



PORT OF
TILBURY
LONDON

Section 56(2) Planning Act 2008

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

for

Lower Thames Crossing

Planning Inspectorate Reference: TR010032

PORT OF TILBURY LONDON LIMITED

DEADLINE 10 SUBMISSIONS

Deadline 10: 20 December 2023

1. INTRODUCTION

- 1.1 As set out in PoTLL's submission made at Deadline 9A, due to the ongoing status of negotiations between the Applicant and PoTLL, it was agreed with the Applicant that the final Statement of Common Ground (SoCG) and final Principal Areas of Disagreement Summary Statement (PADSS) would be submitted at Deadline 10.
- 1.2 In order to assist the Examining Authority, we have provided the final PADSS as a separate document. This sets out the main areas that remain outstanding, and includes a column setting out the extent to which this matter may be managed or resolved by the Framework Agreement that is subject to ongoing negotiation and by PoTLL's preferred form of protective provisions in **Appendix 1**. For the avoidance of doubt, PoTLL confirms that the Framework Agreement is not yet agreed.
- 1.3 PoTLL has also provided comments on the DCO and Control Documents, to the extent that these were subject to outstanding negotiation at Deadline 9A. These submissions, including references to the protective provisions, should be read alongside the final PADSS.
- 1.4 PoTLL is mindful that the Applicant is submitting its final draft DCO at Deadline 10, which incorporates a number of agreed changes that were omitted from the draft DCO submitted at Deadline 9. PoTLL has also submitted as part of its Deadline 10 submissions (in Appendix 1 to this document) its preferred protective provisions.
- 1.5 In order that it is clear when referring to finalised versions of the protective provisions, the protective provisions within the Applicant's draft DCO submitted at Deadline 10 are referred to as the "**D10PPs**". PoTLL's preferred protective provisions, contained at Appendix 1 to this document, are referred to as "**PoTLL's PPs**".

2. DRAFT DEVELOPMENT CONSENT ORDER (**[REP9-108]** INCLUDING THAT SUBMITTED AT DEADLINE 10)

- 2.1 Article 68 of the draft DCO (interface with waste operation permits) is stated to apply where "the undertaker carries out an authorised activity which would give rise to inconsistency or conflict with an existing permit".
- 2.2 It is not clear from the use of "carries out" and the definition of "authorised activity" if this will apply to preliminary works. "Carries out" is not defined in the Order and the definition of "authorised activity" in article 68 does not refer to preliminary works. It is therefore wholly unclear if this will apply to all preliminary works, only preliminary or other works that constitute a "material operation" under section 56(4) of the Town and Country Planning Act 1990, or only the works within the definition of "commence".
- 2.3 PoTLL is mindful that waste operation permits covered by this article include those on its land and within the main north portal construction compound (Work No. CA5), and that the current operator of those permits is PoTLL's tenant, with whom it is in active negotiations about how the land in question is managed. PoTLL is therefore keen to ensure that there is certainty that this provision will apply to all preliminary works given that these involve activities which could interfere with those existing waste operation permits (such as the laying of apparatus, undertaking site clearance and ground investigations, and receiving and erecting construction equipment).
- 2.4 PoTLL also considers that it should be consulted on any "environmental scheme" sought to be approved under article 68 in respect of PoTLL's land, so as to ensure that the environmental scheme does not impact upon PoTLL's operations or ability to develop the land in the future.
- 2.5 Whilst the Applicant has accepted the latter point in the D10PPs, it has not accepted that it should be made clear in the DCO (including in the protective provisions for PoTLL) that article 68 applies to preliminary works, which PoTLL considers is not acceptable in the circumstances of the Port.

2.6 **Resolution:** PoTLL therefore considers that a new paragraph within the Permitting section of the protective provisions (as paragraph 145 of PoTLL's PPs) should be added to the Order, as follows:

"Within the Port, the meaning of "authorised activity" in article 68 (interface with waste operation permits) shall be construed as including the carrying out of any preliminary works."

2.7 In a similar vein, PoTLL is concerned that Requirement 6 (contaminated land and groundwater), which deals with the remediation of contaminated land, does not clearly apply to preliminary works when, given the existence of permitted sites on PoTLL's land, it is clearly a risk that contaminated land could be found. For the same reasons, PoTLL considers that the coverage of Requirement 6 to preliminary works should be made explicit within the DCO.

2.8 **Resolution:** PoTLL therefore considers that a new paragraph within the Consultation section of the protective provisions (paragraph 134(2) of PoTLL's PPs) should be added to the Order, as follows:

"(2) Within the Port—

(a) the definition of 'carrying out' in Requirement 6(2) is to be construed as applying to the preliminary works;"

2.9 PoTLL confirms that PoTLL's PPs submitted at Deadline 10 include the drafting proposed above.

2.10 PoTLL is also mindful that Requirement 6 is only triggered in circumstances where contaminated land is found that is not previously identified in the environmental statement. In view of the ongoing waste permit operations, it is unclear if contamination found within the North Portal compound would fall within this Requirement and be subject to the requirement for a risk assessment and, where necessary, a written scheme and programme for remedial measures. This is why PoTLL has sought, in PoTLL's PPs, to ensure that the main works REAC measures relating to contamination also apply to the preliminary works (noting that they would apply in any event to the main works). Please see paragraph 134(2)(b) of PoTLL's PPs.

3. CONTROL DOCUMENTS

3.1 PoTLL confirms that it maintains its position, set out in [\[REP8-164\]](#), in respect of the Control Documents. PoTLL had sought to address its concerns about being a member of various groups set up under the control documents within PoTLL's PPs (see below at paragraph 4.9). The Applicant has rejected these changes without providing any explanation for this.

3.2 PoTLL requested clarification from the Applicant as to the reason it does not agree to these amendments on Monday 18 December 2023. However, as at 8pm on 20 December 2023, no explanation has been provided.

4. RESPONSE TO PROTECTIVE PROVISIONS AND NEGOTIATIONS BETWEEN DEADLINE 9A AND DEADLINE 10

4.1 As noted within PoTLL's Deadline 9A submission [\[REP9A-142\]](#), the Applicant had advised PoTLL that there was scope to agree a number of matters and include, at Deadline 10, a revised set of protective provisions with further agreed drafting. PoTLL's solicitors received instructions and returned the revised protective provisions to the Applicant's solicitors on Friday, 15 December.

4.2 The changes included:

4.2.1 minor amendments for clarity that PoTLL considered were unlikely to be controversial;

4.2.2 a change to a term that was agreed verbally on 14 December 2023;

- 4.2.3 a correction to use a defined term;
 - 4.2.4 new drafting tied to the Control Documents and outstanding concerns tied to preliminary works;
 - 4.2.5 a restatement of PoTLL's position in respect of the need for DCO land powers to be exercised over the Port only with PoTLL's consent; and
 - 4.2.6 a revised Disputes provision to reflect agreed changes to the draft Framework Agreement.
- 4.3 On Monday 18 December 2023, PoTLL received confirmation from the Applicant's solicitors that none of the changes had been accepted.

Corrections

- 4.4 In respect of the correction referred to at 4.2.3 above, this requested change was to refer to the "preliminary works EMP" (defined in Schedule 2 to the Order) in place of the "environmental management plan for the preliminary works". The Applicant has rejected this change stating that it does "not consider a change here to be strictly necessary", notwithstanding that the latter term is not a defined term in the DCO. It is disappointing that this approach has been taken as it means that, without PoTLL's proposed change, there would not be drafting certainty. This change has therefore been made at paragraph 134(3) of PoTLL's PPs.

Concerns around Preliminary Works and Contamination

- 4.5 The Applicant has refused PoTLL's proposed clarification within the Consultation section of the protective provisions that measures GS-016 to GS-028 of the Register of Environmental Actions and Commitments) (REAC) [REP9-185] are to apply to the carrying out of preliminary works within the Port (paragraph 134(2) of PoTLL's PPs). The reason given is that "these do not apply to preliminary works, regardless of landowner".
- 4.6 It is concerning that the Applicant is positively rejecting any environmental measures that relate to the control of contamination risk in respect of preliminary works. The main compound Work No. CA5 covers areas of existing and historical waste management and presents a high risk of contamination, as noted by the need for article 68 to deal with these permitted sites. This location is adjacent to the river Thames, and is a site of ecological diversity. There are specific areas of ecological habitat mitigation within the Order limits.
- 4.7 As discussed in PoTLL's Deadline 9A submission [REP9A-142], the definition of preliminary works is drawn so broadly that it is wholly uncertain what works may be carried out as preliminary works. The Applicant is able to construct (at least) the foundation of buildings forming part of the construction compound, and prepare and lay the haul road, all within the broad definition of preliminary works. This is all very concerning in the context of the known contamination and ground condition uncertainties and liabilities on PoTLL's land.
- 4.8 PoTLL therefore submits that the contamination provisions of the REAC should apply to preliminary works in any event; however, in particular where the scope of the preliminary works is so broad and uncertain and in an area of particular sensitivity, every precaution should be taken to ensure that the Applicant cannot disregard environmental measures and liabilities on a technicality.

Groups created under Control Documents and Preliminary Works Traffic Management

- 4.9 PoTLL requested that, under its protective provisions, the Applicant commits to inviting PoTLL to be a member of the travel plan liaison group, the materials handling sub-group of the traffic management forum, and an advisory group created under a LEMP – see paragraph 134(5) of PoTLL's PPs, and that it be consulted on the traffic management of preliminary works that affect the Port.

- 4.10 This amendment has been rejected by the Applicant, with no reason provided, notwithstanding that the reasons for this concern, set out below, had been given to the Applicant in discussions between the parties and at Hearings.
- 4.11 PoTLL has raised the need for it be a part of these groups throughout the Examination (as well as a consultee on the related Control Documents), and the Applicant's approach throughout has been to say that such concerns will be dealt with through the Framework Agreement and incorporated protocols being negotiated with PoTLL. However, that Agreement would only control the relationship between the Applicant and PoTLL. It does not control how that relationship then interacts with how the Applicant deals with the concerns of other stakeholders, who then might change what is possible in the relationship between the Applicant and PoTLL. It is therefore important that PoTLL is 'in the room' on an equal basis when those wider discussions are happening. In particular:
- 4.11.1 the travel plan liaison group will help set the routings of construction workers, which will have a direct impact on the operation of the Asda roundabout and the Port's roads, notwithstanding the protocols being developed between the parties. This group would help in setting the site-specific mode share targets, which would determine the number of construction worker vehicles on the local highway network within the vicinity of the Port and the Asda roundabout, with targets seeking to minimise the number of construction worker vehicles;
 - 4.11.2 the materials handling sub-group will have a direct impact on the derogation process for materials handling, which the Applicant recognises has a direct impact on traffic numbers running through the Port; and
 - 4.11.3 whilst, through the proposed Framework Agreement, the Applicant and PoTLL have agreed a number of mechanisms for discussions on the Applicant's ecological proposals, they may be affected by neighbouring landowners, and Thurrock Council's views, on what is required.
- 4.12 It is concerning to see that this is the Applicant's approach, given that it appears to have understood PoTLL's concern (and in discussions with PoTLL has recognised and responded to the need to amend its ecological mitigation and compensation proposals to remove areas of unacceptable conflict). This approach is also contrary to the submissions made, for example by Mr Forrest on behalf of the Applicant during ISH12, at line 25 on page 143 of [\[EV-085h\]](#), that:
- "in the terms of reference for the advisory group under 1.3, we allow for other relevant groups to be involved in the advisory group and the reason for that is that there are landowners who have interfaces across the entire project and we haven't listed each and every one of them out, and we want to engage and we want them to be involved in those processes, but we haven't called them out specifically because it would be a very long table".*
- 4.13 In this context, the Applicant's refusal to include, within the D10PPs, a secured provision that PoTLL will be a member of the relevant advisory group under the Landscape and Ecology Management Plan (LEMP) [\[REP9-208\]](#) is therefore extremely concerning. If PoTLL is not able to rely upon the statements made by Mr Forrest because the Applicant's response is to reject any provision that would require it to involve PoTLL in the advisory group, then similar concerns will persist in relation to the other groups that PoTLL wishes to be involved with and where the Applicant has indicated that it is willing to work with the Applicant on the issues it is concerned about.
- 4.14 As set out at ISH12 and ISH14, PoTLL is also concerned to ensure that traffic movements associated with the preliminary works are managed so as not to cause undue impacts and consequential detriment to the operations of its statutory undertaking. As the preliminary works involve the delivery of much of the construction compound, these traffic movements are likely to need to be managed, and dovetail with the requirements of the protocols that are agreed with the Applicant. As such, it is appropriate and necessary for PoTLL to be a consultee on the traffic management plan developed for preliminary works pursuant to section 6 of the outline Traffic Management Plan for Construction (oTMPfC) [\[REP9-236\]](#), and PoTLL has provided for this at paragraph 134(4) of PoTLL's PPs.

5. POTLL'S PREFERRED PROTECTIVE PROVISIONS

5.1 PoTLL confirms that it is not satisfied that the D10PPs are suitable to protect its statutory undertaking, whether or not a separate legal agreement has been entered into. PoTLL has provided, as part of its PADSS, information as to the extent to which an area of disagreement may be resolved by the proposed Framework Agreement.

5.2 PoTLL's PPs provided at Appendix 1 are what PoTLL considers are necessary in order to protect its interests whether or not an agreement is entered into. Whether or not any provisions may be removed if an agreement is reached is subject to the precise terms of that agreement, a number of key matters of which remains outstanding. PoTLL confirms that it will continue to negotiate with the Applicant for an agreement, including agreeing the form of protective provisions to be included within any DCO made by the Secretary of State, and will update the Secretary of State accordingly post Examination on any progress made.

5.3 PoTLL has set out below its reasoned justification for each provision that is not contained within the D10PPs. The following section is to be read in conjunction with PoTLL's PPs provided in Appendix 1 in tracked and clean form. The question of serious detriment, being fundamental to PoTLL's ongoing objection, is considered separately at section 6. For the avoidance of doubt, references to a numbered paragraph in the below are references to the paragraph of that number within PoTLL's PPs.

5.4 Paragraph 129

5.4.1 The inclusion of reference to the operation and maintenance of the authorised development is factual and reflects the ongoing applicability of the protective provisions beyond the construction phase. This includes the operation of any 'specified function' in respect of maintenance, the exercise of land powers including article 36 (temporary use of land for maintaining the authorised development), and the indemnity covering the failure of any specified or protective work. This is not an operative provision, but its absence results in an inconsistency between the scope of the provisions as stated and the scope of the provisions in effect and practice.

5.5 Paragraph 130

5.5.1 Definition of "specified easement" to include 'restrictive covenant'; and 'a' statutory undertaker. This amendment is required as a restrictive covenant is a restriction rather than a right and may not be covered by the inclusive 'any other form of property right' wording. The use of 'a' statutory undertaker is to ensure that easements for the benefit of National Highways are included within this provision, given the potential for serious detriment to be caused by these easements is identical to easements granted for other statutory undertakers.

5.5.2 Definition of "specified work", paragraph (c); the use of 'granted' was agreed on 14 December 2023 and should have been included within the D10PPs.

5.5.3 Definition of "specified work", paragraph (e): the traffic, rail and vessel movements associated with the works at paragraphs (a) to (d) are required as these movements may also impact the Port, whether through traffic congestion, or through the use of Port facilities. This provision is required to ensure that the full impact of the Scheme on PoTLL falls within the scope of the protective provisions.

5.6 Paragraph 133

5.6.1 Provision for the restoration of Port land: this is required to ensure that land returned to PoTLL is in a suitable condition, including provision for PoTLL to consent to the land being returned in a different condition, as contemplated by article 35(5).

5.7 Paragraph 134

- 5.7.1 Sub-paragraph (1)(b) and the addition of a consultation requirement for the LEMP is required to ensure that the environmental aspects of the Scheme as apply to Port land are managed in a manner that will not result in serious detriment to PoTLL, having regard to its on-going operations and the future development of the Port.
- 5.7.2 Sub-paragraph (2) and clarifications that Requirement 6 (relating to contamination) and the contamination measures in the REAC apply over Port land in respect of preliminary works: as discussed above at section 2, this is required to ensure that the Applicant has due regard to the contamination risk inherent in the Port land, and that PoTLL is consulted on the written scheme and programme for remedial measures required under Requirement 6(2) where it is not clear if that Requirement will apply to preliminary works generally.
- 5.7.3 Sub-paragraph (4): PoTLL to be added to various groups created by the Control Documents - please refer to paragraphs 4.9 to 4.14 above.

5.8 Paragraph 136

- 5.8.1 Construction traffic management protocol within the Port: this provision is required to ensure that the Scheme's construction traffic is appropriately managed and controlled within the Port, to ensure the safety and security of the Port and users of the Port are not compromised by the Scheme. This is necessary particularly given that the oTMPfC does not apply to private roads such as those within the Port.

5.9 Paragraph 140

- 5.9.1 Protection from the exercise of DCO land powers (other than those caught by the 'specified easements' drafting in paragraph 132 of PoTLL's PPs) without PoTLL's consent: this provides the very well precedented protection from the exercise of land powers without the relevant statutory undertaker's consent. Please see section 6 for submissions around serious detriment, and section 7 for submissions around the inconsistent approach to consent provisions relating to the exercise of land powers taken by the Applicant in the draft DCO [\[REP9-108\]](#).

5.10 Paragraph 141

- 5.10.1 Protection from the application of article 29 (private rights) and article 66 (power to override easements and other rights): these provisions would, in the absence of this paragraph, apply immediately on the coming into force of the Order and would enable the Applicant to interfere with the Port land to the serious detriment of PoTLL. Please refer to section 7 below.

5.11 Paragraph 145

- 5.11.1 As discussed above at section 2, clarification that article 68 applies, within the Port, to preliminary works: this is required due to the uncertain drafting within article 68.

5.12 Paragraph 147

- 5.12.1 This paragraph provides a regime for the potential for interaction with and breach of the Requirements and other provisions of the Port of Tilbury (Expansion) Order 2019 (**the Tilbury2 Order**). Whilst PoTLL welcomes articles 3(4) and 55(5) of the Applicant's DCO that ensure that it will not be liable for breaches caused by the Applicant, this additional paragraph is required to ensure that the Applicant not only cannot cause and maintain a breach of the Tilbury2 Order for longer than is necessary, but must make good that breach. This recognises that any ongoing breach will, in practical terms, be a matter for PoTLL to

resolve as part of obtaining consent to future port development, and that it is the Port of Tilbury that will suffer any reputational damage as a result of any ongoing and unresolved breach of the obligations of the Tilbury2 Order.

5.13 Paragraph 150

5.13.1 Restriction on the Applicant from authorising other statutory undertakers to exercise the power in article 28(1) to acquire rights and impose restrictive covenants over the Port: this is required to ensure that the protective provisions provide a consistent protection and cannot be circumvented by the Applicant simply nominating another statutory undertaker to exercise powers effectively on its behalf.

5.14 Paragraph 153

5.14.1 Amendments to confirm that all disputes between the Applicant and PoTLL are to be referred to arbitration: required to provide a single disputes procedure between the parties for reasons of consistency and clarity. The parties remain obliged to seek to resolve any disputes promptly. In particular, there is no justification for why there should be a separate procedure for streets powers, as suggested by the Applicant by reference to article 65.

6. SERIOUS DETRIMENT

6.1 PoTLL maintains its objection to the Scheme and the DCO application on the basis that the draft DCO, in its current form, is likely to result in serious detriment being caused to PoTLL's undertaking as a statutory harbour authority. This is particularly the case in the absence of any provision requiring PoTLL's consent to the exercise of land powers over PoTLL's land within its protective provisions.

6.2 The reasoning in support of PoTLL's claim that serious detriment will be caused is set out in detail in [\[REP6-163\]](#).

6.3 In summary:

6.3.1 the Recommendation Report from the Lake Lothing (Lowestoft) Third Crossing DCO (provided as Appendix 7 to [\[REP6-163\]](#) confirms that the test for serious detriment under section 127 of the Planning Act 2008 is not limited to the direct impact of the compulsory acquisition (including of rights or restrictive covenants) of a particular plot. The impact of the proposed compulsory acquisition powers on the statutory undertaking must be considered as a whole and in context;

6.3.2 in respect of a harbour undertaking, which does not have 'apparatus' in the traditional sense, consideration must be given to the current and future purposes for which land is held and the extent to which compulsory acquisition would interfere with those purposes;

6.3.3 in reviewing the impacts of compulsory acquisition and land powers, the impacts from the Applicant's powers of temporary possession are relevant as these are needed to support the Scheme, including those parts of the Scheme that utilise compulsory acquisition over PoTLL's land; and

6.3.4 the effect of the compulsory acquisition on the commercial performance of the Port is a relevant factor, where the commercial aspects are a consequence of PoTLL's statutory functions.

6.4 PoTLL acknowledges the 'specified easement' definition and paragraph 132 'Approval of specified easements' provision within the D10PPs. Whilst this is welcomed, it is not sufficient to adequately protect PoTLL from serious detriment for the following reasons:

- 6.4.1 the scope of 'specified easement' does not include easements for the undertaker, meaning that the Applicant may impose easements for the Scheme that interfere with the ability of PoTLL to develop the land;
 - 6.4.2 in the absence of an agreement, there are no controls over ecological management meaning that the Applicant may, intentionally or inadvertently, intensify the ecological status of the land (something that is presently closely monitored, managed and controlled by PoTLL);
 - 6.4.3 the Applicant is empowered by the Order to enter on, appropriate and use subsoil and airspace over any street (public or private), which may include Substation Road, resulting in interference with the operation of the Port and existing utilities beneath Substation Road;
 - 6.4.4 the 'specified easement' drafting applies only in respect of new or diverted easements. There is nothing to protect PoTLL from the Applicant disconnecting PoTLL's utilities in order to make way for those utilities required by the Scheme (easements for the benefit of the undertaker not being subject to the 'specified easement' drafting); and
 - 6.4.5 no controls are provided for the Applicant's use of temporary possession powers. These temporary possession powers are proposed over vast swathes of the Port, which if not managed properly could lead to delay in that land's development for port purposes and impact upon adjacent existing Port operations.
- 6.5 PoTLL has reviewed its submissions detailing how serious detriment may be caused, found in paragraphs 2.9.1 to 2.9.6 of [\[REP6-163\]](#), and can confirm that it maintains each concern in full, except that:
- 6.5.1 the concern in 2.9.1(d) is now limited to the disconnection, diversion and interference of utilities belonging to PoTLL (as other statutory undertaker utilities are covered by the 'specified easement' drafting);
 - 6.5.2 the concern in 2.9.1(e) is now limited to stand-off and restricted zones for the Applicant's apparatus and infrastructure; and
 - 6.5.3 the areas of land within plot 21-10 have been removed from the Order Limits and no concerns remain about serious detriment being caused through the use of this land.
- 6.6 PoTLL further notes that the Applicant is maintaining its request for powers of compulsory acquisition over land in relation to which National Highways holds an option to purchase, being plots 16-38, 16-38, 20-52, 20-53, 20-62, 20-65, 20-68. This land is currently the subject of an option granted by PoTLL to the Applicant, which could be circumvented by these powers without the necessary controls contained within, negotiated and agreed within that option. These plots are also within the Freeport boundary and so should be considered as land that will support core nationally significant infrastructure, and Port economic development. The Applicant's proposed powers should therefore not be capable of being, or be, used to enable the Applicant, intentionally or unintentionally, to avoid its contractual obligations. It is clear that the use of compulsory acquisition over this land would be to the serious detriment of PoTLL, and their grant potentially unlawful having regard to the general tests for compulsory acquisition powers to be granted as set out in the Applicant's Statement of Reasons [\[REP9-114\]](#).
- 6.7 In order to avoid serious detriment being caused to its undertaking, PoTLL is seeking the standard, well-precedented protection that the land powers within the DCO may not be exercised over PoTLL's land without its consent, not to be unreasonably withheld. The Applicant has consistently refused to put this protection into the draft DCO, and this provision is absent from the D10PPs.

7. PROTECTION FROM SERIOUS DETRIMENT

- 7.1 The Applicant has advised PoTLL that it is not willing to put, within the protective provisions, a requirement that the exercise of land powers over PoTLL's land is to be subject to PoTLL's consent. The explanation for this is that the Applicant is concerned that doing so would make the "timely and efficient delivery" of the Scheme more difficult. This explanation has also been provided to HS1 Limited and submitted into the Examination (see paragraph 3.2.8 of [\[REP9-279\]](#)).
- 7.2 PoTLL has been advised by the Applicant's solicitors that this is a new approach that National Highways is taking, seeking to ensure that there is no impediment, arising from commercial matters, that could make it more difficult to implement the Scheme. It is fundamentally at odds with National Highways' established approach in all of its other DCO applications, and no plausible explanation has been provided as to why National Highways now wishes to take a different approach and why this is appropriate. This is wholly unacceptable to PoTLL and in its judgement is the primary reason why it has not been possible for the Framework Agreement to be agreed.
- 7.3 PoTLL is concerned that this approach:
- 7.3.1 places commercial considerations for the Applicant's new Scheme above all else, including the concerns of the affected statutory undertakers to continue to carry on their statutory undertakings without being caused serious detriment;
 - 7.3.2 is contrary to the statutory tests in section 127 of the Planning Act 2008;
 - 7.3.3 is not preceded in National Highways DCOs; and
 - 7.3.4 is not consistently applied within the draft DCO [\[REP9-108\]](#).
- 7.4 PoTLL has carried out a review of National Highways' DCOs made in 2022 and 2023 and, in each Order where protective provisions are provided for a named statutory undertaker, protection is given from the exercise of land powers to acquire apparatus and/or land belonging to that statutory undertaker without its consent.
- 7.5 Turning to the draft DCO [\[REP9-108\]](#), Schedule 14, PoTLL has found that the Applicant is proposed to be restricted from being able to use its land powers to acquire land and/or apparatus without the consent of the relevant undertaker in:
- 7.5.1 Part 1: protection for electricity, gas, water and sewerage undertakers, at paragraph 6:
"Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement."
 - 7.5.2 Part 5: protection of specified gas undertakers, at paragraph 53:
"Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish, interfere with or override any easement or other interest in land of the gas undertaker otherwise than by agreement."
 - 7.5.3 Part 6: protection of National Gas Transmission plc, at paragraph 69:
"Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any interest in land or apparatus or override any easement or other interest of National Grid otherwise than by agreement."
 - 7.5.4 Part 7: protection of National Grid Electricity Transmission plc, at paragraph 85:

“Regardless of any provision in this Order or anything shown on the land plans, the undertaker may not acquire any interest in land or apparatus or override any easement or other interest of National Grid otherwise than by agreement.”

- 7.6 It is therefore clear to PoTLL that the Applicant is ***not*** seeking to test a new approach to DCO consenting that emphasises the deliverability of the Scheme above the concerns of statutory undertakers that serious detriment will be caused. Instead, the Applicant is singling out Port and Railway undertakings to be excluded from the standard, well-precedented protection, despite providing this disputed protection to gas and electricity undertakers. There is no rationale for why this provision may be commercially deleterious for the Scheme on the one hand, but entirely acceptable in the case of some statutory undertakings on the other.
- 7.7 Simply, the Applicant’s inconsistent approach undermines any argument it may have had that the standard protection should not be included for all statutory undertakers that request it.
- 7.8 PoTLL is seeking, and has included within PoTLL’s PPs at paragraph 140, protection from the exercise of article 25 (compulsory acquisition of land), article 33 (acquisition of subsoil or airspace only), article 35 (temporary use of land for carrying out the authorised development) and article 36 (temporary use of land for maintaining the authorised development) in relation to any land within the Port unless the exercise of those powers is with the consent of PoTLL, not to be unreasonably withheld or delayed.
- 7.9 PoTLL is further seeking, and has included within PoTLL’s PPs at paragraph 141, protection from the applicability of article 29 (private rights) and article 66 (power to override easements and other rights) without its consent.
- 7.10 PoTLL notes that paragraph 140 is subject to a requirement that consent is not to be unreasonably withheld, whilst paragraph 141 requires PoTLL to act reasonably. This requirement goes further than the provisions agreed by the Applicant in Parts 1, 5, 6 and 7 of Schedule 14, in terms of requiring PoTLL not to act in an arbitrary or unreasonable manner.
- 7.11 PoTLL considers that its request for this protection is wholly reasonable, particularly in the context of established precedent and that serious detriment would otherwise be caused to its undertaking.
- 7.12 Accordingly, for the purposes of section 127 of the Planning Act 2008 PoTLL maintains its objection that the Scheme and the DCO applied for will cause serious detriment to its statutory undertaking unless the protections within PoTLL’s PPs are included within the Order.

8. DRAFT DCO REQUIREMENTS

- 8.1 PoTLL maintains its position as set out in its Deadline 9A submissions [[REP9A-142](#)], that the draft Requirements for *Asda roundabout – construction traffic mitigation* [[REP8-164](#); Appendix 1] and *wider highway network monitoring and mitigation* [[REP8-166](#); from page 190] need to be included within any made DCO in order to ensure that the significant adverse effects of the Scheme are identified and resolved.
- 8.2 PoTLL also submits that the version of the *Operation of the Orsett Cock interchange Requirement* [[REP9-229](#); from page 184], preferred by the relevant stakeholders of Thurrock Council, PoTLL, DP World and Thames Enterprise Park should be included in the made DCO in place of the Applicant’s drafting, for the reasons set out in PoTLL’s Deadline 9A submissions.
- 8.3 Finally, PoTLL submits that its amendments to Requirement 17: *passive provision for the Tilbury Link Road* [[REP8-164](#); paragraph 2.30] are to be preferred.
- 8.4 For further details, please refer to PoTLL’s submissions made at Deadlines 8, 9 and 9A: [[REP8-164](#)], [[REP9-297](#)], and [[REP9A-142](#)].

8.5 Please also refer to the final PADSS provided at Deadline 10 for further detail as to the extent to which the need for these Requirements survives any agreement that may be entered into by PoTLL with the Applicant.

9. THE RELEVANCE AND ROLE OF THE FREEPORT

9.1 On 19 December 2023, HM Government published its latest guidance in respect of Freeports in the form of a Freeports Delivery Roadmap. We have provided a copy of this Guidance at **Appendix 2** to this submission.

9.2 The Roadmap re-emphasises the importance of Freeports as having ‘transformational’ potential, and that the Government will be seeking to “accelerate Freeport delivery and maximise its benefits for all”.

9.3 The Government also announced on 20 December 2023 that it is setting a target to grow rail freight “by at least 75%” (announcement provided in **Appendix 3**). The Port of Tilbury is well located to assist the Government to achieve this target, with rail connections at both the original Port of Tilbury and at Tilbury2. The rail capacity at Tilbury2 has been designed to accommodate freight rail at the maximum length allowed on the British rail network. This, combined with the potential presented by the Freeport development, present real opportunities and impetus for PoTLL to develop the Freeport and expand the Port of Tilbury, creating and servicing growth in the wider economy.

9.4 PoTLL recognises the role that the Scheme has to play in helping to facilitate this growth, and it is for this reason that it has leased areas of land to the Applicant to be used when constructing the Scheme, and continues to work hard to negotiate an agreement with the Applicant that is acceptable to both parties, rather than simply seeking to secure PoTLL’s own position.

9.5 These most recent policy announcements provide further weight to PoTLL’s submissions, made above, that the Scheme cannot be allowed to cause, or risk causing, serious detriment to the development potential that forms a fundamental part of PoTLL’s statutory undertaking, and that the protections it seeks are necessary, appropriate and reasonable.

APPENDIX 1

PORT OF TILBURY LONDON LIMITED PREFERRED PROTECTIVE PROVISIONS

Part 1 – TRACKED CHANGES VERSION

PART ~~101~~

FOR THE PROTECTION OF PORT OF TILBURY LONDON LIMITED

Application

~~129.1.~~ The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and PoTLL, for the protection of PoTLL in relation to the construction of the authorised development and the operation and maintenance of the authorised development within the Port.

Interpretation

~~130.2.~~—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2), the latter prevail.

(2) In this Part of this Schedule—

“the 2021 Regulations” means The Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021(a);

“accumulation” means any accumulation of silt or other material (including any materials used to construct the authorised development) which constitutes an impediment to navigation within and to and from the Port;

“the affected roads” means the A1089 St Andrews Road, Ferry Road, Fort Road and the unnamed link road between Fort Road and the A1089 St Andrews Road;

“erosion” means any fluvial, mechanical—— or other erosion, collapse, disturbance or destruction of the bed or banks of the river Thames or any quay or jetty or other structure of whatever nature within the Port;

“the infrastructure corridor” means the purpose-built highway to access Tilbury2 between the A1089 and Substation Road;

“plans” includes plans, sections, elevations, drawings, specifications, programmes, proposals, construction methods and descriptions;

“the Port” means—

- (a) any land (including land covered by water) for the time being owned or used by PoTLL for the purposes of its statutory undertaking, together with any quays, jetties, docks, river walls and other land or works held for or in connection with that undertaking; and
- (b) the land that was designated as a Thames Freeport Tax Site under the 2021 Regulations but only insofar as that land is included in the area shown edged and hatched in red on the map marked “Location: Port of Tilbury; Subject: Thames Freeport – Tax Site” referenced in Regulation 2(1)(c) of the 2021 Regulations;

“PoTLL” means Port of Tilbury London Limited, as statutory harbour authority for and operator of the Port;

“Required Easement Width” means any area of land comprising or forming part of an exclusion or protection zone pursuant to an easement for the benefit of a statutory undertaker and proposed to be—

- (a) granted or acquired by the undertaker;
- (b) acquired by a person or body under article 8(1), whether listed under article 8(5) or otherwise; or
- (c) granted or acquired by a statutory undertaker pursuant to a consent granted by the undertaker under article 28(3);

(a) S.I. 2021/1195.

“specified easement” means any easement, restrictive covenant or any other form of property right, including a Required Easement Width, for the benefit of ~~another a~~ statutory undertaker in respect of a work authorised by this Order, burdening land within the Port and proposed to be—

- (a) granted or acquired by the undertaker;
- (b) acquired by a person or body under article 8(1), whether listed under article 8(5) or otherwise; or
- (c) granted or acquired by a statutory undertaker pursuant to a consent granted by the undertaker under article 28(3);

“specified function” means any function of the undertaker under article 3 (development consent, etc. granted by the Order), article 4 (maintenance of the authorised development), article 5 (maintenance of drainage works), article 10 (construction and maintenance of new, altered or diverted streets and other structures), article 11 (access to works), article 12 (temporary closure, alteration, diversion and restriction of use of streets), article 13 (use of private roads), article 14 (permanent stopping up of streets and private means of access), article 17 (traffic regulation – local roads), article 18 (powers in relation to relevant navigations or watercourses), article 19 (discharge of water), article 20 (protective work to land and buildings), article 21 (authority to survey and investigate the land) and article 23 (felling or lopping of trees and removal of hedgerows) of this Order where exercised in respect of the land situated on, over, across or under the Port;

“specified work” means so much of the works and other matters listed at paragraphs (a) to ~~(d)~~ as ~~are~~ is situated on, over, across or under the Port—

- (a) the following ~~Work~~ Works Nos. together with any preliminary works, associated development or ancillary works proposed to be carried out for the purposes of or in connection with their construction—
 - (i) Work No. CA5;
 - (ii) Work No. CA5A;
 - (iii) Work No. MUT4;
 - (iv) Work No. MUT5;
 - (v) Work No. MUT7;
 - (vi) Work No. MUT8;
 - (vii) Work No. MUT9;
 - (viii) Work No. MU27;
 - (ix) Work No. MU28;
 - (x) Work No. MU29;
 - (xi) Work No. OH3; and
 - (xii) Work No. OH4;
- (b) any activities associated with the undertaker complying with article 37(5) or any provision in Schedule 14 requiring the removal of apparatus;
- (c) any work, activity or operation associated with the authorised development authorised by the Town and Country Planning (General Permitted Development) (England) Order 2015(a) or under any planning permission ~~given~~ granted under the Town and Country Planning Act 1990(b); ~~and~~
- (d) any part of the authorised development that is expected to require the inclusion of any land within the Port within the extent of a Required Easement Width; and

(a) S.I. 2015/596.

(b) 1990 c. 8.

(e) any traffic, rail and vessel movements associated with the works, activities and operations listed at paragraphs (a) to (d) which may affect the Port;

“Tilbury2” means that part of the Port constructed pursuant to the Port of Tilbury (Expansion) Order 2019(a);~~and~~

“vehicular access” includes but is not limited to access by road, rail, vessel and conveyor and any reference to “access” is to be construed as including vehicular access unless otherwise stated.

Approval of plans

131.3—(1) The undertaker must, before the exercise, or carrying out of any specified function or specified work, supply to PoTLL proper and sufficient plans of that work or function for the approval of PoTLL, acting reasonably, and the specified function must not be exercised or the specified work must not begin except in accordance with such plans as have been approved in writing by PoTLL or settled pursuant to paragraph ~~147-153~~ of this Part of this Schedule.

(2) Before approving plans provided under sub-paragraph (1), PoTLL may require the undertaker to supply it with such further information as PoTLL considers (acting reasonably) to be necessary to determine whether to grant approval, but such a request must be made within 28 days of the date on which plans have been supplied to PoTLL under sub-paragraph (1).

(3) The approval of PoTLL under sub-paragraph (1) must not be unreasonably withheld but may be given subject to such reasonable conditions as PoTLL may make for the protection of the Port (outside of the land which is the subject of the plan submitted under sub-paragraph (1)), navigation and current and permitted future vehicular access to it, and its ability to carry out dredging to facilitate vessel access to the Port and to facilitate the effective and cost-efficient future development of the Port provided that such conditions must not, if implemented, give rise to a breach of this Order.

(4) When imposing conditions on any approval given under sub-paragraph (1), PoTLL may specify any reasonably necessary protective works (whether temporary or permanent) that must be carried out before the carrying out of a specified work to minimise, to the extent reasonably practicable, the impact on PoTLL’s undertaking, and such protective works as may be reasonably necessary for those purposes must be constructed either by PoTLL at the expense of the undertaker, such costs to be agreed by the undertaker prior to construction, or by the undertaker at its own expense, in either case to be undertaken to a programme agreed between the undertaker and PoTLL, both parties acting reasonably.

(5) The undertaker must carry out any specified function or specified work and any protective works required under sub-paragraph (4) in accordance with the plans approved under sub-paragraph (1) or settled pursuant to paragraph ~~147-153~~ of this Part of this Schedule.

(6) PoTLL is entitled at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect and survey the specified works and the protective works and the undertaker must provide all reasonable facilities to enable that inspection and survey to take place and, if the person duly appointed by PoTLL is of the opinion, acting reasonably, that the construction of the work poses danger to any property of the Port or persons within the Port, the undertaker must adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury.

(7) If, by the end of the period of 28 days beginning with the date on which plans (or any subsequent information reasonably requested in accordance with sub-paragraph (2)) have been supplied to PoTLL under sub-paragraph (1), PoTLL has not approved or intimated disapproval of those plans and the grounds of disapproval, PoTLL is deemed to have approved the plans as submitted.

(8) Where an approval is provided under this paragraph, the undertaker will be deemed to have a reasonable excuse for the purposes of paragraph 4(4) of Schedule 7 to the Port of Tilbury

(a) S.I. 2019/359.

(Expansion) Order 2019(a) (or any substituted byelaws made by PoTLL under that Order), and no proceedings will be brought by PoTLL in pursuance of those byelaws, when the undertaker carries out the specified work or protective work or specified function in accordance with an approval.

Approval of specified easements

132.4—(1) Before granting-, imposing or acquiring any specified easement, transferring or granting the benefit of the Order pursuant to article 8(1) or issuing a consent under article 28(3) in respect of any specified easement, the undertaker must supply to PoTLL details of the proposed terms of that specified easement for the approval of PoTLL, acting reasonably, and the specified easement must not be acquired-, imposed or granted except in accordance with the proposed terms as have been approved in writing by PoTLL or settled pursuant to paragraph ~~147-153~~ of this Part of this Schedule.

(2) The approval of PoTLL under sub-paragraph (1) must not be unreasonably withheld but may be given subject to such reasonable conditions as PoTLL may make for the protection of the Port-, and current and planned permitted vehicular access to it, and its ability to carry out dredging to facilitate vessel access to the Port and to facilitate the effective and cost-efficient operation and future development of the Port provided that such conditions must not, if implemented, give rise to a breach of this Order.

(3) In considering whether to grant its approval of the proposed terms of a specified easement submitted to it under sub-paragraph (1), PoTLL must have reasonable regard to—

- (a) the reasonable requirements of the statutory undertaker for whose benefit the specified easement is proposed to be granted or acquired, including any relevant provisions of this Order;
- (b) the intended purpose of the specified easement; and
- (c) the desirability of the effective and efficient implementation of the authorised work or works to which the specified easement relates.

(4) The undertaker must acquire-, impose or grant the specified easement-, or transfer or grant the benefit of the Order pursuant to article 8(1) or issue a consent under article 28(3) in respect of any specified easement in accordance with the proposed terms approved under sub-paragraph (1) or settled pursuant to paragraph ~~147-153~~ of this Part of this Schedule.

(5) If, by the end of the period of 28 days beginning with the date on which the proposed terms of any specified easement have been supplied to PoTLL under sub-paragraph (1), PoTLL has not approved or intimated disapproval of those terms and the grounds of disapproval, PoTLL is deemed to have approved the proposed terms as submitted.

Restoration of Port land temporarily possessed by the undertaker

133. Before permanently vacating any part of the Port of which the undertaker has taken temporary possession under this Order, it must provide to PoTLL a schedule of condition of that part of the Port and any temporary works and apparatus situated in, on, under or over it and, notwithstanding articles 35, 36 and 37 PoTLL may, acting reasonably, specify in writing to the undertaker how it wishes that part of the Port to be restored by the undertaker, including if necessary by the removal of any apparatus, and if PoTLL does so specify then the undertaker will restore that part of the Port accordingly and to PoTLL's reasonable satisfaction before vacating it.

Consultation

134.5—(1) PoTLL must be consulted by the undertaker on the development of the following plans and details in respect of any matters or measures within them that may affect the Port or the carrying out of a specified work or a specified function, before they are submitted to the Secretary of State for approval—

- (a) an EMP (Second Iteration) under Requirement 4;

(a) S.I. 2019/359.

- (b) a LEMP (as defined in paragraph 1 of Schedule 2) under Requirement 5;
- (c) ~~(b)~~ any materials handling plan developed under Requirement 4 as part of the EMP (Second Iteration);
- (d) ~~(e)~~ a written scheme and programme under Requirement 6(2);
- (e) ~~(d)~~ a travel plan under Requirement 11; and
- (f) ~~(e)~~ fencing under Requirement 12.

(2) Within the Port—

- (a) the definition of ‘carrying out’ in Requirement 6(1) is to be construed as applying to the preliminary works; and
- (b) measures GS-016 to GS-028 inclusive of table 7.1 of the code of construction practice apply to the carrying out of the preliminary works.

(3) (2) PoTLL must be consulted by the undertaker on the development of the following plans, required by the ~~environmental management plan for the~~ preliminary works EMP, in respect of any matters or measures within them that may affect the Port or the carrying out of a specified work or specified function, before they are approved by the undertaker—

- (a) a Security Management Plan;
- (b) an Emergency Preparedness Plan; and
- (c) a Noise and Vibration Management Plan.

(4) PoTLL must be consulted by the undertaker on the development of a traffic management plan for the preliminary works required by section 6 of the outline traffic management plan for construction.

(5) The undertaker must invite and allow PoTLL to be a member of the following groups that are created in relation to the authorised development on the north side of the river Thames—

- (a) the travel plan liaison group created under a travel plan approved under Requirement 11;
- (b) the materials handling sub-group of the traffic management forum created under a traffic management plan approved under Requirement 11; and
- (c) an advisory group created under a LEMP (as defined in paragraph 1 of Schedule 2) approved under Requirement 5.

Notification of works to utilities and services affecting the Port

135.6. Except in an emergency, prior to the carrying out of any works to any utilities or services within the infrastructure corridor, the undertaker will notify PoTLL of the intended works and the programme for the implementation of such works at least 28 days prior to the carrying out of the proposed ~~works-work~~.

Construction traffic management protocol within the Port

136.—(1) Before the commencement of any work constituting Work No. CA5, or any work ancillary to it including preliminary works, the undertaker must prepare a construction traffic management protocol in relation to those works and submit it to PoTLL for approval.

(2) The construction traffic management protocol must include—

- (a) the security process to be followed by all vehicles accessing Work No. CA5 or otherwise travelling through the Port;
- (b) the code of conduct which the undertaker, its employers, agents and contractors will observe whilst on the Port;
- (c) procedures to be followed by all vehicles to ensure the Port and access to the Port does not become congested during any period in which the railway level crossing in the Port is in use;
- (d) the procedures to be followed in an emergency;
- (e) a suggested process by which prior approval will be sought from PoTLL of the number of vehicular movements, including abnormal indivisible loads, expected to pass through the

Port within a period to be agreed with PoTLL, acting reasonably, and for updates to this information to be provided at the end of agreed period, for the next agreed period; and

(f) a suggested process by which variations to the numbers approved by PoTLL under paragraph (e) are to be approved by PoTLL.

(3) The approval of PoTLL under sub-paragraph (1) must not be unreasonably withheld but may be given subject to such reasonable modifications, terms and conditions as PoTLL may make for the protection of the Port and its tenants, including in respect of their current and future operations.

(4) The undertaker must ensure that its employees, agents and contractors comply with the construction traffic management protocol approved by PoTLL under sub-paragraph (1) and the failure of any person to comply with the construction traffic management protocol will entitle PoTLL to prohibit that person from entering the Port in connection with the works covered by the protocol.

Streets

137.7.—(1) Before exercising the relevant streets powers in respect of any affected roads the undertaker must consult PoTLL on its proposed exercise of those powers and have regard to any consultation response provided by PoTLL.

(2) Consultation under this paragraph will be effected by the undertaker sending to PoTLL the documents reasonably required to describe its proposed exercise of the relevant streets powers and, where required by the provisions of the relevant streets powers to consult or seek the consent of a street authority or traffic authority, a copy of the consultation documents or application seeking that consent, at the time those documents are submitted to the relevant street authority or traffic authority as the case may be.

(3) The undertaker must send to PoTLL a copy of any response received by the undertaker from the relevant street authority or traffic authority in response to any such consultation or submission for consent under the relevant streets powers within 7 days of the receipt by the undertaker of any such response.

(4) In this paragraph “the relevant streets powers” means the powers conferred by article 12 (temporary closure, alteration, diversion and restriction of use of streets), article 16 (clearways, speed limits and prohibitions) and article 17 (traffic regulation – local roads).

Minimising disruption to affected roads and streets within the Port

138.8. In exercising the powers conferred by this Order in relation to the affected roads or any street within the Port, the undertaker must have regard to the potential disruption, delay or congestion of traffic which may be caused to the affected roads or streets within the Port and seek to minimise such disruption, delay or congestion so far as is reasonably practicable.

Obstruction within the Port

139.9.—(1) Where any event or accident on or affecting any road, street or highway within the Port or on or affecting the river Thames, prevents or obstructs pedestrian or vehicular access into, out of or within the Port, such event or accident being caused by or attributable to the undertaker, its agents, employees or contractors, or which requires the removal of any item, vessel or vehicle which is preventing or obstructing access and which is owned by, contracted to or otherwise being used on behalf of the undertaker, the undertaker must use best endeavours to reinstate access or remove the obstruction without delay.

(2) PoTLL may, where an obstruction has occurred and has not been removed by the undertaker within 14 days of the undertaker becoming aware of the obstruction, or upon the undertaker being given notice by PoTLL that it is expedient for PoTLL to do so, remove the obstruction and recover the cost of that removal and repair from the undertaker.

Land powers

140. The undertaker must not exercise the powers conferred by article 25 (compulsory acquisition of land), article 33 (acquisition of subsoil or airspace only), article 34 (rights under or over streets), article 35 (temporary use of land for carrying out the authorised development) and

article 36 (temporary use of land for maintaining the authorised development) in relation to any land within the Port unless the exercise of those powers is with the consent of PoTLL, such consent not to be unreasonably withheld or delayed.

141. Article 29 (private rights) and article 66 (power to override easements and other rights) do not apply to the Port and any interests in or rights over land held by PoTLL unless otherwise agreed by PoTLL, acting reasonably.

As-built plans

~~142.10.~~ As soon as reasonably practicable following the completion of the construction of any specified works within the Port or any protective works, the undertaker must provide to PoTLL ~~as-~~ as- built plans of those works in a form and scale to be agreed between the undertaker and PoTLL.

Accumulation and erosion

~~143.11.~~—(1) If during the construction of a specified work or protective work or in the carrying out of a specified function or after the completion of that work or function, there is caused or created an accumulation or erosion wholly or partly in direct consequence of its construction, the undertaker, if requested by PoTLL, acting reasonably, must remedy the accumulation or erosion to the extent attributable to the construction of the specified work or protective work and, if it refuses or fails to do so as soon as reasonably practicable, PoTLL may itself cause the work to be done and may recover the reasonable cost of doing so from the undertaker.

(2) For the purposes of sub-paragraph (1)—

- (a) in the case of an accumulation, the remedy must be its removal; and
- (b) in the case of erosion, the remedy must be the carrying out of such reconstruction works and other protective works or measures as PoTLL reasonably requires.

Permitting

~~144.12.~~ The undertaker must consult PoTLL before applying for any permit under the Environmental Permitting (England and Wales) Regulations 2016(a) or an environmental scheme under article 68 (interface with waste operation permits), that will apply to activities in the Port.

145. Within the Port, the meaning of “authorised activity” in article 68 (interface with waste operation permits) shall be construed as including the carrying out of any preliminary works.

Port closure in emergency

~~146.13.~~—(1) Subject to sub-paragraph (2), PoTLL may at any time close the Port and exclude access by the undertaker, including access under any power granted by this Order, under any access right and as provided for in any agreement between the undertaker and PoTLL, where PoTLL reasonably considers that it is necessary to do so in response to a request from an emergency service or government agency, any emergency or accident, or an imminent threat to the health or safety of persons.

(2) PoTLL must inform the undertaker of any closure of the Port as soon as reasonably practicable, including details of the location and extent of the closure and where known, the anticipated duration of the closure.

(3) The undertaker must not at any time prevent or unreasonably impede access by emergency services vehicles to the Port.

Interaction with the Port of Tilbury (Expansion) Order 2019

147.—(1) Notwithstanding paragraph (5) of article 55, the undertaker will not undertake any work, activity or operation authorised by this Order, the Town and Country Planning Act (General Permitted Development) Order 2015 or under any planning permission granted or having effect under the Town and Country Planning Act 1990 that will or could result in a breach of the provisions, requirements, licences and other consents that form part of, are authorised by, or are

(a) S.I. 2016/1154.

ancillary to the Port of Tilbury (Expansion) Order 2019 (“the 2019 Order”) until a scheme of management has been submitted to and approved by PoTLL, acting reasonably.

(2) The scheme of management must set out how the undertaker will—

- (a) minimise the extent of any such breach;
- (b) monitor the breach;
- (c) rectify the breach at the earliest opportunity; and
- (d) reinstate the Port so as to ensure ongoing compliance with the provision, requirement, licence or consent following rectification of the breach.

(3) Unless otherwise agreed by PoTLL, the undertaker must implement the scheme of management approved under sub-paragraph (1).

(4) The undertaker is to be responsible for ensuring that the rectification of any breach remains effective for a period of 12 months commencing with the date on which the breach was rectified or, should the breach recur, the date on which the recurrence was itself rectified.

(5) The scheme of management must provide that the rectification of any breach and reinstatement of the Port must be to at least the condition of the relevant land, ecological or other feature before the breach occurred, but it may include compensatory ecological provision where rectification would not otherwise be reasonably practicable due to the construction of the authorised development.

Safeguarding of access to the Port by rail

148.14. The undertaker must not exercise any power under the Order in such a manner as to cause any vehicular access for the purposes of the authorised development to have priority over railway traffic at the level crossing in the Port.

Disposals, etc-

149.15. The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 8 (consent to transfer benefit of Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party insofar as these would affect the Port or the operation of this Part of this Schedule, notify PoTLL in writing, and the notice must include particulars of the other party to the transaction under article 8, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

150. The undertaker must not grant consent under article 28(3) for a statutory undertaker to exercise the powers in article 28(1) over the Port or any Required Easement Width to the extent it is located in, on, over or under the Port, without the prior written consent of PoTLL, not to be unreasonably withheld or delayed.

Costs

151.16. The undertaker must pay to PoTLL its proper and reasonable legal costs, professional fees and disbursements incurred in connection with—

- (a) reviewing any information provided by the undertaker in seeking any consent or approval required by this Part of this Schedule; or
- (b) inspecting during construction or on practical completion of any specified work or protective work.

Indemnity

152.17.—(1) The undertaker agrees to indemnify and keep PoTLL, including any associated company (as defined in article 8(7)), indemnified at all times for all losses, costs, charges, damages, expenses, claims and demands which may be incurred reasonably or suffered by PoTLL, by reason or arising from or relating to—

- (a) the construction or failure of a specified work or protective work;
- (b) the carrying out of a specified function;

- (c) the undertaking by PoTLL of works or measures to prevent or remedy a danger or impediment to navigation or access within or to and from the Port;
- (d) the alteration to aids to navigation within the Port that are owned by PoTLL or the laying down of moorings or buoys within the Port as may be necessary in consequence of a specified work;
- (e) damage to the Port arising from paragraphs (a) to (d), including but not limited to—
 - (i) damage to any, street, plant, apparatus, chattels, fixtures, equipment or building belonging to PoTLL that is caused by the construction or failure of a specified work or protective work;
 - (ii) any act or omission of the undertaker or its servants and agents while engaged in the construction of a specified work or protective work; and
 - (iii) any remedial works necessary as the result of contamination being disturbed in, or migrating to, the Port or where such contamination means that the land affected by contamination cannot be used as part of the Port.

(2) The liability imposed by sub-paragraph (1) includes where this is attributable to the act, neglect or default of the undertaker's officers, servants, contractors, employees, agents and sub-contractors.

(3) The fact that any act or thing may have been done by PoTLL on behalf of the undertaker or in accordance with a plan approved by PoTLL or in accordance with any requirement of PoTLL or under its supervision or to its satisfaction or in accordance with any directions or award of any arbitrator does not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(4) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of PoTLL, its officers, servants, contractors or agents.

(5) PoTLL must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraph (1), and no settlement or compromise of any such claim or demand must be made without the prior written consent of the undertaker, such consent not to be unreasonably delayed or refused.

Disputes

153.18.—(1) Subject to sub-paragraph ~~(2) below~~³, any difference arising between the undertaker and PoTLL under this ~~Part (other than any matter to which article 65 (appeals to the Secretary of State) already applies)~~ Order must be determined by arbitration as provided in article 64 (arbitration).

(2) Article 65 (appeals to the Secretary of State) does not apply to any dispute between the undertaker and PoTLL as street authority in respect of the use of article 12 (temporary closure, alteration, diversion and restriction of use of streets) and article 17 (traffic regulation – local roads).

(3) (+) In the event of any difference arising between the undertaker and PoTLL under this ~~Part~~Order, senior representatives of each party must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days of the dispute arising, and if either party is not reasonably satisfied following that meeting it may, within 20 business days of the meeting, notify the other party accordingly and refer the matter to arbitration.

Part 2 – CLEAN VERSION

PART 1
FOR THE PROTECTION OF PORT OF TILBURY LONDON LIMITED

Application

129. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and PoTLL, for the protection of PoTLL in relation to the construction of the authorised development and the operation and maintenance of the authorised development within the Port.

Interpretation

130.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2), the latter prevail.

(2) In this Part of this Schedule—

“the 2021 Regulations” means The Designation of Freeport Tax Sites (Thames Freeport) Regulations 2021(a);

“accumulation” means any accumulation of silt or other material (including any materials used to construct the authorised development) which constitutes an impediment to navigation within and to and from the Port;

“the affected roads” means the A1089 St Andrews Road, Ferry Road, Fort Road and the unnamed link road between Fort Road and the A1089 St Andrews Road;

“erosion” means any fluvial, mechanical, or other erosion, collapse, disturbance or destruction of the bed or banks of the river Thames or any quay or jetty or other structure of whatever nature within the Port;

“the infrastructure corridor” means the purpose-built highway to access Tilbury2 between the A1089 and Substation Road;

“plans” includes plans, sections, elevations, drawings, specifications, programmes, proposals, construction methods and descriptions;

“the Port” means—

- (a) any land (including land covered by water) for the time being owned or used by PoTLL for the purposes of its statutory undertaking, together with any quays, jetties, docks, river walls and other land or works held for or in connection with that undertaking; and
- (b) the land that was designated as a Thames Freeport Tax Site under the 2021 Regulations but only insofar as that land is included in the area shown edged and hatched in red on the map marked “Location: Port of Tilbury; Subject: Thames Freeport – Tax Site” referenced in Regulation 2(1)(c) of the 2021 Regulations;

“PoTLL” means Port of Tilbury London Limited, as statutory harbour authority for and operator of the Port;

“Required Easement Width” means any area of land comprising or forming part of an exclusion or protection zone pursuant to an easement for the benefit of a statutory undertaker and proposed to be—

- (a) granted or acquired by the undertaker;
- (b) acquired by a person or body under article 8(1), whether listed under article 8(5) or otherwise; or
- (c) granted or acquired by a statutory undertaker pursuant to a consent granted by the undertaker under article 28(3);

(a) S.I. 2021/1195.

“specified easement” means any easement, restrictive covenant or any other form of property right, including a Required Easement Width, for the benefit of a statutory undertaker in respect of a work authorised by this Order, burdening land within the Port and proposed to be—

- (a) granted or acquired by the undertaker;
- (b) acquired by a person or body under article 8(1), whether listed under article 8(5) or otherwise; or
- (c) granted or acquired by a statutory undertaker pursuant to a consent granted by the undertaker under article 28(3);

“specified function” means any function of the undertaker under article 3 (development consent, etc. granted by the Order), article 4 (maintenance of the authorised development), article 5 (maintenance of drainage works), article 10 (construction and maintenance of new, altered or diverted streets and other structures), article 11 (access to works), article 12 (temporary closure, alteration, diversion and restriction of use of streets), article 13 (use of private roads), article 14 (permanent stopping up of streets and private means of access), article 17 (traffic regulation – local roads), article 18 (powers in relation to relevant navigations or watercourses), article 19 (discharge of water), article 20 (protective work to land and buildings), article 21 (authority to survey and investigate the land) and article 23 (felling or lopping of trees and removal of hedgerows) of this Order where exercised in respect of the land situated on, over, across or under the Port;

“specified work” means so much of the works and other matters listed at paragraphs (a) to (e) as is situated on, over, across or under the Port—

- (a) the following Works Nos. together with any preliminary works, associated development or ancillary works proposed to be carried out for the purposes of or in connection with their construction—
 - (i) Work No. CA5;
 - (ii) Work No. CA5A;
 - (iii) Work No. MUT4;
 - (iv) Work No. MUT5;
 - (v) Work No. MUT7;
 - (vi) Work No. MUT8;
 - (vii) Work No. MUT9;
 - (viii) Work No. MU27;
 - (ix) Work No. MU28;
 - (x) Work No. MU29;
 - (xi) Work No. OH3; and
 - (xii) Work No. OH4;
- (b) any activities associated with the undertaker complying with article 37(5) or any provision in Schedule 14 requiring the removal of apparatus;
- (c) any work, activity or operation associated with the authorised development authorised by the Town and Country Planning (General Permitted Development) (England) Order 2015(a) or under any planning permission granted under the Town and Country Planning Act 1990(b);
- (d) any part of the authorised development that is expected to require the inclusion of any land within the Port within the extent of a Required Easement Width; and

(a) S.I. 2015/596.

(b) 1990 c. 8.

(e) any traffic, rail and vessel movements associated with the works, activities and operations listed at paragraphs (a) to (d) which may affect the Port;

“Tilbury2” means that part of the Port constructed pursuant to the Port of Tilbury (Expansion) Order 2019(a);

“vehicular access” includes but is not limited to access by road, rail, vessel and conveyer and any reference to “access” is to be construed as including vehicular access unless otherwise stated.

Approval of plans

131.—(1) The undertaker must, before the exercise, or carrying out of any specified function or specified work, supply to PoTLL proper and sufficient plans of that work or function for the approval of PoTLL, acting reasonably, and the specified function must not be exercised or the specified work must not begin except in accordance with such plans as have been approved in writing by PoTLL or settled pursuant to paragraph 153 of this Part of this Schedule.

(2) Before approving plans provided under sub-paragraph (1), PoTLL may require the undertaker to supply it with such further information as PoTLL considers (acting reasonably) to be necessary to determine whether to grant approval, but such a request must be made within 28 days of the date on which plans have been supplied to PoTLL under sub-paragraph (1).

(3) The approval of PoTLL under sub-paragraph (1) must not be unreasonably withheld but may be given subject to such reasonable conditions as PoTLL may make for the protection of the Port (outside of the land which is the subject of the plan submitted under sub-paragraph (1)), navigation and current and permitted future vehicular access to it, and its ability to carry out dredging to facilitate vessel access to the Port and to facilitate the effective and cost-efficient future development of the Port provided that such conditions must not, if implemented, give rise to a breach of this Order.

(4) When imposing conditions on any approval given under sub-paragraph (1), PoTLL may specify any reasonably necessary protective works (whether temporary or permanent) that must be carried out before the carrying out of a specified work to minimise, to the extent reasonably practicable, the impact on PoTLL’s undertaking, and such protective works as may be reasonably necessary for those purposes must be constructed either by PoTLL at the expense of the undertaker, such costs to be agreed by the undertaker prior to construction, or by the undertaker at its own expense, in either case to be undertaken to a programme agreed between the undertaker and PoTLL, both parties acting reasonably.

(5) The undertaker must carry out any specified function or specified work and any protective works required under sub-paragraph (4) in accordance with the plans approved under sub-paragraph (1) or settled pursuant to paragraph 153 of this Part of this Schedule.

(6) PoTLL is entitled at all reasonable times, on giving such notice as may be reasonable in the circumstances, to inspect and survey the specified works and the protective works and the undertaker must provide all reasonable facilities to enable that inspection and survey to take place and, if the person duly appointed by PoTLL is of the opinion, acting reasonably, that the construction of the work poses danger to any property of the Port or persons within the Port, the undertaker must adopt such measures and precautions as may be reasonably practicable for the purpose of preventing any damage or injury.

(7) If, by the end of the period of 28 days beginning with the date on which plans (or any subsequent information reasonably requested in accordance with sub-paragraph (2)) have been supplied to PoTLL under sub-paragraph (1), PoTLL has not approved or intimated disapproval of those plans and the grounds of disapproval, PoTLL is deemed to have approved the plans as submitted.

(8) Where an approval is provided under this paragraph, the undertaker will be deemed to have a reasonable excuse for the purposes of paragraph 4(4) of Schedule 7 to the Port of Tilbury (Expansion) Order 2019(b) (or any substituted byelaws made by PoTLL under that Order), and no

(a) S.I. 2019/359.

(b) S.I. 2019/359.

proceedings will be brought by PoTLL in pursuance of those byelaws, when the undertaker carries out the specified work or protective work or specified function in accordance with an approval.

Approval of specified easements

132.—(1) Before granting, imposing or acquiring any specified easement, transferring or granting the benefit of the Order pursuant to article 8(1) or issuing a consent under article 28(3) in respect of any specified easement, the undertaker must supply to PoTLL details of the proposed terms of that specified easement for the approval of PoTLL, acting reasonably, and the specified easement must not be acquired, imposed or granted except in accordance with the proposed terms as have been approved in writing by PoTLL or settled pursuant to paragraph 153 of this Part of this Schedule.

(2) The approval of PoTLL under sub-paragraph (1) must not be unreasonably withheld but may be given subject to such reasonable conditions as PoTLL may make for the protection of the Port, and current and planned permitted vehicular access to it, and its ability to carry out dredging to facilitate vessel access to the Port and to facilitate the effective and cost-efficient operation and future development of the Port provided that such conditions must not, if implemented, give rise to a breach of this Order.

(3) In considering whether to grant its approval of the proposed terms of a specified easement submitted to it under sub-paragraph (1), PoTLL must have reasonable regard to—

- (a) the reasonable requirements of the statutory undertaker for whose benefit the specified easement is proposed to be granted or acquired, including any relevant provisions of this Order;
- (b) the intended purpose of the specified easement; and
- (c) the desirability of the effective and efficient implementation of the authorised work or works to which the specified easement relates.

(4) The undertaker must acquire, impose or grant the specified easement, or transfer or grant the benefit of the Order pursuant to article 8(1) or issue a consent under article 28(3) in respect of any specified easement in accordance with the proposed terms approved under sub-paragraph (1) or settled pursuant to paragraph 153 of this Part of this Schedule.

(5) If, by the end of the period of 28 days beginning with the date on which the proposed terms of any specified easement have been supplied to PoTLL under sub-paragraph (1), PoTLL has not approved or intimated disapproval of those terms and the grounds of disapproval, PoTLL is deemed to have approved the proposed terms as submitted.

Restoration of Port land temporarily possessed by the undertaker

133. Before permanently vacating any part of the Port of which the undertaker has taken temporary possession under this Order, it must provide to PoTLL a schedule of condition of that part of the Port and any temporary works and apparatus situated in, on, under or over it and, notwithstanding articles 35, 36 and 37 PoTLL may, acting reasonably, specify in writing to the undertaker how it wishes that part of the Port to be restored by the undertaker, including if necessary by the removal of any apparatus, and if PoTLL does so specify then the undertaker will restore that part of the Port accordingly and to PoTLL's reasonable satisfaction before vacating it.

Consultation

134.—(1) PoTLL must be consulted by the undertaker on the development of the following plans and details in respect of any matters or measures within them that may affect the Port or the carrying out of a specified work or a specified function, before they are submitted to the Secretary of State for approval—

- (a) an EMP (Second Iteration) under Requirement 4;
- (b) a LEMP (as defined in paragraph 1 of Schedule 2) under Requirement 5;
- (c) any materials handling plan developed under Requirement 4 as part of the EMP (Second Iteration);
- (d) a written scheme and programme under Requirement 6(2);

- (e) a travel plan under Requirement 11; and
- (f) fencing under Requirement 12.

(2) Within the Port—

- (a) the definition of ‘carrying out’ in Requirement 6(1) is to be construed as applying to the preliminary works; and
- (b) measures GS-016 to GS-028 inclusive of table 7.1 of the code of construction practice apply to the carrying out of the preliminary works.

(3) PoTLL must be consulted by the undertaker on the development of the following plans, required by the preliminary works EMP, in respect of any matters or measures within them that may affect the Port or the carrying out of a specified work or specified function, before they are approved by the undertaker—

- (a) a Security Management Plan;
- (b) an Emergency Preparedness Plan; and
- (c) a Noise and Vibration Management Plan.

(4) PoTLL must be consulted by the undertaker on the development of a traffic management plan for the preliminary works required by section 6 of the outline traffic management plan for construction.

(5) The undertaker must invite and allow PoTLL to be a member of the following groups that are created in relation to the authorised development on the north side of the river Thames—

- (a) the travel plan liaison group created under a travel plan approved under Requirement 11;
- (b) the materials handling sub-group of the traffic management forum created under a traffic management plan approved under Requirement 11; and
- (c) an advisory group created under a LEMP (as defined in paragraph 1 of Schedule 2) approved under Requirement 5.

Notification of works to utilities and services affecting the Port

135. Except in an emergency, prior to the carrying out of any works to any utilities or services within the infrastructure corridor, the undertaker will notify PoTLL of the intended works and the programme for the implementation of such works at least 28 days prior to the carrying out of the proposed work.

Construction traffic management protocol within the Port

136.—(1) Before the commencement of any work constituting Work No. CA5, or any work ancillary to it including preliminary works, the undertaker must prepare a construction traffic management protocol in relation to those works and submit it to PoTLL for approval.

(2) The construction traffic management protocol must include—

- (a) the security process to be followed by all vehicles accessing Work No. CA5 or otherwise travelling through the Port;
- (b) the code of conduct which the undertaker, its employers, agents and contractors will observe whilst on the Port;
- (c) procedures to be followed by all vehicles to ensure the Port and access to the Port does not become congested during any period in which the railway level crossing in the Port is in use;
- (d) the procedures to be followed in an emergency;
- (e) a suggested process by which prior approval will be sought from PoTLL of the number of vehicular movements, including abnormal indivisible loads, expected to pass through the Port within a period to be agreed with PoTLL, acting reasonably, and for updates to this information to be provided at the end of agreed period, for the next agreed period; and
- (f) a suggested process by which variations to the numbers approved by PoTLL under paragraph (e) are to be approved by PoTLL.

(3) The approval of PoTLL under sub-paragraph (1) must not be unreasonably withheld but may be given subject to such reasonable modifications, terms and conditions as PoTLL may make for the protection of the Port and its tenants, including in respect of their current and future operations.

(4) The undertaker must ensure that its employees, agents and contractors comply with the construction traffic management protocol approved by PoTLL under sub-paragraph (1) and the failure of any person to comply with the construction traffic management protocol will entitle PoTLL to prohibit that person from entering the Port in connection with the works covered by the protocol.

Streets

137.—(1) Before exercising the relevant streets powers in respect of any affected roads the undertaker must consult PoTLL on its proposed exercise of those powers and have regard to any consultation response provided by PoTLL.

(2) Consultation under this paragraph will be effected by the undertaker sending to PoTLL the documents reasonably required to describe its proposed exercise of the relevant streets powers and, where required by the provisions of the relevant streets powers to consult or seek the consent of a street authority or traffic authority, a copy of the consultation documents or application seeking that consent, at the time those documents are submitted to the relevant street authority or traffic authority as the case may be.

(3) The undertaker must send to PoTLL a copy of any response received by the undertaker from the relevant street authority or traffic authority in response to any such consultation or submission for consent under the relevant streets powers within 7 days of the receipt by the undertaker of any such response.

(4) In this paragraph “the relevant streets powers” means the powers conferred by article 12 (temporary closure, alteration, diversion and restriction of use of streets), article 16 (clearways, speed limits and prohibitions) and article 17 (traffic regulation – local roads).

Minimising disruption to affected roads and streets within the Port

138. In exercising the powers conferred by this Order in relation to the affected roads or any street within the Port, the undertaker must have regard to the potential disruption, delay or congestion of traffic which may be caused to the affected roads or streets within the Port and seek to minimise such disruption, delay or congestion so far as is reasonably practicable.

Obstruction within the Port

139.—(1) Where any event or accident on or affecting any road, street or highway within the Port or on or affecting the river Thames, prevents or obstructs pedestrian or vehicular access into, out of or within the Port, such event or accident being caused by or attributable to the undertaker, its agents, employees or contractors, or which requires the removal of any item, vessel or vehicle which is preventing or obstructing access and which is owned by, contracted to or otherwise being used on behalf of the undertaker, the undertaker must use best endeavours to reinstate access or remove the obstruction without delay.

(2) PoTLL may, where an obstruction has occurred and has not been removed by the undertaker within 14 days of the undertaker becoming aware of the obstruction, or upon the undertaker being given notice by PoTLL that it is expedient for PoTLL to do so, remove the obstruction and recover the cost of that removal and repair from the undertaker.

Land powers

140. The undertaker must not exercise the powers conferred by article 25 (compulsory acquisition of land), article 33 (acquisition of subsoil or airspace only), article 34 (rights under or over streets), article 35 (temporary use of land for carrying out the authorised development) and article 36 (temporary use of land for maintaining the authorised development) in relation to any land within the Port unless the exercise of those powers is with the consent of PoTLL, such consent not to be unreasonably withheld or delayed.

141. Article 29 (private rights) and article 66 (power to override easements and other rights) do not apply to the Port and any interests in or rights over land held by PoTLL unless otherwise agreed by PoTLL, acting reasonably.

As-built plans

142. As soon as reasonably practicable following the completion of the construction of any specified works within the Port or any protective works, the undertaker must provide to PoTLL as-built plans of those works in a form and scale to be agreed between the undertaker and PoTLL.

Accumulation and erosion

143.—(1) If during the construction of a specified work or protective work or in the carrying out of a specified function or after the completion of that work or function, there is caused or created an accumulation or erosion wholly or partly in direct consequence of its construction, the undertaker, if requested by PoTLL, acting reasonably, must remedy the accumulation or erosion to the extent attributable to the construction of the specified work or protective work and, if it refuses or fails to do so as soon as reasonably practicable, PoTLL may itself cause the work to be done and may recover the reasonable cost of doing so from the undertaker.

(2) For the purposes of sub-paragraph (1)—

- (a) in the case of an accumulation, the remedy must be its removal; and
- (b) in the case of erosion, the remedy must be the carrying out of such reconstruction works and other protective works or measures as PoTLL reasonably requires.

Permitting

144. The undertaker must consult PoTLL before applying for any permit under the Environmental Permitting (England and Wales) Regulations 2016(a) or an environmental scheme under article 68 (interface with waste operation permits), that will apply to activities in the Port.

145. Within the Port, the meaning of “authorised activity” in article 68 (interface with waste operation permits) shall be construed as including the carrying out of any preliminary works.

Port closure in emergency

146.—(1) Subject to sub-paragraph (2), PoTLL may at any time close the Port and exclude access by the undertaker, including access under any power granted by this Order, under any access right and as provided for in any agreement between the undertaker and PoTLL, where PoTLL reasonably considers that it is necessary to do so in response to a request from an emergency service or government agency, any emergency or accident, or an imminent threat to the health or safety of persons.

(2) PoTLL must inform the undertaker of any closure of the Port as soon as reasonably practicable, including details of the location and extent of the closure and where known, the anticipated duration of the closure.

(3) The undertaker must not at any time prevent or unreasonably impede access by emergency services vehicles to the Port.

Interaction with the Port of Tilbury (Expansion) Order 2019

147.—(1) Notwithstanding paragraph (5) of article 55, the undertaker will not undertake any work, activity or operation authorised by this Order, the Town and Country Planning Act (General Permitted Development) Order 2015 or under any planning permission granted or having effect under the Town and Country Planning Act 1990 that will or could result in a breach of the provisions, requirements, licences and other consents that form part of, are authorised by, or are ancillary to the Port of Tilbury (Expansion) Order 2019 (“the 2019 Order”) until a scheme of management has been submitted to and approved by PoTLL, acting reasonably.

(2) The scheme of management must set out how the undertaker will—

(a) S.I. 2016/1154.

- (a) minimise the extent of any such breach;
- (b) monitor the breach;
- (c) rectify the breach at the earliest opportunity; and
- (d) reinstate the Port so as to ensure ongoing compliance with the provision, requirement, licence or consent following rectification of the breach.

(3) Unless otherwise agreed by PoTLL, the undertaker must implement the scheme of management approved under sub-paragraph (1).

(4) The undertaker is to be responsible for ensuring that the rectification of any breach remains effective for a period of 12 months commencing with the date on which the breach was rectified or, should the breach recur, the date on which the recurrence was itself rectified.

(5) The scheme of management must provide that the rectification of any breach and reinstatement of the Port must be to at least the condition of the relevant land, ecological or other feature before the breach occurred, but it may include compensatory ecological provision where rectification would not otherwise be reasonably practicable due to the construction of the authorised development.

Safeguarding of access to the Port by rail

148. The undertaker must not exercise any power under the Order in such a manner as to cause any vehicular access for the purposes of the authorised development to have priority over railway traffic at the level crossing in the Port.

Disposals, etc

149. The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 8 (consent to transfer benefit of Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party insofar as these would affect the Port or the operation of this Part of this Schedule, notify PoTLL in writing, and the notice must include particulars of the other party to the transaction under article 8, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

150. The undertaker must not grant consent under article 28(3) for a statutory undertaker to exercise the powers in article 28(1) over the Port or any Required Easement Width to the extent it is located in, on, over or under the Port, without the prior written consent of PoTLL, not to be unreasonably withheld or delayed.

Costs

151. The undertaker must pay to PoTLL its proper and reasonable legal costs, professional fees and disbursements incurred in connection with—

- (a) reviewing any information provided by the undertaker in seeking any consent or approval required by this Part of this Schedule; or
- (b) inspecting during construction or on practical completion of any specified work or protective work

Indemnity

152.—(1) The undertaker agrees to indemnify and keep PoTLL, including any associated company (as defined in article 8(7)), indemnified at all times for all losses, costs, charges, damages, expenses, claims and demands which may be incurred reasonably or suffered by PoTLL, by reason or arising from or relating to—

- (a) the construction or failure of a specified work or protective work;
- (b) the carrying out of a specified function;
- (c) the undertaking by PoTLL of works or measures to prevent or remedy a danger or impediment to navigation or access within or to and from the Port;

- (d) the alteration to aids to navigation within the Port that are owned by PoTLL or the laying down of moorings or buoys within the Port as may be necessary in consequence of a specified work;
- (e) damage to the Port arising from paragraphs (a) to (d), including but not limited to—
 - (i) damage to any, street, plant, apparatus, chattels, fixtures, equipment or building belonging to PoTLL that is caused by the construction or failure of a specified work or protective work;
 - (ii) any act or omission of the undertaker or its servants and agents while engaged in the construction of a specified work or protective work; and
 - (iii) any remedial works necessary as the result of contamination being disturbed in, or migrating to, the Port or where such contamination means that the land affected by contamination cannot be used as part of the Port.

(2) The liability imposed by sub-paragraph (1) includes where this is attributable to the act, neglect or default of the undertaker's officers, servants, contractors, employees, agents and sub-contractors.

(3) The fact that any act or thing may have been done by PoTLL on behalf of the undertaker or in accordance with a plan approved by PoTLL or in accordance with any requirement of PoTLL or under its supervision or to its satisfaction or in accordance with any directions or award of any arbitrator does not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1).

(4) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of PoTLL, its officers, servants, contractors or agents.

(5) PoTLL must give the undertaker reasonable notice of any such claim or demand as is referred to in sub-paragraph (1), and no settlement or compromise of any such claim or demand must be made without the prior written consent of the undertaker, such consent not to be unreasonably delayed or refused.

Disputes

153.—(1) Subject to sub-paragraph (3), any difference arising between the undertaker and PoTLL under this Order must be determined by arbitration as provided in article 64 (arbitration).

(2) Article 65 (appeals to the Secretary of State) does not apply to any dispute between the undertaker and PoTLL as street authority in respect of the use of article 12 (temporary closure, alteration, diversion and restriction of use of streets) and article 17 (traffic regulation – local roads).

(3) In the event of any difference arising between the undertaker and PoTLL under this Order, senior representatives of each party must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days of the dispute arising, and if either party is not reasonably satisfied following that meeting it may, within 20 business days of the meeting, notify the other party accordingly and refer the matter to arbitration.

APPENDIX 2

FREEPOR T DELIVERY ROADMAP

<https://www.gov.uk/guidance/freeports-delivery-roadmap>

Guidance

Freeports delivery roadmap

The roadmap sets out the measures government is taking to maximise the future success of Freeports.

From: [Department for Levelling Up, Housing and Communities](#)
([/government/organisations/department-for-levelling-up-housing-and-communities](#))

Published 19 December 2023

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Ministerial foreword

I am delighted to present this delivery roadmap, a blueprint for unlocking the full potential of the UK's Freeports programme. The impact Freeports are already having is clear: at the recent Global Investment Summit, the Prime Minister announced that Freeports have already attracted a remarkable £2.9 billion of investment, creating over 6,000 jobs. Freeports are working, but this is just the start.

Since 2021, the government has announced 12 Freeports, which are together projected to create over 200,000 jobs, many of which will be in the high-innovation, low-carbon technologies of the future. Freeports will transform our industrial heartlands, putting them right at the forefront of our journey to Net Zero.

We can already see this starting to happen. On the Humber, for example, the Freeport has helped secure an investment from Pensana PLC to create the UK's first rare earth processing facility – a critical link in the supply chain for green energy and low carbon technologies. Further up the coast, the Teesside Freeport is harnessing its proximity to the North Sea and attracting major investment in offshore wind manufacturing, including a facility built by SeAH Wind. In south-west England, the Plymouth and South Devon Freeport is playing to local strengths, having secured investment from M Subs, who design and operate underwater vehicles, in a continuation of the region's proud maritime tradition. Across the board, Freeports are delivering for communities with new skills programmes, apprenticeships, and scholarships to ensure local people benefit from the jobs created. These examples show the early impacts Freeports are having, but their true potential is transformational.

As we press forward, it is imperative that we do everything we can to realise

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reliefs, which will provide businesses with the long-term support they need to invest, and a new £150 million Investment Opportunities Fund to help land investment into Freeports and Investment Zones.

But we need to go further. This document – the ‘Freeports Delivery Roadmap’ – sets out our plan for doing so. It is a comprehensive set of measures that government will implement to accelerate Freeport delivery and maximise its benefits for all: we are doubling down on our efforts to promote Freeports to investors; we are making sure those investors have as smooth a journey through the planning system as possible; and we are stepping up our support to ensure Freeports deliver positive impacts for local people and for the long term.

This is our pledge to do what it takes to maximise the full potential of Freeports. The scale of the opportunity is vast, and the journey has only just begun, but together we will bring a tide of prosperity to communities in all corners of the UK.

The Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing and Communities

Introduction

The first Freeports [were announced](https://www.gov.uk/government/speeches/budget-speech-2021) (<https://www.gov.uk/government/speeches/budget-speech-2021>) in England by the Prime Minister, then Chancellor, in March 2021 and since then rapid progress has been made. Four further Freeports have been announced, in Scotland and Wales, and across Freeport locations, councils, businesses, and other key stakeholders have been busily working to establish the right structures for delivery.

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What are Freeports?

At their core, [Freeports \(https://www.gov.uk/guidance/freeports\)](https://www.gov.uk/guidance/freeports) are about rebalancing regional economies in disadvantaged parts of the UK towards the sectors of the future, laying the foundations for long-term, durable prosperity that builds upon areas' proud industrial heritages and leverages ports (sea and air) as key local economic assets. This is a lofty ambition, but Freeports have at their disposal a powerful toolkit of policy measures to realise it.

First, a generous financial package allows Freeports to unlock underutilised sites that have enormous potential – in part thanks to their proximity to port infrastructure – but are in parts of the country which suffer from lower levels of economic activity. Companies locating on those specific sites will benefit from a suite of tax reliefs on new investment and job creation, simplified customs procedures, and wide-ranging support to trade, invest, and innovate. In aggregate these measures aim to create investable sites across the UK, focused on the sectors of the future.

Working together, Freeports and government are promoting these propositions with the aim of landing investment into Freeport sites, creating high-quality jobs for local people and generating additional tax revenue for local councils. Those councils are able to keep all the business rates generated on Freeport sites – instead of the normal 50% share – for 25 years, giving them a long-term funding settlement potentially worth hundreds of millions of pounds - to support investments in local infrastructure and skills.

This will further increase the attractiveness of Freeports to investors, leading to more investment and, ultimately, the creation of new green energy and manufacturing clusters and sustainable growth for regional economies





1. East Midlands Freeport
2. Freeport East
3. Humber Freeport
4. Liverpool City Region Freeport
5. Plymouth and South Devon Freeport
6. Solent Freeport
7. Teesside Freeport
8. Thames Freeport
9. Forth Green Freeport
10. Inverness and Cromarty Firth Green Freeport
11. Anglesey Freeport
12. Celtic Freeport

How are Freeports delivered?

Freeport delivery is led by a local partnership of councils, businesses, and other key stakeholders, which together form a 'Freeport governing body'. Freeport governing bodies take a range of forms, but all are required to

ensure the appropriate management of public money and democratic accountability.

Local delivery is supported by departments from across government, reflecting the wide-ranging and cross-cutting nature of the policy measures available to Freeports. The [Department for Levelling Up, Housing and Communities \(DLUHC\)](https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities) (<https://www.gov.uk/government/organisations/department-for-levelling-up-housing-and-communities>) acts as the lead department, working in partnership with:

- [HM Treasury](https://www.gov.uk/government/organisations/hm-treasury) (<https://www.gov.uk/government/organisations/hm-treasury>) (HMT) and [HM Revenue and Customs](https://www.gov.uk/government/organisations/hm-revenue-customs) (<https://www.gov.uk/government/organisations/hm-revenue-customs>) (HMRC) on delivery of the tax and customs measures
- The [Department for Business and Trade](https://www.gov.uk/government/organisations/department-for-business-and-trade) (<https://www.gov.uk/government/organisations/department-for-business-and-trade>) (DBT) on investment, trade, and regulatory reform, including promoting Freeports to investors and reviewing opportunities for smarter regulation in Freeports
- The [Department for Science, Innovation and Technology](https://www.gov.uk/government/organisations/department-for-science-innovation-and-technology) (<https://www.gov.uk/government/organisations/department-for-science-innovation-and-technology>) (DSIT) on innovation
- The [Cabinet Office](https://www.gov.uk/government/organisations/cabinet-office) (<https://www.gov.uk/government/organisations/cabinet-office>) (CO) on the innovation and modernisation of the UK Border
- The [Department for Energy Security and Net Zero](https://www.gov.uk/government/organisations/department-for-energy-security-and-net-zero) (<https://www.gov.uk/government/organisations/department-for-energy-security-and-net-zero>) (DESNZ) on decarbonisation
- The [Department for Education](https://www.gov.uk/government/organisations/department-for-education) (<https://www.gov.uk/government/organisations/department-for-education>) (DfE) and the [Department for Work and Pensions](https://www.gov.uk/government/organisations/department-for-work-and-pensions)

- The [Department for Transport](https://www.gov.uk/government/organisations/department-for-transport) (<https://www.gov.uk/government/organisations/department-for-transport>) (DfT) on ports and transport infrastructure
- The [Department for Environment, Food and Rural Affairs](https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs) (<https://www.gov.uk/government/organisations/department-for-environment-food-rural-affairs>) (DEFRA) and its arm's length bodies ([Natural England](https://www.gov.uk/government/organisations/natural-england) (<https://www.gov.uk/government/organisations/natural-england>), the [Environment Agency](https://www.gov.uk/government/organisations/environment-agency) (<https://www.gov.uk/government/organisations/environment-agency>), and the [Marine Management Organisation](https://www.gov.uk/government/organisations/marine-management-organisation) (<https://www.gov.uk/government/organisations/marine-management-organisation>)) on environment, including regulation, and input into the planning consenting process
- The [Department for Culture, Media, and Sport](https://www.gov.uk/government/organisations/department-for-digital-culture-media-sport) (<https://www.gov.uk/government/organisations/department-for-digital-culture-media-sport>) (DCMS) through [Historic England](https://www.gov.uk/government/organisations/historic-england) (<https://www.gov.uk/government/organisations/historic-england>) as one of its arm's length bodies on heritage and input into the planning consenting process
- The [Scottish](https://www.gov.scot/) (<https://www.gov.scot/>) and [Welsh](https://www.gov.wales/) (<https://www.gov.wales/>) Governments on the joint delivery of the Freeports programme in Scotland and Wales

This cross-government delivery structure will be bolstered by the creation of a Freeports Independent Advisory Panel, which will provide external expert advice to the programme and a forum for business voices to be heard in Freeports policymaking.

This document looks to build on the support already in place and sets out a comprehensive package of measures that government will introduce to

The Freeports delivery road map

The measures making up this delivery roadmap each aim to strengthen a key link in the Freeports delivery chain and are structured around 3 key strands:

- **creating investable sites** – bringing sites and enabling infrastructure forward, ready for businesses to invest
- **landing investment** – promoting Freeports and working with business to secure investment
- **creating clusters and local economic growth** – capitalising on early investment to attract a wider supply chain and foster a cluster, while reinvesting in the local economy and communities.

The measures outlined below have been developed in response to the opportunities and challenges faced by English Freeports as they have progressed through delivery but, in many cases, can benefit and will apply to Freeports UK-wide as well as [Investment Zones](https://www.gov.uk/government/publications/investment-zones) (<https://www.gov.uk/government/publications/investment-zones>). Where this is the case, it is clearly stated. DLUHC will continue to work closely with UK government departments, and with the Scottish and Welsh Governments and their respective agencies, to ensure appropriate support is available for [Green Freeports](https://www.gov.scot/policies/cities-regions/green-ports/) (<https://www.gov.scot/policies/cities-regions/green-ports/>) in Scotland, for Freeports in [Wales](https://www.gov.wales/freeport-programme-wales) (<https://www.gov.wales/freeport-programme-wales>) and for Investment Zones so that they can benefit from the measures outlined in this Roadmap where applicable. The UK government will also continue to work with stakeholders on how best to deliver the benefits of the Freeports and Investment Zones programmes in Northern Ireland.

1 Creating investable sites

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Freeports aim to bring forward dormant sites for rapid development, including major projects in nascent sectors. These are complex undertakings with long lead times and so it is crucial that government does all it can to accelerate enabling processes, including planning consenting and infrastructure delivery.

Infrastructure

Since Freeports focus on attracting new investment to previously underutilised sites, in many cases enabling works are required to prepare sites for development. This may include remediating contaminated land, upgrading transport links, or demolishing old and unwanted structures. Where the cost of these works, or the risks associated with them, are so great that it is unrealistic to expect the private sector alone to meet them, it is necessary for government to provide support.

Transport is a key enabler for the development of sites, both in the immediate vicinity and across wider strategic transport networks. The Department for Transport will therefore ensure the needs of Freeports are considered in transport funding decisions and that their impacts on the transport network are accounted for in scheme appraisal work. For example, as £36 billion of [Network North](https://www.gov.uk/government/publications/network-north) (<https://www.gov.uk/government/publications/network-north>) transport investments (which includes transport investment across the country) are made, DfT will also ensure that opportunities to maximise the benefits of Freeports are considered.

Access to financing can also be a constraint. Where Freeport sites require significant up-front enabling works, the [UK Infrastructure Bank](https://www.ukib.org.uk/) (<https://www.ukib.org.uk/>) (UKIB) will proactively engage Freeports, providing expert advisory support and exploring options to provide flexible loans to

work with Freeports and across government to develop bespoke solutions for sites facing financing constraints, including exploring possible avenues for further government funding.

The government also recognises that wait times for electricity grid connectivity can be a source of delays for the delivery of Freeport sites. The government is working closely with [Ofgem \(https://www.ofgem.gov.uk/\)](https://www.ofgem.gov.uk/) and network companies to ensure sufficient network capacity and accelerate grid connections: £3.1 billion has been allocated for network upgrades between 2023 and 2028. The [Connections Action Plan \(https://assets.publishing.service.gov.uk/media/655dd873d03a8d001207fe56/connections-action-plan.pdf\)](https://assets.publishing.service.gov.uk/media/655dd873d03a8d001207fe56/connections-action-plan.pdf), published jointly with Ofgem, will drastically reduce the time it takes viable projects to connect to the grid. Through reforms to grid connections, government aims to reduce the average delay a viable project faces to connect to the transmission network from 5 years to 6 months with the ambition that the significant majority of projects, including those within Freeports, can connect in line with their realistic project requirements. Ofgem have published their decision to grant the [Electricity System Operator \(https://www.nationalgrideso.com/\)](https://www.nationalgrideso.com/) powers to remove stalled, speculative or unviable projects from the connections queue if they cannot meet key milestones.

DESNZ will work with Ofgem on the implementation of its recently announced Regional Energy Strategic Planners to improve local energy planning, including in Freeport areas, and work with Freeports to understand their infrastructure needs and attract investment for projects. DESNZ will also work with the Office for Investment (OfI) to manage a triage process to ensure that the most strategically important projects receive government support to facilitate timely connection times. Finally, DLUHC will make available to Freeports centrally contracted expert advice to support them in engaging energy network stakeholders.

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Planning

The current planning system in England gives local authorities a powerful set of tools for creating an environment that can support appropriate development on Freeport sites. The government will take steps to ensure those tools are used as effectively as possible and to minimise friction at key stages in the planning process.

The government will ensure that relevant national planning policy reflects the needs and priority of Freeports and Investment Zones, giving local planning authorities and businesses greater certainty and clarity. This will include the [National Planning Policy Framework](https://www.gov.uk/government/publications/national-planning-policy-framework--2) (NPPF), new [National Development Management Policies](https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy#chapter-10--national-development-management-policies) (the [National Policy Statement for Ports](https://www.gov.uk/government/speeches/review-of-the-national-policy-statement-for-ports)) and the associated Planning Practice Guidance around Ports and Transport. Any Freeport or Investment Zone project that is deemed to be a [Nationally Significant Infrastructure Project \(NSIP\)](https://commonslibrary.parliament.uk/research-briefings/sn06881/) will also benefit from a reformed consenting process from Spring 2024, including being able to use a fast-track route for seeking [Development Consent](https://assets.publishing.service.gov.uk/media/5a751191ed915d60d3b90de7/Fact_Sheet_Planning_Act_2008_DCO_Final.docx) (subject to meeting the required quality standards).

To accelerate particularly large-scale, priority developments, DLUHC's new 'Planning Super Squad' (<https://www.gov.uk/government/news/long-term-plan-for-housing>) of expert planners will be empowered to support Freeport and

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<https://www.local.gov.uk/pas/topics/local-development-orders/local-development-orders>). Freeports and Investment Zones will also be able to take advantage of the measures introduced by the [Levelling Up and Regeneration Act 2023](https://www.legislation.gov.uk/ukpga/2023/55/enacted) (<https://www.legislation.gov.uk/ukpga/2023/55/enacted>), including on [Compulsory Purchase Orders](https://www.gov.uk/guidance/compulsory-purchase-and-compensation-guide-1-procedure) (<https://www.gov.uk/guidance/compulsory-purchase-and-compensation-guide-1-procedure>) (CPOs), the Infrastructure Levy, and development corporations. The Act gives English local authorities clearer powers to use CPOs to deliver regeneration outcomes, while streamlining the CPO process and reforming land compensation rules to ensure they are fair. The Act also introduces powers for the government to create a new, mandatory [Infrastructure Levy](https://www.legislation.gov.uk/ukpga/2023/55/part/4/enacted) (<https://www.legislation.gov.uk/ukpga/2023/55/part/4/enacted>), which will aim to generate more funding for affordable housing and infrastructure from development in areas like Freeports. Finally, the Act enhances the statutory framework for development corporations, ensuring they have the powers and functions necessary to unlock strategic development in all parts of England.

[Statutory Consultees](https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees) (<https://www.gov.uk/guidance/consultation-and-pre-decision-matters#Statutory-consultees>) have an important role in the planning process, providing timely advice to decision makers and developers to help them ensure that Freeport developments meet planning requirements and that any impacts on the environment, infrastructure and safety are assessed and mitigated. Government will provide advice to relevant statutory consultees to ensure they understand the priority of Freeports and has also announced an independent review of the role of national statutory consultees to ensure they can provide more timely and effective advice to decision makers.

To ensure that we continue to protect the environment while delivering the new development needed, DEFRA and its arm's length bodies will work with Freeports to consider Freeport masterplans, where they are developed. This

proposed solutions to identified challenges. Where appropriate, opportunities might be considered for embedding staff to work with the Freeports. Natural England and the Environment Agency will engage with applicants and the [Planning Inspectorate](https://www.gov.uk/government/organisations/planning-inspectorate) (<https://www.gov.uk/government/organisations/planning-inspectorate>) to identify and resolve environmental issues with NSIP schemes prior to examination, including working with the enhanced services being put in place to support the fast-track route.

Natural England and the Environment Agency will prioritise engagement with the Freeport programme based on environmental risks and opportunities, to focus their expertise and support where it is needed. Consideration will be given to piloting and testing approaches within Freeport locations to improve evidence, understanding, and certainty of environmental issues and opportunities to support economic growth whilst delivering on the government's ambition to improve the environment within a generation. DEFRA and its arm's-length bodies will continue to support and promote the use of the [Coastal Concordat](https://www.gov.uk/government/publications/a-coastal-concordat-for-england/a-coastal-concordat-for-england-revised-december-2019) (<https://www.gov.uk/government/publications/a-coastal-concordat-for-england/a-coastal-concordat-for-england-revised-december-2019>) for Freeport local planning authorities signed up to the approach and advocate the approach across others, to provide a framework for multiple permissions to be better co-ordinated.

In addition, DCMS and its arm's-length body, Historic England, will develop a Service Level Agreement for the Freeports programme with DLUHC to ensure Historic England has the resources available to provide Freeports with the advice and services they need.

2. Landing investment

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to effectively promote those sites and land investment into them. The government is, therefore, committing additional funding to this activity and ensuring DBT and OfI are fully prepared to seize the opportunities Freeports present.

Funding and tax incentives

In the [Autumn Statement \(https://www.gov.uk/government/publications/autumn-statement-2023/autumn-statement-2023-html\)](https://www.gov.uk/government/publications/autumn-statement-2023/autumn-statement-2023-html), the government announced 2 key measures that will catalyse investment into Freeports. First, the window for claiming the Freeport tax reliefs will be extended by 5 years. This is a recognition of their effectiveness in attracting private sector investment as well as the importance of giving businesses the long-term certainty to invest, especially in complex, innovative projects with long lead times. This extension will have an immediate impact on these commercial decisions, boosting investment here and now. Second, the government is creating a £150 million fund to support Freeports and Investment Zones across the UK to secure business investment opportunities.

To ensure Freeports are equipped to seize the opportunities these measures create and to effectively market themselves and attract investment, the government will explore options for helping Freeports to increase local delivery capacity. In parallel, DLUHC will also review reporting requirements placed on Freeports to ensure requests are streamlined and proportionate, so that Freeports can stay focused on their core mission of delivering investment and creating jobs in their local economies.

Investment promotion

The government actively promotes Freeports and Investment Zones to

of the size of the opportunity, DBT has expanded the resourcing of its Freeports and Investment Zones investment attraction functions and will prioritise the promotion of each at investor events. The Department's resourcing arrangements in support of both programmes will also be kept under review to ensure they remain suitable for the evolving opportunities and requirements of Freeports and Investment Zones as they progress into delivery.

DBT will also recognise Freeports and Investment Zones as a key promotional priority within the objectives of its investor-facing network. In support of this, the Department will develop key marketing materials for Freeports and Investment Zones and will profile and proactively engage target investors for each Freeport and Investment Zone site. Where sites face barriers to investment, DLUHC and DBT will commit to bringing together relevant departments and agencies to respond to those barriers in a targeted way.

Ofl will coordinate cross-government efforts to promote those Freeport and Investment Zone opportunities that are the most investment-ready and will provide end-to-end support to investors to land high value investment aligned to strategic sectors, for example, Net Zero, Science and Technology and Advanced Manufacturing.

Recognising the complementarity of the Freeports and Investment Zone programmes, the government will continue to ensure these remain aligned, including by developing unified messaging and branding to ensure that, when promoting Freeports and Investment Zones to investors, it is clear how the programmes complement one another.

3. Creating clusters and local economic growth

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means they will need to positively develop their local labour markets, create an innovative and collaborative environment for businesses and futureproof their growth by seizing opportunities to decarbonise. Freeports have a powerful arsenal of incentives to achieve these aims but will also need help from government to ensure they remain aligned with, and are fully benefitting from, wider policy in these areas.

Skills

Freeports will need to play an active role in their local labour markets, both to ensure that local people are able to access and fully benefit from the jobs they create and to develop the specialist skills needed to attract high-innovation businesses in emerging sectors. To achieve this, they will need to work closely with a wide range of local and national partners and the government stands ready to support them with this.

DfE will establish linkages between key partners and Freeports to strengthen the skills offer available to Freeports, including sharing best practice and lessons learnt. DfE place-based teams will provide support to better position skills providers to respond effectively to the local needs of Freeport and Investment Zone areas, maximising the benefits felt by communities in their regions.

DfE will champion joint working between Freeports/Investment Zones and local colleges which will support the creation of a pipeline of highly skilled local workers and will work to join up government skills initiatives and promote and improve enrolment in apprenticeships, [skills bootcamps](https://www.gov.uk/guidance/find-a-skills-bootcamp) (<https://www.gov.uk/guidance/find-a-skills-bootcamp>) and other relevant skills routes. DfE will also ensure that the [National Careers Service](https://nationalcareers.service.gov.uk/) (<https://nationalcareers.service.gov.uk/>) Prime Contractors are aware of the opportunities of Freeports and Investment Zones and, if needed, will broker

Representative Bodies (ERBs) and raise the profile of Freeports and Investment Zones, when established, with relevant provider sector bodies.

DWP will utilise local [Job Fairs \(https://www.jobcentreguide.co.uk/job-fairs\)](https://www.jobcentreguide.co.uk/job-fairs) and, where appropriate, create bespoke [Sector-Based Work Academy Programmes \(https://find-employer-schemes.education.gov.uk/schemes/sector-based-work-academy-programme-swap\)](https://find-employer-schemes.education.gov.uk/schemes/sector-based-work-academy-programme-swap) to connect jobseekers with Freeport employers and provide them with opportunities in new sectors. They will also ensure that they form part of Job Centre Plus Work Coaches' conversations with claimants in local communities.

Innovation

The government aims to establish Freeports and Investment Zones as innovation clusters, playing a key role in its wider ambition to establish the UK as an innovation nation and global science superpower. To achieve this, DSIT will work closely with DLUHC to ensure that the design and implementation of innovation policy and funding is cognisant of Freeports and Investment Zones and will explore options for supporting their development as innovative clusters at future spending reviews.

In parallel, DSIT will work with DLUHC to promote and enhance the [Freeports Regulation Engagement Network \(https://www.gov.uk/guidance/freeports\)](https://www.gov.uk/guidance/freeports) (FREN). DSIT will expand the FREN offer to support businesses within Investment Zones and, drawing on the expertise of DBT's [Smarter Regulation programme \(https://www.gov.uk/government/collections/smarter-regulation\)](https://www.gov.uk/government/collections/smarter-regulation), will widen its focus beyond regulatory innovation to address broader regulatory barriers to business investment. The FREN will work with other government departments to explore, and develop a plan for implementing, pro-innovation regulatory tools, such as regulatory sandboxes, within Freeports

The government also aims to place Freeports at the forefront of border innovation and the ambition, articulated in the [2025 UK Border Strategy](https://www.gov.uk/government/publications/2025-uk-border-strategy) (<https://www.gov.uk/government/publications/2025-uk-border-strategy>), to have the world's most effective border. To achieve this, the government is establishing the Freeports Border Innovation Forum, which will bring border, trade, and customs policymakers together from across government to consider opportunities to supplement the existing Freeports customs offer with new technologies and innovations, support Freeports to deliver the necessary enabling infrastructure, and to integrate technology and data into our border to make trade truly digital.

Decarbonisation

Freeports can be at the vanguard of our journey to Net Zero, helping refocus critical, historically carbon-intensive economies like Teesside, the Humber, the Cromarty Firth, and Milford Haven towards green energy and industry. The opportunity here is immense, but seizing it will depend on maximising synergies between different areas of government policy as well as coordinated investment from the private sector.

DLUHC and DESNZ will therefore work together to ensure that the development and delivery of relevant Net Zero policies and funding programmes – such as those relating to [offshore wind](https://www.great.gov.uk/international/content/investment/sectors/offshore-wind/) (<https://www.great.gov.uk/international/content/investment/sectors/offshore-wind/>), [hydrogen](https://www.gov.uk/government/publications/uk-hydrogen-strategy) (<https://www.gov.uk/government/publications/uk-hydrogen-strategy>), and [Carbon Capture Use and Storage](https://www.gov.uk/guidance/uk-carbon-capture-and-storage-government-funding-and-support) (<https://www.gov.uk/guidance/uk-carbon-capture-and-storage-government-funding-and-support>) (CCUS) – are cognisant of the opportunities Freeports and Investment Zones present.

DESNZ will ensure that investors into CCUS and the emerging low-carbon hydrogen economy are aware of the benefits of Freeports and Investment

the next iterations of the [Hydrogen](https://www.gov.uk/government/publications/hydrogen-net-zero-investment-roadmap) (<https://www.gov.uk/government/publications/hydrogen-net-zero-investment-roadmap>) and [CCUS](https://www.gov.uk/government/publications/carbon-capture-usage-and-storage-net-zero-investment-roadmap) (<https://www.gov.uk/government/publications/carbon-capture-usage-and-storage-net-zero-investment-roadmap>) Investor Roadmaps used with investors to showcase UK investment opportunities.

Offshore wind, both floating and fixed bottom, is a key sector for a number of Freeports and is expected to play a major role in the UK's transition to a Net Zero economy. The government will continue to engage with the ports sector – including relevant Freeports and Investment Zones, which will be assigned a dedicated point of contact within DESNZ – to develop a shared understanding of the barriers to offshore wind investment and identify potential solutions to overcome them. For example, the government is developing proposals that, if taken forward, could provide support to offshore wind projects that take significant action to boost the sustainability of their supply chains through the [Contract for Difference Sustainable Industry Reward Scheme](https://www.gov.uk/government/consultations/introducing-a-contracts-for-difference-cfd-sustainable-industry-reward#:~:text=The%20CfD%20Sustainable%20Industry%20Reward%20aims%20to%20help%20accelerate%20the,challenges%20identified%20by%20the%20industry) (<https://www.gov.uk/government/consultations/introducing-a-contracts-for-difference-cfd-sustainable-industry-reward#:~:text=The%20CfD%20Sustainable%20Industry%20Reward%20aims%20to%20help%20accelerate%20the,challenges%20identified%20by%20the%20industry>), currently out for public consultation. In addition, UKIB set out in its recent [Strategy Update](https://www.ukib.org.uk/sites/default/files/2023-09/UKIB-Strategy-Update-Port-Infrastructure.pdf) (<https://www.ukib.org.uk/sites/default/files/2023-09/UKIB-Strategy-Update-Port-Infrastructure.pdf>) its ambition to help address some of these barriers through its finance and DLUHC, together with UKIB, will work with the relevant Freeports to understand their financing needs and identify potential investment options, bringing in other arms of government and the public sector to support this.

Next steps

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The government will now work at pace to implement the measures set out above. These are summarised below, along with approximate delivery timescales.

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
Infrastructure	DfT	Consider how the benefits of Freeports can be maximised as relevant Network North schemes are progressed	Meeting transport needs	On a project-by-project basis
Infrastructure	DfT	Reflect Freeports in DfT business cases and funding decisions	Meeting transport needs	6 months
Infrastructure	UKIB	Provide Freeports with advisory expertise and support	Tackling financing gaps	3 months
Infrastructure	UKIB	Provide flexible loans to Freeport local authorities and debt, equity, or guarantees to private sector partners	Tackling financing gaps	As Freeports come forward
Infrastructure	UKIB	Identify investment options for offshore wind port infrastructure in Freeports	Tackling financing gaps	6 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
Infrastructure	DLUHC	Make centrally contracted expert advice available to Freeports to support them in engaging energy network stakeholders	Accelerated site delivery	Next 3 months
Infrastructure	DESNZ	Work with Ofgem to implement Regional Energy Strategic Planners	Accelerated site delivery	Next 6 months
Planning	DLUHC	Reflect Freeports and Investment Zones in the NPPF and other Policy Statements	Greater clarity for Local Planning Authorities	2024/25
Planning	DLUHC	Support large-scale Freeport sites through the planning Super Squad	Accelerated planning consents	From April 2024
Planning	DLUHC	Include relevant Freeport sites in the NSIP Fast-Track Scheme	Accelerated planning consents	From Spring 2024
Planning	DLUHC	Engage with National Statutory Consultees to identify issues and priorities	Accelerated planning consents	4 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
Planning	DLUHC	Independently review the role of national statutory consultees to ensure they can provide more timely and effective advice to decision makers.	Accelerated planning consents	2024
Planning	DfT	Include in relevant Transport National Development Management Policies and cover the need to plan for Freeports in updates to the NPPF, including updates to any associated Planning Practice Guidance around Ports and Transport	Greater clarity for Local Planning Authorities	2024/25
Planning	DfT	Ensure that government's response to the call for evidence on Freight, Logistics, and the Planning system brings out appropriate linkages to Freeports policy	Greater clarity for Local Planning Authorities	2024/25

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
Planning	DfT	Review advice given to DfT Statutory Consultees and to ensure appropriate prioritisation	Accelerated planning consents	4 months
Planning	DEFRA (through ALBs)	Work with Freeports to understand their needs for expert advice	Accelerated planning consents	Next 6 months
Planning	DEFRA (through ALBs)	Support local planning authorities who are already signed up to the Coastal Concordat and promote its adoption with others	Accelerated planning consents	Next 12 months
Planning	DEFRA (through ALBs)	Provide early advice through cost recovered pre-application advice services	Accelerated planning consents	Ongoing
Planning	DEFRA (through ALBs)	Consider Freeport masterplans to inform where ALBs will provide advice, for example, environmental evidence	Accelerated planning consents	Next 6-8 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
Planning	DEFRA (through ALBs)	Prioritise engagement based on environmental risks and opportunities to provide focussed expertise and support Environment Agency and Natural England	Accelerated planning consents	Ongoing
Planning	DEFRA (through ALBs)	Work with the Planning Advisory Service to support their programme of capability building with Freeport planners	Accelerated planning consents	Next 6 months
Planning	DCMS (through Historic England)	Develop a Freeports programme Service Level Agreement to ensure Historic England have the resources available to provide Freeports with the advice and services needed	Accelerated planning consents	Next 6-8 months
Funding and tax Incentives	HM Treasury	Extend the window for claiming tax reliefs from 5 to 10years (The National Insurance contributions relief will continue to apply for 26	Long-term support for businesses to invest	During 2024

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
		the extended ten-year window)		
Funding and tax Incentives	DLUHC	Introduce a new £150 million Investment Opportunities Fund for Freeports and Investment Zones	Increased investment into Freeports	2023/24-2026/27
Investment promotion	DBT	Expanded DBT Freeports and Investment Zones investment attraction functions and boosting the promotion of each at investor events	Enhanced investment attraction	Ongoing
Investment promotion	DBT	Adopt an objective for investor-facing teams relating to the promotion of Freeports and Investment Zones	Enhanced investment attraction	3 months
Investment promotion	DBT and DLUHC	Convene across government, where sites face barriers to investment, to respond to those barriers in a targeted way	Tackling critical site delivery issues	3-6 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
		provide end-to-end support to high-value investors	attraction	
Skills and Workforce Access	DfE	Meet with Freeport SROs to better position skills providers to respond	Improved delivery of Freeport skills programmes	Next 4 months
Skills and Workforce Access	DfE	Champion joint working between Freeports, Institutes of Technology and local colleges	Improved delivery of Freeport skills programmes	Next 6 months
Skills and Workforce Access	DfE	Ensure Freeport sites are considered for pilots, new skills initiatives or variations to existing ones	Improved delivery of Freeport skills programmes	Next 3 months onwards
Skills and Workforce Access	DfE	Encourage and increase take-up of skills initiatives and employer investment e.g., apprenticeships, bootcamps etc.	Improved delivery of Freeport skills programmes	Next 6 months onwards
Skills and Workforce	DfE	Broker engagement with Mayoral Combined	Improved delivery of	Next 6 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
		Employer Representative Bodies		
Skills and Workforce Access	DfE	Raise the profile of Freeports with relevant provider sector bodies	Improved delivery of Freeport skills programmes	Next 3 months
Skills and Workforce Access	DfE	Raise awareness of Freeports to raise opportunities available, working with National Careers Service Prime Contractors and help facilitate teach-ins for careers practitioners	Improved delivery of Freeport skills programmes	Next 6 months
Skills and Workforce Access	DWP	Link Jobcentre Plus with local Freeports to ensure vacancies that could be made available to local jobseekers are identified	Improved job opportunities for local people	Next 3 months
Skills and Workforce Access	DWP	Ensure Freeports form part of Job Centre Plus Work Coaches' conversations with	Improved job opportunities for local people	Next 3 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
Skills and Workforce Access	DWP	Utilise local Job Fairs, create bespoke Sector-Based Work Academy Programmes and use DWP's Youth Hub Network	Improved job opportunities for local people	Next 6 months onwards
Innovation	DSIT	Confirm mechanism for ensuring the design and implementation of innovation policy and funding is cognisant of Freeports and Investment Zones	Supporting UK innovation clusters	Next 6-12 months
Innovation	DSIT	Explore how DSIT can best support Freeports and Investment Zones as part of future Spending Review planning	Supporting UK innovation clusters	Next 6-12 months
Innovation	DSIT	Expand the FREN to support businesses within Investment Zones	Increased innovation and investment	Next 6 months
Innovation	DSIT and DBT	Widen the FREN's scope beyond regulatory innovation and to encompass broader	Increased innovation and investment	Next 6 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
		regulatory barriers to business investment		
Innovation	DSIT	Work with other government departments to explore, and develop a plan for implementing, pro-innovation regulatory tools, such as regulatory sandboxes, within Freeports and Investment Zones	Increased innovation and investment	Next 12 months, specific timelines subject to feasibility of options that may be potentially identified
Innovation	HMRC, CO, DSIT and DBT	Establish a Freeports Borders Innovation Forum	Increased innovation	Next 3 months
Decarbonisation	DESNZ	Provide a direct point of contact for Freeport and Investment Zone enquiries relating to opportunities in the offshore wind sector	Supporting Freeport sector opportunities	Ongoing
Decarbonisation	DESNZ	Ensure that investors into CCUS and the emerging low-carbon hydrogen economy	Increased investment into Freeports	Next 6 months

Theme	Department/			
Organisation	Commitment	Outcome	Delivery Timescales	
		Freeports and Investment Zones		
Decarbonisation	DESNZ	Ensure that the development and delivery of relevant Net Zero policies and funding programmes are cognisant of the opportunities of Freeports and Investment Zones	Supporting Freeport sector opportunities	Ongoing
Programme Delivery	DLUHC	Unify investor-facing messaging and branding across the Freeports and Investment Zone programmes	Increased investor clarity	Ongoing
Programme Delivery	DLUHC	Create an Independent Advisory Panel within the Freeport programme's governance	Increased business voice within the programme	Next 4 months
Programme Delivery	DLUHC	Review monitoring and evaluation requirements on Freeports to ensure they are proportionate and coordinated	Reduced administrative pressures on Freeports	Next 4 months

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[UK economic growth \(/business/uk-economic-growth\)](/business/uk-economic-growth)

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APPENDIX 3

GOVERNMENT PRESS RELEASE TARGETING 75% GROWTH IN RAIL FREIGHT

<https://www.gov.uk/government/news/government-sets-ambitious-target-to-grow-rail-freight-by-at-least-75>

News story

Government sets ambitious target to grow rail freight by at least 75%

Target will boost economic growth and lead to significant environmental benefits by taking lorries off our roads, cutting emissions and congestion in the process.

From: [Department for Transport \(/government/organisations/department-for-transport\)](#) and [The Rt Hon Mark Harper MP \(/government/people/mark-harper\)](#)

Published 20 December 2023



- government announces ambitious 2050 target to grow rail freight by at least 75%

- delivers Transport Secretary commitment to move more goods by rail while growing the economy and improving the environment
- sets the pace for the sector and builds on government's strong record of investment in rail freight

Even more vital goods will be transported across the UK by rail, following an ambitious target announced by Transport Secretary, Mark Harper, today (20 December 2023) to grow rail freight by at least 75%.

From delivering food to supermarkets, to transporting building materials to construction sites, rail freight is a vital part of everyday life in the UK, carrying tens of billions of pounds worth of vital goods.

Today's announcement demonstrates this government's drive to grow the rail freight industry even further and boost the considerable economic growth it delivers across the country by supporting supply chains and thousands of high-skilled jobs.

Not only does this target provide the sector with certainty by setting a clear pace for growth by 2050, but it will also lead to significant environmental benefits by taking lorries off our roads – slashing emissions and congestion in the process. For example, just one train can replace up to 129 heavy goods vehicles (HGVs) and a tonne of freight moved by rail produces about a quarter of the carbon emissions it does by road.

Transport Secretary, Mark Harper, said:

- “ Rail freight helps keep this country moving, ensuring our supermarket shelves are stocked and materials are supplied to our construction workers.
- “ Not only is it the most efficient and environmentally friendly way of transporting many goods, but it helps grow the economy across the country.

“ This ambitious plan demonstrates this government’s confidence in the rail freight sector and I hope it encourages businesses to capitalise on the extra opportunities so the industry continues to thrive and deliver for our country.”

Today’s announcement delivers on a commitment made by the Transport Secretary in his [George Bradshaw address](https://www.gov.uk/government/speeches/george-bradshaw-address-2023) (<https://www.gov.uk/government/speeches/george-bradshaw-address-2023>) earlier this year, along with fulfilling a commitment in the Department for Transport’s [Plan for Rail](https://www.gov.uk/government/publications/great-british-railways-williams-shapps-plan-for-rail) (<https://www.gov.uk/government/publications/great-british-railways-williams-shapps-plan-for-rail>) and [Transport Decarbonisation Plan](https://www.gov.uk/government/publications/transport-decarbonisation-plan) (<https://www.gov.uk/government/publications/transport-decarbonisation-plan>).

The target will encourage further private sector investment in projects that will grow and modernise the industry, such as GB Railfreight’s new state-of-the-art maintenance facility in Peterborough, which was officially opened by the Transport Secretary in September this year.

GBRTT Lead Director (interim), Rufus Boyd, said:

“ The government’s announcement today for a rail freight growth target of at least 75% growth by 2050 supports what our customers and stakeholders told us in the national call for evidence. That setting a clear ambition for rail freight growth will help bring the sector together, focus minds, break down silos and be a catalyst for private investment.

“ Rail freight is already a big success story. Moving goods by rail is a greener option and helps cut road congestion, and what we have here is an opportunity to grow rail freight’s modal share. I am convinced that through collaborative working the industry can rise to this challenge.”

The [Rail Freight Growth Target](https://www.gov.uk/government/publications/rail-freight-growth-target) (<https://www.gov.uk/government/publications/rail-freight-growth-target>) also forms a key part of the

government's continual drive to improve the long-term capacity of the rail freight network, with billions of pounds of redirected funding from HS2 now further supporting schemes to improve rail infrastructure and services in all parts of the country.

Director General of the Rail Freight Group, Maggie Simpson, said:

“ We are delighted that government has recognised the economic and environmental benefits of growing rail freight. This target sends a strong message about the benefits and potential of rail freight which will encourage investment by industry and private businesses and attract more customers to move their goods by rail.”

As recently announced through the [Network North](https://www.gov.uk/government/publications/network-north) (<https://www.gov.uk/government/publications/network-north>) plan, the transformative Ely Area Capacity Enhancement scheme, backed by around £550 million of government funding, will see an extra 6 freight trains per day to and from the Port of Felixstowe – the equivalent of taking 98,000 lorry journeys off the road every year.

The target has been set following a detailed [call for evidence with industry leaders, customers and other stakeholders](https://gbrtt.co.uk/what-we-do/rail-freight-growth-target/) (<https://gbrtt.co.uk/what-we-do/rail-freight-growth-target/>) by the Great British Railways Transition Team (GBRTT). Going forward, GBRTT's recently formed [Strategic Freight Unit](https://gbrtt.co.uk/what-we-do/our-workstreams/strategic-freight/) (<https://gbrtt.co.uk/what-we-do/our-workstreams/strategic-freight/>) will spearhead strategic leadership in the freight sector, further unlocking the industry's potential for growth.

Network Rail Freight Director, Henry Bates, said:

“ Rail freight has a key role to play in Britain's economic and environmental wellbeing, keeping supermarkets stocked, builders building and medicine moving. We want to see more freight on rail and having a government-supported, long-term target will support the sector's ambition to grow and attract investment.”

Rail media enquiries

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Published 20 December 2023

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[Rail freight and cargo \(/transport/rail-freight\)](/transport/rail-freight)

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