



Lower Thames Crossing

5.4.2.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Port of Tilbury London Limited (Tracked changes version)

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APFP Regulation 5(2)(q)

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Volume 5

DATE: December 2023
DEADLINE: 10

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Planning Inspectorate Scheme Ref: TR010032
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VERSION: 3.0

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Revision history

Version	Date	Submitted at
1.0	31 October 2022	DCO Application
2.0	24 August 2023	Deadline 3
<u>3.0</u>	<u>20 December 2023</u>	<u>Deadline 10</u>

Status of the Statement of Common Ground

This is the Final Agreed Statement of Common Ground between (1) National Highways (the Applicant) and (2) Port of Tilbury London Limited.

Both Parties have reached agreement on the status of all 40 matters. Of the 40 matters contained within, nine matters are agreed, 12 matters are not agreed and 19 remain under discussion as they are subject to ongoing negotiation between the Parties and the matter is capable of resolution by way of a Legal Agreement.

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On behalf of the Applicant

Name	[REDACTED]
Position	[REDACTED]
Organisation	National Highways
Signature	[REDACTED]

On behalf of Port of Tilbury London Limited

Name	[REDACTED]
Position	[REDACTED]
Organisation	Port of Tilbury London Limited
Signature	[REDACTED]

Subject: RE: Statement of Common Ground between (1) Natic

We agree to the Socg in its present form and look forward to r

Kind regards.

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Lower Thames Crossing

5.4.2.2 Final Agreed Statement of Common Ground between (1) National Highways and (2) Port of Tilbury London Limited (Tracked changes version)

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1 Introduction

1.1 Purpose of the Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed A122 Lower Thames Crossing (the Project) made by National Highways Limited (the Applicant) to the Secretary of State for Transport (Secretary of State) under section 37 of the Planning Act 2008 on 31 October 2022.
- 1.1.2 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the Applicant and Port of Tilbury London Limited, and where agreement has not been reached.
- 1.1.3 This **final** version of the SoCG has been submitted at Examination Deadline **10**.

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1.2 Principal Areas of Disagreement

- 1.2.1 On **19** December 2022 the **Examining** Authority made some early procedural decisions to assist the Applicant, potential Interested Parties and themselves to prepare for the Examination of the DCO application.
- 1.2.2 One of these procedural decisions was to use a tracker recording Principal Areas of Disagreement in Summary (PADS).
- 1.2.3 The PADS Tracker would provide a record of those principal matters of disagreement emerging from the SoCG and should be updated alongside the SoCG as appropriate throughout the Examination with the expectation that a revised PADS Tracker should be submitted at every Examination deadline.
- 1.2.4 This SoCG should be read in conjunction with the **final** Port of Tilbury London Limited PADS submitted as **part of PoTLL's Deadline 10 submission**.

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1.3 Terminology

- 1.3.1 In the '**Final position on matters**' table in Section 2 of this SoCG, "Matter not agreed" indicates agreement on the matter could not be reached following significant engagement, and "Matter **agreed**" indicates where the issue has now been resolved.
- 1.3.2 **The term "Matter Under Discussion**" is used, despite this being the Final SoCG, to reflect areas that are subject to ongoing negotiation between the Parties, where the matter is capable of resolution by way of a Legal Agreement. The Parties will provide an update for the Secretary of State to consider in determining the DCO Application on the extent of agreement of these Matters Under Discussion, at the same time as advising the Secretary of State if an agreement has been entered into. These matters are indicated with an (*).**

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2 Matters

2.1 Final position on matters

2.1.1 Following submission of the previous version of this SoCG between the Applicant and Port of Tilbury London Limited, further discussions on the outstanding matters have taken place. These discussions are summarised in Table A.1, in Appendix A and the outcome of these discussions is summarised below.

2.1.2 Table 2.1 details and presents the matters which have been agreed, not agreed, or are under discussion between (1) the Applicant and (2) Port of Tilbury London Limited.

2.1.3 In Table 2.1, relevant issues relating to the dDCO articles and Requirements in Schedule 2 to the dDCO have been identified under the heading 'DCO and Consents'.

2.1.4 In the column 'Item No' in Table 2.1, 'RRN' indicates a matter entered into the SoCG as a result of content in the Relevant Representation, 'RRE' indicates an existing SoCG matter that was also raised in the Relevant Representation, 'WR' indicates where a matter has been raised as a result of a Written Representation, and 'DLX' indicates a new matter added during examination at/around that deadline.

2.1.5 At Examination Deadline 10, there are 40 matters in total, of which, nine, are agreed, 12, are not agreed and 19, remain under discussion as they are subject to ongoing negotiation between the Parties and the matter is capable of resolution by way of a Legal Agreement.

2.1.6 This is the final Statement of Common Ground between the Applicant and Port of Tilbury London Limited.

Table 2.1 Final position on Matters

Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
DCO and Consents					

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Deleted: Table A.1

Deleted: <#>Further to the matters raised in the original SoCG, Port of Tilbury London Limited submitted further comments on the DCO application which has led to new matters being included in Table 2.1. The new matters are 2.1.2, 2.1.12, 2.1.13, 2.1.16, 2.1.18, 2.1.19, 2.1.20, 2.1.32.

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
Development Consent Order (DCO) – drafting, requirements and control plans	2.1.1 RRE	<p>Above and beyond the specific documents referred to below, PoTLL wishes to be identified in the DCO as consultee in respect of the development of the following documents post-consent within the Freeport Area:</p> <ul style="list-style-type: none"> Outline LEMP <u>(to the extent that the Legal Agreement is not entered into)</u> Framework Construction Travel Plan <u>(irrespective of whether the Legal Agreement is entered into, as explained in its Deadline 9 submissions)</u> Preliminary Navigational Risk Assessment (pNRA) Code of Construction Practice (CoCP), Materials Handling Plans and Outline Site Waste Management Plan <u>(irrespective of whether the Legal Agreement is entered into, as explained in its Deadline 9 submissions)</u> <p>PoTLL also wish to be a member of any formal group structures that are created by these documents in the Tilbury area. <u>In particular, these groups include the Travel Plan Liaison Group, Traffic</u></p>	<p><u>Preliminary Navigational Risk Assessment (pNRA)</u>, – the Applicant understands that PoTLL wishes to be consulted on the NRA. PoTLL has been consulted on the pNRA. The Applicant has updated the Protective Provisions to allow for PoTLL's consultation on the NRA. This is provided at para 98(3) of the Port of London Authority (PLA) PPs:</p> <p>(3) Insofar as the plans submitted under sub-paragraph (2) include a navigational risk assessment, the undertaker must consult the Port of Tilbury London Limited on that assessment prior to submission under sub-paragraph (2) and that assessment must be in all material respects in accordance with the preliminary navigational risk assessment (including where relevant the incorporation of embedded risk controls and additional risk controls identified in the preliminary navigational risk assessment) unless otherwise agreed by the PLA.</p> <p>The Applicant has considered the request from PoTLL. <u>The Applicant agrees to (and has updated the Protective Provisions at Part 10 of Schedule 14 of</u></p>	<p><u>Preliminary Navigational Risk Assessment [Document Reference 7.15 (3)]</u> oLEMP <u>[Document Reference 6.7 (7)]</u> Framework Construction Travel Plan <u>[Document Reference 7.13 (6)]</u> <u>ES Appendix 2.2: CoCP [Document Reference 6.3 ES Appendix 2.2 (9)]</u> <u>ES Appendix 2.2 Annex A: outline Site Waste Management Plan</u></p>	Matter Not Agreed

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ES Figure 2.4: Environmental Masterplan [APP-159 to APP-168]¶
oLEMP [REP1-173]¶

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
		<p><u>Management Forum, materials handling sub-group of the Traffic Management Forum, and the advisory group pursuant to the LEMP (in all cases irrespective of whether the Legal Agreement is entered into, as explained in its Deadline 9 submissions.</u></p> <p><u>Inclusion of a requirement to consult PoTLL on various control documents within the protective provisions is welcomed but creates uncertainty as to when PoTLL will be consulted, the extent of that consultation, and what action the Applicant must take in respect of PoTLL's consultation responses. This position provides less comfort than the simple inclusion of PoTLL as a consultee in the relevant control documents.</u></p>	<p>the draft DCO to) include PoTLL as a consultee on the following documents in respect of any matters or measures within them that may affect the Port:</p> <ul style="list-style-type: none"> • <u>Framework Construction Travel Plan (Requirement 11) – this document sets out how workforce access to construction sites will be managed, to encourage the use of active transport and public transport, and to reduce individual car journeys. Where access is provided onto or through PoTLL land, PoTLL will be a consultee on the resulting plan to ensure a 'joined up' approach both within and without the Port.</u> • <u>ES Appendix 2.2: Code of Construction Practice (CoCP) and Annex B: outline Materials Handling Plan (oMHP) – the Applicant will consult PoTLL on the development of EMP2 (Requirement 4) and (in particular) on any materials handling plan forming part of EMP2.</u> <p><u>The Applicant has made further provision for PoTLL to be consulted in respect of:</u></p> <ul style="list-style-type: none"> • <u>Any written scheme and programme for the remediation of contaminated</u> 	<p><u>[Document Reference 6.3 ES Appendix 2.2 Annex A (4)]</u> ES Appendix 2.2 Annex B: oMHP <u>[Document Reference 6.3 ES Appendix 2.2 Annex B (5)]</u>,</p>	

Deleted: ES Appendix 2.2: CoCP [REP-157]¶
ES Appendix 2.2 Annex A: outline Site Waste Management Plan [APP-337]¶
ES Appendix 2.2 Annex B: oMHP [APP-338]¶

Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p><u>land under Requirement 6(2) where this may affect the Port.</u></p> <ul style="list-style-type: none"> <u>Fencing under Requirement 12.</u> <u>Any Security Management Plan, Emergency Preparedness Plan and Noise and Vibration Management Plan required by the Preliminary Works EMP (Annex C to the Code of Construction Practice).</u> <u>The submission of an environmental scheme under article 68.</u> <p>The Applicant does not consider it appropriate to include PoTLL as a consultee on the requirements associated with the other identified control documents. Appropriate controls are included in the Protective Provisions. To address the particular requests:</p> <ul style="list-style-type: none"> <u>Landscape and Ecology Management Plan (oLEMP) – this document provides</u> controls over how the environmental mitigation will be developed and implemented. In so far as there is an interface it is proposed that this is dealt with through the <u>Legal Agreement</u>. <p><u>The Applicant considers that engagement with PoTLL on matters relating to landscape and ecology should occur</u></p>		

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 ES Appendix 2.2: CoCP, Annex A: outline Site Waste Management Plan and Annex B: outline Materials Handling Plan (oMHP) – the Applicant understands PoTLL is requesting to be a consultee on the EMP2 and the appropriate subsidiary plans to it (which will be based on outline application documents). Where there is an interface between the Project and PoTLL's operations or the Freeport area in respect of these matters, the Applicant considers that the Protective Provisions and Legal Agreement will ensure that PoTLL will have adequate protections. It is therefore not considered appropriate for PoTLL to be a consultee in the DCO Requirements.¶

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			through the framework of the legal agreement, rather than by including PoTLL on the group secured by the oLEMP, the Landscape and Ecology Management Plan Advisory Group.		
Article 18	2.1.2 RRN	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. This is fundamentally unacceptable to PoTLL, as it gives the Applicant carte blanche powers to interfere with the workings of an operational port and exceed the stated need for article 18 to stop new moorings from being established within the Order limits. As such, to the extent this article remains in the DCO, 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.	<u>At Deadline 3 the Applicant provided updated Protective Provisions which included protection from the operation of article 18 within Port land without PoTLL's consent.</u> <u>The Applicant understands this matter is resolved.</u>	<u>Draft DCO [Document Reference 3.1 (11)].</u>	Matter Agreed,
Land and Compulsory acquisition					

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Deleted: The Applicant understands PoTLL's position and is currently reviewing the provision related to Article 18 of the dDCO proposed by PoTLL in the set of proposed draft protective provisions included at Appendix 9 to PoTLL's Written Representation.

Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
Fort Road	2.1.3 RRE	<p>PoTLL believes that Fort Road should not be included as a potential construction haul route. If it is to be included, PoTLL would like a commitment that traffic would not use this road unless the infrastructure corridor is not available.</p> <p>In respect of the tunnel boring machine, and any other abnormal indivisible loads that cannot fit beneath the Fort Road bridge, these must only use Fort Road to the extent required to transfer onto Substation Road, by the same route to be used for AILs associated with the Thurrock Flexible Generation Plant.</p> <p><u>These matters can be managed by the Legal Agreement, however the concerns have not been addressed in a 'without agreement' world.</u></p>	<p>The preferred route for traffic is along the infrastructure corridor. However, the Applicant does not want to preclude the use of Fort Road on an intermittent and as needed basis.</p> <p>This is reflected within the oTMPfC.</p> <p>The use of Fort Road will serve as a connection to access Station Road. In addition, provision has been retained to access Substation Road via Fort Road for the delivery of the tunnel boring machine (TBM) to the northern tunnel entrance compound. This is required due to the <u>movement</u> of some of the <u>largest</u> TBM components being restricted by the underbridge along the Infrastructure Corridor. Such deliveries would be under an Abnormal <u>Indivisible</u> Load protocol. Lines of communication on construction traffic interfacing with the PoTLL operations are currently under discussion with the PoTLL and to be agreed via a side agreement.</p> <p><u>Any movement of abnormal loads would be undertaken in accordance with standard protocols, which would typically involve advance notification to the police, relevant highways authorities, and the</u></p>	oTMPfC <u>[Document Reference 7.14 (9)]</u>	Matter Under Discussion *

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p>owners of any bridges and other structures.</p> <p>In the context of HGVs associated with the Project, the use of Fort Road as a connection access Station Road will serve as a secondary access for HGVs. Secondary routes as defined in the OTMPfC are routes that "would be used by HGV construction traffic throughout construction but would be used far less frequently than the other routes". For the Northern tunnel Entrance Compound other routes meaning the primary route via infrastructure corridor and Substation Road.</p> <p>Access to the Northern tunnel entrance compound and Station Road compound is limited to Station Road or Substation Road. The use of the latter entails an interface of travelling through the port operations, which is an aspect being managed through a side agreement to ensure the port's operations are safeguarded while fulfilling the project's requirements. Given this scenario, the project recognises the significance of maintaining an alternative route via Station Road. This alternative route not</p>		

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			<p>only safeguards port operations (by providing an alternative) but also affords the project a measure of adaptability that corresponds with unforeseen events as well as its logistical and construction phasing demands.</p> <p><u>PoTLL and the Applicant have agreed the use of Fort Road and this is being documented in the in the Legal Agreement between the parties.</u></p> <p><u>The Applicant understands that PoTLL's agreement is conditional upon the Legal Agreement being entered into; the status therefore remains as Matter Under Discussion, albeit an agreement on how this issue will be managed has been reached within the draft Legal Agreement.</u></p>		
Removal of spur for wastewater	2.1.4	PoTLL agrees that this spur should not be included within the Order Limits.	The Order Limits have been redrawn and the spur for wastewater has been removed.	<p><u>Draft DCO [Document Reference 3.1 (11)]</u></p> <p><u>Land Plans [Document Reference 2.2 (8)]</u></p>	Matter Agreed

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Land Plans [REP1-006, REP1-009 and REP1-011]

Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
Inclusion of the infrastructure corridor and space for potential utilities works	2.1.5 RRE	<p>PoTLL agrees to the inclusion of the infrastructure corridor but would like to see the boundary refined as much as possible to reduce interference to the use of corridor by Port traffic and surety that there is no interference with the requirements set out in the Tilbury 2 DCO (in particular the Tilbury2 Landscape and Ecology Management Plan (LEMP)).</p> <p>PoTLL disagree with the need to lay MU27 below Substation Road and note that this may be impossible due to the constrained location, lack of available ducting, presence of the conveyor underground, interference with PoTLL's ability to maintain utilities already laid in this area, and issues relating to the depth at which MU27 would need to be buried.</p> <p><u>The revised protective provisions for PoTLL provided at Deadline 10 provide comfort in respect of Work No. MU27, alongside additional protections in the Legal Agreement.</u></p> <p><u>However the interaction with the Tilbury 2 DCO obligations is not satisfactorily managed in a 'without agreement' world and PoTLL has therefore provided</u></p>	<p>The Applicant notes PoTLL's agreement to the inclusion of the infrastructure corridor, subject to agreement being reached to ensure minimum interference with vehicular use of the infrastructure corridor.</p> <p>The use of the infrastructure corridor will be included in the terms between the parties intended to be agreed in relation to access within the Legal Agreement referred to below, building on what has already been agreed to date on this matter.</p> <p>The Applicant has also reduced the Order Limits within Tilbury2 land for utility works.</p> <p>The Applicant has reviewed the potential for impacts on the Tilbury2 DCO, namely the LEMP, and has confirmed there are no impacts within the infrastructure corridor. <u>The Protective Provisions, through inclusion of a plan approval right for works on Port land, would provide further protection to PoTLL with respect to their Tilbury2 obligations.</u></p> <p>The Applicant has addressed the possibility for any inconsistency between any works authorised under the order</p>	<p><u>Draft DCO [Document Reference 3.1 (11)]</u></p> <p><u>Land Plans [Document Reference 2.2 (8)]</u></p>	Matter Under Discussion*

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
		<u>drafting to deal with this in the Protective Provisions submitted at Deadline 10.</u>	and the Port of Tilbury (Expansion) Order 2019. See article 55(5) of the draft DCO. <u>The Applicant has explained that work no MU27, in its opinion, can be delivered within the provisions contained within the DCO application within Substation Road. The Applicant acknowledges those concerns of PoTLL that may arise dependent on the detailed design and construction proposals, and the implications regarding the associated rights and protective covenants that may impede PoTLL's ability to retain unfettered access along Substation Road. The Applicant believes those revised Protective Provisions suffice. The Applicant will further develop those proposals prior to the commencement of Work No MU27 and engage with PoTLL accordingly.</u> <u>This detail of how Work No. MU27 (or an appropriate alternative, if required) is to be managed is one of the matters covered in the Legal Agreement being negotiated between the parties.</u>		
Removal of East Tilbury jetty from the Project's Order Limits	2.1.6	PoTLL agrees that the East Tilbury jetty should be removed from the Project's Order Limits.	The Applicant has removed East Tilbury jetty from the Project's Order Limits.	<u>Draft DCO [Document Reference 3.1 (11)]</u>	Matter Agreed

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
Permanently required land and overlapping requirements	2.1.7 RRE	<p>PoTLL is concerned to ensure that the permanent land take and design of the Project should facilitate and not preclude the development of the Thames Freeport.</p> <p><u>The revised protective provisions included within the draft DCO submitted at Deadline 10 provide comfort that PoTLL can ensure easements are not placed so as to impede Freeport development, with the role of land powers more generally remaining under discussion.</u></p> <p><u>Further provisions are required to manage potential adverse impacts and serious detriment and PoTLL continues to consider that consent for land powers (as separate from plan approval powers) should form part of the made DCO, in line with precedent, and to avoid serious detriment. PoTLL has set out its position in respect of the potential impact of the Applicant's land powers in its Deadline 10 submissions.</u></p>	<p><u>Tilbury Fields</u></p> <p>The Applicant revised <u>its</u> proposals following the Community Impacts Consultation to remove an area of environmental mitigation (Tilbury Fields) that conflicted with the proposed Thames Freeport development.</p> <p><u>Other Requirements</u></p> <p><u>Preliminary</u> designs <u>regarding</u> the (LTC) <u>Project's</u> footprint have been presented and agreed between the two parties, <u>and</u> these were put through public consultation in Spring 2022, with PoTLL retaining riverside frontage. The parties are discussing the process for the on-going development of the Project within the Freeport area and where and how this should be documented.</p> <p><u>The Applicant's position regarding PoTLL's request for a right of consent over the exercise of land powers was set out at Annex B of Post-event submissions, including written submission of oral comments, for CAH3 [Document Reference REP9-129]. In that submission the Applicant explained that one of the reasons a consent provision is unnecessary is because PoTLL already enjoys adequate control over the</u></p>	N/A	Matter Under Discussion*

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
			<p><u>construction of the authorised development. The Applicant is required to secure PoTLL's approval before carrying out any 'specified work' on port land or exercising any 'specified function' in relation to port land. Since this submission was made the Applicant has further amended the protective provisions included in the dDCO for the protection of PoTLL, in discussion with PoTLL, giving PoTLL additional controls, including, significantly, that the Applicant must obtain PoTLL's approval of the proposed terms for any 'specified easement', being an easement (or other property right) that burdens land within the port. This addition further strengthens the Applicant's argument that a general right of consent over land powers is unnecessary for the protection of PoTLL's interests and further, would place a disproportionate burden upon the Applicant.</u></p> <p><u>Permanent Land Take (Pink land)</u> The Applicant has secured the land within PoTLL's ownership by way of an option agreement.</p>		
Temporarily required land	2.1.8 RRE	PoTLL is concerned that the Project's construction will use temporarily a large	The temporary land requirements for the Project's northern tunnel entrance	N/A	Matter Not Agreed

Deleted: The Applicant has shared with the PoTLL draft Protective Provisions for the benefit of PoTLL which includes plan approval before carrying out any specified work on PoTLL land. PoTLL has provided an alternative set of Protective Provisions at Appendix 9 to PoTLL's Written Representation which the Applicant is currently considering.

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
and overlapping requirements – General		<p>area of land that is proposed for Freeport development; and requires certainty (or at the very least processes to reach certainty) on when that land is used, when it is handed back, and how use of it is managed.</p> <p><u>Further provisions are required to manage potential adverse impacts and serious detriment and PoTLL continues to consider that consent for land powers (as separate from plan approval powers) should form part of the made DCO, in line with precedent, and to avoid serious detriment.</u></p> <p><u>The Legal Agreement will be able to manage issues relating to hand-back of land, but until this is completed, PoTLL has put forward provisions in the Deadline 10 Protective Provisions to ensure it has adequate protection.</u></p>	<p>compound and associated haul roads overlap with the Port's programme to develop the same parcels of land by 2026 to secure Freeport benefits.</p> <p>The Applicant is working with PoTLL to agree suitable arrangements to confirm how requirements of both programmes can be accommodated and how this will be documented.</p> <p><u>The plan approval right which PoTLL has the benefit of within the Protective Provisions includes approval in respect of the temporary compounds CA5 and CA5A insofar as these are situated on PoTLL land. The reinstatement of PoTLL's land used, and arrangements for the temporary occupation of land beyond those areas already leased by the Applicant from PoTLL, in the construction of the Project is one of the matters covered in the Legal Agreement being negotiated between the parties. The Applicant's position regarding PoTLL's request for a right of consent over the exercise of land powers is set out at Annex B of Post-event submissions, including written submission of oral comments, for CAH3 [Document Reference REP9-129]. In that submission the Applicant explained that one of the</u></p>		

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			<u>reasons a consent provision is unnecessary is because PoTLL already enjoys adequate control over the construction of the authorised development.</u>		
Temporarily required land and overlapping requirements – Construction Materials and Aggregates Terminal (CMAT) and associated land	2.1.9 RRE	National Highways have proposed to construct a temporary conveyor between the Tilbury2 site Construction Materials and Aggregates Terminal (CMAT) area and associated rail sidings and the Project's construction areas. TARMAC has a long-term lease (25yrs) and is developing the site. The proposed works may interfere with existing operation and planned works. Any approval right for PoTLL must ensure that commercial, as well as statutory, requirements can be applied to whether or not PoTLL consents to such a conveyor. PoTLL requires certainty as to whether the Applicant will install a conveyor, what other use is intended for this land, and the removal of this land from the Order limits if no conveyor or other use is committed. <u>PoTLL has set out its position in respect of the potential impact of the Applicant's land powers in its Deadline 10 submissions.</u>	The Applicant understands PoTLL's positions, however, this land is required to allow for a potential conveyor in this area, which may bring efficiencies to the Project's construction. Any proposed conveyor would be subject to agreement with PoTLL. The Applicant is working with PoTLL to agree suitable arrangements to confirm how requirements of both programmes can be accommodated and how this will be documented. <u>The Applicant has continued to engage with PoTLL, this matter is covered in the Legal Agreement being negotiated between the parties. It is now agreed that:</u> <u>1. A conveyor for the transport of materials from the CMAT is acceptable to the Port if impacts are managed.</u> <u>2. An approval function for the Port in relation to final detailed design for the conveyor route is accepted by the</u>	N/A	Matter Under Discussion*

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			<u>Applicant, and provided for by the Protective Provisions.</u> <u>In the eventuality that the conveyer is not proposed by the Project, the Applicant shall not seek possession or rights over those relevant parts of the land.</u>		
Land associated with UKPN power connections at Substation Road	2.1.10 RRE	<p>PoTLL are working with National Highways to identify and agree future electrical connections at Substation Road for the Project and future port development.</p> <p>PoTLL seeks to ensure that any rights (including easements) associated with these connections do not interfere with its existing rights and easements.</p> <p><u>As such, PoTLL welcomes that it will have plan approval rights over such works, but still needs to ensure that it has protections against land powers, to ensure that the conditions of any easements do not interfere with its existing rights and easements, or preclude existing operations or future development.</u></p> <p><u>As such, it welcomes that the revised protective provisions provided at Deadline 10 include a right of approval for easements affecting PoTLL's land that enable it to protect existing</u></p>	<p>The Applicant and PoTLL are in discussions about <u>a permanent power supply from the existing UKPN Tilbury substation (Work No MU27) and the potential for a new temporary power supply (Work No MUT4) including a new UKPN substation (Work No MUT5) to service the temporary power requirements within the northern tunnel entrance compound.</u> The Applicant is seeking temporary <u>possession</u> and permanent <u>acquisition of rights</u> along Substation Road <u>associated with these electricity connections.</u> Details of the rights sought are set out in the draft DCO and the Land Plans.</p> <p><u>A site visit was conducted on 7 November 2023. The Applicant, PoTLL and UK Power Networks representatives, observed the possible routes of Work No MU27 (the permanent power supply to the North Portal Tunnel Services</u></p>	<p><u>Draft DCO [Document Reference 3.1 (11)]</u> <u>Land Plans [Document Reference 2.2 (8)].</u></p>	Matter Under Discussion*

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Land Plans [REP1-006, REP1-009 and REP1-011]

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		<p><u>interests within and around Substation Road. However, additional protection is needed from the rest of the land powers in the DCO to ensure no adverse effects arise. PoTLL has set out its position in respect of the potential impact of the Applicant's land powers in its Deadline 10 submissions.</u></p>	<p><u>Building). Further technical information was provided by PoTLL (15 November 2023) for the Applicant to consider during the development of the detailed design. The Applicant considers that the proposed routes and provisions within the DCO are technically feasible and, as such, this matter is agreed for the purposes of the DCO, however, discussion will continue between the parties throughout the detailed design. The Applicant's position regarding PoTLL's request for a right of consent over the exercise of land powers is set out at Annex B of Post-event submissions, including written submission of oral comments, for CAH3 [Document Reference REP9-129]. In that submission the Applicant explained that one of the reasons a consent provision is unnecessary is because PoTLL already enjoys adequate control over the construction of the authorised development. Since this submission was made the Applicant has further amended the protective provisions included in the dDCO for the protection of PoTLL, in discussion with PoTLL, giving PoTLL additional controls, including, significantly, such that the Applicant must</u></p>		

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			<u>obtain PoTLL's approval of the proposed terms for any 'specified easement', being an easement (or other property right) that burdens land within the Port. This addition further strengthens the Applicant's argument that a general right of consent over land powers is unnecessary for the protection of PoTLL's interests and further, would place a disproportionate burden upon the Applicant.</u>		
Commercial discussions – Part of Shed Marsh & Tilbury Power Station	2.1.11 RRE	PoTLL is engaging with National Highways in commercial discussion regarding the use of this land for Project construction purposes. PoTLL has a range of interests and future development plans for this land that need to be considered. The land agreements reserved various <u>other</u> matters to the framework agreement <u>in respect of the management of this land alongside existing property arrangements</u> , and these matters remain under discussion <u>as part of the Legal Agreement discussions</u> .	Leases have now been entered into between the Applicant and PoTLL <u>regarding</u> land required for construction within these areas. <u>Matter</u> agreed with regard to the use of PoTLL's land.	N/A	Matter Under Discussion*
Land 'hand back' to enable	2.1.12 RRN	How land temporarily possessed by LTC will be 'handed back' to PoTLL to enable its use for Freoport purposes.	Article 35 of the draft DCO makes provision for handing back land which is subject to temporary possession. In	<u>Draft DCO Document</u>	Matter Under Discussion*

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Freeport purposes		<p>The draft DCO provides a binary position where the land is restored or temporary works are left in situ. There needs to be provision for PoTLL and National Highways to agree to partial restoration, or restoration in an alternative form.</p> <p><u>At Deadline 10, PoTLL has put forward Protective Provisions drafting to deal with a no-Agreement scenario.</u></p>	<p>particular, article 35(5) 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'.</p> <p><u>In addition, the reinstatement of PoTLL's land used in the construction of the Project is one of the matters covered in the Legal Agreement being negotiated between the parties.</u></p>	<u>Reference 3.1 (11)</u>	
Earthworks associated with Work Nos 5 and CA3	2.1.13 RRN	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, <u>as part of the Legal Agreement</u> . The Applicant continues to work with PoTLL on these issues.	<u>N/A</u>	Matter Under Discussion*
Construction					
Outline Materials Handling Plan and use of the CMAT facility (and PoTLL	2.1.14 RRE	PoTLL considers that the Outline Materials Handling Plan (MHP) should mandate the use of the CMAT for the Project given the planning, traffic and environmental benefits that would arise, noting that if the DCO required it, then	The Applicant cannot require the use of the CMAT. It is the Applicant's intention to evaluate the Project's Tunnels and Approaches tenderers' proposals with an appropriate focus on the future contractor's management of	<u>ES Appendix 2.2 Annex B: oMHP Document Reference 6.3 ES Appendix</u>	Matter Under Discussion *

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facilities more generally)		<p>this would need to be reflected in National Highways' contracts and so would overcome any procurement law-related concerns National Highways may have.</p> <p>PoTLL welcome, the improved drafting in relation to the use of river transport and port facilities in the MHP and the requirement for consent to derogate from the baseline commitment, however concerns remain that the measures are, insufficient to ensure that these benefits are secured and that PoTLL has an insufficient role in the on-going management of these commitments. PoTLL also welcomes the proposals being discussed as part of the Legal Agreement on the CMAT issue, although still consider that CMAT use should be mandated.</p>	<p>environmental impacts arising from undertaking the works.</p> <p>As is normal practice, both the quality and commercial elements of the tenders will be tested. The testing is undertaken in order to determine which tenderer has offered the Most Economically Advantageous Tender (MEAT). The procurement process is required to be compliant with the Public Contracts Regulations 2015.</p> <p>Please also see 2.1.9 RRE (Temporarily required land and overlapping requirements – Construction Materials and Aggregates Terminal (CMAT) and associated land).</p> <p>This matter is being addressed in the legal agreement being negotiation between the parties.</p>	2.2 Annex B (5) ,	
Preliminary Navigational Risk Assessment (pNRA)	2.1.15 RRE	PoTLL has no further comments , in respect of the PNRA ,	The Applicant has finalised all matters in relation to the pNRA with the PLA, as reflected in their SoCG, and has ensured that PoTLL will be a consultee on further iterations of the NRA.	Draft DCO Document Reference 3.1 (11)] ES Appendix 2.2 Annex B: oMHP Document	Matter Agreed

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¶ PoTLL confirm that it is in regular contact with the PLA

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Recent changes

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The Applicant awaits any

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				Reference 6.3 ES Appendix 2.2 Annex B (5) pNRA [Document Reference 7.15 (3)]	
St Andrews Road	2.1.16 RRN	<p>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 <i>“temporarily closed, altered, diverted or restricted”</i>.</p> <p>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</p>	<p>Powers to temporarily alter, close and or diverted along the specified length of St Andrews Road are set out in, Schedule 3, article 12 of the draft DCO.</p> <p>The traffic management measures and works related to A1089 are detailed in the oTMPfC Table 4.2, 4.3 & A.4. Project works along the A1089 are part of the PoTLL protocol being discussed as part of the Legal Agreement, and the Applicant is actively collaborating with PoTLL to address construction traffic issues through the establishment of a working group, facilitating issue resolution and escalation.</p> <p>The Applicant has further addressed this issue through the Legal Agreement which includes agreed protocols on the management of temporary traffic</p>	<p>Transport Assessment [REP4-148 to REP4-152] oTMPfC [Document Reference 7.14 (9)]</p>	Matter Under Discussion*

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		<p>so extensive that, had the restriction not been removed, it would have required the Port to close.</p> <p>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.</p> <p><u>PoTLL notes that the protective provisions provided by the Applicant at Deadline 10 include drafting on this matter, and has, in its deadline 10 response, set out its position on this matter.</u></p>	<p><u>management measures that interface with PoTLL operations.</u></p>		
Limits of deviation (tunnel depth)	2.1.17	PoTLL supports the PLA's position on the proposed 12.5m below chart datum depth.	<p>The Applicant considers the proposed 12.5m chart datum with 0.5m over dredge <u>to be</u> acceptable, and has agreed to remove the powers in article 6 of the <u>dDCQ</u> that allows the Secretary of State to amend the upper constraint on the level of the tunnel. This provides an absolute with regard to the vertical Limit of Deviation <u>(LoD)</u>.</p> <p>The Applicant, working with the Port of London Authority (PLA) and PoTLL, have agreed that the navigable channel of the</p>	N/A	Matter Agreed

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			River Thames can be maintained by the PLA to a depth of at least 12.5m below chart datum and that the undertaker must allow for potential over-dredge of 0.5m. Restriction on upward LoD for tunnel alignment has been agreed.		
Impacts from updated tunnel depth	2.1.18 DL3 WR	PoTLL are concerned that it will not be possible to construct the tunnel in a safe manner, or without there being new or materially different environmental effects. The concern arises in relation to adequacy of cover required above the tunnel for safe construction, maintenance and operation, without affecting the continuing use and operation of the river. <u>PoTLL can confirm it is content on this issue on the basis that PLA have confirmed the same.</u>	The Applicant is proposing that the tunnel is at a depth sufficient to allow the ongoing maintenance of the navigable channel, with provisions for a future navigational channel to be dredged to a depth of at least 12.5m below chart datum with 0.5m over dredge. <u>PoTLL has stated that its concerns on this would be withdrawn once the PLA confirmed the same. The PLA has advised it is content with the protections provided to it in the DCO, therefore the Applicant considers this item is now agreed.</u>	<u>N/A</u>	Matter <u>Agreed</u>
<u>Tunnelling disputes</u>	<u>2.1.18a DL9A</u>	<u>PoTLL are concerned that the Applicant is including provision in the protective provisions for the benefit of the Port of London Authority to allow the Secretary of State to overrule any arbitration decision around tunnelling, making the dispute resolution process defective. This prioritises economic considerations</u>	<u>The Applicant's position is set out in Section 6 of Applicant's response to Interested Parties' comments on the dDCO at D7 [REP8-116] and in Section 10 Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]. The Applicant would note</u>	<u>Applicant's responses to Interested Parties' comments on the draft DCO at Deadline 6 [REP7-190]</u>	<u>Matter Not Agreed</u>

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		<p><u>and the timely construction of the Project above safety considerations around the construction of the tunnel, and undermines the role of technical expertise in assessing these aspects, to the detriment of river users, the ports and the Project itself. It is not appropriate for the Applicant to be able to lobby the Secretary of State to overrule a technical arbitration and there is no basis for this provision where a suitable arbitration process is already provided for and whose decision the parties must abide by. PoTLL's position in this matter is set out in its Deadline 9A submission.</u></p>	<p><u>that, it is necessary to ensure that the Project can be commenced in circumstances where the arbitration becomes protracted or is delayed. Arbitration may impose a delay involving significant time and cost at public expense. In the Applicant's view, the Secretary of State for Transport, as the Government department responsible for regulating both ports and highways, is competent to discharge this function. Indeed, UK-wide maritime transport policy is managed by the Department for Transport. Any suggestion that the Secretary of State for Transport (whose functions relating to ports include appointment of several members of the PLA board) is not competent should be rejected by the Examining Authority, as contrary to the clear functions of the Secretary of State. The requirement for Secretary of State approval (and a requirement to provide the PLA's representations) ensures appropriate safeguards are in place in the case of a dispute.</u></p>	<p><u>Applicant's response to Interested Parties' comments on the dDCO at D7 [REP8-116]</u></p> <p><u>Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</u></p>	
Construction impacts on Tilbury2	2.1.19 RRN	PoTLL are also concerned about the impact of having a large construction project immediately adjacent to their current harbour limits, with a large	Section 2.5 of ES Appendix 2.2: CoCP includes controls regulating conduct of contractors. Specifically, contractors are required to sign up to and adhere to the	<u>ES Appendix 2.2: CoCP [Document Reference 6.3]</u>	Matter Under Discussion*

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		<p>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 and the Applicant has not explained how it envisages its operational proposals will interact with the byelaws at an operational and practical level.</p> <p><u>The Legal Agreement will include measures to deal with this, but PoTLL has provided drafting for its Protective Provisions at Deadline 10 to cater or the no-Agreement scenario.</u></p>	<p>Considerate Constructors Scheme. The CCS is a national scheme that promotes good practice on construction sites through its codes of considerate practice, these commit <u>the operators of</u> registered sites to be considerate and good neighbours, as well as being respectful, environmentally conscious, responsible and accountable.</p> <p>The Applicant has recognised that there are local byelaws applicable in the Tilbury2 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.</p> <p><u>As set out in 2.1.1 above, the Applicant has agreed to consult PoTLL on the site-specific travel plans relevant to PoTLL.</u></p> <p><u>Furthermore, the Legal Agreement being negotiated between the parties provides a framework for the management of the interface of the construction of the Project with PoTLL undertaking land including in respect of construction workers.</u></p>	<u>ES Appendix 2.2 (9)]</u> ↓	
Freeport proposals and PoTLL ability to	2.1.20 RRN	PoTLL would like to further understand how:	The Project will be required to deliver, under Schedule 2 Requirement 8 of the draft DCO, the details of the foul water	<u>Draft DCO Document</u>	Matter Under Discussion*

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deal with future requirements		<ul style="list-style-type: none"> Construction and operational drainage and how they will be future proofed and interact with PoTLL's Freeport proposals; The emergency evacuation procedures for the tunnel given the Northern Portal is located adjacent to the Freeport land; The development of utility provisions and commitments must include PoTLL as a party in order to ensure PoTLL's ability to deal with future requirements. <u>PoTLL welcomes the updated drafting within the Deadline 10 Protective Provisions dealing with this point, but has made submissions at Deadline 10 requiring more (and PoTLL would submit, the appropriate) consultation and input from PoTLL on these matters, including the approval of land powers.</u> 	<p>and drainage system for approval by the <u>Secretary of State</u>. These drainage plans will require the management of drainage within the Order Limits, and <u>that</u> any off-site discharges are appropriately controlled.</p> <p>In addition, <u>within the CoCP, the Register of Environmental Actions and Commitments (REAC)</u> requirement RDWE012 states: 'Drainage infrastructure and treatment systems would be maintained in accordance with <u>the National Highways'</u> 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 safeguard surface and groundwater quality.'</p> <p>Emergency evacuation procedures for the tunnel, given the location is close to 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><u>Reference 3.1 (11)</u> <u>ES Appendix 2.2: CoCP [Document Reference 6.3 ES Appendix 2.2 (9)]</u> <u>Design Principles [Document Reference 7.5 (7)]</u></p>	

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			<p>In addition, paragraph 6.9.1 of ES Appendix 2.2: CoCP requires the Contractors to prepare emergency preparedness procedures for each worksite. It also requires consultation with the emergency services and other relevant stakeholders in development of these procedures. Paragraph 6.9.2 of the CoCP requires these procedures be reviewed quarterly, or where there is a change in procedure, <u>whichever is sooner. As set out in 2.1.1 above, paragraph 133 of Schedule 14 to the draft DCO has been updated to ensure that PoTLL is consulted on the emergency preparedness plan (amongst others).</u></p> <p>In relation to utilities works, paragraph <u>132</u> of Schedule 14 to the draft DCO <u>provides that the Applicant must obtain PoTLL's approval for any 'specified easement', being an easement (or other property right) under the Order that burdens land within the Port.</u></p> <p><u>Paragraph 131 of Schedule 14 to the draft DCO further</u> provides that '<i>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</i></p>		

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			<i>the specified work must not begin except in accordance with such plans as have been approved in writing by PoTLL'. In this context, 'specified work' includes the proposed utilities works over PoTLL's land. <u>The Applicant has worked and continues to work with Statutory Undertakers to forecast demands and allow the Statutory Undertakers to manage their network for the benefit of all users.</u></i>		
Traffic and economics					
Traffic assessment	2.1.21 RRE	PoTLL requests that National Highways include the Freeport in its traffic modelling so the impacts can be fully understood. PoTLL considers that the Uncertainty Log being developed in December 2021 should not preclude Freeport information being provided as (a) Freeport Designation was granted in November 2021 and (b) PoTLL has provided the traffic information required in any event, even if it was not noted in the Uncertainty Log'	The proposed Freeport development is not included within the Project's core transport model as the development had not achieved the level of certainty required for inclusion when the Uncertainty Log for the <u>Applicant's</u> DCO application was finalised on 30 September 2021.	N/A	Matter <u>Not Agreed</u> ,
Construction phase impacts on the Asda	2.1.22 RRE	PoTLL is concerned that impacts of the Project's construction flows, both with and without Freeport traffic, on the Asda	The Applicant has undertaken an assessment of the impact of <u>the Project's</u> construction on the road network and has	<u>oTMPfC Document</u>	Matter <u>Not Agreed</u> ,

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Roundabout, M25 J30, A13, and A1089.		<p>Roundabout and surrounding links is not yet known, and whether mitigation will be required.</p> <p>PoTLL notes that 'without Freeport' construction traffic flows from the LTAM have been provided to it but that National Highways do not intend to perform junction modelling in relation to the Asda Roundabout.</p> <p>PoTLL would like to understand what the impacts are 'pre-mitigation' and consider it essential the junction is modelled in detail. The output of the LTAM does not provide any assessment of the junction operation and is inadequate to determine whether the impact would be acceptable.</p> <p>PoTLL note that construction traffic (worker) has been routed away from ASDA roundabout with no information on how such an arrangement would operate. PoTLL is concerned this 'assumption' in the LTAM model would have local road impacts and in practice would not be adhered to. As such, the LTAM model is underestimating the increases at ASDA roundabout.</p> <p>PoTLL also does not currently consider that it has been demonstrated that the</p>	<p>shared the changes in traffic flow with PoTLL. This does not include Freeport traffic as the development does not have a sufficient level of certainty to be included in the Uncertainty Log.</p> <p>The Applicant recognises that there would be impacts during construction and has provided a set of controls through the Outline Traffic Management Plan for Construction (oTMPfC), item 2.1.26, and is willing to discuss these with PoTLL.</p> <p>The Applicant considers that the current forecast impacts at the Asda Roundabout represent a reasonable worst case for the purpose of the assessment. As set out at paragraph 3.2.2 part b) of Localised Traffic Modelling, the Applicant would work with the Contractors to develop more detailed construction plans, with a more refined construction plan designed to reduce the impacts on the highway network. The Applicant has secured controls on this process, through the oTMPfC. However as noted at paragraph 5.1.3 of Localised Traffic Modelling, the Applicant submitted a microsimulation model of A1089 Asda roundabout during the critical construction traffic modelling phases, at Deadline 3.</p>	<p>Reference 7.14 (9)]</p> <p>Localised Traffic Modelling [REP6A-004]</p> <p>Applicant's submissions on construction impacts and management at Asda roundabout [REP6-123]</p> <p>Asda roundabout construction impact assessment [REP6A-008]</p> <p>Asda roundabout draft Requirement [REP8-164]</p> <p>Applicant's Responses to Interested Parties'</p>	

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		<p>mitigation measures proposed by National Highways in the Outline Traffic Management Plan for Construction will be sufficient to ensure that there are no impacts to the traffic movements associated with the 24/7 operation of the Port of Tilbury and Tilbury2 and considers that more proactive and urgent measures may be required.</p> <p><u>The ASDA roundabout</u> is a vital part of access to the Port and thus needs to be resolved as soon as possible. Measures above and beyond 'standard' traffic management plan measures and appropriate assessment of the impact are therefore required.</p> <p><u>The Applicant's modelling and submissions confirm the extent of PoTLL's concerns are well-founded and that it is likely that the measures in the oTMPfC will be insufficient to effectively mitigate and control the impacts of construction traffic at the ASDA roundabout during construction.</u></p> <p><u>PoTLL has provided a draft Requirement that seeks to ensure that the Applicant confirms the efficacy of non-physical intervention before</u></p>	<p><u>At Deadline 6, the Applicant submitted Applicant's submissions on construction impacts and management at Asda roundabout which provided a summary of the modelling undertaken, a detailed review of temporary traffic management measure RNTM05 (on the Brentwood Road corridor), proposals for further modelling at the junction and a review of a proposed mitigation scheme submitted by PoTLL for the junction.</u></p> <p><u>At Deadline 6A the Applicant submitted Asda roundabout construction impact assessment which provided further information on the nature of the traffic impacts at the Asda roundabout during the construction of the Project, and demonstrated how the control plan would work to deliver appropriate controls to manage these impacts.</u></p> <p><u>This issue is being discussed as part of ongoing side agreement discussions, the draft traffic management protocol also has been subsumed into this agreement.</u></p> <p><u>The Applicant does not agree with PoTLL's assertion that the modelling submitted by the Applicant for the Asda</u></p>	<p><u>comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</u></p>	

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Localised Traffic Modelling [REP1-187]

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		<p><u>impacts are caused, and provides physical mitigation at the ASDA roundabout in the event non-physical controls are ineffective at controlling impacts. PoTLL are mindful that the Applicant has not demonstrated/modelled the impacts of controlling the volume and timing of the traffic in the way it proposes on local traffic in the area, and it cannot therefore be confirmed that this approach will be successful at mitigating impacts to this junction, nor what this means for the length of LTC construction overall. This is required to provide comfort that the Applicant will have the necessary powers to effectively mitigate the impacts of its construction traffic.</u></p>	<p><u>roundabout during the construction phase of the Project confirms that their concerns are "well-founded" or that it is likely that "the measures in the oTMPfC will be insufficient". The Applicant has set out that the construction phase assessment is highly precautionary with a number of assumptions that mean it presents a worst case. Notwithstanding this, the Applicant has clearly set out within Asda roundabout construction impact assessment that it would have the ability to manage its construction activities so as to control the volume and timing of Project-related construction traffic. In addition, within Chapter 4 of Applicant's submissions on construction impacts and management at Asda roundabout, the Applicant has provided a worked example of how, through the more detailed construction planning that would be undertaken for all works, the impact on the road network arising from temporary traffic management measures can be reduced.</u></p> <p><u>The oTMPfC sets out that real time monitoring data would be used to enable the Applicant to monitor, minimise and mitigate if necessary adverse impacts on the road network. The mechanism to</u></p>		

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			<p><u>consult with stakeholders would be via the Traffic Management Forum, of which PoTLL would be a part.</u></p> <p><u>The Applicant does not consider that a requirement in relation to the Asda roundabout is necessary, and within Asda roundabout construction impact assessment, the Applicant has set out how the controls are already secured within the Applicant's control documents.</u></p>		
Construction phase: Impacts of construction activities taking place on traffic flows	2.1.23 RRE	<p>PoTLL is concerned to ensure that the impacts of the carrying out of construction on traffic flows are assessed and suitably mitigated, given the length of the Project's construction period (e.g. reductions of capacity on the A1089 in creating the new A13/A1089 junction).</p> <p><u>PoTLL has provided a draft Requirement that seeks to ensure that the Applicant confirms the efficacy of non-physical intervention before impacts are caused, and provides physical mitigation at the ASDA roundabout in the event non-physical controls are ineffective at controlling impacts. This is required to provide comfort that the Applicant will have the</u></p>	<p>The Applicant has undertaken a detailed assessment of the impact of construction on the road network and has shared the changes in traffic flow with PoTLL.</p> <p>The Applicant <u>has</u> also provided information on the temporary traffic management measures required to deliver the Project, including the A1089 throughout the duration of the Project's construction.</p> <p>The Applicant recognises that there would be impacts during construction and have provided a set of controls through the oTMPfC.</p> <p>The Applicant is working with PoTLL on a traffic protocol to assist in a collaborative working group, issue resolution and</p>	<p><u>oTMPfC [Document Reference 7.14 (9)] Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</u></p>	<p>Matter <u>Not Agreed</u>,</p>

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		<u>necessary powers to effectively mitigate the impacts of its construction traffic.</u>	escalation pathway for construction traffic. <u>As set out in matter 2.1.22 above, the Applicant does not consider that a Requirement in relation to Asda roundabout is necessary.</u>		
Construction Traffic Impacts – Flows on Substation Road, including AILs both with and without Freeport traffic.	2.1.24 RRE	PoTLL needs to understand this to ensure that Tilbury2 is able to operate efficiently and to meet the needs of customers.	Forecast traffic flows along Substation Road have been shared. As the delivery plans develop, this information will be updated. The principles of AIL movements have been discussed. The overall number of AILs is anticipated to be small.	N/A	Matter Under Discussion*
Operational Impacts: A13, including A1089 and Asda Roundabout	2.1.25	PoTLL is concerned about impacts on these links and junctions as, in the absence of a Tilbury Link Road (TLR) the A1089 remains the only means of connection for port traffic to the wider SRN. Direct connectivity to the A1089 from the A13 Westbound is being removed by the LTC Scheme. In order to maintain existing levels of connectivity it is essential that the operation of this key junction and these links is not adversely affected and that this is demonstrated through thorough and transparent assessment.	The Applicant has provided traffic model information showing the forecast flows through the Asda roundabout, the M25 junction 30 and the A13/A1089 interchange during construction and operation. This information has been provided both in public consultation and in direct engagement. The Applicant's understanding of PoTLL's position is that <u>while</u> the forecast impacts have been provided, they would like to see more detailed modelling to show how M25 junction 30 operates with	<u>Transport Assessment [REP4-148 to REP4-152]</u> <u>Localised Traffic Modelling [REP6A-004]</u> <u>Localised Traffic Modelling Appendix B - Orsett Cock VISSIM Local</u>	Matter Under Discussion*

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
		<p>PoTLL is concerned that whilst traffic flow information has been provided for these links, no junction modelling has been undertaken for Asda Roundabout, which is a key potential bottleneck in the absence of a Tilbury Link Road.</p> <p>It is also noted that traffic flow information does not include Freeport development and PoTLL wishes to understand the impacts of the Freeport on these links and junctions.</p> <p>In general terms, PoTLL considers that the LTC should be required to assess (through local modelling) and mitigate the impacts that are required as a result of the Project.</p> <p><u>PoTLL notes that the Applicant's assessments demonstrate that the LTC causes impacts to the performance of the junction. PoTLL therefore considers that the operational impacts from the Orsett Cock Junction (forming a necessary part of connectivity from the Project and the A13 from the East) should be managed through the Orsett Cock Requirement, as set out in the Joint Position Statement forming Appendix D to Thurrock Council's Deadline 9 submission.</u></p>	<p>the reduced traffic flows, as well as modelling of the A13/A1089.</p> <p>The Applicant has shared local junction modelling for the A13/A1089/A122 junction (including the Orsett Cock junction).</p> <p>The Applicant considers that the changes in flows through the Asda roundabout during operation resulting from the operation of the Project would be small, and acceptable. Flows through the M25 junction 30 would reduce following the opening of the Project, improving the performance of that junction. <u>While</u>, there would be some adverse impacts on selected movements on the A13/A1089, overall PoTLL benefits from better linkages onto the <u>strategic road network (SRN)</u> and reduced flows on the A13 west of the Project.</p> <p>The Applicant notes the comments from PoTLL (both from their WR and from their letter dated 26 June 2023) relating to localised traffic modelling. At Deadline 1, the Applicant submitted Localised Traffic Modelling, which sets out the Applicant's approach to this type of modelling, the modelling hierarchy, where localised</p>	<p><u>Model Validation Report [REP1-188 and REP6A-006]</u></p> <p><u>Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</u></p> <p><u>Deadline 9 Hearing Actions [REP9-279]</u></p>	

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
		<u>In respect of the Tilbury Link Road, PoTLL considers that passive provision for this should be included in the form of Requirement included in [REP8-166 Appendix D].</u>	<p>traffic modelling had been undertaken and the criteria that the Applicant has, and would continue, to apply in this regard. As a series of Appendices, the Applicant also submitted detailed modelling reports for a number of junctions, including the Orsett Cock junction.</p> <p><u>The Applicant has developed Requirement 18 within the draft Development Consent Order, which necessitates the provision of a scheme to ensure and optimise the performance of Orsett Cock roundabout during operation.</u></p> <p><u>The Applicant has set out a response to the proposed alternative drafting of this requirement by PoTLL at section 6.2 of Deadline 9 Hearing Actions [REP9-279].</u></p> <p><u>The Applicant has included Requirement 17, which secures passive provision for the Tilbury Link Road. A response to the proposed drafting from PoTLL for this Requirement is provided in sections 11.3 and 12.1 of the 3 Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275].</u></p>		
Orsett Cock junction	2.1.26 RRE	PoTLL have expressed concern about the connectivity of the Orsett Cock junction and consequential impacts on	The Applicant has provided outputs from the Project's transport model, setting out	<u>Localised Traffic Modelling</u>	<u>Matter Not Agreed.</u>

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		<p>traffic on roads connecting the Port of Tilbury to the road network.</p> <p>National Highways local modelling indicates unacceptable levels of congestion through the roundabout as a consequence of the Project, significantly greater than in the 'do minimum' scenario. This will lead to delay for traffic heading to the PoTLL from both the LTC and A13 East.</p> <p>National Highways has identified initial mitigation measures, although these do not resolve the congestion issues and will not be included in the DCO. PoTLL is concerned that suitable mitigation will not be delivered at this junction.</p> <p>Following publication of local junction modelling of Orsett Cock junction at Deadline 1, PoTLL consider that this demonstrates that the LTC Scheme will cause congestion affecting the Port once the LTC Scheme is operational, and mitigation is required for this.</p> <p>This demonstrates that there are adverse impacts to traffic movements</p>	<p>the changes in traffic flows forecast on the network.</p> <p>The Applicant modified the connectivity at Orsett Cock to provide better connectivity from the <u>Project</u> to the A1089, while leaving in place the free flow links from the A1089 onto the <u>Project</u>.</p> <p>The Applicant carried out local junction modelling of Orsett Cock junction and <u>has</u> shared the results of this with PoTLL. This was also submitted at Examination Deadline one.</p> <p>The Applicant considers that the traffic flows through Orsett Cock are appropriately represented in the information supplied with the application and <u>that</u> this is supported by the submissions at Deadline 1. Travel times to and from the Port were also provided within annex A, Appendix E of 9.53 Comments on WRs. These demonstrate the benefits <u>of the LTC</u> to Port of Tilbury.</p> <p><u>The Applicant has introduced Requirement 18 into the draft DCO, which secures a scheme that optimises the operation of Orsett Cock roundabout. The Applicant does not agree with the proposed Requirement addressing the same matter submitted by PoTLL, and</u></p>	<p><u>Appendix B - Orsett Cock VISSIM Local Model Validation Report [REP1-188 and REP6A-006]</u></p> <p><u>Comments on WRs Appendix E – Ports [REP2-050]</u></p> <p><u>Applicant's responses to Interested Parties' Comments on the draft DCO at Deadline 6 [REP7-190]</u></p>	

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		<p>associated with the Port of Tilbury arising from the Scheme designs.</p> <p><u>PoTLL notes that the Applicant's assessments demonstrate that the LTC causes impacts to the performance of the junction. PoTLL therefore considers that the operational impacts from the Orsett Cock Junction (forming a necessary part of connectivity from the Project and the A13 from the East) should be managed through the Orsett Cock Requirement, as set out in the Joint Position Statement forming Appendix D to Thurrock Council's Deadline 9 submission.</u></p>	<p><u>provided reasoning at within the Applicant's responses to Interested Parties' Comments on the draft DCO at Deadline 6.</u></p> <p><u>Requirement 18 has been updated in the draft DCO submitted at Deadline 9 following a meeting with relevant stakeholders, with the revised Requirement 18 narrowing the outstanding issues between the Applicant and PoTLL and other stakeholders.</u></p>		
Free flow traffic conditions at A13/A1089 interchange	2.1.27 RRE	<p>Reinstatement of direct link between A13 westbound and A1089 southbound. Removal of the existing direct link will reduce the connectivity of the PoTLL to the SRN and is contrary to the LTC scheme objectives as well as the objectives of the NPS for National Networks and the NPS for Ports. Connectivity is reduced through the removal of the direct connection and routing of traffic via the congested Orsett Cock roundabout.</p>	<p>The modification to the connections between the A1089, the A13 and Orsett Cock roundabout were made to address concerns about traffic moving onto the local road network. While the Applicant recognises that the modification removes the free-flowing connection between the A13 and the A1089, the change introduces better connections from the Project to the Port of Tilbury, by routing traffic along the A1089.</p>	N/A	Matter Not Agreed .

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Outline Traffic Management Plan for Construction	2.1.28	PoTLL would like to be a consultee on this document and to be a member of any traffic management forums created by that plan.	PoTLL was consulted on the oTMPfC and the Applicant has named PoTLL in the oTMPfC as a consultee to the post-consent Traffic Management Plan for Construction. The Applicant agrees to PoTLL becoming a member of relevant traffic management forums created by the oTMPfC.	oTMPfC [Document Reference 7.14 (9)],	Matter Agreed
Access onto Project site from Substation Road	2.1.29	PoTLL wishes for a coordinated approach that maximises outcomes for all.	The Applicant is engaging with PoTLL and Thurrock Flexible Generation Limited (formerly Thurrock Power Limited) in relation to a shared access road off Substation Road, running for approximately 400m. The Applicant will continue to regularly engage with PoTLL on the site levels required to facilitate the use of the access road and the appropriate arrangements for its use for all parties as part of the Legal Agreement .	N/A	Matter Under Discussion*
Port of Tilbury 1 egress for Abnormal Indivisible Load (AIL)	2.1.30 RRE	PoTLL have advised that abnormal indivisible load (AIL) egress from Tilbury1 will require a police escort using a right turn from Tilbury1 onto St Andrews Road.	The Applicant agrees to the use of a right-hand turn under police escort for AILs leaving Tilbury1.	N/A	Matter Agreed
Management of Construction Traffic Parking	2.1.31 RRE	This is a well-known issue in Thurrock where PoTLL often is blamed for tenant issues. PoTLL want to ensure that LTC	The oTMPfC commits to the use of Automatic Number Plate Recognition and logistics / vehicle booking system. This	oTMPfC [Document	Matter Not Agreed ,

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outside of PoT areas.		<p>construction traffic parking – whether for staff or for HGVs awaiting processing, is managed appropriately through the DCO documentation.</p> <p><u>The oTMPfC does not restrict LTC construction traffic from parking outside of the construction compound in the local area.</u></p> <p><u>The oMHP envisages queueing and holding points at site entrances; there are no areas within Tilbury2 to stack vehicles and HGVs unable to enter the compound will back up within the Port. This is another reason why PoTLL should be a consultee on all relevant management plans.</u></p>	<p>enables <u>the Applicant</u> to review data to monitor compliance and recognise where non-compliance may be an issue. The Traffic Management Forum provides the forum to review this data with stakeholders (including PoTLL and Local Highways Authorities) to trigger interventions.</p> <p>Controls over staff travel are set out in the Framework Construction Travel Plan, <u>which seeks to reduce the impact of worker travel through encouraging the workforce to make use of public transport, worker shuttle buses and active modes (where safe to do so).</u> The Applicant does not consider it <u>appropriate, at this stage, to propose parking restrictions on the workforce, but as noted above, the Traffic Management Forum as well as the bespoke forum with PoTLL would enable any issues to be discussed and interventions agreed if required.</u></p> <p><u>The purpose of implementing holding points at compounds is to effectively control the potential risk of construction vehicles causing queues on the highway. The Applicant recognises that the access</u></p>	<p><u>Reference 7.14 (9)]</u> <u>Framework Construction Travel Plan [Document Reference 7.13 (6)]</u></p>	

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			<u>arrangements through Substation Road to reach the northern tunnel entrance compound and Station Road compound create a distinctive interface between the Project and PoTLL that requires careful management. As a result, the draft agreement includes a comprehensive traffic management protocol, that includes the coordination construction vehicles with Port traffic so as to minimise conflicts and disruptions and safeguard the uninterrupted operation of the port throughout the Project's delivery phase.</u>		
Work No. 5 to account for future traffic flows (or 'future proofing' to do so)	2.1.32 RRN	The design of the junctions and roads contained within Work No. 5 to account for future traffic flows (or 'future proofing' to do so). <u>PoTLL's preferred draft Requirement 17 providing passive provision for the Tilbury Link Road is found in [REP8-164] at paragraph 2.30.</u>	Work No. <u>5D, 5E and 5F constitute</u> 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 development which is not directly required for the Project. <u>Passive provision for a future Tilbury Link Road is secured by the new Requirement 17 in Schedule 14 to the draft DCO.</u>	<u>Draft DCO [Document Reference 3.1 (11)]</u>	Matter <u>Not Agreed</u>

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			<u>subject to a proposal for a Tilbury Link Road having been brought forward by the time of the final iteration of detailed design.</u>		

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Wider network impacts					

Tilbury Link Road (TLR)	2.1.33 RRE	<p>PoTLL remains of the view that the Tilbury Link Road should be included within the application for the Project. As a minimum, the junction should be constructed to the necessary standards and design parameters to enable the Tilbury Link Road to be brought forward without physical changes to the junction layout being required.</p> <p><u>PoTLL's preferred draft Requirement 17 providing passive provision for the Tilbury Link Road is found in [REP8-164] at paragraph 2.30.</u></p>	<p>The Tilbury Link Road and junction do not form part of the Project and are not within the draft DCO.</p> <p>The operations and emergency access is not a junction open to the public. The operations and emergency access has not been designed specifically for any particular future connection into the local road network, however if the Local Authority or a third-party stakeholder is considering any future development, they would need to liaise with the National Highways Spatial Planning Team to develop their proposals. The operations and emergency access have been designed to appropriate DMRB standards. The suitability of the access to provide connectivity for specific aspects will have to be considered as those proposals are developed, following definition of the alignment and configuration of any connecting road(s).</p> <p><u>At Deadline 5 the Applicant provided an updated dDCO which included a requirement (dDCO, Schedule 2, Requirements, no.17) to assist in the passive provision of the Tilbury Link Road. At Deadline 6 PoTLL set out some proposed changes to the drafting of this Requirement, to which the Applicant provided a response in the Applicant's</u></p>	<p><u>Draft DCO [Document Reference 3.1 (11)] Applicant's response to Interested Parties Comments on the draft DCO at Deadline 6 [REP7-190] Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</u></p>	Matter Not Agreed
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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
			response to Interested Parties Comments on the draft DCO at Deadline 6 .		
Haul Road	2.1.34 RRE	<p>PoTLL's position is that the DCO should provide more active mechanisms which facilitate the legacy use of the haul road by PoTLL, and the proposed 'operational access' roads north of the northern portal at Tilbury. Suggested mechanisms were set out in PoTLL's Written Representation.</p> <p>PoTLL's preferred draft Requirement 17 providing passive provision for the Tilbury Link Road is found in [REP8-164] at paragraph 2.30.</p>	<p>The Applicant has reviewed the proposed mechanisms set out in PoTLL's response to the Local Refinement Consultation and does not agree that these should be incorporated in the DCO. In particular, it is not considered appropriate to designate the operational access roads as public highway, as requested by PoTLL. The designation as private means of access is aligned with the Project's intended usage, and designation of these roads as public highway could create uncertainty over the functionality of these roads being sought within the DCO.</p> <p>Furthermore, there are existing and robust frameworks that allow for the making of new highway connections onto the SRN. Creating a new and bespoke framework within the DCO, as proposed by PoTLL, would create unnecessary complication where a well understood process already exists.</p> <p>In relation to the haul road, the Applicant notes that article 35(5) of the draft DCO would permit this road to be left in situ post construction with the agreement of</p>	<p>Draft DCO [Document Reference 3.1 (11)] Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</p>	Matter Under Discussion*

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			<p>PoTLL as owner of the land in question. The parties are discussing the process and mechanisms for how such a handover would take place.</p> <p><u>At Deadline 5 the Applicant provided an updated dDCO which included a requirement (dDCO, Schedule 2, Requirements, no.17) to assist in the passive provision of the Tilbury Link Road.</u></p> <p><u>The haul road is being discussed as part of ongoing discussions for a legal agreement.</u></p>		
Operational impacts of the Project – the SRN in and around Tilbury	2.1.35 RRE	<p>PoTLL considers that the proposed strategy for dealing with operational impacts in the 'wider network impacts monitoring and management plan' is insufficient; the Project should be required to mitigate the modelled impacts of the Project on the wider network, not just monitor and 'maybe' react.</p> <p>This should include mitigating for the cumulative impacts of Freeport development, if that development is consented before the Project.</p>	<p>The Port of Tilbury would benefit from the provision of direct new free-flowing connections from the A1089 northbound onto the <u>Project</u>, from where traffic can travel on to the M25 at junction 29 and the A2 / M2 corridor. This would reduce journey times for traffic using these routes <u>compared to existing routes</u>. While no new direct and free-flowing connectivity is provided for traffic heading from the M25 southbound towards <u>the</u> Port of Tilbury, the relief to the M25 at junction 30 and the reduction of traffic on the A13 to the west of the <u>Project</u> means</p>	<p><u>Applicant's Responses to Interested Parties' comments on the Draft Development Consent Order at Deadline 8 [REP9-275]</u></p>	Matter Not Agreed

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
		<p>If it is considered that mitigation is not taken forward as part of the Project, PoTLL expects to be named as a stakeholder to be consulted on and engaged with as part of the Project's proposed 'wider network impacts monitoring and management plan'. PoTLL may also seek to make comment on and pursue changes to that plan and National Highways' approach to operational mitigation more widely, once it has seen and evaluated the information and data it is predicated on.</p> <p><u>PoTLL considers that the draft Requirement 'Wider highway network monitoring and mitigation', found as Annex A to Appendix D of Thurrock Council's Deadline 8 submission [REP8-166] should be included within the DCO to ensure that significant adverse impacts of the Scheme on the wider road network are mitigated.</u></p>	<p>that journey times along this route would also decrease.</p> <p>While the effects include adverse impacts on traffic flows on some parts of the network, resulting from road users taking advantage of the new routes and reduced journey times, these are outweighed by the beneficial impacts resulting from improved traffic flows elsewhere, at both a local and regional level. The Applicant has assessed the wider network impacts of the Project and has considered these against the requirements set out in the National Policy Statement for National Networks (Department for Transport, 2014), and considers that the adverse transport impacts are acceptable under this policy.</p> <p>The management of the SRN is the responsibility of the Applicant, and the remainder of the road network is the responsibility of other highway authorities. It is appropriate that only those authorities with accountability for the management of the road network be formally consulted on the relevant matters.</p>		
Terrestrial biodiversity					

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
Ecological mitigation	2.1.36 RRE	Freeport development ecological mitigation and compensation needs should be considered in the development of the Project's construction and ecological proposals, so they are not compromised and delivered.	<p><u>While</u>, it is noted that the Project's environmental mitigation proposals are not located within the footprint of the Freeport Area, the Applicant is currently considering a mechanism to formalise engagement between the Applicant and PoTLL on the future coordination of ecological mitigation in the area.</p> <p>The Application has met with PoTLL and further discussed the issues. In addition, the Applicant provided an ecological workshop between technical parties. The Applicant understands that PoTLL is further reviewing options.</p> <p><u>The Applicant and PoTLL have agreed a framework for a working group to manage the ecological interface between the Project and PoTLL Undertaking Land. This includes a commitment to not place ecological mitigation or compensation on PoTLL's land without PoTLL's agreement. This will form a part of the Legal Agreement being negotiated.</u></p>	N/A	Matter Under Discussion*
Tilbury2 ecological mitigation	2.1.37 RRE	PoTLL is concerned that the proposed temporary conveyor connection passes through Tilbury 2's ecological mitigation	The Applicant has reviewed the Tilbury2 LEMP mitigation and overlap with the Project. The Applicant has included a mitigation measure in the <u>REAC</u> , within ES Appendix 2.2: CoCP, associated with	<u>ES Appendix 2.2: CoCP Document Reference 6.3</u>	Matter <u>Agreed</u>

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
located east of the CMAT		<p>site that was required to be delivered pursuant to the Tilbury2 DCO.</p> <p>The Applicant should demonstrate that:</p> <ul style="list-style-type: none"> the land is required for the LTC Scheme to be implemented; and there is a compelling case in the public interest for the acquisition of this land. <p>If it is unable to do so, the Applicant should remove the land from the Order limits.</p> <p><u>PoTLL welcomes the controls put into the Application documentation, and is also seeking to provide practical mechanisms for dealing with this in the Legal Agreement.</u></p>	<p>the small area of overlap relating to the proposed project conveyor, intended to provide assurance that the Tilbury2 mitigation is protected.</p> <p>The proposed mitigation measure for the REAC has been provided to PoTLL for review and comment.</p> <p>The Applicant has addressed the possibility for any inconsistency between any works authorised under the order and the Port of Tilbury (Expansion) Order 2019. See article 55(5) of the draft DCO.</p>	<p><u>ES Appendix 2.2 (9)]</u> <u>Draft DCO [Document Reference 3.1 (11)]</u>,</p>	
Protective Provisions					
Protective Provisions	2.1.38 RRE	<p>The draft Protective Provisions included by the Applicant are insufficient to protect PoTLL's statutory undertaking from serious detriment. Alternative Protective Provisions were provided as Appendix 9 to PoTLL's Written Representation. PoTLL consider that it would be preferred if a number of matters included within these revised</p>	<p>The Applicant has prepared appropriate Protective Provisions for PoTLL for inclusion in the DCO and provided these to PoTLL. PoTLL provided an alternative proposed set of draft Protective Provisions at Appendix 9 to its Written Representation. <u>The Applicant considered and has subsequently updated the Protective Provisions to incorporate many of PoTLL's proposed amendments and has continued to revise</u></p>	<p><u>Draft DCO [Document Reference 3.1 (11)]</u>,</p>	Matter Under Discussion*

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Draft DCO [REP1-042]

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Topic	Item No.	Port of Tilbury London Limited Comment	The Applicant's Response	Application Document Reference	Status
		protective provisions were managed in detail by way of agreement. <u>The Protective Provisions are largely agreed in a 'with agreement' world. Further protections are required, in particular around protecting PoTLL from the use of land powers, managing contamination risk from preliminary works, and to ensure that PoTLL is a member of various relevant groups formed under the Control Documents. PoTLL are also mindful that additional provisions to manage a 'without agreement' world are necessary whilst no agreement has been entered into. PoTLL has provided drafting in respect of this at Deadline 10.</u>	<u>the Protective Provisions in response to PoTLL's further requested amendments. The Applicant considers that the revised Protective Provisions which have been included within the draft DCO submitted at Deadline 10 provide PoTLL with ample protection. The Applicant understands that this form of the Protective Provisions are largely agreed in a 'with agreement' scenario. The key outstanding matter is in relation to the inclusion of a 'consent' or 'veto' provision with respect to the exercise of compulsory acquisition and temporary possession powers. The Applicant's position on this point is set out at Annex B of Post-event submissions, including written submission of oral comments, for CAH3 [REP9-129] and within this SoCG.</u>		
Legal Agreement	2.1.39 RRE	<ul style="list-style-type: none"> PoTLL <u>welcomes</u> that <u>substantial progress on the Legal Agreement. The scope of that Agreement is now agreed</u> between the parties, <u>with discussions now continuing on the detailed provisions of it.</u> 	<ul style="list-style-type: none"> The Applicant <u>will continue to engage</u> with PoTLL in seeking to complete the <u>Legal Agreement.</u> 	N/A	Matter Under Discussion*

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Such agreement would sit alongside the DCO and associated Protective Provisions. The Applicant considers that such an agreement should incorporate:¶
Land arrangements – to agree and record the interaction of the Order limits with PoTLL's undertaking; including easements for utilities on terms similar to those previously agreed.¶
Arrangements for the Project's utilisation of Tilbury2 roads for access to the northern tunnel entrance compound on terms substantively agreed in the deed of access (to sit below the agreement).¶
Such approval to reflect the 'Approval of Plans' provision in the draft Protective Provisions proposed by the Applicant.¶
To include indemnities (where appropriate and required) and remediation of sites by both parties – including contamination issues...

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land arrangements (including easements for utilities and asset protection) for the interaction of the Order limits

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arrangements for the Project's utilisation of Tilbury2 roads for access to the northern construction compounds; ¶
PoTLL's approval of working arrangements for Project elements (including ecology) which may interfere with its undertaking or the future development of the Freeport;¶
PoTLL's involvement in the design of the Operational Access Roads and the design and handover of any Project haul roads in the Freeport area; and¶
key 'cross-issue' commercial terms.

Appendix A Engagement activity

A.1.1 The parties have been in regular contact in respect of the Project since 2017 and specifically since DCO submission. This engagement has covered all of the issues set out in this SoCG. This has included regular fortnightly meetings between the two organisations, exchanges of correspondence, and joint meetings with other stakeholders such as the PLA. They have also included discussions on the issues raised in PoTLL's Examination Deadline responses and the sharing of information from both parties where necessary.

A.1.2 A high-level summary of the engagement undertaken from 31 October 2022 to December, 2023 between National Highways and PoTLL is captured below
Table A.1.

Table A.1 Engagement activities between the Applicant and Port of Tilbury London Limited since the DCO Application was submitted on 31 October 2022

Date	Overview of Engagement Activities
06 March 2023	<u>Principal</u> , Areas of Disagreement Summary (PADS) Statement
15 March 2023	Depth of tunnel and restrictions in river (PLA also in attendance)
17 March 2023	Legal frameworks meeting
23 March 2023	Combined: traffic, ecology, and land and property meetings
29 March 2023	Combined: DCO and traffic issues meeting
04 April 2023	Depth of tunnel/scour protection meeting (PLA also in attendance)
06 April 2023	Land and property meeting
17 April 2023	Ecology meeting
20 April 2023	Combined: land and property meeting and traffic management meeting
27 April 2023	DCO and secured documents meeting
4 May 2023	Ecological Workshop
12 May 2023	Tripartite traffic management meeting (National Highways, Project Team and PoTLL)
12 June 2023	Traffic management and traffic protocol meeting
<u>06 July 2023</u>	<u>PoTLL/DP World - LTC Examining Authority site visit (ASI) discussion</u>
<u>25 September 2023</u>	<u>Orsett Cock Workshop</u>
<u>28 September</u>	<u>Amendments to Plot 21-10 & ISH7 Action - ASDA Roundabout</u>
<u>12 October 2023</u>	<u>Framework Agreement</u>
<u>02 November 2023</u>	<u>Framework Agreement</u>
<u>15 November 2023</u>	<u>Framework Agreement (legal representatives only)</u>
<u>4 December 2023</u>	<u>Discussion of the Orsett Cock Requirement with key stakeholders</u>
<u>5 December 2023</u>	<u>Framework Agreement</u>
<u>14 December 2023</u>	<u>Framework Agreement</u>

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Field Code Changed

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Appendix B Glossary

Term	Abbreviation	Explanation
Abnormal Indivisible Loads	AIL	Abnormal Indivisible Loads are vehicle movements that exceed the weight and/or dimensions contained in the Road Vehicles Regulations 1986.
Code of Construction Practice	CoCP	Control measures and standards to be implemented by the Project, including those to avoid or reduce environmental effects.
Development Consent Order	DCO	A DCO is a means of obtaining permission for developments categorised as Nationally Significant Infrastructure Projects (NSIP) under the Planning Act 2008.
Freeport Area	-	The land designated as part of the Thames Freeport in Tilbury in the Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021
Landscape and Ecology Management Plan	LEMP	A document which provides details on the delivery and management of the landscape and ecology elements identified in the Environmental Masterplan for the Project, including their success criteria.
Materials Handling Plan	MHP	The Materials Handling Plan sets out the approach and high-level principles for handling construction materials and waste on Project.
Navigational Risk Assessment	NRA	The objective of the Navigational Risk Assessment is to assess and quantify the navigation risk posed by the Project during its construction and operational phases.
Port of Tilbury London Limited	PoTLL	Port of Tilbury London Limited is the owner and operator of the Port of Tilbury which lies some 2km to the west of the proposed alignment of the Project route.
Register for Environmental Actions and Commitments	REAC	A document which identifies the environmental commitments that would be implemented during the construction and operational phases of the Project if the Development Consent Order is granted, and forms part of the Code of Construction Practice.
Road Vehicles (Authorisation of Special Types) (General) Order 2003	STGO	An order which allows the carriage of Abnormal Indivisible Loads which exceed the weight and/or dimensions contained in the Road Vehicles Regulations 1986.

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