PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATIONS PROCEDURE) RULES 2010

APPLICATION BY NATIONAL GRID ELECTRICITY TRANSMISSION

FOR AN ORDER GRANTING DEVELOPMENT CONSENT
FOR THE SEA LINK PROJECT

(REF: EN020026)

DEADLINE 2: PORT OF LONDON AUTHORITY'S COMMENTS ON SUBMISSIONS RECEIVED AT DEADLINE 1 AND DEADLINE 1A

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1. Introduction

1.1. This is a written submission made on behalf of the Port of London Authority (**PLA**) in respect of comments on Deadline 1 and Deadline 1A submissions.

1.2. Documents referred to in this submission are:

1.2.1. Shipping and Navigation Under-Keel Clerance Marine Engineering Technical Note [REP1A-038];

1.2.2. Applicant's Responses to Relevant Representations from Statutory Consultees and Bodies [REP1-112];

1.2.3. Applicant's Thematic Responses to Relevant Representations [REP1-116];

1.2.4. Applicant's Response to Supplementary Agenda Additional Questions for Issue Specific Hearing 1 [REP1A-033];

1.2.5. Draft Development Consent Order [REP1-037];

1.2.6. Marine Chapter 7 - Shipping and Navigation [REP1-060];

1.2.7. Marine Chapter 9 – Other Sea Users [REP1-062]; and

1.2.8. Draft Statement of Common Ground – PLA [REP1-082]

1.3 A number of the documents uploaded at Deadline 1 and Deadline 1A contain responses relating to shipping and navigation. The PLA has not commented on every document that contains references to shipping and navigation and has not commented on each individual point within a document. Instead the PLA has sought to draw out the key points and await the Applicant's proposals for securing the PLA's requirements, for example through a certified plan and the detailed drafting of the draft Development Consent Order ("**dDCO**").

2.0 Shipping and Navigation Under-Keel Clearance Marine Engineering Technical Note [REP1A-038]

2.1 The PLA welcomes the engagement with the Applicant and their agreement in principle of the need to safeguard water depths, to ensure sufficient under keel clearance for future deep drafted vessels in key areas. For the avoidance of doubt, the PLA's interest in the Sea Link Project is the Areas of Interest set out in figures 3-5 of its Written Representation [REP1-156]. The PLA has no comments on the wider cable route and the MCA's requirements regarding water depths but would, from its experience with other DCOs, highlight that it needs to be very clear where the maximum 5% reduction in water depth can occur and where it cannot. Any references to potential reductions in water depth need to be very carefully worded to carve out the PLA's Areas of Interest and the absolute requirements that must apply here.

2.2 The Applicant's summary regarding under keel clearance sets out that there are three areas which make up the Areas of Interest, and this is shown on plate 2.1. It sets out the minimum water depths that need to be preserved and recognises the need for a 0.5m over-dredge tolerance.

2.3 At paragraph 2.2.2 it is stated that "*The Sunk region is of particular focus due to the high level of traffic here which route through the Sunk Traffic Separation Scheme and utilise the Sunk Pilot Boarding Station which HHA and PLA manage*." The Sunk Boarding Area is managed by Sunk Vessel Traffic Services ("**VTS**") in terms of traffic management. HHA manage the pilot boarding and landing service. None of it is managed by the PLA.

2.4 The PLA welcomes the Applicant's commitment to preserve 12.5m below Chart Datum in the Long Sand Head Two Way Route crossing area (para 2.3.4).

2.5 The PLA notes that the Applicant is currently assessing the engineering implications of the additional cable depth of lowering ("**DoL**") that may be required in areas of the Sunk Pilot Boarding areas that are already shallower than the 22m CD safeguard level and that in the worse case, the depth of lowering may increase from 2.5m to approximately 4.5m in the shallowest sections of the route (para 2.3.9). Application documents will need to be updated once this has been determined as many documents, including sections of the technical note, still refer to a target DoL of 2-2.5m. Documents will also need to be checked for consistency across the documents (see for example section 8 below regarding backfill).

2.6 Paragraph 2.3.10 states "*the PLA and HHA have informed the Applicant that the current Sunk Pilot Boarding Station charted diamond is located to the west of the previously described shallow seabed feature within the Sunk region and therefore is not an area where large ships can receive pilots*." Paragraph 2.3.11 states "*Pilot boarding does not take place at the Sunk Pilot Boarding Station charted diamond, but currently takes place up to approximately 1.5 km to the east of the charted diamond i.e. in the vicinity of the large ridge where water depths are considerably shallower than 22 m CD"*. If the reference in paragraph 2.3.10 to 'shallow seabed feature' refers to the area to the North West of the PLA's Sunk Area of Interest (see figure 3 of the PLA's Written Representation [REP1-156]) then it would be more accurately described as to the south and slightly west. There is sufficient depth of water for vessels to board and land pilots. However, boarding/landing tends to take place further to the east to give pilots more time on large vessels for a pilot/master exchange, before entering the deep water channels, or to clear a congested area before landing. However, depending on traffic and environmental conditions, a large vessel could board and land there. For the avoidance of doubt current vessel draughts do not require 22m depth but there is a need to future proof to allow larger vessels of up to 20m draught to enter and exit the port in the future.

2.7 At the North East Spit, it is noted that the Applicant has engaged with GridLink and that the Applicant considers that by moving the cable route to the east (within the Order Limits), sufficient water depth is available.

2.8 Further explanation is required regarding the comment at para 2.3.19 that there are no likely significant impacts foreseen regardless of how far the Applicant achieves meeting the 22m water depth requirement. The PLA considers that there would be significant impacts if the required depths are not achieved for the reasons set out in section 5 of its Written Representation [REP1-156].

2.9 The PLA notes that the Applicant has advised that boulders would be repositioned within the Order Limits "*in appropriate water depths*" (para 4.1.4). It is disappointing that the Applicant has not taken the opportunity to commit to no relocation of boulders to or within the Areas of Interest.

2.10 The PLA welcomes tables 4.2 and 4.3 which provide a useful summary of crossings and water depths. The key next step is for commitments to be made rather than the Ports having to wait and hope that the Applicant finds it 'possible' or 'practicable' to meet the Ports requirements. The PLA would expect a certified plan, design requirement and protective provisions as securing mechanisms. Whilst positive discussions have been had on protective provisions, wording still needs to be agreed and it will specifically need to address how it will be ensured that the crossing with Grid Link takes place in deeper water so that the first project to be installed does not prevent the second project from coming forward.

2.11 The PLA notes and welcomes the Applicant's commitment to submit an oCSIP into the examination but would emphasise the need for this to be submitted as soon as possible to allow interested parties to review it and provide comments.

3.0 Applicant's Responses to Relevant Representations from Statutory Consultees and Bodies [REP1-112]

3.1 The PLA notes that in response to entry 3.13.16, the Applicant confirms that wet storage is not applicable to the proposed project. Whilst this clarification is welcomed, it appears to be inconsistent with Marine Chapter 6 – Marine Archaeology [REP1-058] which refers to the use of wet storage areas (see table 6.16 (pages 57 and 60) and para 6.9.10).

3.2 At entry 3.3.19 the Applicant advises that discussions with PLA are ongoing on the scope of the Sediment Disposal Management Plan. The PLA is unaware of discussions regarding this specific plan but would welcome them.

3.3 At entry 3.3.20 the Applicant agrees on the importance of the mitigations, actions and commitments made by the proposed project in the Navigational Risk Assessment ("**NRA**") and listed in the Offshore Construction Environmental Management Plan ("**CEMP**"). The outline offshore CEMP is a certified document in Schedule 19 of the dDCO [REP1-037] however reference to the subsequent production of an offshore CEMP substantially in accordance with the outline plan has been deleted at deadline 1 from Schedule 3 Requirement 6 of the dDCO. Given that the outline offshore CEMP [APP-339] is clear that the outline offshore CEMP will be updated when a principal contractor has been confirmed; it is a live document that will evolve and that *"compliance with the contents of the offshore CEMP is intended to provide a systematic approach to environmental management*" it is questioned why the dDCO no longer secures the production of an offshore CEMP.

4.0 Applicant's Thematic Responses to Relevant Representations [REP1-116]

4.1 The Applicant's response to the Relevant Representations that raise issues relating to shipping and navigation are set out in table 7.22 of REP1-116. The Applicant's responses generally emphasise that the establishment of communication plans with clear protocols to ensure effective communication and co-ordination between stakeholders is a key mitigation for minimising shipping and navigation impacts during construction. The Navigation and Installation Plan ("**NIP**") is identified as the mechanism to secure this.

4.2 In response to entry 7.22.4 and Supplementary Agenda Additional Question ISH1.02 it is stated that cable joints in the Sunk will be avoided where possible (emphasis added). It is then stated that the jointing point of the cables will aim as far as practicable to be outside the Sunk area and the higher risk area to the cables in this heavily trafficked portion of the route. The PLA seeks a commitment from the Applicant that there will be no planned field joints within the Areas of Interest as field joints require the cable lay vessel to hold station for a number of days while the jointing is performed.

5.0 Applicant's Responses to Supplementary Agenda Additional Questions for Issue Specific Hearing 1 [REP1A-033]

5.1 The Applicant's responses to the shipping and navigation questions are set out in table 1.1. The Applicant's responses highlight the need for certainty. The Applicant uses phrases such as 'as far as reasonably practicable' and 'where possible.' There is also a reference in response to ISH1.05 to avoiding 'significant reductions' in under-keel clearance. This does not give the PLA the required certainty and protection of future depths. Instead the PLA is faced with the prospect, for example, of the Applicant installing the cable and post installation the Applicant stating that they tried as far as reasonably practicable to install the cable to the correct depth and that the reduction is not a significant reduction. This would leave the PLA with significant

long-term impacts. That is why the PLA requests a design requirement, protective provisions and a remediation clause to ensure that the cable is designed, installed, maintained and operated within the Areas of Interests at a depth that does not cause long term detrimental impacts to the Port of London.

5.2 In response to ISH1.04 the Applicant states *"The Applicant considers that pilots of these very large vessels would be very well versed in navigating these waters in the Sunk region, very well trained and skilled, and would pay close attention to charted water depths, and as such would not route through specific areas where water depth is insufficient for their vessels, and would instead utilise different routes"* (emphasis added). This statement seems to rely on the pilots avoiding areas where the required depths have not been reached rather than committing to meeting the PLA's requirements regarding depths. Although the Applicant's statement is technically correct, pilots would avoid shallow areas, any reduction in available water would have consequences in terms of traffic management, risk of collision and grounding and long-term impacts on the Port of London. This area is also outside of the pilotage district and Sea Link should not rely on the assumed skill of pilots as mitigation.

6.0 Draft Development Consent Order [REP1-037]

6.1 Various updates have been made to the dDCO at Deadline 1, of relevance to the PLA is the updated definition of commence which now includes details of when commence relates to the works seaward of MHWS:

> *"commence" means (a) In relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licence, save for operations consisting of offshore preparation works or pre–construction surveys and monitoring approved under the deemed marine licence and the words "commencement" and "commenced" must be construed accordingly;*

6.2 Whilst noting this definition mirrors the definition of commence in Schedule 16, the PLA has concerns about this definition as some of the activities that have been carved out of the definition of commence can be extremely disruptive and therefore require careful management and co-ordination. The PLA has suggested an alternative definition of commence for its protective provisions which would satisfactorily address its concerns and would allow the Applicant's amendment to remain as set out in Article 2.

7.0 Marine Chapter 7 - Shipping and Navigation [REP1-060]

7.1 The PLA welcomes the updates to the Shipping and Navigation Chapter of the ES [REP1-060] which now includes at paragraph 7.9.80 reference to:

- Sunk TSS and Sunk region, including the approach to Harwich Haven;
- The approaches to the Port of London surrounding the NE Spit buoy; and
- Pegwell Bay and the Kent landfall

7.2 Text has been included at para 7.9.85 to set out that the PLA has identified areas where they require specific under keel clearance to be preserved. However, the recommendation appears to be that the PLA are kept informed of seabed hazards and changes as they develop (para 7.9.85). As set out in the PLA's Written Representation [REP1-156] a certified plan and a design requirement alongside a clear remediation clause in protective provisions is required to ensure that the cable is installed and then maintained, operated and decommissioned at the required depth.

7.3 Although Chapter 7 now includes reference to commercial impacts it does not provide any detail on how the commercial implications of not achieving the required depths have been considered. The Applicant has also not taken the opportunity to update the NRA and Marine Chapter 7 – Shipping and Navigation to recognise the future navigation baseline of 20m draught vessels. This is an omission that must be rectified.

8.0 Marine Chapter 9 – Other Sea Users [REP1-062]

8.1 The Other Sea Users Chapter of the ES [REP1-062] has been updated to include clarification that rock backfill may be up to or below seabed level (para 9.9.1 emphasis added). This is inconsistent with the Applicant's Response to ISH1 Action Points [REP1-124] which states rock backfill is proposed to a level below the original seabed level. The PLA has no in principle concerns about the use of rock backfill provided that its use does not impact future bed levels i.e. any rock backfill is placed at a depth that does not prohibit maintenance of water depths of -22m CD at the Sunk, -12.5m CD at Long Sand Head and -12.5m CD at North East Spit regardless of existing water depths (see section 5 of the PLA's Written Representation [REP1-156]). The PLA raises this matter due to entry 3.3.11 in the Trinity House draft Statement of Common Ground [REP1-083] where Trinity House request that backfill should not overtop the top of the trench and the Applicant's response is that they are unable to commit to that request until a full CBRA has been completed.

8.2 The PLA assumes that the Applicant cannot make the commitment that has been requested by Trinity House due to seabed conditions - see the Applicant's reference at paragraph 9.9.1 of REP1-062 which states that external protection (e.g rock berms) may be required where soil or rock conditions area too hard to achieve effective burial, or third-party assets cross the route. However, this commitment must be given in relation to the areas that the PLA has sought to be safeguarded otherwise there could be a long-term detrimental impact on the Port of London. The Applicant states in its Responses to Supplementary Agenda Additional Questions that *"it*

has made a commitment that where rock backfill is required (between KP38 to KP58 and KP81.5 to KP96.5) no additional external cable protection (rock berms) will be required. These areas correspond to the Sunk and North East Spit." However given the PLA's comments above, the PLA would suggest that the Applicant's commitment is not clear and that it must be secured somewhere (for example in the oCSIP).

8.3 Additional text has also been added to para 9.9.1 to advise that cable crossings will be designed in consultation with key shipping and navigation stakeholders to avoid, where possible, any potential reductions in current and future navigable water depths. Again the PLA would emphasise the need for certainty in the Areas of Interest and consistency across application documents.

9.0 Draft Statement of Common Ground – PLA [REP1-082]

9.1 The PLA notes that an updated Statement of Common Ground ("**SoCG**") was submitted at Deadline 1 and that document that has been submitted does not contain any tracked changes so it is not possible to easily identify what the Applicant has updated since they last submitted a draft. The PLA will work with the Applicant to update the SoCG jointly in time for submission at Deadline 3.