

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

NORTH FALLS OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER

PINS REFERENCE EN010119

**DEADLINE 7: COMMENTS ON
DOCUMENTS SUBMITTED AT DEADLINE 6
LONDON GATEWAY PORT LIMITED
(IP REF: 20050576)**



1 INTRODUCTION

1.1 This document sets out the comments of London Gateway Port Limited on the documents received at Deadline 6.

1.2 It deals with the following documents:

- (a) NFWL – Cable Specification and Installation Plan (Rev 2) (Tracked) [REP6-052]
- (b) NFWL – Outline Sediment Disposal Plan (Rev 2) (Tracked) [REP6-050]
- (c) NFWL – Outline Navigation and Installation Plan (Rev 3) (Tracked) [REP6-040]
- (d) NFWL – Draft Development Consent Order (dDCO) (Rev 7) (Tracked) [REP6-006]
- (e) NFWL – National Policy Statements Accordance Table (Rev 1) (Tracked) [REP6-044]
- (f) NFWL – Applicant's comments on responses to ExQ2 [REP6-061]
- (g) NFWL – Applicant's Response to Deadline 5 submissions [REP6-060]
- (h) MMO – Comments on any submissions received at the previous deadline [REP6-082]

2 NFWL – CABLE SPECIFICATION AND INSTALLATION PLAN (REV 2) (TRACKED) [REP6-052]

2.1 LGPL welcomes the changes made to the outline CSIP:

- (a) LGPL is to be consulted on the final form of the CSIP, but no right of approval (para 2) (although this is not a right of approval – see below).
- (b) The commitment regarding relocation of boulders outside DWRs is now corrected (para 17).
- (c) A commitment regarding archaeological finds and DWRs now included (para 19).
- (d) More comprehensive wording re cable depth is now included in para 30.

2.2 There are some drafting points that need to be changed:

- (a) typo "London Gateway Port Authority" in para (2) – the reference should be London Gateway Port Limited; and
- (b) paragraph 30 - the same form of wording needs to be used for both 22m and 19m areas – presently the drafting is unclear / confused.

2.3 The main point of principle is whether or not LGPL is to have a right of approval of the final form of the CSIP or only a right to be consulted upon it. LGPL's position is that it should have a right to approve the final CSIP. We note that the ExA in its Schedule of Changes to draft Development Consent Order [PD-009] has specified that the Protective Provisions (PPs) in favour of LGPL should be reinstated. LGPL of course supports that position. If those PPs are reinstated, they contain provision for LGPL to approve the CSIP, so that point will be taken care of. In such case the oCSIP should perhaps note that will happen but it does not matter substantively as the PPs will apply nevertheless. If the PPs are not, for whatever reason, included in the dDCO, we have set out in our Response to the Examining Authority's Third

Written Questions (ExQ3) also submitted at Deadline 7 the necessary changes that LGPL submits are required to Condition 22(1) of the Deemed Marine Licence at Schedule 9 to the dDCO to provide LGPL with the necessary right of approval.

2.4 In summary, depending on resolution of the position regarding consultation vs. approval, LGPL considers that the Outline CSIP is now satisfactory save for minor drafting points.

3 NFWL – OUTLINE SEDIMENT [MANAGEMENT] DISPOSAL PLAN (REV 2) (TRACKED) [REP6-050]

3.1 LGPL welcomes the changes made to the outline Sediment Disposal Management Plan (SDMP) – the wording of the commitment regarding disposals in the DWR in paras 21 and 23 is improved.

3.2 Some minor drafting points remain for clarity / certainty:

(a) Paragraph 21 – amend to read “In response to this concern, the SDMP will require that all no disposal material that is created from construction activities will may not be disposed of within the areas proposed....”

(b) Paragraph 23 – amend to read “In response to this concern, the SDMP will require that all no disposal material that is created from construction activities will may not be disposed of within the areas around....”

3.3 The main point of principle is whether or not LGPL is to have a right of approval of the final form of the SDMP or only a right to be consulted upon it. LGPL’s position is that it should have a right to approve the final SDMP to the extent relevant as regards the DWRs.

3.4 We note that the ExA in its Schedule of Changes to draft Development Consent Order [PD-009] has specified that the Protective Provisions (PPs) in favour of LGPL should be reinstated. LGPL of course supports that position. If those PPs are reinstated, LGPL submits that certain changes are necessary and sets out in the Schedule to this document those amendments. Those amendments would provide for LGPL to approve the SDMP. In such case the oSDMP should perhaps note that will happen but it does not matter substantively as the PPs will apply nevertheless. If the PPs (with the requested amendment) are not, for whatever reason, included in the dDCO, we have set out in our Response to the Examining Authority’s Third Written Questions (ExQ3) also submitted at Deadline 7 the necessary changes that LGPL submits are required to Condition 22(1) of the Deemed Marine Licence at Schedule 9 to the dDCO to provide LGPL with the necessary right of approval.

3.5 In summary, depending on resolution of the position regarding consultation vs. approval, LGPL considers that the Outline SDMP is now satisfactory save for minor drafting points.

4 NFWL – OUTLINE NAVIGATION AND INSTALLATION PLAN (REV 3) (TRACKED) [REP6-040]

4.1 LGPL remains unclear regarding the central purpose of the Outline Navigation and Installation Plan (NIP). At paragraph 2 it states that “The NIP is required to ensure that North Falls activities within the AOI minimise impact of third-party vessels...” [our emphasis]. LGPL hopes and believes that this is a typo and that that the purpose of the NIP is to minimise the impact on third-party vessels, but looking at the content of the NIP more broadly presently it is not clear that that is the case. We would be grateful if this point could be confirmed and corrected.

- 4.2 Although a definition of Third Party Vessels now included in the outline NIP, it refers to "named ports" which does not appear to be defined. If specified ports need to be defined, then clearly LGPL wishes to be one of them.
- 4.3 The outline NIP includes content regarding concurrent activities at section 2.3. This is still quite oblique and unclear. Our understanding is that this section is to capture the Applicant's commitment that the Applicant will not deploy RAM vessels in both the Sunk DWR and the Trinity DWR at the same time, so as to avoid impacts on both routes to London Gateway Port (and other London ports) at the same time. However, that commitment is not expressly or clearly set out. Instead, we have to look at Table 2.2 which, as now amended, is less clear and LGPL is not sure whether it now in fact captures the commitment at all (the 'No' appears to be deleted). The outline NIP needs to be explicitly clear (in terms) on this point.
- 4.4 LGPL is of the view that the NIP does also need to set out explicitly some principles for the treatment of the DWRs beyond the concurrent activities commitment referred to above. Those principles must as a minimum:
- (a) recognise that the Sunk and Trinity DWRs are not substitutes for each other – the Sunk DWR can accommodate vessels with a deeper draught than the Trinity DWR can;
 - (b) recognise and confirm that the access or egress of vessels to the Port of London including London Gateway Port must not be disrupted by any activities in the DWRs carried on pursuant to the DCO (whether individually or concurrently with other activities in the DWR) and that no delay to the access or egress of such vessels should be caused; and
 - (c) require that the Applicant work very closely with LGPL and the PLA as regards the timing of any cable burial crossings and the period of time that those crossings require – with such close working it may be possible to avoid disruption or delay by having regard to scheduled calling times and states of the tide.
- 4.5 In terms of a right to agree the NIP or a right only to be consulted on it, paragraph 24 provides that the final NIP will be agreed with the Interested Parties, including LGPL, but paragraph 26 then provides that the final NIP can nevertheless be submitted to the MMO for approval in the absence of agreement – essentially this is therefore more of a right to be consulted. That accords with the current provisions of the DML in the dDCO.
- 4.6 However, LGPL's position is that it should have a right to approve the final NIP to the extent relevant as regards the DWRs. We note that the ExA in its Schedule of Changes to draft Development Consent Order [PD-009] has specified that the PPs in favour of LGPL should be reinstated. LGPL of course supports that position. If those PPs are reinstated, LGPL submits that certain changes are necessary and sets out in the Schedule to this document those amendments. Those amendments would provide for LGPL to approve the NIP. In such case the outline NIP should perhaps note that will happen and not be subject to the provisions of paragraph 26 but it does not matter substantively as the PPs will apply nevertheless. If the PPs (with the requested amendment) are not, for whatever reason, included in the dDCO, we have set out in our Response to the Examining Authority's Third Written Questions (ExQ3) also submitted at Deadline 7 the necessary changes that LGPL submits are required to Condition 22(1) of the Deemed Marine Licence at Schedule 9 to the dDCO to provide LGPL with the necessary right of approval.

- 4.7 Some minor drafting points at Section 3.1.6:
- (a) Paragraph 35 – amend to “noting that this ~~will~~ may not prevent dredging as provided in the Cable Specification and Installation Plan within the DWR areas...”.
 - (b) Paragraph 36 – amend to “so as to again ensuring dredging as provided in the Cable Specification and Installation Plan is not restricted...”.
- 4.8 The HAZAP workshop provisions at paragraph 44 provide that the workshop will only consider ongoing maintenance dredging by LGPL, not any additional capital dredge. This restriction is not understood any on-going or planned capital dredging by LGPL down to the assumed reasonable future case of 22m should also be considered by the workshop.
- 4.9 In summary, LGPL considers that the outline NIP lacks significant detail and does not provide the necessary protections for London Gateway Port Limited to safeguard the on-going operation of the Port. LGPL wishes to discuss with the Applicant and the Port of London Authority further changes to the outline NIP as a matter of urgency.

5 NFWL – DRAFT DEVELOPMENT CONSENT ORDER (DDCO) (REV 7) (TRACKED) [REP6-006]

- 5.1 LGPL welcomes the changes made to the dDCO since the previous version:
- (a) The wording of Requirement 2(3) has had the drafting amendments LGPL requested included.
 - (b) A clear right for 'local harbour authorities' to be consulted (but not to agree) on the CSIP, NIP and SDMP has been included in para 22 of the DML at Schedule 9 to the dDCO. Local harbour authorities is defined and includes LGPL (as well as PLA and HHA).
 - (c) The CSIP now applies to maintenance activities (including cable repairs and replacement) as well – para 13 of the DML.
 - (d) The application of the 5% dredge depth reduction provision has been removed from the DWRs – para 22(h)(ii) of the DML.
 - (e) The power of the MMO to agree to waive provisions of the various plans has been amended as we requested to require the MMO to reconult before it does so.
- 5.2 However, the PPs for LGPL remain omitted. LGPL is of the view that they remain necessary for the reasons set out in **[REP5-096]**. Accordingly, LGPL welcomes the ExA's position on the PPs for the benefit of LGPL set out in the ExA's Schedule of proposed changes to the draft Development Consent Order (dDCO) published on 1 July 2025.
- 5.3 However, LPGL notes that the ExA refers to the form of the PPs originally included by the Applicant in the dDCO, as set out in **[REP3-008]**. As noted in LGPL's original written submission **[REP2-039]** there are certain amendments to the form of the PPs that the Applicant originally submitted that LGPL requires. Unfortunately, due to the change of position by the Applicant on the inclusion of any PPs for LGPL's benefit in the dDCO, LGPL has never had the opportunity to discuss with the Applicant the changes it sought. LGPL has previously been indicated to the Applicant that the PPs should be in the equivalent form to those submitted to the Five Estuaries examination **[REP6-080]** in that Examination]. For clarity, we now submit a full amended form of the PPs that LGPL requires. These are set out in the **Schedule** to this document.

- 5.4 The amendments proposed to the PPs as set out in the Schedule to this document are:
- (a) to provide LGPL with a right of approval ahead of submission to the MMO of the navigation and installation plan and the sediment disposal management plan, as well as the cable specification and installation plan;
 - (b) to clarify that LGPL area of interest is not only its area of jurisdiction (for the reasons explained in **REP5-096**) but the limits of deviation for dredging set out in the London Gateway Port HEO;
 - (c) to provide better clarity and detail on the process for the grant of the approvals;
 - (d) to include provision that the final CSIP should set out details of how any impacts on shipping to and from London Gateway Port will be minimised (e.g. by the choice of methodology and process) so far as reasonably practicable during the carrying out of the works;
 - (e) to recognise that the grant of development consent for the authorised development does not affect the exercise of the powers granted to LGPL under the London Gateway HEO – it would be pointless making effort to secure a certain dredge-depth ability if LGPL's powers to carry out dredging in more general terms might inadvertently be seen to be affected or limited by this Order. We trust this clarifying amendment will not be controversial.

6 NFWOL – NATIONAL POLICY STATEMENTS ACCORDANCE TABLE (REV 1) (TRACKED) [REP6-044]

- 6.1 LGPL notes that there have been no amendments to the Accordance Table in relation to paragraphs 2.3.326 to 2.8.340 of the National Policy Statement. LGPL refers to its submissions in relation to those paragraphs at ISH2 (9 April 2025) **[REP4-077]**. LGPL believes that the Applicant's conclusions in relation to those paragraphs can only be robust with: (i) the inclusion of the amendments since secured to the dDCO; (ii) the inclusion of the PPs (as amended as set out in the Schedule to this document); and (iii) the improvement of the outline NIP as sought above.

7 NFWOL – APPLICANT'S COMMENTS ON RESPONSES TO EXQ2 [REP6-061]

- 7.1 Table 2.9 of **REP6-090** deals with LGPLs' responses to ExQ2 **[REP5-097]**.
- 7.2 The points made there by the Applicant have now been superseded by the ExA's schedule of proposed changes to the draft Development Consent Order (dDCO) published on 1 July 2025 **[PD-009]**, as such, LGPL does not deal with them further here. For the avoidance of doubt, LGPL does not consider any of the points made in **REP6-090** to change LGPL's position as set out in **REP5-097**.

8 NFWOL – APPLICANT'S RESPONSE TO DEADLINE 5 SUBMISSIONS [REP6-060]

- 8.1 Table 2.5 of **REP6-060** sets out the Applicants' response to LGPL's Deadline 5 submissions in relation to the need for PPs. As set out above, LGPL maintains that PPs are necessary and agrees with the position of the ExA in this regard in the ExA's schedule of proposed changes to the draft Development Consent Order (dDCO) published on 1 July 2025 **[PD-009]**. LGPL notes the Applicants comments in Table 2.5, but does not feel that they raise any additional points and in light of the position of the ExA on PPs, does not feel that it useful to response individually to them, however, for clarity, LGPL does not agree to the points made.

**9 MMO – COMMENTS ON ANY SUBMISSIONS RECEIVED AT THE PREVIOUS DEADLINE
[REP6-082]**

- 9.1 LGPL notes that at paragraph 7.1. the MMO would welcome LPGL having a right to approve plans such as the final CSIP and final NIP before they are submitted to the MMO for approval.

15 July 2025

SCHEDULE – AMENDMENTS SOUGHT TO THE PROTECTIVE PROVISIONS

[COMPARISON AGAINST REP3-008]

"PART 7

FOR THE PROTECTION OF LONDON GATEWAY PORT LIMITED

Interpretation

82. In this Part-

“the cable specification and installation plan” means the cable specification and installation plan to be approved under condition 21(1)(h) of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets);

“London Gateway” means London Gateway Port Limited, Company No. 04341592 as harbour authority for the London Gateway Port, ~~forming part of the Port of London and pursuant to the London Gateway HEO- and includes any person to whom the right to operate the whole of the undertaking is disposed under article 46 of the London Gateway HEO situated at Corringham, Stanford-le-hope, SS17 9DY; and~~

“London Gateway HEO” means the London Gateway Port Harbour Empowerment Order 2008(a)

“the navigation and installation plan” means the sediment disposal management plan to be approved under condition 21(1)(n) of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets);

“the relevant plans” means the cable specification and installation plan, the navigation and installation plan and the sediment disposal management plan; and

“the sediment disposal management plan” means the sediment disposal management plan to be approved under condition 21(1)(o) of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets).

Application

83. The following provisions, unless otherwise agreed in writing between the undertaker and the London Gateway, have effect.

Approvals

84. The undertaker will obtain the approval in writing of London Gateway of each of the draft cable specification and installation relevant plans (in so far as ~~that those plans~~ relates to any area or areas of ~~Work No.2~~ the authorised development which are within the ~~jurisdiction limits of deviation for dredging of the~~ London Gateway ~~as described in~~ as defined by the London Gateway HEO) before any application for approval of ~~that those plans~~ is submitted by the undertaker in compliance with condition 22 of the deemed marine licence for the transmission assets in Schedule 9 (deemed marine licence under the 2009 Act – transmission assets).

85. The draft cable specification and installation plan referred to in paragraph 84 must be in accordance with requirement 2(3) and set out for Work No.3;

- (a) the proposed cable burial depth(s);
- (b) the proposed cable burial methods;
- (c) any cable protection proposed including type, volume and anticipated locations; ~~and~~
- (d) the proposed programme of work for cable burial; and
- (e) details of how any impacts on shipping to and from London Gateway Port will be minimised so far as reasonably practicable during the carrying out of the works covered by the draft cable specification and installation plan.

Approvals and refusals

86. London Gateway must issue any approval or refusal of a draft plan submitted to it in accordance with paragraph 84 within 28 days of the date of submission of that draft or of the date of the provision by the undertaker to London Gateway of any further information that London Gateway reasonably requests, unless any other period is agreed with the undertaker.

87- All decisions of London Gateway under these provisions must be made acting reasonably.

88. All decisions of London Gateway under these provisions must be issued in writing and the undertaker may provide a copy of any such decision to the Marine Management Organisation or any other regulatory body.

89. Where London Gateway refuses to approve a draft plan it must provide reasons for refusal in writing to the undertaker at the same time as it issues the refusal.

90. Where the draft plan is refused, the undertaker must consider the reasons for refusal and redraft the draft plan accordingly, before re-submitting it to London Gateway. The provisions of paragraphs 86 to 89 will then apply to that re-submitted plan.

901 Where no decision is issued within the 28 day period set out in paragraph 86, the draft plan submitted will be deemed to be approved-refused by London Gateway.

912. Any difference or dispute arising between the undertaker and London Gateway must, unless otherwise agreed in writing between the undertaker and London Gateway, be determined by arbitration in accordance with article 42 (arbitration) of this Order. The undertaker may not refer any dispute in relation to the refusal of a draft plan to arbitration under article 42 until it has redrafted and resubmitted the draft plan in accordance with paragraph 90 above at least once.

Protection of London Gateway powers

93. Nothing in this Order affects or restricts the exercise by London Gateway of any powers under the London Gateway HEO nor imposes any liability on London Gateway in respect of any loss or damage that may be caused to any part of the authorised development by virtue of the exercise of any powers under the London Gateway HEO."