

**FEEDBACK ON THE INFORMAL PUBLIC CONSULTATION ON
THAMES BYELAWS 2012 - SECOND CONSULTATION**

	Consultee	Organisation	Summary of Feedback	PLA Response
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Byelaw 15

1.	DAVID FOULSHAM		<p>I have only one comment to add to this public debate. concerning mooring or berthing arrangements. specifically. 15, a) and b), consider adding “except where this mooring or berth may be utilised by the emergency services, for the purposes of training” I hope that this is of assistance.</p>	<p>Thank you for your comments however we do not feel that this is necessary as the byelaw does permit a Master of a vessel to moor, provided that permission is sought in advance by the Harbourmaster or a delegated officer of the authority. We therefore believe that this type of situation is well managed in such circumstances.</p>
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2.	BARRY SINGLETON	Director of the DBA – The Barge Association	<p>We make the general point that the byelaw 15 of the existing byelaw was a reasonable assertion of the PLA’s authority to police its own works and the entrance to docks on the river. The latest proposals amount to a huge expansion of the PLA’s powers to cover matters that are not, or should not be, matters for it to regulate, including an attempt to regulate what are civil matters between a boat owner and a third party not the PLA. They also interfere with the public right of navigation and do so without troubling to explain why this is appropriate. It is a wholly unjustifiable extension of the PLA’s powers to interfere. All our comments below should be read as being subsidiary to this general objection that you are arrogating too much power to yourself.</p> <p>15(b) We repeat our original comments on the original draft proposed amendments to this subparagraph of byelaw 15. Your response to our comments focuses on illegality and on emergency. The inclusion of both of these words brings an element of uncertainty and room for argument about their meaning into what could and should be a simple provision.</p> <p>We believe that you are trying to stop obvious squatting. Amongst other things you refer to “vessels which moor without the landowner’s permission at various sites along the Thames.” We do not object to the intention although, in the context in which you put it, that should be a matter between the vessel and the riparian owner. Neither do we object to the principle that one should not interfere with or obstruct the navigation. But we do object to your draconian approach to what might be viewed by the man in the street</p>	<p>We thank you for taking the time to respond to this second informal public consultation. The Port of London Authority (PLA) is in the main, the predominant landowner, therefore should a vessel be moored illegally without prior permission they would in effect be illegally moored over our land. This byelaw can simply split into four sections as follows:</p> <ul style="list-style-type: none"> a) restricting access to PLA land or assets, b) not restricting navigation, c) not interfering with works, and d) not mooring in unsuitable locations.
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		<p>as a temporary mooring for a sensible reason rather than squatting.</p> <p>You limit the exception to the regulation to ‘an emergency’. What does that mean and who decides? Is it only in the case of what on any view has to be an emergency, such as the example that you give, namely mechanical failure, that the skipper of a moored vessel can avoid a fine for mooring for any length of time?</p> <p>The Public Right of Navigation:</p> <p>The Right of Navigation exists as a right of way in all tidal waters including rivers and at common law the public have the right of passage in boats. There is also an ancillary right to tow, and to anchor, ground or moor in the course of ordinary navigation.</p> <p>Your draft is to the effect that it is only in an (undefined) emergency that the ancillary right to moor can apply. In our comments we mentioned the instance of temporary mooring because the vessel had been caught out by the tide. You appear to have rejected this point. You have certainly not made clear whether such a reason would amount to an emergency, which is the only derogation that you allow. At what point would you/the relevant person accept that this was ‘an emergency’: might it be said that this was not “an emergency” because the skipper should have taken steps to ensure that he did not put himself in this position – i.e. have allowed more time to travel – or because he could travel on but his speed over the ground would on any view be unreasonably slow? So long as the mooring can be said to be in the course of ordinary navigation (and which might be for more than one tide) we suggest that you cannot ban it. You appear to be trying to make yourselves the arbiter and placing the burden of proof on the defendant.</p> <p>What is in the course of ordinary navigation? A mooring because of the tide must be permissible. Mooring because, for example, there is fog, or a journey has lasted far longer than was expected and either it is dark (no radar) or the skipper is tired and should stop must be permissible. None of these is clearly an ‘emergency’</p> <p>You also seem to be saying that if the permission of any relevant riparian owner has not first been obtained – “in all such cases, the permission of the owner will be required for overnight mooring.” that will make the mooring illegal – “and the purpose of this Byelaw is to address those vessels that seek to moor illegally” - and the skipper liable to a fine. Are you really envisaging that if a vessel is, say, caught out by a tide or the skipper is overtired or there is any other personal problem any attempt to moor will be prosecuted as illegal, even though the owner of the mooring cannot be contacted or his identity even ascertained? Anyway, you should not be trying to turn what might be a civil issue between a skipper and a riparian</p>	<p>We note your comment regarding potentially defining ‘emergency’, however we believe that this is a well understood term as defined by dictionary</p> <p>All your examples and all your various points are not unreasonable and we would certainly allow a vessel to moor for a reasonable time, especially if the Master is suffering from fatigue. The byelaw make the provision that should the Master of a vessel gain permission from the Harbourmaster or a delegated officer of the authority, then we would advise of a suitable mooring location to moor for a reasonable period of time, e.g. over a tide, or until river/weather conditions improve.</p> <p>We would hope that Masters of all vessels plan their passage appropriately when navigating on the tidal Thames. Though we do understand that vessel Masters do occasionally get caught out by the tide, then the byelaw permits a vessel to be moored should they gain the Harbourmaster’s or delegated officer of the authority’s permission prior to doing so. In such circumstances we would advise of a suitable mooring location to</p>
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		<p>owner into a regulatory issue between yourselves and the skipper. Why is this your business?</p> <p>If you really are minded to continue on this line we made what we thought was a sensible suggestion that deals with the problems that your rigid and we suggest unjustified imposition of restrictions creates. We suggested that a grace period should address all these uncertainties and avoid the inevitable argument that you are interfering with the right of navigation etc. that arises from your draft. We repeat our earlier wording and suggest a grace period of 48 hours, which is the same period as we have previously suggested for (d) below.</p> <p>We also repeat our question about what amounts to interference with the public right of access, which you ignore and that your proposed rule does not address, and also repeat our request that you change the last 'or' to 'and' in order to make this provision slightly less draconian.</p> <p>But we can see that one might distinguish between interference for up to 48 hours with access to a dock entrance on the one hand and with public access to the river or the navigation on the other. The first is unlikely to be acceptable in many circumstances. In many instances a temporary – 48 hour - interference with the others is unlikely to cause difficulty. You have chosen to include them in one sub-paragraph of the byelaw and so our suggested grace period must apply to all.</p> <p>A better alternative to your wording on 15(b) that allows for the 48-hour period but does not allow this grace period for docks would be to reword the provision to read:</p> <p>"b) so as to obstruct or interfere with navigation and/or any public access to the Thames for more than 48 hours or the access to a dock entrance;"</p> <p>15(d) We repeat many of our original comments on the original draft proposed amendments to this subparagraph. We also suggest that the principle underlying the comments that we make above applies to this revised proposed byelaw.</p> <p>Your absolute bar save in your 'emergency' on the use to berth or moor of anything that is not expressly provided for the purpose of berthing or mooring cannot be right in the context of the public right of navigation and anyway is not appropriate. We made this point before. The use of the words "unsuitable for" rather than your broader wording "provided for." will make it clear that if a barge is temporarily moored to something that is perfectly suitable for mooring, even though it has not expressly been provided for that purpose, e.g. the river bank, or a fellow barge which is licensed, it will not be liable to be pursued under the byelaws. Your wording would actually prevent someone mooring alongside the river bank. Do you really intend</p>	<p>moor for a reasonable period of time.</p> <p>We note the suggestion, however we believe the byelaw is flexible enough should a Master be suffering from fatigue or any other issues, or the vessel is unable to navigate under its own propulsion which requires an engineer or towing back to its home moorings, then in consultation with the Harbourmaster then the vessel would be permitted sufficient period of grace to moor in a designated mooring place.</p> <p>We do not believe permitting a vessel to interfere with navigation is acceptable for any period of time and reject this suggested amendment.</p> <p>The byelaw states that permission can be granted by the Harbourmaster or delegated officer of the authority, in addition to having to moor in an 'emergency' scenario.</p> <p>We note the suggestion, however we believe the byelaw is flexible enough and in consultation with the Harbourmaster then the vessel would be permitted sufficient period of grace to moor in a designated mooring.</p>
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		<p>this to be the case? We have made the point that it is not for you to ‘police’ a civil issue that might arise between a boat owner and a riparian owner.</p> <p>Again, we repeat our suggestion that allowing a period of 48 hours – “for a period in excess of 48 hours” will address the problem of squatting.</p> <p>Hence the wording of 15(d) will be either:</p> <p>(i) your original suggested amendment, provided it is to be read that the “or” means that “not provided for” and “unsuitable for” are disjunctive/alternatives:-</p> <p>“15 (d) to be berthed or moored to any work, structure, post, ring or other thing or place not provided for or unsuitable for that purpose”</p> <p>or</p> <p>(ii) the easier to understand and sufficient for your purposes:</p> <p>"15 (d) to be berthed or moored to any work, structure, post, ring or other thing or place unsuitable for that purpose for a period in excess of 48 hours."</p>	<p>We have now removed the words ‘unsuitable for’ on the advice of the Department of Transport (DfT), following the first informal consultation.</p>
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3.	DON MAPP	<p>I must object very strongly to you modifying rule 15 in the draconian way you propose.</p> <p>This will turn the PLA into a police State and The PLA will eventually use this rule for revenue collection as many land based organisations like the DVLA, Dartford Tunnel, Councils and government organisations.</p> <p>One of your stated aim is to increase use of the river. This rule will prevent this.</p> <p>Amongst other things you refer to “vessels which moor without the landowner’s permission at various sites along the Thames.”</p> <p>Let me give you a simple example. Last year we came into London and had to wait for low tide to enter below the bridges. We were trying to contact Hermatige berthing for several hours no one were answering the phone. We berthed at the dock without permission and filled out the form, paid and posted as instructed in their leaflet on the berths. Everyone was happy as we heard no more.</p> <p>This would be illegal involving a fine. Stupid! it involves civil law, why are you involving yourselves in civil law.</p> <p>At other times we moor up temporary at one of the chains or rings to get our kayaks out of the boats. This would be illegal involving a fine Stupid!</p> <p>What if I wanted to drop someone off onto the steps which are public. This would be illegal involving a fine. Stupid!</p> <p>I, we do object to your draconian approach to what might be viewed by the man in the street as a temporary mooring for a</p>	<p>We thank you for taking the time to respond to this second informal public consultation. However, this is not the intention of this byelaw.</p> <p>The example which you give is not unreasonable and the byelaw does not stop this from occurring in the future. All we seek is that you gain permission from the Harbourmaster or a delegated officer of the authority prior to undertaking such activity. This byelaw does not state that such activities would be libable to a fine.</p>
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4.	DAVID BEAUMONT	OPLAC	<p>We are disappointed that our initial amendments from last September (email below) have not been incorporated, nor have we had answers to the questions we raised in it. It is disappointing because the PLA are already seen to be morphing from the caretaker of the river to its landlord; these ill thought through byelaw amendments re-enforce that view. The PLA's proposed changes are clearly a kneejerk reaction to one squatting boat and we stand by our original comments. Here is the wording we now suggest, based on your latest proposed wording (our amendments in red):</p> <p>15. RESTRICTIONS ON MOORING Except in an emergency, the master of a vessel must not, without the permission of the</p>	<p>We thank you for your comments and may we refer you to our feedback matrix regarding the First Informal Public Consultation: http://www.pla.co.uk/assets/agreedfeedbackmatrix-thamesbyelaws-oct15.pdf</p>
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Byelaw 59

5. BOB GARDNER	Can I suggest that your draft of new Byelaw 59 be amended so that 59.1 and 59.3 are a little easier to follow, as per 59.2:		<p>We thank you for taking the time to respond to this second informal public consultation and for your suggested changes.</p> <p>Having review this again with our legal advisors we have amended the wording to:</p> <p>59.1 Subject to Byelaw 59.3, the holder of an existing works licence, or owner of any other structure must:</p> <p>a) consult with the harbourmaster on the navigational and safety issues arising at least four weeks before undertaking or allowing to be undertaken any inspection, maintenance, repair or renewal to a licensed work, or any other structure involving vessels and/or marine operations that will or are likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames, and</p> <p>b) comply with any measures or conditions issued by the harbourmaster to avoid any obstruction, danger or impediment to the safety of persons or vessels on the Thames for the duration of that inspection, maintenance, repair or renewal.</p> <p>We thank you for this proposed amendment, however we have decided that the original wording makes this very clear and have made one minor amendment following legal advice removing the word 'proposed' from 59.3 c.</p>
	PLA TEXT WITH CORRECTIONS AND REPETITION HIGHLIGHTED	MY SUGGESTED AMENDED TEXT WITH ADDITIONS HIGHLIGHTED	
	<p>59. REPAIR OF LICENSED WORKS AND STRUCTURES</p> <p>59.1 Subject to Byelaw 59.3, before undertaking or allowing to be undertaken to a licensed work, or any other structure, any inspection, maintenance, repair or renewal, involving vessels and/or marine operations that will or are likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames, the holder of an existing works licence, or owner of any other structure [delete ,] must <i>[insert ,]</i> at least four weeks before the proposed inspection, maintenance, repair or renewal, consult with the harbourmaster on the navigational and safety issues arising.</p>	<p>59. REPAIR OF LICENSED WORKS AND STRUCTURES</p> <p>59.1 Subject to Byelaw 59.3, the holder of an existing works licence, or owner of any other structure must consult with the harbourmaster on the navigational and safety issues arising at least four weeks before undertaking or allowing to be undertaken any inspection, maintenance, repair or renewal to a licensed work, or any other structure involving vessels and/or marine operations that will or are likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames.</p>	
59.2	No change		
59.3	<p>Prior to or on undertaking any emergency inspection, maintenance, repair or renewal, involving vessels and/or marine operations that will or are likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames, the holder of an existing works licence, or owner of any other structure must, without delay:</p> <p>a) inform the harbourmaster;</p> <p>b) consult with the harbourmaster on the navigational and</p>	<p>59.3 In an emergency, without delay the holder of an existing works licence or owner of any other structure must, prior to or immediately upon undertaking any inspection, maintenance, repair or renewal involving vessels and/or marine operations that will or are likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames:</p> <p>a) inform the harbourmaster;</p> <p>b) consult with the harbourmaster on the navigational and</p>	

			<p>safety issues arising; and c) comply with any measures or conditions issued by the harbourmaster to avoid any obstruction, danger or impediment to the safety of persons or vessels on the Thames for the duration of that proposed emergency inspection, maintenance, repair or renewal of a licensed work, or any other structure.</p>	<p>safety issues arising; and c) comply with any measures or conditions issued by the harbourmaster to avoid any obstruction, danger or impediment to the safety of persons or vessels on the Thames for the duration of that proposed emergency inspection, maintenance, repair or renewal of a licensed work, or any other structure.</p>	<p>We note your comment regarding potentially defining 'emergency', however we believe that this well understood, as defined by dictionary</p>
6.	JULIE MORRIS	Environment Planning Specialist – Environment Agency	<p>9.4</p> <p>Then a question, please: Is the term <i>emergency</i> defined elsewhere or is it sufficiently well understood so as not to be misinterpreted? '<i>Accident or incident</i>' and '<i>needing immediate attention</i>' are other phrases that come to mind.</p> <p>Thank you for giving us the opportunity to provide comment on your further proposed amendments to the Thames Byelaws 2012. We have a number of comments, focusing on the implementation of the new byelaw 59.</p> <p>We presume the focus for the byelaw is for any operations that might affect river traffic or operational jetties focusing on a navigation or river safety point of view. We therefore expect EA operations along the Thames frontage are unlikely to affect, hinder, obstruct or put at risk any vessels or river users. However, we would like to know more / have some clarification on aspects of the byelaw, particularly:</p> <ul style="list-style-type: none"> - Does the consultation need to be in writing - We presume there isn't an associated cost - We presume that the four week time period runs from the time we inform the PLA, rather than from when the PLA responds to us (if the consultation needs to be in writing) 	<p>No change</p>	<p>We thank you for taking the time to respond to this second informal public consultation and have answered your questions individually below, however if you require to discuss this further please do not hesitate to contact us.</p> <p>We believe the initial consultation process may commence with a phone call to the relevant district Harbourmaster; however further documentation is likely to be required such as Navigational Risk Assessments and Method Statements, sent to us via email. We would advise contacting us as soon as possible when you know works are likely to take place.</p> <p>For the consultation process there is no cost, but should a Notice to Mariners be required, then this will be charged for at the published rate.</p> <p>This is correct.</p>

		<ul style="list-style-type: none"> - If we need to incorporate any measures we will need a quick response from the PLA to ensure we have a reasonable length of time prior to our works commencing to ensure we are able to comply with the measures - Can you confirm that if works include “vessels and/or marine operations that will or are likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames” and the works also require a works licence from the PLA, the byelaw 59 consultation would be done as part of the works licence application and there would be no need to notify the PLA twice. - Can you confirm that vessels that remain under full control of the ‘vessel master’ and do not lay anchor, moor or beach on the foreshore are not “likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames” and would therefore be exempt from this requirement. For example when our teams complete regular (6 monthly) visual inspections of the river walls from a boat there would be no need to consult. - Can you confirm whether the byelaw applies for work on the foreshore - Can you confirm whether the byelaw applies for the whole length of your jurisdiction or does it exclude public areas of seawall defences? - Currently the wording doesn’t exclude public areas of seawall defences and we would like some clarity on the following wording with this regard - ‘likely to become an obstruction, danger or impediment to the safety of persons or vessels on the Thames’. For instance, a seawall repair on Canvey Island using long reach excavators would present a risk to the public, but would they be classed as ‘on the Thames’? - We presume there will be some flexibility/caveat in some instances? For example on emergency repairs to sea defences, although we recognise this will be a rare situation. However, an emergency repair on Canvey, Tilbury, Coryton etc, where perhaps a large scale problem and its resolution could have the potential to affect the PLA, but we couldn’t wait 4 weeks to undertake the works. <p>We would be grateful if you can provide a bit more clarity on the above aspects as we need to be clear on whether our maintenance, repair or project work will fall under this byelaw. We would be happy to discuss these comments further.</p>	<p>This is understood.</p> <p>You will only need to apply once either as a Temporary River Works Licence or via the Byelaw 59 route.</p> <p>This may be the case, but requires further discussion with the relevant Harbourmaster in the first instance.</p> <p>Yes this byelaw would apply for such works, so please discuss with us as soon as possible prior to undertaking the works.</p> <p>Please consult with the relevant district Harbourmaster as early as possible before proposed works commence, so that we can give you a full opinion as to any conditions we may apply to the works.</p> <p>We believe Byelaw 59.3 covers these potential situations.</p>
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No Comments: Gus Lewis, Head of Legal & Government Affairs, Royal Yachting Association. Christina Relf, Lead Marine Advisor, Natural England, Kevin East, British Canoeing