



PORT OF
TILBURY
LONDON

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Mr Rynd Smith
Lead Panel Member for the
Lower Thames Crossing DCO Examination

3 August 2023

Dear Mr Smith,

- 1.1 We have reviewed the submissions made at Deadline 1 and wish to make further comments in response to a number of documents uploaded by the Applicant as well as a small, focussed selection of submissions made by interested parties (IPs).
- 1.2 PoTLL has attempted to limit this response to only new matters not already raised in its written representation [REP1-274] and has signposted to that document where relevant.
- 1.3 As with its WR, the Port of Tilbury (Tilbury1) and Tilbury2 are collectively referred to as the Port. Port of Tilbury London Limited is referred to as PoTLL.

2. **APPLICANT'S DOCUMENTS**

2.1 **9.15 Localised Traffic Modelling & Appendices REP1-187 to REP1-194**

- 2.1.1 PoTLL welcomes the confirmation in paragraph 5.1.2 of this document, that the Applicant will submit at Deadline 3 operational microsimulation modelling of the ASDA roundabout.
- 2.1.2 The Applicant has confirmed in paragraph 5.1.3 [REP1-187] that, at Deadline 3, it will be submitting a microsimulation model of the A1089 Asda roundabout "during the critical construction traffic modelling phases". PoTLL seeks clarification of what will constitute a critical phase and hopes that this will simply be all phases where the LTAM model has identified that there will be additional congestion at the ASDA roundabout, i.e., phases 3-7 inclusive (see PoTLL WR, section 4.3). In the event impacts are identified during these phases, PoTLL considers that all construction phases should be assessed in order to identify the full modelled impact of the LTC Scheme. The modelling should include the scenario whereby bulk aggregates are imported via Tilbury1 and thus associated construction vehicles would need to travel via the ASDA roundabout.
- 2.1.3 PoTLL has reviewed the modelling that has now been submitted into the Examination of the Orsett Cock junction and has significant concerns about the impacts this shows for Port access. The junction modelling demonstrates that:
 - (a) the peak hour for local traffic is one hour later than the AM Peak assessed using the LTAM model;
 - (b) at its best, the 2030 Do Something (DS) junction outperforms the Do Minimum (DM) junction on only 8 out of 36 connections in the early AM Peak. This drops to only routes originating from Point 4 during the later AM Peak;
 - (c) during the PM Peak, *all connections* perform worse in the 2030 DS scenario than in the 2030 DM scenario;
 - (d) the greatest additional delay is experienced by routes connecting with Point 8, being the A1089, and will therefore be experienced by traffic destined for the Port. The greatest additional delay predicted in the PM peak is route 2 --> 8, where an additional 348 seconds (5 minutes and 48 seconds) is incurred;

- (e) for the 2045 early AM peak, reduced journey times are seen on 16 routes, but delays in excess of 5 minutes remain on 5 routes;
- (f) the 2045 early AM peak shows dramatic changes when compared to the 2030 data, to routes originating from Points 4 and 5 in the DM scenario, but only to journeys originating from Point 4 in the DS scenario – this has not been explained;
- (g) the 2045 second AM peak sees delays in the DS scenario above the DM scenario in excess of 5 minutes for all movements originating from Point 1, with the greatest delay being some 547 seconds (9 minutes and 7 seconds); and
- (h) the 2045 PM peak finds all routes experience additional delay, with 14 routes delayed in excess of an additional 5 minutes under the DS scenario. The greatest additional delay is 322 seconds (5 minutes and 22 seconds) for Route 1 --> 8.

2.1.4 As explained in PoTLL's WR in section 5.3, the greatest journey time reductions to the Port are associated with distance reductions that must require the use of LTC. Factoring in the extensive delays now identified by the junction modelling of the Orsett Cock junction, PoTLL is not convinced that these journey time reductions submitted in support of the LTC application will actually be obtained.

2.1.5 It is difficult to see how the Applicant can state and sustain that the junction modelling of Orsett Cock supports the Scheme when in the majority of AM scenarios and all PM scenarios, it operates with significant worse delays than the DM equivalent. Simply, the LTC Scheme should be mitigating impacts such as these to ensure the *same or better* performance with the LTC Scheme than without. For example, Route 2 to 8 in the 2030 PM peak shows a journey time increase (Do Minimum to Do Something) of 16 seconds in Saturn and 348 seconds in VISSM. Thus, an additional delay of 332 seconds utilising the more localised, and thus more accurate, VISSIM model - a notable difference in journey time.

2.1.6 Furthermore, it is notable that the information presented excludes the effect on traffic from the LTC destined for A1089 to Tilbury. This traffic will be subject to the same delay through the Orsett Cock roundabout which casts further doubt over the journey time reductions submitted in support of the application.

2.2 Relevant Representations Report [REP1-180]

2.2.1 PoTLL notes that the majority of the Applicant's response refers to the Statement of Common Ground (SoCG) between it and the Applicant. PoTLL was provided with an updated SoCG by the Applicant on 2 August 2023, with a request for comments by 11 August 2023 to enable an update to be submitted for Deadline 3. PoTLL is committed to making progress with the Applicant and will endeavour to provide comments within the requested timescale.

2.2.2 Noting that the SoCG referred to by the Applicant is dated October 2022, and that PoTLL believes matters have progressed since then, PoTLL has responded at this stage only to Table 2.60 of the Relevant Representations Report, being new submissions by the Applicant not already contained within the SoCG. This response is appended to this letter at Appendix 1.

2.3 River restrictions plan [REP1-040] and Environmental Statement Addendum [REP1-181]

2.3.1 The Applicant has provided an updated river restrictions plan, that allows for graduation of the dredging of the navigational channel in the river into the bank. PoTLL notes, however, that there are no amendments to the depth of the tunnel. PoTLL is mindful that, whilst the dredging depth requirement may be secured by the draft DCO, it is important for the

Applicant to confirm that the tunnel can be properly constructed, maintained and operated without any impediment to the safe and effective management and operation of all river rights and activities, allowing for the necessary tunnel depth.

- 2.3.2 In this regard, PoTLL is concerned that the Applicant has chosen to amend Chapter 9 of the Environmental Statement - Marine Biodiversity [APP-147] to remove the reference to the depth of the layer of cover that will be required above the tunnel. This change is set out in the ES Addendum.
- 2.3.3 The Chapter previously stated that a “layer of cover above of at least 0.9 tunnel diameter (14.4m)” is required. This depth of cover is required in order to avoid the need for works within the river Thames “to provide additional scour protection”. In addition, the removed text confirmed that this level of cover was required to avoid modelling and mitigation to reduce effects on marine ecological receptors.
- 2.3.4 PoTLL therefore considers that, as a consequence of the Applicant accepting the dredging depth minimum requirements, it must undertake further work to ensure its ES remains adequate and that all necessary modelling and mitigation to reduce effects on marine ecological receptors is provided, and to be able to confirm that the tunnel can be constructed within the current proposals. Accordingly, the Applicant should carry out the following:
- (a) undertake and provide into the Examination a flotation report that demonstrates that the tunnel can be constructed. PoTLL is aware that a flotation report has been carried out, but this has lower than normal levels of cover above the tunnel. This has not been justified and is a significant concern as, where the level of cover is reduced, there is a corresponding increase in the potential for scour protection initially and at a later date;
 - (b) having ascertained the upwards tunnel parameters required to ensure the dredging depth can be safely achieved (i.e., including the standard level of cover), these parameters should be used to update the environmental statement to identify any changes to the effects. PoTLL is mindful that, the lower the tunnel is constructed, the greater vehicle emissions will be as they must ascend a steeper tunnel exit. There may also be safety implications if the entry to the tunnel is too steep or a need to change the physical extent and layout of the entry and exit points;
 - (c) update the tunnel limits of deviation plan to reflect the physically possible upwards limit of deviation. This plan should also be updated so that it can be measured against, as presently the upwards limits of deviation are largely stated to be by reference to the profile, whilst note 5 states “Do not scale from this drawing. Do not take digital dimensions off this drawing. Work to figured dimensions only”. This plan therefore cannot be relied upon to provide a clear and unambiguous depth for something as critical as the upwards limit of deviation;
 - (d) provide a revised plan showing the dredging depth and the revised limits of deviation on the same sheet (PoTLL notes that the Applicant has provided a plan showing the tunnel protection zones and the tunnel limits of deviation as Annex C to its post-event submissions for ISH2 [REP1-184]. It would be beneficial if this could additionally clearly show the agreed dredging depths);
 - (e) in the event new or different environmental effects are identified, the Applicant should ensure that these are mitigated against and further environmental information in an updated ES provided; and
 - (f) having confirmed the physical tunnelling requirements, the upwards limits of deviation within the draft DCO should be amended to reflect these actual needs,

so as to avoid any confusion from reading the Tunnel Limits of Deviation Plan [APP-046].

- 2.3.5 The tunnel depth issue is not limited to the DCO drafting, but the work must be carried out to confirm that the LTC Scheme can physically be constructed in light of the upper constraint formed by the dredging requirements. PoTLL fully supports the PLA's position that the tunnelling depth concerns remain a significant and serious issue to the implementation of the LTC Scheme and the future navigational depth and therefore use and safe operation of the river Thames.

2.4 **Post-event submissions, including written submission of oral comments, for ISH2 [REP1-183]**

- 2.4.1 The Applicant states within this document that the Port will “retain existing connectivity” and “benefit from substantial relief on the approach roads to the Dartford Crossing”. The suggestion that the Port will retain existing connectivity is not correct, as the design of the A13/A1089/A122 LTC Junction removes the existing direct connection from the A13 west bound. This traffic will be required to divert via the Orsett Cock junction. PoTLL has significant concerns over the accuracy of the promise of ‘substantial relief’ based on the wider impacts caused by the overall junction designs requiring use of the Orsett Cock junction.

Consideration of traffic associated with the Thames Freeport

- 2.4.2 Since Autumn 2021, the Freeport has been designated (from 19 November 2021, by virtue of article 2(2) of The Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021), and has been given the go ahead to commence trading (see the letter from Dehenna Davison MP, Minister for Levelling Up, of 20 March 2023 enclosed at Appendix 2). The Freeport that the Applicant deemed too uncertain to include in the core scenario in Autumn 2021 increased in certainty within weeks, and has since been formally approved. It is no longer sustainable to suggest that the Freeport is too uncertain to be considered, as it is now in place.
- 2.4.3 The Applicant chose to omit any Freeport data, rather than adjust it to what the Applicant considers could be brought forward on the existing network. PoTLL considers it would have been appropriate to assess an allowance for Freeport data in order to ensure the assessment was robust. The additional Freeport traffic equates to around a 20-30% uplift to existing traffic volumes on the A1089. By contrast, Tilbury2 resulted in around a 6% uplift in traffic on the A1089, and LTC construction traffic is around a 4-6% increase (see paragraphs 11.4 to 11.6 of PoTLL's Relevant Representation, reproduced in Appendix 10 to PoTLL's WR).
- 2.4.4 PoTLL does not consider it acceptable for the Applicant to have ruled out any assessment of the Freeport traffic, on the basis that the existing highway network would be unable to cope with the additional volume of traffic. This defies logic. The purpose of the LTC scheme is to provide capacity where the network cannot accommodate future traffic. Hence, the Do Minimum scenarios provided by the Applicant show that the Dartford Crossing does not have capacity to accommodate future demand and is used as a reasonable basis for assessment. This logic equally applies to a scenario with the Freeport.
- 2.4.5 The benefit from running the modelling to include the Freeport traffic in both the DM and DS scenarios is that the effectiveness of LTC at adding additional capacity to the road network will become readily apparent in a stressed situation. It would also clearly highlight the extent to which the LTC Scheme does provide the same or better connectivity with the Port than the present scenario, whilst also allow proper consideration of the performance of the network with both the LTC Scheme and the highly likely Freeport development coming forward.

- 2.4.6 It is noted that the Applicant has acknowledged that it has undertaken a sensitivity test which includes the Freeport. Given the Freeport has been formally confirmed for some time, it is considered that the Applicant should now provide the results of the sensitivity assessment within its DM and DS scenarios.
- 2.4.7 Notwithstanding the omission of Freeport data, as set out from paragraph 4.22 of PoTLL's relevant representation (Appendix 10 of its WR), the Applicant has also not allowed for any growth beyond 2016 levels at the Port, through to the 2045 Design Year. The assessment cannot be considered robust when no allowance for growth, expansion and intensification at the Port has been included.

Use of the CMAT

- 2.4.8 PoTLL welcomes the clarification that 'port facilities' refers to (in effect) the Port, for the purposes of paragraphs 6.2.9 to 6.2.12 of the outline Materials Handling Plan (oMHP) [APP-338]. This conflicts with statements at paragraph 6.2.5 of the oMHP that indicated that the Applicant was considering using London Gateway for the import of materials.
- 2.4.9 The target of 80% by weight of bulk aggregates being imported using port facilities is subject to four exceptions, two of which relate to road traffic issues. The Applicant has recognised the potential for issues at the Asda roundabout, experienced where materials are imported into Tilbury1 due to the left-turn-only exit onto the A1089. All traffic impacts could be avoided, and two exceptions that would allow the Applicant to avoid the commitment, simply by committing to using the existing CMAT facility at Tilbury2, either with a conveyor or with a new access directly onto the eastern end of Substation Road.
- 2.4.10 PoTLL is currently considering suggested proposed amendments to the oMHP, and will update further on this at future Deadlines.
- 2.4.11 By way of further context for the Port's concern in this area, and its emphasis on mitigation methods that avoid traffic impacts, the level crossing over Substation Road was designed and installed following consideration of traffic flows, traffic classification and use of the Port. The increased traffic over this crossing during the construction phases of LTC will increase the risk of rail incursions if not mitigated against by the Applicant. PoTLL has experienced this issue elsewhere in the Port, where a large construction project increased flows over another rail crossing, increasing rail incursions such that, in one instance, a criminal charge followed. PoTLL considers that the best and most appropriate mitigation is to avoid needing to cross the level crossing on Substation Road to the greatest extent possible, rather than attempt to control contractor behaviour through a management plan, notwithstanding that the Applicant currently does not commit to more than requiring contractors to sign up and adhere to the Considerate Constructors Scheme. The limitations of this scheme are summarised by the Applicant in its response to PoTLL's Relevant Representation; these comments are included in Row 5 of the table appended to this letter.
- 2.4.12 PoTLL is confident that, were the Applicant to apply the mitigation hierarchy and seek first to avoid impacts, it would be clear that committing to import aggregates via the dedicated, existing terminal is the only sustainable solution.

Interfaces with the Tilbury Link Road

- 2.4.13 Please refer to section 5 of PoTLL's WR.

Utilities including MUT4 and MU27

- 2.4.14 The Applicant states in paragraph G.3.9 that if the design of Substation Road does not allow for installation in the verges, alternative locations would be considered "such as beneath the highway". For the avoidance of doubt, Substation Road is not public highway

but is a private road within the Port. Installation of utilities below the road would result in the temporary closure of the road or restrictions due to traffic management measures in order to achieve safe working zones. It may also place restrictions on PoTLL being able to freely maintain its asset, being the road, footway and verge, due to the likely easement restrictions on working around and above any LTC services. Presently, PoTLL has no protection from the imposition of such easements by the Applicant within the Order limits and has no ability to avoid this impact.

2.4.15 The Applicant has also not considered the effects of the conveyor/road/rail crossover tunnel structure. The tunnel structure is approximately 90m long and 5m deep. It severs any standard service installations along this location. The structure extends beyond the Order limits. There is no spare duct capacity for third party services, such as those proposed by the Applicant. Should the Applicant wish to divert or install around the tunnel structure, this would impact upon operational areas. The result is that further operational restrictions would necessarily be imposed on the Applicant to enable the works, in addition to amendments to the Order limits and works plans.

2.4.16 Notwithstanding this, as set out in section 6.2 of PoTLL's WR, PoTLL does not understand why MU27 has been put in this location, given ducting was installed parallel to the railway, during the construction of Tilbury2, at the specific request of the Applicant.

2.5 **Post-event submissions, including written submission of oral comments, for ISH2 [REP1-184]**

2.5.1 PoTLL acknowledges the Applicant's comments around the protective provisions, and notes that, in its consultation response of 20 June 2022, PoTLL provided the Applicant with an outline of what would be required in the Protective Provisions. It is disappointing that these comments were not taken into consideration in the draft protective provisions submitted with the Application. PoTLL acknowledges that it did not return comments on the application protective provisions, but it did make the Applicant aware of the reason for this, which was that PoTLL did not consider the protective provisions to be suitable and so it focused instead on seeking to negotiate an agreement to manage impacts on the Port.

2.6 **Draft DCO [REP1-042; REP1-043]**

2.6.1 PoTLL notes that the Applicant would not have had sight of PoTLL's comments contained in Appendices 4 and 5 of its WR. PoTLL therefore looks forward to receiving the Applicant's responses to those submissions.

3. **INTERESTED PARTY SUBMISSIONS**

3.1 **Port of London Authority**

3.1.1 Ports policy: PoTLL supports the PLA's submissions as to the importance of the National Policy Statement for Ports (NPSP) and the UK Marine Policy Statement and South East Inshore Marine Plan (in light of the duty on the Secretary of State under Planning Act 2008 s104(2)(aa) to have regard to the appropriate marine policy documents).

3.1.2 Noting that there appears to be universal agreement that the NPSP is an important and relevant consideration for the Secretary of State in determining the application for the LTC Scheme and that there must be regard to appropriate marine policy documents, PoTLL and the PLA intend to submit a joint document that seeks to review the compliance of the LTC Scheme against the NPSP and relevant marine policy documents. This document is intended to be submitted at Deadline 3.

3.1.3 **Tunnelling considerations:** PoTLL shares the PLA's concerns around the tunnel depth and the potential for impacts on dredging. As set out above in PoTLL's response to the Applicant's Deadline 1 submissions of the revised river restrictions plan [REP1-040] and

Environmental Statement Addendum [REP1-181], the Applicant must carry out the relevant technical investigations (to cover the construction of the tunnel, in addition to the as-built state) to ensure that the tunnel can be constructed at the necessary depth to allow for a safe level of cover above the tunnel and the agreed dredging depth. These investigations, including details of how any assumptions used were chosen and supported, must be submitted into the Examination to enable proper consideration and scrutiny. Failure to carry out these investigations may result in the LTC Scheme being incapable of implementation within the physical constraints of the proposals, or alternatively there may be materially new or significant environmental effects.

- 3.1.4 **Use of the river - materials:** PoTLL supports the PLA's submissions around materials handling and the limitations of the Applicant's approach. PoTLL shares the PLA's concerns that contractors will be required to explain how baseline commitments are addressed, but that there is no requirement to share investigations or the reasons why opportunities may be discounted. The commitments for materials handling are insufficiently secured.
- 3.1.5 **Construction Logistics Plans:** PoTLL agrees with the assessment by the PLA that the Construction Logistics Plans (CLPs) required by paragraph 6.1.1 of the Code of Construction Practice [APP-336] are not consulted upon or approved by the Secretary of State. This lack of oversight increases the potential for the Applicant, by way of its contractors, to miss or avoid opportunities to make effective use of the river Thames. The intention to delegate these plans to contractors is not a reason to avoid proper consultation and oversight of what amounts to a key aspect of the way in which the LTC Scheme will be carried out. As with the PLA, PoTLL considers that it should be a consultee in the development of these plans, and that the protocol it is seeking with the Applicant must account for the development of these plans (alongside the other traffic management plans proposed by the Applicant).
- 3.1.6 **Article 18 - Interference with the river:** PoTLL supports the submissions of the PLA that the drafting of article 18 is excessive when the reason for this article is considered. The Applicant seeks to avoid moorings from being established that would interfere with the implementation of the LTC Scheme, i.e. it seeks to avoid moorings from being established within the Order limits. As currently drafted, this article extends into the Port and would enable the Applicant to interfere with the moorings and other assets of the Port were this to be 'reasonably convenient' to it. The powers within article 18 are greatly in excess of what is required to achieve the stated aim and allow for significant interference with the assets of a statutory undertaker, and it is difficult to see how this can be justified as reasonable or proportionate. In any event, as per PoTLL's previous submissions, any use of this power must be subject to Protective Provisions for PoTLL's benefit.
- 3.1.7 **Article 48 – Explosives anchorage:** PoTLL supports the PLA's submissions in respect of the removal of Higham Bight as an explosives anchorage. As set out in PoTLL's Response to the ExA's request for further information as to the Port's Emergency System Management [APP1-272], explosive material and firearms must be escorted from the Port immediately and cannot be stored or held in the Port. The loss of Higham Bight as an explosives anchorage will make it more challenging to manage and coordinate these priority movements, with vessels needing to be anchored further away.
- 3.1.8 Under the 'open port' duty (see section 3 of PoTLL's WR), the Port must accept vessels that seek to use its facilities. This will include vessels that divert to the Port. Under the terms of PoTLL's licence, vessels carrying explosives, firearms and ordnances are not allowed to moor within the Port. The goods cannot be stored in the Port, nor are they allowed to rest within the Port. As a result, any delay to any part of the logistical chain – from the vessel arriving at the Port through to these goods departing the Port by road – risks a breach of the terms of the licence and must be accounted for when planning operations involving explosives.

- 3.1.9 The location of Higham Bight explosives anchorage, being located close to the Port, is convenient as it enables vessels to anchor, in a licensed area, until such time as the Port and onward transport has been organised. This helps to ensure that goods can be unloaded without delay, by providing a safe location for vessels to wait for the cause of delays, such as onward road congestion, to have cleared. The same is true where explosives are being loaded at the Port; the vessel may anchor close by, until such time as the logistical operation of loading these goods is ready to commence. PoTLL agrees that it is inappropriate to disapply the licence on the making of the draft DCO. This is premature and exacerbates the effects to a much earlier date than is required to ensure the safety of the tunnel. In any event, PoTLL is concerned that the Applicant is being overly cautious and that there is no need to disapply this licence at all, resulting in the needless loss of a scarce and valuable explosives anchorage close to the Port. PoTLL supports the PLA's suggestion that the LTC Scheme should not be commenced until an alternative explosives anchorage has been created and licensed, being a reasonable mitigation in terms of operational performance and proximity, and to avoid the harm and impact caused by removing Higham Bight.
- 3.1.10 **PLA Protective Provisions:** PoTLL is aware that various protections for it are indirectly achieved via the protective provisions for the benefit of the PLA. PoTLL is concerned that these protective provisions are tied to the maintenance period in article 36 (5 years) and not to the indefinite maintenance period set out in article 4. There is potential for a gap between the protections in the DCO and the protections in any licensing regime, that would enable, for example, scour protection to be added at a later date without requiring permission from the PLA under either protective provisions or the PLA's own legislation.

3.2 **Thurrock Council Local Impact Report**

- 3.2.1 **Policy:** PoTLL welcomes the submissions from Thurrock Council that the NPSP has not been properly considered by the Applicant, despite the potential for the Scheme to impact adversely on both the Port and London Gateway.
- 3.2.2 **Traffic and Transport:** PoTLL welcomes and agrees with the submissions that scheme changes are required to reduce the impacts on local traffic in these areas. PoTLL shares the concerns of Thurrock Council that the design of the junction north of the North Portal will not be constructed to be suitable as an operational junction. PoTLL agrees that the LTC Scheme should be amended so as to create robust interchange and connections at Tilbury to provide access to both the Port and to future planned development growth in the local area.
- 3.2.3 PoTLL supports the submissions of Thurrock that the LTC Scheme may result in serious adverse impacts, in particular to the Orsett Cock junction and the ASDA roundabout. It shares the concerns identified about the age of the data underpinning the current transport model, the lack of junction modelling, and the need for scenario testing of the junction north of the North Portal to ensure this is capable of accommodating traffic associated with the Port.

3.3 **Natural England**

- 3.3.1 Natural England has included, in section 7 of its WR, significant information about the importance of the Tilbury area, including the main construction compound and Port development land, in terms of biodiversity and ecology. The ecological value in this area is significant and must be carefully managed, and PoTLL is in regular discussion with Natural England as to how best to manage the ecological value in the area with the needs of the Port.
- 3.3.2 PoTLL is keen to reach an agreement with the Applicant that covers the proactive management of this area so as to avoid, to the greatest extent possible, harm to ecology, and to provide mitigation and compensation, coordinated with other major projects in the

area, for any harm that cannot be avoided. So far, the Applicant has not engaged with PoTLL adequately on this point.

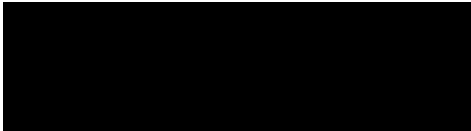
- 3.3.3 PoTLL further confirms that the survey data referred to by Natural England in paragraph 7.2.10 of its WR has been provided to both Natural England and the Applicant. PoTLL hopes that the Applicant will use this data to update its assessment of ecological impacts, so that these can be better managed.

3.4 **DP World London Gateway [REP1-333]**

- 3.4.1 PoTLL acknowledges the detailed traffic assessment and the detailed assessment of the economic impacts to London Gateway should the LTC Scheme constrain or disrupt the London Gateway port and logistics park. PoTLL supports the findings of DP World's economic assessment (annexed to DP World's WR), noting that similar impacts would be experienced by PoTLL in the event of disruption to its activities. In short, the potential for harm to be caused to the Port and to London Gateway should be factored into the Applicant's economic assessment, to ensure that the benefit/cost ratio and economic objectives will be achieved.
- 3.4.2 PoTLL also supports the findings of DP World's transport assessment (Annex A to DP World's WR) and shares serious concerns around the operation of the Orsett Cock roundabout. The arrangement of the A13/A1089/A122 LTC junction, requiring a significant volume of Port traffic to divert entirely around the Orsett Cock junction, without the relief of a Tilbury Link Road to reinstate direct access to the Port, places additional pressure on the junction leading to congestion that will have impacts for both the Port and London Gateway.
- 3.4.3 Taken together, PoTLL considers that the reports submitted by DP World London Gateway demonstrate the extent to which the Applicant has not adequately considered or assessed the impacts of the LTC Scheme on the two ports, and that mitigation for those impacts has not been provided and secured. The risks inherent with the Applicant's approach of failing to conduct and submit as part of the application or into the Examination, the appropriate modelling, is clear to see from these assessments, with the adverse impacts being significant, taken both in isolation and cumulatively.

4. **CONCLUSION**

- 4.1 PoTLL hopes that these comments will assist the Examining Authority as it prepares written questions and the agendas for the September hearings. PoTLL will continue to engage with the Applicant with a view to resolving these concerns through a legal agreement, and will provide updates throughout the Examination, as appropriate. With this in mind, PoTLL is now drafting the Framework Agreement referred to in its WR, in the hope that this will enable progress to be made in light of the additional pressures of the Examination on the Applicant.
- 4.2 Yours sincerely



PETER WARD
COMMERCIAL DIRECTOR
PORT OF TILBURY LONDON LIMITED

Appendix 1: PoTLL Response to Table 2.60 of the Relevant Representations Report [REP1-180]

Row	Heading	Matter	Applicant Response	PoTLL Comment
1.	Protective Provisions	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);	The Applicant has proposed an interface working group to resolve detailed design matters at the interfaces between the Project landscaping and the port's land. The Applicant continues to work with PoTLL on these issues and will update and communicate these changes through the SoCG.	PoTLL has provided detail of the framework agreement it requires, and provided draft protective provisions should no agreement or other drafting changes be made, in its written representation (WR) [REP1-274], at Appendices 7 and 9. An interface working group may form part of the agreement, however the parties have yet to discuss / review any draft agreement to understand how the Applicant envisages this operating.
2.	Operations and Maintenance	<p>10.1.4 construction and operational drainage and how they will be future proofed and interact with PoTLL's Freeport proposals;</p> <p>10.1.5 the emergency evacuation procedures for the tunnel given the Northern Portal is located adjacent to the Freeport land;</p> <p>10.1.6 the development of utility provisions and commitments to PoTLL's ability to deal with future requirements</p>	<p>The Project will be required to deliver under dDCO Schedule 2 Requirement 8 [Application Document AS-038] the details of the foul water and drainage system for approval by the SoS. These drainage plans will require the management of drainage within the Order Limits and any off-site discharges are appropriately controlled.</p> <p>In addition, the REAC requirement RDWE012 states: Drainage infrastructure and treatment systems would be maintained in accordance with the National Highways' DMRB GS 801 Asset Delivery Asset Inspection Requirements (Highways England, 2020g) and DMRB GM 701 Asset Delivery Asset Maintenance Requirements (ADAMr) (Highways England, 2020f), as applicable, to ensure they continue to operate to their design standard to</p>	<p>PoTLL considers that it is best placed to identify if drainage proposals will interfere with its future plans. Drainage is one aspect of the LTC Scheme that has the potential to interfere with the ability of PoTLL to expand and develop the Port, and is therefore a matter over which PoTLL seeks proactive involvement. PoTLL welcomes the application of DMRB standards to the design, but notes that DMRB-compliant drainage may nevertheless restrict future development in the area.</p> <p>The emergency evacuation procedures for operation are not subject to any outline plan and it is not clear where the emergency evacuation muster points will be located. Consideration must be given for the proximity to the operational Port and how the Applicant will ensure that</p>

Row	Heading	Matter	Applicant Response	PoTLL Comment
			<p>safeguard surface and groundwater quality [Application Document APP-336]</p> <p>Emergency evacuation procedures for the tunnel, given the location is close to the PoTLL land, would not impact directly on the PoTLL because there are areas designated for emergency evacuation muster points within the Order Limits as detailed in the Design Principle S9.24.</p> <p>The Applicant has worked and continues to work with Statutory Undertakers to forecast demands and allow the Statutory Undertaker to manage their network for the benefit of all users. In relation to utilities works, paragraph 129 of Schedule 14 to the dDCO provides that 'The undertaker must, before the carrying out of any specified work, supply to PoTLL proper and sufficient plans of that work for the reasonable approval of PoTLL and the specified work must not begin except in accordance with such plans as have been approved in writing by PoTLL' In this context, 'specified works' includes the proposed utilities works over PoTLL's land.</p>	<p>persons do not self-evacuate onto Port land.</p> <p>Please also see PoTLL's submission on the Port's Emergency System Management [REP1-272] for more detail.</p> <p>The protective provisions contained within the draft DCO are not fit for purpose and provide only for the approval of plans in respect of utility works. PoTLL must be a party to and/or have a right of refusal to any agreement, wayleave or easement being entered into in respect of utilities, to ensure that future Port development is not impeded, for example by excessive standoff distances.</p>
3.	Traffic and economics	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)	Work No.5 constitutes the operational access. The Applicant has considered the potential for connections to be made in this area at a future date and subject to a separate consenting process. However, there has been no decision on the preferred route or the specification of any connection in this area and consequently, it is not appropriate to make provision for	Please refer to section 5 of PoTLL's WR [REP1-274] for detailed discussion of the reasons this junction must be capable of accommodating the future Tilbury Link Road (TLR) as-built, and a proposed approach to DCO drafting by which this could be ensured.

Row	Heading	Matter	Applicant Response	PoTLL Comment
			development which is not directly required for the Project.	
4.	Land and compulsory acquisition	10.1.8 how land temporarily possessed by LTC will be 'handed back' to PoTLL to enable its use for Freeport purposes.	Article 35 of the draft DCO makes provision for handing back land which is subject to temporary possession. In particular, article 35(5) it sets out that "the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land". The provision also sets out that the land can be handed back without removing temporary works "remove any temporary works where this has been agreed with the owners of the land".	PoTLL is seeking an agreement that the land will be restored in the manner agreed, as opposed to restoration to previous status or leaving temporary works in situ. This may be a 'half-way stage', where temporary works are removed but the land not fully reinstated, so as to provide a preferred 'blank slate' for development. This is beyond what is provided for in the drafting of article 35.
5.	Construction	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.	The CoCP Section 2.5 [Application Document APP-336] includes controls regulating conduct of contractors. Specifically, contractors are required to sign up to and adhere to the Considerate Constructors Scheme. The CCS is a national scheme that promotes good practice on construction sites through its codes of considerate practice; these commit registered sites to be considerate and good neighbours, as well as being respectful, environmentally conscious, responsible and accountable. The Applicant has recognised that there are local byelaws applicable in the Tilbury 2 Area. A review was completed, and the Applicant made the decision not to apply a disapplication of these byelaws. As a consequence, they will apply to staff and any activities within the applicable area.	Whilst PoTLL welcomes that contractors will sign up to the CCS, it considers that, given the industrial nature of the area and the interaction with the operational Port, a bespoke plan to manage and control workers is required. Please refer to PoTLL's WR [REP1-274], Appendix 4, at Row 7 of Table 1, for a detailed discussion of the impacts of article 3(3) on the statutory basis of PoTLL's powers. PoTLL considers that this drafting would make it impossible to enforce its byelaws against the Applicant where it is carrying out the LTC DCO. At best, this drafting makes it wholly uncertain as to whether the Tilbury2 byelaws will apply. This drafting must be clarified before PoTLL can take comfort that it will be able to enforce its own byelaws.

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				PoTLL also seeks clarification as to how the Applicant anticipates its plans will interact with the byelaws, for example those setting out the security protocol at the entry to the Port. Please also refer to paragraph 2.4.11, above.
6.	Land and compulsory acquisition	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	The Applicant has updated the Book of Reference [Additional Submission AS-042] to take account of changes to PoTLL's proprietary rights and interests since the DCO application was submitted. Updates to the Book of Reference will be provided at DL 1.	PoTLL is grateful for the update and is in the process of reviewing the amendments to ensure they are accurate. PoTLL does note that the Statement of Reasons [REP1-049 (Clean); REP1-048 (Tracked)] duplicates a lot of plots in the 'Compulsory acquisition of rights' row, and would be grateful if this could be corrected in the next revision of this document, to aid clarity.
7.		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. [Submission omitted due to length]	The Applicant has entered into lease arrangements for the areas shown in the leasing arrangement plans. The Applicant does not agree to any prohibition on the use of its DCO powers.	PoTLL confirms that leases have now been entered into over four areas of land, including an agreement for lease. However, a number of matters were reserved for the Framework Agreement, including matters such as contamination and the non-exercise of compulsory acquisition powers over land held by PoTLL for the purpose of its statutory undertaking, without PoTLL's consent. Please see section 2.3 of PoTLL's WR [REP1-274] for further information about what was reserved for the Framework Agreement and omitted from the leases and agreement for lease. PoTLL maintains its position that it requires protection from the use of the DCO's

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				compulsory acquisition powers and has included standard such provisions within the draft protective provisions provided as Appendix 4 to its WR.
8.		8. POLICY COMPLIANCE [Submission omitted due to length]	The Applicant acknowledges PoTLL's representation regarding policy compliance. The Applicant agrees the Ports NPS is a potentially important and relevant consideration. The Applicant's approach to this consideration is set out in Chapter 7 Section 7.2 of the Planning Statement [Application Document APP-495]. The Applicant will continue to engage and respond through existing dialogue.	PoTLL welcomes the Applicant's acknowledgement and agreement that the Ports NPS is a potentially important and relevant consideration. PoTLL is working with the Port of London Authority (PLA) to draft an agreed statement on how the LTC Scheme complies with the Ports NPS and the relevant marine plan policy (the South East Marine Plan). PoTLL and the PLA anticipate submitting this statement at Deadline 3.
9.		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	The Applicant understands PoTLL's position and is currently reviewing Article 18.	PoTLL welcomes that the Applicant is reviewing Article 18, and notes that this is a change of approach to that taken up to and during Issue Specific Hearing 2. PoTLL has provided further detail as to the reason the protective provisions for the benefit of the PLA are insufficient to adequately protect PoTLL's statutory undertaking at row 29 in Table 1 of Appendix 4 to its WR [REP1-274]. PoTLL has also included protection from Article 18 within the draft protective provisions contained in Appendix 9 to its WR, at paragraph 141.

Row	Heading	Matter	Applicant Response	PoTLL Comment
		<p>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.</p>		
10		<p>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.</p> <p>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</p>	<p>The Applicant acknowledges PoTLL's in principle support for the Project. The Applicant has been in close dialogue with PoTLL regarding the RR, SoCG and the Principal Areas of Disagreement. The Applicant notes, in addition to the above, the Principal Areas of Disagreement has been used as the basis for specific discussions and meetings to progress the issues expressed. This work is ongoing and will assist in updating the SoCG.</p>	<p>Comment noted. PoTLL welcomes further discussions and hopes that an agreement with the Applicant can be reached before the end of Examination.</p>

Row	Heading	Matter	Applicant Response	PoTLL Comment
		<p>considered by the Examining Authority to be an objection made by PoTLL under section 127 of PA 2008.</p> <p>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.</p>		

APPENDIX 2: DEHENNA DAVISON MP LETTER 20 MARCH 2023 RE THAMES FREEPORT



Department for Levelling Up,
Housing & Communities

Dehenna Davison MP
Minister for Levelling Up
2 Marsham Street
London
SW1P 4DF

Angus Brendan MacNeil MP
International Trade Committee
House of Commons
London
SW1A 0AA

20th March 2023

Dear Angus,

Thames Freeport receives final government approval

I am glad to inform you that Thames Freeport has received final government approval. This is an important landmark for Thames Freeport and the wider Freeport programme, as we near final approval of all English Freeports have been approved. This sends a clear message: the Government is backing these areas to grow and prosper.

As you know, Freeports are at the forefront of levelling up and a key part of this Government's economic strategy. Thames Freeport will now receive up to £25 million seed funding over the coming years, and potentially hundreds of millions in locally retained business rates to upgrade local infrastructure and stimulate regeneration. This is alongside generous tax reliefs and a simplified customs procedure, all backed by a package of trade and innovation support for businesses locating there.

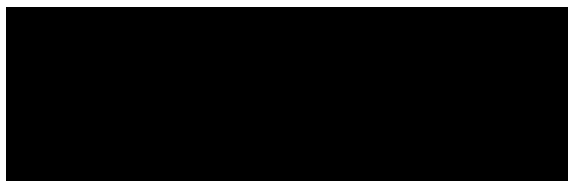
This will allow Thames to build on its global shipping connections and proximity to Europe's largest consumer market by catalysing investment into the region's ports and doubling their capacity. The Thames Freeport will enable multi-modal transit onto the UK's networks, including connections to the A13/M25, national rail network, and the ability to take goods off road and on river to London wharves. This will nurture the supportive ecosystem with South Essex and Thames Estuary business parks and ensure complementary investment in supply chain industries.

This is only the beginning of the journey - we will now work closely with Thames Freeport to ensure it has the support it needs from government to deliver transformational benefits for the local area.

This is a hugely exciting time for the Freeports programme. Further to this latest development in England, we have also recently announced two successful Green Freeports in Scotland and we will be announcing the outcome from the Welsh competition in the coming months. Discussions continue with our stakeholders in Northern Ireland about how we can extend the benefits associated with the Freeport programme there.

Freeports will bring opportunity and prosperity to the communities that need it most. We want to raise awareness of these benefits, at home and globally, and challenge some common misperceptions about Freeports. If you would like to be involved and support Thames Freeport and the wider Freeport programme, please get in touch with my office.

With every good wish,



DEHENNA DAVISON MP