



PORT OF  
**TILBURY**  
LONDON

**Section 56(2) Planning Act 2008**

**Application by National Highways for an Order Granting Development Consent for**

**Lower Thames Crossing**

**Planning Inspectorate Reference: TR010032**

**RELEVANT REPRESENTATION BY**

**PORT OF TILBURY LONDON LIMITED (PoTLL)**

## PRINCIPAL AREAS OF DISAGREEMENT SUMMARY STATEMENT

This table summarises the key issues raised in this Relevant Representation, and how National Highways could seek to resolve them. In light of the ExA's Procedural Decision in [PD-005], this table should be considered as the first iteration of PoTLL's Principal Areas of Disagreement Summary Statement, as requested by the ExA.

Topic	Summary of issue	Suggested solution(s)	Likelihood of concern being addressed	Covered in SoCG? <sup>1</sup>
Traffic	Asda Roundabout Hard Mitigation – Outline Traffic Management Plan for Construction (OTMPfC) has no mechanism for delivery of mitigation if modelling indicates issues will occur. This is compounded by: <ul style="list-style-type: none"> <li>no junction modelling having been undertaken to date despite the Transport Assessment showing delays; and</li> <li>Asda Roundabout not forming part of the Order limits and no certainty that permitted development powers could be used.</li> </ul>	Junction assessments to be provided to PoTLL.  Tighter wording in the OTMPfC to deal with process for mitigation being delivered.  Order limits to be extended to include Asda Roundabout.	Low – Applicant has not yet done these assessments and may be unlikely to seek to change Order limits. PoTLL considers that Pre-Examination would be the appropriate time to do so.	Yes, but not Order limits extension
	OTMPfC soft measures – insufficient recognition of needs of a working Port alongside construction traffic.	OTMPfC to be updated to provide for more proactive and reactive mechanisms for PoTLL involvement, traffic management and Port traffic priority.  Some aspects of this may form part of a legal agreement.	Medium	Yes
	Outline Materials Handling Plan (OMHP) as mitigation: commitment needs to be stronger to utilise Port of Tilbury generally, a requirement to use the CMAT, and PoTLL needs better understanding of impacts to movements in and between Tilbury1 and Tilbury2 and the North Portal Construction Compound as a result (including right turns on St Andrews Road from Tilbury1).	Applicant to share detailed HGV movement estimates with PoTLL within the Tilbury area as a result of commitment as it currently stands.  Updates to be made to the OMHP in line with PoTLL's concerns.  Legal agreement to deal with mechanisms to allow for passage for agreed vehicle numbers.	Medium	Yes
	Inclusion of Freeport in Modelling – without this, impacts are going to be underestimated – PoTLL must deliver Freeport during LTC construction period.	Modelling data to be provided.	Low – Applicant has consistently refused to do so to date.	Yes
	Framework Construction Travel Plan – (FCTP) mandatory mode share targets to be introduced and PoTLL to be a consultee.	FCTP amended accordingly.	Medium	No
	Methodology concerns raised in this Relevant Representation undermine the veracity of the results meaning PoTLL are concerned that some impacts may be being underestimated and that appraisals are insufficient.	Technical Note responding to these concerns to be submitted to Examination.  Depending on content of that Technical Note, further modelling may be required.	Low	No
	DCO powers to suspend traffic on St Andrew's Road and Infrastructure Corridor mean that traffic could be prevented from accessing/egressing the Port.	Such powers to be subject to PoTLL's consent in the Protective Provisions.	Medium	No
	Fort Road to be discounted from use for construction purposes.	Commitment in the OTMPfC.	Medium	Yes
	Land	LTC land requirements are all within PoTLL's statutory undertaking and will cause a serious detriment.  Without mechanisms for consent and/or restrictions on the use of DCO powers within its Protective Provisions and in any legal agreements, PoTLL objects to land powers in the strongest terms.	Discussions are ongoing in respect of negotiated agreements for specific areas of land, but PoTLL requires that all land and works powers within its land must be subject to its consent via the Protective Provisions. This includes the conveyor 'finger' of land. Legal agreements between the parties will deal with the practical mechanisms of this consent.	Medium

<sup>1</sup> Column included at request of the Applicant. Where matters are not previously covered in the SoCG, this is because the issue has only arisen now that detailed application documents are available for the first time.

Topic	Summary of issue	Suggested solution(s)	Likelihood of concern being addressed	Covered in SoCG? <sup>1</sup>
	Utilities – PoTLL must be involved in the moving of existing utilities, the creation of new utility routes or works which will interfere with existing utilities within the Port of Tilbury as this will fundamentally affect the current and future working of the Port.	PoTLL approval to the compulsory acquisition of rights to be subject to its consent via the Protective Provisions. Legal agreements between the parties will deal with the practical mechanisms of this consent.	Medium	
	Plot 21-10 to be removed from the Order limits as the land is currently being marketed for use by PoTLL as part of Tilbury2.	Plot removed from the Land Plans.	Medium	No
	Errors in the Book of Reference.	Book of Reference to be corrected in line with comments in Appendix 2.	High	No
Design and construction methodology	<p>More detail and protective mechanisms need to be put in place to deal with:</p> <ul style="list-style-type: none"> <li>• how the Tilbury Link Road (TLR) could be brought forward in the context of the development of the haul route;</li> <li>• how the earthworks for the LTC scheme (in particular those associated with Work Nos. 5 and CA3) will be carried out and left in situ (including strata and landform);</li> <li>• the management of contamination risk;</li> <li>• construction and operational drainage and how they will be future proofed and interact with PoTLL's Freeport proposals;</li> <li>• the emergency evacuation procedures for the tunnel given that the northern portal is located adjacent to the Freeport land;</li> <li>• the development of utility provisions and commitments to PoTLL's ability to deal with future requirements and minimise consequential sterilisation and impacts;</li> <li>• the design of the junctions and roads contained within Work No. 5 to account for future traffic flows (or 'future proofing' to do so); and</li> <li>• how land temporarily possessed by LTC will be 'handed back' to PoTLL to enable its use for Freeport purposes.</li> </ul>	Predominantly to form part of separate legal agreements between the Parties, however PoTLL may seek amendments to the DCO and related documents, particularly in respect of the haul road/TLR and drainage, to ensure that appropriate design principles and legacy are secured.	Medium	Yes (in general terms)
River concerns	Amendments required to drafting of article 48, tunnel limits of deviation plan and river restrictions plan to allow for future dredging and construction of the tunnel.	Workshop to be held with PLA, PoTLL and the Applicant to agree amendments to be made.	Strong – it is understood that the Applicant agrees in principle, but points of detail will need to be discussed.	River issues in SoCG at high level – detailed matters not yet included.
	Wide ranging powers in article 18 need to be subject to PoTLL's consent.	Article 18 to be brought into the ambit of PoTLL's Protective Provisions.	Medium.	
Ecology	Baseline information – further baseline information is required in respect of habitats, invertebrates,	In the first instance, LTC to provide a Technical Note to PoTLL to confirm its position.	Low	No

Topic	Summary of issue	Suggested solution(s)	Likelihood of concern being addressed	Covered in SoCG? <sup>1</sup>
	ornithology, badgers, bats, water vole and reptiles as the information is out of date. This is needed to ensure that LTC's proposals will 'work' and integrate and align with the requirements of the Tilbury2 DCO and PoTLL's future aspirations.	Following review of this, further surveys may be necessary.		
	Mitigation – more detail is required on the mitigation measures proposed to be implemented to understand if they will work.	In the first instance, LTC to provide a Technical Note to PoTLL to confirm its position.  Following review of this, a more detailed LEMP may need to be prepared.	Medium	Yes



## 1. SUMMARY

- 1.1 Port of Tilbury London Limited (PoTLL) are in support of the principle of the proposed Lower Thames Crossing (LTC) and the potential for economic benefits to the Port of Tilbury and local area. However, there are a number of matters where the objectives have not been met to their full potential, or benefits clearly secured and realised. There are areas where more information, detail and agreement by PoTLL to the proposed approach is needed. PoTLL are also seeking to ensure that adequate controls and mitigation are provided to ensure a positive legacy to the local area from the LTC. PoTLL's concerns and requests are broadly set out in this Relevant Representation.
- 1.2 Overall, PoTLL notes that the LTC is promoted based on the achievement of stated objectives. PoTLL's view is that whilst the LTC may be able deliver some benefits, in the DCO application as it currently stands National Highways has failed to fully recognise the impacts that it will cause to PoTLL and their operations, both direct and indirect, and to effectively apply the EIA hierarchy to seek to avoid, manage and mitigate those impacts.
- 1.3 Given the substantial economic presence and national importance of PoTLL's current operations, their planned expansion, and the future Freeport development (located within the LTC draft Order limits), the impacts that LTC may have on these, both direct and indirect, means that the achievement of the LTC objectives, particularly of economic benefit, are at risk. In particular, PoTLL are concerned to achieve the best legacy benefit for the local area, enabling future development such as the Tilbury Link Road to be brought forward with minimal disruption to the newly constructed LTC. PoTLL seek to ensure that the LTC co-exists harmoniously with the Port of Tilbury, with each being enabled to fulfil its potential without unduly hampering or disadvantaging the other.
- 1.4 Furthermore, the consequences of this failure to adequately address LTC's impacts are of concern and likely to cause a serious detriment to PoTLL's statutory undertaking. As such, PoTLL are making this representation with a view to participating in the Examination process and seeking to bring about improvements to the LTC, helping to ensure it can meet the identified objectives and deliver on the economic benefits claimed without harming PoTLL's established and future planned operations and development.
- 1.5 This Relevant Representation has been prepared in full form to allow the ExA to gain a strong understanding of PoTLL's concerns from an early stage, to allow this to be considered at the outset of the Examination process. In light of this, PoTLL considers it is likely that their Written Representation will not materially add to this Relevant Representation, depending on the extent of progress made with the Applicant in the meantime in terms of the issues raised within this document.

## 2. OVERVIEW OF THE PORT OF TILBURY

- 2.1 This Relevant Representation has been prepared by PoTLL as:
  - 2.1.1 the landowner and statutory harbour authority of Tilbury1 and Tilbury2 (together referred to as the Port of Tilbury), and the infrastructure corridor linking Tilbury2 to the A1089 and the London to Tilbury railway line. Part of the infrastructure corridor is contained within the draft Order limits within the LTC development consent order (DCO) application;
  - 2.1.2 the owner of land located to the east of Tilbury2. This land has been acquired by PoTLL for the purposes of its statutory undertaking and constitutes statutory

undertaker's land for the purposes of section 127 of the Planning Act 2008 (PA 2008). Much of this land falls within the draft Order Limits:

- (a) land previously used as the Tilbury B power station and its associated stock yards (coal field) to the north. This land currently benefits from temporary planning permission for port-related storage. It lies outside of the designated Green Belt; and
- (b) Areas A1, A2 West, A3 and B, which are former ash fields associated with the power station and are located within the designated Green Belt;

2.1.3 holder of an option over land known as Area A2 East. This land is designated Green Belt and is currently owned by a third party. This land, once purchased by PoTLL, will have been acquired for the purposes of PoTLL's statutory undertaking and will be statutory undertaker's land for the purposes of section 127 of PA 2008; and

2.1.4 a member of the consortium of parties that is bringing forward the Thames Freeport. Thames Freeport was chosen by HM Government as a successful Freeport location and formally designated as such in November 2021<sup>2</sup>. The designated area includes land within the LTC draft Order limits, including parts of Tilbury2, the former Tilbury B power station and associated coal fields and Areas A1, A2 West, A2 East, A3 and B as well as other land to the north-east.

2.2 This Relevant Representation is accompanied by a number of plans which are referred to throughout and are appended at Appendix 4. These plans are as follows:

- PoTLL Land Ownership and Interests Plan – this shows the extent of PoTLL's land ownership and interests in the Tilbury area.
- PoTLL Leasing Arrangements Plan – this shows the various leases that PoTLL are negotiating with LTC and other parties and the extent of IVL's permit.
- Existing Land Rights Plan – this shows the existing utility and access corridors that are the subject of PoTLL's property arrangements with third parties.
- Tilbury2/Tilbury 3 Identification Plan – this shows the areas of land that are caught by the terms 'Tilbury2' and 'Tilbury3' used in this Relevant Representation.
- 'Numbered Land Parcels Plan' – this shows the internal numbering of parcels that have been used by PoTLL in their future development planning, discussions with LTC and in their consultation responses.
- 'Freeport Areas Plan' – this shows the different elements of the Freeport, as designated.
- 'Order Limits Plan' – this shows the order limits for the Tilbury2 DCO, the Thurrock Flexible Generation Plant DCO and the draft LTC DCO mapped together.

2.3 The Port of Tilbury is located on the north side of the river Thames in Essex, some 5km east of the Dartford Crossing. It is London's major port and is one of the largest multi-

<sup>2</sup> Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021

purpose ports in the UK, covering over 1,000 acres (405 hectares) with 56 berths, over 10km of quay, 31 independent terminals and 5 million sq ft (464,515 sq m) of warehouse space. Currently there is a single point of access to the Strategic Road Network (SRN) via the A1089, catering to 8,000 vehicle movements per day. The A1089 routes north to the A13 and onwards to the M25 via Junction 30. The Port of Tilbury provides fast, modern distribution services, by water, rail and road for a full range of cargoes, cruise passenger traffic, and is home to the London Container Terminal.

- 2.4 PoTLL directly employs around 700 Full Time Equivalent (FTE) staff. Taking account of tenants and including induced, indirect and operator and tenant jobs, the Port of Tilbury supports up to 11,000 jobs in total.

### Tilbury1

- 2.5 The main services offered at Tilbury1 are:
- 2.5.1 **Containers:** The London Container Terminal is the only UK port with facilities to serve both deep sea and short sea customers. It has the capability to handle over 500,000 containers (over 900,000 TEU<sup>3</sup>) per year. The Terminal offers 24/7 working.
  - 2.5.2 **Grain and dry bulks:** Tilbury1 has dedicated handling and storage facilities to handle grain and dry bulks, and is equipped with high capacity grabbing cranes and loadout elevators. Tilbury1 currently has six bulk handling berths and 7.4 acres of bulk handling operations plus 120,000 tonnes of covered and open storage.
  - 2.5.3 **Paper and forest products:** Tilbury1 is the UK's leading port for paper products and is the major entry point for print houses and publishers in London and the South East, handling volumes of over three million tonnes per year. PoTLL opened the London Paper Terminal – a dedicated paper distribution centre – in 2014. The 14.5 hectare (36 acre) terminal includes 65,000sq.m. (700,000sq.ft.) of covered storage and state of the art equipment and technology. The adjacent Enterprise Distribution Centre (EDC) is a centre of excellence for paper handling and as a high bay warehouse has significantly improved throughput capabilities. Tilbury1 is a significant port for forest products with excellent links throughout the supply chain including shipping lines, importers, merchants and distributors. Tilbury1 has over 10 hectares (25 acres) of dedicated storage, transit, treatment and distribution facilities, and is able to deal with a full range of commodities from sheet materials to specialist timber.
  - 2.5.4 **Roll on/roll off:** the RoRo berths deal with a range of cargoes including cars, ferry services and tracked and agricultural plant. Tilbury1 also has a dedicated Vehicle Handling Centre which allows for secure car storage. One of the main customers for this RoRo is Hyundai, which handles over 100,000 cars through the Port of Tilbury (some cars are stored within the Tilbury2 area) per annum.
  - 2.5.5 **Recycling:** Tilbury1 is the UK's largest recycling and waste export facility, receiving, processing and exporting a wide range of waste products from the UK and overseas. It is estimated that some 15% of Tilbury1's throughput is recycling materials.

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<sup>3</sup> Twenty foot equivalent unit.

- 2.5.6 **Cruises:** the London International Cruise Terminal is London's only purpose built deep water cruise facility, and is located only 22 nautical miles from Central London and within easy access of London airports. The terminal consists of a large, historic Grade II\* listed cruise terminal with two elevated ship to shore gangways and a 348 metre landing stage. There are both short and long stay car parking facilities located adjacent to the cruise terminal. In 2022, a through flow of around 102,000 passengers came through the terminal.
- 2.6 The Port of Tilbury is a critical link in a wide range of supply chains for companies catering to all parts of the UK economy. Reliance is placed on the Port of Tilbury by customers such as Hyundai, Cemex, Aggregate Industries, Frontier, Stora Enso, SCA and Travis Perkins, due to its long track record of resilient operational and financial performance. This resilience was maintained through the Covid 19 pandemic, and continued infrastructure enhancement and focused investment and expansion has resulted in the Port of Tilbury being a key logistical hub for the UK. The Port of Tilbury is also the UK's greenest port, with a focus on sustainability and ongoing investment in renewable power, water and fuel saving solutions.
- 2.7 The Port of Tilbury is involved in initiatives aimed at relieving congestion on the capital's roads through promoting greater use of construction consolidation and river-based freight by using space at the Port of Tilbury for construction materials from projects on or near to the river Thames. By way of example, the Port of Tilbury acted as the logistics and distribution hub for the construction and operation of the Olympic Park, subsequently stored and refurbished cranes from the Battersea Power Station redevelopment, dealt with materials for the Thames Tideway project, and serves as the Waste Transfer Station for Cory's downstream riverside energy from waste facilities.
- 2.8 The Tilbury1 area has been subject to constant change, reflecting market and locational demands of current and potential tenants and the form and nature of an operational Port. Over many years this has seen intensification of activity including the construction of new buildings both at the quayside and over the wider port estate and increases in throughput. More efficient use of space has been coupled with less intensive uses, such as new vehicle storage being moved away from the quayside areas. Another feature of the changing character of the Port has been the diversification of uses, with an increase in production facilities and energy generation alongside the more traditional goods handling and distribution. Examples include the construction of the Tilbury Green Power Limited (TGP) renewable biomass power plant within Tilbury1, one of the largest biomass plants in the UK, and a proposal by Aggregate Industries to construct and operate a cementitious products manufacturing facility, the planning application for which is presently with Thurrock Council for determination (reference 22/00466/FUL). The latter will once again enhance the role of the port in the construction sector, creating additional jobs and economic benefits.

## **Tilbury2**

- 2.9 The Port has seen continuous expansion over recent years and PoTLL are in the process of investing circa £1billion in new facilities.
- 2.10 On 31 October 2017, PoTLL submitted an application to Secretary of State for Transport under PA 2008 for a Development Consent Order for the construction, operation and maintenance of a new port terminal and associated facilities. The application was accepted for examination on 21 November 2017 and the examination was completed on 20 August 2018. The DCO was made by the Secretary of State on 20 February 2019 as the Port of Tilbury (Expansion) Order 2019 (the T2 DCO).

- 2.11 The Tilbury2 terminal comprises two principal components, namely a RoRo terminal and a Construction Materials and Aggregates Terminal ('CMAT'), and associated infrastructure including rail and road facilities that link Tilbury2 to the existing road and rail network via an 'Infrastructure Corridor' adjoining the existing mainline railway. The CMAT includes stockpiling of construction materials and processing of aggregates for the production of asphalt and concrete products. The CMAT is operated by Tarmac and the majority of the storage and production facilities at the site are now operational. The CMAT is supported by a deepwater jetty which has the capacity for vessels up to 100,000 metric tonnes with a covered conveyor linking the jetty to the aggregate handling area. The capacity of the Tilbury2 CMAT makes it the UK's largest construction materials aggregates terminal. It is fully multi-modal, with a dedicated rail link and road access as well as the deep water jetty.
- 2.12 The adjoining RoRo terminal, as also consented by the DCO, is fully operational, providing container and trailer ferries to Europe, with a capacity of 500,000 units per annum.

### **London Distribution Park**

- 2.13 Although not within the Port of Tilbury's operational Port boundary, PoTLL are a joint venture partner with logistics developer SEGRO and successfully promoted the development of a new industrial and logistics scheme immediately to the north of the town of Tilbury, now known as London Distribution Park ('LDP'). LDP now accommodates an Amazon Fulfilment Centre, a production facility for electric vehicles and an HGV haulage depot presently operated by Maritime, one of PoTLL's long standing tenants.

## **3. PORT EXPANSION**

### **Planning context**

- 3.1 As highlighted above, the Port of Tilbury is a dynamic and ever changing facility. Over many years it has expanded its overall estate and adapted to changing markets and needs. This has included reclaiming land from the river, developing new landside areas including the area known as Fortland Distribution Park (which lies to the east of the main Port and north of Fort Road) and most recently, securing a Development Consent Order for Tilbury2 as described above.
- 3.2 Redevelopment within the existing Port has also taken place by means of buildings and other works not requiring express consent by virtue of PoTLL's permitted development rights and planning permissions granted by the local planning authority, Thurrock Council.

### **Permitted Development rights**

- 3.3 PoTLL and their lessees and agents within Tilbury1 have the benefit of Permitted Development rights (PD rights) within the Port of Tilbury. Part 8, Class B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) confers a general right as follows:

*Development on operational land by statutory undertakers or their lessees or agents of development (including the erection or alteration of an operational building) in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required—*

*(a) for the purposes of shipping*

*(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour,*

*or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking, or  
(c) in connection with the provision of services and facilities.*

- 3.4 These permitted development rights also apply to the area of Tilbury2, expressly given effect by article 47(2) of the T2 DCO.
- 3.5 Increased flexibility in respect of these rights was introduced by government in April 2021, extending permitted development rights to the ‘agents’ of statutory undertakers and their lessees (a reform which was introduced alongside the announcement of Freeport policy) with the intention of encouraging investment and development in ports and simplifying and speeding up the planning system.
- 3.6 With the benefit of these PD rights, PoTLL are able to continuously ensure that optimal use is being made of the Port estate, proactively meeting tenants’ and economic delivery requirements as these change over time, adapting to the operational environment and market needs.
- 3.7 Where planning permission is required to redevelop land within its operational area, PoTLL has a history of working closely and positively with the local community and Thurrock Council (and its predecessor local planning authority, Thurrock Thames Gateway Development Corporation which operated from 2005 – 2012).

### **The Port of Tilbury and the Development Plan**

- 3.8 The Council recognises the importance of the Port of Tilbury in the local and sub-regional economy, and this is reflected in its current development plan for the area, the Core Strategy and Policies for Management of Development DPD (Adopted 2015). Policy CSSP2 within the DPD indicates that the Council will “promote and support economic development in the Key Strategic Economic Hubs” (of which Tilbury is one) “that seeks to expand upon their existing core sectors and/or provide opportunities in the growth sectors.” The “core sectors” are identified at para. 4.1 of the DPD as including:

*“the international port and logistic related facilities at Tilbury and the recent approval for a deep water port at London Gateway and the logistics and retail clusters at the Lakeside Basin / West Thurrock”.*

- 3.9 Tilbury is defined as a key location for employment in the Borough and will provide between 1,600 and 3,800 additional jobs in logistics, port and riverside industries and the land that became London Distribution Park was identified in the DPD as a Green Belt release. Policy CSTP17 (Strategic Freight Movement and Access to Ports) indicates the Council’s “support for the logistics and port sectors, and the positive impacts of freight activity in Thurrock and beyond. Policy CSTP28: River Thames, states that:

*“The Council and Partners will ensure that the economic and commercial function of the river will continue to be promoted through:*

- i. Priority being given to allocating riverside development sites to uses that require access to the river frontage, especially those which promote use of the river for passenger transportation purposes.*
- ii. Safeguarding port related operational land.*
- iii. Safeguarding additional adjacent land required for further port development, including expansion. For port development onto additional land to be acceptable however, it will be necessary to*



*substantiate the need for it over and above land that is already available for operational port uses.*

*iv. To safeguard existing and promote new jetties and wharves facilities where appropriate for transport of goods and materials.”.*

- 3.10 In summary, a combination of PoTLL’s permitted development rights and a supportive planning context has allowed PoTLL to expand and intensify its operations over many years and this is set to continue.

### **Future expansion plans**

- 3.11 PoTLL will be expanding their operations and plans circa £1billion of investment in the coming years. In doing so PoTLL have three main objectives:

3.11.1 to sustain existing and to create new jobs: the Port of Tilbury has been operating for 130 years and its success means that it will in the future need more land to grow business and create more jobs both directly employed by PoTLL and employed by their tenants and suppliers;

3.11.2 to increase the Port of Tilbury’s economic contribution: the expansion will create more jobs, further adding to the Port’s wider objective as a facilitator of economic growth and regeneration on a local and regional scale; and

3.11.3 to increase the economic contribution and meet the needs of the Port of Tilbury’s current and future customers, including growth sectors such as renewable power, recycling and port centric logistics.

- 3.12 PoTLL anticipates further longer term growth of the Port of Tilbury, driven by customer demand, making the most efficient use of the multi-modal facility, in close proximity to the capital and a large percentage of the population of the UK.

- 3.13 PoTLL considers that the only constraints to longer term growth are:

- (a) the size of the Port of Tilbury estate;
- (b) the access to the Port by road; and
- (c) (under the current proposals) congestion and disruption caused by the construction of the LTC and sterilisation of and interference with PoTLL development land.

### **Provision of additional development land**

- 3.14 Even with Tilbury2 only recently constructed, PoTLL has purchased a further 52 hectares of land to the east of Tilbury2. The land (shown on the Numbered Land Parcels Plan) comprises the site of the former TilburyB power station and adjoining stock yards (coal field), and associated ash fields known as land parcels A1, A2 West, A3 and B. Over several years the ash has been removed from the land for commercial purposes and it has been refilled and reprofiled with inert waste from London construction projects including Thames Tideway and Silvertown Tunnel. PoTLL has secured temporary planning permission for a period of five years to allow for the use of the former power station site and adjoining land for the storage of imported motor vehicles, HGVs and general port product.

- 3.15 A further area of land known as A2 East (20 hectares) shown on the Numbered Land Parcels Plan and the PoTLL Land Ownership and Interests Plan is subject to an option to purchase in favour of PoTLL.
- 3.16 These land parcels have long been identified by PoTLL (even prior to the advent of the national Freeport Policy as mentioned above) as the only viable area for further expansion of the Port of Tilbury with a river frontage (offering the opportunity for enhanced berthing infrastructure) given other constraints in the area, particularly Tilbury Fort and local ecology. The exact proposals for this area will, to a degree, depend on tenant demand but could include further containerised and unitised cargo capacity, port centric logistics, and further potential aggregates handling and manufacturing. This will include marine and terrestrial infrastructure.
- 3.17 Given that the Freeport powers will statutorily 'run out' in 2026, PoTLL are planning to bring development forward as soon as possible and certainly before the end of LTC construction.
- 3.18 The second opportunity is to expand LDP, which is located to the east of the A1089/Dock Road, to the north, as shown on the Freeport Areas Plan. Whilst this land does not have immediate dock side access, it is sufficiently proximate to the Port of Tilbury to attract port centric distribution uses. The success of the existing LDP provides a compelling track record of delivery.
- 3.19 This land is the subject of land promotion through the Local Plan process by London Distribution Park LLP, a joint venture between PoTLL and SEGRO, a leading owner, asset manager and developer of modern warehousing and light industrial property.
- 3.20 Furthermore, PoTLL are in the process of formalising leasehold arrangements with Anglian Water for land within their sewage treatment plant immediately to the west of Tilbury2 (as shown on the PoTLL Land Ownership Interests Plan). This land is subject to a current planning application for HGV parking and port-related storage as an expansion of Tilbury2 (Thurrock reference 22/01461/FUL) and is expected to be permitted shortly, increasing the size of Tilbury2 by a further 2.9 hectares.
- 3.21 PoTLL intend to continue to develop and expand the Port of Tilbury over their landholdings and interests shown on the PoTLL Land Ownership and Interests Plan, during the consenting and construction phases of LTC. Given LTC's proposals, an early focus of this growth is likely to be riverside development immediately to the south of the LTC draft Order limits in area A1 (shown on the Numbered Land Parcels Plan).
- 3.22 PoTLL are seeking to ensure that LTC is able to co-exist with their operations and expansion, during both the construction and operational phases (as discussed further in section 6 below), ensuring that the growth of the Port of Tilbury is not constrained by LTC, nor sterilised through unnecessary use or restriction of the PoTLL landholding.

### **Improving access and connectivity**

- 3.23 The baseline and future highway network are discussed in further detail below. PoTLL have invested significantly in improving connectivity of the Port of Tilbury to the Strategic Road Network (SRN) and national rail system, most recently by the construction of the infrastructure corridor, namely the new Tilbury2 link road to Ferry Road/St Andrews Road, to provide direct access to the A1089. PoTLL have also implemented improvements to the ASDA roundabout on the A1089 and funded changes to improve the efficiency of Junction 30 of the M25. This investment has resulted in an improved highway network to support the



development of Tilbury2. Alongside this, a new rail siding into Tilbury2 has been constructed. Improvements have been made to benefit the local community and employees at the Port through new and upgraded footpaths and cycle routes, waymarking and crossings and enhancing the Tilbury to Gravesend Ferry by means of real time information.

- 3.24 Traffic modelling undertaken by PoTLL (discussed further below) indicates that, absent the LTC (and in particular the impacts of LTC construction traffic on the ASDA roundabout), further development of land east of Tilbury2 would be possible with only limited further highway interventions. However, in order to fully realise the potential of the Port of Tilbury, incorporating the Freeport, a second access into the Port of Tilbury would be required by way of a Tilbury Link Road (TLR). This is discussed further in section 5 below.

### **Thames Freeport**

- 3.25 The Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021 identified the areas of beneficial tax status constituting the Freeport. These areas are shown against the LTC draft Order limits on the Freeport Areas Plan. The main Freeport area at Tilbury comprises land located between Tilbury2 and the LTC North Portal, contained within the LTC draft Order limits for the main Construction Compound (Work No. CA5). PoTLL intend to develop the Freeport with a mixture of port-related development following the construction of LTC to provide, amongst other benefits, around 20,000 jobs, many of which will be in the Tilbury area. Further background information on the Freeport is contained in Appendix 1.
- 3.26 PoTLL are concerned that the LTC application should not hinder the delivery and benefit of the Freeport at the Port of Tilbury.

### **Conclusion**

- 3.27 The Port of Tilbury has a nationally significant role to play in the UK economy due to its size and the scale of operations. These operations also support major infrastructure projects being constructed across the UK, including HS2. Whilst PoTLL are supportive of LTC in principle, it is important that the construction and operation of the LTC does not hamper the ongoing operation and expansion of the Port of Tilbury due to its critical links to the economy. The remainder of this Representation sets out PoTLL's main concerns with the DCO application and an indication of how these shortcomings may be addressed in order that the two undertakings may successfully and beneficially co-exist.

## **4. TRAFFIC**

### **Context**

- 4.1 The Port of Tilbury has direct access to the A1089 part of the Strategic Road Network (SRN) operated by National Highways (NH). Tilbury2 is accessed via the Infrastructure Corridor (IC). The IC connects the A1089 at the main Tilbury1 access to Substation Road, which is the road running through Tilbury2 and on into Tilbury3.
- 4.2 The operation of the Port of Tilbury is fundamentally dependent on the A1089. There are no alternative road network connections capable of safely and efficiently catering for Port traffic. The A1089 is therefore critical to the Port of Tilbury's 24 hour continuous operations.

## Baseline situation

### Background

- 4.3 The A1089 routes north from the Port connecting to the A13. It is a two lane dual carriageway road with an at-grade junction with the ASDA roundabout providing access to Tilbury town.

### ASDA roundabout

- 4.4 The ASDA roundabout in Tilbury, being located adjacent to the first phase of LDP (including an Amazon Distribution Centre) and an Asda, is the key capacity constraint on the operation of the A1089. This was identified during the Tilbury2 DCO Examination and mitigation was required to improve the capacity of the junction. National Highways were particularly concerned about this junction, noting initially that *“the mitigation was insufficient to mitigate the additional traffic from the Proposed Development”*. Alternative mitigation was later agreed, with National Highways noting *“It is agreed that the traffic modelling of the ASDA roundabout accurately represents the impact of Tilbury2 development traffic and a scheme of measures to mitigate the impact has been agreed in principle.”*
- 4.5 The improvements to the ASDA roundabout delivered under the T2 DCO mitigated the impact of the additional traffic created from the development of Tilbury2 and provided some residual additional capacity allowing for further port expansion. Recent developments in the surrounding area have both increased traffic volumes through the junction and required assessment of traffic capacity at the ASDA roundabout. The most recent assessment of its operation<sup>4</sup> indicates that the junction is operating at a similar capacity level to that assessed in advance of the T2 DCO and completion of mitigation works. The residual capacity within the ASDA roundabout would, in the absence of LTC, be sufficient to accommodate further development of the Port of Tilbury.
- 4.6 PoTLL note that all the recent developments in the surrounding areas were required to undertake detailed traffic modelling of the ASDA roundabout to assess the development’s impact, although the associated increases in traffic volumes were low in each case. PoTLL understand from this that the ASDA roundabout junction is of concern to National Highways, when they respond as a consultee to other proposed new development, with any notable proposed increase in traffic being required to be subject to proper assessment and, if required, mitigation.

### Fort Road

- 4.7 The T2 DCO delivered the IC providing a new direct road link (and rail link) between the Port and the A1089. The primary reason for the new road link was due to the unsuitability of Fort Road to accommodate the traffic arising from Tilbury2 in a safe and efficient manner. The IC was assessed within the T2 DCO documentation<sup>5</sup> as providing mitigation to road safety, driver delay and pedestrian amenity.
- 4.8 Fort Road continues to provide local access. However, it remains a route which is not suitable for large volumes of HGV traffic such as those associated with the LTC construction.

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<sup>4</sup> Carried out by Anglian Water in respect of proposed development at its adjacent water treatment works to the west of Tilbury2.

<sup>5</sup> Surface Access Option Report, Appendix to Environmental Statement Appendix 5.A Masterplanning Statement, submitted as part of the T2 DCO Application Documentation.

## **Modelling Methodology**

### Lower Thames Area Model (LTAM)

- 4.9 The LTAM has been used to assess impact of the LTC during both construction and operation. The baseline model assesses the following periods:
- 4.9.1 07:00 to 08:00 (AM peak);
  - 4.9.2 average hour for the period 09:00–15:00 (Inter peak); and
  - 4.9.3 17:00 to 18:00 (PM peak).
- 4.10 The morning peak hour 08.00 to 09.00 has been excluded.
- 4.11 The peak hours have been identified as the busiest peak hour traffic flows on the main links of the highway network. It is noted that, for the Tilbury2 DCO, National Highways required assessment of 08:00 to 09:00 as the peak hour for the ASDA roundabout and the A1089. This was confirmed to be the peak hour for the local network.
- 4.12 The Applicant does not assess the peak hour of 08:00 to 09:00 in the LTC application. PoTLL submit that an assessment of this hour must be undertaken, both to ensure that the worst case impacts to local traffic have been properly considered, and to enable consistent consideration and assessment. No reason appears to be given for the omission of this information normally required by National Highways when considering development in the area interacting with the SRN.

### Capacity assessments

- 4.13 The Transport Assessment states at paragraph 5.5.3 that the assessment of construction traffic is based on:
- 4.13.1 the change in traffic flows;
  - 4.13.2 the baseline percentage of volume to capacity for the modelled road network and the forecast percentage of volume to capacity with the construction of the Project; and
  - 4.13.3 the change in travel speeds.
- 4.14 However, no assessment of volume to capacity has been provided. The impact of construction vehicles on the road network has therefore not been presented.
- 4.15 Assessments from the LTAM provide a percentage between 0% and 100% calculated by comparing traffic volume (V) to capacity (C). There is no information on the capacity used in this analysis; only a range of percentages is provided within the Transport Assessment. It is not therefore possible to verify the percentage impacts identified by LTC.
- 4.16 The Transport Assessment does not contain a detailed appraisal of junctions, with assessments, instead comprising the individual links approaching (and through) a junction. This approach does not account for interactions between different links which occur at junctions. The overall capacity of a junction, such as the ASDA roundabout, has not

therefore been adequately assessed to properly inform and understand the likely direct and indirect effects of the LTC on a project and cumulative basis.

- 4.17 The Transport Assessment presents the capacity of each link at the ASDA roundabout as having a V/C percentage of less than 75% in all periods in 2016. By way of comparison as to the detail of the assessment, the 2017 Transport Assessment undertaken for the Tilbury2 DCO demonstrated that the junction was operating at 86% on the A1089 Dock Road arm in the AM peak period. Recent assessments carried out at the request of National Highways (and accepted by them) have found the capacity of the ASDA roundabout to be operating at similar levels.
- 4.18 PoTLL are concerned that the approach taken by the Applicant is insufficiently detailed, to understand and properly assess and consider the likely direct and indirect effects of the LTC on a project and cumulative basis and does not use up to date and representative baseline data.
- 4.19 In the absence of these calculations, it is not possible to properly quantify the impact during construction. The construction phase of LTC will generate traffic in the Tilbury area, whilst the operational phase will reassign traffic. Major schemes within the area, including the Thurrock Flexible Generation Plant, have included such an assessment. It would be beneficial for the same assessment to be carried out by the Applicant, to provide a consistent metric across schemes by which the impact of construction traffic may be consistently assessed and examined.
- 4.20 The Applicant has also made no reference to the improvements made to the ASDA roundabout under the T2 DCO. Other road schemes are noted as being included in the future year network and it appears that this scheme may have been omitted. PoTLL would appreciate clarity from the Applicant as to whether the improvements to this junction have been included in the modelling. If this is an omission, it is important that the changes are added to the dataset before any further modelling takes place to ensure the accuracy of the results.
- 4.21 Given the importance of this junction to the operation of the Port of Tilbury, and the level of concern shown by National Highways as to the impact of local developments, there needs to be a consistent approach to information and assessment to ensure an adequate understanding and assessment.

#### Future year assumptions

- 4.22 The LTC future year model (Core Scenario) assumes that traffic volumes at the Port of Tilbury will remain at 2016 levels through to the Design Year of 2045, although it is unclear what information this assumption is based on. Historic and recent traffic survey data demonstrates that there has been (and continues to be) year on year growth in traffic levels associated with both Tilbury 1 and Tilbury 2, being the existing Port of Tilbury operations. It is noted that the LTC model assumes growth at other Ports (e.g. Purfleet, Dover).
- 4.23 PoTLL anticipate that, based on historic and recent data, traffic volumes associated with the Port of Tilbury would grow over the period 2016 to 2045 by between 32% and 46%.
- 4.24 The Core Scenario does not include any allowance for traffic associated with the Thames Freeport development. The Applicant includes future developments in the Core Scenario according to their 'certainty' of coming forward. Developments are categorised in Table 4.1 of Appendix C of the Combined Modelling and Appraisal Report. The categorisation follows

the advice of TAG Unit M4 with the Core Scenario of the LTC model including Near Certain and More than Likely expected developments.

- 4.25 PoTLL submit that the Freeport meets the categorisation criteria for ‘reasonably foreseeable’ as it is a committed policy goal of central government and provided for in regulations. In accordance with TAG advice, the Freeport should be included within a sensitivity test.
- 4.26 In accordance with TAG Unit M4 advice a High (& Low) Growth scenario has been developed within the LTAM which has been tested alongside the Core Scenario. These scenarios seek to adjust the Core Scenario to reflect changes in demand at both a national level and a local level. The LTC assessments adjust demand only at a national level. The decision to make no adjustment for changes to local traffic has not been explained.
- 4.27 The Freeport will be a significant source of local demand, located close to the LTC. It is reasonable to consider that it will have a local impact on traffic growth, which is considerably greater than the national uncertainty in growth allowed for in the High Growth scenario.
- 4.28 Traffic estimates for both the LDP2 and Tilbury3 were provided to the LTC team in 2021.
- 4.29 The Applicant has not included these traffic flows in the LTC traffic assessment, stating in the ‘Interrelationship with other Nationally Significant Infrastructure Projects and Major Development Schemes’ document that it is not possible to undertake an assessment as “*no information has been provided on the highway network mitigation*” expected to arise from the Freeport proposals. Conversely, the Applicant is content to rely on assessments which provide no information on highway mitigation.
- 4.30 PoTLL disagree with the decision of the Applicant to exclude this data and are concerned that this omission will alter the future baseline such that the worst case assessment has not been accurately addressed.
- 4.31 PoTLL recognise that, individually, one such omission may not make a material difference to the assessment. However, the number of omissions and methodology decisions that have not been explained and supported with reasoning, and the fact that this approach would not be acceptable to National Highways from a third party developer in this area, is of real concern to PoTLL. An underestimate of the impacts, and the failure to identify necessary mitigations at an early stage, may have serious repercussions on the future of the Port of Tilbury’s undertaking.
- 4.32 PoTLL are therefore requesting that the Transport Assessment methodology is assessed against the criteria National Highways consistently require of all new developments in this area (when they are a consultee on development proposals), in order that the reasonable worst case scenario will have been properly assessed.

## **Construction HGV movements and management**

### Construction HGV estimates

- 4.33 The LTC Transport Assessment at section 8.6 provides a description of the earthwork movements and supplier deliveries which constitute the HGV estimates. No detail of how the vehicle estimates have been calculated is provided. Total construction vehicles are broken down by phase into Construction Worker and Construction HGV movements. These movements have not been disaggregated by compound.

- 4.34 PoTLL are seeking to complete a full audit of the Applicant's Transport Assessment in order to ensure that their undertaking is adequately protected within the DCO. A fine grained granularity of analysis is required in order to effectively verify the estimates of construction traffic in specific areas, including in relation to the main North Portal Construction Compound, the access to which will be through an operational port. PoTLL are therefore requesting disclosure of the data underlying these assessments, the methodology that led to the estimate calculations, and data as to the number of movements associated with each compound. This will enable PoTLL to be confident that the reasonable worst case scenario has been assessed and provide a better understanding of how the construction phase will impact the Port of Tilbury.

#### HGV Routes

- 4.35 Construction HGVs will follow the construction traffic routes detailed in the Outline Traffic Management Plan for Construction. However, the proposed routes to and from the Station Compound and the Northern Tunnel Entrance compound are not clear. Plate 4.3 shows a primary route from the A1089 via the IC and Substation Road to the Northern Tunnel Entrance, with a secondary route via Fort Road and Substation Road. However, Table 4.1 identifies the Fort Road route as a primary route.
- 4.36 Fort Road is not suitable for HGV construction traffic. The assessments carried out for the T2 DCO demonstrate the unsuitability of the route to carry construction HGV traffic without substantial improvement. The LTAM assessment also assumes that traffic will be routed via the IC and not Fort Road. There has been no traffic (or environmental) assessment of the impact of construction HGV traffic using Fort Road. PoTLL are concerned that the Applicant may seek to use this route for an unknown quantity of construction traffic, despite it being unsuitable. PoTLL therefore seek clarity as to the primary construction traffic route to access the LTC Construction Compounds, and confirmation, secured in the Outline Traffic Management Plan for Construction, that the Applicant will not utilise Fort Road for construction traffic.

#### Outline Materials Handling Plan

- 4.37 The key tool for managing construction HGV movements is through the proposed Materials Handling Plan. PoTLL has a number of concerns in respect of the contents of this document.
- 4.38 The Outline Materials Handling Plan at paragraph 6.2.5 details the intended transportation of aggregate for LTC via the river Thames. Measures will be secured in the Environmental Management Plan (EMP) in connection with the use of port facilities (including Tilbury1 and Tilbury2) for at least 80% by weight of bulk aggregates imported to the North Portal construction area to be transported by river. This is referred to as 'the Baseline Commitment'. It equates to 35% of the total bulk aggregates to be used in LTC. This 'baseline commitment' has been incorporated within the construction traffic estimates used in the Transport Assessment and is therefore relied upon within all assessments.
- 4.39 The Baseline Commitment is to use the Port of Tilbury or other facilities along the river Thames. However, LTAM assessment appears to assume that LTC will only make use of Tilbury2 facilities, where HGV volumes are noted to increase markedly along Substation Road. The implications of importation via Tilbury1 (or elsewhere) have not been assessed.
- 4.40 Additional movements through Tilbury1 would require additional HGVs to utilise the ASDA roundabout as vehicles are prohibited from turning right out of the main port entrance. To



that end we note that the Applicant could have provided powers to remove this restriction for their traffic in the Application, but did not do so.

- 4.41 Equally, use of other ports would necessarily increase traffic along the A1089 and through the ASDA roundabout. This could further exacerbate PoTLL's concerns about flows through the ASDA roundabout discussed below.
- 4.42 The Baseline Commitment is assumed across the entire construction period. However, the assessments are based on a typical weekday average across each construction phase. The assessment therefore assumes that the volume of aggregates arriving by river remains constant across each construction phase. It is unrealistic to assume that there will be no variation in the volume of bulk aggregates required across each phase of construction. The Applicant has not applied any percentage uplift to the volume of bulk aggregates being transported by HGV. PoTLL consider that doing so would cover a likely range of variation in the volume of imports and ensure that the reasonable worst case scenario has been assessed.
- 4.43 The EMP does not set out how the Baseline Commitment would be monitored or evidenced in practice, beyond general construction traffic monitoring. There is also no detail as to what actions will be taken should the commitment not be achieved. The potential impacts of the Baseline Commitment not being met have not been assessed. Without a monitoring and enforcement regime to accompany the Baseline Commitment, it is reasonably foreseeable that the Applicant could fall short, resulting in additional HGV traffic in the immediate vicinity of the Port of Tilbury.
- 4.44 The Transport Assessment aims to review the realistic worst case scenario. In the absence of firm commitments supporting the fulfilment of the Baseline Commitment, such as to use the CMAT facility, falling short of the Baseline Commitment is a realistic possibility. PoTLL are seeking to have all realistic worst case scenarios assessed in order to understand the potential impacts of LTC, and request that a shortfall be factored in when reviewing the construction traffic associated with bulk aggregates.
- 4.45 PoTLL have not been given a role in the development of the detailed Materials Handling Plan. The contents of this plan will be fundamental to the impacts, in practice, of the construction phase of LTC. All materials used on the North Portal must be transported through the Port of Tilbury, whether arriving by river or road, and have the potential to impact upon the operational running of the Port. PoTLL are seeking to be a consultee on the Materials Handling Plan due to the potential for impacts on its undertaking.
- 4.46 PoTLL support the Baseline Commitment and seek to ensure that it is met and exceeded during the construction period. In order to achieve this, PoTLL believe that the commitments to monitoring the Baseline Commitment in the EMP should be strengthened and a regime of enforcement should be incorporated into the DCO.

#### Outline Materials Handling Plan - Opportunities presented by the CMAT

- 4.47 In particular, PoTLL are keen to emphasise that Tilbury2 is home to the UK's largest CMAT, located adjacent to the LTC Construction Compound. To date, the Applicant has made no commitment to use the CMAT to secure essential mitigation to avoid and reduce many of the traffic impacts that PoTLL are concerned about, in addition to helping the Applicant meet its Baseline Commitment and carbon targets.
- 4.48 The benefits of using the CMAT can be summarised as follows:

- 4.48.1 the CMAT has existing large scale aggregate import and processing capabilities;
- 4.48.2 aggregates can be brought to the CMAT by river and rail, avoiding the road network in the Tilbury area and reducing the number of HGVs required;
- 4.48.3 aggregates arriving at the CMAT by river are transported to the CMAT site by conveyor, with minimal environmental impacts, whilst the rail siding allows aggregates to be unloaded directly into the CMAT site;
- 4.48.4 the CMAT has a ready mix concrete plant and existing asphalt plant;
- 4.48.5 the CMAT is adjacent to land selected and promoted by LTC for tunnel section manufacture; and
- 4.48.6 due to the proximity of the CMAT to the Construction Compound, aggregates may be transported for use at the North Portal without impacting upon Tilbury2 traffic or the wider road network by:
  - (a) installing a conveyor to enable direct aggregate transfer into the Construction Compound; or
  - (b) creation of a dedicated secondary access direct from the south-eastern corner of the CMAT, adjoining Substation Road after all other traffic within Tilbury2 will have dispersed. This will limit HGV traffic related to aggregates to the end of Substation Road and within the Construction compound.

4.49 The positive environmental benefits of either approach are clear and easily understood. A reduction in HGV journeys or, in option (b) above, a substantial reduction in distance travelled per HGV journey, will reduce the impacts on air quality, noise, and the broader impacts of these journeys on the road network. Utilising existing facilities also avoids the expense, sunk carbon and other environmental impacts of constructing new facilities.

4.50 PoTLL believe that minimising the amount of construction traffic that is reliant on the A1089 route is essential to ensuring that construction of LTC is delivered to programme, with traffic variables and the vulnerability of this road link, particularly around the ASDA roundabout, being very likely to cause delays to deliveries and wider consequential effects on the Port of Tilbury and others.

4.51 PoTLL have strongly promoted the CMAT to the Applicant as it would constitute a substantial mitigation for many of their concerns. PoTLL are seeking a commitment, secured within the DCO, to use the CMAT, as this would, at a stroke, alleviate significant amounts of construction traffic, and associated impacts, from the local road network and have measurable carbon saving benefits.

### **Construction worker movements**

4.52 The average number of workers for each phase has been estimated and these estimates were used to establish the associated traffic movements at each compound. The number of vehicles is estimated based on the worker numbers for different sized compounds as follows:

4.52.1 Small compounds: 100%



4.52.2 Medium Compounds: 80%

4.52.3 Large Compounds: 70%

4.53 Unlike for construction HGV traffic, there is no requirement for construction worker vehicles to travel on specified routes between site compounds and the SRN. The Application does not indicate how the construction worker numbers have been assigned onto the highway network for assessment. However, the changes to traffic flow are provided as a range within the Transport Assessment from paragraph 8.8.6.

4.54 Construction workers from the Station Compound and Northern Tunnel Entrance must be routed along Station Road, Church Road, Coopers Shaw Lane, and Gun Hill to Chadwell St Mary. Considerable increases in traffic are predicted (100 to 500 vehicles per hour) on these roads. As these are not routes identified for construction HGVs, the increases must be construction worker vehicles. This route is not appropriate for this volume of additional traffic as it:

4.54.1 requires negotiating a level crossing;

4.54.2 has narrow carriageways limiting two way traffic flows in places; and

4.54.3 has limited visibility that restricts safe and efficient movement.

4.55 The Application documentation does not assess this route capacity and no capacity assessment (volume to capacity) has been provided for the construction stage. PoTLL note that the Thurrock Flexible Generation Plant assessed the most constrained section of Church Street as a maximum of 184 two way vehicle movements per hour. The Applicant has estimated 200 to 1000 two way movements per hour through this section of road during construction Phases 2 to 10.

4.56 PoTLL are therefore very concerned that the impact of this additional volume of traffic has not been properly assessed, and that the Applicant may be unaware of the potential conflict with the railway and capacity constraints on this route. This may lead to construction workers using the ASDA Roundabout and the IC/Fort Road which may exacerbate the impacts of the additional vehicular traffic to the detriment of Port of Tilbury operations.

4.57 In light of the number of vehicles and the additional difficulties involved in retaining the safety and security of Tilbury2, PoTLL are also seeking a requirement that construction worker traffic must not be allowed to use the Haul Road constructed through Work No. CA5 to access and egress the Construction Compound.

### **Construction traffic impact**

#### Within Tilbury2

4.58 The Transport Assessment does not make any assessment of the impacts of construction HGV movements (and Abnormal Indivisible Load (AIL) movements) on Substation Road during the construction period. These movements would need to interface with existing and future movements associated with Tilbury2 and ongoing development outside of the LTC draft Order limits. PoTLL have engaged with the Applicant on the impact of construction traffic on Substation Road, however further detailed information is required in order for PoTLL to be confident that the additional movements would not cause congestion within Tilbury2, impacting upon their operations.

## Outside Tilbury2

- 4.59 The Applicant has not conducted its impact assessments against recognised thresholds. As discussed above, no capacity assessments are provided so it is not possible to discern whether any parts of the network would be over capacity during construction. Construction is the phase of LTC that generates traffic in the Tilbury area, rather than reassigning existing traffic as will occur during the operational phase. PoTLL are seeking the assessment of LTC to be consistent with the methodology used on other schemes, such as Thurrock Flexible Generation Plant, to ensure that the realistic worst case impacts of the construction phase have been suitably assessed.
- 4.60 The Transport Assessment provides commentary on the changes in journey time and traffic flow ranges, but it does not indicate whether such changes represent an acceptable impact on the day to day operation of the road network. Whilst the construction impacts are temporary, lasting only during one or more phases of the construction period, due to the duration of the construction period of more than five years, it would be appropriate to review the impacts as permanent.
- 4.61 The Journey Time analysis during construction highlights that, on the route between the A13 and the Station Compound, travel times will increase by up to 21% depending on the construction phase. It is noted that additional delay will be experienced at the ASDA roundabout during all phases. The Transport Assessment notes that ASDA roundabout is significantly congested and “a relatively small increase in overall traffic leads to a material increase in additional delay”.
- 4.62 No further assessment of the impact of LTC at the ASDA roundabout has been undertaken, despite predicted increases in traffic of between 100 and 250 vehicles per hour. This is unacceptable to PoTLL, particularly if such movements would be coupled with further movements from Freeport development.
- 4.63 Furthermore, whilst PoTLL welcome that LTC’s modelling accounts for construction movements associated with the Thurrock Flexible Generation Plant project, they note that this presumes a 2022 start of construction. Whilst it is understood that this project was recently successful in the capacity market auctions meaning there is greater certainty it will be delivered, the construction start date clearly has not been 2022, meaning that it is more likely that its construction traffic movements may dovetail with LTC’s. These numbers would therefore exacerbate PoTLL’s concerns about the performance of the ASDA Roundabout.

## Impacts of construction traffic management on flows

- 4.64 The Transport Assessment models various temporary traffic management measures during construction as detailed in the Outline Traffic Management Plan for Construction. It does not assess the impacts of the following potential traffic management measures:
- 4.64.1 A13 (eastbound and westbound) closures;
  - 4.64.2 A1089 closures;
  - 4.64.3 A1089 northbound off slip to A13 westbound closures; and
  - 4.64.4 A13 eastbound off slip to A1089 southbound closure.

- 4.65 Any of these closures would impact the Port of Tilbury undertaking by ceasing movement along the A1089 corridor. During the period of any closure, the Port of Tilbury would be inaccessible by road.
- 4.66 These traffic management closures have not been modelled as they are noted as ‘short’ in duration and would occur at weekends or overnight. ‘Short’ duration is defined as closures which occur for less than half the duration of a phase. The construction of LTC is programmed to last for over 5 years; this may be significantly longer if construction is delayed for any reason.
- 4.67 The Port of Tilbury operates 24 hours a day, with access to the road network playing a critical role in the onward distribution of imported goods. PoTLL’s experience in constructing Tilbury2 has shown that lane closures on the A1089 swiftly caused congestion so severe that it risked closing the Port of Tilbury.<sup>6</sup> PoTLL are extremely concerned that the Applicant may close the road access to the Port of Tilbury, or impose restrictions such as lane closures that will have a potentially significant operational impact on PoTLL’s undertaking.

### **Construction mitigation measures**

#### ASDA roundabout mitigation

- 4.68 The Outline Traffic Management Plan for Construction (OTMPC) does provide for junction modelling to be carried out prior to works in some instances. The detailed Traffic Management Plan (TMP) will list the junctions to be modelled, if and where required, and this list will be discussed with the local highway authority.
- 4.69 However, no indication is given as to the criteria by which a junction will be included for modelling, or whether the results of the modelling would result in avoidance or mitigation. PoTLL are concerned that this approach, occurring wholly post consent, may, in practice, identify environmental impacts due to the congestion found through the detailed modelling that the Applicant has not taken into account.
- 4.70 Furthermore, PoTLL note that the ASDA Roundabout is not included in the LTC draft Order limits, meaning that if mitigation was required, there would no certainty it could be delivered, quickly, or at all. For instance, given that any works might be considered to form part of the wider LTC project, it is not clear that National Highways’ permitted development powers could be utilised.
- 4.71 PoTLL submit that it is in the Applicant’s interest to ensure that all junctions of concern (which would include the ASDA roundabout for the reasons detailed above) are modelled in detail and the findings taken into account during Examination and prior to any determination of the application. This will avoid any undue delay or disruption to the construction of LTC. Notwithstanding this, PoTLL are seeking a commitment that the ASDA roundabout will be subject to further modelling within the TMP, with the findings of that modelling taken into account and a commitment to provide that mitigation to offset any congestion that would be caused, prior to the impacts being caused.

#### ‘Soft’ mitigation measures – HGV movements

- 4.72 Table 2.3 of the OTMPC itemises the factors that must be addressed, as a minimum, when developing the TMP. PoTLL note that this states in respect of ports that “*Access and egress*

<sup>6</sup> PoTLL were able to carry out works to the A1089 through overnight closures, noting that the carriageway needed to be reopened by approximately 4:00am to avoid additional congestion.

*[is] to be maintained throughout the construction period with the exception of night time and weekend closures when required for specific planned works".* There is no requirement that the TMP must ensure that access to the Port of Tilbury is available during night time and weekend closures. As above, the Port of Tilbury operates 24 hours a day and is wholly reliant on the A1089 and A13 for road access. Any closure of these roadways would necessarily result in the closure of the Port of Tilbury as it would not be possible to continue to operate.

- 4.73 PoTLL are therefore seeking a requirement that access and egress to the Port of Tilbury is maintained throughout construction for Port traffic, in order that LTC does not cause undue interference with PoTLL's undertaking, with the consequential impacts on the UK economy of a major port being closed for up to 50% of its operational hours.
- 4.74 It is also noted that impacts may not only be caused by LTC road closures, but also by the sheer volume of movements that may be required on a given day, which cause undue delay to Port movements.
- 4.75 The Traffic Management Plan, for which PoTLL are listed as a consultee, does not anticipate significant impacts on the road network such as that seen during the construction of Tilbury2 (despite the concerns raised about this above), and does not provide an escalation process for any measure found to be unworkable in practice.
- 4.76 PoTLL are concerned that the OTMPC lacks consideration of the practical aspects of the LTC main construction movement corridor being adjacent to and within an operational Port. The OTMPC includes an escalation process, however this does not anticipate any need for immediate remedial action to be taken to remove or amend traffic measures due to the traffic impacts being caused, or proactive actions which could be taken to enable PoTLL to manage their own traffic flows both in and out of, and within Tilbury1 and Tilbury2. PoTLL are therefore concerned that the OTMPC is not sufficiently robust or effective.
- 4.77 The Port of Tilbury presents unique challenges due to its location, national economic importance and scale. PoTLL are concerned that the standard measures presented in the Application will not be sufficient to adequately protect PoTLL's undertaking. PoTLL are seeking improvements to the OTMPC including a requirement to engage with PoTLL regularly to agree detailed forward planning, a process for immediate remedial action to be taken where necessary, a process for PoTLL and other consultees to immediately liaise with the Applicant and its contractor(s), and an improved escalation process that retains involvement of consultees and avoids any potential for conflict of interest and priority for Port traffic.

#### Framework Construction Travel Plan

- 4.78 The key aim of the Framework Construction Travel Plan (FCTP) is to minimise adverse local disruption or traffic impacts on the highway network from construction worker or visitor travel. The FCTP has been provided at this stage, with Site Specific Travel Plans (SSTPs) to be formed by construction contractors once appointed.
- 4.79 Paragraph 5.4.10 details that the construction worker mode share, previously identified for the small, medium and large construction compounds as 100%, 80% and 70% respectively, will be used to develop suitable targets for increasing the sustainable mode share for the construction workforce. Targets (reductions in mode shares) are not included on the basis that it is difficult to do so before undertaking initial baseline travel surveys.

- 4.80 However, the assessment of construction traffic is reliant on the mode share being achieved, despite no target having been set. PoTLL are concerned that this assessment may not be robust in the absence of a mandatory mode share target, as the reasonable worst case may involve greater numbers of vehicle journeys than have been included in the assessment. PoTLL are seeking a firm commitment to initial mandatory mode share targets, consistent with other projects including the Thurrock Flexible Generation Plant. These targets underpin the construction traffic assessment, and a commitment is needed in order to be certain that the reasonable worst case assessment has been carried out.
- 4.81 The FCTP includes a list of stakeholders to be consulted with regards to the SSTPs. The list includes local planning authorities or local highway authorities only; however other local key stakeholders, such as PoTLL, have not been included.
- 4.82 PoTLL are concerned that key stakeholders have not been included within the TPLG, despite the location of the LTC main construction compound, and the extensive experience of PoTLL in this area, having been an active member of the Tilbury Amazon travel plan group for many years. PoTLL are seeking to be included as a consultee for the FCTP, in order that they are involved with the site-specific TPs for the compounds neighbouring the Port of Tilbury.

### **Operational traffic**

#### Traffic impacts

- 4.83 The traffic impacts of LTC are assessed in the future years of 2030 (year of opening) and 2045 (design year). The assessment considers changes in traffic volumes, volume/capacity ratios and journey times. Assessments are presented for traffic volumes and volume/capacity ratios for 2045 in the Transport Assessment at section 7.5. The impact of LTC is then assessed in section 7.6.
- 4.84 The first stage of the impact assessment is to 'screen out' all links where the V/C ratio is less than 0.85 in the Do Minimum and Do Something scenario. This screening is carried out using the 2030 assessment year. Notably the 2045 assessment year, in all time periods assessed (AM, PM and interpeak), shows links on the A1089 (slip roads to A13), Orsett Cock roundabout and ASDA roundabout exceed the 0.85 V/C ratio.
- 4.85 The assessment therefore excludes key locations on the highway network where, due to known capacity issues, it would be advisable to fully establish the impacts of LTC in order that this may inform the consenting decision.

#### ASDA roundabout

- 4.86 The Applicant has not included in the application any detailed modelling assessments of the impact of LTC on the operation of the ASDA roundabout. LTC is predicted to increase traffic volumes on the A1089 by between 100 and 200 vehicles per hour on both approaches to the ASDA roundabout. This is a significant increase of between 200 and 400 vehicles per hour through the junction. PoTLL have consistently requested that detailed modelling is undertaken throughout discussions with the Applicant, however these requests have been refused as unnecessary. As mentioned above, National Highways requires this modelling for third party developments in this area,<sup>7</sup> meaning PoTLL's request is simply seeking

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<sup>7</sup> The occupants of the LDP recently made an application for change of use that predicted an additional 70 vehicles per hour through the ASDA roundabout. The applicant initially did not undertake traffic modelling but was specifically requested to do so by National Highways.

consistency and the ability to understand the LTC application and its impacts on a like for like comparable basis.

- 4.87 PoTLL also note that the approach taken by the Applicant for LTC differs from its other major projects. The A66 Northern Trans Pennine scheme undertook local junction modelling, in addition to a network assessment using a Saturn Model (the same software as LTAM). The junctions modelled were identified through discussions with local highway authorities and assessed utilising the latest junction modelling software. PoTLL are concerned that the Applicant's resistance to undertaking and providing detailed modelling in this area has the potential to fail to assess direct and indirect effects of the LTC application and avoidance or mitigation of such effects being delivered through the LTC DCO.

### **Approach to operational mitigation**

- 4.88 The Applicant does not propose any mitigation for the impacts of LTC in relation to the ASDA roundabout and integrated local road network. In the absence of a detailed assessment of the impact of LTC on key parts of the road network, it is not possible to determine the likely expected impact and the works and mitigation that may be required.
- 4.89 The approach taken by the Applicant is contrary to the guiding principles of assessment of transport impacts set out in the NPPF and DfT Circular 01/22 'Strategic road network and the delivery of sustainable development'. These set out that development should mitigate its impacts on the operation of the SRN.
- 4.90 The Applicant has instead proposed that traffic monitoring is undertaken during the operational phase of LTC to identify changes in performance of the highway network. The changes identified may or may not be as a result of LTC, but the outcome of this monitoring will provide local highway authorities with evidence to inform and enable their intervention case-making. This approach postdates completion of LTC, provides no opportunity to proactively mitigate its impacts, and places responsibility for identifying the impacts onto local highways authorities and not the Applicant.
- 4.91 The management and monitoring of the operational LTC is outlined within the Wider Network Impacts Management and Monitoring Plan. The areas of monitoring include the ASDA roundabout and the Orsett Cock Junction. In the event that the traffic impact monitoring identifies that future investment would be suitable, the onus is on the relevant local highway authorities to seek funding to develop and bring forward potential solutions from existing workstreams or development that follows to resolve effects of the LTC. This places responsibility for addressing the impacts of LTC onto the local community and businesses, representing a legacy cost that is disproportionately imposed on the local area and not the Applicant and the Project.
- 4.92 In any event, PoTLL consider that they should be specifically referenced in the Wider Network Impacts Management and Monitoring Plan as a consultee on the development of any detailed operational mitigation measures.

## **5. TILBURY LINK ROAD**

- 5.1 PoTLL regret the omission of the Tilbury Link Road (TLR) from the Project during design development that led to the Statutory Consultation in 2018. It is considered that this is a missed opportunity for growth and development. It would also move traffic away from currently congested infrastructure, relieve pressure on the road network with a second access to the Port of Tilbury, facilitate future growth at the Port of Tilbury including the



Freeport in this location, as well as providing much needed resilience to the SRN. This is a critical element of the Government's growth agenda.

- 5.2 Since the TLR was removed from the LTC, PoTLL have worked closely with the Applicant to ensure that LTC does not prejudice, and wherever possible facilitates, the later delivery of the TLR as a standalone scheme through the Road Investment Strategy 3 (RIS3). However, the Applicant has made no commitment to this effect in ensuring this legacy is capable of realisation.
- 5.3 PoTLL consider that there is an opportunity through the design and construction of LTC to futureproof, ensuring that the junction north of the North Portal is capable of forming part of the TLR without requiring further construction work to the junction.
- 5.4 LTC includes provision of a haul road, connecting the eastern end of Substation Road to the Construction Compound and the junction to be constructed north of the North Portal. PoTLL are seeking a requirement for the haul road and the connection to the junction to be constructed to the standard that would be required of the TLR. That is, the geometry, sight lines and other geometric design standards of the junction must be as for an operational access, not just a works access. The haul road itself must also be constructed to the standard of a major A road, to be used by HGV traffic. This will ensure both that the haul road is of a standard to handle the large volumes of HGV construction traffic associated with LTC, and provide meaningful legacy value to the local area.
- 5.5 PoTLL note that the TLR is assessed within the Cumulative Effects Assessment as a known project on local roads. The Applicant therefore recognises the certainty that the TLR will be brought forward in due course. PoTLL submit that constructing the haul road and junction so as to be suitable as the TLR offers tangible benefits, whilst a failure to do so would result in significantly greater negative economic and environmental impacts. In short, reconstructing the haul road and junction would duplicate the sunk carbon and other environmental effects, constituting avoidable harm to an area that is and will continue to be ecologically diverse.
- 5.6 PoTLL are therefore seeking that the DCO and its related documentation require that the haul road and junction should be constructed to the standard that they can be utilised as the TLR in the future. PoTLL are not requesting that the Applicant reinstate the TLR or construct this, only that the legacy opportunities of LTC are fully realised and that identifiable future environmental impacts are avoided.
- 5.7 The DCO should also provide more active mechanisms, with suitable third party involvement, to facilitate the creation of the TLR, and full activation of the junction with the LTC, rather than the passive approach currently proposed which gives all control to National Highways. PoTLL will be seeking amendments to the draft DCO, and possibly also other application documentation, to achieve this.
- 5.8 Notwithstanding the above, PoTLL consider that:
- 5.8.1 the TLR would have been justified on the basis of the Project's objectives; and
- 5.8.2 the environmental justification for its omission is not soundly based.
- 5.9 In terms of Project Objectives, if it had been included, the TLR would have further enhanced the connectivity created by LTC, being fully aligned with the transport objectives of the proposal. It would allow for a second access into the Port of Tilbury, increasing resilience in

cross-river traffic from the Port. The TLR could contribute to each of the Scheme Objectives as explained in the following paragraphs.

Objective: to support sustainable local development and regional economic growth in the medium to long term

- 5.10 In meeting this objective, LTC will support economic growth and improved productivity by reducing journey times and improving journey reliability leading to improved accessibility and better connectivity. The LTC with the TLR would further enhance the connectivity for local traffic to cross the river Thames. The inclusion of the TLR would provide direct, shorter connections between labour markets on each side of the Thames, notably Northfleet and Tilbury.
- 5.11 The absence of the TLR limits the opportunities for the LTC to improve port connectivity. Specifically, LTC does not include any direct connections to the A1089 that would enable vehicles to travel to the Port of Tilbury. The inclusion of the TLR would considerably improve accessibility to the Port of Tilbury and contribute to this objective. The simple tables below illustrate the improved accessibility with the TLR. The first table is a reproduction of the connectivity of LTC as proposed and to be found at Table 7.3 of the Transport Assessment, with the second table showing connectivity enabled with the TLR.

Port of Tilbury Connectivity - A13/A1089/LTC Interchange					
	LTC Northbound	LTC Southbound	Port of Tilbury (A1089 Southbound)	A13 Eastbound	A13 Westbound
LTC Northbound	-	-	✗*	✓	✓
LTC Southbound	-	-	✗*	✓	✓
Port of Tilbury (A1089 Northbound)	✓	✓	-	✓	✓
A13 Eastbound	✗	✗	✓	-	-
A13 Westbound	✓	✓	✗*	-	-

\*indirect route available via Orsett Cock junction

Port of Tilbury Connectivity - A13/A1089/LTC Interchange & TLR					
	LTC Northbound	LTC Southbound	Port of Tilbury (A1089 SB/TLR)	A13 Eastbound	A13 Westbound
LTC Northbound	-	-	✓	✓	✓
LTC Southbound	-	-	✓	✓	✓
Port of Tilbury (A1089 NB/TLR)	✓	✓	-	✓	✓
A13 Eastbound	✗	✗	✓	-	-
A13 Westbound	✓	✓	✓	-	-

- 5.12 The inclusion of the TLR would enhance LTC by:
- 5.12.1 reducing more journey times (providing for all movements);
  - 5.12.2 improving journey reliability to a greater extent; and



5.12.3 providing better connectivity for local labour markets and to a strategically and nationally important port.

5.13 The inclusion of the TLR within the LTC would cause it to perform better against this objective.

Objective: to be affordable to government and users

5.14 The inclusion of a TLR would provide the opportunity to simplify the interchange between LTC, the A13 and the A1089. This interchange is a complex and large junction, which comprises some 30 highway structures and long lengths of link roads. Including the TLR within the LTC would enable a review of the junction design and the appropriateness of the connections, which in turn is likely to reduce the number of structures and links leading to cost and carbon savings.

5.15 Inclusion of the TLR within the LTC would better meet this objective.

Objective: to achieve value for money

5.16 The most significant monetary benefits from the Project are expected to be the time savings that road users experience when making journeys, and the productivity benefits that businesses experience from improved connectivity and journey time savings. The TLR would remove the requirement for vehicles using the LTC and travelling to the Port of Tilbury to undertake that journey via the Orsett Cock junction. The Orsett Cock junction is noted to be operating at close to capacity in the opening year of LTC (2030), meaning it is likely that this route would cause a delay to journey times. The TLR would also be a materially shorter route to travelling via the Orsett Cock junction. The time savings would apply to a large proportion of vehicles travelling to the Port. The TLR would provide a substantial time saving benefit.

5.17 Inclusion of the TLR within the LTC would result in improved performance against this objective.

Objective: to minimise adverse impacts on health and the environment

5.18 In respect of the environmental and health impacts the inclusion of the TLR would have the additional benefit of reducing the number of vehicle kilometres travelled, by providing a more direct route to and from Tilbury to the LTC, and by reducing the number of vehicles travelling through (the close to capacity) Orsett Cock junction.

5.19 Reducing the number of vehicle kilometres travelled has a correspondingly beneficial effect on air quality when compared to the current scheme.

5.20 Inclusion of the TLR within the LTC would result in better performance against this objective.

Objective: to relieve the congested Dartford Crossing and approach roads and improve their performance by providing free flowing north south capacity

5.21 The TLR would not directly contribute to nor reduce the effectiveness of the LTC in meeting this objective. There is no net change to this objective from inclusion of the TLR.

Objective: to improve resilience of the Thames crossings and the major road network

- 5.22 The inclusion of the TLR would not change the improvements to the resilience of the river Thames crossings. However, the TLR would improve the resilience of the major road network, in particular the A1089. The A1089 is the only major road connection to the Port of Tilbury and the wider Tilbury area. The provision of the TLR would enable the A1089 to be safely closed for all or part of its length during periods of maintenance without requiring vehicles to be diverted to unsuitable local roads, greatly mitigating the impact of lane closures found during the construction of Tilbury2. The TLR would equally assist with maintenance of the complex LTC/A13 junction, providing an alternative route for traffic that is suitable to accommodate both large volumes of traffic and HGVs.
- 5.23 Inclusion of the TLR within the LTC would result in improved performance against this objective.

Objective: to improve safety

- 5.24 National Highways work in three areas to improve safety: safer roads, safer people, and safer vehicles. LTC has followed a similar design philosophy. It has been designed to modern standards to provide for safer roads. The TLR, if included, would follow the same design approach and meet the same standards as the remainder of the route.
- 5.25 Driver behaviour, linked to safer people, can be influenced through road layout, signage and messaging. Providing simple, intuitive junction layouts is an important factor in providing for safer people. The inclusion of the TLR would enable a reduction in the complexity of the A13/LTC junction by allowing for a simpler arrangement. This would reduce the requirement for signage and messaging and provide a layout more intuitive to use. In short the LTC, and the A13/LTC junction in particular, would be safer.
- 5.26 Vehicle technology continues to develop, with safety systems such as lane change warnings becoming standard. In vehicle data can also be used to manage the road network more safely. This technology, and its contribution to safety, will be equally applicable to the LTC incorporating the TLR as the current scheme.
- 5.27 The inclusion of the TLR within the LTC would result in greater safety, an improvement of performance against this objective.

Conclusion

- 5.28 Inclusion of the TLR within the LTC would result in improved performance against 6 out of the above detailed 7 objectives, with the seventh objective having no material benefit or disbenefit resulting from inclusion of the TLR.
- 5.29 PoTLL also believe that inclusion of the TLR would have better enabled the objective of supporting sustainable local development and regional economic growth in the medium to long term, as applied to the Tilbury area. The TLR is required to ensure that the full development potential of the Port of Tilbury, as part of the Freeport consortium, is facilitated. In the absence of the TLR, the Port of Tilbury may be constrained by the existing strategic road network, particularly those parts south of the A13. Bringing forward the TLR as part of the LTC would have realised these benefits and opportunities, with economies of scale and at an earlier date than will now be possible.

- 5.30 The Applicant has relied upon the findings of the Environmental Assessment for the basis of its decision to remove the TLR from the LTC. The TLR is described in Chapter 3, Assessment of Reasonable Alternatives, Table 3.16, as follows:

*“Although a link road to Tilbury2 and Tilbury would have some benefits in providing additional connectivity, it would also have significant environmental impacts, including impacts on ecological sites and cultural heritage sites, particularly Tilbury Fort.”*

- 5.31 This high level conclusion is not justified by any assessment or evidence and is not reflected in the Cumulative Effects Assessment in Chapter 16 of the Environmental Statement. In particular, PoTLL note that the road link from Tilbury1 to Tilbury2 (forming part of the IC) is located within the direct setting of Tilbury Fort<sup>8</sup> and is visible from it. However, with the mitigation proposed as part of the T2 DCO, the Examining Authority concluded that there would be “an increased level of harm to the significance of Tilbury Fort, but that this would be less than substantial”.<sup>9</sup> This was factored into the Examining Authority’s overall planning balance in favour of that scheme.
- 5.32 In comparison to the IC, a link road east of Tilbury2 will have much less impact on the setting of Tilbury Fort. It would be further removed, in simple distance terms, and the intervening industrial character of the Anglian Water Treatment Works and the now developed Tilbury2 will reduce the degree to which any adverse effects on the setting of Tilbury Fort can occur.
- 5.33 In terms of ecology, PoTLL are developing a comprehensive ecological strategy for the expansion land east of Tilbury2 that seeks to integrate and co-exist with the TLR. This strategy is being developed in collaboration with Natural England, using the strategy adopted within the T2 DCO as the starting point. With appropriate mitigation in place, PoTLL are confident that the TLR would not result in additional significant ecological effects.
- 5.34 Table 3.16 in Environmental Statement Chapter 16 also notes that *“traffic modelling highlighted several drawbacks ... including unnecessary delays to HGV journeys and significant impacts on the local road network”*. PoTLL has engaged with the LTC team throughout the development of the scheme and requested the traffic modelling referred to. The Applicant has not provided this data to PoTLL.
- 5.35 In the absence of detailed modelling showing otherwise, intuitively, an additional link providing access to Port of Tilbury would relieve traffic on the ASDA roundabout, benefiting the local road network and its users. These benefits would be even more substantial when accounting for the traffic that will be associated with the Freeport. This data did not form part of the Applicant’s modelling as the Freeport was established after the TLR had been discounted from the LTC and this has not been re-visited since the material change in circumstances.
- 5.36 PoTLL request access to the data modelling used to support National Highways’ assertion that the TLR would cause delays and impacts, and that this modelling is repeated with the inclusion of traffic figures associated with the Freeport.

### **TLR conclusion**

- 5.37 PoTLL acknowledge that, notwithstanding all the positive reasons above, it may now not be possible to reinstate the TLR within the LTC. However, in light of the benefits that it would

<sup>8</sup> At its closest point, the road is 270m north of this Scheduled Monument.

<sup>9</sup> T2 DCO Examining Authority Report, paragraph 4.9.73.

bring, including helping the LTC to achieve its stated objectives, PoTLL would request that the Examining Authority seeks commitments from the Applicant to taking as many steps as possible to enable and not preclude the development of the TLR at a later date. The current plans show that LTC provides for a haul road and roundabout and link roads to the north of the North Portal. This junction is the natural location for a connection between the LTC and the haul road/TLR.

- 5.38 However, the current plans are set up purely to meet the LTC's needs. PoTLL are seeking a greater commitment to the legacy of the project through the design of and future use of this junction and the construction standards applied to the haul road, to ensure future connectivity is possible without excess and unnecessary economic and environmental impacts, or National Highways' absolute veto.

## 6. LAND

- 6.1 The LTC draft DCO proposes sweeping land powers over:

- 6.1.1 the main access road into and within Tilbury2 (i.e. the IC and Substation Road);
- 6.1.2 a strip over the northern edge of Tilbury2; and
- 6.1.3 across the whole area within the Freeport boundary located to the east of Tilbury2.

- 6.2 These powers are not subject to controls in the DCO (e.g. through Protective Provisions) or otherwise (such as a legal agreement). In their current form, they provide the Applicant with unfettered powers, with no requirement that it should have any regard to PoTLL's current operations, statutory undertaking and future development operations. PoTLL are therefore of the view that, in their current form, the compulsory acquisition and other DCO powers sought in these areas are likely to cause a serious detriment to PoTLL's undertaking for the purposes of section 127 of PA 2008.

- 6.3 In particular, PoTLL are concerned about the following matters:

### **Existing covenants, easements, and rights over land**

- 6.4 All existing covenants, rights and easements that affect the Port of Tilbury and the Freeport area must be recognised, protected, and preserved or enabled to allow for future development. PoTLL and occupiers of the Port of Tilbury must retain priority of use in respect of these rights. These include but are not limited to:

#### Rights of all existing tenants, occupiers and operators within PoTLL's land and interests

- 6.4.1 Existing tenants, occupiers and operators include Anglian Water Group, Thurrock Power Limited (under option), NGET, EPN, Tarmac, IVL, Stobart, Virgin Media, Cadent, BT, Energis, Border Force, the Port Health Authority and their successors, sub-tenants occupiers and assigns. These rights include existing access, servicing and works rights over PoTLL-owned land, as well as variations to the routes of some of these rights that have been substantially agreed with NGET.
- 6.4.2 The routes of these rights are shown indicatively on the Land Rights Plan. This plan contains extracts demonstrating the significant infrastructure that is located within parts of Tilbury2, in particular, at the entrance of Tilbury2 and under Substation Road, both within and outside the LTC Order limits.

- 6.4.3 The extracts demonstrate the substantial pressure on infrastructure capacity that already exist in parts of Tilbury2 and the Freeport area. These pressures must be considered and accommodated alongside capacity and route proposals for infrastructure required in connection with the LTC.

#### Rights of entry for RWE to enter land to remove redundant electricity infrastructure

- 6.4.4 RWE have a right to enter land to the east of Tilbury2 in order to remove electricity infrastructure in the form of redundant overhead cables and electricity pylons. It is anticipated that this work will be undertaken in April to June 2023. However, there is a small window annually where this work can take place and accordingly a potential that the work, and associated rights, will remain outstanding beyond 2023.

#### Rights of access to inspect, maintain and undertake works to rail, conveyor and marine infrastructure

- 6.4.5 There exist rights of access to inspect, maintain and undertake works to critical rail, conveyor and marine infrastructure. These are shown on the Land Rights Plan and include (without limitation) the aggregates conveyor and rail links serving the CMAT.

#### **New rights over land**

- 6.5 The proposals for LTC include the temporary and permanent moving and addition of utilities within PoTLL's land. PoTLL will need to be a party to and agree any new wayleaves, easements and other rights or restrictions in respect of its land in order to ensure that these new utilities do not (a) impact upon existing rights, (b) impact on PoTLL's ability to maximise the use of Tilbury2, or (c) impact on PoTLL's ability to continue to develop the port in areas outside the LTC Order Limits, including the river frontage. There is currently no provision in the DCO to require this, nor does it form part of the Protective Provisions for the benefit of PoTLL.
- 6.6 Any changes must be agreed with PoTLL, including a provision for set-off around laying cables and future maintenance provisions. PoTLL will expect a protective corridor to be secured around utilities, and notes that PoTLL requirements for this corridor may be narrower than that required by other organisations and will therefore not be unreasonable. Furthermore, it is important that PoTLL are granted 'lift and shift' rights. This is to ensure the land remains as suitable for future development as is possible, ensuring that PoTLL have the necessary powers to make any changes required to accommodate and facilitate expansion plans without needing to undergo a protracted negotiation exercise.
- 6.7 There is currently no agreement in place to govern these activities and the Protective Provisions within the draft DCO are insufficient to adequately protect PoTLL's interests. PoTLL are not aware of any reason why these requirements should not be readily agreeable to the Applicant.
- 6.8 The involvement of PoTLL in these agreements is vital as it is important that LTC does not restrict, prohibit or otherwise compromise the current and future operation and expansion plans of the Port, including the utilisation of existing utility routes.
- 6.9 In addition, PoTLL are aware of elements of the Applicant's proposals that will not be possible using existing utility corridors as these are at capacity; the Port must be involved

in identifying the preferred route for LTC's utilities to avoid impacts on existing infrastructure and avoid stifling future growth. This includes the future expansion linked to the Freeport that will be within the land used for the main Construction Compound (Work No. CA5), and existing planned growth of the Port of Tilbury outside the LTC Order limits.

- 6.10 In respect of moving and adding utilities, LTC documents indicate that the Applicant plans to utilise existing ducting that runs parallel to and alongside the railway line to the north of Tilbury2. This ducting was installed by UKPN specifically for use by the Applicant to construct LTC. However, use of these ducts is not a requirement in the DCO and is not otherwise secured, such as within various management plans to be certified by the Secretary of State.
- 6.11 PoTLL consider that an obligation to utilise this ducting should be secured within the DCO, except to the extent that it is not practicable for the Applicant to use it. This would ensure disruption and sterilisation of land are minimised, both in terms of the physical impact and through changes to existing land rights.

### **Use of Infrastructure Corridor and Substation Road**

- 6.12 The LTC Order Limits include St Andrews Road (A1089) from the entrance to the Tilbury1, with temporary possession powers sought over this land as far as the junction with Substation Road within the Tilbury2 boundary. PoTLL are the owners of parts of this land and for those areas where they are not the owners, they are particularly concerned to note that, above and beyond land powers, the Applicant is seeking powers for these roads to be *"temporarily closed, altered, diverted or restricted"*.
- 6.13 PoTLL are particularly concerned by the potential for these powers to have a significant impact on their undertaking. During the construction of Tilbury2, it was found that a daytime lane closure on the A1089 caused traffic congestion so extensive that, had the restriction not been removed, it would have required the Port to close.
- 6.14 There is little specific evidence supporting the requirement for the draft Order limits to reach these locations and PoTLL do not agree that it is necessary for the Applicant's land rights, or its street closure powers, to extend so far onto the public highway.
- 6.15 The intended compulsory acquisition of rights continues within Tilbury2, over Substation Road, with the addition of permanent compulsory acquisition of rights to lay underground multi utilities. Whilst the exercise of these rights would only affect Port of Tilbury traffic, Substation Road is the only access route to the RoRo facility and numerous other undertakings within the Tilbury2 boundary. The impacts on the running of the Tilbury2 undertaking would be significantly impacted by any steps taken by the Applicant to restrict Substation Road, and the DCO currently provides no protection for the Port from this, other than minimal protections where the measures are linked to utilities works.
- 6.16 The route of the multi-utility corridor follows Substation Road and appears to be narrowly constrained to within the roadway. Furthermore, in this area the CMAT conveyor passes underneath Substation Road as a substantial asset. As such, any utilities that the Applicant wishes to install would have to pass a substantial distance underground or would need to 'go around' this obstruction.
- 6.17 In order to avoid this obstacle, the Applicant must either 'deep mole' below the ducting, or must route its utilities around. The work required to mole would likely involve the closure or restriction of Substation Road; this potential is not, in the view of PoTLL, adequately



controlled within the DCO. Alternatively, the Applicant will need to route around the obstacle; however, the multi-utility corridor limits of deviation are narrow, limited to the roadway.

- 6.18 There does not appear to be sufficient space within the limits of deviation to rectify this known, practical issue. PoTLL therefore do not believe that the Applicant has taken this into account in its land plans; and consider that the installation of such utilities pursuant to the rights plots sought could cause major disruption to Tilbury2 (either by obstructing Substation Road or impacting upon port operations either side of Substation Road) that have not been considered by the Applicant.
- 6.19 Should the LTC Order Limits remain as currently set out, PoTLL must receive significantly greater protections from road closure and restriction impacts within their Protective Provisions and secured in all plans relating to construction traffic (including those relating to workers and materials).

### **Other Land take**

- 6.20 The LTC draft Order limits include two sites by the Fort Road bridge.<sup>10</sup> These sites are included within the T2 DCO. PoTLL are in the process of marketing these sites and anticipate that they will be leased and in occupation prior to consent being granted and construction commenced. PoTLL are therefore concerned as to the impact of the Order limits on their commercial operations in these areas, affecting their ability to enter into lease agreements. These sites must be removed from the Order limits as they will not be available nor suitable for use to facilitate construction of the LTC.
- 6.21 The LTC draft Order limits cover a level crossing used in relation to the Tilbury2 rail spur. This is a core part of PoTLL's offering at the RoRo terminal, which is currently experiencing three train movements a day and involving time pressured deliveries such as supermarket perishables.
- 6.22 The proposed rights would enable the Applicant to have priority over the level crossing for construction traffic, overriding the current position where trains have priority. Given the frequency of construction HGVs delivering to the compound, and crossing the level crossing, PoTLL are concerned that the Applicant will amend priorities at the crossing in favour of its traffic.
- 6.23 This would render the railway siding largely unusable and at best commercially unattractive, severely interfering with the Port's undertaking and multi modal functionality. The priority of Port railway traffic over the level crossing must be secured.
- 6.24 The LTC draft Order limits include a 'finger' of land<sup>11</sup> that crosses the part of the access road and the rail siding that forms part of Tilbury2. This strip of land also crosses part of the ecological mitigation land formed under the T2 DCO.
- 6.25 PoTLL understand that the intention is for this land to be used for a conveyor link between the CMAT and the construction compound for the transport of aggregates. However, there is no provision within the DCO that would require the Applicant to construct a conveyor or utilise the CMAT in this manner. In any event, any use of this land must be subject to PoTLL's approval to ensure that it does not impact upon PoTLL's operations.

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<sup>10</sup> Land plot number 21-10.

<sup>11</sup> Shown crossing land plot numbers 21-18, 21-19, 21-27 and 21-31.

- 6.26 The LTC proposals envisage bringing in aggregates by road, resulting in large amounts of construction traffic within Tilbury2, on the same road that must be utilised by all traffic for the RoRo facility, the coal field, National Grid, the CMAT facility and rail functions. PoTLL consider that this 'finger' of land, properly utilised, would significantly mitigate this traffic by removing HGVs from large parts of Substation Road.
- 6.27 Alternatively, a further access point could be constructed leading from the CMAT directly onto the end of Substation Road, past the point at which RoRo and other traffic has left the road. HGV traffic could be redirected through the CMAT facility, greatly reducing the traffic impacts within Tilbury2.
- 6.28 PoTLL would be satisfied with either of these options being taken forward by the Applicant and secured within the DCO. This would work well with the strengthening of the commitments in respect of the CMAT discussed above.

### **Within the Northern Portal Construction Compound**

- 6.29 The Construction Compound (Work No. CA5) includes significant areas of the Freeport land which are subject to lettings and other occupational arrangements including (without limitation) options and pre-emption rights. The principal lettings within this area are shown indicatively on the Leasing Arrangements Plan.
- 6.30 The lettings include large areas of land (former power station) which are subject to an environmental permit and under restoration by Ingrebourne Valley Limited (IVL) who occupy under two leases (the locations of all of which are shown on the Leasing Arrangements Plan). The Western Lease (edged and shaded brown on the Leasing Arrangements Plan) has expired (contractually) and IVL are moving towards final restoration in respect of the Western Lease area. The Eastern Lease (edged and shaded blue on the Leasing Arrangements Plan) expires on 2 April 2023 and again IVL are moving towards final restoration. LTC's proposals and the DCO must not interfere with the final restoration of this area and the surrender of the environmental permit for these areas of PoTLL's land.
- 6.31 The Applicant proposes to construct a haul road. Further consideration must be given to the location and delivery of the new haul road, in particular in light of the multiple access and servicing rights that affect the Port Land (see the Existing Land Rights Plan). This consideration includes, without limitation, the access and servicing rights under option to Thurrock Power Limited, which incorporate rights to undertake works to existing access roads and construct new ones within the Freeport area along routes coloured green, orange, pink, and blue and hatched black on the Existing Land Rights Plan.
- 6.32 The Applicant will need to consult with PoTLL to agree a route for LTC and all users and occupiers of PoTLL's land that secures efficient, future proof access and servicing rights to all parts of the Port of Tilbury and the Freeport.
- 6.33 The tunnel boring machine (TBM) that will be required in connection with the LTC will require the placement of its own electricity substation on PoTLL's land. The positioning and delivery of the substation is yet to be confirmed. PoTLL will need to be consulted and require the right to approve the location of the substation to ensure critical Port infrastructure is not detrimentally affected (i.e. by earthing or other apparatus or by standoff zones). It is understood that the substation will have a capacity of up to 50MW and that the Applicant seeks its adoption. As this land has only recently been acquired by PoTLL, and development proposals are under consideration, PoTLL are not presently able to confirm (a) if and when



it will be able to accept a handover of the proposed TBM substation, or (b) the electrical capacity that it will require in connection with the Freeport development.

- 6.34 LTC's proposals, for the above reasons, do not adequately safeguard the continued development within and around Tilbury2, nor the future development of the Freeport, nor potential further development of the Port of Tilbury to the east of existing facilities.
- 6.35 PoTLL are mindful that the LTC land requirements for the Construction Compound directly conflict with PoTLL's future development plans. The powers sought within the DCO are on land that has been acquired by PoTLL to form part of their statutory undertaking. As such, whilst PoTLL are working with the Applicant to reach voluntary agreement in relation to some of this land, ultimately, in order to ensure that the economic benefits of the Freeport are able to be fully realised, the use of land powers in and around the North Portal Construction Compound must be subject to the consent of PoTLL. Without this, the Applicant's use of these powers is extremely likely to cause a serious detriment to the carrying on of PoTLL's undertaking.

#### **Issues with the Book of Reference**

- 6.36 In light of the above concerns, PoTLL has undertaken a review of the Book of Reference and Land Plans to ascertain whether they accurately reflect the position in respect of PoTLL's proprietary interests and rights.
- 6.37 In Appendix 2, PoTLL has set out the changes it considers should be made to those documents to more accurately reflect the position.

#### **Ongoing negotiations**

- 6.38 PoTLL are in advanced negotiations with the Applicant in respect of LTC's proposed use of some of the Freeport land. The proposals cover the letting by PoTLL to the Applicant of four areas shown indicatively on the Leasing Arrangements Plan, all of which lie within the North Portal Construction Compound.
- 6.39 The key to the Leasing Arrangements Plan sets out the proposed use of each area to be permitted under the leases to LTC. In general, the fallback position in the DCO insufficiently protects the interests of PoTLL, with very limited provision for protective provisions in favour of PoTLL that would adequately protect PoTLL and their tenants, occupiers and users.
- 6.40 Once the lease negotiations between PoTLL and LTC are concluded, the Applicant will have no need for the DCO powers over the land concerned. PoTLL has proposed to the Applicant that a Land and Works Agreement is signed alongside the four leases, acknowledging that PoTLL will be protected against the use of any such DCO power which is granted to the Applicant. This agreement would operate in a manner similar to the protections applicable to other statutory undertakers, namely that the Applicant may not interfere with PoTLL's proprietary interests and rights other than by agreement.
- 6.41 Within these negotiations, the Applicant is currently not accepting the principle of a restriction being put in place for the use of its proposed land and works powers on the basis of legal agreements being completed, despite such a restriction being contained in Heads of Terms agreed in late 2022. This is fundamentally unacceptable to PoTLL, who are willing to, and have, expended considerable resources into entering into such agreements notwithstanding the sterilisation of their future development opportunities during the construction of LTC.

6.42 Without such restrictions being put in place by legal agreement, and/or in the Protective Provisions, the Applicant would be able to ignore the terms of any legal agreements if it so wishes, without any control for PoTLL to ensure that a serious detriment is not caused to their undertaking. PoTLL therefore object to these powers in the strongest terms if the Applicant continues to maintain this position.

6.43 It is also noted that the Applicant potentially wishes to acquire a long term interest in approximately 4 acres (1.6 hectares) of PoTLL's landholding, shown on the Leasing Arrangements Plan. The relevant lease to be granted to the Applicant which includes the LTC Option Land, may include a right for the Applicant to acquire the LTC Option Land (at market value) at the end of the lease (unless by operation of a break clause) upon terms which do not interfere with future development of Port Land and the Freeport. The DCO must not interfere with the proper functioning of this option and must protect PoTLL from the improper exercise of compulsory acquisition powers by the Applicant over the LTC Option Land.

## 7. ECOLOGY

7.1 The T2 DCO contains a legal obligation incumbent upon PoTLL requiring the operation of Tilbury2 to comply with the following ecology related documents:

7.1.1 **Ecological Mitigation & Compensation Plan (EMCP):**<sup>12</sup>This document specifies the requirements for ecological mitigation and compensation for Tilbury2, as located within the Tilbury2 DCO limits, and off site within identified ecological receptor sites. The required on site mitigation and compensation measures have been either: (i) delivered in full, e.g. in respect of protected species; (ii) are in the process of being delivered, e.g. in respect of new habitats that have been created but are not yet fully established; or (iii) are no longer required, i.e. intertidal habitats where detailed design was able to fully avoid previously anticipated impacts.

7.1.2 **Landscape & Ecological Management Plan (LEMP):**<sup>13</sup> This document sets out the general principles for aftercare and management of habitats within the Tilbury2 site, both retained and newly created. Compliance with the LEMP is a requirement of the T2 DCO and applies for the lifetime of Tilbury2.

7.2 There are also residual requirements related to protected species licensing at Tilbury2 for bats, badgers, and water voles.

7.3 In addition to the documents above, considerable volumes of baseline ecological data for the T2 DCO application (submitted on 31 October 2017) and relating to the Tilbury2 site are publicly available via the Planning Inspectorate website.

7.4 The LTC proposals within the Tilbury2 site and connected IC have the potential to conflict with PoTLL's obligations under the Tilbury2 LEMP. To counter this, the draft DCO has been updated by LTC to stipulate that there will be no breach of the Tilbury2 DCO by PoTLL or National Highways to the extent there is any inconsistency or conflict between it and any future LTC DCO.

<sup>12</sup> Bioscan UK Ltd (2018). *Ecological Mitigation & Compensation Plan*. Port of Tilbury London Ltd. Via: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000994-Port%20of%20Tilbury%20London%20-%20Ecological%20Mitigation%20and%20Compenstation%20Plan.pdf>

<sup>13</sup> Bioscan UK Ltd (2018). *Landscape & Ecological Management Plan*. Port of Tilbury London Ltd. Via: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000935-Landscape%20and%20Ecological%20Management%20Plan%20v3%20-%20Clean.pdf>

7.5 This section considers the extent to which that stipulation is founded on suitably informed and robust assumptions and whether it provides the appropriate assurances. In particular, PoTLL note that even with the drafting in place, consideration will need to be given to how habitats and species are managed in the long term with such a breach occurring. The Application currently provides no reassurances in this regard.

### **Ecological baseline**

7.6 The Applicant has published various ecological baseline documents. These show that much of PoTLL's landholdings have not yet been subject to direct survey by the Applicant, with the information for these areas being based on desk study only.

7.7 Within PoTLL's landholdings, the Applicant's understanding of baseline ecological conditions is heavily reliant on T2 DCO Environmental Statement baseline data for the Tilbury2 area. However, this is now historic, having been gathered in 2007-2017; and has been superseded by events, with protected species in particular having been relocated to receptor sites (including elsewhere within the PoTLL landholding). The Applicant's baseline assessments for PoTLL's landholdings within the Ashfields are typically based on survey data gathered c.2017-2019 and are thus approaching five years in age. For the Tilbury2 area the data is more historic, and is up to 15 years in age, preceding the development and construction of Tilbury2.

7.8 PoTLL's ecologists have sought to assist the Applicant by providing more recent supporting data, advising on updated conditions, and hosting a site visit for LTC. To date, the Applicant has persisted with historic baseline and secondary data and has not attempted to update this via field survey, as would be required to accord with standard practice<sup>14</sup>. Indeed, industry best practice guidance<sup>15</sup> states that "*It is important that planning decisions are based on up to date ecological reports and survey data*" and recommends that only surveys less than 36 months in age are likely to remain valid. Given that the LTC baseline data has not been updated to reflect the passage of time nor the significant changes that have taken place in this area due to the T2 DCO, PoTLL do not believe it is possible to reliably use this data make a valid assessment of the ecological impacts of LTC within PoTLL's landholdings.

7.9 PoTLL have completed a review of the various ES chapters, summarising their concerns in respect of the ecological impacts within their landholdings. These concerns are set out in the table at Appendix 3. The key concerns have been set out in the body of this Relevant Representation.

7.10 The baseline information presented to the Examining Authority falls well short of best practice standards in terms of survey effort and the historic nature of the data. The Applicant has not made it clear within the documents that there is a survey 'vacuum' within PoTLL's landholdings. This is an obstacle to the clear identification of ecological receptors within PoTLL's ownership and is potentially misleading to the reader.

7.11 PoTLL are concerned that the issues with the data mean that the ecological impacts have not been adequately assessed, particularly in respect of habitats, BNG assessment, invertebrates, reptiles, birds, bats, water voles and badgers and that therefore any

<sup>14</sup> British Standards Institute (August 2013). *BS 42020:2013. Biodiversity: Code of Practice for Planning and Development*.

<sup>15</sup> CIEEM (April 2019). *Advice Note: On the Lifespan of Ecological Reports & Surveys*. Via: [REDACTED]

management and mitigation measures are not based on a sound footing, leading to potential issues for PoTLL's future development.

### **Impact assessment and mitigation / compensation**

- 7.12 There is very little detail available for the works proposed within PoTLL's landholding, which include the following works:
- 7.12.1 Work CA5 – Construction Compound;
  - 7.12.2 Work MU27 – Underground Multi Utility Works; and
  - 7.12.3 Work MUT4 – Main Works Access Route & Overhead Electricity Lines.
- 7.13 A high level description of mitigation is provided within ES Chapter 8 – Terrestrial Biodiversity, at section 5, including a bulleted list of 'potentially significant effects'. In the absence of current survey baseline data on which to base the impact assessment, it is unlikely that potentially significant ecological effects within PoTLL's landholdings have been accurately identified and robustly assessed.

### **Habitats**

- 7.14 Projected habitat losses arising from LTC have been quantified at Table 8.35, however in the absence of a plan showing the location and extent of such losses, verification of these figures cannot be undertaken. This confusion is compounded by the described losses of Open Mosaic Habitat that make no explicit reference to PoTLL's landholdings. PoTLL seek clarity from the Applicant as to the extent and location of Open Mosaic Habitats within PoTLL's landholdings that are predicted to be lost to the construction of LTC.
- 7.15 PoTLL are concerned that any shortfall in mitigation and compensation within land temporarily possessed by the Applicant may need to be met as part of subsequent future development uses.
- 7.16 Within PoTLL's landholding, there is further doubt over how the calculations of habitat loss have been made. This is not only because the baseline data cannot reasonably be said to be current, but because the design detail and assumptions are inadequate. For example, given the change in levels across the Ashfields, it is unclear whether construction of the Main Works Access Route (MUT4) can be achieved without considerable land take for cut and fill (beyond that which is indicated in the LTC Works Plans).
- 7.17 Similarly, no design detail has been published for the proposed LTC conveyor, which it is suggested would cross the T2 DCO water vole mitigation site, numerous surrounding ditches, the adjacent Walton Common, and Priority Open Mosaic Habitat at the north of Ashfield A3. There is little evidence to suggest that this has been considered within the Applicant's ecological impact assessment. PoTLL are requesting the Applicant to provide plans showing the extent and location of all habitats within PoTLL's landholdings that are predicted to be lost or otherwise impacted, in order for this to be properly assessed and understood.
- 7.18 The Environmental Masterplan provides no mitigation or restoration detail for works proposed within PoTLL's landholding, except for Ashfield B. It is therefore unclear whether any restoration is proposed for the as yet undefined potentially significant ecological effects. This includes effects to the water vole receptor area.

- 7.19 In respect of Ashfield B, the expansive ditch at the eastern margin of this area appears to be mapped solely as ‘standing water’ despite it comprising large stands of swamp/marginal habitat. PoTLL also note that this high value ditch is well outside the footprint of the tunnel head and junction, and yet it nonetheless appears to be lost to the LTC proposals, this area being mapped within the Environmental Masterplan as falling beneath a new area of raised contouring. It is unclear why a high value wetland habitat mosaic (potentially representing remnant Priority coastal and floodplain grazing marsh within a matrix of Open Mosaic Habitat) is to be infilled as part of the ‘Tilbury Fields’ proposal, rather than being retained in situ. The impact of habitat loss here needs clearer quantification, with clarification as to the rationale for removing Priority habitat outside of the land required for the construction footprint, and the implications for calculations of BNG.
- 7.20 Parts of Ashfield C are also denoted as being allocated to new Open Mosaic Habitat creation as part of the ‘Tilbury Fields’ proposal. It is unclear how the baseline habitat has been recorded here, and whether the existing Open Mosaic Habitat is being destroyed in order to deliver new Open Mosaic Habitat, which would seem contrary to the mitigation hierarchy. PoTLL are requesting that the Applicant sets out clearly what works are proposed and how the potential impacts have been assessed, including in relation to calculations of BNG.
- 7.21 Considering intertidal habitats, PoTLL also note that 0.4 hectares of coastal habitat will be lost to the Applicant’s proposals and then reinstated. However, it remains unclear whether the loss of intertidal habitats has been taken account of within the Biodiversity Metric Calculations, especially as the raw data inputs/outputs from the metric calculation tool have not been made available in accordance with good practice. The impact of habitat loss needs clearer quantification, including by making the full detail of the BNG calculations available to the Examining Authority and relevant stakeholders.

### Invertebrates

- 7.22 The Applicant states within ES Chapter 8 that *“almost all the habitats which supported the invertebrate assemblages recorded there [within Survey Area 3 / the Ashfields] have now been lost as a result of the IVL [Ingrebourne Valley Limited] operations”*, and by implication that there would be little residual interest here to provide mitigation or compensation for. However, this does not accord with PoTLL’s understanding of the area in question. An as yet unpublished survey report, prepared on behalf of PoTLL in January 2023 states:
- 7.22.1 **Ashfield A3:** “the triangle of surviving pulverised fuel ash (PFA) substrates at the northern tip of Ashfield A3 is ... one of the surviving areas of original Ashfield.<sup>16</sup> The wetland habitats in the central basin of the triangle are of very high importance. This subcompartment should be regarded as of very high conservation importance for invertebrates in a national context.”
- 7.22.2 **Ashfield B:** “Ashfield B should be regarded as a site of rather high conservation importance for invertebrates in a national context ... The most important part of the Ashfield B compartment for invertebrates is the wetland and aquatic habitats associated with Ditch D11 [LTC ditch JN1] on the eastern boundary.”
- 7.23 It is also unclear whether the Ashfield C area has been discounted by the Applicant. PoTLL understand that Ashfield C, and particularly the exposed PFA cliff face, may be regarded

<sup>16</sup> Comprising Open Mosaic Habitat and a seasonal pond not identified by LTC baseline survey, e.g. by reference to [APP-263].



as a site of equal or greater importance for invertebrate conservation to Ashfield 1.<sup>17</sup> Under the Applicant's proposals, Ashfield C3 would be lost to a new road junction and accompanying grassland seeding, and potentially to 'new' Open Mosaic Habitat creation.

- 7.24 The mitigation by way of habitat creation at Tilbury Fields appears to be created in part by infilling ditch JN1, which itself appears to be of national importance for invertebrates. PoTLL do not understand the Applicant's rationale underpinning these proposals, which may cause unintended future consequences.
- 7.25 Insufficient information has been provided to enable PoTLL to undertake a full assessment of the Applicant's proposals to mitigate the loss of habitats within the Ashfields via habitat creation in the tunnel head area ('Tilbury Fields'). However, the Applicant's proposals for Open Mosaic Habitat creation may involve as little as 5% PFA coverage (10% of 50% coverage) with the shortfall being made up of tunnel arisings, and potentially therefore leading to generation of higher fertility habitats that do not adequately compensate for the predicted losses.

### Reptiles

- 7.26 The baseline assessment undertaken by the Applicant in respect of reptiles may have resulted in a significant underestimate of population densities in the locality of the Port of Tilbury. The impact assessment directs the reader to the Register of Environmental Actions and Commitments (REAC) which is set out in the Code of Construction Practice. Information within the REAC is extremely high level and states at page 107: *"Where protected species licences are not required, the approach to habitat clearance and the potential need to trap and translocate non licensable species (reptiles and/or native amphibians species excluding [Great Crested Newt]) to established receptor sites with sufficient carrying capacity would be determined and undertaken by the Environmental Clerk of Works. Where translocation occurs, species will only be translocated to receptor sites with established habitat."*
- 7.27 It is unclear therefore how the Applicant intends to approach reptile mitigation within PoTLL's landholdings, and whether reptiles would be trapped and translocated off site, or simply displaced elsewhere within PoTLL's land. If the latter, this may impose a greater burden of constraint on PoTLL, within the context of future development within land both within and outside of the LTC draft Order limits. PoTLL are therefore requesting detailed information relating to proposed reptile mitigation within and adjacent to PoTLL's landholdings and the containment of these to manage consequential effects on port development land. PoTLL would like some assurance that if off-site reptile receptors are appropriate, which may be likely in light of the numbers likely to be present and the magnitude of habitat loss, that this is accounted for in LTCs proposals.

### Ornithology

- 7.28 The ES states that *"The noise and vibration associated with the above ground Project construction works may disturb birds using the habitats within the [Thames Estuary and Marshes] SPA/Ramsar site and associated functionally linked land. Project construction works that would disturb the birds would be within ... the northern tunnel entrance compound and ... the northern tunnel entrance compound temporary drainage pipeline and*

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<sup>17</sup> For information regarding Ashfield A1, refer to planning application reference 07/00972/TTGFUL to Thurrock Council, and subsequent post-restoration monitoring reports.



*outfall and the water inlet with self-regulating valve or equivalent structure at Coalhouse Point.”*

7.29 However, it appears that impacts to birds using the foreshore adjacent to PoTLL’s landholdings have not been adequately addressed, as discussed in Appendix 3. This generates concerns for PoTLL in terms of cumulative impact assessment for any future works, in particular ongoing development to the river frontage that will continue alongside construction of LTC, as well as future expansion plans related to Freeport designation. PoTLL are requesting the Applicant provide detailed information relating to potential impacts on intertidal birds using habitat within and adjacent to PoTLL’s landholdings.

### 7.30 **Bats**

7.31 It is unclear whether the Applicant’s proposals for LTC would result in impacts to licenced mitigation already provided for bats by PoTLL. PoTLL are requesting greater clarity on the likely impacts of LTC on PoTLL’s licenced bat roost provision.

### **Water Voles**

7.32 The Draft Water Vole Conservation Licence Application baseline water vole survey results omit Tilbury2 entirely, with no reference to the Tilbury2 water vole licence information that PoTLL provided directly to the Applicant. The Applicant has attempted to make up the shortfall using baseline data from 2016/17 submitted with the Tilbury2 water vole licence method statement, despite this having been entirely superseded by events associated with the grant of the T2 DCO and subsequent licenced works which have altered local water vole distribution.

7.33 As a consequence, the Applicant’s mitigation proposals (shown at Figure 4 of the draft water vole licence) exclude consideration of the Tilbury2 water vole receptor site, which supports water voles at exceptionally high density. It is therefore unclear whether the Applicant’s proposals for LTC would result in impacts to licenced mitigation already provided for water voles by PoTLL, particularly in respect of the proposed conveyor, for which no design information has been provided by the Applicant.

7.34 A number of other areas inside the LTC draft Order limits and within PoTLL’s landholding have known water vole populations that have also been omitted from the mitigation proposals. It is likely that LTC will cause impacts to, and potentially loss of, these habitats; these impacts have not been considered by the Applicant in drawing up the scheme of mitigation.

7.35 The Applicant further states that licenced displacement methods would be used. However, displacement is not licensable for multiple 50m sections in close proximity; only one stretch of displacement is permitted per 500m. It is unclear why a destructive search phase is not also proposed, given that research demonstrates that vegetation removal alone is unlikely to be sufficiently effective.

7.36 The Licence application states that *“Any works that are being undertaken on lengths of banks longer than 50m would involve trapping out water vole from the waterbodies.”* Given the number of occupied ditches that have been omitted from the Applicant’s baseline survey, it appears likely that extent of ditches where trapping and translocation would be required will have been significantly underestimated. Consequently, the Applicant’s proposed receptor areas may have insufficient capacity to support the translocated animals,

particularly if an autumn season translocation is proposed (when population densities will be inflated by the young of the year).

- 7.37 Removal of ditches known to support high densities of water voles appears to be planned, solely in order to deliver other habitat creation measures. PoTLL are requesting the Applicant provide clarification as to the assessment of the impacts of water voles in these areas and whether the proposals are compatible with licensing and the mitigation hierarchy.

### **Badgers**

- 7.38 The Applicant's baseline survey has failed to identify multi entrance badger setts within PoTLL's landholding. PoTLL are currently undertaking a bait marking exercise to understand the relationship between the badger clans occupying these setts, but at present there remains a possibility that one of the setts may be used for breeding.
- 7.39 The mitigation proposed by the Applicant includes closing a large main or breeding sett in order to facilitate construction. Not only does this sett appear to have been inaccurately mapped, the loss of this main sett could potentially be wholly avoided simply by more sensitive siting of a proposed balancing pond.
- 7.40 The Applicant also proposes to provide a compensatory artificial sett within PoTLL's landholdings. If this sett were successfully adopted by badgers, it would sterilise works within a minimum radius of 20m from the sett, and it is not clear if any consideration has been given to PoTLL's development aspirations in developing this proposal. Conversely, if the mitigation were unsuccessful, PoTLL could be liable for addressing the failed mitigation within its land should future development dictate this.
- 7.41 Closure of the sett also risks behavioural changes by the badger clan using the sett, causing them to disperse westwards, relocating elsewhere on PoTLL's land, creating a future mitigation burden on PoTLL.
- 7.42 PoTLL are requesting that the Applicant review its mitigation in respect of badgers, in order to ensure that disruption is minimised and, if closure of sett(s) is required, that any potential impacts to PoTLL's landholding are reduced to a minimum.

### **Conclusion**

- 7.43 As recognised elsewhere within this Relevant Representation, ongoing cooperation between the Applicant and PoTLL is vital to ensure the LTC can be constructed without undue, unknown or unmanaged impacts on PoTLL's undertaking. The potential for the shortcomings in the Applicant's ecological assessments and mitigation proposals to cause knock-on sterilisation of development land, or increase the burden of ecological constraints and the associated increased costs and more onerous obligations that would be associated with future port development, is of significant concern to PoTLL.
- 7.44 PoTLL are seeking further survey and assessment work to be undertaken by the Applicant to address the issues arising from the age of its baseline data. These updates will inform the acceptability of the proposed mitigations, helping to ensure that LTC does not cause harm to the local ecology and develops proposals which are cognisant of wider development in the area. These steps will also ensure that any BNG provided by the Project represents a true gain, and not the provision of one type of habitat through the destruction of a different, potentially more valuable or important, habitat, which would not accord with the mitigation hierarchy and would breach the trading rules of the BNG system.

- 7.45 PoTLL currently have no protection within the DCO for potential impacts to their land from the displacement of protected species. The present mitigation plans involve the permanent sterilisation of part of PoTLL's landholding that is designated for future development; it is concerning that PoTLL have no control, nor any right to be consulted, over the permanent changes being made to their landholding, despite the clear and far reaching impact of these.
- 7.46 Due to the inadequacy of the data, inaccuracies in mapping and potential confusion over applicable licensing rules (such as those dealing with water vole displacement), PoTLL do not consider that the environmental impacts have been adequately assessed. These shortcomings operate cumulatively, with the potential for significant impacts including the sterilisation of development land and increasingly challenging and expensive development requirements through a failure to properly mitigate the impacts of the LTC.
- 8. POLICY COMPLIANCE**
- 8.1 Overall, PoTLL consider that the Planning Statement (Document 6.2) prepared by the Applicant is a comprehensive assessment of the Project against the relevant planning policy and legislative framework.
- 8.2 Section 104(2) of the PA 2008 states that in deciding an application, the SoS must have regard to:
- (a) any relevant NPSs;
  - (b) any appropriate marine policy documents;
  - (c) any Local Impact Report (LIR) submitted to the Secretary of State;
  - (d) any matters prescribed in relation to development of the description to which the application relates; and
  - (e) any other matters which the SoS thinks are both important and relevant to the SoS's decision.
- 8.3 PoTLL accept and agree that the key NPS against which this Project will be determined is currently the 2014 National Policy Statement for National Networks (NPSNN). Insofar as the Project also requires the diversion of an existing overhead powerline and existing gas pipelines, it is also agreed that the Energy NPSs (NPS EN-1, NPS EN-4 and NPS EN-5 and the 2021 draft revisions to these Energy NPSs) are relevant to the Project.
- 8.4 However, PoTLL consider that greater weight should also be attached to the National Policy Statement for Ports (NPSP) as an 'important and relevant consideration' under section 104(2)(d), given:
- 8.4.1 the importance of the LTC, once operational, to future accessibility, connectivity and operation of both the Port of Tilbury and DP World London Gateway;
  - 8.4.2 potential construction impacts that could affect the operation of the Port of Tilbury during the construction process;
  - 8.4.3 potential impacts in both land take and construction traffic movements that could undermine the delivery of the Freeport; and

- 8.4.4 marine aspects that may impact upon the current and future operations of the Port of Tilbury, DP World London Gateway and the Port of London overall.
- 8.5 The NPSP sets out the Government's support for the growth and development of the UK's port infrastructure. Section 3.3 of the NPS outlines Government policy for Ports. In summary, the Government seeks to:
- 8.5.1 encourage sustainable port development to cater for long term forecast growth in volumes of imports and exports by sea with a competitive and efficient port industry capable of meeting the needs of importers and exporters cost effectively and in a timely manner, thus contributing to long term economic growth and prosperity;
- 8.5.2 allow judgments about when and where new developments might be proposed to be made on the basis of commercial factors by the port industry or port developers operating within a free market environment; and
- 8.5.3 ensure all proposed developments satisfy the relevant legal, environmental and social constraints and objectives, including those in the relevant European Directives and corresponding national regulations.
- 8.6 Paragraph 4.1.1 of the NPSP states that the Government's objectives for transport include *'to promote economic growth through improving networks and links for passengers and freight, as well as ensuring an efficient and competitive transport sector both nationally and internationally'*.
- 8.7 It is PoTLL's contention that compliance with the NPSP, as an 'important and relevant' consideration, will only be achieved if:
- 8.7.1 the LTC DCO requires the maximum use of the Port of Tilbury (and in particular Tilbury2) during construction to minimise both the environmental effects of the project and the extent of construction traffic impacts on the SRN and the Infrastructure Corridor that routes construction traffic through Tilbury2;
- 8.7.2 all construction traffic effects on the SRN (in particular the ASDA roundabout) are fully assessed and mitigated such that the operation of the Port of Tilbury is not undermined by congestion and journey time increases caused by LTC construction traffic;
- 8.7.3 once LTC is operational, the long term accessibility to and connectivity of the Port is maximised, including ensuring that works are left in situ that facilitate the construction and operation of the TLR in the future;
- 8.7.4 the extent of land take within the Freeport boundaries is minimised;
- 8.7.5 sufficient legally enforceable controls are given to PoTLL in respect of the utilisation of LTC DCO powers on their undertaking (both terrestrial and marine) to ensure that those impacts can be managed effectively; and
- 8.7.6 the restrictions in the DCO in relation to dredging in the river Thames do not prevent future dredging of the river to facilitate current and future vessel sizes.
- 8.8 For the reasons set out elsewhere in these representations, PoTLL consider that as presently presented, the scheme does not comply with the NPSP. This should cause

concern to the Applicant in light of the decision not to make the Thanet Extension Offshore Wind Farm DCO for much the same reason.

- 8.9 PoTLL note the recital of local authority planning policy within Appendix C of the Planning Statement (Document 7.2) which includes reference (at page 98) to a 'shortened' version of Policy CSTP28: River Thames in the Thurrock Core Strategy and Policies for the Management of Development DPD (2015). This omits reference to Part I, sub paras (i) - (iii) of the policy. As highlighted above, these sub-paragraphs are material to the protection and promotion of land for port-related uses adjoining the river. They indicate that the Council will give priority to allocating riverside development to uses that require access to the river, safeguard port-related operational land and safeguard additional adjacent land required for further port development. PoTLL consider that it is important that LTC is assessed against Policy CSTP28 in its entirety, insofar as it must be demonstrated that it does not prejudice the delivery of port-related expansion in accordance with this policy.
- 8.10 Insofar as LTC has been modified through design development to reduce land take on the river frontage (by the removal/relocation of the previous Tilbury Fields proposal), PoTLL consider that the project design has sought to comply with this policy. The management of the construction process, including the land take and uses within the Northern Tunnel compound, should also be considered against the Council's objectives in Part I of Policy CSTP28. As currently presented, PoTLL consider that the Applicant cannot claim policy compliance in this regard.
- 8.11 Finally, PoTLL note that the LTC is being brought forward pursuant to 'Road Investment Strategy 2'. This Strategy includes within it a Performance Specification which the Government expects National Highways to meet, and which under section 3(6) of the Infrastructure Act 2015 it is statutorily required to meet. This Strategy includes a performance indicator of delays that are caused on 'gateway routes' to ports and airports. In PoTLL's view, absent proper mitigation being put in place for the construction phase, the LTC has the potential to cause significant delays to the gateway route to the Port of Tilbury. As such, the Applicant is in danger of bringing forward a project which will fail its own performance indicators.

## 9. RIVER CONCERNS

9.1 PoTLL works closely with the Port of London Authority (PLA) in relation to enabling the passage of vessels to and from the Port of Tilbury. PoTLL understand that the PLA have substantial concerns regarding the interaction of:

- 9.1.1 the drafting of article 48 of the LTC Scheme draft DCO and the associated river restrictions plans;
- 9.1.2 the powers to deviate set out in article 6 of the LTC Scheme draft DCO and the tunnel limits of deviation plans; and
- 9.1.3 the power to acquire compulsorily rights set out in article 28 of, and Schedule 8 to, the LTC Scheme Draft DCO,

with the ability of the PLA to undertake future dredging of the river Thames in this important part of the river where a large amount of commercial traffic passes through.

9.2 It is currently understood that the drafting of the above provisions and documentation would mean that future dredging to account for larger vessels could not be undertaken if LTC

needed to take full advantage of its upwards limit of deviation set out in article 6 of the draft DCO.

- 9.3 This is not acceptable to PoTLL or to the PLA – the Port of Tilbury and the Port of London as a whole should not be put at a disadvantage as a result of the LTC, particularly in light of the ever increasing size of vessels. Future riverside development by PoTLL will require both capital and maintenance dredging and potential alterations to the navigation channel. PoTLL support the PLA's representations on this topic as they seek to ensure that the Port of Tilbury and LTC can co-exist.
- 9.4 In this regard, it is noted that applying drafting from other projects such as Silvertown Tunnel or Thames Tideway Tunnel DCO is not sufficient, as those schemes took place in a different part of the river, significantly upstream and without the pressures linked to commercial shipping.
- 9.5 PoTLL also note their concerns in respect of article 18 of the LTC Scheme draft DCO, which provides the Applicant with the ability to (without geographic restriction or reasonable justification) interfere with river navigation and with a range of physical assets that would capture assets owned by PoTLL (such as moorings and river walls) without the need for consent from relevant interested parties.
- 9.6 This is fundamentally unacceptable to PoTLL, as it gives the Applicant carte blanche powers to interfere with the workings of an operational port. As such, these powers must be made subject to the absolute approval of PoTLL in respect of their assets and navigation within their statutory harbour authority boundary.
- 9.7 On a more positive note PoTLL do note that whilst they are still considering the detail contained in the Navigation Risk Assessment submitted with the application, broadly they accept its conclusions.

## 10. **DESIGN AND CONSTRUCTION METHODOLOGY**

- 10.1 A fundamental concern of PoTLL is to ensure that the construction and operational design of LTC is taken forward in a way that does not preclude, prevent, delay or make more difficult and costly, the development and operation of the Thames Freeport within the LTC Order limits. In particular, PoTLL are concerned that there is insufficient detail provided on:
- 10.1.1 how the Tilbury Link Road could be brought forward in the context of the development of the haul route, and how and when the TLR will connect with the LTC;
  - 10.1.2 how the earthworks for the LTC (particular those associated with Work Nos. 5 and CA3) will be carried out and left in situ (including strata and landform);
  - 10.1.3 the management of contamination risk;
  - 10.1.4 construction and operational drainage and how they will be future proofed and interact with PoTLL's Freeport proposals;
  - 10.1.5 the emergency evacuation procedures for the tunnel given the Northern Portal is located adjacent to the Freeport land;



- 10.1.6 the development of utility provisions and commitments to PoTLL's ability to deal with future requirements;
  - 10.1.7 the design of the junctions and roads contained within Work No. 5 to account for future traffic flows (or 'future proofing' to do so); and
  - 10.1.8 how land temporarily possessed by LTC will be 'handed back' to PoTLL to enable its use for Freeport purposes.
- 10.2 Separately, PoTLL are also concerned about the impact of having a large construction project immediately adjacent to their current harbour limits, with a large number of workers passing through Tilbury2, which could cause a safety and security risk. PoTLL are concerned to note that there are no measures in relation to construction workers included in the application documentation (such as a code of conduct) and would expect this to be developed. PoTLL also note that the Tilbury2 area is subject to byelaws that have also not been considered by the Applicant.
- 10.3 PoTLL are expecting further dialogue and discussion with National Highways on these matters, with amendments to the DCO, its certified documentation and/or legal agreements likely to be required to assuage its concerns.

## 11. ENVIRONMENTAL STATEMENT

### Chapter 3 – Assessment of Alternatives

- 11.1 As part of the Assessment of Alternatives in the Environmental Statement, PoTLL consider that the Applicant needs to evidence the need for the draft Order limits beyond the works comprising the completed scheme and immediate construction compounds such that it can be demonstrated that they are necessary and that any adverse economic and environment effects of the project related to the draft Order limits are therefore minimised. PoTLL therefore do not believe that some elements of the draft Order limits have been justified and are concerned that they would interfere with PoTLL's operations and statutory undertaking.
- 11.2 As also previously highlighted, PoTLL do not agree with the Applicant's reasoning for the omission of the Tilbury Link Road on environmental and traffic grounds as set out in Table 3.16.

### Chapter 16 – Cumulative Effects Assessment

- 11.3 PoTLL welcome the inclusion of the Thames Freeport in the Cumulative Effects Assessment (CEA). However, the CEA only considers the Freeport in certain topic areas, namely Cultural Heritage, Landscape and Terrestrial Biodiversity. PoTLL also welcome the inclusion of Tilbury Link Road as a Cumulative Project. Comments are made on the CEA in respect of each of these cumulative projects as follows.

#### Thames Freeport at Tilbury

- 11.4 The Applicant's omission of any modelling of Freeport traffic (with or without the TLR, which is also a cumulative project) is such that the CEA is not comprehensive. The omission of any consideration of Freeport traffic cannot be justified and undermines the EIA process in this regard, particularly given the related environmental effects of traffic such as noise and air quality. By way of example, if LDP2 is developed in line with LTC construction, there would likely be traffic impacts at Marshfoot Lane.

- 11.5 Provisional traffic estimates arising from the Freeport (provided by PoTLL to the LTC team) demonstrate the importance of allowing for this traffic in any cumulative assessment. In comparison to existing traffic volumes on the A1089, increases arising from the Freeport could equate to a 20-30% uplift. This would represent a substantial increase which would impact upon the operation of the A1089 corridor, particularly the ASDA roundabout. For context, Tilbury2 resulted in around a 6% increase in traffic through the ASDA roundabout. Similarly, construction traffic from LTC would equate to on average approximately a 4% increase at ASDA roundabout, peaking at 6% during some construction phases.
- 11.6 The Applicant has provided only a high level assessment of the environmental effects of Freeport. To some degree PoTLL accept that detailed information on the range of uses within the Freeport is not available, but some reasonable assumptions can be made as to the likely development that will take place within the Freeport area as this will be much as is found within the existing Tilbury1 and Tilbury2 sites. The likely character of the Freeport development will be a mix of berthing, transshipment, open storage, port-centric warehousing, haulier parking and potential value added activities. Assumptions can be made by comparing the effects of the current Port of Tilbury with the area of the proposed Freeport.
- 11.7 PoTLL comment on the Applicant's CEA as it relates to the Freeport, set out in Table 16.10 of the Environmental Statement (Application Document 6.1) as follows:

#### Cultural heritage

- 11.8 PoTLL agree with the Applicant's assessment that the area surrounding Tilbury Fort is already industrialised. The Freeport will extend this industrial character eastward away from the Fort and will be seen in cumulation with LTC. Mitigation for the effects in operation of the Freeport on Cultural Heritage will include consideration of an appropriate 'Rochdale Envelope' to minimise any intervisibility, the potential for areas of soft landscaping allied to ecological mitigation and the use of an appropriate colour palette for buildings (the latter approach being agreed with Thurrock Council and Historic England as part of the T2 DCO). As such, PoTLL do not consider that any additional residual cumulative effect with the LTC Scheme would arise. Any construction traffic for the Freeport would be routed along the Infrastructure Corridor, and therefore avoid a direct effect on the setting of Tilbury Fort. As such, PoTLL also consider that there will be no cumulative effects during construction on Cultural Heritage.

#### Landscape and visual

- 11.9 PoTLL accept that there could be a residual moderate cumulative effect of the Freeport with LTC and the Freeport on landscape and visual amenity during construction and operation. Whilst the Freeport would affect the Thames Estuary and Tilbury Marshes Local Landscape Character Area, further port-related development eastward from Tilbury2 towards LTC will reinforce the character of the Thames in this location as a working river with significant port facilities. Similar mitigation as described above for mitigating effects of cultural heritage would similarly have landscape benefits. The visual amenity of users of the Two Forts way could be adversely affected but this would depend on the exact design and layout of the Freeport, including the extent of marine infrastructure.

#### Terrestrial biodiversity

- 11.10 As described above, PoTLL are developing a comprehensive mitigation strategy to address biodiversity within the area of the Freeport. With that mitigation strategy in place, and if the

matters in section 7 of this Relevant Representation can be resolved, PoTLL agree with the Applicant's conclusion that there could be a slight and not significant adverse effect on biodiversity due to the cumulation of the effect of LTC on birds north of the river. The CEA identifies a moderate and significant effect of LTC on terrestrial invertebrates as, whilst there will be a delay in the establishment of mitigation, the integrity of the resource will be maintained. PoTLL accept that given a similar approach on the Freeport there is the potential for a cumulative effect in this regard. However, PoTLL's emerging biodiversity mitigation strategy is seeking to provide advanced habitat creation to avoid the temporary loss assumed.

#### Population and human health

- 11.11 PoTLL concur that during construction there is potential for a cumulative beneficial effect with the Project in relation to employment. Noise and air quality effects from construction of the Freeport would be mitigated and managed through a Construction Environmental Management Plan and, as such, no significant effects during the construction phase are expected to arise.
- 11.12 PoTLL also agree with the Applicant's assessment of moderate beneficial effects anticipated during operation of the LTC Scheme in terms of potential increased accessibility for businesses and employment cumulatively with the employment and investment benefits of the Freeport.

#### **Tilbury Link Road**

- 11.13 In respect of Cultural Heritage and Landscape many of the comments above in respect of the Freeport in terms of landscape mitigation strategies would apply to the proposal for the Tilbury Link Road, reducing or avoiding any cumulative effects with the project. The CEA raises the potential for a cumulative effect with respect to soils during construction due to the impact on *"agricultural land, some of which has the potential to be best and most versatile land."* PoTLL are not aware that the alignment of the TLR would affect any BMV land or land which has that potential. That said, the Applicant has not identified any significant cumulative effect in this regard.
- 11.14 It is noted that the CEA does not raise any cumulative effects on biodiversity with regard to the TLR and overall, does not provide the environmental justification for its omission from the LTC.

#### **12. DCO DRAFTING MATTERS**

##### **Updated definition of materially new or materially different environmental effects**

- 12.1 The draft DCO incorporates new wording providing for how 'materially new or materially different' environmental effects is to be interpreted. This definition is used throughout the DCO to ensure that any changes to the Scheme that are incorporated through the detailed design process do not exceed the worst case scenario that has been assessed within the Environmental Statement, in line with the *Rochdale Envelope* approach.
- 12.2 The Environmental Statement reviews the impacts of the worst case scenario and, where these impacts are significant, sets out the mitigations that are necessary in order to reduce these impacts to an acceptable level.

- 12.3 PoTLL are concerned that the impact of the amended definition has not been fully considered. There may be an unintended consequence that could, for example, result in reduced mitigation, which may have other implications. Because the level of final mitigation relates to the development brought forward at the finalisation of detailed design there is no certainty on linkages, integration and benefits forming part of the proposals and benefits of the project. There is concern that without a mechanism or defined and transparent process to assess whether different mitigation measures are required based on any new, reduced impact, there could be implications for other parties that are not known, assessed or capable of challenge. For, example this could lead to the haul road, or Work 5, being design in a different way that would not deliver on need for a link to a potential Tilbury Link Road, as discussed elsewhere.
- 12.4 PoTLL are mindful that part of their land being used by the Applicant to deliver the Scheme forms part of the ecological mitigation under the Tilbury 2 DCO, and the area is therefore especially sensitive should there be any attempt to avoid or reduce mitigations. The draft DCO excludes PoTLL from liability where the Scheme causes the Tilbury 2 DCO ecological mitigation requirements to be breached. PoTLL are therefore concerned that the Scheme may cause environmental impacts based on a change to the Scheme design that reduces the impact, but nevertheless requires a mitigation that the Applicant considers not to be binding.
- 12.5 PoTLL suggest that a requirement is included in the DCO to the effect that all mitigations identified within the Environmental Statement are to be implemented, irrespective of changes to the detailed design that may reduce environmental impacts.
- 12.6 Alternatively, this amendment to the DCO should be removed such that any change that results in materially new or materially different environmental impacts will require a further environmental assessment. This will ensure that the Scheme can be built without causing unnecessary harm to the ecological environment, both around the Port, and throughout the route as a whole.

### ***Hillside provisions and interaction with T2 DCO***

- 12.7 PoTLL welcome the inclusion of article 56 that addresses the potential for the DCO to interfere with existing planning permissions. PoTLL are aware of a number of planning permissions, including those held by statutory undertakers, covering their land and are therefore grateful for the added clarity that the Scheme will have no impact on these permissions beyond the extent to which the Scheme renders a part impossible to be implemented. With the use of PoTLL's land being largely limited to the construction period, this will ensure that partially commenced planning permissions will remain capable of implementation after construction is completed.
- 12.8 PoTLL also note the existence of article 55(5) of the DCO which seeks to explicitly deal with the interactions of the LTC with the T2 DCO. However, there is concern that the drafting here may not go far enough to protect PoTLL's interests. By way of example, the T2 DCO includes a requirement for PoTLL to comply with an Operational Management Plan that includes dust and noise monitoring measures – this article does not deal with the practical issues of ascertaining which scheme may be responsible for any dust or noise issue that may arise. PoTLL will therefore likely make further submissions on this matter in their Written Representation.

## **Treatment of permits within the Protective Provisions for the benefit of the Environment Agency**

12.9 PoTLL anticipates that the Environment Agency will make full representations in respect of the DCO and the Protective Provisions for its benefit. Notwithstanding this, PoTLL note that paragraph 116(5) constitutes a novel provision and that its effect is to cause any permit granted to the Applicant to 'overwrite' any existing permit. PoTLL are aware of numerous environmental permits within their land holding that may be affected by this provision, including, in particular, the IVL permits. PoTLL would seek to ensure that the environmental protections in this area are not reduced, due to the potential for wider ecological implications, by way of an amendment that the terms of any existing permits are generally transferred to the Applicant.

### **13. PROTECTIVE PROVISIONS**

13.1 In the light of all the above matters set out in this Relevant Representation, PoTLL are in the process of reviewing the draft Protective Provisions contained within the draft DCO for PoTLL's benefit, within the context of the wider Application documentation and the potential interactions with the Port of Tilbury.

13.2 In their current form, PoTLL do not believe that the Protective Provisions provide adequate protection to secure the Port and its operations, particularly given the concerns set out in this Relevant Representation.

13.3 Due to the extent of the interaction between the Scheme and the Port's undertaking, in particular, with the main route for construction traffic being through a continuous 24 hour operational port, PoTLL anticipate and expect that the Protective Provisions will be substantially strengthened. PoTLL are also considering the extent to which the certified plans and documents may need to be amended to ensure their undertaking is protected and will be continuing to negotiate appropriate legal agreements with the Applicant. PoTLL expect their protections to involve a package that fully addresses and incorporates all of the above concerns.

### **14. NATIONAL HIGHWAYS OBJECTIVES AND THE EXTENT TO WHICH THE PROJECT ACHIEVES THESE OBJECTIVES**

14.1 Drawing together the various elements of this Relevant Representation, PoTLL consider that it is clear that unless they are resolved, LTC is in danger of not meeting its scheme objectives, and therefore falling at the first hurdle of being a project that can and should be brought forward.

14.2 The Applicant's objectives for the LTC are set out in various places in the application documentation including at Table 1.1 of the Need for the Project. PoTLL comment on the extent to which they believe LTC meets these objectives as follows:

#### **14.3 Economic**

14.4 PoTLL accept that LTC will, in the long-term, support sustainable local development and regional economic growth and are in favour of LTC in principle on this basis. PoTLL consider that improved connectivity across the Thames between Essex and Kent will have the potential to encourage investment and allow better access to a wider labour market for the Port of Tilbury.

- 14.5 PoTLL remain of the view that the economic benefits of the LTC have not, however, been maximised, given the absence of the Tilbury Link Road and the detailed design of access between LTC and the A13/A1089.
- 14.6 Furthermore, PoTLL are concerned that during the construction period those economic benefits will be at risk, as the impacts of construction traffic movements and the lack of effective mitigation may bring negative impacts to the attractiveness of the Port of Tilbury during that period. This will also need to be managed with the temporal overlap between the construction process and the delivery of the Thames Freeport at Tilbury.
- 14.7 Furthermore, given PoTLL's concerns about LTC's position on river restrictions, PoTLL are concerned that future economic benefit will be affected by the inability to dredge the river Thames navigation channel for larger vessels.

### **Transport**

- 14.8 PoTLL agree that LTC will assist in relieving congestion at the Dartford Crossing and will provide additional resilience in the SRN that will be beneficial to the Port's operation.
- 14.9 However, the ability to meet this objective during the extended construction period is currently not certain and is subject to the comments in section 4 of this Relevant Representation, resolving the navigation concerns and dealing with the comments regarding the design of the proposals set out above.

### **Community and environment**

- 14.10 PoTLL, as a significant stakeholder in the Thurrock area, wish to ensure that the adverse impacts of LTC on health and the environment are minimised. Insofar as there could be cumulative environmental impacts with the TLR and Freeport, PoTLL have commented above.
- 14.11 PoTLL note and welcome the proposed Heads of Terms for a section 106 agreement (Application Document 7.3) that seeks to deliver benefits to the local community by way of a Skills, Education and Employment Strategy and a Community Fund of £1.89 million providing financial support to a range of community initiatives.
- 14.12 However, in terms of the wider impacts, it is essential that the Applicant can demonstrate to the Examining Authority and Secretary of State that adverse impacts on the local community are, wherever possible, avoided and, where this is not possible, mitigated such that it can be clearly concluded that the economic benefits are not outweighed by adverse environmental and community impacts.
- 14.13 Making better use of the Port of Tilbury to minimise construction movements through improvements to the Materials Handling Plan and commitments in respect of the CMAT will go a long way to achieving this for the LTC. Without these improvements, the Applicant is in danger of being unable to meet this objective with the volumes of construction traffic expected.

## **15. CONCLUSION**

- 15.1 This Relevant Representation has set out a number of concerns with the LTC and the assessments and mitigation measures set out in the Application documentation. Taken together, these concerns mean that PoTLL consider that the LTC does not, in its current



form, meet its own scheme objectives and imposes unacceptable impacts upon PoTLL's current and future operations.

- 15.2 As such, whilst PoTLL support the LTC in principle, further discussions are required with National Highways to ensure that PoTLL's concerns are fully dealt with – without them PoTLL must object to the DCO application and to the Scheme through this Relevant Representation, and will continue to do so until the issues that they have raised have been resolved. For the avoidance of doubt, this representation should be considered by the Examining Authority to be an objection made by PoTLL under section 127 of PA 2008.
- 15.3 PoTLL's concerns and proposals for resolving them are summarised in the first iteration of the Principal Areas of Disagreement Summary Statement set out in the first section of this Relevant Representation, and PoTLL look forward to working constructively with the Applicant to enable each of these areas to be resolved.

## APPENDIX 1

### FREEPORT

1. Freeports are a key plank of national government economic policy and central to the so-called 'Levelling Up' agenda. The bidding prospectus described Freeports as follows:

*...a flagship government programme that will play an important part in the UK's post Covid economic recovery and contribute to realising the levelling up agenda, bringing jobs, investment and prosperity to some of our most deprived communities across the four nations of the UK with targeted and effective support.*

2. The policy has three objectives:
  - (a) establish freeports as national hubs for global trade and investment – to drive economic activity post Brexit and as we recover from the global pandemic;
  - (b) promote regeneration and job creation (lead policy objective) – to drive levelling up in deprived areas. The Freeport will generate around 20,000 jobs, to which the Freeport at Port of Tilbury will make a significant contribution; and
  - (c) create hotbeds for innovation – to drive R&D and support decarbonisation targets.<sup>18</sup>
3. Freeports are designed to boost local growth and benefit from incentives relating to customs, tax, planning, regeneration, infrastructure and innovation. The successful bidders in England have access a share of £200 million of seed capital funding.
4. The bidding process opened in England in February 2021 with a deadline for freeport bids in England of 3 March 2021: The announcement of 8 freeport locations in England was made by the Chancellor (now Prime Minister) Rishi Sunak in the Budget on 19 November 2021, and included the Thames Freeport which began operation on December 2021. The benefits of Freeport are intended to last 10 years.
5. The Thames Freeport comprises a consortium of public and private stakeholders, namely, Port of Tilbury, DP World, Ford at Dagenham, Thames Enterprise Park and the local authorities of Thurrock, Havering and Barking and Dagenham.
6. Thames Freeport has been promoted as a digitally linked economic zone connecting Ford's world class Dagenham engine plant, the global ports at London Gateway and Tilbury and many communities in urgent need of 'levelling up'. Thurrock is in the top 10% areas of deprivation for skills, 9% of residents have no qualifications; unemployment in Tilbury is double the national rate and over 50% of children raised are in poverty.
7. Thames Freeport is proposing actions in five broad categories:

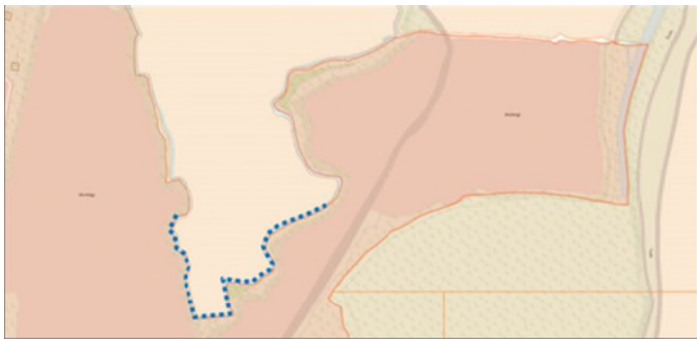
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<sup>18</sup> HM Treasury, Freeports: Bidding Prospectus, CP 315, November 2020, para 2.0.1. Sections 2.1, 2.2 and 2.3 of this document provide more information on these objectives.



- 7.1 regeneration projects using funding from retained business rates;
- 7.2 skills funding to support development of local skills relevant for Freeport businesses;
- 7.3 tax and customs sites to incentivise investment in trade relevant sectors;
- 7.4 develop trade infrastructure across Freeport sites with support of seed funding; and
- 7.5 establish a testbed for innovations through cluster development and facilitative infrastructure.
8. Land needed for the Northern Tunnel Entrance Compound (Work No CA5), west of the North Portal, and utilities works, are all located within the designated Port of Tilbury Thames Freeport tax site. PoTLL wish to ensure that nothing in the application for the LTC prejudices the delivery of the Thames Freeport at Tilbury and that direct and indirect effects are kept to a minimum. This land will be developed by PoTLL for a mix of port-related development including goods handling and storage, port centric logistics and value added activities, particularly associated with the low carbon economy, which is a key focus for the Freeport initiative. As such, Work No CA5 needs to have full regard to and minimise the effects on this.
9. Other land within the Freeport designation comprises the Fortland Distribution Park (a tax site) and London Distribution Park Phase 2 (LDP2) which is identified as a customs site only (i.e. it does not benefit from the tax incentives that form part of the Freeport offer). As noted above, this area is being promoted as a joint venture with logistics specialists, SEGRO.
10. These areas are all illustrated on the Freeport Areas Plan.
11. At present Freeports do not benefit from any new or different consenting regimes. The consenting of development within the Port of Tilbury Thames Freeport tax site will depend on what is proposed and its scale, such that a variety of consenting regimes (e.g. TCPA, DCO and LDO) might be used.
12. The development of the Freeport at Tilbury between now and 2031 is such that there will be significant overlap with the construction of the LTC. Moreover, once operational, the LTC will need to fully accommodate the Freeport development. Very significant weight should be placed on the delivery of the Thames Freeport as a key component of Government economic policy.
13. Detailed discussions with the Applicant on this vital interface have taken place and are continuing. This interface is therefore a key focus of PoTLL's Relevant Representation.

## APPENDIX 2

### CORRECTIONS NECESSARY TO THE BOOK OF REFERENCE

No.	Land parcels	Plan	Comments	Action required
1	Various – Land within Tilbury3 boundary	Various – Land within Tilbury3 boundary	The party entitled to be registered as proprietor of Tilbury3 (title number EX639032) is Port of Tilbury London Limited.	Owners or reputed owners to be amended from RWE Generation UK PLC to Port of Tilbury London Limited.
2	16-07, 16-10, 16-13, 16-18, 16-20, 16-25, 16-28, 16-30	Sheet 16	Land approximately shown by the dashed blue line below is unregistered. RWE Generation UK PLC noted as Category 1 owner. 	Owners or reputed owners to be amended from RWE Generation UK PLC to Port of Tilbury London Limited.
3	16-16	Sheet 16	Ingrebourne Valley Limited not a tenant of this land parcel as stated in the Book of Reference.	Reference to Ingrebourne Valley Limited as a lessee, tenant or occupier to be removed.
4	16-39	Sheet 16	This land (with other land) is subject to an Option Agreement dated 25 January 2022 made between (1) Melville Hamilton Lowe Mott and (2) Port of Tilbury London Limited in respect of land known as Tilbury4. Registration of the noting of this interest is pending at the Land Registry.	Reference to be made to Port of Tilbury London Limited as Category 2 party pursuant to the Option Agreement dated 25 January 2022.

5	20-03	Sheet 20	Ingrebourne Valley Limited not a tenant of this land parcel as stated in the Book of Reference.	Reference to Ingrebourne Valley Limited as a lessee, tenant or occupier to be removed.
6	20-17, 20-23, 20-27, 20-30, 20-39, 20-47, 20-52, 20-61 and 20-65	Sheet 20	<p>Land approximately shown by the dashed blue line below is unregistered. RWE Generation UK PLC noted as Category 1 owner.</p> 	Owners or reputed owners to be amended from RWE Generation UK PLC to Port of Tilbury London Limited.
7	21-07	Sheet 21	<p>Land approximately shown by the dashed blue line below is unregistered. RWE Generation UK PLC noted as Category 1 owner.</p> 	Owners or reputed owners to be amended from RWE Generation UK PLC to Port of Tilbury London Limited.
8	21-04, 21-05, 21-09	Sheet 21	Land approximately shown by the dashed blue line below is unregistered. RWE Generation UK PLC noted as Category 1 owner.	Owners or reputed owners to be amended from RWE Generation

				UK PLC to Port of Tilbury London Limited.
<b>9</b>	21-12	Sheet 21	<p>The land approximately shown by the dashed blue line below is unregistered and is located between two freehold titles owned by Port of Tilbury London Limited. Thurrock Council noted as Category 1 owner in respect of this land.</p> 	Owners or reputed owners to be amended from Thurrock Council to Port of Tilbury London Limited.
<b>10</b>	21-27	Sheet 21	<p>Category 1 owners noted as Riverside Willows Ltd, Saffron Gardens Investments Ltd and Walton Common Limited.</p>	Owners or reputed owners to be amended from Riverside Willows Ltd, Saffron Gardens Investments Ltd and Walton Common Limited to Diana Mary Cole and James Andrew Cole.





PORT OF  
**TILBURY**  
LONDON

<b>12</b>	21-30	Sheet 21	Ingrebourne Valley Limited not a tenant of this land parcel as stated in the Book of Reference.	Reference to Ingrebourne Valley Limited as a lessee, tenant or occupier to be removed.
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### APPENDIX 3

#### SUMMARY OF POTLL CONCERNS IN RESPECT OF LTC ECOLOGICAL APPLICATION DOCUMENTS

LTC ES Figures	LTC Appendices	ES	Comments
<b>Designations</b>			
ES Figure 8.1 - Designated Sites [APP-262]	ES Appendix 8.1 Designated sites [APP-390]		<p>This report relies on information which is now out of date: it documents former Local Wildlife Site (LoWS) data designations that are no longer present (e.g. Tilbury Centre LoWS), or which have substantively changed in terms of their extent or interest features (e.g. Gossem's Farm LoWS).</p> <p>Up to date information for LoWS within the PoTLL landholding could have been obtained via discussion with PoTLL, by a review of DCO documentation from cumulative projects such as Tilbury2, via discussions with Thurrock or even by consultation of recent aerial photography.</p>
<b>Habitats</b>			
ES Figure 8.2 - Phase 1 Habitat Map [APP-263]	ES Appendix 8.2 - Plants and Habitats [APP-391]		<p>The Applicant's extended Phase 1 habitat survey was carried out between April 2017 and March 2020, and is no longer considered current by reference to established industry standards<sup>19</sup>.</p>
ES Figure 8.6 - Phase 1 Field and Desk Based Assessment Coverage [APP-267]	ES Appendix 8.21 - Biodiversity Metric Calculations [APP-417]		<p>For the Tilbury2 area and adjacent land, the Phase 1 habitat mapping, associated target notes, and reporting is apparently based upon historic desk study data from 2015-2017. However, ES Figure 8.2 [APP-263] does not appear to fully correspond to any of the habitat mapping submitted with the Tilbury2 ES, and may instead have been derived from interpretation of aerial photography from a similar (historic) time period. In either event, the habitat mapped in the LTC ES is no longer representative of the habitats present.</p> <p>For example, looking within Tilbury2 at the land immediately to the north of the National Grid Substation, the Applicant has failed to identify/map the extensive new ditch and pond habitat created as part of PoTLL's water vole receptor site. Immediately to the east of this, we note that Walton Common, which is readily distinguishable as permanent pasture even from aerial photography, has been mapped by the Applicant as arable cropland. More recent habitat survey data is freely available via the planning portal for the Applicant to draw upon, and could have been used to inform the Phase 1</p>

<sup>19</sup> CIEEM (April 2019). *Advice Note: On the Lifespan of Ecological Reports & Surveys*. Via: [REDACTED]

LTC ES Figures	LTC Appendices	ES	Comments
			<p>habitat survey. The Applicant also had the opportunity to update the Phase 1 habitat survey work for Tilbury2 during a site visit hosted by PoTLL/Bioscan on 04 October 2022, but did not do so.</p> <p>One of the major disadvantages of using the JNCC Phase 1 habitat survey classification is that it does not allow for identification of Priority habitat types<sup>20</sup> (which within the Tilbury2 and Ashfields area includes Open Mosaic Habitat on Previously Developed Land and Coastal Floodplain Grazing Marsh, with the latter also present on Walton Common). As a consequence, neither Priority habitat type has been mapped by the Applicant, and the location and extent of these Priority habitat types remains unqualified within the ES. The ditch to the east of Ashfield B also appears to be mapped as “standing water” despite there being large stands of swamp/marginal habitat present.</p> <p>Since Phase 1 data was captured for LTC in c.2018, the industry has moved towards use of UK Habitat (UKHab) Classification, in line with recommendations from Natural England.<sup>21</sup> As a consequence of using Phase 1 rather than UKHab, the Applicant has resorted within the Biodiversity Net Gain (BNG) document [APP-417] to identification of parcels of Priority habitat by proxy rather than making a direct assessment for each habitat parcel. It is therefore unclear whether the exposed and partially vegetated spoils within the Ashfields and at the fringes of the former Tilbury power station coal stockyard<sup>22</sup> have been identified as high distinctiveness Priority “Open Mosaic Habitats on Previously Developed Land” or low distinctiveness habitats such as “Ruderal/Ephemeral”, or even “Actively worked sand pit quarry or open cast mine”.</p> <p>The BNG metric document [APP-417] states at para 4.3.6.c that “<i>Parcels within areas of Open Mosaic Habitat sites, identified through a review of designated site citations and field surveys, were all assigned to ‘Urban - Open Mosaic Habitats on previously developed land’ regardless of their Phase 1 habitat type i.e., Open Mosaic Habitat is a collection of different individual habitat types.</i>” This implies that the Goshems Farm LoWS would be classified as 100% Open Mosaic Habitat</p>

<sup>20</sup> Further to S41 of the Natural Environment and Rural Communities Act 2006.

<sup>21</sup> Natural England (21 April 2022). *Biodiversity Metric 3.1: Auditing and accounting for biodiversity. USER GUIDE*. Via: <http://publications.naturalengland.org.uk/publication/6049804846366720>

<sup>22</sup> See Figure 2 of ecology report submitted to Thurrock Council with planning application reference 21/01928/FUL: Bioscan UK Ltd (November 2021). *Land at the Former Tilbury Power Station: Tilbury3. Temporary Use of Land for Port Related Storage. Ecological Appraisal*.

LTC ES Figures	LTC Appendices	ES	Comments
			<p>on Previously Developed Land for the purposes of assessment. However, the BNG metric document [APP-417] goes on to state at para 4.3.9 that <i>“The BNG baseline for the Goshems Farm area was assessed in line with the Ingrebourne Valley Limited (2018) project landscape masterplan, which is set to be completed before the [LTC] Project begins”</i>. It is unclear which ‘agreed landscape masterplan’ is being referred to,<sup>23</sup> but any/all Ingrebourne Valley masterplans that Bioscan has been sighted on propose very little in the way of Open Mosaic Habitat. We also note that restoration of Goshems Farm is not complete now, in early 2023.</p> <p>Para 5.2.4 goes on to say that <i>“At Goshems Farm, the agreed landscape masterplan has been used in the [LTC] Project baseline as opposed to the existing baseline. This is a precautionary approach that raises the value of the baseline as compared to the existing conditions.”</i> However, in the absence of current habitat survey data supplied by the Applicant, the Examining Authority cannot know whether this assumption is justified.</p> <p>Grassland habitats provide further examples of where the Applicant has translated habitat classifications from Phase 1 to UKHab. Grassland identified by the Applicant as “semi-improved neutral grassland” has been translated to two UKHab classifications: “modified grassland” and “other neutral grassland”. However, the Applicant’s default has been to assign “semi improved neutral grassland” to the lower ranking of the two UKHab/BNG categories wherever the habitat parcels were <i>“without target notes”</i>, i.e. wherever there was an <b>absence</b> of species information. Furthermore, in assessing habitat condition, the species diversity criterion was also deemed to be failed for any grassland where target notes on species had not been captured (<i>“Parcels with no target notes were assumed to fail this criterion.”</i>) Therefore, where a surveyor failed to record a species list during survey (e.g. due to seasonal constraints when undertaking survey early in the season) the default approach taken by LTC would be to classify the grassland parcel as the lowest ranking habitat, i.e. low distinctiveness “modified grassland”, in poor condition. This introduces a high risk of undervaluing or otherwise misinterpreting the baseline.</p>

<sup>23</sup> The Applicant references: *Ingrebourne Valley Limited (2018). 18/01564/CV: Section 73 application - Modify the conditions attached to planning permission ref: 98/00773/MIN. Goshems Farm, Station Road, Tilbury, Essex, RM18 8QR. Thurrock Council, UK. Accessed April 2020.* However, there does not appear to be a landscape masterplan with defined habitat types available via: <https://regs.thurrock.gov.uk/onlineapplications/applicationDetails.do?activeTab=documents&keyVal=PHEM51QGFQL00>

LTC ES Figures	LTC Appendices	ES	Comments
			<p>It therefore appears that the baseline habitat classification and condition assessments used for calculations of Biodiversity Net Gain (BNG) via the Biodiversity Metric v3.1 have been informed by data which (a) is out of date and in some cases inaccurate, (b) relies heavily on formulaic translation of baseline habitat types from JNCC Phase 1 habitat classification into UK Habitat (UKHab) Classification / Metric categories, and (c) is based upon numerous unevidenced assumptions, including about habitat condition.</p> <p>The full implications of this are unclear however, as the information provided in the relevant document [APP-417] is insufficiently detailed for a third party to make an informed assessment, including an absence of valid mapping for baseline habitat.</p> <p><b>For avoidance of doubt, and in line with industry best practice guidance<sup>24</sup>, any BNG proposals related to works within PoTLL's landholding should be supported by plans explicitly mapping the baseline habitat types (including Priority habitat types) and habitat conditions, and these should be based on up to date survey information. PoTLL are concerned that otherwise, any shortfall in mitigation/compensation performance may need to be met by the Port as part of future development uses of land temporarily appropriated by LTC and could impose constraints on meeting the economic growth potential of the Freeport.</b></p>
<p>ES Figure 8.3 - Hedgerows Regulations Assessment [APP-264]</p>			<p>No survey data or assessment has been provided for PoTLL's landholdings, despite some baseline survey information being publicly available<sup>25</sup>. Hedgerows are not a characteristic feature of the Greater Thames Marshes, and any fragments present are unlikely to qualify as 'Important' under the Hedgerows Regulations. However, PoTLL has created linear features with tree/shrub planting within Tilbury2 that will perform an equivalent function to Priority hedgerow habitat, and any potential impacts to these features should be identified by the Applicant. In particular, we note that there are hedgerows adjacent to the Tilbury2 water vole receptor site which would be impacted by the Applicant's proposed works (including a conveyor proposed within</p>

<sup>24</sup> CIEEM (2021). Biodiversity Net Gain Report and Audit Templates. Chartered Institute of Ecology and Environmental Management, Winchester, UK.

<sup>25</sup> E.g. Bioscan UK Ltd (October 2017). *Tilbury2 ES Figure 10.2d Priority Habitats*. Port of Tilbury London Ltd. Via: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000412-6.3%20Figures%20and%20Drawings%20-%20Figure%2010.2d%20Section%2041%20priority%20habitats.pdf>

LTC ES Figures	LTC Appendices	ES	Comments
			Tilbury2), and which have not been referenced in the baseline assessment for LTC.
ES Figure 8.4 - NVC and Lower Plant Survey Locations [APP-265]			<p>Surveys were conducted by the Applicant on unspecified dates between 2018 and 2020. Detailed NVC/quadrat sampling within PoTLL's landholding was restricted to a single location: part of the juncture between Ashfield B and Goshems Farm (APP-265, Community 2, NVC04, Q13-Q24, as mapped with green-hatching). The habitat here was classified by the Applicant as MG1 grassland [APP-391], which does not correspond with the Phase 1 habitat survey classification of tall ruderal vegetation [APP-263].</p> <p>This may be as a consequence of (a) the poor correspondence of the Ashfield habitats to NVC categories; and (b) the changing nature of the habitats present, with (one presumes) a temporal gap between the Phase 1 survey and NVC survey being undertaken. However, this does further bring into question the reliability of the baseline habitat information being used for BNG purposes; especially given that a simple review of recent aerial photography would show that this area is now largely represented by scattered scrub in the south, and exposed spoil in the north.</p> <p><b>As above, impact assessment related to habitat assessment within PoTLL's landholdings should be based on up to date survey information.</b></p>
ES Figure 8.5 - Invasive Plant Species Locations [APP-266]			<p>The Applicant's lack of survey within PoTLL's landholdings has resulted in failure to record where Invasive Non Native Species (INNS) are present within the proposed LTC Order Limits and would need to be taken account in LTCs proposals. INNS that are present include water fern <i>Azolla filiculoides</i>, which has a localised distribution within the Tilbury2 water vole receptor area, and is subject to ongoing treatment that has not yet resulted in complete eradication.</p> <p>Russian olive <i>Elaeagnus angustifolia</i> is also present within the Ashfields, this species having invasive tendencies when growing in PFA substrate. Other species with invasive tendencies (e.g. goat's rue <i>Galega officinalis</i>) may also merit attention.</p> <p>It is therefore unclear whether INNS would be subject to impacts from the Applicant's proposed works (including the conveyor proposed within Tilbury2).</p>



LTC ES Figures	LTC Appendices	ES	Comments
<b>Fauna: Invertebrates</b>			
ES Figure 8.7 - Invertebrate Survey Locations [APP-268]	ES Appendix 8.3 - Terrestrial Invertebrates [APP-392]		<p>Invertebrates are a very important receptor and consideration for this part of the Thames Estuary.</p> <p>Invertebrate survey was undertaken for LTC within the area of Ashfields and Goshems Farm<sup>26</sup> (mapped as Area 3 [APP-268]) during summer 2018 (dates unspecified). The report describes that <i>“An overall <b>SQI score of 11.2</b> for Survey Area 3 indicates that the site is of national significance. This value is strongly reflected in the habitat specific representation of assemblages from a mosaic of habitats and the stronger conservation features. This includes the rich flower resource and bare sand &amp; chalk and scrub heath &amp; moorland assemblages, which are of national significance. The presence of a previously Extinct cuckoo wasp <i>Hedychrum rutilans</i> onsite, the ecological position of the site in relation to other important invertebrate sites, the habitat representativeness and the overall size of the site also increase the intrinsic value of Survey Area 3 and reinforce the site as being of national importance for invertebrates.”</i></p> <p>A top-up survey was undertaken by the Applicant in June 2022, covering just the ditch immediately to the east of Ashfield B and C:  <i>“Three... protected / notable species ... the ground beetle <i>Ophonus ardosiacus</i>, plant bug <i>Asiraca clavicornis</i>, and Shril Carder Bee [were recorded again in this updated ditch survey] in addition to another 12 species of conservation importance. The previous overall SQI score for Area 3 - Goshems Farm was 11.2 which indicates a site of National significance. The findings of this survey update for Ditch “JN1” are in accord with this, with a high number of species, including protected / notable species, generated from one visit.”</i></p> <p>By contrast, invertebrate survey data pertaining to the Tilbury2 area (Area 5 and Area 6) is historic, having been gained from the Tilbury2 baseline (which was gathered in 2016/2017 or earlier); and which has been superseded by construction of the Tilbury2 DCO. The survey coverage areas have also been inaccurately mapped by the Applicant.<sup>27</sup></p>

<sup>26</sup> There is some uncertainty about the precise coverage of these surveys. Survey ‘Area 3’ as mapped at Figure 8.7 [APP-268] is termed “Goshems Farm” in the report [APP-392], yet its mapped extents correspond with Ashfield A1, A2, A3, B, C and beyond, and exclude much of the “Goshems Farm LWS”. This may be because much of Goshems Farm was deliberately excluded from survey (see para 5.4.17) but this has not been made explicit and therefore the naming is potentially misleading.

<sup>27</sup> For the geographical differences, cross-refer LTC ES Figure 8.7 [APP-268] with Figure 3 of the Tilbury2 ES Appendix 10.L

LTC ES Figures	LTC Appendices	ES	Comments
			<p>A cluster of LWSs to the north east of PoTLL's landholdings that support Open Mosaic Habitat (Survey Area 9) were curiously excluded from survey by the Applicant. Instead, this cluster of sites were adjudged by the Applicant to be of <i>"at least regional significance"</i> (para 5.3.11 [APP-392] simply on the basis of desk study data. It is unclear why these sites have not been precautionarily ranked as <i>"up to national significance or higher"</i>, given the Thames Gateway locality, size of the sites, apparent floristic and structural composition, and the presence of potentially valuable invertebrate habitats.</p> <p>Notwithstanding that there does not appear to be any geographical breakdown for the Ashfields/Goshems Farm area (mapped as Area 3 mapped as Area 3 [APP-268] and described at para 5.4.17 – 5.4.23 of the Applicant's assessment [APP-392]), the conclusion that <b>the Ashfields area is of very high conservation importance for invertebrates in a national context</b> is consistent with PoTLL's previous and more recent survey findings. However, the paucity of detail provided in the survey reporting, and the absence of any attempt to attribute this interest to discrete areas or particular features renders assessment of impacts problematic.</p> <p>Areas of identified value for invertebrates include Ashfield A2, A3, and B, where LTC's proposed works are as yet ill defined. The tip of Ashfield A3 in particular, which appears to fall under the line of LTC's proposed conveyor, was found by PoTLL/ Bioscan to support a suite of uncommon invertebrate species which includes a rove beetle species that is new to Britain.</p> <p><b>As above, impact assessment related to habitat assessment within PoTLL's landholdings should be based on up to date survey information. In the absence of such assessment, PoTLL are concerned that any shortfall in mitigation/ compensation performance may need to be met as part of future Port development of land temporarily appropriated by LTC, and could impose constraints on meeting the economic growth potential of the Freeport.</b></p>
	ES Appendix 8.4 - Freshwater Ecology [APP-393]		<p>The report [APP-393] states at para 3.1.7.a <i>"North portal: ... Summer 2022 macro invertebrate data is not yet available, and therefore not included within this report"</i>. This outstanding survey information should be published at the earliest possible juncture. This would also provide</p>

LTC ES Figures	LTC Appendices	ES	Comments
			<p>the Applicant with an opportunity to update the freshwater invertebrate survey locations, which have been unhelpfully omitted from the ES Figure 8.7 - Invertebrate Survey Locations plan [APP-268], and to ensure that the grid references provided for the ditches at Table 3.2 [APP-393] tally with B2 (at present, they do not).</p> <p>That notwithstanding, the freshwater invertebrate assessment concluded at para 4.4.4 that “[Community Conservation Index] CCI scores at the three ditches sampled in 2018 were all in excess of 20 indicating Very High conservation value. In 2022, JN3 and JN10 achieved a score of 20 or above. A number of species of conservation interest (CCI 7 or above, Notable) were present. These were all species of beetle, some of which classed as Nationally Scarce (Foster, 2010) and are presented in Table 4.5”; and this assessment is consistent with PoTLL’s previous and more recent survey findings.</p> <p>Considering eels, the report [APP-393] states “It has been assumed that European eel and minor species are present in the permanently wetted watercourses.” This assessment is also supported by PoTLL’s findings during the Tilbury2 construction phase, where eels were recorded by the Tilbury2 Ecological Clerk of Works (ECoW) in low numbers within Pincocks Trough.</p>
<b>Fauna: Amphibians</b>			
ES Figure 8.8 - GCN Presence Absence Results [APP-269]	ES Appendix 8.5 - Amphibians [APP-394]		<p>Surveys were undertaken by the Applicant in 2018 and are therefore no longer current.</p> <p>The Applicant has surveyed only a single waterbody within PoTLL’s landholdings see page 8 of Figure 8.8 [APP-269]) and has failed to correctly identify or map the majority of waterbodies present. That notwithstanding, eDNA surveys undertaken by Bioscan in 2022 found negative results for great crested newt (GCN) presence from all waterbodies sampled within the Ashfields area, so the overall conclusions (i.e. that this species is likely absent) would appear to be valid and robust within that area for decision making purposes.</p>
<b>Fauna: Reptiles</b>			
ES Figure 8.9 - Reptile Survey Results [APP-270]	ES Appendix 8.6 - Reptiles [APP-395]		<p>The Applicant’s reptile survey data was collected in 2017, since which time the relevant habitats have changed (in some cases considerably), and the results should therefore be considered indicative only.</p>

LTC ES Figures	LTC Appendices	ES	Comments
			<p>Furthermore, survey appears to have taken the form of limited geographical ‘sampling’ rather than being in any way comprehensive. <b>The Applicant’s surveys have entirely omitted Tilbury2 and the former power station areas despite some of these areas having been used as reptile receptor sites.</b> Limited survey was undertaken for discrete parts of Ashfield A1, B, C, and Goshems Farm (identified within the ES as areas N01, N02, N03, N04, N05 and N06).</p> <p>Those limitations notwithstanding, by reference to ES Figure 8.9 [APP-270] it is apparent that the Ashfields and land adjacent to the railway represent the highest density of ‘key reptile areas’ within the Order Limits. This is supported by PoTLL’s survey data from 2022.</p> <p>Reptile survey densities for the Ashfields as published by the Applicant, were typically “good” for common lizard and slow worm, with “low” counts for adder, and grass snake being recorded in a single locality (adjacent to the large pond at Goshems Farm).</p> <p>However, PoTLL’s experience of translocation within Tilbury2 was that reptiles could reach “exceptional” densities in well-structured habitat<sup>28</sup>, and PoTLL’s 2022 survey data for the Ashfields suggests that “exceptional” numbers may also be reached here. That same 2022 dataset also found adder and grass snake to be more widely distributed across the Ashfields than the LTC baseline data indicates. The current leaseholder for the Ashfields (Ingrebourne Valley Ltd) has also supplied reptile translocation data to PoTLL which further supports this assessment of ‘exceptional’ densities.</p> <p><b>The Applicant’s conclusion for land North of the river Thames, i.e. that “Low populations of adder and grass snake were estimated, with low to good populations of slow worm and common lizard”, is thus considered likely to represent a significant underestimate of reptile population densities in this locality, and further baseline information is required in order to be able to assess whether the reptile mitigation and compensation proposed for LTC is likely to be adequate.</b></p>
<b>Fauna: Birds</b>			

<sup>28</sup> E.g. as per para 10.263 and page 10-177 of the Tilbury2 Environmental Statement Chapter 10 Terrestrial Ecology. Via: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000213-6.1%20Environmental%20Statement.pdf>

LTC ES Figures	LTC Appendices	ES	Comments
ES Figure 8.10 - Ornithology Survey Areas [APP-271]	ES Appendix 8.7 - Ornithology [APP-396]	8.7	<p>The Ornithology report (ES Appendix 8.7 [APP-396]) is light on detail, including in respect of dates, which have been omitted from the survey methodology summary at Table 3.3 for no clear reason. That notwithstanding, it appears that survey for wintering and breeding birds was typically carried out between April 2017- March 2019, and is therefore no longer current.</p> <p>The desk study portion of the Ornithology report (ES Appendix 8.7 [APP-396]) makes several references to the historic 2015 WYG report that formed Appendix 10.A to the Tilbury2 ES. This documents bird survey work undertaken between January 2007 - May 2008 and supplemented by breeding bird surveys in 2013 and 2015. As such, the breeding bird data relied upon by the Applicant for PoTLL's landholdings is approaching <i>8 years in age</i>, whilst the wintering bird data is approaching <i>15 years in age</i>. This is not made clear in the Ornithology report; and curiously, whilst the Applicant refers repeatedly to records from this historic dataset (e.g. paras 4.3.26, 4.3.40, 4.3.49, 4.3.53), there does not appear to be any reference to the extensive and more recent Tilbury bird data from 2017-2018, which is contained within the Tilbury2 ES,<sup>29</sup> and the HRA appendices<sup>30</sup>. Indeed, it appears that (once again) that the Applicant for LTC has failed to undertake a thorough desk study, despite relying heavily on third party data to make up the shortfall in their own.</p> <p>Considering the field surveys undertaken, mapping at page 6 of Figure 8.10 (Ornithology Survey Areas [APP-271]) appears to show relatively extensive coverage of PoTLL's landholdings, with parts of the Ashfields, Tilbury2 and its infrastructure corridor encompassed within "bird transect areas" (indicated by magenta pink polygons, labelled: "<i>Tilbury Fort</i>", "<i>Tilbury1 Coles Farm</i>" and "<i>2 Tilbury Power Station</i>"). However, on further interrogation of the plans it appears that there is a map drafting error whereby transect routes (dashed blue lines) are shown coterminous with the magenta pink polygon boundaries. This is incorrect: the magenta pink polygons (bird transect areas) should not be overlain with the dashed blue lines (walked transect routes). Once this mapping error is understood, it becomes apparent that coverage within the purple polygons (bird</p>
ES Figure 8.13 - Functionally Linked Land Transects - Wintering [APP-274]			
ES Figure 8.14 - Functionally Linked Land Transect Results - Wintering (Nocturnal) [APP-275]			
ES Figure 8.15 - Functionally Linked Land Transects - Breeding [APP-276]			
ES Figure 8.18 - Ornithology Main Route Transects Results - Wintering [APP-279]			
ES Figure 8.19 - Ornithology Main Route Transects Results - Breeding [APP-280]			
ES Figure 8.22 - Ornithology Other Schedule 1 Species Distribution [APP-283]			

<sup>29</sup> Port of Tilbury London Ltd (October 2017). Tilbury2 Environmental Statement Chapter 10 Terrestrial Ecology. Via: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000213-6.1%20Environmental%20Statement.pdf>

<sup>30</sup> Port of Tilbury London Ltd (August 2018). *Tilbury2 Habitats Regulations Assessment (HRA) Stage 2 Report. Final Version for Deadline 7.* Via <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030003/TR030003-000995-Port%20of%20Tilbury%20London%20-%20Habitats%20Regulations%20Stage%202%20report%20-%20Clean.pdf>

LTC ES Figures	LTC Appendices	ES	Comments
			<p>survey areas) was limited to the internal blue dashed lines (walked transect routes) comprising only a very restricted portion of what is termed the transect area. This is particularly problematic within the Ashfields area where the raised topography of the ash mounds would have obscured views to the west.</p> <p>It therefore appears that Tilbury2, the infrastructure corridor, and much of the Ashfields (e.g. areas A2 and A3) were subject to no direct survey coverage by the Applicant, despite the plans misleadingly suggesting to the contrary. Consequently, the absence of mapped bird activity within PoTLL's landholdings is due to of lack of survey effort, not absence of birds. This has resulted in a significant underestimate of birds within Tilbury2 and the Ashfields, including Schedule 1 species, particularly Cetti's warbler (but also little ringed plover); and other species of conservation concern, including nightingale. This lack of direct survey coverage applies to land within the line of the proposed conveyor, and the proposed access road, i.e. Works No. MUT4.</p> <p>In summary, bird survey data for PoTLL's landholdings appears to be derived mainly from historic surveys undertaken in 2007-08 or 2013/15, with almost no direct survey coverage of Tilbury2 or the adjacent parts of the Ashfields, thereby introducing a significant risk of undervaluing or misinterpreting the baseline.</p> <p><b>As above, impact assessment related to birds within PoTLL's landholdings should be based on up to date survey information. In the absence of such assessment, PoTLL are concerned that any shortfall in mitigation/ compensation may need to be met as part of future Port development, which could impose a constraint or practical/ financial burden on the delivery of such future uses.</b></p>
<p>ES Figure 8.11 - Ornithology Intertidal Vantage Point Results [APP-272]</p>			<p>Vantage Point survey by the Applicant appears to have identified higher wintering bird densities towards Coalhouse Fort, i.e. the western end of the intertidal zone to the south of the Ashfields. This aligns with PoTLL/ Bioscan's findings.</p>
<p>ES Figure 8.12 - Ornithology Intertidal Vantage Point Results - Assemblages [APP-273]</p>			



LTC ES Figures	LTC Appendices	ES	Comments
ES Figure 8.16 - Designated Woodland Transect Results - Wintering [APP-277]			Survey by the Applicant relates to woodland outside PoTLL's landholding only (noting that extensive blocks of mature woodland habitat are absent from PoTLL's landholding). Accordingly, this is of limited relevance to PoTLL's land.
ES Figure 8.17 - Designated Woodland Transect Results - Breeding [APP-278]			
ES Figure 8.20 - Ornithology Barn Owl Distribution and Breeding Sites (CONFIDENTIAL) [APP-281]			<p>The barn owl habitat assessment presented at Figure 8.20 [APP-281] is based on data which was gathered in c.2018 (and apparently via a review of historical aerial photography rather than direct survey) and cannot be considered current for Tilbury2.</p> <p>Barn owls have long used the Ashfields area. Two barn owl boxes were erected by PoTLL within the Tilbury2 site, and the southernmost box (located within the proposed LTC conveyor route) is on occasion used by barn owl for roosting. This was highlighted during the site visit hosted by PoTLL/Bioscan on 04 October 2022. However, <b>the Applicant has omitted to reference the barn owl boxes installed by PoTLL despite one of the boxes being sited within the Order Limits along the LTC proposed conveyor route.</b></p>
ES Figure 8.21 - Ornithology Marsh Harrier Distribution (CONFIDENTIAL) [APP-282]			Survey by the Applicant for marsh harrier has been focussed to the south of the river Thames, with very limited activity observed to the north of the river. This aligns with PoTLL/ Bioscan's findings.
<b>Fauna: Mammals (Bats)</b>			
ES Figure 8.23 - Woodland Assessment Locations and Bat Tree Survey Results [APP-284]	ES Appendix 8.8 - Bats [APP-397]		By reference to Figure 8.23 [APP-284] and Figure 8.24 [APP-285], <b>the Applicant has omitted to show the artificial roost provision made by PoTLL within the Tilbury2 site.</b> This information is available via the Tilbury2 LEMP and bat mitigation licence documents, which identify the locations of bat boxes, etc. Whilst roosting has not yet been confirmed within these features, the likelihood of occupation is expected to increase as the surrounding vegetation matures, and these boxes should therefore be identified as potential roost features on the Applicant's constraints plans, and potential impacts assessed accordingly.
ES Figure 8.24 - Bat Building Survey Results [APP-285]			
ES Figure 8.25 - Bat Transect and Crossing Point Locations			The Applicant's coverage of PoTLL landholdings is limited to Ashfield B and the edge of Goshem's Farm. The survey data is from 2018 and is no longer current.

LTC ES Figures	LTC Appendices	ES	Comments
[APP-286]			<p>ES Appendix 8.8 [APP-397] identified low levels of bat activity for this location (Transect 10), albeit with more localised nodes of activity coinciding with the two automated detector deployment locations.</p> <p>Notwithstanding that the Applicant's data is 5 years old, PoTLL's more recent data holdings support the findings, i.e. that the Ashfields do not overall appear to be subject to high levels of use by foraging/commuting bats. This is likely a function of the open landscape and a fairly robust assumption to make.</p>
<b>Fauna: Mammals (Water Vole &amp; Otter)</b>			
ES Figure 8.27 - Otter and Water Vole Survey Results [APP-288]	ES Appendix 8.10 - Water Vole [APP-399]		<p>The Applicant's technical appendix for water vole [APP-399] is light on detail and does not appear to give any dates/years for survey (although dates of 2017/18 are assumed by PoTLL/Bioscan based on information in the draft water vole licence [APP-416]). The Applicant has also not surveyed the Tilbury2 site directly and has instead attempted to make up the shortfall using now-historic Tilbury2 baseline datasets, from 2015-2017 (amalgamated within the LTC ES as Figure 8.28 [APP-289]). Many of the ponds and ditches referred to in that document no longer exist and have been replaced with new features elsewhere within the Tilbury2 site. Such data cannot be considered current, nor valid for decision making purposes.</p> <p>Since the datasets from 2015-2017 were gathered, PoTLL has created an extensive network of high quality water vole habitat within Tilbury2, which includes a dedicated water vole receptor site that is now occupied by water voles at very high population densities. Further ditches have also been created/enhanced subject to the requirements of the Tilbury2 LEMP, and these now also support attendant water vole populations, including in the proposed location of the LTC conveyer.</p> <p>PoTLL/Bioscan have appraised the Applicant of this information, including during a site meeting on 04 October 2022, where the Applicant's representatives were advised in person of the extent and location of water vole presence within the Tilbury2 site. However, this information has been excluded by Applicant from the LTC ES documents in favour of historic data from 2015-2017, for reasons that remain unclear.</p> <p>Water voles are also present on historic/relict coastal floodplain grazing marsh ditches between Substation Road and Shed Marsh, which the Applicant has failed to</p>
ES Figure 8.28 - Tilbury2 Water Vole Survey Results [APP-289]	ES Appendix 8.11 - Otter [APP-400]		

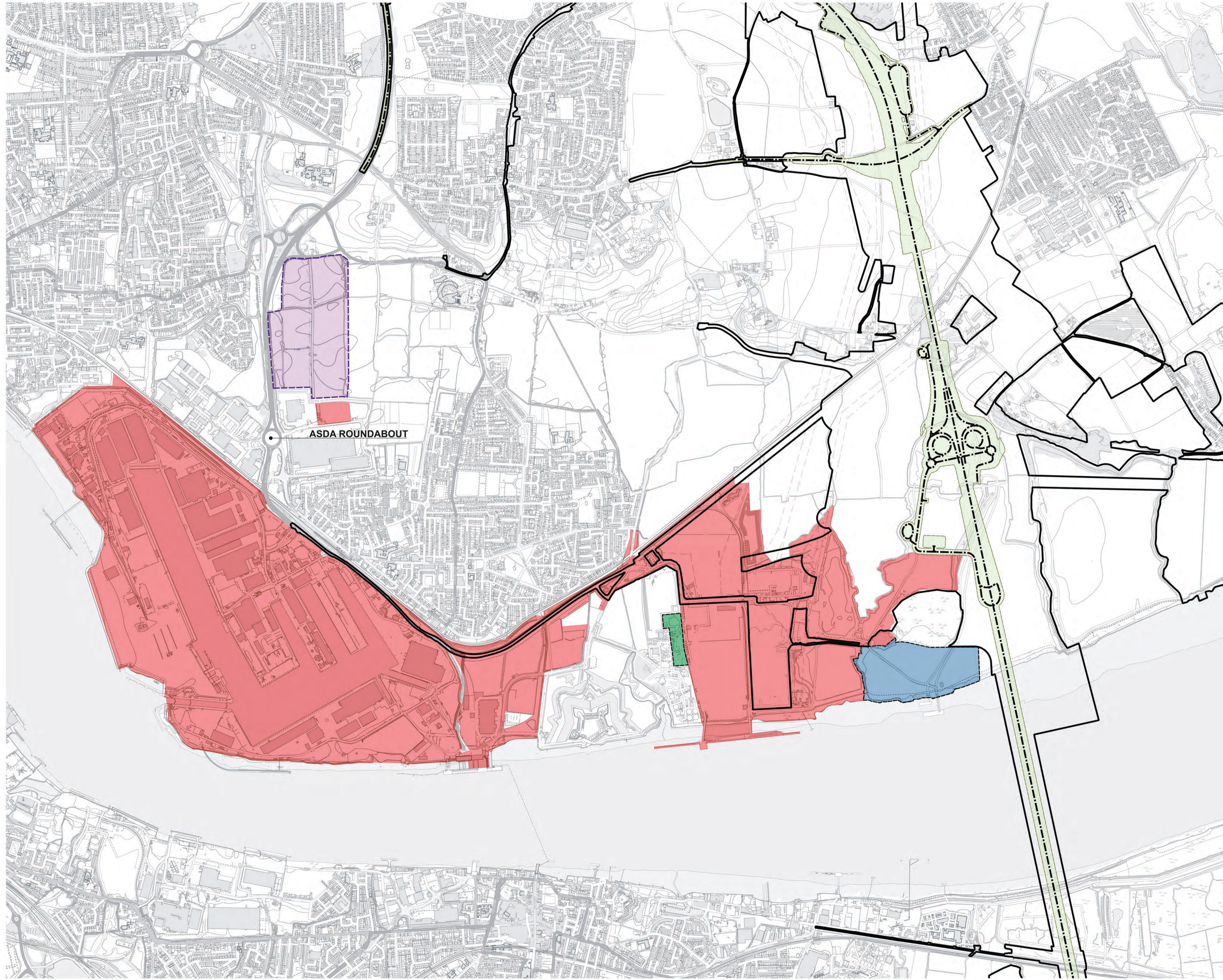
LTC ES Figures	LTC Appendices	ES	Comments
			<p>map, despite Works No. MUT4 engaging with and potentially destroying these ditches wholesale.</p> <p><b>In summary, the Applicant has omitted to identify several waterbodies/ditches within PoTLL's landholding that lie within the LTC Order Limits and which are known to support high-density populations of water voles, including the Tilbury2 water vole receptor site. Consequently, impacts have not been properly assessed within the ES, nor the draft water vole licence (for which, see below).</b></p>
<b>Fauna: Mammals (Badger)</b>			
ES Figure 8.29 - Badger Survey Results (CONFIDENTIAL) [APP-290]	ES Appendix 8.12 - Badger [APP-401]		<p>The Applicant's direct survey coverage largely excludes PoTLL's landholdings (see Page 5 of Figure 8.29 [APP-290]), and data supplied by PoTLL/Bioscan in 2022 is therefore relied upon for the Tilbury2 area. We note that as a result, the Tilbury2 artificial sett has been correctly identified in the ES as a main/breeding sett [APP-401], and this assessment accurately reflects the most recent situation, whereby successful breeding was confirmed in 2022.</p> <p>Beyond this, surveys undertaken by the Applicant date primarily from 2017-2020 [APP-401] and can no longer be considered current.</p> <p>Much of PoTLL's landholdings within the Ashfields have ostensibly been surveyed by the Applicant, but despite this a large number of setts known to PoTLL/Bioscan have not been found, including multi-entrance setts within or adjacent to Ashfields A1, A2 West, A3 and Goshems Farm. We are also aware via third party data of another sett close to Coalhouse Point which the Applicant has not recorded. PoTLL/Bioscan are currently undertaking a bait marking exercise to understand the relationship between the badger clans occupying these setts, but at present it remains a possibility that one of these setts may be used for breeding.</p> <p><b>In summary, the Applicant has failed to identify several badger setts within PoTLL's landholding that lie within the LTC Order Limits and may include main/breeding setts. Consequently, impacts have not been properly assessed within the ES, nor the draft badger licence (for which, see below).</b></p>
ES Figure 8.30 - Badger Bait Marking Survey Results (CONFIDENTIAL) [APP-291]			
<b>Fauna: Mammals (Other Species)</b>			
ES Figure 8.26 - Dormouse Survey	ES Appendix 8.9 - Dormouse		No coverage of PoTLL landholdings; however, dormouse was considered absent from Tilbury2








LTC ES Figures	LTC Appendices	ES	Comments
Locations and Results [APP-287]	[APP-398]		following specific surveys by Bioscan in 2016/17. It is unclear why the 'inconclusive' nest discovered in wooded habitat adjacent to the Mar Dyke was not subject to hair/dropping DNA analysis for certainty.
ES Figure 8.31 - Other Mammals Survey Results [APP-292]	ES Appendix 8.13 - Other Mammals [APP-402]		The Applicant has identified the Priority species harvest mouse in numerous locations within the Order Limits, including the flanks of the Ashfields. Brown hare was also sighted. This is consistent with PoTLL's survey findings.

## APPENDIX 4

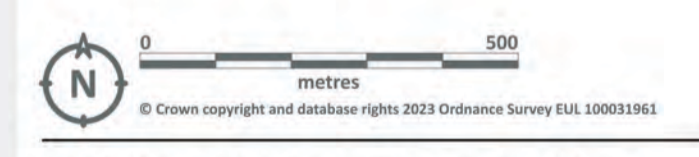
### PLANS





- PoTLL Relevant Representation:  
Appendix 4  
PoTLL Land Ownership and Interests  
Plan
-  LOWER THAMES CROSSING ORDER LIMITS
  -  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
  -  LINEAR WORK CENTRE LINE
  -  PORT OF TILBURY FREEHOLD OWNERSHIP
  -  OPTION TO ACQUIRE FREEHOLD INTEREST
  -  INTENTION TO ACQUIRE LEASEHOLD INTEREST
  -  LDP2: PoTLL/SEGRO JOINT VENTURE OPTION LAND

ASDA ROUNDABOUT

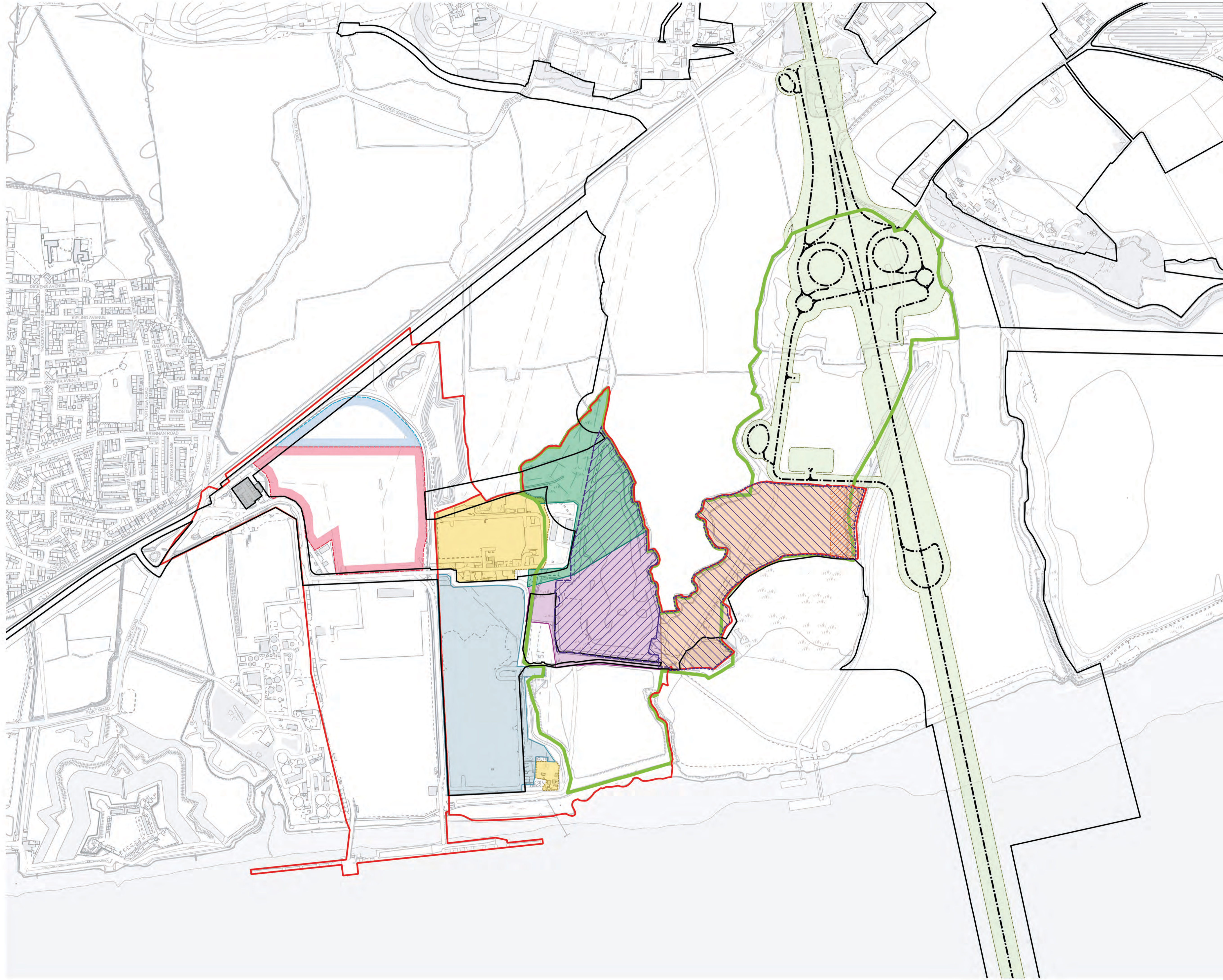


**LOWER THAMES CROSSING**

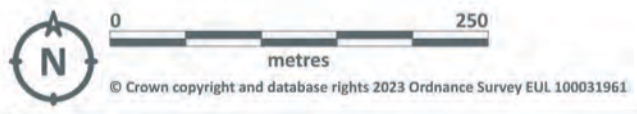
PoTLL land ownership and interests plan

PROJECT NO	DRAWING NO	REV
5133	301	
DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:10000 @A1





-  LOWER THAMES CROSSING ORDER LIMITS
-  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
-  LINEAR WORK CENTRE LINE
-  BOUNDARIES OF TILBURY2 AND TILBURY3
-  IVL PERMIT AREA
-  IVL LEASE AREA: WESTERN SIDE
-  IVL LEASE AREA: EASTERN SIDE
-  LAND UNDER NEGOTIATIONS FOR LEASE TO LTC: THE TUNNEL SEGMENT MAKING PLANT
-  LAND UNDER NEGOTIATIONS FOR LEASE TO LTC: THE HAUL ROAD
-  LAND UNDER NEGOTIATIONS FOR LEASE TO LTC: THE CONSTRUCTION SUPPORT AREA
-  LAND UNDER NEGOTIATIONS FOR LEASE TO LTC: THE LAYDOWN AREA
-  LAND UNDER NEGOTIATION FOR LTC TO HOLD OPTION TO ACQUIRE
-  TARMAC LEASE AREA
-  TARMAC OPTION AREA
-  EPN LEASE AREA
-  NGET LEASE AREA












**LOWER THAMES CROSSING**

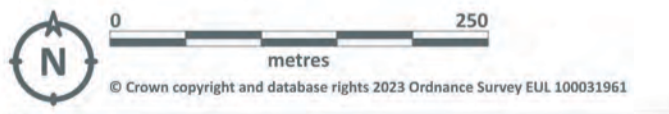
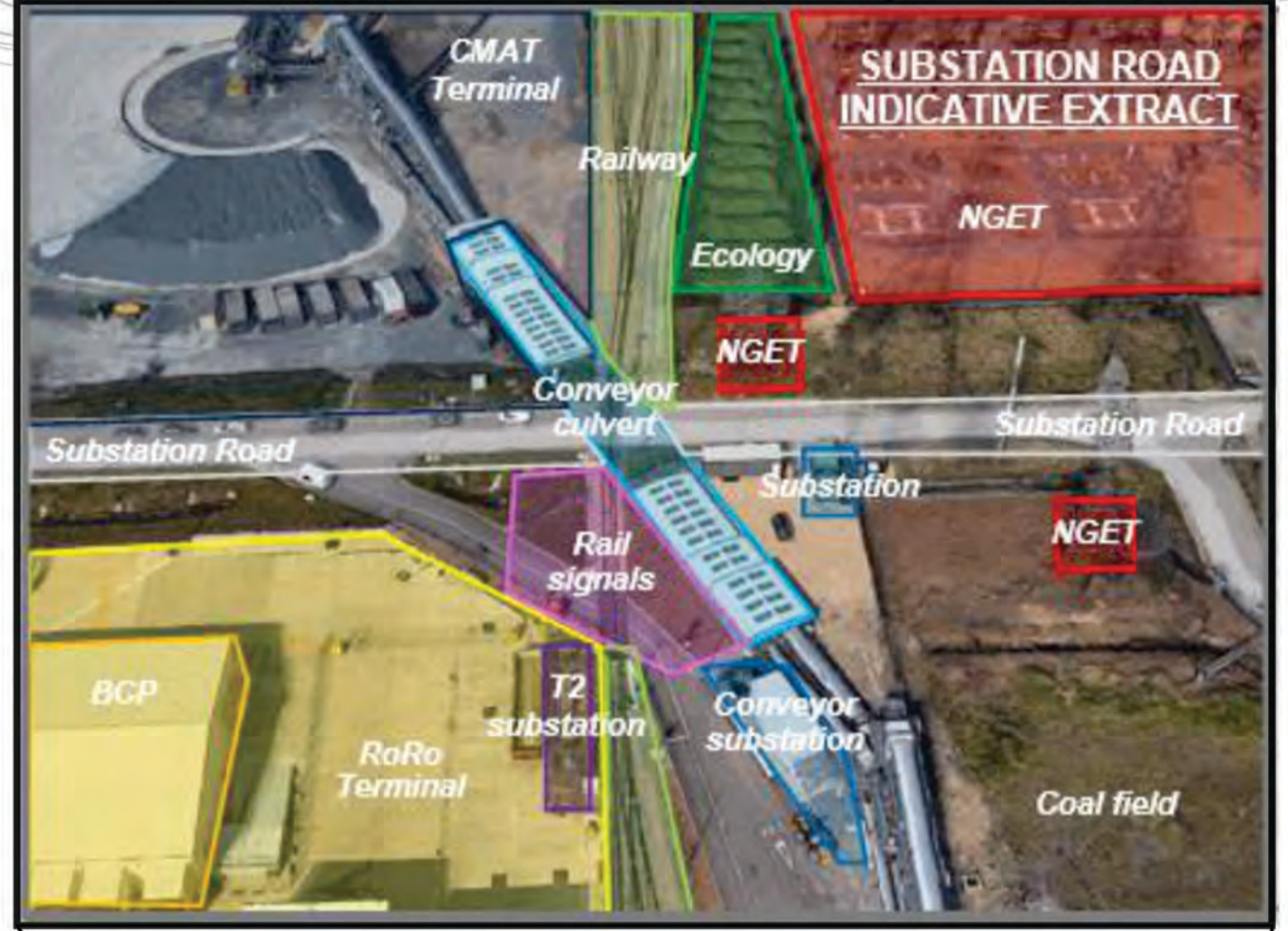
PoTLL Leasing Arrangements Plan

PROJECT NO	DRAWING NO	REV
5133	302	
DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:5000 @A1



Existing land rights plan

-  LOWER THAMES CROSSING ORDER LIMITS
-  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
-  LINEAR WORK CENTRE LINE
-  ACCESS RIGHTS CORRIDOR
-  UTILITIES/SERVICES RIGHTS CORRIDOR
-  RAILWAY INFRASTRUCTURE
-  JETTY INFRASTRUCTURE
-  CONVEYOR INFRASTRUCTURE
-  SERVICES EASEMENTS TO BE GRANTED TO NGET

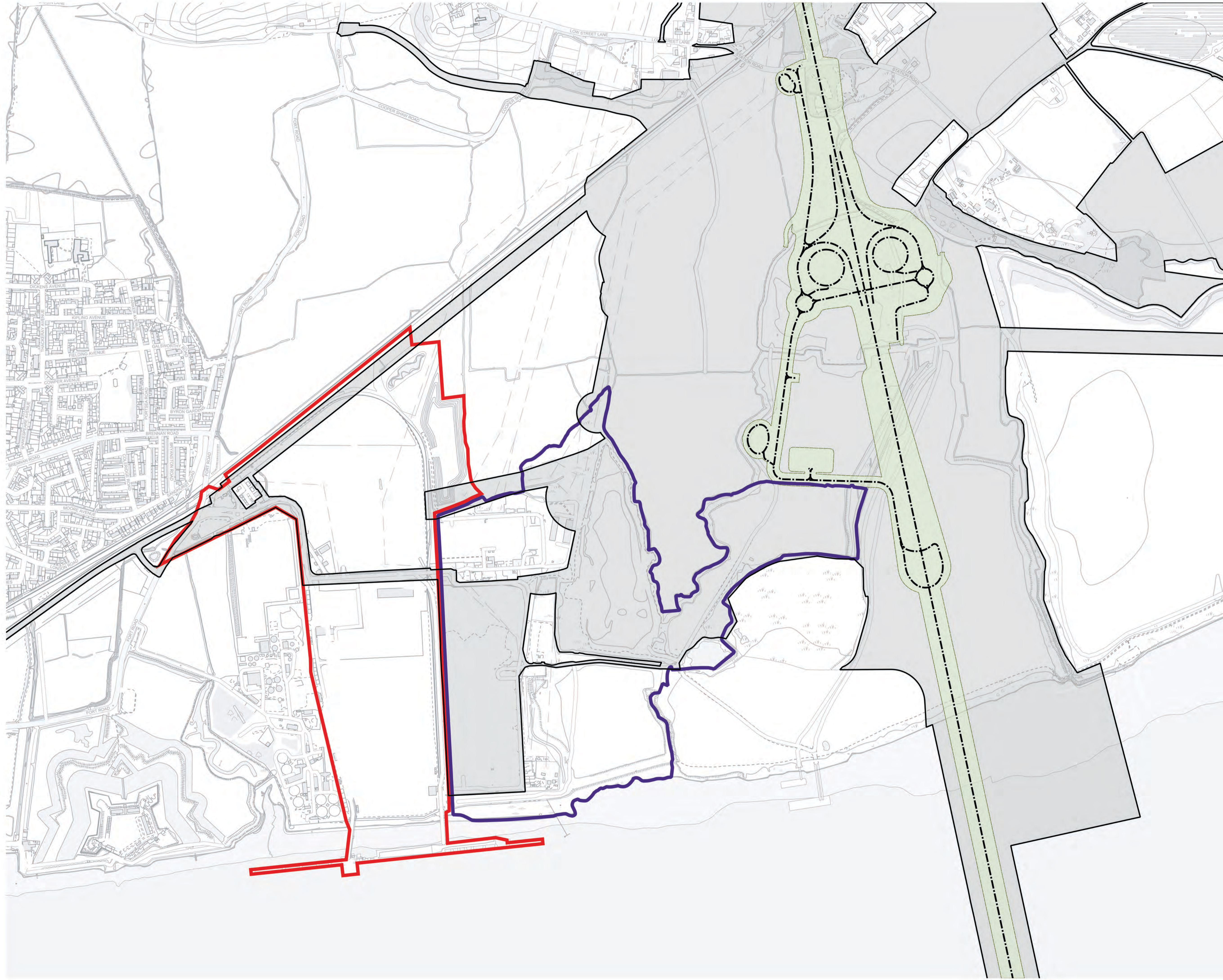


**LOWER THAMES CROSSING**






Existing land rights plan

PROJECT NO	DRAWING NO	REV
5133	303	
DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:5000 @A1





PoTLL Relevant Representation:  
Appendix 4  
Tilbury2 and Tilbury3 identification plan

-  LOWER THAMES CROSSING ORDER LIMITS
-  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
-  LINEAR WORK CENTRE LINE
-  TILBURY2 BOUNDARY
-  TILBURY3 BOUNDARY








**LOWER THAMES CROSSING**

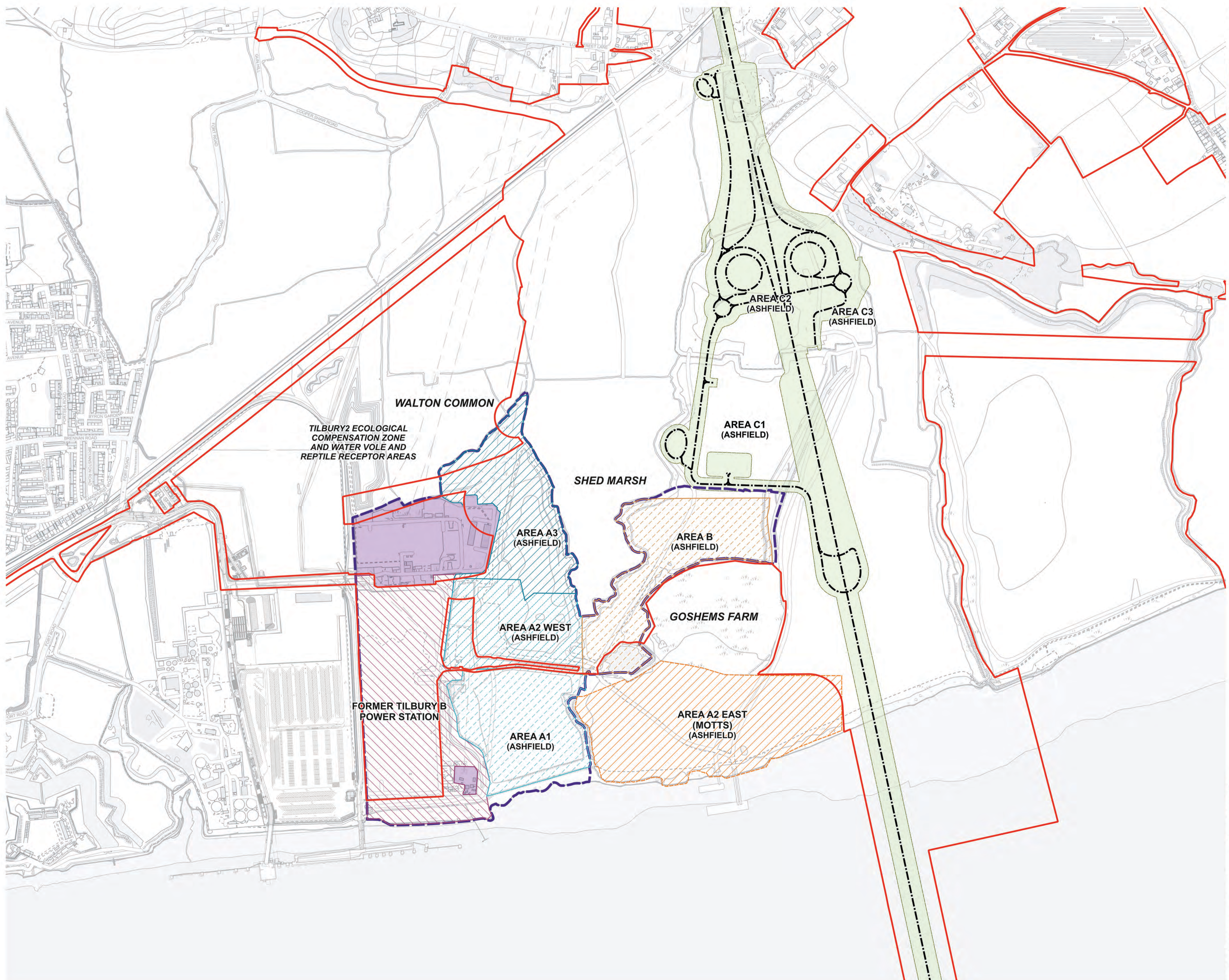
Tilbury2 and Tilbury3 identification plan

PROJECT NO	DRAWING NO	REV
5133	304	
DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:5000 @A1



-  LOWER THAMES CROSSING ORDER LIMITS
-  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
-  LINEAR WORK CENTRE LINE
-  TILBURY3 BOUNDARY
-  NATIONAL GRID LEASEHOLD

**NOTE:**  
Areas A1, A2 EAST, A2 WEST, A3 and Area B denote areas of former ash fields



**LOWER THAMES CROSSING**

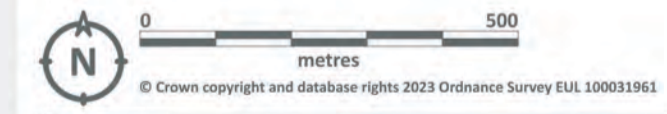
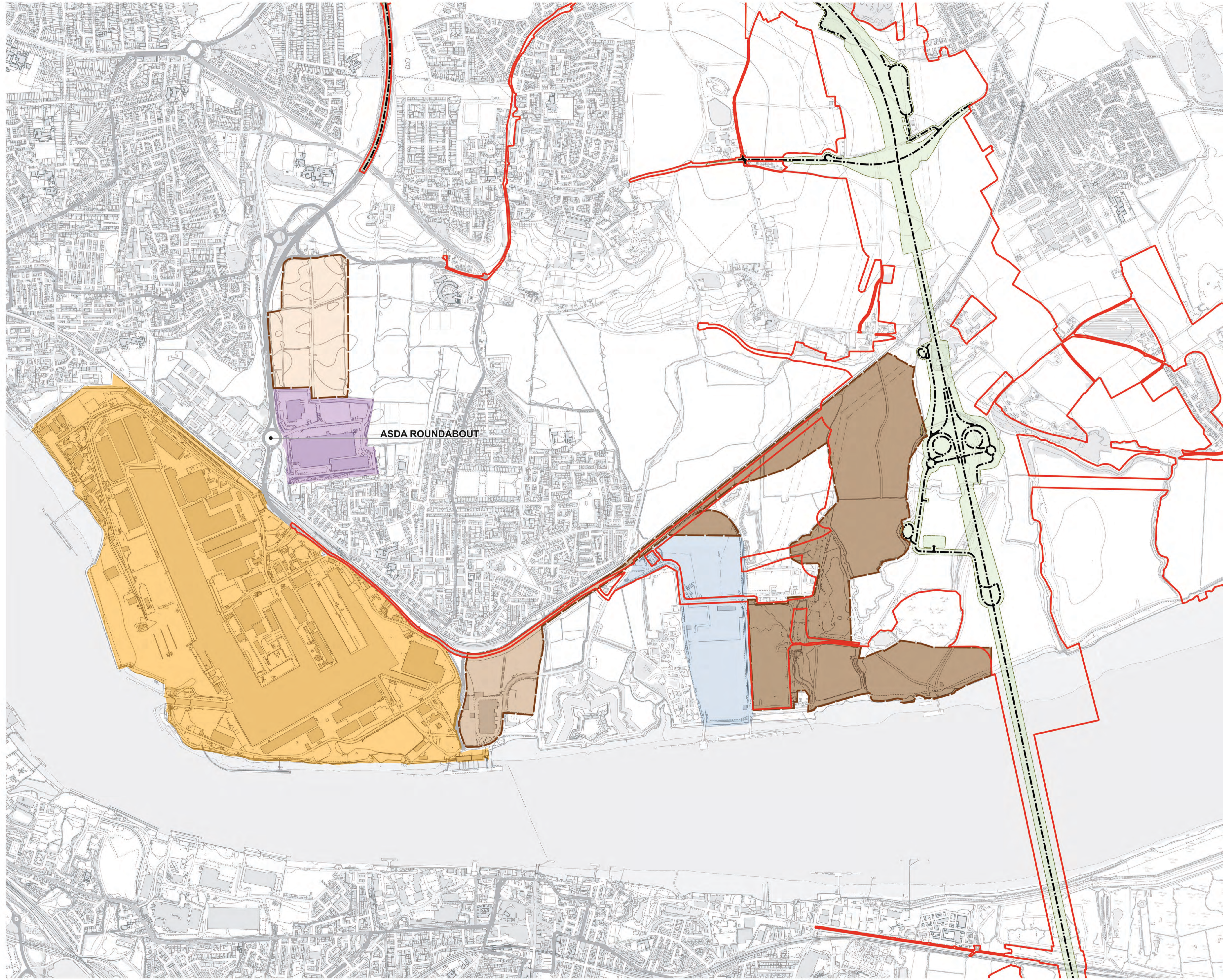
PROJECT NO	DRAWING NO	REV
5133	202	
DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:5000 @A1



Freeport areas plan

-  LOWER THAMES CROSSING ORDER LIMITS
-  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
-  LINEAR WORK CENTRE LINE
-  TILBURY1
-  TILBURY2
-  LONDON DISTRIBUTION PARK 1
-  FREEPORT BOUNDARY
-  FORTRESS DISTRIBUTION PARK 24.42ha (TAX SITE)
-  TILBURY PORT EXPANSION 136.94ha (TAX AND CUSTOMS SITE)
-  LONDON DISTRIBUTION PARK 2 33.91ha (CUSTOMS SITE)

**NOTE:**  
FREEPORT BOUNDARY IS AS PER THE DESIGNATION OF FREEPORT TAX SITES (THAMES FREEPORT REGULATIONS 2021). THE DIFFERENT NAMED AREAS FORM DIFFERENT PARTS OF THE FREEPORT PROPOSALS








**LOWER THAMES CROSSING**

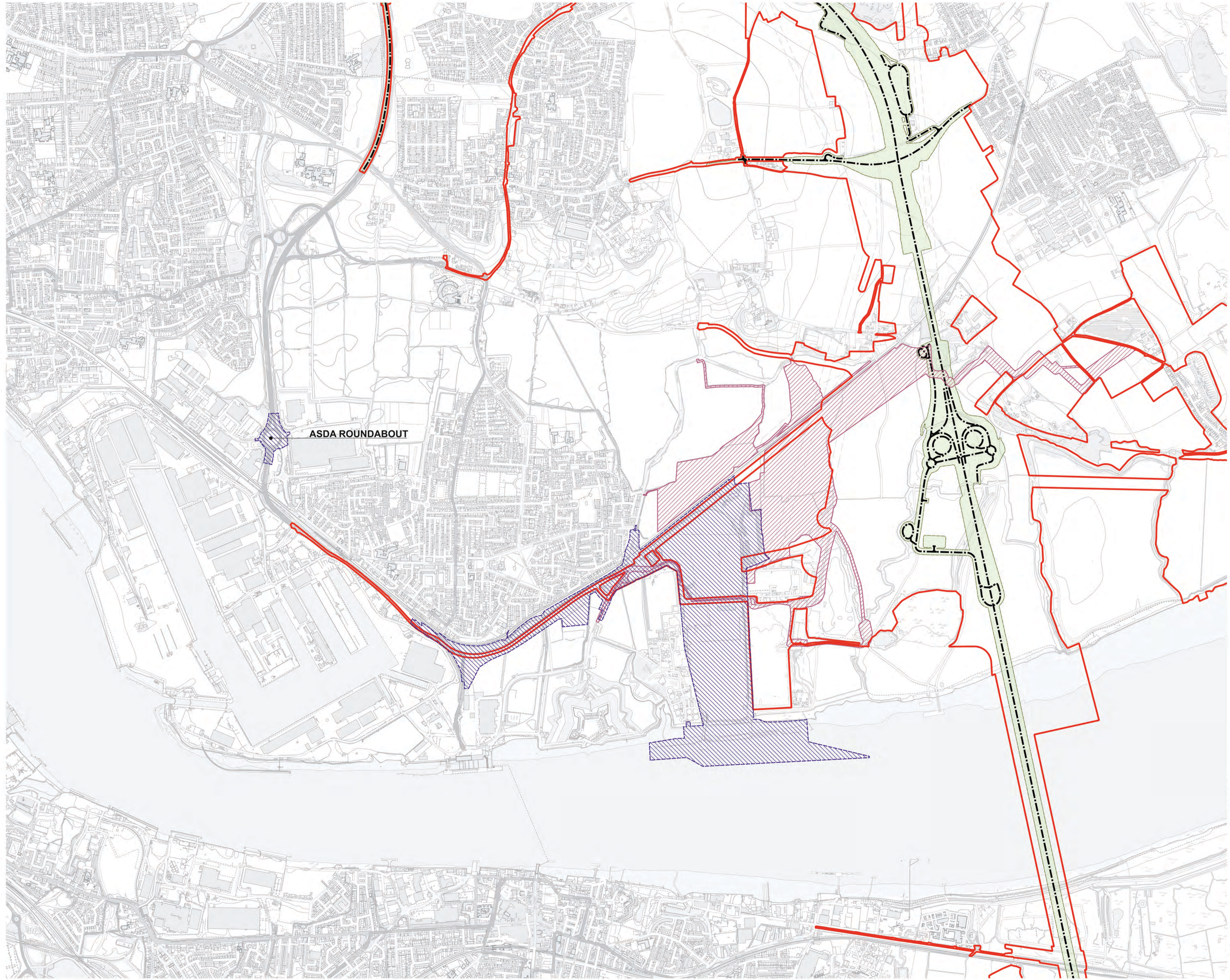
Freeport areas plan

PROJECT NO	DRAWING NO	REV
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DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:10000 @A1

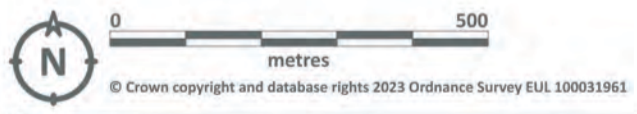


Order limits plan

-  LOWER THAMES CROSSING ORDER LIMITS
-  HIGHWAY WORK LIMITS OF DEVIATION (INCLUDES STRUCTURES)
-  LINEAR WORK CENTRE LINE
-  TILBURY2 ORDER LIMITS  
IN ACCORDANCE WITH THE PORT OF TILBURY (EXPANSION) ORDER 2019, SI 2019 No. 359
-  THURROCK FLEXIBLE GENERATION PARK ORDER LIMITS  
IN ACCORDANCE WITH THE THURROCK FLEXIBLE GENERATION PLANT DEVELOPMENT CONSENT ORDER 2022, SI 2022 No. 157



ASDA ROUNDABOUT



**LOWER THAMES CROSSING**

Order limits plan

PROJECT NO	DRAWING NO	REV
5133	204	
DRAWN	DATE	SCALE
HNA	FEBRUARY 2023	1:10000 @A1