



PORT OF
TILBURY
LONDON

PLANNING ACT 2008
INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)
RULES 2010

PROPOSED PORT TERMINAL AT FORMER TILBURY POWER STATION **TILBURY2**

TRO30003

Written Submission of Case at Issue Specific Hearing on outstanding environment, planning policy and socio-economic matters on 27th June

DOCUMENT REF: PoTLL/T2/EX/135





Pinsent Masons

PORT OF TILBURY LONDON LIMITED – TILBURY2 – DEVELOPMENT CONSENT ORDER APPLICATION

ISSUE SPECIFIC HEARING ON OUTSTANDING ENVIRONMENTAL, PLANNING POLICY AND SOCIO-ECONOMIC ISSUES

27 JUNE 2018

SUMMARY OF APPLICANT'S SUBMISSIONS

1. INTRODUCTION

- 1.1 This note summarises the submissions made by Port of Tilbury London Limited ("PoTLL") ("the Applicant") at the Issue Specific Hearing on outstanding Environmental, Planning Policy and Socio-Economic issue held on 27 June 2018 ("the hearing") in relation to PoTLL's application for development consent for a Proposed Port Terminal at the Former Tilbury Power Station known as "Tilbury2" ("the Scheme").
- 1.2 Oral submissions by all parties attending the hearing were made pursuant to the agenda published by the Examining Authority ("the ExA") on 19 June 2018 ("the agenda").
- 1.3 In setting out PoTLL's position on the issues raised in the agenda, as submitted orally at the hearing, the format of this note follows that of the agenda. In addition, extra items have been added where interested parties or the ExA raised points not specifically mentioned in the agenda and in relation to which PoTLL made oral submissions. Where the ExA requested a written response to an agenda item, the Applicant has also responded as appropriate in the note below.
- 1.4 PoTLL's substantive oral submissions commenced at item 3 of the agenda, therefore this note does not cover item 1 on the agenda which was procedural and administrative in nature, or item 2, as the matters raised by Interested Parties were discussed in more detail under item 3.

PINS' ISH Agenda Item/ Issue	Response	Relevant document references
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Air Quality		
3.1.1 Operational Management Plan (OMP) and Clean Air Strategy. With reference to the Applicant's and GBC's responses at deadline 4 [REP4-020, REP4-013] to ExA's SWQs [PD-010], Q2.1.1 ...		
<p><i>i. Would the Applicant and GBC update the Examination on their discussions with regard to the wording of the OMP, potential air quality monitoring to be undertaken in GBC's administrative area once the facility is operational, and any other outstanding matters?</i></p>	<p>Richard Turney on behalf of the Applicant stated that a meeting was held between Gravesham Borough Council (GBC) and the Applicant on 12 June 2018. This was attended by air quality experts and planners from both parties.</p> <p>Martin Friend on behalf of the Applicant explained that the Statement of Common Ground (SoCG) with GBC has been updated to reflect these discussions, and a signed version was submitted at Deadline 4.5 (PoTLL/T2/EX115). The matter of air quality monitoring is covered in item 4.4.8 in the List of Matters Agreed.</p> <ul style="list-style-type: none"> ○ It is agreed that dust deposition monitoring close to source (i.e. at a range of locations immediately around the site and at the closest sensitive receptors) is an appropriate way of monitoring site performance and will enable appropriate action to be taken by the operator ○ The monitoring will reflect a range of locations around the site and be of a suitable duration to encompass a range of wind directions (for a minimum period of 3 months). ○ The monitoring in the OMP already envisaged undertaking this for three months prior to opening and three months post opening. The monitoring will be repeated after three years after first operation (or earlier if considered necessary by TC and GBC). ○ It has been agreed with GBC that the monitoring locations, the method of interpreting the results and interpreting review findings will be agreed with Thurrock Council in discussion with GBC ○ The OMP has been updated to clarify monitoring requirements to cover the above matters. The updated version will be lodged at Deadline 5. ○ On this basis, it has been agreed with GBC that air quality monitoring within Gravesham is not necessary as part of this DCO or as part of the OMP. <p>These matters have been reflected in the updated OMP submitted for Deadline 5.</p> <p>It is the Applicant's understanding that there are no outstanding matters on air quality. Shore power is dealt with separately in Q3.1.1 (ii)</p>	<p>PoTLL/T2/EX115 SoCGs Update Report</p> <p>PoTLLT2/EX/144 Operational Management Plan submitted at Deadline 5</p>

<p>ii. Would the Applicant state its position on DEFRA's Clean Air Strategy, published in May 2018 and cited by GBC, and in particular the Maritime 2050 Vision and the first UK Clean Maritime Plan, and how the Applicant's proposals for shore power infrastructure will be impacted by the Clean Air Strategy?</p>	<p>Richard Turney on behalf of the Applicant stated that the Tilbury 2 proposals for shore power are in line with the requirements set out in the NPS for Ports:</p> <ul style="list-style-type: none"> ○ 5.7.13 All proposals should either include reasonable advance provisions (such as ducting and spaces for sub-stations) to allow the possibility of future provision of cold-ironing infrastructure, or give reasons as to why it would not be economically and environmentally worthwhile to make such provision. ○ 5.7.15 Where cold-ironing infrastructure is proposed, account needs to be taken of the prospective impact on the National Grid of meeting the power demands and therefore the costs to electricity supply providers of doing so without impacts on reliability for other users. <p>The Applicant is in compliance with the NPS by providing the cable connections to ensure shore power can be facilitated in the future, as secured through the OMP. The port has secured the remaining additional capacity of the existing UKPN substation and this will provide sufficient power for the CMAT and RoRo operations. Both UKPN and NGET will need to provide additional capacity in the local area before shore power can be facilitated not withstanding the other existing constraints due to ships' inability to receive and utilise shore power.</p> <p>GBC have previously suggested to the ExA that some form of trigger should be included within the DCO to ensure the full installation of shore power. The Applicant does not consider this meets the test for requirements as it is not necessary to make the proposals acceptable; nor is it needed to ensure compliance with the NPS for Ports.</p> <p>Regarding new policy, the documents referred to are currently in draft form. Richard Turney explained that none of these documents require the Applicant to go beyond its current approach for shore power:</p> <ul style="list-style-type: none"> ○ The Government's Clean Air Strategy and Maritime Vision 2050 documents are at consultation stage only. ○ The UK Clean Maritime Plan is a plan proposed by the Clean Air Strategy but has not yet been developed. ○ All of the documents set targets and aspirations for reductions in emissions 	<ul style="list-style-type: none"> ○ REP1-008 OMP ○ REP1-016 PoTLL Response to FWQ (Q1.1.1 and Q1.1.3) ○ REP2-007 PoTLL Response to Written Reps, LIRs, and interested parties' responses to FWQ ○ REP3-030 PoTLL Written Summary of Case at ISH 19/04/18 ○ REP4-013 – GBC response to SWQ ○ REP4-020 PoTLL Response to SWQ
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	<p>and controls on shipping emissions, but there is no specific mention of the need to develop shore power now.</p> <ul style="list-style-type: none"> ○ All documents acknowledge that further work, innovation, development and funding is required before these aspirations can be reached. <p>Sarah Horrocks on behalf of PoTLL added that the Port of London Authority (PLA) has already developed an Air Quality Strategy (one of the requirements for shipping in the Government's draft Clean Air Strategy) and that the PLA document clearly states that shore power is one of a number of green infrastructure options under consideration, but that further, detailed feasibility studies are required.</p> <p>To assist the Examining Authority in evaluating responses to this question, the Applicant provides the following background information:</p> <p>The Applicant's response to SWQ at Deadline 4 [REP4-020] stated,</p> <ul style="list-style-type: none"> ○ <i>"the measures for shipping [in the Clean Air Strategy] are consistent with, and make specific reference to, the approach already being taken forward by the Port of London Authority including development of an air quality strategy, which will assist in delivering emissions reductions. The continued reductions in emissions from shipping should ensure a continued downward trend in concentrations in the Tilbury/Gravesham area. Further measures may be introduced at a national level, such as emission standards which would need to be adhered to by the shipping operators visiting the port."</i> <p>The Government's draft Clean Air Strategy sets out short to medium term actions to reduce emissions including from shipping, to assist in developing the evidence base. These comprise consulting on options for new domestic regulations e.g. through international emission standards, and on options for extending the Emissions Control Areas (ECAs), as well as the aforementioned proposals for a UK Clean Maritime Plan by Spring 2019 and requirement for major ports to develop air quality strategies.</p> <p>The proposals to develop a UK Clean Maritime Plan form part of the long term Maritime 2050 Vision. The Plan will set out policies for emissions reduction from shipping. Government will work with stakeholders to develop the first UK Clean Maritime Plan.</p> <p>The Maritime 2050 Vision Call for Evidence has recently closed. It refers to</p>	
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	<p>proposed forthcoming controls on shipping emissions, including a global sulphur cap from 2020 and NOx ECAs from 2021, and international strategy for reducing greenhouse gases from 2018. It further identifies new technologies and energy sources including fuel cell systems, acknowledging that such innovations are already in development but require further work to bring them into widespread use. (Note, there is no specific mention of or requirement for shore power).</p> <p>The Port of London Authority (PLA) and UK Major Ports Group (UKMPG) responded to the Call for Evidence and both parties are supportive of the drive to formulate the long term strategy. PoTLL will contribute to the drafting of the Maritime Vision/Clean Maritime Plan through UKMPG and PLA.</p> <p>In their response to MV2050, UKMPG noted trends emerging in the industry including: Large scale alternative fuelling; Ports as key nodes in energy transition – as consumers & enablers; Electric vessels for some uses (e.g. coastal feeder services).</p> <p>The PLA recently published its final Air Quality Strategy for the Tidal Thames (June 2018), and is the first British port to have done so. The following points of relevance to this response have been extracted:</p> <ul style="list-style-type: none"> ○ It notes (para 2.1) that European Ports rank air quality as the top priority for ports. Underpinning the strategy is the Thames Vision 2035, a 20 year view of the river's future (para 2.2.1). ○ The PLA's strategy is in line with the GLA's Transport and Environment Strategies (paras 2.9, 2.5.6) which aims for a "zero-carbon city" over the next few decades. The transportation of freight by ship, as a substitute for inland freight transport (especially by road haulage) can reduce emissions of pollutants per tonne-mile, and furthermore the emissions are released further from receptors compared to those along the road network. ○ The strategy sets targets of 50% reductions in NOx and PM₁₀ emissions by 2041 (Table 2, Section 4.3), which are in line with the International Maritime Organisation (IMO)'s commitment to a 50% reduction in carbon emissions by 2050 (Para 4.3.4). ○ Tighter emission standards will be a key contributing factor (para 3.1.2, 3.2.1, 5.4.3) to air quality improvements, though more efficient vessel design (para 5.3.2) is expected to deliver 30% improvement in efficiency by 2025. ○ As an initial action to improve air quality and incentivise shipping operators 	
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	<p>towards adopting a low emission fleet, a Green Tariff was introduced by PLA on 1 January 2017. This offers a discount on port charges for vessels with lower emissions, and those with an onshore power supply installation (Paras 2.1.4, 3.2.4).</p> <ul style="list-style-type: none"> ○ PLA will encourage shipping operators to install green technology, including shore power, on sites developed along the Thames (Action 6) though it notes the ability of fleets using the Thames is currently limited (Para 3.2.5, 3.2.8). It proposes a detailed feasibility study into shore power potential (Action 13) including analysis of costs and benefits. ○ PLA recognises that implementing "greener technology" can be disproportionately costly for early adopters in a small market (Para 5.3.3, 5.4.1). ○ PLA will, together with all stakeholders, identify and secure funding for research and development of green technology options (Action 7). Other measures under investigation include the use of cleaner/alternative fuels, and retrofitting/emission abatement (Actions 10, 11, 12, 14). ○ PLA will undertake a detailed feasibility study into shore power, in consultation with relevant riparian boroughs (Action 13). At this time they understand there is a theoretical potential to reduce emissions but that (Para 5.1.1.1) <i>"further research is required to improve our understanding of how and where this [shore side power] could be most effective"</i>. ○ As an operator on the Thames, the Applicant was involved as a stakeholder in the drafting of the PLA's strategy, as were the riparian boroughs including GBC (Appendix A). They will continue to be involved in the delivery of the Action plan (para 2.12) over the next few years. <p>In summary, the national Clean Air Strategy, in its current draft form, and related documents (draft Maritime 2050 Vision, proposed UK Clean Maritime Plan and the PLA's Air Quality Strategy) have no impact on the Applicant's proposal for Tilbury2 in relation to shore power, which is to provide the infrastructure to facilitate the future use of shore power should vessels become equipped to use this and should electrical power capacity become available, to future proof the site. Paragraph 7.4 of the Operational Management Plan (OMP, REP1-008) refers to this matter.</p> <p>During the previous Issue Specific Hearing (REP3-030 PoTLL Written Summary of Case at ISH 19/04/18), Alison Gorlov (PLA on behalf of PoTLL) set out that whilst the PLA is undertaking a number of measures to promote the use of shore power, it was not yet in widespread use. The Applicant and TC have agreed that it would not be</p>	
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	<p>reasonable to impose any further controls in this regard through the DCO (SoCG with TC, REP3-028, PoTLL/T2/EX/93).</p> <p>PLA's Comments on Responses to FWQs, ES and Deadline 1 material (REP2-008) confirmed that despite international advances, the technology is not there yet for shore power to be delivered. This is consistent with text in PLA's Air Quality Strategy which includes an action upon them to encourage the installation of green technology including shore power but (para 5.5.1.1) <i>"further research is required to improve our understanding of how and where this [shore side power] could be most effective"</i>.</p> <p>In conclusion, to set a trigger for the Applicant to provide shore power at Tilbury2, beyond the measures already proposed, would appear premature in the absence of a robust evidence and policy base.</p>	
<p>3.1.2 Dust Impact at Tilbury Energy Centre (TEC) Site. With reference to RWE's response at deadline 4 [REP4-004] to ExA's SWQs [PD-010], paragraphs 2.8-2.10, citing concerns with regard to the potential for dust from the Tilbury 2 Proposed Development to impact on the future operation of the TEC ...</p>		
<p><i>i. Would the Applicant and RWE update the Examination on their discussions on this matter?</i></p>	<p>Richard Turney on behalf of the Applicant set out that RWE are seeking protective provisions to control dust from the Tilbury2 development, which the Applicant does not consider to be necessary given the dust control/monitoring measures included in the OMP and that both TC and GBC have found to be appropriate (SoCG Update and Q3.1.1(i) above).</p> <p>Richard Turney explained that RWE were aware, when undertaking the land deal with the Applicant, of the future use as a port. It would therefore be reasonable to expect RWE to anticipate and understand and plan the use and development of their retained land accordingly.</p> <p>RWE have not provided any evidence to support their concerns (REP3-048 and REP4-004), beyond noting proximity to T2, and were not present at the hearing to discuss their concerns with the Applicant and their air quality specialist. The Applicant and RWE are seeking to organise a meeting with RWE on this specific topic.</p> <p>The Applicant has assumed, in providing this written response, that the concern relates to the gas turbine air intake requirement (as the facility will be water not air</p>	<ul style="list-style-type: none"> ○ PoTLLT2/EX/144: Operational Management Plan submitted at Deadline 5 ○ REP3-027 (Cumulative impacts) ○ REP3-048 (RWE response at D3) ○ REP4-004 (RWE submission at D4)

	<p>cooled). The Applicant considers the reference to construction phase impacts in REP4-004 to be erroneous, as TEC operation is due in 2025 whereas Tilbury2 will be operational from 2021.</p> <p>In the context of RWE's response at Deadline 3 (REP3-048) the Applicant confirms that the ES did include a risk assessment for operational dust and that this considered known receptors at the time. The subsequent cumulative impact assessment (REP3-027) considered TEC (RWE item 2.12.1) and concluded that the OMP as proposed would be appropriate. The ES and OMP describe the mitigation inherent in design and regulation of the proposals (RWE item 2.12.2). The OMP Section 7 sets out the dust monitoring proposals (RWE item 2.12.3). The mechanism for dealing with complaints (RWE item 2.12.4) and review of effectiveness (RWE item 2.12.5), all of which have been agreed with local planning authorities, are also set out in the OMP.</p> <p>The OMP is an appropriate adaptive management plan, which includes dust deposition monitoring close to source and at relevant sensitive receptors (identified as Tilbury Fort, residential properties and the ecological mitigation area – noted to be adjacent to the TEC site) with a requirement to review the data and where appropriate, review and revise management techniques.</p> <p>The Applicant does not consider there to be anything exceptional about the Tilbury2 proposals that merits additional controls or measures for RWE. The residual impact beyond the Site boundary will not be materially different to that identified at the sensitive receptors already considered in the ES, which formed the basis for the OMP. Environmental Permits will be required for eventual CMAT processing facilities, including emission limits where appropriate. The CMAT processing facilities will be designed using best available technique (BAT) and will where appropriate have environmental permits with emission limits on dust/PM, as set out in process guidance.</p> <p>Gas turbines will be designed with appropriate filtration for an urban/industrial setting, as is normal practice. OMP requirements are for regular visible observations and dust deposition monitoring and the results will be used by the Applicant to ensure mitigation is effective for all nearby receptors.</p> <p>In the Cumulative impact assessment [REP3-027], the TEC proposals were noted at Para 4.114:</p>	
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	<p><i>The Tilbury2 proposals include an Operational Management Plan (Document PoTLL/T2/EX/40, REP1-008) which is secured in the draft DCO. The OMP describes dust mitigation and management for the CMAT that is appropriate to control potential impacts on sensitive receptors such as the ecological mitigation area and public footpaths adjacent to the site while processing facilities requiring an Environmental Permit will be required to comply with that permit, including any emission limits set by the regulator. The operational dust assessment for the ecological mitigation area, which falls within the TEC boundary, found only a slight adverse residual effect on this medium sensitivity receptor adjacent to the north east of the Tilbury2 site (ES Table 18.19).</i></p> <p>There is no layout for the TEC to inform whether or not the air intake for the proposed development would fall within the dust assessment study area, thus whether it is necessary to revisit the mitigation/monitoring set out in the OMP. RWE state (in their D3 response) they will properly consider cumulative impacts as part of the EIA for the TEC. The Applicant would, as stated above, expect RWE to anticipate, understand and plan the use and development of their retained land accordingly.</p>	
Construction / Engineering and Design		
<p>3.5.1 Piling Timings. With reference to the issue specific hearing on 19 April 2018 [EV-009], question 5.1 iv. “Condition 8 regarding minutes of soft start has been updated in the revised dDCO, although is still incomplete. Would the Applicant confirm that it will include details of no-piling hours and what this detail will be?”. At the hearing, the Applicant confirmed [REP3-030] that these details will be added to the Deemed Marine Licence once</p>	<p>The Deemed Marine Licence has been updated in revision 3 of the draft DCO submitted by the Applicant at Deadline 4.5 as the Applicant and the MMO have now reached an agreed position.</p> <p>Condition 12 now reads:</p> <p>“Piling 12. (1) Where a licensed activity involves percussive piling the licence holder must commence piling activities using soft-start techniques for at least 20 minutes to ensure an incremental increase in pile power until full operational power is achieved. Should piling cease for at least 20 minutes the soft-start procedures must be repeated. (2) No piling which is a licensed activity may be carried out between the hours of 18:00 to 08:00.”</p>	

<p><i>discussions on these matters with the Marine Management Organisation have reached an agreed position.</i></p> <p><i>Would the Applicant please update the Examination on progress with this matter?</i></p>		
<p>Cumulative and Combined Effects</p>		
<p>3.7.1 Qualitative Cumulative Effects Analysis. With reference to the submissions requested for 20 June 2018 in response to the Applicant's Qualitative Cumulative Effects Analysis [REP3-027] ...</p> <p>What is the Applicant's response to these submissions?</p> <p><i>Note: since the agendas for the hearings will have been issued before the submissions are received, this question does not apply if no submissions are received.</i></p>	<p>Richard Turney requested that Natural England's comments on the CEA should be dealt with at the ISH scheduled for 28 June 2018.</p> <p>Richard Turney noted that Historic England is in broad agreement with the cumulative effects as assessed by the Applicant. However there remains a discrepancy regarding the degree of residual effect. As with the residual effect assessed for the T2 proposal, the difference between moderate-major and major relies on the 'radical transformation (of the setting) such that significance is substantially affected'. The Applicant's CEA assessment remains consistent with the Applicant's view regarding the T2 proposals that the changes to the setting are an intensification of land uses in the immediate area and therefore cannot be considered a radical transformation and are best described as 'considerably modified'. Although the scale and amass of the TEC proposal is twice as large as the T2 Rochdale envelope, it is the Applicant's view that given the existing context (even excluding Tilbury B) the effects are an extension of the well-established industrial character of the area.</p>	<ul style="list-style-type: none"> ○ APP-031 ES Chapter 12, Table 12.6
<p>Historic Environment</p>		

3.13.1 External Materials, Colour Palettes and Maximum Heights. With reference to Applicant's and TC's responses at deadline 4 [REP4-020, REP4-005] to ExA's SWQs [PD-010], Q2.13.1 ... 3.13.1 External Materials, Colour Palettes and Maximum Heights. With reference to Applicant's and TC's responses at deadline 4 [REP4-020, REP4-005] to ExA's SWQs [PD-010], Q2.13.1 ...

i. Would the Applicant and TC update the Examination on the points stated to be still under discussion – external finishes, colour palettes and maximum heights - and any other outstanding matters?

Matthew Gallagher commented that the latest situation was as set out in the SoCG on 18 June. On the matter of the palette of colours, the applicant had provided a wide range of colours. Although TC are happy in principle with the approach, TC would like to narrow this down to a family of colours and this discussion is still ongoing to provide a consistent approach.

Martin Friend confirmed that the Applicant was working up a document which would then be reflected in the DCO drafting. **Martin Friend** confirmed understanding of the point made by TC about the wider range of colours. PoTLL have proposed a schedule of finishes using colours found in the surrounding landscape that would be used to ensure that building colours are chosen to minimise their impact on the landscape. It is agreed that this approach is considered acceptable and is an appropriate mitigation measure but further discussions are required as to the detail of this measure and the wording of the Requirement in the DCO with perhaps a more limited palette being employed.

Matthew Fox for the Applicant confirmed that the palette would be a certified document and R3 would require adherence to the palette by other buildings not already specifically addressed in R3. This has been reflected in the DCO submitted at Deadline 5.

Stacking heights: Although this was not discussed in detail at the hearing, the Applicant can confirm that the position between the parties is agreed and is set out at item 4.11.5 in the SoCG with TC submitted at Deadline 4: *In response to the TC suggestion that consideration be given to the use of a height restriction zone adjacent to the western boundary (as suggested in their answer to First Written Question 1.13.5 [Rep 1-02]), TC and PoTLL have discussed stacking heights within the RoRo terminal further. It is agreed that the stacking heights of containers will in operation vary across the site and the portrayal and upper limit of 6 high containers across the whole site provides a worst case scenario for assessment purposes.*

The additional discussions considered the starting point for assessment and any need for mitigation in the site specific circumstance. TC and PoTLL agreed that the proposals will result in less than substantial harm to heritage significance in NPS

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	<p>terms (see item 4.11.4 in this SoCG) with the mitigation as proposed. It is also agreed that the Members of TC's planning committee supported the Tilbury2 proposals without a requirement to reduce stacking heights below the Rochdale envelope proposed in the application (i.e. six containers across the RoRo terminal as a worst case. On this basis any requirement to limit stacking heights below the worst-case Rochdale is not considered to be necessary to make the development acceptable and would not meet the tests for requirements/conditions at para. 206 of the NPPF.</p> <p>The Applicant would also make the point that such a limitation would be operationally restrictive and would impact on overall productivity of the facility.</p>	
<p>ii. Would the Applicant and TC state how they envisage any agreement reached on external finishes, colour palettes and maximum heights being secured in the dDCO?</p>	<p>If agreement is reached regarding external finishes and the colour palette approach to controlling the colour of buildings on the site it is envisaged that Requirement 3 will be modified to indicate that other structures not specifically identified in 3(1)(a)-(f) must comply with the 'Colour Palette (with this document being a certified document). PoTLL are presently considering the drafting of the DCO in this regard.</p> <p>As noted above it is agreed that it is not necessary to impose a restriction on stacking heights below the Rochdale envelope established in the DCO.</p>	<p>○</p>
<p>3.13.2 Tilbury Fort - Impact on Setting and Harm. With reference to the Applicant's and EH's responses at deadline 4 [REP4-020, REP4-014] to ExA's SWQs [PD-010], Q2.13.5 ...</p>		
<p>i. Would the Applicant and EH update the Examination on their positions with regard to the impact of the Proposed Development on the setting of Tilbury Fort, the severity of harm caused to the Fort by the Proposed Development, and the impacts caused to the activities at the Fort?</p>	<p>Richard Turney introduced Veronica Cassin to explain that English Heritage adopts the assessment of harm to significance as it is made by Historic England. Impacts on the commercial operation of the Fort are not directly harmful to significance of the Fort and the two issues are distinct from each other and wouldn't naturally be aligned. Historic England and the Applicant are in agreement that the impact on significance is less than substantial.</p> <p>Richard Turney explained that using NPS language ('severity of harm') to describe the commercial operations of the Fort is potentially confusing and went on to say that:</p> <p>It is accepted by both parties that the T2 proposals do not directly affect the fabric of the Fort (excepting the potential for vibration effects which can be directly mitigated through monitoring and active measures as necessary).</p> <p>It is also accepted by both parties that the minimal opportunities for direct mitigation</p>	

	<p>of effects on the setting of the Fort, insofar as they affect the commercial operation (and not the significance of the Fort) can be appropriately addressed through enhancement of the visitor experience at the Fort, including environmental upgrades to access at the Fort and interpretation material within the Fort.</p> <p>The proposed enhancements are intended to be 'fairly and reasonably related in kind and scale to the development'. To this end it is noted that the T2 proposals do not affect the fabric of the Fort nor do they entirely remove opportunities to experience the Fort.</p>	
<p>3.13.3 Tilbury Fort - Mitigation and Compensation Measures. With reference to the Applicant's and EH's responses at deadline 4 [REP4-020, REP4-014] to ExA's SWQs [PD-010], Q2.13.4 ...</p>		
<p><i>i. Would the Applicant and EH update the Examination on progress with the Tilbury Fort Heritage Contribution of the s106 agreement (schedule 2), highlighting matters under discussion and still to be resolved?</i></p>	<p>Richard Turney explained that PoTLL have advised English Heritage of its views as to the compliance of the suggestions by English Heritage as to mitigation and compensation at Tilbury Fort as per its position explained in answer to SWQ 2.13.4.</p> <p>Richard Turney noted that PoTLL had requested that English Heritage provide details as to the costings that led to the financial sums related to interpretation within the Fort and the resurfacing of entrance drive. It is important to ensure that these sums are justified; moreover the sum for signage and interpretation within the Fort is expressed as a range of £110,000 - £140,000 whereas for the purposes of the s.106 DCO Obligation a specific sum is required.</p> <p>PoTLL requested this information on 14th May 2018 and information was provided late on 22 June 2018, and is still being considered.</p>	
<p><i>ii. Would the Applicant comment on EH's concern regarding the phraseology used to describe the Tilbury Fort Heritage Contribution and EH's proposed definition?</i></p>	<p>Richard Turney indicated that the current draft states that the contribution is described as : "...a contribution for the purpose of implementing measures to realise tourism and heritage benefits."</p> <p>EH currently propose to define it as ": ...a contribution for the purpose of implementing measures to mitigate and compensate for the adverse impacts on the setting of a Scheduled Monument (Tilbury Fort), to protect its viable use, and to realise public and heritage benefits." - so as to emphasise the impact that is being mitigated or compensated for.</p> <p>Richard Turney confirmed that the wording was not intended to have any specific meaning beyond being a definition of the contribution. He suggested that the Applicant would be happy to amend the S106 to make it more neutral and suggested</p>	

	<p>that the definition of the heritage contribution is put simply as "a contribution to works at Tilbury Fort as defined in the schedule".</p>	
<p>iii. Would the Applicant comment on EH's proposed additions to the s106 agreement, which EH asserts are fair and proportionate as mitigation and compensation measures?</p>	<p>Richard Turney highlighted that the position of PoTLL is as set out in the Applicant's response to SWQ 2.13.4.</p> <p>The additional items that are not agreed with EH, are :-</p> <ul style="list-style-type: none"> • the provision for the resurfacing of the northern car park (which can only be done if the bridges are reinstated); • the reinstatement of the two bridges across the moats (which have fallen into disrepair through the neglect of EH): and, • the dredging of the moats. <p>PoTLL had made clear in its D4 submissions why these items do not meet the tests of the NPPF as well as raising deliverability and EIA issues.</p> <p>No further evidential basis was provided in EH's representations at D4 as to why these additions meet the tests of the NPPF. EH merely state that</p> <p><i>"English Heritage has demonstrated that the measures are reasonable and proportionate. English Heritage has used its substantial heritage conservation knowledge and strategies to prioritise projects that can be directly related to the impacts on setting that the proposal will have. It also has a range of relevant procedures to ensure that they can all be delivered."</i></p> <p>Mr Canavan on behalf of English Heritage highlighted that there was a difference between EH and the Applicant regarding degree of harm and therefore the compensation required. He highlighted the potential loss of revenue from filming. He confirmed that EH were not attending the hearings to object but to ensure that every step is taken to minimise the harm to the Fort. He confirmed that no further mitigation was possible and therefore compensation was necessary. He further highlighted that in his view there would be benefits in repairing the bridges even if the potentially controversial northern car park was delivered.</p> <p>Richard Turney on behalf of PoTLL confirmed that the Applicant had put in the report by an independent expert on film locations explained why there would be no adverse impact on the Fort as a location for filming and EH had not provided any</p>	

	<p>counter evidence. He further commented that filming had taken place successfully at the Fort with the power station in the background and the success of filing is clearly not contingent on the setting of the fort. It is not possible to say that a residual effect on setting will have an effect on filming.</p> <p>Post hearing note: The Applicant is aware that the filming demands at the Fort keep it closed for extended periods of time, which reduce the experience of the Fort for the general public. Crucially, irregular opening hours frustrate access to the monument and dissuade visitors and repeat visits, which impacts on the visitor revenue for the Fort, which is a secure and steady funding source. Therefore the Applicant considers that the demands of filming restrict the fundamental remit of English Heritage to support the experience and appreciation of history in the places where it happened.</p> <p>Richard Turney also highlighted that the acceptability of the proposed northern car park in Scheduled Monument terms was clearly questionable as it would adversely affect the setting of the Fort. Moreover, there would be an environmental impact issue from both this proposal and the promoted dredging of the moats, given their ecological value, that had not been assessed as part of the EIA process on Tilbury2.</p> <ul style="list-style-type: none"> ○ Mr Hudson of the ExA asked whether the s.106 was likely to be agreed. Richard Turney for PoTLL confirmed that the s.106 would be with Thurrock Council and it was the intention to have this signed before the end of the Examination 	
<p>3.13.4 Marine Archaeological Written Scheme of Investigation (WSI). With regard to the Marine Archaeological WSI submitted by the Applicant at deadline 4 [REP4-021]:</p>		
<p><i>i. Would Historic England, as historic environment advisor and archaeological curator for the marine environment, and the Marine Management Organisation (MMO) as regulator, inform the Examination of their views of the fitness for purpose of the Marine</i></p>	<p>Chris Pater from Historic England confirmed that he had provided comments on the WSI to the Applicant on Monday 25th June 2018. He identified his main comment related to the need for a mitigation strategy that provided a structured delivery for how anomalies will be assessed before and during the capital dredge . There is therefore a need for a phased programme of mitigation, due to the depth of the dredge, which allows for resurveying at specific depths throughout the dredge programme to address this.</p> <p>Matthew Fox for the Applicant confirmed that the applicant's archaeological consultant had received comments late on Monday 25th. The WSI will be updated as</p>	<ul style="list-style-type: none"> ○ PoTLL/T2/EX/149 Updated Marine WSI

<p>Archaeological WSI, identifying any areas that in their view need to be revised or enhanced?</p>	<p>appropriate and it is the intention to resubmit at Deadline 5.</p> <p>Matthew Fox confirmed that it was the Applicant's aim is to finalise the WSI ahead of the close of examination</p> <p>Suzanne Gailey for the Applicant, in response to Chris Pater's particular comment confirmed that this information was already included in the Marine WSI but that this would be made more defined in a Deadline 5 submission of the WSI.</p> <p>Suzanne Gailey confirmed that the WSI is a high level document and as such it covers all potential mitigation options that may be required during the development programme. Post consent when the development options are finalised, task specific method statements will be prepared in accordance with the appropriate mitigations strategy as set out in the WSI.</p> <p>Matthew Fox confirmed that Historic England's suggested wording in the DML was already covered off in the draft WSI and reiterated the Applicant's concern regarding the risk of substantial delay in the construction programme, particularly if a further WSI was prepared post consent in accordance with Historic England's request and then subsequent method statements were then prepared in line with that WSI. The risk of delay is evident in the fact that the current draft WSI was originally circulated to Historic England in August last year and is still not yet agreed.</p> <p>Matthew Fox confirmed that it was the intention to certify the Marine WSI.</p>	
<p>ii. With reference to Section 6 of the Marine Archaeological WSI, which considers potential impacts on the marine archaeology, and Section 7 which considers mitigation, are Historic England and MMO satisfied with these proposed mitigation measures?</p>	<p>Chris Pater from Historic England suggested that consideration should be given to the effect of the dredge on the Tilbury fort foreshore. Mr Prater explained that it was considered that the HR Wallingford report looked at the effect of the dredge on a wider area of the tidal Thames and requested reassurance on the specific effects on the foreshore of the Fort.</p> <p>Suzanne Gailey confirmed that as discussed at the previous ISH and in the applicant's submissions at Deadline 4 the results of the HR Wallingford Sedimentation Study (Technical Appendix 16D) identified that the movement of sediment as a result of the dredge will be limited leading to minimal change to accretion or erosion on the foreshore or riverbed. The model set out in that report did not identify any hydrodynamic or sedimentation effects on the fort's foreshore as a result of the proposed capital dredge.</p> <p>Consequently there will be a negligible effect on the archaeological receptors along</p>	<ul style="list-style-type: none"> ○ APP-065 ES Technical Appendix 16D Hydrodynamic and Sedimentation Modelling

	the fort's foreshore and consequently the applicant does not consider monitoring during of post dredge would be appropriate mitigation.	
iii. In the event of an Archaeological Exclusion Zone (Section 7, Table 4) or Temporary Exclusion Zone (Section 9, paragraphs 9.13.18 and 9.13.27) being implemented within the dredging zones, would the Applicant state what its plans are for completing dredging to the necessary depths and completing subsequent works for the Proposed Development, with impacts on the timetable?	<p>Suzanne Gailey confirmed that it is highly unlikely that remains of such high importance will be found that would require a permanent exclusion zone and consequently effect the completion of the applicants development programme. In most cases where an exclusion zone is implemented and it lies in area to be impacted by the proposed development, then its removal can be agreed with Historic England once the anomaly in question has been suitably mitigated in accordance with a task specific method statement. This process follows the suitable mechanism in place within the WSI</p> <p>Suzanne Gailey confirmed that it is more likely that an exclusion zone will be identified pre dredge (during initial surveys) rather than during the dredge. In which case the method statement to address its mitigation will be in place to avoid any delay to the dredge programme. If implemented during the dredge then actions will be taken to quickly resolve the mitigation strategy with Historic England and undertake the recording and removal.</p> <p>Suzanne Gailey confirmed that the timeframes to record and remove material would not be a hindrance to the dredging programme as work can proceed around the exclusion zones until material has been removed</p>	○
iv. Would the Applicant state the measures that it proposes to put in place with regard to unexploded ordnance during piling and dredging operations?	<p>Matthew Fox advised that para 8.12 of the CEMP requires the Applicant to implement the recommendations of the UXO report at Appendix 15E of the ES - this includes a number of recommendations in respect of measures to be undertaken in relation to piling and dredging underwater.</p> <p>Suzanne Gailey confirmed that the Marine WSI considers all potential options for UXO mitigation and how these surveys can also be used for marine archaeological requirements to affect the preliminary stage of mitigation where appropriate.</p> <p>Chris Pater highlighted his concerns regarding transect B of the Revised Limits of Dredging Plan (POTLL/T2/EX/45) which he understood to show that dredging was to take place across the order limits so that there was no longer a gap between the dredge pocket and the dredge approach. Consequently he would like the WSI to be updated to address any current gap in the anomalies identified in this area.</p> <p>To assist the Examining Authority and Historic England the Applicant has reviewed</p>	○ APP-083 UXO Survey

	<p>the plan and it is believed that the transect that Historic England raised some concerns over was Transect C rather than B and these concerns relate to an earlier version of the plan. The latest plan submitted at Deadline 4 (POTLL/T2/EX/107) clearly shows that the dredge does not extend across the order limits and Transect C of this plan shows that there is a gap between the capital dredge and the dredge approach. Consequently there is no gap in the anomalies identified in this area and so the WSI does not need updating in this regard (although the figures will be updated to show this information).</p>	
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3.13.5 Terrestrial Archaeology Written Scheme of Investigation (WSI). With regard to the Terrestrial Archaeology WSI submitted by the Applicant at deadline 4 [REP4-023]:

<p><i>i. Would Historic England, as historic environment advisor and archaeological curator for the terrestrial environment, TC as local authority, and ECC where appropriate, inform the Examination of their views of the fitness for purpose of the Terrestrial Archaeological WSI, identifying any areas that in their view need to be revised or enhanced?</i></p> <p><i>ii. With reference to Section 5 of the Terrestrial WSI, which considers mitigation measures, are Historic England and TC satisfied with these proposed mitigation measures?</i></p> <p><i>iii. With reference to Appendix 1 of the Terrestrial WSI, are Historic England and TC satisfied with the WSI for Geoarchaeological and Palaeoenvironmental Assessment?</i></p>	<p>Matthew Fox confirmed that draft 9 of the SoCG between the applicant and Historic England submitted prior to the hearings confirms that Historic England have approved the Terrestrial WSI.</p> <p>Matthew Gallagher for Thurrock Council confirmed that their archaeological advisor at Essex County Council Place Services was satisfied with the Terrestrial WSI.</p> <p>Chris Pater for Historic England confirmed approval of the Terrestrial WSI although they stipulated that their recommended wording for the DCO should still be included.</p> <p>Suzanne Gailey confirmed that a table was provided in the applicant's responses to the SWQ (2.8.47) provided at Deadline 4 which indicated where in the draft terrestrial and marine WSI the requested wording by HE was duplicated. As such a separate requirement is not needed.</p>	<ul style="list-style-type: none"> ○ PoTLL/T2/EX115 SoCGs Update Report ○ REP4-024 Terrestrial WSI
<p>Landscape and Visual Impacts</p>		
<p><i>3.15.1 Wider Landscape Improvements. With reference to the Applicant's and TC's responses at deadline 4 [REP4-020, REP4-</i></p>	<p>Steve Plumb for Thurrock Council confirmed that the matter had been discussed between the parties and it is agreed between PoTLL and TC that in the overall planning balance, whilst TC may consider the improvements desirable, they are not necessary to make the development acceptable and would not therefore pass the</p>	<ul style="list-style-type: none"> ○ PoTLL/T2/EX115 SoCGs Update Report

<p>005] to ExA’s SWQs [PD-010], Q2.15.1, in which TC identifies “three issues that could be addressed via the suggested wider landscape improvements” which are under discussion with regard to potential s106 obligations, deliverability, etc – new planting along the infrastructure corridor, enhancements to the area around Tilbury Fort, and landscape enhancement measures within the wider area of Tilbury ...</p> <p>Would the Applicant and TC update the Examination on the progress with their discussions, highlighting matters now agreed, still to be resolved and not agreed?</p>	<p>tests for a requirement. TC and PoTLL also agreed that the Members of the TC’s planning committee supported the Tilbury2 proposals without such a development consent obligation being proposed. Outside of the DCO process Thurrock and PoTLL will continue to positively engage with local initiatives to improve the local environment.</p> <p>Martin Friend for the applicant confirmed that Mr Plumb's explanation of the position was correct. The parties have discussed and considered wider landscape improvements suggested by TC in their answer to SWQ 2.15.1. The position of the parties is agreed and set out at item 4.8.5. in the updated SoCG between PoTLL and TC (PoTLL/T2/EX115) that was submitted on 18 June 2018.</p> <p>Martin Friend confirmed that it was agreed that the wider landscape improvements were not necessary within the DCO; the applicant had considered them in the context of the Environmental Assessment process and had concluded that they would not meet the legislative and policy tests. He confirmed that PoTLL engage in environmental initiatives locally and would take up discussions on these points outside of the DCO (and outside of the s.106 agreement).</p>	
<p>3.15.2 Visual Impacts on Tilbury Fort. With reference to the Applicant’s and Historic England’s responses at deadline 4 [REP4-009] to ExA’s SWQs [PD-010], Q2.15.2, in which Historic England cites discussions with the Applicant concerning the scope for further mitigation in relation to Historic England’s assessment of</p>	<p>The Panel agreed that this question had been covered earlier in the hearing and there was little further to say on the topic. However, the rationale and approach to identifying and offering further mitigation is set out below for the Panel’s information:</p> <p>The Applicant and Historic England are not agreed on the degree to which proposed mitigation influences residual effects. It is not possible to mitigate all of the visual effects and this is reflected in the assessments and the Minimisation Statement, which was submitted at Deadline 1 and details the design parameters and decision making which has prioritised reducing visual impacts.</p> <p>The Applicant agrees with Historic England’s view in their Deadline 4 submission, that it is important that every effort is made to explore potential for additional mitigation, and has undertaken to identify further opportunities for mitigation, offering HE and TC a further degree of control of visual effects through the developing colour</p>	

<p>residual harm to the significance of Tilbury Fort ...</p> <p>Would the Applicant and Historic England update the Examination on the progress of their discussions on this matter?</p>	<p>specification.</p> <p>Historic England guidance on settings identifies a number of elements that can be considered when proposing new development:</p> <ul style="list-style-type: none"> • Visual permeability (extent to which it can be seen through), reflectivity • Materials (texture, colour, reflectiveness, etc) <p>Without constraining port operations, the colour palette for structures not already nominated in Schedule 2 Req 3, is the most deliverable option for additional mitigation. This has been offered and will be secured through the DCO.</p>	
<p>Noise and Vibration</p>		
<p>3.16.1 Noise Monitoring at Mark Lane. In the Applicant's response to ExA's SWQ [PD-010] Q2.16.1, the ExA notes that the Applicant is currently arranging to undertake noise monitoring at Mark Lane as requested by Gravesham Borough Council (GBC) [REP4-013].</p> <p>Would the Applicant confirm that the monitoring referred to is that required under requirement 10 - or is there any other work being undertaken at this stage, and if so for what purpose?</p>	<p>Wendy Lane for Gravesham Council confirmed that the monitoring at Mark Lane had been undertaken and was acceptable to GBC and that it showed that the noise environment was no worse at this location than as set out in the ES.</p> <p>The Applicant's response to this question can be found in the separate Noise Resume Paper (PoTLL/T2/EX/154).</p>	
<p>3.16.2 Adequacy of Operational Management Plan (OMP). In response to the ExA's SWQ [PD-010] Q2.16.3 regarding adequacy</p>	<p>The Applicant's response to this question can be found in the separate Noise Resume Paper (PoTLL/T2/EX/154)</p>	

<p>of the OMP, GBC puts forward [REP4-013] a number of suggestions for how to limit noise, including:</p> <ul style="list-style-type: none"> • Require compliance with a standard; • Specify noise limit conditions/design constraints; • Specify days/hours restrictions (GBC preference in hierarchy of avoidance and mitigation); • Prohibit or restrict certain activities. <p>GBC also refers to government guidance on minerals operations (https://www.gov.uk/guidance/minerals) and states that mineral planning authorities should aim to establish a noise limit, through a planning condition, also providing suggested limits and examples of other schemes.</p> <p>Would the Applicant state its response to these proposals?</p>		
<p>3.16.3 Mitigation between LOAEL and SOAEL. In the</p>	<p>The Applicant's response to this question can be found in the separate Noise</p>	

<p>Applicant's response [REP4-020] to the ExA's SWQ [PD-010] Q2.16.4 regarding GBC's concerns about sound between the Lowest Observed Adverse Effect Level (LOAEL) and Significant Observed Adverse Effect Level (SOAEL), the Applicant does not address whether there is any mitigation available for LOAEL. The Applicant does acknowledge that the Noise Policy Statement for England (NPSE) requires mitigation and minimisation where LOAEL is exceeded.</p> <p>The ExA also notes that the Applicant states that the National Policy Statement (NPS) for Ports does not consider noise change. However, NPS paragraph 5.10.4 states that the noise assessment should include "a prediction of how the noise environment will change with the proposed development" and "an assessment of the effect of predicted changes in the noise environment on any noise sensitive areas and noise sensitive species".</p>	<p>Resume Paper (PoTLL/T2/EX/154)</p>	
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<p><i>The ExA also notes paragraph 5.10.8 of the NPS regarding containment of noise within buildings wherever possible and optimisation of plant layout.</i></p> <p><i>The ExA further notes that paragraph 5.10.10 of the NPS states: the "decision-maker should consider including measurable requirements or specifying the mitigation measures to be put in place to ensure that actual noise levels from the project do not exceed those described in the assessment or any other estimates on which the decision-maker's decision was based."</i></p> <p><i>Would the Applicant demonstrate how it has addressed these matters?</i></p>		
<p><i>3.16.4 BS4142. In Gravesham Borough Council (GBC)'s response [REP4-013] to the ExA's SWQ [PD-010] Q2.16.5, GBC has proposed the method detailed in BS4142 (Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas).</i></p>	<p>The Applicant's response to this question can be found in the separate Noise Resume Paper (PoTLL/T2/EX/154)</p>	

<p>What is the Applicant's response to including the BS4142 standard for limiting the noise?</p>		
<p>3.16.5 Noise Reassessment. In TC's response [REP4-005] to ExA's SWQ 2.16.7 [PD-010] ...</p>		
<p>i. Can TC confirm that the reassessment referred to by TC is that in Requirement 10 - this is the reassessment of noise as a whole prior to operation?</p>	<p>Matthew Gallagher for Thurrock Council confirmed that this was the case.</p>	
<p>ii. This reassessment does not appear to require sign off from TC. Is TC content with this?</p>	<p>Matthew Gallagher for Thurrock Council indicated that TC would like to see the reassessment in clause (1) of R10 shared with TC.</p> <p>Richard Turney for the Applicant indicates that PoTLL is happy to amend Requirement 10 to reference the need for Thurrock and Gravesham to have a role in the initial noise re-assessment. This has been implemented in the DCO submitted at Deadline 5.</p>	<ul style="list-style-type: none"> ○ PoTLL/T2/EX/120 Updated DCO
<p>3.16.6 In the Applicant's response [REP4-020] to EXA's SWQ [PD-010] Q2.16.8, the ExA notes that the Applicant confirms the appendix will form part of the ES, and the definition of the ES in the DCO certification schedule will be amended to reflect this. The MMO has requested a standalone version of the appendix for consultation</p>	<p>The MMO confirmed what they had stated in their letter to the ExA dated 11 June 2018 that:</p> <p><i>This consultation has now closed and the MMO can confirm that, as the "worst case scenario" that was originally assessed within the Environmental Statement was for 3.5 m diameter piles and that the additional modelling shows smaller impact ranges, the updated information does not alter previous opinions relating to the potential impacts.</i></p> <p><i>The MMO is satisfied that the currently agreed mitigation of a daily non-piling window remains appropriate.</i></p> <p><i>The MMO reserve the right to alter the above opinion should any new information</i></p>	

<p><i>with Cefas, but was not provided with this.</i></p> <p>Would the Applicant/MMO please update the Examination on progress on this matter?</p>	<p><i>become available.</i></p>	
<p>Socio-Economic Effects</p>		
<p>3.17.1 Skills and Employment Strategy. With reference to the Applicant's and ECC's responses at deadline 4 [REP4-020, REP4-015] to ExA's SWQs [PD-010], Q2.17.1 ...</p> <p>Would the Applicant and ECC update the Examination on the status of the Skills and Employment Strategy?</p>	<p>Richard Turney for confirmed that the Skills and Employment Strategy had now been agreed with all of the three local authorities (Essex County Council, Thurrock Council and Gravesham Borough Council) and would be submitted at deadline 5 as an appendix to the s.106 DCO obligation.</p> <p>Agreement to the SES is witnessed in the SoCGs submitted on 18 June 2018 with TC, GBC and ECC.</p>	<ul style="list-style-type: none"> ○ PoTLL/T2/EX115 SoCGs Update Report