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Dear Binny

ENVIRONMENT AGENCY CONSULTATION – WATER FOR LIFE AND LIVELIHOODS

Thank you for consulting the Port of London Authority on the above document, which sets out the Environment Agency's draft strategy for river basin planning, an initiative prompted by the Water Framework Directive. The PLA has seen and supports the representations made by both Sea and Water and PIANC on the draft strategy, and its comments are in addition to those made by these organisations.

Prior to commenting on the consultation draft, I believe it is appropriate that I provide you with relevant information on the PLA and its statutory duties in relation to the River Thames and its Estuary.

The PLA was established as a Public Trust by Act of Parliament in 1908. Its legislative base and context was most recently updated by the Port of London Act 1968 and subsequently through a number of Harbour Revision Orders, the most recent being approved by the Secretary of State for Transport in 2003.

The PLA's seaward limit and the outer limits of the London Pilotage District extend to lines drawn from latitude 51° 37' 00" north, longitude 00° 57' 32" east (Foulness Point in the County of Essex) to latitude 51° 46' 08" north, longitude 01° 20' 53" east (Gunfleet Old Lighthouse), thence to latitude 51° 48' 00" north, longitude 01° 40' 00" east (Long Sand Head), thence to latitude 51° 36' 00" north, longitude 01° 23' 08" east, thence to latitude 51° 26' 06" north, longitude 01° 25' 05" east and thence to latitude 51° 24' 92" north, longitude 00° 54' 35" east (Warden Point in the county of Kent).

The PLA's specific duty, as Port Authority for the tidal River Thames and its tidal tributaries from its landward limits at Teddington to its seaward limits in the outer Estuary, is enshrined in Section 5 of the 1968 Act, which states that: -

*"It shall be the duty of the Port Authority to take such action as they consider necessary or desirable for or incidental to the improvement and conservancy of the Thames."*

The 1968 Act also provides wide powers for the PLA to undertake or facilitate port and cargo handling operations in the vicinity of the River Thames. Section 5(1A) states that: -

*"The Port Authority shall have power to provide, maintain, operate and improve such port and harbour services and facilities in, or in the vicinity of, the Thames as they consider necessary or desirable and to take such action as they consider incidental to the provision of such services and facilities"*

In order to discharge its statutory duty, the PLA has been provided with very wide powers within the 1968 Act, which include: -

- Regulation of navigation by means of River Byelaws, General Directions and other associated Byelaws;
- Licensing of river works and dredging;
- Hydrographic surveying;
- Registration and inspection of craft and boats for hire (12 passengers or fewer);
- Removal of sunken vessels and hazards to navigation.

As the competent pilotage authority under the Pilotage Act 1987, the PLA provides the pilotage service for the London Pilotage District. Furthermore, it has a duty to remain compliant with the Port Marine Safety Code and to ensure that navigational access to the Port of London and the terminals within it is safeguarded. The PLA also promotes the Port of London and the terminals within it to international and national shipping lines and operators.

Regardless of land ownership, all works in, on or over the Mean High Water mark of the River Thames or its Estuary from the landward limits to the seaward limits require, from the PLA, the grant of a works licence under Section 66 of the Port of London Act 1968 (as amended). This section states that: -

*"The Port Authority may...on such conditions as they think fit, including conditions as to variation and revocation...grant to a person a licence to carry out, construct, place, alter, renew, maintain or retain works, notwithstanding that the works interfere with the public right of navigation or any other public right".*

It is a criminal offence, under Section 70 of the 1968 Act, to undertake works within PLA limits without the grant of a works licence. Additionally, the PLA must, whilst undertaking its functions, consider the environment by virtue of Section 48A of the Harbours Act 1964 and must, of course, act in accordance with current statutes and regulations.

The draft refers throughout to *stakeholders* as those organisations which will assist the EA in implementing the requirements of the Water Framework Directive. In reality this comprises a limited number of regulatory authorities and NGO's. Regulatory authorities, such as the PLA, have specific functions and duties and they will, according to the implementing regulations for the WFD only be required to "*have regard to*" the RBMP. It would appear that this infers a different and indeed reduced level of emphasis that that proposed by the EA within the draft. As such, there appears to be a disparity between DEFRA and the EA on this issue, which must be clarified by government issuing its own guidance to the EA on RBMP **prior to** the finalisation of this strategy.

In view of the above, additional clarity is required on the terms of reference for the EA's role in RBMP and its relationship to the role of DEFRA. The PLA is concerned that the EA is establishing its own strategy before government has provided guidance on the framework within which the strategy will be placed and operated.

The tidal River Thames and its Estuary within the PLA's limits appears, from Map 1, to be located within three River Basin Districts: Thames; South East and Anglian. As such, it is vital that appropriate integration exists between the varying RBMP's, particularly at their interfaces. The PLA is concerned that this issue is not highlighted within the draft, and in particular at paragraph 2.2.1, which appears to offer no basis for the integration or comparability of plans for rivers extending beyond one EA defined district.

The PLA provided extensive comments on the risk assessment and additional information to inform the refinement exercise referred to at paragraph 2.2.2. The PLA would encourage the EA to commit itself to making greater use of local datasets and ensure that consultation is undertaken with relevant local stakeholders and regulators when identifying pressures and impacts.

Section 2 appears to imply that the EA will be implementing all programmes of measures and regulating all activities. This will not, however, be the case in the environment where the EA has a limited regulatory role (flood defence, discharges and some fisheries). Programmes of measures will need to be developed with the support of all those involved in both undertaking and regulating activities.

In relation to question 2.3, and in addition to the vital issue of integration and comparability across RBD's, it appears that the division of activities between national, district and catchments is based on the EA's own regulatory functions and structure. This may not be appropriate in estuarine and coastal environments, where development and activities are regulated at both national and local levels and through a range of public and private organisations. There is presently no regional level of management as proposed within the draft. The PLA believes that it may be appropriate for WFD and RBMP objectives for transitional and coastal waters to be implemented through integration as part of a system of marine spatial planning if it is introduced in the promised Marine Bill.

Whilst the PLA believes it is sensible and appropriate that the draft seeks to forge strong links between land and water planning, it appears to offer no basis as to how this aim will be implemented, beyond the inclusion of WFD in Planning Policy Statements. I would contend that this will not achieve the desired result, yet no reference is made to the policies contained within the published *London Plan*, the Spatial Development Strategy for London, which in my view offer a blueprint for the integration of policies affecting the riparian interface. It is the PLA's view that it is at the regional level where most efforts should be made to integrate the two regimes.

In relation to question 3.1 and noting the list of planning activities at Box 2, the PLA would comment that the EA (as noted above) has a more limited role in transitional and coastal waters, and therefore the integration and indeed issues faced in terms of planning for the water and land as envisaged within the draft will be different and potentially more complex. This is demonstrated by the Thames Catchment Abstraction Management Strategy, where the downstream limit was deliberately ended at Teddington, where the Thames becomes tidal, as the EA considered that the tideway was too complex. As such, the tidal Thames has no CAMS. It is logical and beneficial for the EA to ensure that its planning activities are integrated, but there must also be an understanding that there are a large number of plans for which others have responsibility.

In relation to question 3.2 it is disappointing to note that the opportunities offered estuary management plans, such as the Thames Estuary Partnership (to which the EA is of course a major partner), as an opportunity for delivering Integrated River Basin Management. Whilst these plans are non-statutory, commitments have been made by a range of stakeholders and activities are undertaken in accordance with these commitments. Where appropriate, RBMP's should take account of, and work with, these existing initiatives.

The PLA is disappointed to note (and as such confirms its fears) at Section 4 that there is no provision for the horizontal integration of RBMP's between RBD's, although the vertical links between different levels of involvement.

In relation to question 4 (and specifically in relation to the proposals for partnership at the River Basin District level), the PLA believes that as RBD's are so large that it will not be feasible for the partnership group to comprise only small numbers of statutory bodies and other interest groups. Furthermore, the issues to be considered in transitional and coastal waters are likely to require input from different stakeholders, and the PLA accordingly suggests that two liaison panels are formed: one for fresh water and one for transitional and coastal waters. The PLA further recommends that port authorities and central government regulators should be represented on these RBD liaison panels.

There are limited existing working arrangements at catchment level in transitional and coastal waters where the EA has a role. The potential importance and costs of WFD measures are such that industry would, in the PLA's view, be reluctant for major issues to be handled through Coastal Forums. These existing arrangements are appropriate for the resolution of conflict but not for issues of economic significance.

If you require any further information on these representations, please contact me.

Yours sincerely

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HEAD OF PLANNING AND PARTNERSHIPS