

**DEADLINE 4 REPRESENTATIONS**

**ON BEHALF OF PORT OF TILBURY LONDON LIMITED AND LONDON GATEWAY  
PORT LIMITED**

**REGARDING AN APPLICATION FOR A DEVELOPMENT CONSENT ORDER IN  
RESPECT OF THE PROPOSED THANET EXTENSION OFFSHORE WIND FARM**

**28 MARCH 2019**

## 1) Introduction

This document provides a response on behalf of Port of Tilbury London Limited (POTLL – ‘Other Person’ reference TEOW-OP006) and London Gateway Port Limited (LGPL – Registration No. 20011837) to one matter raised within the Deadline 3 (5<sup>th</sup> March 2019) submissions of other Interested Parties.

## 2) Response to Deadline 3 Submissions

In its document Action Points for ISH 5 (EV-021), the Examining Authority (ExA) sought legal submissions on a number of points, including:

*Who determines what is a sea lane for the purposes of EN3 para 2.6.61-63 – how is a sea lane recognised? What is the appropriate applicable provision of UNCLOS, if one exists? What are the consequences of this?*

[Note: The ExA clearly meant to refer to EN3 para 2.6.161-163.]

It is POTLL and LGPL's position that the inshore route should be considered to be a recognised sea lane essential to international navigation for the purposes of applying EN-3 to the application. Full detail on POTLL and LGPL's reasoning was provided for the Examining Authority in the Planning Policy Position Paper included at Annex 1 to POTLL and LGPL's Written Submission of Oral Case for ISH 5 (REP3-070). In summary, POTLL and LGPL stated that whilst there is no definition of "*recognised sea lanes essential to international navigation*" as referred to in paragraph 2.6.1.161 of EN-3, practically, and on a plain reading of the wording, the inshore route would qualify given the traffic volume it experiences. Further, POTLL and LGPL consider that the inshore route is a "*major commercial navigation route*" as discussed in EN-3 2.6.162.

The MCA supports the views of POTLL and LGPL that the current use of the inshore route means that it is a recognised sea lane essential to international navigation in the sense used in EN-3, and that the route is also a major commercial navigation route. In its Deadline 3 submission (REP3-082), the MCA states:

*...that area of sea is actively used by all vessel types, including large commercial and international vessels. It is therefore considered an essential area for navigation and of strategic importance for vessel operation and accessing ports, with the SUNK TSS, an internationally recognised and established sea lane, in close proximity...*

*Looking at the Archipelagic Sea Lanes given in the IMO Ships' Routeing Guide, and the criteria for such measures as set out in UNCLOS, this area meets many of the conditions necessary for it to be designated as such. UK experts on UNCLOS advised that the area is within the UK's Territorial Sea, therefore, international recognition by IMO may not be mandatory before UKHO would chart it, however explicit MCA direction to do so will be required.*

POTLL and LGPL welcome and agree with these comments from the MCA and consider that the ExA and Secretary of State should regard the inshore route as a recognised sea lane essential to international navigation when considering the policy test in EN-3 paragraph 2.6.161.