

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

NORTH FALLS OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010119

**DEADLINE 5: PORT OF LONDON
AUTHORITY'S COMMENTS ON SUBMISSIONS
RECEIVED AT DEADLINE 4**

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 4 submissions.

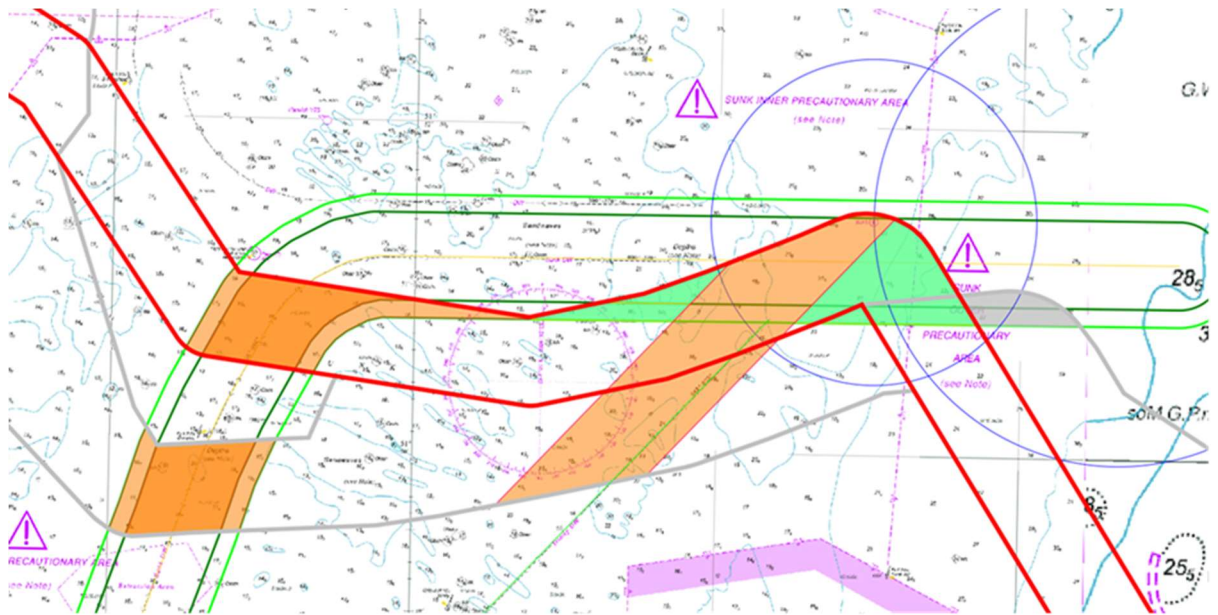
1.2 Documents referred to in this submission are:

- (a) Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (REP4-043);
- (b) Outline Sediment Disposal Management Plan (REP4-038);
- (c) Supporting Information on Offshore Additional Mitigation (REP4-041);
- (c) Site Characterisation Report (REP4-014);
- (d) Outline Cable Specification and Installation Plan (REP4-039) and Cable Statement (REP4-016);
- (e) Outline Navigation and Installation Plan (REP4-012);
- (f) Statement of Common Ground Port of Tilbury London Limited (REP4-050);
- (g) Applicant's Response to Deadline 3 submissions and Deferred responses from D2 (REP4-027);
- (h) Applicant's Response to the Ports' request for Protective Provisions (REP4-044); and
- (i) Draft Development Consent Order (REP4-005).

2 DEEP WATER ROUTE CABLE INSTALLATION AREAS (FUTURE DREDGING DEPTHS) PLAN (REP4-043)

2.1 The PLA welcomes the general approach that the Applicant took to the Deep Water Routes ("**DWRs**") future dredging depths, continuing the Sunk DWR seaward on the same basis as the Five Estuaries Offshore Wind Farm ("**VEOWF**") i.e 1km width at - 22m Chart Datum ("**CD**") and an additional 200m each side at -19m CD. However, given the location of the North Falls red line boundary the Applicant's proposed approach would leave areas at the top of the Trinity/Sunk diamond which are not subject to the deeper cable installation/maintenance requirement. The image on the next page shows the North Falls red line boundary for the order limits in red, the VEOWF order limits in grey, the combined areas subject to requirement in orange and the extension of the Sunk DWR and additional areas that need to be included in green. The area in grey relates to VEOWF and that area is already deep. The majority of the green area will need to allow for dredging to -22m CD and the PLA could otherwise accept the 200m buffer to the south at -19m CD.

2.2 The PLA has provided the Applicant with its comments on the Deep Water Route Plan [REP4-043] and awaits a response. Once agreement has been reached on the extent of the area required for deeper cable burial, plans and documents (including the outline Navigation and Installation Plan ("**oNIP**") and outline Sediment Disposal Management Plan ("**oSDMP**")) will need updating accordingly.



3 OUTLINE SEDIMENT DISPOSAL MANAGEMENT PLAN (REP4-038)

- 3.1 The PLA welcomes the production of the oSDMP [REP4-038]. The oSDMP sets out the key constraints and measures proposed that will be included in the final SDMP.
- 3.2 The oSDMP sets out in figure 3-1 the disposal zone constraints, including the 'Sunk DW Buffer', the 'Trinity DW Buffer' and the 'Pilot Boarding Station Buffers'. The PLA welcomes the clear commitment in paragraph 21 of the oSDMP that *"all disposal material that is created from construction activities will not be disposed of within the areas proposed for deeper burial of the export cable as shown on figure 3-1."* Such disposal material should, however, also not be placed in areas that could migrate into such areas.
- 3.3 The proposal in relation to the Pilot Boarding Station Buffers is less clear. The PLA has provided comments to the Applicant concerning paragraph 23. The PLA believes that there is an error when paragraph 23 refers to the areas proposed for the deeper burial of the export cable and that this should instead refer to the Pilot Boarding Station Buffers. If the PLA is correct, then paragraph 23 is providing a clear commitment not to dispose of material within the Pilot Boarding Station Buffers. However clarification is then required on the statement in paragraph 25 about *"seeking to not reduce navigable depth within the pilot boarding area through avoiding, where possible, the disposal of material in this area."* (our emphasis); since this implies that material could be disposed of within the Pilot Boarding Station Buffers which would not be acceptable to the PLA.
- 3.4 As a general point which requires consideration across all of the Applicant's documents, paragraph 4 refers to the export cable corridor ("ECC"), but paragraph 7 relates to the offshore cable corridor ("OCC"). The PLA has no preference on which wording is used, but would recommend that it is used consistently across all documents.

4 SUPPORTING INFORMATION ON OFFSHORE ADDITIONAL MITIGATION (REP4-041)

- 4.1 The Applicant has also produced a new document at deadline 4: Supporting Information on Offshore Additional Mitigation [REP4-041]. The document includes *"information on the implications of mitigation commitments made at Deadline 4 to address concerns of Harwich Haven Authority, Port of London Authority and London Gateway Port Ltd regarding cable burial depths in the Sunk and Trinity Deep Water Routes."*

- 4.2 Paragraph 23 advises that “*Dredged sediment deriving from the areas crossing the Sunk and Trinity DWRs would be deposited in the array area to ensure they do not reduce navigable water depth within the DWRs*”. The document is silent concerning dredged material deriving from the Pilot Boarding Station Buffers. The document should therefore be updated to include information on this important mitigation commitment.

5 SITE CHARACTERISATION REPORT (REP4-014)

- 5.1 The Site Characterisation Report [REP4-014] was updated at deadline 4 and now includes, amongst other things, cross references to the oSDMP and to the Applicant’s commitments in relation to cables at the DWRs. It is recommended that paragraphs 32 and 184 are updated to mirror the wording used in paragraph 112. As currently drafted paragraphs 32 and 184 give the impression that the cable just needs to be below 22m CD, rather than being at a depth that does not preclude dredging to -22m CD within the Sunk A and Trinity DWR and -19m CD within the Sunk B DWR.
- 5.2 The Site Characterisation Report is clear at for example paragraph 108 that disposal of dredged material will avoid the Sunk and Trinity DWRs however it is silent on the Pilot Boarding Station Buffers.

6 OUTLINE CABLE SPECIFICATION AND INSTALLATION PLAN (REP4-039) AND CABLE STATEMENT (REP4-016)

- 6.1 The PLA welcomes the production of the outline Cable Specification and Installation Plan (“**oCSIP**”) [REP4-039]. The oCSIP sets out the principles with which the final CSIP must accord. Given the importance of this document, the CSIP must be in strict accordance with the oCSIP. The scope of the document needs to be made clear – currently it is stated at paragraph 3 that it covers the installation and cable route preparation (there is no reference to maintenance). At paragraph 31 in relation to the DWRs the reference is to the cables being installed and maintained but in paragraph 32 the reference is only to installation. The oCSIP and CSIP must be clear that any commitments relating to the DWRs apply to both installation and maintenance.
- 6.2 It is noted that the CSIP will be submitted for approval by the Marine Management Organisation (“**MMO**”). Consistent with its approach to VEOWF, the PLA seeks protective provisions in relation to the CSIP including the undertaker obtaining the PLA’s approval in writing of the CSIP before it is submitted to the MMO.
- 6.3 Paragraph 13 requires an update to make it clear that in relation to any UXO relocation, that this will not occur to or within the DWRs.
- 6.4 It should be clarified if any wet storage is proposed and if it is, then the oCSIP should be updated to commit to no wet storage within the DWRs. Similarly the document should be updated to commit to not relocating archaeological finds to or within the DWRs.
- 6.5 At section 4.3 the text should be updated to make it clearer in relation to the Applicant’s approach to cable protection in the DWRs and in the vicinity of the Sunk pilot boarding area. Currently the document is silent on the DWRs and states in relation to the vicinity of the Sunk pilot boarding area that “reasonable endeavours” will be made to avoid the use of cable protection. Given the implications of cable protection in terms of reduced water depths, there could be significant implications if water depths were reduced in the area where pilots were trying to board deeper draughted vessels.
- 6.6 Given the indicative locations for the cable crossings of North Falls, Sealink and Neuconnect but reflecting that these locations are indicative, the applicant should commit in the oCSIP at paragraph 46 to not crossing these projects within the DWRs.

- 6.7 The PLA notes that as a result of the production of the oCSIP there have been a number of amendments made to the Cable Statement [REP4-016]. These amendments remove detail from the Cable Statement on matters relating to seabed preparation and offshore cable installation and replace them with references to the oCSIP. The PLA has no objection to this approach.

7 OUTLINE NAVIGATION AND INSTALLATION PLAN (REP4-012)

- 7.1 The oNIP [REP4-012] was updated at deadline 4. The PLA still has a number of comments about the oNIP including:

- (a) The NIP applies “from the start of offshore construction activities.” It needs to be clear when this is i.e. is it from “commencement” see the PLA’s comments on commence as set out in its Written Representation [REP2-056]
- (b) The NIP will be submitted for approval by the MMO. Consistent with its approach to VEOWF, the PLA seeks protective provisions in relation to the NIP including the undertaker obtaining the PLA’s approval in writing of the NIP before it is submitted to the MMO.
- (c) Use of consistent terminology - there are references in the oNIP to concurrent activity but also references to concurrent working for example, use of ‘working’ in para 1 and ‘activity’ in para 8 and fig 2.
- (d) Para 8 Clarification should be provided on what is meant by “Further areas”.
- (e) Para 9. This paragraph splits the concurrent activity areas into four. It should be clarified why the Sunk DWR Area has been split into East and West particularly when table 2.2 does not have this same distinction in terms of the Sunk DWR.
- (f) Fig 2.1 The Trinity DWR full extent is not clear currently due to the overlap of the Pilotage Area circles.
- (g) 2.2.1 para 11. It should be clarified whether any freespan clearance is proposed as it is not currently provided for
- (h) 2.3.2 paras 14 and 15 – The projects referred to include VEOWF and SeaLink. Other known projects which could overlap with North Falls (e.g. Tarchon) should also be referenced.
- (i) Table 2.3 The indicative construction programme is the high level programme for the project rather than the high level programme for offshore activities. The PLA would have expected the entries in the table to then form the basis for the various tables in section 3 (surveys, UXO, PLGR etc).
- (j) Tables in section 3. It should be explained why none of the vessel details have been included in the tables.

8 STATEMENT OF COMMON GROUND PORT OF TILBURY LONDON LIMITED (REP4-050)

- 8.1 In the SoCG between the Applicant and the Port of Tilbury London Limited, there is an entry relating to the Protective Provisions. The Applicant’s position is *“on the understanding that the Port of Tilbury will align with PLA’s position, the Applicant is engaging with the PLA on the suitability and appropriateness of Protective provisions for the PLA.”* The PLA has approached the Applicant on more than one occasion since Issue Specific Hearing 2 to discuss the matter of Protective Provisions for the PLA. The Applicant has refused to engage with the PLA on this matter.

9 APPLICANT'S RESPONSE TO DEADLINE 3 SUBMISSIONS AND DEFERRED RESPONSES FROM D2 (REP4-027)

- 9.1 The Applicant's response to the PLA's comments are set out in Table 2-8 on pages 36-38 of REP4-027. The PLA does not comment on each point in turn in detail here. Many of the Applicant's responses signpost to documents such as the oCSIP, oSDMP and oNIP which the PLA has commented on elsewhere within this representation. References are also made to Requirement 2(3) and comments on this are provided in relation to the dDCO below. Comments on protective provisions are provided in section 10 below and the response to the Examining Authorities Second Written Questions ("**ExAQ2**").
- 9.2 The PLA and the Applicant continue to discuss the potential for its on-shore navigational equipment to be impacted.

10 APPLICANT'S RESPONSE TO THE PORTS' REQUEST FOR PROTECTIVE PROVISIONS (REP4-044)

- 10.1 The first point the Applicant raises in REP4-044 against the ports having protective provisions is that mitigation is appropriately secured by other means and a summary of mitigation measures is set out in tabular form at paragraph 2.2. This table includes reference to Requirement 2(3), the CSIP, the SDMP and the NIP.
- 10.2 The Examining Authority has raised a specific question in ExAQ2 Q9.4.1(i) namely
- "(i) Given the additional measures secured by the Deadline 4 updates to application documents, please can LGPL and PLA indicate whether they still seek protective provisions and, if so, explain why the package of mitigation measures committed to by the applicant would not appropriately address their concerns and whether there are any other mitigation measures in relation to the Sunk and Trinity DWR and Sunk Pilotage area that would preclude the need for protective provisions."*
- 10.3 In light of the full response presented to that question we do not seek to repeat the PLA's arguments as to why the mitigation measures proposed do not address the PLA's concerns in the same way as protective provisions.
- 10.4 The second limb to the Applicant's argument is that there is no detriment to any statutory undertaking. The ports are statutory harbour authorities and as per the PLA response to ExAQ2 Question 9.4.1(ii), the northern approaches for deeper draughted vessels into the Port of London (i.e the DWRs through which deeper draughted vessels must pass through to get into the Port of London) and the Port of London (the largest port in the UK) accounted for 12% of all UK major port tonnage traffic handled in 2023.
- 10.5 The Order Limits also include the Sunk Pilot Diamond and pilotage is compulsory for large vessels within the London Pilotage District. The approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond rather than at a specific point.
- 10.6 It is disingenuous to suggest that there is no detriment to any statutory undertaking. It is only through protective provisions that the PLA will have certainty that the proposals will not have detrimental impacts on the UK's largest port.
- 10.7 The PLA also address in its response to ExAQ2 the Applicant's contention that the MMO is the appropriate regulator and duplication of control is inappropriate and, finally, that protective provisions would be unprecedented.

11 DRAFT DEVELOPMENT CONSENT ORDER (REP4-005)

- 11.1 At deadline 4 the PLA note that a number of updates have been made to the draft development consent order ("**dDCO**") [REP4-005]. These include:

- (a) New definitions: “Deep Water Route Cable Installation Area (Future Dredging Depths) Plan”, “outline cable specification and installation plan” and “outline sediment disposal management plan.” The oCSIP and oSDMP definitions have also been added to Deemed Marine Licence at Schedule 9 (“**DML**”).

- (b) Part 3 Requirements – a new Requirement 2(3) which reads:

(3) Any part of Work No. 3 and any associated development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be installed and maintained at a level which would not preclude dredging:

(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22metres below Chart Datum; and

*(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum (“**the New Requirement**”).*

- (c) Schedule 9 condition (13) (3) In undertaking activities under paragraph (2)(f), other than in areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing

- (d) Schedule 9 – CSIP needs to be in accordance with the oCSIP. The SDMP needs to accord with the principles set out in the oSDMP.

11.2 Further changes are required to the dDCO (in addition to protective provisions for the benefit of the PLA and points previously raised by the PLA regarding the definitions of maintain and commence). These are as follows:

- (a) Regarding the New Requirement, as indicated in the PLA's response to ExAQ2 the Requirement should be amended as follows:

*“(3) Any part of ~~Work No. 3 and any associated development~~ **the authorised development** located within the following areas*

*shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be **designed**, installed, **operated** and maintained at a level which would not preclude dredging:*

(a) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;

(b) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and

(c) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.

(4) The undertaker must not carry out wet storage or relocate any boulders or archaeological finds to or within the three areas referred to in paragraph (3)."

- (b) A new definition of: “Deep Water Route Cable Installation Area (Future Dredging Depths) Plan”, “should also be added to the DML as a definition and the New

Requirement (as proposed to be amended) should be included in the DML at condition 10 as sub-paragraph (3).

- (c) The PLA is not referenced as a consultee in the DML, nor are they referenced in condition 16 regarding notifications and inspections, nor is there reference to the consultation with the PLA in the preamble to condition 22(1) nor that final plans should be agreed with the PLA prior to submission to the MMO. Consistent with the PLA's representations on the VEOWF the PLA would expect to be referenced in the following Conditions: Condition 13(4), 16(8) to (14), 17(2), 22, 26(1), 28(1) 28(3) and 28(4).
- (d) Condition 13 (3) as amended records that *"in undertaking activities under paragraph (2)(f), other than in areas shown shaded orange, pink or hatched purple on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan where navigable depth may not be reduced to any extent, the undertaker must not reduce water depth by more than 5% Chart Datum unless agreed with the MMO and the MCA in writing"*. The maintenance works referenced in f) only relate to cable protection and replenishment but consistent with the New Requirement (d) cable remedial burial and (e) cable repairs and replacement would be equally relevant and should be referenced.
- (e) As currently drafted the DML only requires the NIP and the oSDMP to accord with the principles of the oNIP and oSDMP and the CSIP to accord with the oCSIP (condition 22). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. The final documents must be in strict accordance with the relevant outline document.
- (f) Condition 22(1)(iii) should reference the length, depth and arrangement of cables comprising Work Nos. 2, 3 and 4A including cable crossings;
- (g) Condition 22(1)(h) which sets out the requirements for the CSIP needs to be updated to include the following:

"a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment demonstrating compliance with condition 10(4)" i.e the design parameter.

and limb (iii) this needs to be updated to read *"a detailed cable laying plan for the Order limits within that stage, incorporating a burial risk assessment **demonstrating compliance with condition 10(4) above in the case of cable protection within the located within areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan 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;*

limb (iv) should be updated with the changes in red

*"proposals for the volume, **depth** and areas of cable protection to be used for each cable crossing, and proposals for timing and methodology for reporting on actual volumes, **actual depths** and areas post construction;"*

- (h) Condition 23(4) of the DML requires that the licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 22, unless otherwise agreed in writing by the MMO with no reference to further consultation with the local harbour authorities.

- 11.3 The PLA is in discussion with the MMO regarding the above changes to the DML with the expectation that the MMO will support the amendments as it did on VEOWF and the PLA will keep the ExA apprised of those discussions.