Appendix 6 - Seven Principles of Subsidy Control Act 2022

(1) The subsidy should pursue a specific policy objective i.e., a financially viable advanced maritime knowledge centre in order to remedy an identified market failure or address an equity rationale (e.g., a local or regional disadvantage, social difficulties or distributional concerns). A market failure occurs when the private market does not take account of costs or benefits which are external to those operating in it or where there is asymmetrical information;

(2) The subsidy must be proportionate to the specific policy objective and must be limited to what is necessary to achieve it i.e., the grants must not exceed a reasonable share of the total cost (be value for money) and must be no greater than the viability gap between the estimated total cost and and the value to Peel of the amount received from the Funder for the assignment to the Funder of the benefit of the head lease to the Council);

(3) The grants must be designed to bring about a change of economic behaviour in Peel i.e., the Maritime Knowledge Hub (MKH) would not be built without the subsidy;

(4) The grants must not compensate Peel for costs it would have funded in the absence of a subsidy e.g. expenditure it had already incurred prior to any offer of a grant;

(5) The grant must be an appropriate policy instrument for achieving the specific policy objective which cannot be achieved through other less distortive means (on competition) e.g., by making the grant conditional on Peel (not the Council) taking the commercial risk of not finding the tenants and rents required to make the investment viable. In other words, the LCRCA and the Council would subsidise Peel to construct the buildings, but Peel, not the Council, would let out the premises to technology tenants; Peel are not prepared to take on that risk which they expect to be borne by the Council Tax Payer (through the Head Lease)

(6) The grants must be designed to achieve the specific policy objective whilst minimising any negative effects on competition and investment within the UK. In this regard the Assessment would have to show that the grants were likely to bring forth a viable maritime knowledge centre even though it would not be viable for the Council unless it were able to let it out at £18 per sq. ft., which is unlikely to be achieved in the present circumstances. In this regard if the Council sought to make the investment viable by supplementing its rental income with business rates from the property, that would likely be considered by the SAU as highly distortive of competition since other commercial landlords would not have the advantage of having a head tenant willing and able to pay the rent partially out of taxation. Furthermore, business rates are intended to pay for the statutory services arising from regeneration e.g., maintaining and cleaning highways, ensuring safety in office premises, safeguarding, trading standards etc. Business rates are not intended to pay for investments that are likely to be loss making from the outset; that could be regarded as a breach of the Council’s fiduciary duty to its ratepayers to carry

out its investment functions prudently and economically unless the external social benefits e.g. increased employment in an economically depressed neighbourhood, were likely to be substantial and long lasting .This is arguably not the case with MKH. There is also the question whether the Council could afford to sustain significant financial losses over a long period of time without adversely affecting its ability to finance the performance of its statutory duties (a matter for the Director of Finance to give advice on).

(7) Finally, the beneficial effects of achieving the policy objective must outweigh the negative effects on competition within UK of favouring one corporate landlord (i.e., Peel) over others in Wirral. The bigger the subsidy and the more uncertain the prospects of a viable MKH, the less likely it is for the subsidy to Peel to be lawful.