

Our Reference: P&E/Environ/EN1/JT04

10 October 2003

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Consultation (Habitats Amendment Regulations)  
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Dear Mr Andrews

THE CONSERVATION (NATURAL HABITATS, & C.) (AMENDMENT) (ENGLAND)  
REGULATIONS 2003

Thank you for your letter and enclosures dated 6 August 2003 and for consulting the Port of London Authority on the proposed amendments contained in the above Regulations.

Prior to commenting on the specific issues raised in the consultation document itself, I feel it is important to provide a synopsis of the PLA, its jurisdiction and responsibilities. The PLA was established as a Public Trust by Act of Parliament in 1908. Its legislative base and context was most recently updated by the Port of London Act 1968 and subsequently through a number of Harbour Revision Orders, the most recent being approved by the Secretary of State in 2003.

The PLA's specific duty, as Port Authority for the tidal River Thames, its tidal tributaries and the outer Estuary (the PLA's seaward limit extends to lines drawn from latitude 51° 37' 00" north, longitude 00° 57' 19" east (Foulness Point in the County of Essex) to latitude 51° 46' 05" north, longitude 01° 20' 32" east (Gunfleet Old Lighthouse) and thence to latitude 51° 26' 36" north, longitude 01° 25' 30" east and thence to latitude 51° 24' 55" north, longitude 00°54' 21" east (Warden Point in the county of Kent)) is enshrined in Section 5 of the 1968 Act (as amended) ('the 1968 Act') and states that: -

*"It shall be the duty of the Port Authority to take such action as they consider necessary or desirable for or incidental to the improvement and conservancy of the Thames."*

The 1968 Act also provides wide powers for the PLA to undertake or facilitate port and cargo handling operations in the vicinity of the River Thames. Section 5(1A) states: -

*"The Port Authority shall have power to provide, maintain, operate and improve such port and harbour services and facilities in, or in the vicinity of, the Thames as they consider necessary or desirable and to take such action as they consider incidental to the provision of such services and facilities"*

In order to discharge its statutory duty, the PLA has been provided with very wide powers within the 1968 Act including: -

- Regulation of navigation by means of River Byelaws, General Directions and other associated Byelaws;
- Licensing of river works and dredging;
- Hydrographic surveying;
- Registration and inspection of craft and boats for hire (under 12 passengers);
- Removal of sunken vessels and hazards to navigation;
- Licensing of waterman and lightermen; and
- Maintenance of Richmond Lock and Weir.

The PLA is also the statutory pilotage authority for the Thames Pilotage area and furthermore acts to promote the Port of London and the River Thames to both UK and international cargo handling operators and shipping lines.

The PLA has jurisdiction over the entire tidal River Thames from Teddington in the west to its seaward limit in the Thames Estuary in the east, a length of over 150 kilometres.

Additionally, the PLA owns the vast majority of the riverbed and foreshore of the Thames and associated tidal rivers and creeks to the Mean High Water mark from the upper limit to a line drawn from between the City or Crow Stone (Westcliffe/Leigh) to the London Stone (to the east of Yantlet Creek). Any structure in, on, or over the Mean High Water mark (regardless of ownership) within this area must, by virtue of Section 66 of the 1968 Act, obtain a River Works Licence for the structure from the PLA. A failure to obtain a Licence is a criminal offence under Section 70 of the 1968 Act.

Having reviewed the consultation document, the PLA can confirm that it does not believe the proposals contain any amendments that will prejudice its operations within the River Thames and its Estuary or the continued success of the Port of London.

The PLA is pleased to note that the proposed amendments to the Regulations will allow competent authorities to request information to inform the decision as to whether a plan or project should be subject to appropriate assessment. This will, in the view of the PLA, remove a current ambiguity, whereby English Nature has taken an overly precautionary approach in considering whether an appropriate assessment is necessary, simply because the information or expertise to determine whether a project would have a significant effect is not available. This proposed change should result in an increased level of consistency of approach from conservation bodies and as such is supported by the PLA.

The PLA is also pleased to note that the proposed amendments to the Regulations will provide that the Secretary of State, rather than the European Commission, should decide whether there are reasons of overriding public interest where a site hosts a priority natural habitat or a priority species. This amendment is clearly in the interests of subsidiarity and as such is supported by the PLA.

If you require any further information or clarification of the PLA's position please contact me.

Yours sincerely

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HEAD OF PLANNING AND PARTNERSHIPS

cc J Dempster, Esq. - Director, United Kingdom Major Ports Group