PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

APPLICATION BY FIVE ESTUARIES OFFSHORE WIND FARM LIMITED

FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE FIVE ESTUARIES OFFSHORE WIND FARM PROJECT

(REF: EN010115)

DEADLINE 2

SUMMARY OF WRITTEN REPRESENTATION BY THE PORT OF LONDON AUTHORITY

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1 THE PORT OF LONDON AUTHORITY AND THE PORT OF LONDON

1.1 The PLA is the statutory harbour authority for the tidal Thames (the "**River**"). The PLA's statutory functions include responsibility for conservancy, including dredging and improvement of the River; managing public navigation and ensuring navigational safety and controlling vessel movements. The proposed wind farm lies outside of the PLA's landownership and limits under the Port of London Act 1968, however the PLA's functions include the promotion of the use of the River for freight and passengers as an important and sustainable transport corridor and access to the River is therefore a key concern for the PLA.

1.2 The River is home to the Port of London (the "**Port"**) which is the country's biggest port and its contribution to international trade is critical, handling over 50 million tonnes of goods each year. Unlike many other large ports, the Port is spread over 70 separate independently run terminals.

2 PORT DEVLOPMENT

2.1 The PLA's Thames Vision 2050 sets out the future development and ambitions for the Port and the River, including the specific priority to enable future growth of the Port as a net zero hub. The long-term port trade forecast is that between now and 2050 trade will continue to rise to meet growing demand and that by 2050 between 70 - 90m tonnes will be handled at the Port annually, around a 30-60% increase on 2022 levels.

2.2 London Gateway and the Port of Tilbury London Limited ("**PoTLL**") together handle over 50% of trade in the Port and their continued investment in port infrastructure is significant. DP World have announced a £1 billion expansion of London Gateway to make the facility the largest container port in Britain within five years and PoTLL will be expanding its operations and plans, with around £1 billion of investment in the coming years. In 2021, the government designated the area stretching from and including the Ford plant at Dagenham to and including London Gateway as Thames Freeport.

2.3 It is therefore critical that the existing and future capacity and operation of the Port are not compromised during construction and operation of VE. For the reasons highlighted in its Written Representation the PLA is concerned that VE may cause economic disbenefits to the Port. To accommodate existing and predicted future vessel sizes, the PLA needs to safeguard access via the deep water routes ("**DWRs**") for vessels with a draught of 20m. In the event that is it not possible for vessels of this size to enter the port via the DWRs, it will limit the quantum of trade within the Port. The impact of this restriction could be significant, detrimentally impacting the future of the UK's largest port.

3 POLICY

Ports policy

3.1 The National Policy Statement for Ports ("**NPS-Ports**") (January 2012) sets out the essential role of ports in the UK economy – with ports in England and Wales handling 95% of the total volume of UK trade and 75% of its value (para 3.1.3). The promotion of successful major port developments is encouraged because they are recognised as being essential for trade and economic growth long-term.

3.2 Energy policy

3.3 EN-1 and EN-3 provide the primary policy for decisions by the Secretary of State on applications for nationally significant renewable energy infrastructure. EN-1 sets out national policy for major energy infrastructure. It includes at chapter 4 the assessment principles with marine consideration set out at section 4.5. In relation to Secretary of State decision making, EN-3 states that (emphasis added): "*The Secretary of State should not grant development consent in relation to the construction or extension of an offshore wind farm if it considers that*

interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the development." (paragraph 2.8.326)

Marine Policy Statement and Marine Plans

3.4 Regard must also be had to the UK Marine Policy Statement ("**the MPS**") and the relevant Marine Plans, namely the South East Inshore Marine Plan ("**the SEIMP**") and the East Inshore and East Offshore Marine Plans ("**the East Plans**").

3.5 The Applicant's Marine Plan Policy Assessment (REP1-055) sets out various policies within the SEIMP and East Plans that it considers are either not applicable or that they consider the application is complaint with. It is of note that there is no reference in the Marine Plan Policy Assessment to policies SE-PS-1, SE-DD-1, SE-PS-2 and SE-PS-3 in the SEIMP or to policy CAB-1 in the East Plans.

3.6 The Applicant's assessment of the Application against planning policy (APP-232 Policy Compliance Document) on pages 210 and 266 concludes that:

"*Overall, it is considered that there will be no significant effects upon Shipping and Navigation receptors*."

The PLA is unable to agree with this conclusion based on the Application as currently submitted. It has not been demonstrated that the DWRs into the Port have been safeguarded now and into the future and that the cables, cable protection and cable crossings would ensure vessels of 20m draught could enter the Port. The PLA considers that it should be possible to do this, but the dDCO and the application documents do not at this time sufficiently reassure the PLA. In the absence of protective provision for the PLA, decisions made by others at the detailed design stage could significantly and detrimentally impact the future of the Port.

4 THE EXPORT CABLE CORRIDOR AND IMPACTS ON THE DEEP WATER ROUTES

4.1 The export cable corridor ("**ECC**") (Work No. 2(c)) passes through the Sunk and Trinity DWRs – the main DWRs into the Port of London. There is no alternative approach available for larger vessels to access the Port of London.

4.2 Existing and proposed subsea cables and pipelines will either need to be crossed by VE (e.g Neuconnect) or VE will be crossed by in the future (e.g. Sealink). The depth of the VE cables where they cross the DWRs; the approach to cable laying and repair; cable protection and cable crossings are therefore all critical if the DWRs into the Port are not going to be impacted by VE.

4.3 There are areas of the ECC where certainty is required at this stage on cable burial depths, cable protection and cable crossings to ensure that there will be no significant effects on shipping and navigation arising from the ECC, in isolation or cumulatively with other projects, during construction, operation, maintenance and decommissioning.

4.4 The cables would need to be installed and maintained within the ECC at a depth that would allow for the Trinity and Sunk DWRs to be dredged and deepened in the future to a depth of at least 22m below CD. It will be important to secure any agreed position in relation to the DWRs as an embedded mitigation and for the agreed position to be clear and consistent within the application documents and within the dDCO.

4.12 As well as crossing the DWRs, the ECC is located in close proximity to the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District and its approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond, rather than at that specific point. Construction and maintenance vessels must not hinder access into the Port nor the ability to board or land pilots.

4.13 Deep drafted vessels to terminals within the Port are tidally constrained, so a small deviation to their schedule could result in them not having enough water for their passage to the berth, thus delaying them until the next tide. With the continued development of London Gateway to six berths there will be greater need to ensure vessels can arrive and depart at all states of the tide, in order for the terminal and the wider port to operate efficiently. Where the cables are crossing over or are adjacent to the DWRs the most effective method of cable laying in terms of speed and ability to achieve the required cable burial depth should therefore be used.

4.14 As is common with the installation of cables a number of pre-construction activities including pre-construction surveys and monitoring may need to be carried out in order to obtain more information to inform for example, the final cable route and burial depth or to allow for the installation of the cable on the chosen route (e.g. boulder clearance, UXO clearance etc). The PLA would want to approve any surveys or monitoring or pre-construction activities that could affect the DWRs.

4.15 In order to install the cables within the ECC it will be necessary to dredge. The Marine Licence allows for up to 9,214,386 cubic metres of inert material to be deposited within Works no.2 (the ECC), 2A and 3. Fig 1.11 of the Offshore Project Description (APP-069) shows that the ECC disposal site is along the entirety of the ECC. There is a concern about a lack of controls in relation to the placing of inert material within the ECC and the implications of this for navigable depths at the DWRs.

5 MITIGATING POTENTIAL IMPACTS TO SHIPPING AND NAVIGATION

5.1 To mitigate potential impacts to shipping and navigation, the Applicant places a significant amount of weight on documents, which will be produced post consent. These include:

(a) Detailed cable burial risk assessment ("**CBRA**")

(b) Development of, and adherence to, a Cable Specification and Installation Plan ("**CSIP**")

(c) Navigation and Installation Plan ("**NIP**")

5.2 The outline documents could alongside protective provisions for the PLA provide the comfort that the PLA requires that at the detailed design stage, the DWRs into the Port will be protected now and into the future. Amendments are however required to the outline documents and protective provisions provided for the PLA to remove the current uncertainty.

6 TEMPORARY IMPACTS ON THE PLA'S ONSHORE NAVIGATIONAL EQUIPMENT

6.1 The PLA set out in detail in its Relevant Representation (RR-090) and at Issue Specific Hearing 1 its concerns relating to access to its radar site and the placing of structures or plant in excess of 25m from ground level in the construction compound shown on the onshore works plans (APP-010) as Works No. 4B. The PLA is seeking through protective provisions to agree any tall structures and management measures that restrict vehicular access.

7 COMMENTS ON THE DDCO

7.1 The PLA has identified several matters of concern in relation to the dDCO as follows:

(a) **Article 2 (Interpretation) definition of Commence** - there is proposed monitoring to be carried out prior to the commencement of licensed activities, the PLA would want to approve any surveys or monitoring that affect the DWRs. The definition of commencement would not be appropriate for such provisions.

(b) **Article 2 (Interpretation) definition of maintenance** - The definition of maintain is broad and includes adjusting and altering. In the context of the export cable works to

adjust or alter could result in a change in location and/or depth which would not be acceptable to the PLA.

(c) **Article 7 (Benefit of the Order)** - The PLA would wish to see drafting that where the undertaker has entered into an agreement in relation to which any of the benefit of the deemed marine licence or any part of the authorised development is to be transferred to another party, that the undertaker notify the PLA in writing of the particulars of the transfer.

(d) **Article 10 (Street Works) Article 14 (Temporary restriction of use of streets), Article 16 (Traffic Regulation), Article 17 (Power to Layout etc. of streets) Article 26 (Private Rights) and Article 33 (Statutory Undertakers)** - The PLA's rights of access in relation to the Holland Haven access road and services which serve the PLA's radar site need to be maintained at all times.

(e) **Article 31 (Temporary use of land for carrying out the Authorised development)** - Article 31 includes Plots 01-001, 01-002 and 01-003 which are plots of interest to the PLA as they provide access to its radar site. Protective provisions will need to ensure that the PLA's right of access and services supporting the radar are maintained throughout possession of these plots.

(f) **Schedule 11 Deemed Marine Licence Transmission Assets -** Whilst the PLA would expect its own approvals, the PLA had a number of broad comments as set out in its Witten Representation on the Deemed Marine Licence.

8 PROTECTIVE PROVISIONS

8.1 The dDCO does not include any protective provisions for the benefit of the PLA. The PLA's concerns need to be addressed through protective provisions in favour of the PLA which address the matters in section 10 of this Written Representation. Importantly it is not appropriate for the others such as the MMO or the MCA to be making decisions on matters that are fundamental to the PLA and the operation of the Port of London/River Thames and the DWRs.

8.2 If agreement cannot be reached on the form of the protective provisions that address the PLA's offshore and onshore concerns then the PLA would wish to invite the ExA to include in its proposed schedule of changes to the dDCO amendments which would address the PLA's concerns.