GATEWAY PORT LIMITED  
(IP REF: 20050576)  
AT ISSUE SPECIFIC HEARING 2**

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This is a written summary of the oral submissions made on behalf of London Gateway Port Limited (IP REF: 20050576) during Issue Specific Hearing 2 (ISH2) on 8 and 9 April 2025.

8 April 2025

<p><b>Agenda Item 3.1</b></p> <p><b>Article 2 – Interpretation</b></p> <p>The objections raised by the Port of London Authority (PLA) to the definitions of ‘commence’ and ‘maintain’ including any related proposed drafting amendments to Article 2 and/or Schedule 14 protective provisions</p>	<p>LGPL shares the concerns in relation to the aspects of construction and maintenance raised on behalf of Port of London Authority (<b>PLA</b>), but notes that there is a separate definition of maintenance in the offshore transmission assets deemed marine licence (<b>the DML</b>) in Schedule 9 to the draft DCO [REP3-008]. We raise issues in relation to the requirements and in relation to the DML below. We do not have issues with the definitions relating to construction and maintenance in article 2.</p>
<p><b>Agenda Item 3.1</b></p> <p><b>Schedule 1 – Part 3 Requirements</b></p> <p><b>Other matters relating to requirements and conditions</b></p> <p>The draft requirement proposed by the Port of London Authority (PLA) to ensure that a dredged depth of the Deep Water Routes to a depth of 22 metres below Chart Datum is not precluded or impeded.</p>	<p>LGPL echoes the points raised by Port of London Authority that it is fundamental that there is a Requirement that the water depths of 22m must be maintained by North Falls, and that there must be certainty in the Application that these requirements will be met. LGPL emphasises the importance of the Port of London as a whole. In particular, London Gateway Port is growing – it has largely so far been functioning on 3 berths, berth 4 has recently come on line and two further berths are imminent. This will represent a doubling of quay size. It is probable that London Gateway Port itself will provide 15% or more of the UK's load on load off traffic quite soon. We could provide more details to the importance of the 20m depth of vessels, which equates to a 22m dredge depth, if that would be useful to the Examining Authority.</p> <p>Presently, there is nothing in the draft DCO [REP3-008] which gives any comfort whatsoever about the depth we set out in our Written Representations [REP2-041]. In summary, there's no parameter in relation to the depth of the cables. The only thing is a reference to not decreasing the depth by more than 5%, which is of concern to LGPL.</p>

	<p>The Sunk and Trinity Channels are the crucial way in and out of London Gateway Port. So, it is fundamental that we see a Requirement of this nature. It isn't suitable for the matter to be put into a plan which will be submitted later to the MMO (that would mean that neither LGPL, the Examining Authority, nor the Secretary of State will have any certainty about the effects of the laying of the cables).</p> <p>Secondly, just to emphasise, although LGPL and PLA are <i>ad idem</i> on these matters, it is LGPL that has the statutory powers to dredge in the area of the Sunk, and it is LGPL that has historically carried out all the dredge activity in this area. Therefore, LGPL does need to be dealt with directly rather than dealt with via the PLA. To date LGPL has not had any discussions with the applicant on this point, we have only seen their response in REP3-037. That document simply says that a Requirement is not necessary, but it doesn't give any reasons for that view. So, we do need to have some discussions. LGPL is hopeful that with those discussions this matter can be resolved. We have seen the plan that was shared by the PLA, and that looks like a good development, and that would be the good basis for a Requirement. But LGPL does need to have those discussions and hopefully we can come up with an agreed Requirement which will replicate essentially the requirement that looks likely to be included in the North Falls DCO.</p> <p>The final point to emphasise is the Five Estuaries DCO Requirement will relate to an area of the Sunk and of Trinity, which is immediately to the south of the area that is affected by Work No. 3 of the draft DCO [REP3-008]. Including such a Requirement in the Five Estuaries DCO is entirely otiose if you do not have the same sort of requirement in this Order.</p> <p>In relation to the proposals put forward on behalf of the Applicant during the hearing to include provision as to depths in the Outline Cable Specification and Installation Plan (<b>outline CSIP</b>), LGPL's position is that is still much less satisfactory than a Requirement (see LGPL's Written Representations [REP2-041] and further below), but for that outline CSIP to be of any relevance, the final Cable Specification and Installation Plan (<b>final CSIP</b>) which will be submitted to the MMO under the DML would need to be strictly tied to the outline CSIP. Condition 22H as currently drafted within the DML does not state that the final CSP will have to relate to the outline CSIP. We can see principles for the final CSP, which include for example the ability to reduce depth by 5%, which is a worrying factor, but nothing more. LGPL's main point is that the outline CSP is only of value if we also see relevant changes to the DML in the draft DCO to tie it in in some way.</p>
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<p><b>Agenda Item 3.1</b></p> <p><b>Schedule 9 – Deemed Marine Licence – Condition 13 / Deep Water Routes</b></p> <p>The amendments sought by the PLA and the London Gateway Port Ltd in their written representations regarding the permissible reduction in water depth for Deep Water Routes in Schedule 9 Condition 13(3).</p>	<p>LGPL has concerns about the conditions, both condition 13 and the other conditions. Although we agree largely with each other, the Port of London Authority does not speak on behalf of LGPL. So, LGPL does need to be dealt with individually and separately on those points.</p> <p>LGPL would also flag that the outline Offshore Operations and Maintenance Plan produced at deadline 3 [REP3-025] demonstrates the unreliability of relying on plans that will come into being under the DML to secure the matter of depth. Looking at condition 13 of the DML, there's no restriction on those maintenance activities in terms of the depth other than the provision that the undertaker won't reduce water depth by more than 5%, unless agreed with the MMO in writing. Works of maintenance under condition 13 should, because of condition 13(4) be carried out in accordance with the Operations and Maintenance Plan. That is going to be substantially in accordance with the outline Offshore Operations and Maintenance Plan, however, there is nothing in the outline version that deals with cable depths, so that would give no confidence or reassurance whatsoever. There's no reason to suggest, or we have no reason to know, that the ultimate Operations and Maintenance Plan, which obviously won't come into being until sometime in the future, because we're talking here about maintenance, not the actual construction activity, would have anything included in it in relation to depth, because we see nothing in the outline Operations and Maintenance Plan that relates to depths.</p> <p>For the same reasons, LGPL is not confident about what we'll see in the outline CSIP. This demonstrates that fundamentally these matters are better dealt, and LGPL submits must be dealt with, by way of a Requirement.</p> <p>It's unlikely that that outline CSIP will be sufficiently certain, and also that the mechanisms by which that outline CSIP then translates through to the final CSIP plan, and then what is actually done and what is approved by the MMO will allow the ExA to recommend or the Secretary of State, or for the Secretary of State to conclude that the fundamental parameter as to depth is captured. The only way of capturing that parameter is to specify in the Requirement, which LGPL submits would be the best position, or to have an express provision along the lines of the Requirement we have suggested set out itself on the face of the DML. That latter option has some weaknesses, although it is a better than no provision at all. The best position is for the Requirement to set out that parameter.</p> <p>It is true that similar plans referred to in DCOs often contain matters as to management of impact and such. However, here we're talking about a parameter for the carrying out of the works and in that case, in accordance</p>
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	<p>with the relevant guidance for DCO drafting, the fundamental parameter as to depth should be captured on the face of the document (see further [REP2-041]).</p> <p>LGPL emphasises that it would like to be part of the discussions on the DML.</p>
<p><b>Agenda Item 3.1</b></p> <p><b>Schedule 14 – Protective Provisions</b></p> <p>Whether the protective provisions sought by the PLA and the changes to the protective provisions sought by London Gateway Port Ltd have been agreed.</p>	<p><i>[The Applicant stated for the first time during the hearing that the Applicant intended to withdraw the Protective Provisions for the benefit of LGPL currently included in Schedule 14 to the dDCO [REP3-008] from the next version of the dDCO.]</i></p> <p>LGPL already has within the draft DCO protective provisions for the benefit of LGPL and LGPL maintains the importance of and need for them. LGPL has flagged in its Written Representations [REP2-041] and also in its Response to ExQ1 [REP2-040], the need for some slight amendments to those provisions LGPL would like to discuss with the Applicant, but those amendments are largely to put them on the same footing as the protective provisions submitted for the Five Estuaries DCO application.</p> <p>LGPL notes that in its Comments on Responses to ExQ1 [REP3-36], the Applicant does say it will continue to engage with London Gateway on the matters raised in relation to the protective provisions.</p> <p>Prior to ISH2, LGPL had not been informed of the Applicant's change of position and intention to remove altogether the protected provisions for the benefit of LGPL already in the dDCO [REP3-008] (and which have been in the draft DCO for a number of iterations). During ISH2, the Applicant queried the need for any protective provisions on the basis that area of jurisdiction of LGPL as harbour authority did not extend out to the location of the works under the dDCO. The Applicant's position is a fundamental misunderstanding of how the London Gateway Harbour Empowerment Order 2008 (<b>the HEO</b>) works: it defines quite a narrow area of jurisdiction, and that essentially is the area within which London Gateway Port exercises its functions as harbour authority over vessels. The area of jurisdiction has no correlation to the area in which LGPL may exercise its powers under the HEO, in particular its powers to dredge under article 13 of the HEO. Those powers extend significantly further out from the estuary, and they do extend directly to the area of the Sunk, where the Applicant seeks powers to lay cables. The rationale for the need for LGPL to have protective provisions is not based on its area of jurisdiction and power to control vessels, but rather on the need to protect its statutory powers to dredge and the need to protect the approach channel to London Gateway Port, which is fundamental to the exercise by LGPL of its</p>

	<p>statutory undertaking (as was acknowledged by the Secretary of State in including the relevant powers in the HEO).</p> <p>LGPL fundamentally maintains the need for and appropriateness of protective provisions for its benefit. The absence of protective provisions in their present form (subject to the amendments requested referred to above) would multiply further LGPL's concerns about the entire lack of detail about or certainty of preserving the future-proofed dredge depth of the approaches to the Port. LGPL would then have to take it entirely on trust that a plan to be produced in the future and to be submitted to the MMO in accordance with another plan, which we haven't yet seen, which will have probably relatively vague provision in it about depth, will protect LGPL's interests. That is fundamentally not appropriate.</p>
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9 April 2025

<p><b>Agenda Item 3.4</b></p> <p><b>Navigation and Shipping</b></p> <p>Whether there are any outstanding concerns regarding the risks to shipping movements, including the passage of vessels to and from nearby ports.</p> <p>Whether the estimate of the effects from disruption to navigation and shipping in the assessment of socio economics is sufficiently robust.</p>	<p><i>[The ExA queried whether LGPL had any plans to dredge.]</i></p> <p>LGPL has existing dredging powers under the HEO which allow for dredging down to 17.5m. In relation to any further dredge, it would simply be a question of applying for a marine licence, to the MMO for that additional dredge. We can't speculate on how the MMO would react to that, but there's no reason to think it wouldn't be given such a licence. The key point here is obviously that presently that dredge could happen and could be consented. However, if a cable is laid, or if cable protection is put on top of a cable at such a depth, which precludes a dredge below a certain depth, then that just stops it. Once this cable is laid, the Applicant will not find it acceptable for the cable to be disconnected for a dredge to take place. So, this is a once and for all decision, hence LGPL's concern.</p> <p>As the Applicant's own documents recognise, both, in its environmental statement and in its navigational risk assessment [APP-106], there is a consensus of the need for a 20-metre draft clearance in this area. There is detail set out which LGPL wouldn't disagree with in terms of the evolution of vessels to that depth. The need to dredge to that depth is not controversial between LGPL, the PLA and the Applicant.</p> <p>There is no particular timetable at the moment as to when any future dredge might occur. However, London Gateway Port is about to become, in throughput terms, the largest container port in the UK. It is critical national</p>
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	<p>infrastructure for the UK. It is vital to both LGPL and the UK that this throughput and the ability of London Gateway Port to handle the largest vessels should be able to continue and grow.</p> <p>There is consensus between the Applicant and LGPL that the cables could be buried at the necessary depth (22m) and that once that depth is established it is a once and for all decision – if the cables are laid at a shallower depth, it is not feasible to then lift the cables to allow for a deeper dredge.</p> <p><i>[LGPL's Policy Concerns]</i></p> <p>LGPL is left with significant concerns that the requirements of the National Policy Statement, EN3 in relation to navigational shipping, which is set out at paragraphs 2.8.326 to 2.8.340, of that are in fact, secured.</p> <p>The Applicant's tracker, [REP1-053] on these matters simply tells us that chapter 15 of the ES on shipping and navigation, and the planning statement [AS004], has considered shipping and navigation and concluded there's no residual impacts after mitigation. Further on, it states that the site selection and assessment of alternatives has engaged with the PLA and Harwich Haven. LGPL notes there's been no engagement recorded in relation to LGPL on that. That has resulted in moving the cable slightly within the Sink area, but obviously it remains within the Sink. It says with the implementation of mitigation measures, North Falls is predicted to have a tolerable or broadly acceptable effect on shipping and navigation.</p> <p>There are two key points on this. One is that the ExA needs to have certainty of the implementation of those mitigation measures. Currently, the only reference in the Application papers to the 20m depth being in any way secured is a passing reference in the Navigation and Installation Plan [APP 259], which says that the cable protection should not compromise the 20m depth in the Deep Water Routes. There's no other reference anywhere else. LGPL suggests that's insufficient securing of that mitigation. (LGPL notes it is currently in the hands of the Applicant as it's only going to be Deadline 4 when LGPL actually sees how the Applicant proposes that that mitigation may be secured more effectively.)</p> <p>Secondly, the conclusion about the tolerable or negligible operational impacts on the ports in Chapter 15 of the ES (shipping and navigation) [APP-029] relies, from an economic point of view, on Chapter 31 of the ES [APP-045]. That consideration (and this is set out in section 31.5 and 31.65 of Chapter 31 [APP-045]) only encompasses Felixstowe and Harwich Haven. There is no consideration of the economic impacts on London</p>
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	<p>Gateway in that document. As such, there is no basis to reach the conclusion set out in Chapter 15 regarding the operational impacts on the Thames ports, including LGPL.</p> <p>LGPL submits that presently those conclusions in the NPS tracker [REP1-053] are not robust. This is all in the context of the Applicant's change of position regarding protective provisions for LGPL, the refusal to consider a Requirement to the dDCO and the reliance on an outline CSIP which has not yet been produced (and indeed which the Applicant said at the previous Deadline would not exist at all). If LGPL could have a guarantee of sufficient mitigation, then perhaps it could be less concerned regarding the apparent non-compliance with the NPS. However, presently LGPL has no guarantee of mitigation and the assessment of the economic impacts of shipping on London Gateway Port and the London ports more widely is non-existent.</p> <p><i>[Procedural concerns]</i></p> <p>LGPL has procedural concerns about the progression of the Application - there's a lot that LGPL and the ExA will be seeing for the first time at Deadline 4: there is going to be an outline sediment disposal plan, which, to LGPL's knowledge, doesn't yet exist and hasn't been submitted, so this will be the first time LGPL and the ExA see that; there will be an updated NIP with some changes, but we don't know quite what they're going to be; and there will be the outline CSIP provided for the first time (which the Applicant said at Deadline 2 wouldn't exist). Presently there is no detail as to how this will all be stitched in the DML or the dDCO more widely. LGPL is concerned that this documentation hasn't been put before the Examination previously as there appears to be no good reason why that is the case. LGPL is concerned as to whether or not it will have enough time to usefully to respond.</p> <p><i>[LGPL's ask]</i></p> <p>LGPL's concerns can be simply dealt with, it seeks only the certainty of mitigation in the form of a Requirement (to properly entrench the parameters of the powers) and involvement in the process, that is to say:</p> <ul style="list-style-type: none"> <li>• the Requirement to secure the 22m dredge depth;</li> <li>• sight of the outline CSIP and involvement in it;</li> <li>• approval of the final CSIP through the protective provisions; and</li> </ul>
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	<ul style="list-style-type: none"> <li>• approval of the (final) operational and maintenance plan through the protective provisions, so far as maybe relevant to any maintenance works affecting dredged depths.</li> </ul> <p>LGPL needs to know now, to have certainty now, that that a 22m possible dredge depth is guaranteed. There will be a socio- economic, or at least an economic effect if the ports on the Thames do not know until the final CSIP itself is submitted and approved by the MMO what the situation will be. In fact, the ports will be hesitant - there is a potential risk to business decisions and planning. This is why LGPL needs the Requirement now in the dDCO.</p> <p><i>[NIP / drafting point]</i></p> <p>LGPL notes that condition 22(n) of the DML deals with the Navigation and Installation Plan (NIP). The outline NIP [APP-259] does include a statement, that any cable protection will not compromise a minimum 20m depth. The interaction between the NIP and the other plans referred to (in particular the CSIP) is unclear. In its amends to the dDCO at Deadline 4, the Applicant will need to deal with that interaction and the interplay of the various relevant conditions in the DML.</p>
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**25 April 2025**