

From: [Morgan-Welker, Carolyn](#)
To: lakelothing@pins.gsi.gov.uk
Cc: [Greenwood, Brian](#); [OWEN Robbie](#)
Subject: Proposed Lake Lothing Third Crossing (TRO10023) - ABP (20013261) [CC-UK1.FID22462820]
Date: 27 February 2019 15:27:50
Attachments: [image001.png](#)
[Tracker_27.2.19.pdf](#)
[Email from Robbie Owen Pinsent Masons 22.02.2019.pdf](#)
[Email from Robbie Owen Pinsent Masons 21.02.2019.pdf](#)
[Letter to Robbie Owen Pinsent Masons - 19.02.2019.pdf](#)

Dear Sir,

We write on behalf of our client, Associated British Ports (Objector Reference 20013261), in relation to the above and further to Mr Brian Greenwood's earlier letter of 19 February 2019.

We are concerned that the summary of correspondence in the official tracker, prepared by Pinsent Masons on behalf of Suffolk County Council, may be somewhat misleading in respect of the contents of the recent correspondence between Mr Greenwood, on behalf of our client, and Pinsent Masons.

We would therefore ask that copies of the actual correspondence (which is summarised in the tracker) be placed before the Examining Authority for consideration, in order to avoid any misconceptions or misunderstandings which may otherwise arise as to what was in fact contained within that correspondence, in the interests of clarity and transparency.

We therefore attach copies of: (1) Mr Greenwood's letter dated 19 February 2019 to Pinsent Masons on behalf of our client; (2) two emails in response dated 21 and 22 February 2019 from Pinsent Masons; and (3) the relevant extract of the tracker which summarises the above correspondence.

Kind regards,

Carolyn Morgan-Welker

Carolyn Morgan-Welker

Associate | Clyde & Co LLP

Direct Dial: +44 20 7876 4051 | **Mobile:** [REDACTED]



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Robbie Owen
Partner and Parliamentary Agent
Head of Infrastructure Planning and Government Affairs
Pinsent Masons LLP
30 Crown Place
Earl Street
London EC2A 4ES

Our Ref
BG/10028565

Your Ref

Date:
19 February 2019

Dear Robbie

**Port of Lowestoft
Proposed Lake Lothing Third Crossing (TRO10023)
Associated British Ports (Objector Reference 20013261)**

I refer to your email of 12 February 2019, which I should note for the record, you sent rather unhelpfully at 20.56 pm on the evening before the LLTC hearing the next morning. Bearing in mind the content of your email and the draft agreement, I must say that I was rather surprised and disappointed that neither you nor Michael Bedford saw fit to explain the import of your clients' proposals to the ExA the next day – particularly in view of some of the questions directed at ABP by the ExA. Such an approach does rather run counter to the collaborative ethos of the NSIP process.

The draft agreement that you have forwarded seems to be, by your own admission, rather loosely drafted and incomplete. Indeed, in some places it does seem to resemble some of a rather hastily put together "cut and paste" job – for example, have your clients, Suffolk County Council, really moved to the same address as TfL at 42-50 Victoria Street, London? Be that as it may, you will not be surprised to learn that neither I nor my client are presently in a position to comment substantively on its contents. This is clearly most unfortunate as it has the real potential to interrupt the ExA's examination programme.

If your proposals are to offer any means of a genuine way forward, then my client will require considerably more information from you as to what precisely your clients are proposing. In addition, in terms of the examination process and timetable, I do not think it unreasonable to ask for that information to be provided in writing and during the course of the next few days.

To assist, I have set out below a number of queries relating to the draft agreement, which I should add constitute only a summary of the points that my client has raised:

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- 1 In your covering email to me, you say that the draft agreement "*currently deals with the planning issues only*". Can you please identify what planning (as opposed to any other) issues to which you are referring?
- 2 References to a "Construction Compound Lease", without providing a draft, is unhelpful. Although my client has had some brief and high-level discussions with your client regarding the location of such a compound, no agreement has been reached as to the extent or location of the compound and this point has not been progressed any further by your client. You should be aware that for operational reasons, ABP is not in a position to provide the whole of plot 2-22 as a construction compound. Until SCC provides further details as to the actual extent of land that will be required, ABP cannot really take this matter any further.
- 3 **Definition** - The definition of "Control Tower Area Detailed Design" contains a reference to clause 6.1.5(b). That clause, however, relates to a dispute resolution procedure for consultation following completion of construction of the Scheme?
- 4 **Clause 2** - It is unclear why clause 4 should come into effect on the date of the Agreement, as the meetings referenced are not in fact required if the Scheme is not approved by the Secretary of State or in the alternative, is not implemented.
- 5 **Clause 7.1** - Deals with the operation of the bridge. Regardless of my client's serious concerns with regard to the proposed Scheme of Operation, is ABP to be responsible for the operation of the bridge or not? Your client's position is somewhat confusing.
- 6 **Clause 7.4** – If the Control Tower is to meet its operational requirements for the safety of the Port, then ABP must be the final arbiter as to detailed design. You do not seem to be aware, incidentally, that the location of the Control Tower, as currently proposed, is not actually on my client's land?
- 7 **Clauses 7.4 and 7.5** - Contain numerous incorrect references to clauses which do not exist in the draft, including clause 5.4.3, 5.4.4 and 5.4.5. This is perhaps another problem when applying the "cut and paste" approach?
- 8 **Clause 8** - References to a "NRA Development Protocol", without any explanation as to what that means, is unhelpful and appears simply to be an attempt to overcome one of my client's fundamental objections by referencing a document which does not exist, about which my client knows nothing, and of which there has been no mention in any of the meetings held between our clients.
- 9 **Clause 9.1.1** – Can your client confirm that its intention is still to acquire by compulsion plot 3-52 (leisure craft berth). If so, why?
- 10 **Clause 9.1.2** –
 - a) ABP occupies, but does not the own, plots 3-06, 3-07, 3-08, 3-37 and 3-51 (as noted in the Book of Reference). For some reason, however, plots 3-06, 3-08 and 3-37 are referenced in the draft agreement. I am unclear as to why you have applied an inconsistent treatment to these plots? Are they all intended to be included or excluded from the agreement? Whatever your answer, how do you envisage the proposed DCO mechanism accommodating these changes?
 - b) I note that there is no reference to plot 2-34 (Commercial Road) in this clause, in spite of the land being owned by ABP. Is the omission of this plot intentional?

11 **Clause 9.1.3 –**

- a) To be acceptable to ABP, the reference to temporary possession powers over plot 2-22 will need to allow for:
 - the continued use of the site by Dudmans; and
 - a set-back from the quay edge of around 15m to allow for continued use of the quay by vessels.
- b) Has plot 2-20 been missed from this clause, or does your client still intend to pursue temporary possession powers over this plot (in this regard, this covers Commercial Road to the west of the proposed crossing and, hence, is critical to maintain access to the western part of the Port)?
- c) There is no reference to plots 3-01 and 3-10 in this clause – does your client still intend to pursue temporary possession powers over these plots?

12 **Property generally** – the draft agreement does not address (in property terms) the securing of a temporary diversionary route alongside Shed 3 when Commercial Road is closed due to overhead bridge works. This will require temporary occupation of substantial areas of land to the west of the Shed 3. What is your client's proposal in this regard?

13 **Clause 10 Dredging –**

- a) In clause 10.3.2, there is a cross-reference to clause 8.3.1. Could you please explain to what this is actually intended to refer?
- b) Similarly, in clause 10.3.4, there is a cross-reference to clause 8.3.3. Could you please explain to what this is intended to refer?
- c) Clause 10.3.6 cross-refers to clauses 8.3.3 and 8.3.4. Again, could you please clarify to what these are intended to refer?

14 **Dredging generally** – Your draft agreement rather misses the point. As we explained at the examination session, my client as SHA must have the ability to undertake maintenance dredging within the Port as and when such dredging is required. My client is perfectly happy to give your client notice before dredging - as we indicated to the ExA, 5 days would be the norm - but it is not prepared to impose an interruption on commercial port operations whilst it informs the Council that it wishes to undertake maintenance dredging and then has to wait for your client's consent.

15 **Clause 11 - Traffic Management Action Plan (TMAP).** My client has no idea as to what your client is proposing in this respect. I would be grateful if you would clarify your client's position as soon as possible. It is unhelpful just to reference a non-existent document without the provision of essential detail.

16 **Clause 12 Port Security** – The draft agreement has ignored the points that ABP has made on a number of occasions to your client with regard to statutory Port security – namely that ABP is not able to share details of Port security with the County Council unless it is authorised to do so in advance by DfT. It follows logically that the timescales which lead to deemed approval of the proposal (at clause 12.2) are not within ABP's control and hence are not workable as drafted. Additionally, your suggestion that the

Council should have the final determining decision as to a statutory security plan demonstrates a worrying lack of understanding of the legal duties and obligations that fall upon my client and which cannot be subject to interference by third parties, such as the County Council, which has no locus in these matters.

- 17 **Clause 13 Oil Booms** – The oil booms are required to contain any oil spills, rather than to transport oil as the draft agreement appears to suggest.
- 18 **Clause 14 Compensation Code** – Such a provision is simply not acceptable and I am surprised that it has even been included, bearing in mind ABP's very clear reservations as to the serious detriment that your clients' proposal will have on the Port without the provision of meaningful mitigation.
- 19 **Clause 20 Notices** –
 - a) Clause 20.1 (b) – please note the address of ABP Lowestoft is incorrect – it should be Port Office, North Quay Cargo Terminal, Commercial, Lowestoft, Suffolk, NR32 2TE. Could you confirm whether your client has been sending formal notices regarding the Scheme to the incorrect address?
 - b) Clause 20.3 – please explain the reference to clause 11 in this clause.
- 20 **Clause 22 Termination** – Please confirm whether the cross-referencing in clause 22.2 to clause 22.3 is correct, as it seems to be somewhat circular?
- 21 **Appendices** – We cannot comment further on a draft agreement which contains six blank appendices.

I should reiterate that the above points comprise only an outline of some of my client's comments on your very draft agreement. I am afraid, that in light of the only partially assembled state of the agreement – which I presume was given to us at such a late stage simply to rebut the point made in my client's Deadline 4 submissions that whilst your client had on a number of occasions promised our client a draft side agreement, nothing had actually surfaced – it is not possible to comment meaningfully on your draft.

Regrettably, your decision to provide my client with an unfinished "rough" draft skeleton agreement, with no details and six blank appendices is of very little practical use at this stage of the Examination process.

My client looks forward to receiving your clients' more considered proposals during the course of the next few days.

I should perhaps add, again for the record, that nothing in the draft agreement that you have provided meets the fundamental objections that my client has to your clients' proposals in terms of serious detriment to Port operations, the need for genuine mitigation, the resolution of the scheme of operation, the need for a formal navigation risk assessment, properly accommodating the need for dredging and my client's absolute requirement for an indemnity in relation to a public highway crossing an operational port.

I look forward to hearing from you shortly.

Regards,

Yours faithfully



Brian Greenwood
Partner
Clyde & Co LLP

Paragraph Number	Clyde & Co comment (19/02/19)	Pinsent Masons response (22/02/19)
1	In your covering email to me, you say that the draft agreement "currently deals with the Planning issues only". Can you please identify what planning (as opposed to any other) Issues to which you are referring?	Clearly the agreement between our clients will be multi faceted and will deal with a considerable array of issues. As you will have noted, this draft of the agreement didn't include drafts of property documents, but sought to at least provide a framework for how the Council considers the other issues can be dealt with. We consider these to be the 'planning' issues, as opposed to the property documentation that will follow.
2	References to a "Construction Compound Lease", without providing a draft, is unhelpful. Although my client has had some brief and high-level discussions with your client regarding the location of such a compound, no agreement has been reached as to the extent or location of the compound and this point has not been progressed any further by your client. You should be aware that for operational reasons, ABP is not in a position to provide the whole of plot 2-22 as a construction compound. Until SCC provides further details as to the actual extent of land that will be required, ABP cannot really take this matter any further.	This is understood and clearly work need to be done on this topic - but we wanted to make it clear at the outset that such a lease would be instead of the use of DCO temporary possession powers, to give your clients at least that comfort. You will see in the next iteration of the draft that we have expanded on what we consider this lease would cover. ABP has however previously indicated it would issue a licence; do you have a preference for the form of agreement, both for construction and maintenance operations?
3	Definition -The definition of "Control Tower Area Detailed Design" contains a reference to clause 6.1.5(b). That clause, however, relates to a dispute resolution procedure for consultation following completion of construction of the Scheme?	Clearly this was a cross-referencing error which we have corrected – the correct reference is clause 7.4.
4	Clause 2 - It is unclear why clause 4 should come into effect on the date of the Agreement, as the meetings referenced are not in fact required if the Scheme is not approved by the Secretary of State or in the alternative, is not implemented.	This is drafted in recognition of the fact that (and as you are aware), a contractor has been appointed for the Scheme. Clearly both the Council and the contractor are aware of the need to have close liaison with ABP, and that this will need to commence in advance of any decision on the DCO, to ensure the Scheme can proceed expeditiously. This drafting creates a structure for that liaison to be taken forward.

5	Clause 7.1 -Deals with the operation of the bridge. Regardless of my client's serious concerns with regard to the proposed Scheme of Operation, is ABP to be responsible for the operation of the bridge or not? Your client's position is somewhat confusing.	Clause 7.1 is very clear – it is the Council's anticipation that ABP would operate the new bridge. The Agreement will comprise the transfer of benefit of article 40(1) of the DCO, pursuant to article 48.
6	Clause 7.4 — If the Control Tower is to meet its operational requirements for the safety of the Port, then ABP must be the final arbiter as to detailed design. You do not seem to be aware, incidentally, that the location of the Control Tower, as currently proposed, is not actually on my client's land?	As you will be aware, the Council is seeking compulsory acquisition powers over the land on which the Control Tower Area will sit. The lease will be entered into following that acquisition. The wording of this clause is deliberately drafted such that the operational aspects are what ABP will have a say on. The Council cannot agree to ABP being the ultimate arbiter as the Council will own the building. However given the various provisions within this clause and for dispute resolution, ABP will be able to have extensive involvement in its design.
7	Clauses 7.4 and 7.5 -Contain numerous incorrect references to clauses which do not exist in the draft, including clause 5.4.3, 5.4.4 and 5.4.5. This is perhaps another problem when applying the "cut and paste" approach?	Again, this is a cross-referencing error derived from the continued development of the document, not a 'copy and paste' issue. The references should have been to 7.4.3 etc.
8	Clause 8 -References to a "NRA Development Protocol", without any explanation as to what that means, is unhelpful and appears simply to be an attempt to overcome one of my client's fundamental objections by referencing a document which does not exist, about which my client knows nothing, and of which there has been no mention in any of the meetings held between our clients.	In a similar way to the leases, references to this protocol in the agreement were to give your client comfort that it was anticipated that this Agreement would provide 'flesh' on the bones of the processes set out in the DCO, which will be beneficial to both parties. As discussed at last week's hearing, the Council agrees that ABP will consent to the final NRA under its PPs - this protocol will help facilitate that. A suggestion for this protocol is included in the 2nd draft.
9	Clause 9.1.1 — Can your client confirm that its intention is still to acquire by compulsion plot 3-52 (leisure craft berth). If so, why?	This should and will be included in this clause – i.e. acquisition by compulsion is not intended if agreement can be reached.
10	Clause 9.1.2 — a) ABP occupies, but does not the own, plots 3-06, 3-07, 3-08, 3-37 and 3-51 (as noted in the Book of Reference). For some reason, however, plots 3-06, 3-08 and 3-37 are referenced in the draft	a) ABP is listed as the occupier of these plots. As such it is still relevant that the Agreement makes clear that the Council wouldn't seek to impose rights/restrictive covenants over that land/water. This works to ABP's benefit, so it is not clear what your concern is here. No change is necessary to the DCO. We would not intend to make any changes to the

	agreement. I am unclear as to why you have applied an inconsistent treatment to these plots? Are they all intended to be included or excluded from the agreement? Whatever your answer, how do you envisage the proposed DCO mechanism accommodating these changes? b) I note that there is no reference to plot 2-34 (Commercial Road) in this clause, in spite of the land being owned by ABP. Is the omission of this plot intentional?	DCO if the Agreement is reached, given the other interests listed in these plots. b) No. Plot 02-34 has been added to clause 9.1.1.
11	Clause 9.1.3 — a) To be acceptable to ABP, the reference to temporary possession powers over plot 2-22 will need to allow for: • the continued use of the site by Dudmans; and • a set-back from the quay edge of around 15m to allow for continued use of the quay by vessels. b) Has plot 2-20 been missed from this clause, or does your client still intend to pursue temporary possession powers over this plot (in this regard, this covers Commercial Road to the west of the proposed crossing and, hence, is critical to maintain access to the western part of the Port)? c) There is no reference to plots 3-01 and 3-10 in this clause —does your client still intend to pursue temporary possession powers over these plots?	a) You will see that the holding page for the Construction Compound lease now provides for these issues to be considered in the drafting of that lease. b) This plot has been added to paragraph 9.1.3 (but note comments below on the TAMAP). c) Although it is intended that these plots will mostly come under the auspices of article 20 of the DCO, they have been added to the list in this paragraph for clarity.
12	Property generally —the draft agreement does not address (in property terms) the securing of a temporary diversionary route alongside Shed 3 when Commercial Road is closed due to overhead bridge works. This will require temporary occupation of substantial areas of land to the west of the Shed 3. What is your client's proposal in this regard?	This issue has been incorporated within the TAMAP Heads of Terms, see more below.
13	Clause 10 Dredging — a) In clause 10.3.2, there is across-reference to clause 8.3.1. Could you please explain to what this is actually intended to refer?	Again, this is a cross-referencing error derived from the continued development of the document, not a 'copy and paste issue' – the cross-references should have been to 10.3.1 etc.

	b) Similarly, in clause 10.3.4, there is across-reference to clause 8.3.3. Could you please explain to what this is intended to refer? c) Clause 10.3.6 cross-refers to clauses 8.3.3 and 8.3.4. Again, could you please clarify to what these are intended to refer?	
14	Dredging generally —Your draft agreement rather misses the point. As we explained at the examination session, my client as SHA must have the ability to undertake maintenance dredging within the Port as and when such dredging is required. My client is perfectly happy to give your client notice before dredging - as we indicated to the ExA, 5 days would be the norm -but it is not prepared to impose an interruption on commercial port operations whilst it informs the Council that it wishes to undertake maintenance dredging and then has to wait for you client's consent.	This conflates two different issues. The Council is considering the drafting of article 44 following your hearing comments to potentially reduce the time period, but as noted by us at that hearing, the Council's statutory undertaking will also need to be protected. The Agreement is dealing solely with costs arising – given the Council has committed to pay for them, a process is needed to ensure public money is spent properly. The Council has added a placeholder for an additional clause to address contamination-related issues (including their effect on dredging) for discussion.
15	Clause 11 -Traffic Management Action Plan (TMAP). My client has no idea as to what your client is proposing in this respect. I would be grateful if you would clarify your client's position as soon as possible. It is unhelpful just to reference a non-existent document without the provision of essential detail.	As noted above, as an initial draft we were seeking to set out how we saw matters proceeding in terms of document structure. In any event we have now included an appendix setting out heads of terms for how this plan will develop, which derives from documents previously sent to the Council by Mike Stacey. This includes provision for lease arrangements for diversionary routes.
16	Clause 12 Port Security —The draft agreement has ignored the points that ABP has made on a number of occasions to your client with regard to statutory Port security — namely that ABP is not able to share details of Port security with the County Council unless it is authorised to do so in advance by DfT. It follows logically that the timescales which lead to deemed approval of the proposal (at clause 12.2) are not within ABP's control and hence are not workable as drafted. Additionally, your suggestion that the Council	This is a misreading of the terms and intent of this clause. The Council is not seeking to influence or see the Port's security plan itself - merely the methodology and cost by which it is reviewed, again in the context that public money is spent properly and not purely because ABP 'suggests' that new equipment (for example) is necessary. The clause has been amended to make this crystal clear.

	should have the final determining decision as to a statutory security plan demonstrates a worrying lack of understanding of the legal duties and obligations that fall upon my client and which cannot be subject to interference by third parties, such as the County Council, which has no locus in these matters.	
17	Clause 13 Oil Booms —The oil booms are required to contain any oil spills, rather than to transport oil as the draft agreement appears to suggest.	We have removed reference to ‘transporter’ from this clause. We have expanded this clause to provide for accommodation works to Shed 3 as may be reasonably be required to address security and access concerns.
18	Clause 14 Compensation Code — Such a provision is simply not acceptable and I am surprised that it has even been included, bearing in mind ABP's very clear reservations as to the serious detriment that your clients' proposal will have on the Port without the provision of meaningful mitigation.	This (quite standard provision in our experience, incidentally) was included as part of the overall message that the Council is seeking to move the parties forward in the hope of obtaining an all-inclusive agreement on all matters. But we have now reverted to the wording to provide for ABP to make claims.
19	Clause 20 Notices — a) Clause 20.1 (b) —please note the address of ABP Lowestoft is incorrect — it should be Port Office, North Quay Cargo Terminal, Commercial, Lowestoft, Suffolk, NR32 2TE. Could you confirm whether your client has been sending formal notices regarding the Scheme to the incorrect address? b) Clause 20.3 —please explain the reference to clause 11 in this clause.	a) This has been changed in the draft Order and the Agreement. The Council has been sending correspondence to the correct address. b) This is meant to refer to clause 20 itself, given the wording. This has now been updated.
20	Clause 22 Termination —Please confirm whether the cross-referencing in clause 22.2 to clause 22.3 is correct, as it seems to be somewhat circular?	This should have been 22.1.3 and has now been updated.
21	Appendices — We cannot comment further on a draft agreement which contains six blank appendices.	We think you can in principle. But see our comments above re structure.

22 February 2019

Baynes, Carrie

From: OWEN Robbie <Robbie.Owen@pinsentmasons.com>
Sent: 21 February 2019 13:31
To: O'Connor, Alison
Cc: Jon Barnard; Michael Wilks; SLATER Heidi; Greenwood, Brian; Mike Stacey; FOX Matthew
Subject: RE: LLTC DCO

Alison,

Thank you.

Brian,

Thank you for your letter dated 19 February in response to the draft Agreement I sent to you last week.

We will respond on your substantive points as soon as we are able to this week. In the meantime I did just want to deal with the other points you raised in your letter.

So far as the timing of the draft is concerned, we sent it to you as soon as it was ready. As it didn't directly deal with DCO drafting or CA matters we saw no particular connection with the hearings the following day. We certainly don't agree that the timing was unhelpful but, rather, was intended and meant as further evidence of our genuine efforts to work collaboratively in an attempt to find a way forward and reach a settlement. I note that ABP's counsel did raise receipt of the agreement at the hearings and as the draft had no bearing on DCO drafting or CA/property matters, there was nothing that we felt that we could, or should, add to that.

We also do not accept your assertion that the draft has the real potential to interrupt the ExA's examination programme. It is of course intended to narrow the issues that need examining.

In terms of the stage the draft has reached, it is certainly a draft and so, yes, incomplete. That is all we ever promised we would do, to start the ball rolling - you will I am sure recall the discussions in our various meetings. But I don't recall ever referring to it as being a 'rough draft' or 'loosely drafted', as you claim - your letter is your first response to it and we have not yet discussed it. And like I am sure you do on occasion, we readily use precedents from elsewhere and SCC, as a public body, would expect us to do so where appropriate in order to keep costs down. The reference to TfL is, as you will know, clearly an error which is easily corrected next time around. In the meantime I don't accept that ABP can't meaningfully comment on the current draft, although if it does not wish to that is clearly its choice.

You seek to make much of our promises to provide a draft Agreement but failing to do so. You might want to reflect on the repeated requests we have made for various information before the Examination started, including not least the Newport indemnity which you said at our last meeting you would consider providing but we still have heard nothing from you on that.

As I say, we will respond to your substantive points shortly.

Robbie

Robbie Owen
Partner and Parliamentary Agent
Head of Infrastructure Planning and Government Affairs
for Pinsent Masons LLP

D: +44 20 7490 6420. M: [REDACTED] I: 816420

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From: O'Connor, Alison [mailto:Alison.O'Connor@clydeco.com]
Sent: 19 February 2019 11:52

To: OWEN Robbie
Cc: Jon Barnard; Michael Wilks; SLATER Heidi; Greenwood, Brian; Mike Stacey
Subject: [EXTERNAL] RE: LLTC DCO [CC-UK1.FID22462820]

Dear Robbie,

Further to your below email, please see the attached letter.

Kind regards,

Alison

Alison O'Connor
Associate (NSW Qualified) | Clyde & Co LLP
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From: OWEN Robbie [mailto:Robbie.Owen@pinsentmasons.com]
Sent: 12 February 2019 20:56
To: Greenwood, Brian
Cc: O'Connor, Alison; Mike Stacey; Jon Barnard; Michael Wilks; SLATER Heidi; FOX Matthew; Paul Irving
Subject: LLTC DCO

Dear Brian,

As you know we have been working on a draft side agreement and this is now ready to send to you for your and ABP's review, please (attached).

The draft currently deals with the planning issues only (although the proposed 'NRA Development Protocol' in Appendix 3 will be considered further following tomorrow's hearing). The treatment of property issues will follow once further discussions between ABP and SCC have taken place.

Regards,

Robbie

Robbie Owen
Partner and Parliamentary Agent
Head of Infrastructure Planning and Government Affairs
for Pinsent Masons LLP

D: +44 20 7490 6420 M: [REDACTED] E: rob.owen@pinsentmasons.com

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Baynes, Carrie

From: OWEN Robbie <Robbie.Owen@pinsentmasons.com>
Sent: 22 February 2019 15:21
To: Greenwood, Brian
Cc: Jon Barnard; Michael Wilks; SLATER Heidi; Mike Stacey; FOX Matthew; O'Connor, Alison
Subject: RE: LLTC DCO
Attachments: 102909519_1.pdf


Brian,

As promised in my email yesterday, I can now send to you (attached) our response to the substantive points contained in your letter.

We will be sending you a 2nd draft of the proposed Agreement during the course of next week.

Thank you.

Robbie

Robbie Owen
Partner and Parliamentary Agent
Head of Infrastructure Planning and Government Affairs
for Pinsent Masons LLP

D: +44 20 7490 6420 M: [REDACTED] F: 816420

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From: OWEN Robbie
Sent: 21 February 2019 13:29
To: 'O'Connor, Alison'
Cc: Jon Barnard; Michael Wilks; SLATER Heidi; Greenwood, Brian; Mike Stacey; FOX Matthew
Subject: RE: LLTC DCO

Alison,

Thank you.

Brian,

Thank you for your letter dated 19 February in response to the draft Agreement I sent to you last week.

We will respond on your substantive points as soon as we are able to this week. In the meantime I did just want to deal with the other points you raised in your letter.

So far as the timing of the draft is concerned, we sent it to you as soon as it was ready. As it didn't directly deal with DCO drafting or CA matters we saw no particular connection with the hearings the following day. We certainly don't agree that the timing was unhelpful but, rather, was intended and meant as further evidence of our genuine efforts to work collaboratively in an attempt to find a way forward and reach a settlement. I note that ABP's counsel did raise receipt of the agreement at the hearings and as the draft had no bearing on DCO drafting or CA/property matters, there was nothing that we felt that we could, or should, add to that.

We also do not accept your assertion that the draft has the real potential to interrupt the ExA's examination programme. It is of course intended to narrow the issues that need examining.

In terms of the stage the draft has reached, it is certainly a draft and so, yes, incomplete. That is all we ever promised we would do, to start the ball rolling - you will I am sure recall the discussions in our various meetings. But I don't recall ever referring to it as being a 'rough draft' or 'loosely drafted', as you claim - your letter is your

first response to it and we have not yet discussed it. And like I am sure you do on occasion, we readily use precedents from elsewhere and SCC, as a public body, would expect us to do so where appropriate in order to keep costs down. The reference to TfL is, as you will know, clearly an error which is easily corrected next time around. In the meantime I don't accept that ABP can't meaningfully comment on the current draft, although if it does not wish to that is clearly its choice.

You seek to make much of our promises to provide a draft Agreement but failing to do so. You might want to reflect on the repeated requests we have made for various information before the Examination started, including not least the Newport indemnity which you said at our last meeting you would consider providing but we still have heard nothing from you on that.

As I say, we will respond to your substantive points shortly.

Robbie

Robbie Owen
Partner and Parliamentary Agent
Head of Infrastructure Planning and Government Affairs
for Pinsent Masons LLP

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From: O'Connor, Alison [mailto:Alison.O'Connor@clydeco.com]

Sent: 19 February 2019 11:52

To: OWEN Robbie

Cc: Jon Barnard; Michael Wilks; SLATER Heidi; Greenwood, Brian; Mike Stacey

Subject: [EXTERNAL] RE: LLTC DCO [CC-UK1.FID22462820]

Dear Robbie,

Further to your below email, please see the attached letter.

Kind regards,

Alison

Alison O'Connor
Associate (NSW Qualified) | Clyde & Co LLP
Direct Dial: +44 20 7876 6149

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From: OWEN Robbie [mailto:Robbie.Owen@pinsentmasons.com]

Sent: 12 February 2019 20:56

To: Greenwood, Brian

Cc: O'Connor, Alison; Mike Stacey; Jon Barnard; Michael Wilks; SLATER Heidi; FOX Matthew; Paul Irving

Subject: LLTC DCO

Dear Brian,

As you know we have been working on a draft side agreement and this is now ready to send to you for your and ABP's review, please (attached).

The draft currently deals with the planning issues only (although the proposed 'NRA Development Protocol' in Appendix 3 will be considered further following tomorrow's hearing). The treatment of property issues will follow once further discussions between ABP and SCC have taken place.

Regards,

Robbie

Robbie Owen
Partner and Parliamentary Agent
Head of Infrastructure Planning and Government Affairs
for Pinsent Masons LLP

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