APPLICATION BY VATTENFALL WIND POWER LIMITED FOR A DCO FOR THE THANET EXTENSION OFFSHORE WIND FARM

DEADLINE 5A REPRESENTATIONS OF

PORT OF TILBURY LONDON LIMITED AND LONDON GATEWAY PORT LIMITED

3 MAY 2019

1.   **SUMMARY**

1.1   Deadline 5A requires submission of "*Comments on any revised dDCO submitted by the Applicant at Deadline 5*". Port of Tilbury London Limited (PoTLL) and London Gateway Port Limited (LGPL) have considered the revised DCO submitted by the Applicant at Deadline 5 and respond as follows.

2.   **SUBSTANTIVE RESPONSE**

2.1   The ports have considered the drafting in the revised dDCO in particular in relation to the Structures Exclusion Zone (SEZ). The focus of attention of PoTLL and LGPL's review was therefore the revised drafting in: Schedule 1 (Authorised Project); Schedule 2 (Requirements); and in the Deemed Marine Licences. The drafting points outlined below are without prejudice to PoTLL and LGPL's current position that a SEZ is not the appropriate means to mitigate the impacts of the scheme as set out in section 3 below.

2.2   At this stage, the ports have two main substantive points in respect of the drafting in the dDCO:

2.2.1   **Impact on shipping** – the ports note that the Applicant has afforded a form of control in respect of SEZ works to the MMO through condition 13 of Schedule 11 (Deemed Licence under the 2009 Act – Generation Assets). This provides that licensed activities must not commence until a construction programme and monitoring plan has been submitted to and approved in writing by the MMO. The condition provides that such a construction programme and monitoring plan will include: (v) details of the works to be undertaken within the structures exclusion zone; and (vi) the proposed timetable for undertaking of such works within the structures exclusion zone. This provides a form of control over activities in the SEZ.

2.2.2   The ports consider that a similar provision should be made in Schedule 1, Part 3, Requirements with the Marine and Coastguard Agency (MCA) as the approving authority. It is considered that the MCA is the appropriate authority due to its functions in respect of shipping. This would provide an element of control over works carried out in the SEZ and would help to ensure safety for the potential construction impacts on shipping. Works in the inshore channel would therefore be approved by an appropriate body having a concern for shipping interests. This is not the MMO's role, hence the controls in the DML alone are not sufficient.

2.2.3   **Safety of navigation** – in addition to the MCA's functions and the above proposed protection for shipping, the ports consider that the functions of Trinity House in respect of the safety of navigation should be more obviously safeguarded through the dDCO.

2.2.4   Article 16 (Public rights of navigation) provides at paragraph 4 for steps to be taken to prevent danger to navigation caused by the construction of (i.e. existence of) "permanent structures". This is a standard provision dealing with lighting and marking of the permanent works, i.e. the end state.

2.2.5   PoTLL and LGPL consider that a similar provision should be added to the dDCO to have effect during construction, so that Trinity House has the ability to give directions as to the lighting and marking, etc., of works, during the construction phase. This is a standard provision in DCOs and harbour orders.

3.   **THE PROPOSED STRUCTURES EXCLUSION ZONE**

3.1   As set out in more detail at ISH8 and in the Deadline 4C representations (REP4C-016), PoTLL and LGPL remain to be convinced that a SEZ is the appropriate means to seek to reduce the impact of the extension to the offshore wind farm.

3.2   The ports are aware that the Applicant submitted an SEZ clarification note at Deadline 5. The ports understand that the deadline to respond to the consultation on the material change to the project (i.e. the SEZ and supporting documents) is 26 May 2019; PoTLL and LGPL are therefore considering the position and will respond in more detail as appropriate by that deadline at the latest.