

THAMES WATER UTILITIES LIMITED

THAMES TIDEWAY TUNNEL

River Transport Strategy

Draft to be updated further to comments received on this document from local planning authorities, the Greater London Authority, Transport for London, the Port of London Authority, the Examining Authority and other relevant stakeholders

1 The River Transport Strategy

1.1 Introduction

1.1.1 Thames Water has carefully considered the options for the transport of construction materials, including excavated material, to and from the proposed work sites for the Thames Tideway Tunnel project. The *River Transport Strategy* summarises the key commitments by the Undertaker to the transport of materials by river, this has been developed taking into consideration:

- (a) the site locations, including practicalities and constraints at each site
- (b) the NPS
- (c) environmental and community impacts
- (d) existing transport modes available at the site and the wider network
- (e) deliverability and reliability of the transport modes
- (f) the Excavated material and waste strategy
- (g) the *Sustainability Statement* (Doc ref: 7.07)
- (h) input from key stakeholders, including the Greater London Authority, Transport for London, the Port of London Authority and the directly affected London Boroughs as well as the wider response to project consultations.

1.2 *Policy background*

1.2.1 The NPS provides the framework for planning decisions on nationally significant waste water infrastructure and is the primary policy basis that will be used to determine the application for development consent.

1.2.2 The NPS recognises that the transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts, including economic, social and environmental effects. A new nationally significant infrastructure project may give rise to substantial impacts on the surrounding transport infrastructure and the decision maker should therefore ensure that the applicant has sought to mitigate these impacts. The consideration and mitigation of transport impacts is an essential part of Government's wider policy objectives for sustainable development (paragraphs 4.13.1, 4.13.2 and 4.13.6).

- 1.2.3 Where significant environmental effects are anticipated from traffic and transport effects, paragraph 4.13.3 states that a Transport Assessment must be prepared using the NATA/ WebTAG methodology, and that consideration must be given to both construction, operational and decommissioning stages. The NPS requires projects to assess the transport effects and provide mitigation where needed to reduce adverse transport impacts to an acceptable level. Where additional infrastructure is required, paragraph 4.13.5 provides guidance about the potential for cofounding by Government for any third party benefits, and paragraph 4.13.7 states that:

"Provided that the applicant is willing to enter into planning or transport obligations or requirements can be imposed to mitigate transport impacts identified in the NATA/WebTAG transport assessment, with attribution of costs calculated in accordance with the Department for Transport's guidance, then development consent should not be withheld, and appropriately limited weight should be applied to residual effects on the surrounding transport infrastructure."

- 1.2.4 Where cost effective, water-borne or rail transport is preferred in the NPS over road transport at all stages of the project. Where there is substantial HGV traffic, applicants should look to the control of HGV movements in a specified period during its construction and possibly the routing of such movements. Additionally, the provision of HGV parking to avoid prolonged queuing on approach roads and uncontrolled on-street parking during normal operating conditions is also suggested. Satisfactory arrangements for reasonably foreseeable abnormal disruption as a result of substantial HGV traffic should also be made in consultation with network providers and the responsible police force (paragraph 4.13.10).

- 1.2.5 Paragraph 4.13.11 states that: *"If an applicant suggests that the costs of meeting any obligations or requirements would make the proposal economically unviable this should not in itself justify the relaxation by the decision maker of any obligations or requirements needed to secure the mitigation."*

- 1.2.6** The policies of the London Mayor have been prepared in response to, and are consistent with, government transport policy. They emphasise that the River Thames is a unique and valuable asset and seek to encourage use of the river for passenger and freight transport, wherever practicable. The project is supported in principle (Policy 5.14). Local policy maintains the same themes and requires scheme promoters to address these issues through the production of transport assessments and construction logistics plans.

2 **The Objective of the Strategy**

- 2.1 The Objective is:

- 2.1.1 generally,

- (a) to minimise the effects of construction of the Development associated with the transport of construction materials and excavated materials on communities and the environment where practicable and cost effective in accordance with the NPS;
- (b) minimise the number and length of construction related transport movements which would be associated with the construction of the Development through demand or operational management, whilst ensuring that these would not have a significant impact on congestion or economic growth;

- (c) minimise the potential social and environmental impacts arising from construction-related transport associated with the Development through commitments, technical specification, training and best construction and logistics practice, wherever practicable and cost effective; and
- 2.1.2 specifically, to achieve the transportation of 90% of the Specified Materials by the River.
- 2.2 Achieving the Objective will require the Relevant Local Planning Authorities, the Greater London Authority, Transport for London, the Port of London Authority, the Undertaker and the Contractors to act proactively, reasonably and in co-operation with each other with a view to delivery of the Strategy.
- 2.3 The *River Transport Strategy* has been developed to provide a transparent process through which the materials specified for movement by river can be secured.
- 2.4 The process takes into consideration the need for the Greater London Authority, Transport for London, Port of London Authority and the Relevant Local Authorities to approve elements of the process which will affect the River Thames, and the local and strategic highway network.
- 2.5 The process is structured to so that contingency planning and the decision making process are, so far as possible, completed prior to construction to ensure that any response to foreseen events are planned for up front. Only events that cannot be foreseen are required to be approved during construction.
- 2.6 There are six elements to the process:
 - 2.6.1 Appointment of the Relevant Authority and Independent Panel: The Relevant Authority will be responsible for approving, monitoring and reviewing the delivery of the transport strategy. The Independent Panel will act as arbitrator in the event of dispute between the parties.
 - 2.6.2 Preparation and approval of the sustainable freight transport plan: These plans will set out the detailed proposals for delivering the transport strategy on a site-by-site basis. This will include detailed contingency plans.
 - 2.6.3 Operational and sustainability derogations: A process by which approval is given for temporary use of an alternative transport method for materials contained within the transport strategy commitments, for either operational or sustainability purposes. Derogations must be necessary and reasonable.
 - 2.6.4 Monitoring, review and remedial action: Review of monthly/annual monitoring reports by the Relevant Authority to assess need and reasonableness of approved derogations, progress towards meeting the transport strategy targets, and plans for future operations/derogations.
 - 2.6.5 Remedial action plans: A plan to be prepared in the event of there being evidence of derogations being unnecessary or unreasonable, or of transport strategy targets not being met. Breach of the remedial action plan would be considered a breach of the requirement.
 - 2.6.6 Completion review: A review of performance against the transport strategy targets by the Independent Panel.
- 2.7 The *River Transport Strategy* also includes the NPS Review. This is a mechanism to review the Specified Materials in the event only of a material change in

circumstances that affects the balance between cost of delivery and the benefits of the River Transport Strategy so that it is kept in line with the NPS policy.

- 2.8 Achieving the Objective will require the Relevant Local Planning Authorities, the Greater London Authority, Transport for London, the Port of London Authority, the Undertaker and the Contractors to act proactively, reasonably and in co-operation with each other with a view to delivery of the Strategy.
- 2.9 The Undertaker will continue to discuss the detailed requirements and content of this Strategy with the organisations listed in section 2.8 above with a view to agreeing a protocol that will govern implementation of the Strategy consistent with the terms of the Strategy and with requirement PW[*tbc*] of the draft DCO.

3 **Interpretation**

- 3.1 'Annual Monitoring Report' means the report to be prepared further to paragraph 4 of Schedule 5;
- 3.2 'Carnwath Road Riverside' means the Main Tunnel drive site at Carnwath Road in Fulham;
- 3.3 'Central Contract Area' means the area of the Main Tunnel comprised in Work Nos. 1b and 1c;
- 3.4 'Chambers Wharf' means the Main Tunnel drive site at Chambers Wharf in Southwark.
- 3.5 'Code of Construction Practice' means the Parts A and Part B of the Code of Construction Practice for the Development (Application Document NOs: [])
- 3.6 'Completion Review' means the review described in Schedule 7.
- 3.7 'Contract Area' means the East, Central or West Contract Area as the context requires.
- 3.8 "Contingency Derogation" means an Operational Derogation covered by, or not significantly different from, a Derogation covered by an approved Contingency Plan contained within a SFTP.
- 3.9 'Contingency Plan' means a plan included in a SFTP for the management of an Operational Derogation prepared having regard to the requirements of paragraph 3 of Schedule 3;
- 3.10 'Contractor' means the East, Central or West contractor as the context requires and 'Contractors' shall be construed accordingly;
- 3.11 "DCO" means the order granting development consent for the Development to be made under the 2008 Act pursuant to the Application;
- 3.12 'DCO date' means the date of the granting of the DCO
- 3.13 'Derogations' means Operational Derogations and the Sustainability Derogations;
- 3.14 'Derogations Process' means the processes through which approval is given for Derogation as described in Schedule 4.
- 3.14.1 'Derogation Event Notification Form' means the form at Appendix 2;

- 3.15 'Derogation Decision Notice' means the form at Appendix 5;
- 3.16 'Derogation Notification Process' means the process described in paragraph 2 of Schedule 4 and shown diagrammatically in the flow Chart at Appendix 1;
- 3.17 'Derogation Request Form' means the form at Appendix 4;
- 3.18 'Development' means the Thames Tideway Tunnel comprising the development and associated development described in Part 1 of Schedule 1 of the DCO and any other development authorised by the DCO which is development within the meaning of Section 32 of the Planning Act 2008;
- 3.19 'Draft DCO' means The [Draft] Thames Water Utilities Limited (Thames Tideway Tunnel) Development Consent Order 201[.]
- 3.20 'Eastern Contract Area' means the area of the Main Tunnel comprised in Work No. 1d;
- 3.21 'Environmental Assessment' means environmental assessment submitted with the application for development consent for the Development and the [] submitted on [];
- 3.22 'Foreshore Sites' means the CSO interception sites at Putney Embankment Foreshore, Cremorne Wharf Depot, Chelsea Embankment Foreshore, Heathwall Pumping Station, Albert Embankment Foreshore, Victoria Embankment Foreshore, Blackfriars Bridge Foreshore and King Edward Memorial Park.
- 3.23 'Implementation' means commencement of development pursuant to the DCO by the carrying out of a "material operation" (as defined in section 56(4) of the 1990 Act) save that for the purposes of this Agreement the term shall not include works of demolition, surveys, site clearance, site preparation and/or site set-up works, and works of archaeological or ground investigation or remediation (and in this Agreement 'Implement' and 'Implemented' shall be construed accordingly)
- 3.24 'Independent Panel' means the panel described in paragraph 1 of Schedule 2;
- 3.25 'Main Tunnel' means Works Nos. 1a to 1d in Schedule 1 to the Draft DCO;
- 3.26 'Main Tunnel Drive Sites' means the Main Tunnel drive sites at Carnwath Road Riverside, Kirtling Street and Chambers Wharf.
- 3.27 'Monitoring and Reporting Protocol' means the protocol described in Schedule 5.
- 3.28 'Monthly Monitoring Meetings' means the meetings to be held under paragraph 3 of Schedule 5;
- 3.29 'Monthly Monitoring Report' means the monthly report to be provided under the paragraph 2 of Schedule 5;
- 3.30 'NPS' means the National Policy Statement for Waste Water, A framework document for planning decisions on nationally significant waste water infrastructure (Defra) (March 2012).
- 3.31 'NPS Review' means the review described at paragraph 1 of Schedule 8;
- 3.32 'Objective' means the objective of the Strategy as described in section 2.1 of the Strategy;

3.33 'Operational Derogation' means:

- (a) an alternative to a River Freight Activity which results in a Contractor's inability to undertake one or more of the River Freight Activities from one or more of the Main Tunnel Drive Sites and / or the Foreshore Sites as a result of an Operational Derogation Event taking into account of mitigation designed to overcome the need for an Operational Derogation to be approved further to the terms of this Strategy; or
- (b) in the case of Chamber Wharf only results in a need to move or load barges to or from the Chambers Wharf site outside of the hours 0800 to 2200 as prescribed in section 4.1.1 of this Strategy further to a Contingency Plan approved under the terms of the SFTP for Chambers Wharf.

3.34 'Operational Derogation Event' means an event which is either a failure of all or part of the operational delivery of the River Freight Activities or an event which makes the river unavailable for use for the River Freight Activities and which event is either:

- (a) not planned in advance of its occurrence; or
 - (b) planned prior to its occurrence,
- and
- (c) which results in the potential requirement for an Operational Derogation.

3.35 'Relevant Authority' means the group of organisations listed in paragraph 1.1 of Schedule 1.

3.35.1 'Relevant Local Authority' means the local planning authority for the area within which a Foreshore Site or Main Tunnel Drive Site is located.

3.36 'Remedial Action Plan' means a plan prepared further to the terms of Schedule 6;

3.37 'River' means the River Thames;

3.38 'River Freight Activities' means the activities described at section 4.1.1 of the Strategy.

3.39 'Specified Materials' means the materials listed at section 4.1.1(a) to 4.1.1(h) of the Strategy.

3.40 'SFTA' means the sustainable freight transport assessment to be prepared further to paragraph 2 of Schedule 3.

3.41 'SFTF' means the sustainable freight transport framework to be prepared further to paragraph 1 of Schedule 3.

3.42 'SFTP' means a sustainable freight transport plan to be prepared further to paragraph 2 of Schedule 3;

3.43 'Strategy' means this Transport Strategy.

- 3.44 'Successor' means any person deriving title from the Undertaker in respect of its Qualifying Interest and for the purposes of Section 106(3)(b) of the 1990 Act shall include any person to whom powers are transferred further to Article 9 of the DCO;
- 3.45 'Sustainability Derogation' means an alternative to a River Freight Activity that would:
- (a) enable the beneficial re-use of the Specified Material or Materials described in sections 4.1.1(a), 4.1.1(b) and 4.1.1(e);
 - (b) that would result in reduced lorry miles in respect of Specified Material in comparison to the lorry miles associated with the transport of the relevant Specified Material further to the requirements of the Strategy; or
 - (c) that would result in a reduction in the generation of carbon in comparison to the carbon generation associated with transportation of a Specified Material further to the requirements of the Strategy; and
 - (d) which would not lead to significantly increased environmental effects when compared to the Environmental Statement.
- 3.46 'Undertaker' means Thames Water Utilities Limited and any Successors or statutory assignees;
- 3.47 'Unforeseen Derogation' means an Operational Derogation that is not covered by, or is significantly different from, a Derogation covered by an approved Contingency Plan contained within a SFTP.
- 3.48 'Western Contract Area' means the area of the Main Tunnel comprised in Work No. 1a;
- 3.49 'Working Day' means a day other than Saturday and Sunday or public holiday in England.
- 3.50 References to 'sections' are references to section 1 to 4 of the Strategy.
- 3.51 References to 'paragraphs' are references to paragraphs of Schedules 1 to 8 to this Strategy and are references to paragraphs to the Schedule within which the reference is made unless otherwise stated.

4 Commitments by the Undertaker

4.1 *Movement of the Specified Materials on the River*

- 4.1.1 Subject to any approved Derogations the Undertaker will transport 100% of the following materials by river:
- (a) excavated material from the Main Tunnel from the Main Tunnel Drive Sites;
 - (b) material excavated from the shafts at the Foreshore Sites, Carnwath Road Riverside and Chambers Wharf;
 - (c) permanent fill material for land reclamation at all the Foreshore Sites except Cremorne Wharf Depot;
 - (d) temporary fill material for cofferdams to all the Foreshore Sites except Cremorne Wharf Depot;

- (e) temporary fill material for the cofferdams from all the Foreshore Sites except Cremorne Wharf Depot;
- (f) excavated material at the Foreshore Sites (except Heathwall Pumping Station) and Chambers Wharf generated by the following works:
 - (i) Short connection tunnels;
 - (ii) CSO interception chambers and associated structures;
 - (iii) other underground structures;
- (g) Main Tunnel lining segments to Chambers Wharf;
- (h) sand and aggregates imported for the manufacture of concrete to be installed for the secondary lining to the Main Tunnel from the Main Tunnel Drive Sites.

4.1.2 Subject to any approved Derogations the Undertaker shall not:

- (a) load barges or vessels at the Chambers Wharf site;
- (b) move barges or vessels from or to the Chambers Wharf site, outside of the hours of 0800 to 2200 on any day of the week.

4.2 *Construction contracts*

4.2.1 The construction contracts relating to works with which the transport of the Specified Materials is associated with shall:

4.2.2 require the contractors to comply with section 4.1 of this Strategy;

4.2.3 incentivise contractors:

- (a) to achieve transport 100% of the Specified Materials using the River by providing that the Undertaker shall not pay for transport of materials by road unless there is a validly approved derogation in place at the time the transport by road occurred; and
- (b) to move materials, other than the Specified Materials, required for the construction of the Development using the River;

4.2.4 make achievement of this target a key performance indicator in the assessment of bonus payments under the terms of their contracts;

4.2.5 require that the Main Tunnel secondary concrete lining to be batched on the Main Tunnel Drive Sites; and

4.2.6 require the Contractors to use suppliers of ready mix cement for all sites who source sand and aggregates by river or rail.

4.3 *Relevant Authority*

4.3.1 The Undertaker shall:

- (a) establish the Relevant Authority within one month of the DCO Date;

(b) shall observe the other terms of Schedule 1.

4.4 *Independent Panel*

4.4.1 The Undertaker shall:

(a) establish the Independent Panel after the appointment of the Relevant Authority but prior to submission of the Sustainable Freight Transport Plan for approval by the Relevant Authority;

(b) shall observe the other terms of Schedule 2.

4.5 *Sustainable Freight Transport*

4.5.1 The Undertaker shall ensure that the following documents are prepared further to Schedule 3:

(a) The Sustainable Freight Transport Framework for the Project;

(b) Sustainable Freight Transport Assessments for the eastern, central and western Main Tunnel Drives; and

(c) Sustainable Freight Transport Plans for the Main Tunnel Drive Sites and the Foreshore Sites.

4.6 *Derogations*

4.6.1 To comply with Derogations Process.

4.7 *Monitoring and Reporting*

4.7.1 To comply with the Monitoring and Reporting Protocol.

4.8 *Remedial Action Plans*

4.8.1 The Undertaker shall:

4.8.2 shall observe the other terms of Schedule 6;

4.8.3 comply with the terms of any Remedial Action Plan prepared further to Schedule 6.

4.9 *Completion Review*

4.9.1 To undertake the Completion Review.

4.10 *NPS review*

4.10.1 To comply with the NPS Review process in Schedule 8 if the Undertaker applies for the NPS Review.

SCHEDULE 1

The Relevant Authority

1 Composition of the Relevant Authority

1.1 The Relevant Authority in respect of any Foreshore Site or Main Tunnel Drive Site will be comprised of a representative from each of the following organisations:

1.1.1 The Greater London Authority;

1.1.2 Transport for London;

1.1.3 The Port of London Authority; and

1.1.4 the Relevant Local Authority.

1.2 When establishing the Relevant Authority the Undertaker will write to each of the organisations listed at paragraph 1.1 above requesting them to confirm the identity of their representative on the Relevant Authority.

2 Administrative resources for the Relevant Authority

2.1 Transport Strategy Manager

2.1.1 The Undertaker shall appoint the Transport Strategy Manager (who shall have at least 10 years experience as a project manager or transport planner working on projects of equivalent scale and complexity).

2.1.2 The Transport Strategy Manager shall:

(a) co-ordinate management of the Transport Strategy by the Undertaker, the Relevant Authority and the Contractors;

(b) liaise the Relevant Authority Co-ordinator, the Undertakers Project Manager and the Contractors marine and traffic logistics managers to ensure the smooth running of the Strategy and in particular the management and operation of the Derogations Process.

2.2 Relevant Authority Co-ordinator

2.2.1 The Relevant Authority Co-ordinator shall co-ordinate the activities of the Relevant Authority and in particular to organise meetings of the Relevant Authority including co-ordinating and bringing together the members of the Relevant Authority necessary to deal with any issue before the Relevant Authority to ensure that decisions of the Relevant Authority are made within the time limits specified in this Strategy.

2.3 Funding of the Transport Strategy Manager and Relevant Authority Co-ordinator

2.3.1 The appointment of the Transport Strategy Manager and the Relevant Authority Co-ordinator will be funded by The Undertaker.

2.4 Neither the Transport Strategy Manger or the Relevant Authority Co-ordinator shall be a member of the Relevant Authority.

3 **Role and functions of the Relevant Authority**

3.1 The role and functions of the Relevant Authority are:

3.1.1 to engage in the development of the SFTP further to paragraph 2 of Schedule 3;

3.1.2 to approve SFTPs including Contingency Plans submitted under paragraph 2 of Schedule 3;

3.1.3 monitoring and review of the delivery of the Strategy, including attendance at Monthly Monitoring Meetings;

3.1.4 make decisions about applications for Derogations further to paragraph 4 of Schedule 4 and to review Derogations approved by the Undertaker further to paragraph 3 and paragraph 4 of Schedule 4;

3.1.5 establish the requirement for Remedial Action Plans and monitor their implementation;

3.1.6 maintain a public record of decisions and a list of relevant stakeholders.

3.2 In establishing the Relevant Authority the Undertaker shall use its reasonable endeavours to agree with the Relevant Authority:

3.2.1 the detailed terms of reference for the Relevant Authority concerning the discharge of the functions of the Relevant Authority;

3.2.2 time limits for actions and processes to be undertaken by the Undertaker and the Relevant Authority having regard to the Strategy as part of those terms of reference.

4 **Meetings of the Relevant Authority**

4.1 The Relevant Authority shall meet at least on a monthly basis and if necessary more frequently in order to perform its role and functions under this Strategy.

4.1.1 All meetings will be chaired by the Chairperson of the Relevant Authority.

4.1.2 Meetings will be quorate if the following organisations are present:

(a) the Greater London Authority;

(b) Transport for London;

(c) the Port of London Authority; and

(d) the Relevant Local Authority or Authorities for the relevant Foreshore or Main Tunnel Drive Site or Sites under consideration at the meeting is or are present at the time issues arising out of the terms of this Strategy in respect of that Site or Sites are discussed.

4.1.3 Meetings may be held in person, or by video or telephone conference call.

- 4.1.4 Minutes of meetings of the Relevant Authority will be published on the Project Website and circulated to the members of the Relevant Authority and the Undertaker and the Undertakers Contractors within 7 days of any meeting be held.

SCHEDULE 2

Independent Panel

1 **Composition of the Independent Panel**

1.1 *Number of members of the Independent Panel*

1.2 The Independent Panel shall comprise of five appointed members.

1.3 *The Chairperson of the Independent Panel*

1.3.1 The Chairperson shall have at least 15 years' experience in the field of transport planning or road and marine transport logistics.

1.3.2 Subject to paragraphs 1.3.1 and 1.3.2 the Chairperson of the Independent Panel shall be appointed on the recommendation of the President of the Institution of Civil Engineers:

- (a) the President shall consult the Undertaker and the Relevant Authority (including all the Relevant Local Authorities) on the individual the President proposes to appoint and the Undertaker and the relevant Authority will confirm its response to consultation (either raising no objection to the appointment or exercising the veto referred to in paragraph 1.2.2) in writing within 5 Working Days of the President consulting on the individual he proposes to appoint;
- (b) the Undertaker and the Relevant Authority (as opposed to each member of the Relevant Authority) shall each be entitled to veto (at its own discretion) the individual the President's proposes to appoint on one occasion only (but there is no obligation to exercise the veto); and
- (c) in the event of no objection to the proposed appointment being received from the Undertaker or the Relevant Authority or after each of the Undertaker and the Relevant Authority has exercised its power of veto under paragraph 1.2.3 the President will proceed to make the proposed appointment.

1.3.3 The identity of the Chairperson shall be reviewed every two years by the Undertaker and the Relevant Authority to establish whether in their reasonable opinion the existing Chairperson should be retained or whether a new Chairperson should be appointed having regard to the activity the Independent Panel has been undertaken in the preceding two year period and is expected to undertake in the next two year period.

1.3.4 In the event that it becomes necessary to appoint a replacement Chairperson of the Independent Panel paragraph 1.3.2 shall apply and the Undertaker will provide a statement to be agreed with the Relevant Authority to the President of the Institution of Civil Engineers explaining why the reappointment of the Chairperson is necessary

1.4 *Other members of the Independent Panel*

1.4.1 The Chairperson will appoint:

- (a) three further members responsible for matters arising out of this Strategy in respect of the Eastern, Central and Western Contract Areas respectively each of whom shall have at least 15 years experience in the field of transport planning or road and marine transport logistics;
- (b) one further member responsible for project wide matters arising out of the Strategy who shall have at least 15 years' experience as tunnelling engineer working on comparable projects.

1.5 The Chairperson may at his own discretion replace any member of the Independent Panel appointed under paragraph 1.4.1 if the Chairperson believes that:

1.5.1 the replacement member is better qualified to perform the role of the member of the Independent Panel to be replaced; and / or

1.5.2 will enable the Independent Panel to more effectively and efficiently perform its role and functions as described in paragraph 3.

2 **Administrative resources for the Independent Panel**

(a) Administrative and support staff will be appointed to support the operation of the Independent Panel. The specific numbers will be determined by the Chairperson of the Independent Panel.

(b) The administrative and support staff will not be members of the Independent Panel.

(c) The operation of the Independent Panel will be funded by The Undertaker.

3 **Role and functions of the Independent Panel**

3.1 The role and functions of the Independent Panel are to:

3.1.1 review the SFTP if referred to it by either the Relevant Local Authority or the Undertaker;

3.1.2 review the validity and legitimacy of Operational Derogations if referred to it by either the Relevant Authority or the Undertaker;

3.1.3 review monthly monitoring reports/annual reviews if referred by either the Relevant Authority or the Undertaker for the purpose of establishing whether the Strategy is being adhered to;

3.1.4 if referred by either the Relevant Authority or Undertaker to establish whether a Remedial Action Plan is needed, and if so, whether it will, if accurately implemented, achieve compliance with the Strategy;

3.1.5 review the Completion Review.

3.2 In establishing the Independent Panel the Undertaker shall use its reasonable endeavours to agree with the Independent Panel:

3.2.1 the detailed terms of reference for the Independent Panel concerning the discharge of the functions of the Independent Panel and in particular the Chairperson and the other four panel members;

3.2.2 time limits for actions and processes to be undertaken by the Undertaker and the Independent Panel having regard to the Strategy as part of those terms of reference.

4 **Meetings of the Independent Panel**

4.1 The Independent Panel shall meet as frequently as necessary to perform its role and functions under this Strategy.

4.1.1 All meetings will be chaired by the Chairperson of the Independent Panel.

4.1.2 Meetings will be quorate if the following members are present are present:

- (a) the Chairperson;
- (b) the Panel member for the Contract Area in respect of which the issue under consideration arises; and
- (c) the Panel member responsible for project wide issues arising out of the Strategy.

4.1.3 Meetings may be held in person, or by video or telephone conference call.

4.1.4 Minutes of meetings of the Independent Panel will be published on the Project Website and circulated to the members of the Relevant Authority and the Undertaker and the Undertakers Contractors within 7 days of any meeting be held.

5 **Decision making**

5.1 Decisions of the Independent Panel will be taken by simple majority vote amongst the members of the Independent Panel present at the meeting with each member of the Independent Panel having a single vote. In the event no majority being achieved the Chairperson's vote will be the casting vote.

5.2 Decisions of the Independent Panel will be published on the Project Website and circulated to the members of the Relevant Authority and the Undertaker and the Contractors within 7 days of the decision being made.

SCHEDULE 3

Sustainable Freight Transport

1 Sustainable Freight Transport Framework ('SFTF')

1.1 Preparation and approval of the SFTF

1.1.1 The Undertaker shall prepare the SFTF in accordance with paragraph 1.3.

1.1.2 The Undertaker will consult the Relevant Authority on the draft SFTF. The Relevant Authority shall be given not less than 21 days to comment on the draft SFTF and the Undertaker shall take reasonable account of any written comments on draft SFTF it receives from the Relevant Authority, or any member of the Relevant Authority, prior to the end of that 21 day period before adopting the SFTF.

1.1.3 The Undertaker will report its response to the written comments received on the draft SFTF to the Relevant Authority when it adopts the SFTF.

1.2 Purpose and content of the SFTF

1.2.1 The SFTF will provide the framework within which the sustainable freight transport assessment for each Contract Area would be prepared by the Contractors.

1.2.2 The SFTF shall contain at least the following information:

- (a) the Objective including commitments, opportunities and incentives that are set out within the Strategy;
- (b) the estimated quantity of the Specified Materials to be moved under the River Freight Activities further to the Strategy;
- (c) the management arrangements for delivery of the Strategy;
- (d) the operational requirements for road and river transport based on construction method and programme having regard to the Objective and the requirements of the Strategy;
- (e) the proposed logistics management arrangements for the Development;
- (f) arrangements for engagement with stakeholders interested in the Strategy, which shall include the Greater London Authority, Transport for London, the Port of London Authority, Relevant Local Authorities and communities, organisations and businesses in the vicinity of the Foreshore Sites and the Main Tunnel Drive Sites;
- (g) the operational standards and best practice that the Contractors are required to comply with;
- (h) any proposed transshipment sites to be used in delivery of the Development and the Strategy;
- (i) the proposed approach to consolidation of Specified Materials to be moved to or from the Foreshore Sites and the Main Tunnel Drive Sites further to the terms of the Strategy;

- (j) the proposed approach to key supply chain issues, such as manufacturing sites for tunnel lining segments;
- (k) the proposed approach to the use of holding areas for barges and HGVs;
- (l) the proposed approach to the use of Derogations consistent with the Objective and the Strategy;
- (m) guidance on contingency planning, and the preparation of contingency plans to be implemented in respect of approved Derogations consistent with the Objective and the Strategy, to be used in developing the overall approach to contingency planning in each Contract Area to be set out in the SFTAs for each of the Contract Areas;
- (i) the monitoring and reporting requirements for transport activities in relation to the Main Tunnel Drive Sites and the Foreshore Sites;
- (ii) a risk register in respect of the SFTF.

2 **Sustainable Freight Transport Assessments ('SFTA') and Sustainable Freight Transport Plans ('SFTP')**

2.1 *Requirement to produce SFTAs and SFTPs*

2.1.1 The Contractors shall each prepare and have approved further to paragraphs 2.4 and 2.6:

- (a) a SFTA for each of their respective Contract Areas; and
- (b) prior a SFTP for each Foreshore Site and Main Tunnel Drive Site in their respective Contract Areas.

2.2 *Consistency with the SFTF and the SFTAs*

2.2.1 The SFTAs and SFTPs shall be consistent with the terms of the SFTF.

2.2.2 The SFTPs shall be consistent with the SFTA for their Contract Area.

2.3 *Purpose and content of the SFTAs*

2.3.1 The SFTAs would set out Contractor's proposals for meeting or exceeding the Objective and for complying with the Strategy, taking account of the SFTF.

2.3.2 Each SFTA would include proposals for all Foreshore Sites and Main Tunnel Drive Sites in each Contract Area and Contractors will be required to liaise with each other and the Undertaker to ensure that consideration is given to achieving the Objective and delivering the Strategy as a whole including supply chain, contingency planning and other operational issues for the Development as a whole.

2.3.3 The SFTAs will include at least the following information:

- (a) transport strategy commitments and opportunities having regard to the Objective and the Strategy;
- (b) management arrangements for each Main Tunnel Drive Site and each Foreshore Site in the Contract Area;

- (c) stakeholder engagement arrangements;
- (d) the Contractors proposals for the transport of the Specified Materials and other materials to and from each Main Tunnel Drive Site and Foreshore Site in the Contract Area;
- (e) the design of the road and river access to each Main Tunnel Drive Site and Foreshore Site in the Contract Area;
- (f) lorry management arrangements for each Main Tunnel Drive Site and for each Foreshore Site in the Contract Area, including holding areas;
- (g) the overall approach to contingency planning in the Contract Area to be implemented in respect of approved Derogations consistent with the Objective and the Strategy to be adopted used in the development of Contingency Plans to be prepared for each Main Tunnel Drive Site and Foreshore Site in the Contract Area further to the SFTPs;
- (h) the monitoring and reporting arrangements that will be adopted in respect of transport activities at the Main Tunnel Drive Sites and the Foreshore Sites in the Contract Area;
- (i) a risk register in respect of the SFTA.

2.4 *Approvals of SFTAs*

2.4.1 Each SFTA shall be submitted to the Undertaker for approval.

2.4.2 In approving the SFTA for a Contract Area the Undertaker shall ensure that it is consistent with the SFTAs for the other Contract Areas to ensure that there is a consistent approach sustainable transport planning in respect of all Main Tunnel Drive Sites and Foreshore Sites

2.5 *Purpose and content of the SFTPs*

2.5.1 The SFTPs will describe how the Objective is to be met or exceeded and the Strategy implemented in respect of each of the Main Tunnel Drive Sites and Foreshore Sites.

2.5.2 The SFTPs will contain at least the following information:

- (a) transport strategy commitments and opportunities for the Main Tunnel Drive Site or Foreshore Site to which it relates having regard to the Objective and the Strategy;
- (b) management arrangements for the Main Tunnel Drive Site or Foreshore Site to which it relates;
- (c) stakeholder engagement arrangements the Main Tunnel Drive Site or Foreshore Site to which it relates;
- (d) the proposals for the transport of the Specified Materials and other materials to and from the Main Tunnel Drive Site or Foreshore Site to which it relates;

- (e) an assessment of the traffic effects arising from the construction of the Development at each of the Main Tunnel Drive Sites and each of the Foreshore Sites;
- (f) the details of the design of the road and river access to the Main Tunnel Drive Site or Foreshore Site to which it relates;
- (g) lorry management arrangements for the Main Tunnel Drive Site or Foreshore Site to which it relates including holding areas;
- (h) the Contingency Plans in respect of Operational Derogations at the Main Tunnel Drive Site or Foreshore Site to which it relates;
- (i) the monitoring and reporting arrangements that will be adopted in respect of transport activities at the Main Tunnel Drive Site or Foreshore Site to which it relates;
- (j) a risk register in respect of the SFTP.

2.6 *Approvals of SFTPs*

2.6.1 Each SFTP shall be prepared by the Contractor in consultation with the Undertaker and the Relevant Authority and shall be submitted to the Relevant Local Authority for approval.

2.6.2 In approving a SFTP the Relevant Local Authority shall:

- (a) consult with the Greater London Authority, Transport for London and the Port of London Authority;
- (b) take reasonable account of all comments received in writing from the Greater London Authority, Transport for London and the Port of London Authority; and
- (c) indicate in the Derogation Decision Notice how those comments have been taken into account in its decision on the SFTP.

2.6.3 The Undertaker and the Contractor will hold a project wide workshop to explain the proposed content and terms of the draft SFTPs for each Main Tunnel Drive Site and Foreshore Site and the Relevant Authority shall be given at least 21 days to comment in writing on the draft SFTPs. The Relevant Authority will be given at least 10 Working Days notice of the workshop and the workshop may proceed even if a member of the Relevant Authority is not in attendance. The 21 day period for provision of written comments will commence on the Working Day on which the workshop is held.

2.6.4 The Contractor shall:

- (a) take reasonable account of all the written comments it receives on the SFTP within the 21 day period referred to in paragraph 2.6.2 when preparing the SFTP to be submitted for approval further to paragraph 2.6.1;
- (b) when submitting the SFTP to the Relevant Local Authority for approval further to paragraph 2.6.1 provide a report detailing the comments received further to paragraph 2.6.2 and its response to the comments.

2.6.5 The Relevant Local Authority shall have not less than 40 Working Days to approve any SFTP submitted to it for approval further to paragraph 2.6.1.

2.6.6 In the event of:

- (a) a dispute in respect of the SFTP (whether arising before or after its submission for approval further to paragraph 2.1) either the Relevant Authority or the Undertaker; or
- (b) the rejection by the Relevant Authority of a SFTP submitted for approval further to paragraph 2.6.1 the Undertaker,

may refer the SFTP to the Independent Panel for approval whose decision shall be taken within 20 Working Days of receipt of the referral to it and whose decision shall be final.

2.6.7 SFTPs may be updated as necessary during the construction of the Development in which case paragraphs 2.6.1 to 2.6.5 shall apply to any update of a SFTP.

2.7 If a paragraph 3.3.3 or 4.2.2 of Schedule 5 result in agreement between the Undertaker and the relevant Authority that a SFTP or a number of SFTPs including a Contingency Plan or Plans within a SFTP or a number of SFTPs need updating applications for approval of the updated SFTP or SFTPs will be made by the undertaker further to paragraph 2.6.

2.8 If a Contractor intends to transport materials, other than the Specified Materials, by the River:

2.8.1 in addition to the River Freight Activities; or

2.8.2 to construction sites that are not covered by this Strategy,

those activities shall be covered by the SFTP for the Main Tunnel Drive Site or Sites or Foreshore Site or Sites or other sites not covered by this Strategy involved in those activities.

3 **Contingency Plans**

3.1 *General approach*

3.1.1 In developing Contingency Plans as part of the preparation of SFTPs for the Main Tunnel Drive Sites and the Foreshore Sites the Undertaker and the Contractors shall have regard to the preference for dealing with Operational Derogation Events through the Contingency Derogation approval process described at paragraph 3 of Schedule 4 and that the Unforeseen Derogation process described at paragraph 4 of Schedule 4 is intended for use by way exception when an Operational Derogation Event is not covered by a Contingency Plan or is significantly different from a Derogation covered by an approved Contingency Plan.

3.2 *Content of Contingency Plans*

3.2.1 The Contingency Plans to be provided in the SFTPs shall contain at least the following information:

- (a) the key stakeholders involved in the Contingency Plan;

- (b) a list of the foreseeable Operational Derogation Events which are the subject of Contingency Plans;
- (c) the proposed response to those Operational Derogation Events;
- (d) the existing highway network conditions of highways potentially affected by the proposed response to the Operational Derogation Events;
- (e) details of any additional approvals that may be required for the purpose on implementing the proposed response to the Operational Derogation Events;
- (f) details of any mitigation that will be put in place:
 - (i) to reduce the likelihood of the Operational Derogation Events occurring;
 - (ii) to reduce the need for an Operational Derogation if the Operational Derogation Events occurs;
 - (iii) to reduce in so far as reasonably practical the environmental effects of the Operational Derogation once implemented;
- (g) a description of the residual effects that may still occur after the mitigation referred to at paragraph 3.2.1(f)(ii) has been in place, including the lorry movements and other environmental effects that may be associated with implementation of the Operational Derogation;
- (h) the programme and phasing for implementation of the proposed response to the Operational Derogation Event;
- (i) proposals for the review of the effectiveness of the Contingency Plans for responses to specific Operational Derogation Events;
- (j) details of the notification and approval processes that will apply in respect of Operational Derogations including copies of the forms that will be used to notify and apply for approval of an Operational Derogation;
- (k) the form of the decision notice that will issued in respect of any application for approval of an Operational Derogation;
- (l) a risk register in respect of the Contingency Plan.

3.3 *Chambers Wharf Contingency Plan*

3.3.1 The Contingency Plan to be included within the SFTP for the Chambers Wharf site shall specifically address the issue the consequences of needing to derogate from the restriction on the loading and moving of barges between the hours of 2200 and 0800 on each day of the week and shall include at least the following information:

- (a) the hierarchy of options that may be implemented in the event that the Contingency Plan calls for the loading and / or the moving of barges during the hours of 2200 to 0800;
- (b) the conditions that must be satisfied before loading or moving of barges between the hours of 2200 and 0800 may be undertaken further to the Contingency Plan; and

- (c) the terms of the Contingency Plan shall seek to promote options that would avoid the need to undertake barge loading or movements between the hours of 2200 and 0800.

3.4 *Consistency with the Code of Construction Practice and related plans and documents*

- 3.4.1 Traffic management plans, river management plans, construction logistic plans and other plans required to be prepared by the Code of Construction Practice shall be consistent with the SFTP for each Main Tunnel Drive Site or Foreshore Site including particular reference to the agreed Contingency Plans.

SCHEDULE 4

Derogations process

1 General principles

- 1.1 The Undertaker and the Contractors shall have regard to the preference for dealing with Operational Derogations through the Contingency Derogation approval process described at paragraph 3 and that the Unforeseen Derogation process described at paragraph 4 is intended for use by way of exception when an Operational Derogation is not covered by a Contingency Plan or is significantly different from a Derogation covered by an approved Contingency Plan.
- 1.2 Any decision to approve an Operational Derogation, whether under the Contingency Derogation approval process described at paragraph 3 or the Unforeseen Derogation process described at paragraph 4, shall be taken having regard to the following two requirements:
 - 1.2.1 the need for the Derogation having regard to paragraph 3.2.1(f)(i) of Schedule 3 - the Operational Derogation must be necessary, taking into account whether the Contractor has taken appropriate steps to avoid the need for the Derogation arising;
 - 1.2.2 the reasonableness of the Derogation having regard to paragraph 3.2.1(f)(ii) and (iii) of Schedule 3 - the Operational Derogation must be reasonable, taking into account any reasonable mitigation to offset the requirement for additional HGV movements and the effect of those HGV movements including their duration.
- 1.3** An Operational Derogation shall only be approved if it is needed and is reasonable.

2 Derogation Notification Process

- 2.1 The process described in this paragraph and shown diagrammatically in the flow chart at Appendix 1 is the Derogation Notification Process.
- 2.2 As soon as a Contractor becomes aware of:
 - 2.2.1 an event that is in its opinion a likely, known or actual occurrence of an Operational Derogation Event; or
 - 2.2.2 the potential for a Sustainability Derogation,
the Contractor shall:
 - (a) notify the Undertaker in writing (including why the Contractor considers the event or circumstance is or is likely to be an Operational Derogation Event or why there is potential for a Sustainability Derogation); and
 - (b) confirm whether the Operational Derogation Event or Sustainability Derogation being notified is either:
 - (i) a Contingency Derogation; or
 - (ii) an Unforeseen Derogation.

- 2.3 The notification under paragraph 2.2 shall be made as soon as possible after the Contractor becomes aware of the Operational Derogation Event which gives rise to the Operational Derogation or the potential for a Sustainability Derogation as determined by the Undertaker and shall be made on the Derogation Event Notification Form.
- 2.4 The Undertaker shall determine whether the notified event is in its reasonable opinion an Operational Derogation or a Sustainability Derogation and if it does determine that the event is a potentially a valid Operational Derogation or Sustainability Derogation it shall issue an approved Derogation Event Notification Form to:
 - 2.4.1 the Contractor who notified the Operational Derogation or Sustainability Derogation to the Undertaker further to paragraph 2.2;
 - 2.4.2 the Relevant Authority and the individual members of the Relevant Authority; and
 - 2.4.3 any other stakeholder who should be notified of the Operational Derogation or Sustainability Derogation further to the SFTP for the Main Tunnel Drive Site or Foreshore Site to which the Operational Derogation applies.

3 Contingency Derogation approval process

- 3.1 The process described below and shown diagrammatically in the flow chart at Appendix 3 is the process for approving Contingency Derogations.
- 3.2 As soon as possible after the Undertaker issues an approved Derogation Event Notification Form under paragraph 2.4 the Contractor will issue a Derogation Request Form in respect of the notified Contingency Derogation to the Undertaker for its initial review and acceptance (subject to any amendments the Undertaker may reasonably require).
- 3.3 Once accepted by the Undertaker the Contractor shall submit the Derogation Request Form to:
 - 3.3.1 the Undertaker
 - 3.3.2 the Relevant Authority and the individual members of the Relevant Authority;
 - 3.3.3 any other stakeholder who should be notified of the Derogation further to the SFTP for the Main Tunnel Drive Site or Foreshore Site to which the Derogation applies.
- 3.4 The Relevant Authority (and its constituent members) and any stakeholder notified under paragraph 3.3.3 shall be entitled to provide comments and information in respect of the proposed Contingency Derogation in particular in respect of local circumstances not foreseen in the Contingency Plan (in the SFTP for the Main Tunnel Drive Site or Sites or Foreshore Site or Sites to which the Derogation relates) for the Contingency Derogation that has been notified.
- 3.5 On the date specified for approval of the Derogation in box 12 of the Derogation Request Form the Undertaker will determine whether the Derogation should be approved having regard to:
 - 3.5.1 the requirements of paragraph 1.2;
 - 3.5.2 the circumstances of the request for the Derogation received from the Contractor;

3.5.3 the terms of the approved SFTP for the Main Tunnel Drive Site or Sites and / or the Foreshore Site or Sites in question; and

3.5.4 any comments and information received from the Relevant Authority and stakeholders notified under paragraph 3.3.3.

For the avoidance of doubt the Undertaker shall not be prevented from making its decision further to this paragraph if the date for approval of the Operational Derogation specified in box 12 of the Derogation Request Form has been reached without any comment being received from the Relevant Authority and stakeholders notified under paragraph 3.3.3.

3.6 The decision of the Undertaker under paragraph 3.5 shall be recorded on the Derogation Decision Notice which shall be provided to:

3.6.1 the Contractor;

3.6.2 the Relevant Authority and the individual members of the Relevant Authority; and

3.6.3 any other stakeholder who should be notified of the Derogation further to the SFTP for the Main Tunnel Drive Site or Foreshore Site to which the Derogation applies; and

3.6.4 the Notification Form, the Derogation request Form and the Derogation Decision Notice shall be included in the Monthly Report.

3.7 The Contractor will implement the Derogation as approved by the Undertaker.

4 **Unforeseen Derogation process**

4.1 The process described below and shown diagrammatically in the flow chart at Appendix 6 is the process for approving Unforeseen Derogations and Sustainability Derogations.

4.2 As soon as possible after the Undertaker issues an approved Derogation Event Notification Form under paragraph 2.4 the Contractor will issue a Derogation Request Form in respect of the notified Unforeseen Derogation to the Undertaker specifying a reasonable timetable for approval in Box 12 of the Derogation Request Form for its initial review and acceptance (subject to any amendments the Undertaker may reasonably require).

4.3 Once accepted by the Undertaker the Contractor shall submit the Derogation Request Form to:

4.3.1 the Undertaker

4.3.2 the Relevant Authority and the individual members of the Relevant Authority;

4.3.3 any other stakeholder who should be notified of the Derogation further to the SFTP for the Main Tunnel Drive Site or Foreshore Site to which the Derogation applies.

4.4 The Relevant Authority (and its constituent members) and any stakeholder notified under paragraph 4.3.3 shall be entitled to provide comments and information in respect of the proposed Derogation in particular in respect of local circumstances not foreseen in the Contingency Plan or the Derogation Request Form (in the SFTP for the Main Tunnel Drive Site or Sites or Foreshore Site or Sites to which the Derogation relates) for the Derogation that has been notified.

- 4.5 The Undertaker will determine whether in its reasonable opinion the Derogation should be approved having regard to:
 - 4.5.1 the requirements of paragraph 1.2;
 - 4.5.2 the circumstances of the derogation request received from the Contractor;
 - 4.5.3 the terms of the approved SFTP for the Main Tunnel Drive Site or Site and / or the Foreshore Site or Sites in question; and
 - 4.5.4 any comments and information received from the Relevant Authority and stakeholders notified under paragraph 4.3.3.
- 4.6 If:
 - 4.6.1 the Undertaker concludes that in its reasonable opinion the Derogation should be approved it shall refer the Derogation Request Form to the Relevant Authority for approval further to paragraph 4.7 and confirm to the Contractor in writing that the referral has been made; or
 - 4.6.2 it will refer the Derogation Request Form back to the Contractor and confirm in writing why it does not believe the Derogation should be referred to the Relevant Authority for approval further to paragraph 4.7.
- 4.7 Subject to paragraph 4.12 an application for approval of a Derogation Request Form referred to the Relevant Authority under paragraph 4.7.1 will be determined by the Relevant Local Planning Authority in consultation with the other members of the Relevant Authority and paragraphs 4.7.1 to 4.7.3 and 4.11 shall apply.
 - 4.7.1 Where an application relates to Main Tunnel Drive Sites and / or Foreshore Sites in two or more different local authority areas the application will be deemed to be an individual application to each Relevant Local Authority and will be determined separately by each Relevant Local Authority, in consultation with the other members of the Relevant Authority.
 - 4.7.2 The Relevant Local Planning Authority may either:
 - (a) approve the application;
 - (b) approve the application with conditions which may include a requirement to review the operation of the approved Derogation; or
 - (c) recommend that an alternative solution to that proposed in the Derogation Request Form.
 - 4.7.3 In making its decision under this paragraph 4.7 the Relevant Local Authority will have regard to:
 - (a) the requirements of paragraph 1.2;
 - (b) the circumstances of the request for the Derogation received from the Contractor;
 - (c) the terms of the approved SFTP for the Main Tunnel Drive Site or Site and / or the Foreshore Site or Sites in question;

- (d) any advice it has received in writing concerning the Derogation that has been applied for from the other members of the Relevant Authority; and
- (e) any comments and information received from the Relevant Authority and stakeholders notified under paragraph 4.3.3.

4.8 Upon receipt of the Relevant Local Authority decision under paragraph 4.7 the Undertaker may either:

4.8.1 accept the approval subject to conditions or the alternative solution proposed by the Relevant Local Authority; or

4.8.2 refer the application for approval of Derogation Request Form to the Independent Panel for approval.

4.9 Subject to paragraph 4.12 upon receiving a referral of an application for approval of a Derogation further to paragraph 4.8.2 the Independent Panel will review the application and will either:

4.9.1 approve the application;

4.9.2 approve the application with conditions; or

4.9.3 recommend that an alternative solution to that proposed in the Derogation Request Form.

The Independent Panels decision shall be made having regard to the matters listed at paragraphs 4.7.3 and 4.11 will apply.

4.10 Upon receipt of a decision of the Independent Panel under paragraph 4.9 that grants approval subject to conditions or recommends an alternative solution to that proposed in the Derogation Request Form the Undertaker will:

4.10.1 review the Independent Panels decision; and

4.10.2 hold a review workshop with the Relevant Authority at which the Undertaker and the Relevant Authority shall agree:

(a) how the Derogation will be implemented having regard to the requirements of paragraph 1.2 and the Independent Panels decision; and

(b) whether the implementation of the Derogation should be the subject of ongoing review.

4.11 The decision of the Relevant Local Authority under paragraph 4.7 or the Independent Panel under paragraph 4.9 shall be recorded on the Derogation Decision Notice which shall be provided to:

4.11.1 the Contractor;

4.11.2 the Undertaker;

4.11.3 the members of the Relevant Authority; and

4.11.4 any other stakeholder who should be notified of the Derogation further to the SFTP for the Main Tunnel Drive Site or Foreshore Site to which the Derogation applies.

4.12 If on the date specified for determination of the Derogation in Box 12 of the Derogation Request Form:

4.12.1 the Relevant Local Authority has not issued its decision in respect of the Derogation for which approval is sought under paragraph 4.7; or

4.12.2 the Independent Panel has not issued its decision in respect of the Derogation for which approval is sought under paragraph 4.9,

then provided that:

(a) the Undertaker has complied with its actions under paragraphs 2 and 4; and

(b) is proposing to include a process for reviewing the acceptability of the continued operation of the Derogation in any decision by the Undertaker to approve the application for the Derogation,

the Undertaker may approve the Derogation in which case paragraphs 3.5 (in so far as it is applicable) and 3.6 shall apply, and

4.12.3 the Undertaker will immediately notify its decision to the Relevant Authority further to paragraph 3.6.2 for their review.

4.13 The Undertaker shall include the Notification Form, the Derogation Request Form and the Derogation Decision Notice in respect of any Derogation approved further to paragraphs 4.7, 4.9 or 4.12 in the Monthly Report.

4.14 The Contractor shall only implement the Derogation as approved by the Relevant Local Authority, the Independent Panel or the Undertaker (as appropriate).

5 **Sustainability Derogations**

5.1 Subject to paragraphs 5.2 to 5.6 Sustainability Derogations will be notified under the Derogation Notification Process described in paragraph 2 and an application for a Sustainability Derogation shall be determined further to the Unforeseen Derogations process described in paragraph 4.

5.2 Paragraph 4.12 shall not apply to the approval of Sustainability Derogations.

5.3 When determining an application for a Sustainability Derogation further to either paragraphs 4.7 or 4.9 the Relevant Local Authority and the Independent Panel, as appropriate may, in addition to the options they have available under those paragraphs, refuse the application for the Sustainability Derogation.

5.4 In the event that the Relevant Local Authority refuses the application for a Sustainability Derogation under paragraph 4.7, the Undertaker may refer that decision to refuse the Derogation to the Independent Panel. The reference will be deemed to have occurred under paragraph 4.8 and paragraph 4.9 shall apply to the determination of the referral made further to this paragraph.

5.5 Notwithstanding the provisions of this paragraph 5 a Contingency Plan included in a SFTP approved further to paragraph 2.6 of Schedule 3 may provide for a Sustainability Derogation in circumstances defined within the Contingency Plan and the determination of an application for a Sustainability Derogation included in a Contingency Plan shall be further to the Contingency Derogation process in paragraph 3 (and references in that paragraph 3 to 'Operational Derogations' shall be read as references to 'Sustainability Derogations').

- 5.6 The provisions of this part shall not apply in respect of the River Freight Activities described at paragraphs 4.1.1 (a), (b), (f) and (g) that are conducted to and from the Main Tunnel Drive Site at Chambers Wharf.

SCHEDULE 5

Monitoring and Reporting Protocol

1 Principles underlying the Monitoring and Reporting Protocol

1.1 The Objective shall be monitored:

1.1.1 by reference to the tonnage of materials moved further to the River Freight Activities;

1.1.2 cumulatively across all River Freight Activities;

1.1.3 over the whole duration of construction of the Development.

2 Monthly Monitoring Report

2.1 Following Implementation of the Development at each Main Tunnel Drive Site and Foreshore Site each of the Contractors shall prepare the Monthly Monitoring Report for each of the Main Tunnel drive Sites and Foreshore Sites in their Contract Areas.

2.2 The Monthly Monitoring Reports shall contain the following information:

2.2.1 the cumulative tonnage of the Specified Materials transported by the River Freight Activities and the tonnage of Specified Materials transported by road for the Main Tunnel Drive Sites and the Foreshore Sites in their Contract Areas;

2.2.2 forecasts of the predicted future tonnage of Specified Materials to be transported under the River Freight Activities and the programmed tonnage of Specified Materials to be transported by road having regard to likely, potential or actual Derogations for each of the Main Tunnel Drive Sites and the Foreshore Sites in their Contract Areas until completion of construction of the Development on the Main Tunnel Drive Sites and Foreshore Sites within the Contract Area;

2.2.3 the number of barge / vessels and HGV movements for each Main Tunnel Drive Site and Foreshore Site on a monthly and cumulative basis;

2.2.4 copies of all Derogation Notification Forms and Derogation Request Forms submitted and Derogation Decision Notices issued in the month prior to the Monthly Report;

2.2.5 an assessment of the performance of the SFTP against the Objective and the Strategy;

2.2.6 records of continuing stakeholder engagement.

2.3 The Undertaker will collate the Monthly Monitoring Reports and will submit them to the Relevant Authority.

3 Monthly Monitoring Meetings

3.1 The Undertaker will arrange the Monthly Monitoring Meetings the first of which will be held not less than 3 months before the anticipated date on which Implementation of the Development will occur.

3.2 The following people and organisations will be invited to attend the monthly monitoring meetings:

3.2.1 the Undertaker;

3.2.2 the Contractors;

3.2.3 the Relevant Authority; and

3.2.4 any other stakeholder identified in the SFTPs for the Main Tunnel Drive Site or Foreshore Site.

3.3 The purpose of the Monthly Meetings is:

3.3.1 to review the Monthly Monitoring Report;

3.3.2 to carry out a retrospective review of the need and reasonableness of Derogations approved by the Undertaker or the Relevant Authority or the Independent Panel during the month which is subject of the Monthly Monitoring Report or more generally;

3.3.3 to draw out lessons learned and make recommendations for revisions to Contingency Plans contained in the SFTPs and if recommendations are agreed by the Undertaker and the Relevant Authority paragraph 2.6 of Schedule 3 shall apply;

3.3.4 to review upcoming Derogations as notified by the Contractors and / or confirmed by the Undertaker and approve outstanding Derogations in respect of which Derogation Request Forms have been submitted to the relevant Authority;

3.3.5 to review the forecast performance of the Strategy against the Objective;

3.3.6 in the event of concerns about the effective implementation of the Strategy arising from the Monthly Monitoring Reports or generally, or about the need for and reasonableness of Derogations that are being proposed (including timescales and frequency with which Derogations are being approved by the Undertaker or being applied for to the Relevant Authority) or that have been approved, to discuss the need for the preparation of Remedial Actions Plans.

4 **Annual Monitoring Report**

4.1 On each anniversary of the Implementation of the Development the Undertaker will provide the Annual Monitoring Report to the Relevant Authority.

4.2 The Annual Monitoring Report will:

4.2.1 contain the same information as the Monthly Monitoring Report but it will be presented on an annualised basis; and

4.2.2 review all Contingency Plans and Derogations to establish improvements that can be made to the Contingency Plans and the Derogation processes set out with the Strategy.

SCHEDULE 6

Remedial Action Plans

- 1 If having regard to the Derogations:
 - 1.1 it is being notified of under paragraph 2 of Schedule 4; or
 - 1.2 it is being asked to approve under paragraph 4.8 of Schedule 4, the Monthly Monitoring Reports and discussions at the Monthly Monitoring Meetings,
the Relevant Authority reasonably considers that:
 - 1.2.1 there is a pattern and practice of Derogations being approved that are unnecessary and / or unreasonable; or
 - 1.2.2 that the Strategy is being implemented in a way that may frustrate the attainment of the Objective,
it may require the Undertaker to prepare a Remedial Action Plan.
- 2 A Remedial Action Plan will identify measures to address the short comings identified by the Relevant Authority including:
 - 2.1 measures to address any failure to implement appropriate health and safety, equipment maintenance, construction site maintenance and management processes and procedures to prevent the need for Operational Derogations;
 - 2.2 measures to mitigate the effects of any approved Derogation including traffic management, adherence to working hours, or permitted hours for HGV movements, use of approved HGV holding areas or other traffic managements measures set out in the approved traffic management plan for a Main Tunnel Drive Site or Foreshore Site, including stakeholder engagement (including provision of timely and / or accurate information relating to Derogations), to ensure Derogations are approved and implemented reasonably;
 - 2.3 measures to improve the decision making surrounding Operational Derogations by the Contractor, the Undertaker and the Relevant Authority including ensuring appropriate timescales are proposed for decision making.
- 3 The Remedial Action Plan will be prepared by the Contractor and approved by the Undertaker after which the Remedial Action Plan will be submitted to the Relevant Authority for approval
- 4 The Relevant Local Authority will determine whether the Remedial Action Plan is agreed taking account of guidance received from the other members of the Relevant Authority. The decision will be notified to the Undertaker in writing.
- 5 If the Undertaker disagrees with the terms of a Remedial Action Plan approved by the Relevant Local Planning Authority it may refer the Remedial Action Plan to the Independent Panel for their determination as to whether the Remedial Action Plan is necessary and reasonable having regard to the matters specified at paragraphs 1.1 and 1.2.

SCHEDULE 7

Completion Review

- 1 Completion Report shall assess:
 - 1.1 whether the Development has been completed in accordance with the terms of the Strategy;
 - 1.2 whether the Objective was met; and
 - 1.3 the benefit that other major infrastructure projects of similar scale and complexity to the Thames Tideway Tunnel may gain from studying the experience of implementing the Strategy.
- 2 Within 3 months of completion of construction of the Development on the Main Tunnel Drive Sites and the Foreshore Sites the Undertaker shall prepare (in consultation with the Relevant Authority) and issue the Completion Report to the Relevant Local Authorities, the Greater London Authority, Transport for London and the Port of London Authority for comment and approval.
- 3 The Completion Report shall be submitted to the Independent Panel for review and will be amended in line with their recommendations.

Schedule 8

The NPS Review

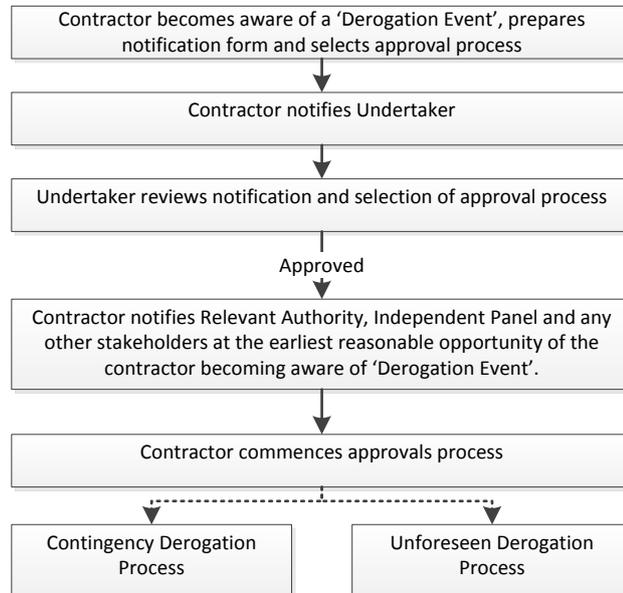
- 1 If prior to or following the Implementation of Development at a Main Tunnel Drive Site or Sites or at a Foreshore Site or Sites the Undertaker considers that, in its reasonable opinion, a River Freight Activity, or a part of a River Freight Activity, to be undertaken to or from the Site or Sites in question is no longer cost effective (including feasibility and practicality considerations) having regard to the social and environmental benefits associated with that River Freight Activity it may apply to the Relevant Authority to have the Strategy reviewed and, if the review is approved, amended such that the River Freight Activity which is the subject of the application is excluded from the Strategy or the River Freight Activity is amended.
- 2 The Undertaker will give the Relevant Authority not less than 40 Working Days notice of an application it intends to make further to paragraph 1.
- 3 The form and content of the Application will be agreed with the Relevant Authority in advance having regard to the project appraisal guidance in Web TAG and all other relevant policy and guidance and will include any mitigation proposed to address the environmental and social effects that would arise from approval of the NPS Review. If agreement on the form and content of the application cannot be agreed with the Relevant Authority the Undertaker obtain the approval of the Independent Panel to the proposed form and content of its application (but not the merits or substance of the application).
- 4 The application for the exercise of the NPS Review shall be submitted in writing to the Relevant Authority.
- 5 The application for the exercise of the NPS Review will be determined by the Relevant Authority for each Main Tunnel Drive Site or Foreshore Site to which the NPS Review applies by way of simple majority voting on a site by site basis including approval of the Relevant Local Authority with each member organisation of the Relevant Authority having one vote, with the Relevant Local Authority holding the casting vote in the event of there being no majority vote.
- 6 In determining an application for the NPS Review:
 - 6.1 the Relevant Authority shall have regard to the guidance at paragraph 4.13 of the NPS and all other material considerations; and
 - 6.2 the application for the exercise of the NPS Review shall be approved by the Relevant Authority if it is satisfied that in its reasonable opinion the approval of the Review will result in the Development continuing to being carried out further to this Strategy in a manner which is cost effective having regard to the social and environmental benefits associated with the River Freight Activity in respect of which the Review is applied for and is within the assessment of significant effects set out in the Environmental Statement (taking account of any mitigation proposed in the application for the NPS Review).
- 7 In the event the Relevant Authority approves an application under paragraph 1 the Undertaker shall:
 - 7.1 the River Freight Activity, or the part of the River Freight Activity, subject to the approved application shall no longer be subject to section 4.1.1 of the Strategy and

the Undertaker shall update the Strategy so that it is consistent with the decision of the Relevant Authority; and

- 7.2 the SFTP or SFTPs in respect of the Main Tunnel Drive Site or Sites and / or the Foreshore Site or Sites affected by River Freight Activities removed from the Strategy will be resubmitted for approval under paragraph 2.6 of Schedule 3.

Appendix 1

Flow chart showing the Derogation Notification Process



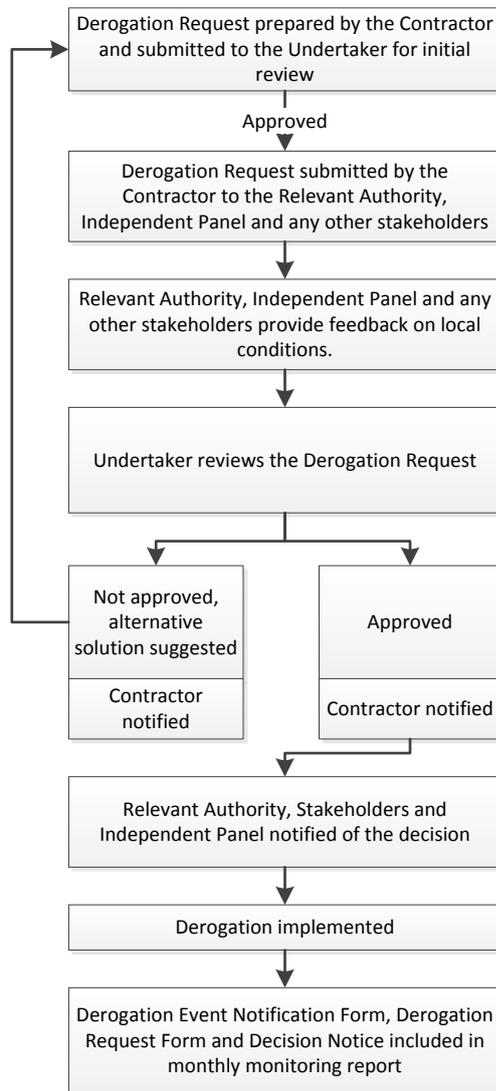
Appendix 2

Derogation Event Notification Form

#	Question	Response
1.	Describe the derogation event	[description of event in as much detail as possible]
2.	Please insert the date/time of the derogation event	[date/ time]
3.	Is the derogation event covered by a contingency plan? ¹	[select appropriate answer]
	Yes	
	No	
4.	Please insert the date and time of the derogation event notification	Undertaker derogation notification
		Stakeholder derogation notification
5.	What is the period between the derogation notification to the Undertaker and the derogation event?	Less than 30 days
		More than 30 days
6.	What are the likely effects of the derogation event on the execution of the project?	[please include a high-level description, covering the effects on construction, operation, health and safety, and the environment]
7.	What is the initial assessment of required response to the derogation request?	Mitigation required
		Derogation required
8.	What is the initial assessment of residual effects on local roads (taking into account any mitigation proposed)?	[please describe]
9.	Select derogations approval process	Contingency derogation approvals process
		Unforeseen derogation approvals process ²
10.	List of stakeholders relevant to derogation event	[please provide list]
11.	Please set out suggested timescales for approval	[please provide suggested timescales for Undertaker, Relevant Authority, and Independent Panel approval processes]
12.	Status of derogation request	Submitted to Undertaker
		Decision by Undertaker

Appendix 3

Flow chart showing the Contingency Derogation approval process



Appendix 4
Derogation Request Form

#	Question	Response
1.	Describe the derogation event	[please include a description of the event or refer to contingency plan reference where appropriate. If event is related to a sustainability derogation, please include justification]
2.	Describe the likely effects of the derogation event*	[describe the effects, covering construction, operation, health and safety, and the environment]
3.	Describe the proposed mitigation measures*	[please describe the mitigation required and how it will reduce the impact of, or remove the need for, the derogation event]
4.	If event relates to operational derogation, is derogation still required? ¹	[select appropriate answer]
	Yes	
	No	
5.	Proposed derogation requirements*	[please provide a detailed breakdown of the derogation, including total tonnage for sustainability derogations]
6.	Proposed duration of derogation?	[insert date from to date to]
7.	Are any approvals required?	[please state any approvals required in addition to those included in the derogations process]
8.	Management requirements of derogation proposed	[please provide a breakdown of how the derogation will be managed]
9.	Relevant Authority phasing and review process for proposed derogation	[please propose timescales and details of the review process to be undertaken by the Relevant Authority]
10.	Longer term considerations of derogations and derogations proposed.	[please summarise any longer term implications of the event or derogations proposed]
11.	List of stakeholders to be notified of derogation	[only complete if this differs from the list provided in the derogation event notification form]
12.	Please set out required timescales for approval	[please provide required timescales for Employer, Relevant Authority, and Independent Panel approval processes]
13.	Status of derogation request	Issued to Employer [Date]
		Issued to Relevant Authority [Date]

	(only complete sections where applicable)	Issued to Independent Panel	[Date]
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1 Responses not required if derogation event is included in the contingency plan.

Appendix 5
Derogation Decision Notice

#	Question	Response	
14.	Decision notice submitted by:	[note name of person who completed the form and role, e.g., Undertaker, Relevant Authority, Independent Panel]	
15.	Is the requested derogation necessary?	Yes	[please provide details]
		No	[please provide details]
		If no, specify alternative mitigation proposed	[please provide details of alternative mitigation proposed]
16.	Is the requested derogation reasonable?	Yes	[please provide details]
		No	[please provide details]
		If no, what measures should the Undertaker/contractor be taking to avoid future similar recurrences?	[please provide details of proposed measures]
17.	If a review process is proposed, is this approved?	Yes	[please provide details]
		No	[please provide details]
		If no, what review process should the Undertaker/contractor adhere to?	[please provide details of suggested review process]
18.	Derogation approved	Yes	[select appropriate answer]
		No	

Note: If the Relevant Authority/Independent Panel considers that there is evidence of a systematic failure to prove reasonableness, or if there is evidence that approved derogations may result in less than 90 per cent of category A materials being moved by river, the Independent Panel may require the Undertaker to prepare a remedial action plan. Compliance with the remedial action plan is enforceable by the development consent order Requirement.

Appendix 6

**Flow chart showing the Unforeseen Derogation and Sustainability
Derogation approval process**

