Submission ID: SC1EA0106

Re: Rule 6 letter of 6 October 2026 [PD-005]: written submission on the draft examination timetable (annex D)
Preliminary meeting agenda items: Item 4 (Draft examination timetable) and Item 5 (Procedural decisions)
Dear Ms McKay,

SUMMARY

1. That the ExA directs the Applicant to submit its draft SoCG with Portsmouth Water Limited, or each party's statement of position, by 23 October 2026. It should cover the reservoir-related provisions of the draft DCO [APP-023] and the limits and triggers for admitting water to Havant Thicket Reservoir. In the alternative, that the Southern Water/Portsmouth Water interface matters be carried over from ISH1 to an ISH in the week from 11 January 2027.
2. That the date for IPs to provide the form of words sought on the reservoir-related provisions of the draft DCO be moved from Deadline 1 (23 November 2026) to Deadline 4 (2 February 2027), with an ISH on the draft DCO in the week from 11 January 2027.

INTRODUCTION

Page 3 of the Rule 6 letter [PD-005] invites written submissions from anyone who considers that changes need to be made to the draft examination timetable at annex D. I ask for two changes:

1. Draft Portsmouth Water SoCG by 23 October 2026. The Applicant should submit its draft Statement of Common Ground (SoCG) with Portsmouth Water Limited no later than Friday 23 October 2026, not at Deadline 1 (23 November 2026).
2. Form of words on the draft DCO by Deadline 4. The date for interested parties (IPs) to provide alternative drafting on the draft DCO provisions should move from Deadline 1 to Deadline 4 (2 February 2027), after the underlying matters have been examined.

I am writing now, ahead of procedural deadline A (2 November 2026), because the first request only helps if it is decided by you well before then. Please treat this letter as my written submission on the examination procedure for procedural deadline A.

REQUEST 1: DRAFT PORTSMOUTH WATER SOCG BY 23 OCTOBER 2026

Agenda items 4 and 5

Under Annex F of the Rule 6 letter [PD-005] the ExA has requested a SoCG between the Applicant and Portsmouth Water Limited. Annex D (item 6) sets Deadline 1, 23 November 2026, for "draft Statements of Common Ground (SoCGs) requested by the ExA". Annex F allows the SoCG to slip to Deadline 2 (16 December 2026) if it cannot be agreed by Deadline 1. That puts the first sight of this Portsmouth Water / Southern Water draft SoCG after ISH1, the issue specific hearing scheduled to examine the very matters such SoCG must cover.

ISH1 covers the core of the Portsmouth Water / Southern Water SoCG. The ISH1 agenda takes the "water environment matters identified in the initial assessment of principal issues", including the "interfaces between Southern Water and Portsmouth Water" and "monitoring, adaptive management and regulatory compliance". The water environment principal issues in annex C [PD-005] include:

- Whether clear and sufficient arrangements are proposed for allocating responsibilities between Southern Water and Portsmouth Water for the use, operation and management of the interfaces between the proposed development, Havant Thicket Reservoir, Bedhampton Springs, the Farlington to Nelson pipeline and Portsmouth Water's other relevant assets.
- Whether sufficient arrangements are proposed for monitoring, adapting to changing standards, implementing contingency measures, managing communications and ensuring regulatory compliance.
- Whether sufficient information has been provided in the submitted documentation on operational impacts and procedures in the event of system failure, including potential flood risk and specific effects on local watercourses, the Solent and Havant Thicket Reservoir.

These are the matters a SoCG between the two water undertakers must record as agreed or not agreed. As timetabled, the ExA and IPs would examine them at ISH1 without knowing where the two companies that would operate the interfaces actually agree / disagree and why.

This also cuts across what the Rule 6 letter says SoCGs are for:

- A SoCG should identify "where there is agreement and where the differences lie at an early stage in the examination process" (annex F, decision 2).
- "The content of SoCGs will help to inform the ExA about the need to hold any issue specific hearings" (annex F, decision 2).
- Matters still to be agreed between the applicant and IPs should be "progressed as early as possible" (annex B).

An earlier draft is not onerous for the Applicant:

- The Applicant issued its first draft SoCG to Portsmouth Water on 28 July 2026 [RR-253, para 6.1]. A working draft has therefore existed for almost three months.
- In its application, the Applicant cited "Draft Statements of Common Ground" as its evidence on the Portsmouth Water interface. It rated that interface Green, meaning "a high level of agreement prior to Examination" [APP-058, para 2.1.2 and item 3, pp. 6-7].
- Portsmouth Water's own, more recent, relevant representation sets out many unresolved issues [RR-253, paras 4.2, 4.4, 5.5.4-5.5.7 and 6.1-6.2]. A draft now would show the ExA and IPs where agreement actually stands.
- I have already asked for the existing draft to be published [AS-033, request (a)]. The ExA has accepted that submission into the examination (annex F, decision 5).

Request:

That the ExA directs the Applicant to submit its current draft SoCG with Portsmouth Water by Friday 23 October 2026. If the parties have not agreed a joint draft, each should state its own position.

As annex F requires, the draft should cover the draft DCO [APP-023]. In particular, it should cover the provisions that annex C lists for the water environment:

- Articles 5, 9, 46 and 50
- Schedule 8
- Schedule 10, including Part 3 (protective provisions for Portsmouth Water)
- Requirement 15 and any new requirement

It should ALSO cover:
- Articles 2 and 3(1)(b)
- Requirement 16 (water monitoring)
- the limits on what may enter the reservoir and the triggers to stop discharge [RR-253, paras 5.5.4-5.5.5 and item PW42]
This revised deadline would give IPs ten days to review the draft before procedural deadline A. They can then register for ISH1 with the right agenda items and references (annex E requires requests to be heard to give "The Examination Library reference number (with paragraph/ page number where appropriate) of any documents you wish to refer to"), and keep their oral submissions focused. An updated SoCG would still be due at Deadline 1.
If the ExA is not minded to make this direction, I ask in the alternative that the Southern Water/Portsmouth Water interface matters be carried over from ISH1 to an ISH in the week reserved from 11 January 2027 (annex D, item 11). By then the SoCG and comments on it (Deadline 2) will be available.
REQUEST 2: FORM OF WORDS ON THE DRAFT DCO - MOVE TO DEADLINE 4 (2 FEBRUARY 2027)
Agenda items 4 and 5
Annex F (decision 2) of the Rule 6 letter [PD-005] says the SoCGs "should cover the articles and requirements in the draft Development Consent Order. Any interested party seeking that an article or requirement is reworded should provide the form of words which are being sought." Draft SoCGs are due at Deadline 1, so in effect the form of words is due on 23 November 2026.
I ask that the date for IPs to provide their form of words on the draft DCO provisions listed under Request 1 [APP-023] be moved to Deadline 4 (2 February 2027).
Reasons:
- The drafting depends on matters that won't have been properly examined by 23 November. The right wording turns on how responsibility is allocated between Southern Water and Portsmouth Water and/or somebody else, what limits and triggers apply, and who monitors.
- The evidence arrives after Deadline 1:
(a) The Portsmouth Water SoCG is currently due at Deadline 1, or Deadline 2 if not agreed.
(b) Local Impact Reports are due at Deadline 1, with comments at Deadline 2 (16 December 2026).
(c) ExQ1 is published on 2 December 2026. Responses are due at Deadline 2 and comments at Deadline 3 (5 January 2027).
(d) Hearings may follow in the week from 11 January 2027.
- The regulator's position on Schedule 8 is open. The Environment Agency's preliminary view is that the Schedule 8 amendments "appear to be unnecessary" and that "insufficient justification has been provided" [RR-102, p. 4]. The Applicant's response will shape what alternative drafting is needed.
- Deadline 4 already suits. Annex D (item 12) provides for the Applicant to submit updated SoCGs and an updated draft DCO at Deadline 4 if changes have been made, which is likely given the matters above. IPs' wording would arrive alongside them.
- Drafting once is more efficient. Wording prepared for 23 November is likely to be overtaken by the examination of the underlying issues. IPs (such as me and the statutory consultees) would then have to repeat the work.
Proposed sequence:
- Deadline 1 (23 November 2026): IPs identify the provisions they want changed and what each change must achieve; I have largely done this already done this in my RRs but I would like to see other stakeholders' considered comments ahead of the following steps.
- Week from 11 January 2027: ISH on the draft DCO, including the reservoir-related provisions.
- Deadline 4 (2 February 2027): IPs to provide the form of words sought; Applicant's updated SoCGs and draft DCO.
- Deadline 7 (21 April 2027): comments on the ExA's schedule of changes to the draft DCO.
{NOTE: Annex B recognises that it may be necessary for the ExA to hold more than one ISH on the draft DCO. It also says IPs may suggest ISH topics in their written or oral representations to the preliminary meeting. I therefore also ask the ExA to use the week reserved from 11 January 2027 (annex D, item 11) for an ISH on the draft DCO, including the reservoir-related provisions}.
Declaration of use of AI (annex F, decision 1): I note that I was one of the few to have made this declaration in my previous submissions. Claude was used to help structure this letter. I have checked all content, references and quotations against those documents, and take responsibility for their accuracy.
Yours sincerely,
Andrew Newbery