THE M4 CORRIDOR AROUND NEWPORT

PUBLIC LOCAL INQUIRY

PROOF OF EVIDENCE

Matthew Kennerley

ASSOCIATED BRITISH PORTS

Principal Witness

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1. QUALIFICATIONS AND EXPERIENCE

1.1 My name is Matthew Kennerley. I am the Regional Director for ABP's South Wales Ports, namely the Ports of Newport, Cardiff, Barry, Port Talbot and Swansea. I was appointed to this position on 1st February 2008.

1.2 I began my professional career in the ports industry as an undergraduate port trainee at the Port of Boston Authority in Lincolnshire, following which I graduated with a BSc (Hons) degree in Maritime Studies.

1.3 My career with Associated British Ports began in September 1989 when I joined the company as a management trainee based at the Port of Newport. Six months later, I moved to the Port of Grimsby & Immingham where I held a succession of managerial positions.

1.4 After nearly five and a half years, I was promoted to the position of Operations Manager, returning to the Port of Newport in December 1996.

1.5 In 1999 I was appointed to the position of Assistant Port Manager for Newport and a year later to the post of Deputy Port Manager for ABP's South Wales Ports.

1.6 In January 2003 I moved to Southampton as Assistant Port Manager and two and a half years later, was appointed Port Director for the Ports of Hull and Goole, moving back to South Wales as Port Director (now Regional Director) in 2008. I have therefore worked in the ports industry for over 27 years.

1.7 I am a member of the Chartered Institute of Transport and a member of the Institute of Chartered Ship Brokers.

1.8 My role on a daily basis comprises the strategic management and leadership of the South Wales region. This includes the implementation of ABP Group policy and strategy in relation to the safe and sustainable operation, development and maintenance of ABP's assets and business in the South Wales region.

1.9 ABP's vision is "*to maximise the profitable and sustainable growth of our business by being our customers' first choice provider of port services and infrastructure; ensuring our people achieve their potential and can fulfil their ambitions and go home safely every day.*"

1.10 I believe that the evidence that I have prepared and now provide for this Inquiry is factually correct, as so far as I am aware, as are the opinions that I have expressed.

2. SCOPE OF EVIDENCE

2.1 The scope of my evidence is first to provide an overview of ABP, Newport Dock (which forms part of the port of Newport), and ABP's other South Wales ports.

2.2 I will then explain why we, as the owner, operator and Statutory Harbour Authority for Newport Docks object in the strongest possible terms to the Welsh Government's ('WG') M4 Relief Road proposal ('WG Scheme'), given the severe impact it will have on port operations today and in the future.

2.3 I will also summarise briefly the history of the various M4 proposals over the last 23 years, demonstrating how our concerns as both port operator and Statutory Harbour Authority have not properly been taken into account by WG and its predecessors in setting the location and height of the bridge over the Docks.

2.4 I will then outline alternatives to the Welsh Government route as currently being promoted and explain why we believe that there are alternatives that have a significantly reduced impact on the Port.

2.5 I will also set out what I am advised are the legal tests to be applied in considering whether the Secretary of State can authorise the compulsory acquisition of port operational land at Newport – the "serious detriment" test. I will explain why this test is not met.

3. ABP AND ITS PORTS

3.1 ***ABP -*** ABP is the UK's leading port operator. The company owns and operates 21 separate ports across England, Wales and Scotland. Each is an individual statutory undertaking.

3.2 ABP handles around 100 million tonnes of cargo per annum, including more than 30 million tonnes of exports. Breaking this down, it includes nearly 2 million containers, 1.5 million vehicles, over 40 million tonnes of dry bulks, 4.5 million

tonnes of steel and other metals and more than 3 million cruise and ferry passengers.

3.3 Across the country, ABP is a major private sector investor in Britain's regional economies and is currently in the midst of an investment programme that will total £1 billion across the ABP group by 2020, including significant investment in Wales. This planned investment promises an extra £1.75 billion of Gross Value Added for the UK economy annually (Source: Economic Value of ABP to UK plc, Arup 2014 – **CD 7.1.3**).

3.4 In terms of employment, more than 84,000 jobs are supported by ABP and our customers (Source: Arup 2014 – **CD 7.1.3**), and we currently directly employ more than 2,100 people.

3.5 Together with our customers, ABP contributes £5.6 billion to the economy every year (Source: Arup 2014 – **CD 7.1.3**).

3.6 ***Newport –*** As far as the Port of Newport is concerned, the Port currently supports directly or indirectly around 2,570 local jobs, contributing some £173 million annually to the local economy as detailed in the evidence of David Crockett. As I explain in my evidence, Newport is Wales' most important general cargo port. Furthermore, for a variety of reasons including location, commercial opportunity and excellent transport links by sea, rail and road - of all of ABP's Welsh ports, Newport is also the port with the greatest growth potential. This potential is clearly being put at serious risk by WG's proposal to construct a motorway bridge at a height of around 25 metres through the middle of the Port with a junction built on land compulsorily acquired from ABP within our operational port estate. On 16 September 2016, WG wrote to ABP indicating that they would be amending the WG Scheme Order to slightly raise the height of the Newport crossing, although this does not change our position as regards the impacts on the port.

3.7 ***ABP's Group Strategy –*** As regional director for ABP's South Wales Ports my primary role is to secure the implementation of ABP's group strategy across the region. I am also a member of the ABP Harbour Board and therefore have a responsibility for the statutory duties of ABP.

3.8 Our group strategy encompasses the commercial development of all of our five Welsh ports, in conjunction with our statutory obligations, whilst also ensuring that

the ports sector plays a role and has a voice in the wider community. In this context, I provide a brief introduction to each of ABP's Welsh ports – moving from the west to the east.

3.9 ***The Port of Swansea –*** Furthest west in the region, the port has had a long history in coal, metal ores and liquid bulk fuels and chemicals. As these industries have declined locally, it now handles a range of cargoes including pulp imports for nearby tissue paper producers at Baglan and Bridgend, aggregates and cement for the local construction sector, fertiliser imports for the agricultural hinterland, as well as exports of coal from local mines, and recyclables such as glass and Refuse Derived Fuel. It is also home to Swansea Dry Dock for ship repair and dismantling, and regularly handles project cargo movements servicing major inward investment projects such as Amazon, industrial equipment for power generators and Tata steel and, more recently, turbine components for the Pen-y-Cymoedd on-shore wind farm. Due its location Swansea's hinterland does not tend to stretch into the broader UK market. The port has also been integral to the regeneration of the city, for example the SA1 development which centres on land areas around the Prince of Wales Dock and has enabled the development of modern residential, leisure and office accommodation.

3.10 ***The Port of Port Talbot –*** Developed alongside the steel production industry and in particular the Tata steel works at Margam, its primary cargoes include up to 9mt per year of iron ore and coal for steel making through the tidal harbour which was constructed in the 1970s and is now one of only three facilities in the UK capable of handling fully laden cape size vessels up to around 170,000 tonnes deadweight. The old enclosed dock was reopened in the mid 1990s to enable the export of by-products from the steel works such as blast furnace slag which is used in cement making.

3.11 ***The Port of Barry -*** With the demise of coal exports commercial port activity is now very much focussed on the supply of raw materials in both liquid and solid form for the Dow Chemicals silicone plant in Barry. The port also enables Dow's finished and semi-finished products to be exported on a global scale. Significant areas around No1 dock have been re-developed for residential, leisure and retail purposes with commercial activities continuing in No2 dock. Other features of the port include an intermodal rail terminal, handling containers in and out by rail for the Dow plant and a wide range of non-port related tenant activity servicing a multitude

of small and medium sized businesses. Recently ABP has invested significantly in the development of a 4.5MW ground based solar Photo-Voltaic (PV) array to produce green energy for its own purposes and for the export of surpluses to the national grid.

3.12 ***The Port of Cardiff –*** with a long history in coal exports the port now handles a wide range of largely industrial commodities and cargoes in ships of up to 25,000 tonnes deadweight. The port accommodates the import of long steel products such as structural beams, hollow section and tubes, as well as timber and aggregates for the construction and manufacturing sectors. Fuel products and chemicals are also imported and stored on-site in three different tank farms before being distributed to local outlets, forecourts, supermarkets and industrial users. Cardiff Container Terminal provides the only lift-on / lift-off container facility in Wales servicing lines to Ireland and the Mediterranean. There are also a number of value-added processing activities at the port including steel hollow section and tube manufacturing and processing, a large diameter spiral welding operation, and a timber processing facility. The site is also an export route for steel produced at the nearby Celsa steelworks.

3.13 ***The Port of Newport –*** I will deal briefly with Newport at this stage in my proof. The Port of Newport is the largest general cargo port in Wales and the UK's second largest conventional steel handling port, accommodating both imports from all over the globe to service the manufacturing sector and exports of coil products produced by Tata at Port Talbot and Llanwern. It also handles significant volumes of bulk commodities including coal, cement, aggregates, minerals, and agricultural products such as animal feeds and fertiliser. It handles forest products for national suppliers such as International Timber (Jewsons) and Premier Forest Products as well as being a key location for the importation and treatment of telegraph poles for the energy and communications industries. Recyclable commodities are an important sector including scrap exports for the Sims Metals group, as well as increasing exports of woodchip to service continental energy production demands. The port can accommodate these trades in vessels of up to some 40,000 tonnes deadweight through a lock that was the largest in the world when it opened for business in 1914. The port's configuration, excellent road and rail connectivity, combined with its eastern location and proximity to major industrial development, make it ideal for serving local, regional and the wider UK markets along the M4 corridor, the Midlands and the west country.

4. ABP'S POSITION REGARDING THE WELSH GOVERNMENT SCHEME

4.1 ABP objected to the proposed Highway Orders and the draft Compulsory Purchase Order, in letters dated 29 April 2016. Those letters of objection are included with the Inquiry Documents (**OBJ0031**). ABP has similarly objected to the Secretary of State for Transport under section 16 of the Acquisition of Land Act 1981in relation to the "serious detriment" test.

4.2 ABP has in addition objected to WG's revisions to the proposed scheme published in December 2016 in relation to the proposed Highway Orders, the proposed compulsory acquisition and to the Secretary of State in relation to the section 16 "serious detriment" test.

4.3 In summary our position is that the WG Scheme as proposed should not proceed. It is my view that the proposed compulsory purchase by WG, without the provision of replacement land by WG, as well as the compulsory creation of rights over land and water, which is used for the purposes of carrying on the undertaking of the Port would result in serious detriment to the undertaking. As I explain, the land to be compulsorily acquired cannot be replaced by other land belonging to or available for acquisition by the Port without serious detriment (section 16 of the Acquisition of Land Act 1981 – **CD 3.1.6**). In these circumstances, the WG Scheme cannot proceed. I address this in more detail later in my proof of evidence.

4.4 In addition, the WG Scheme would interfere with the reasonable requirements of navigation over the waters affected by it, namely, the navigable waters within the Port. This is a consideration which is specifically required to be taken into account by the decision-maker under section 107(1) of the Highways Act 1980 (**CD 3.1.5**). ABP as navigation authority has objected on this basis, which triggers special parliamentary procedure if the objection is not withdrawn. This is dealt with further by my colleague Rod Lewis, Marine Operations Manager, South Wales.

4.5 I am concerned also as to the ability of ABP to carry out its statutory functions as Statutory Harbour Authority should the WG Scheme proceed as currently proposed. It was only in Autumn 2016 that WG commenced an assessment of the potential hazards associated with the operation of the motorway across the port, something that should have been undertaken as part of the process of determining the appropriate bridge height across the port, not in response to it. Rod Lewis deals with this further in his evidence.

4.6 In any event, ABP does not consider on the evidence presently available that a compelling case for the inclusion within the WG scheme of the Docks Way Link Road and associated junctions has been demonstrated. It follows that in the absence of such a compelling case, that part of the WG Scheme should not proceed. This is addressed further in the evidence of Simon Tucker.

4.7 ABP, therefore, objects to the WG Scheme as currently promoted - namely the construction of a six-lane motorway, through the middle of the Port of Newport. I am aware that the principle of the WG Scheme is being challenged by other objectors and the WG, as the promoter, will clearly need to produce evidence to satisfy the decision maker with regard to the underlying need for the relief road and that the WG Scheme as currently proposed is an appropriate response to that need.

4.8 ***ABP's alternative routes -*** In so far as the underlying need can be demonstrated and that an improvement to motorway standard is required, ABP has identified two alternative routes, known as 'Alternative Northern Route 1' (ANR1) and 'Alternative Northern Route 2' (ANR2), which it believes would better meet the stated objectives of the WG Scheme. Whilst these two alternative routes will still cause detriment to the Port, ABP would be prepared to forego any reliance on the S16 serious detriment test (section 16 of the Acquisition of Land Act 1981 – **CD 3.1.6**). These routes each provide the opportunity for a scheme on similar lines to the WG Scheme to be realised, assuming the demonstration of need.

4.9 In addition, each of ABP's ANRs would also be likely to allow the reasonable requirements of navigation to be met as well as allowing ABP to conduct its statutory functions unimpeded.

4.10 In our objections to the draft Highways Orders and draft Compulsory Purchase Order we indicated that ABP had already given notice of the intention to promote an alternative route or routes. Details of our initial scheme were passed to Martin Bates, WG Project Director on 23 March 2016 (**Appendix 1 in ABP/1B**).

4.11 The proposed ANRs were refined as part of their natural evolution, and plans of both routes were provided to WG by letter dated 30 September 2016, produced at **Appendix 2 in ABP/1B**. Since then, they have been further refined following discussions with WG at a Workshop at the end of January 2017. As can be seen, both ANRs take a more northerly line across the Port, crossing the northern periphery of the operational port estate. The only difference between the ANR1 and

ANR2 is that the first, ANR1, which is our preferred option, does not include a motorway junction – the need for which we consider has not been made. The second, ANR2, does offer a junction should it be decided that a junction is required – but to the west of the operational port estate – unlike the WG Scheme which looks to the construction of a junction within the port estate – an option which is unacceptable.

4.12 Further explanation of ABP's ANR1 and ANR2, together with illustrative drawings are provided and discussed in Willie Wilson's proof of evidence, and the impact of the ANRs on the Port is discussed in Chris Green's proof.

5. ABP AND THE PORT OF NEWPORT

5.1 The Newport Dock Company opened the Town Dock in 1842. It was later reconfigured due to congestion and the Alexandra (Newport) Dock Company was formed to construct the Alexandra Dock closer to the mouth of the River Usk.

5.2 The Alexandra (Newport) Dock Act 1865 authorised, amongst other things, the development of the new dock which is now known as North Dock, and which was opened in April 1875.

5.3 In 1882, the Alexandra (Newport) Dock Company and the Newport Dock Company were amalgamated to form the Alexandra (Newport & South Wales) Dock & Railway Company and, given the need to expand the Port to accommodate an expanding international coal export trade, that company subsequently obtained parliamentary powers, under the Alexandra (Newport & South Wales) Docks & Railway Act 1882 to construct the South Dock.

5.4 The South Dock was developed in three phases, with the final phase incorporating the entrance via the South Lock from the main channel, being officially opened on 14 July 1914.

5.5 In 1922 the dock undertaking was vested in the Great Western Railway Company and in 1948, operation of the docks was transferred to the British Transport Commission following post-war nationalisation. In 1982, the British Transport Docks Board was denationalised and became known as Associated British Ports, or ABP –

leading to the present time. ABP is a body corporate constituted under the Transport Act 1981.

5.6 The Port of Newport has a long and distinguished history – its creation, construction and indeed operation being very much statutorily based. For example, between 1882 and 1916 there were seven separate Acts of Parliament, each named the "Alexandra (Newport & South Wales) Docks & Railway Act" – each of which separately authorised new development, operational works and such other matters relating to the Port.

5.7 In addition to the numerous local Acts, which I have only touched upon above, there are a number of general Acts which are also of relevance to all statutory port undertakers, and in that context, relevant to the Port of Newport. For example, Section 33 of the Harbours Docks and Piers Clauses Act 1847 (**CD 3.1.2**) provides that –

> "*upon payment of the rates made payable by this and the special act and subject to the other provisions thereof, the harbour, dock, and pier shall be open to all persons for the shipping and unshipping of goods, and the embarking and landing of passengers."*

5.8 In other words, ABP is required to maintain and operate a port which will be open for all persons for the purposes of shipping and unshipping etc. Whilst this is a general Act applying to all English and Welsh Ports, it applies to any given port specifically. So for example, ignoring any commercial realities for a moment, I would not in law be able, without a specific new Act of Parliament, to close the Port of Newport and redirect business to one of ABP's other Welsh Ports. The impacts of these statutory obligations are discussed further by Rod Lewis in his proof of evidence.

5.9 I finally refer in this part of my proof to the special development powers that have been granted to ABP and, indeed, all statutory port operators, particularly the powers granted by the Town and Country Planning (General Permitted Development) Order 1995 ('GPDO'). Thus for example, under Part 11 of the GPDO, permission for development by a statutory undertaker such as ABP, is deemed to be granted i.e. does not require planning permission if that development is authorised by, for example, a local or private Act of Parliament, as will often be the case for the Port of Newport.

5.10 In addition, as a statutory undertaker, permission for development within the Port is also deemed to have been granted under Part 17 of the GPDO, provided that development is to be undertaken on port operational land and is required –

(a) "for the purposes of shipping, or

(b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods ….."

5.11 Although subject to certain restrictions, these powers granted by Parliament to statutory undertakers in order to enable them to speed the consenting process for development relevant to that particular undertaking, can only be removed by Direction under Article 4 of the GPDO. That is precisely what happened to the Port of Newport, when in November 2001, when the Welsh Ministers issued an Article 4 Direction (**Appendix 3 in ABP/1B**) preventing ABP from exercising its statutory powers of development and requiring it instead to go through the formal development process. The Direction was in force for 9 years, eventually being lifted in November 2010 (**Appendix 4 in ABP/1B**). The Port was also blighted by a Highways TR111 Order, reserving a 134m wide corridor, running through the middle of the port protecting the route of the motorway bridge. The TR111, which appears at **CD4.1.21**, **CD4.1.23** and **CD4.2.2**, remains in force adding a further constraint on the development of the Port.

6. THE PORT OF NEWPORT

6.1 My colleagues Chris Green, who is the Port Manager for the Port of Newport and Rod Lewis, ABP's Marine Operations Manager for South Wales, address in detail the port, its business and its operations – explaining why and how the proposed WG Scheme will have such a serious effect on the Port's commercial livelihood and its future viability.

6.2 The purpose of my proof is, therefore, effectively to set the scene.

6.3 As I have mentioned above, historically the current harbour was first established by the Alexandra (Newport) Dock Act 1865 – constituted as the Alexandra (Newport) Dock Company. Over the years, many local Acts were passed to extend the harbour.

6.4 Throughout the country, many ports had been established in a similar manner – being constructed under various specific local enabling Acts. These various ports were brought together and nationalised, and the local legislation thereby rationalised, by the creation of the British Transport Commission under the Transport Act 1947. The ports were in turn vested in the British Transport Docks Board (BTDB) under the provisions of the Transport Act 1962.

6.5 ABP was created by the Transport Act 1981, which abolished the BTDB and gave statutory responsibility to ABP for the management and operation of a number of Ports across the UK, including in Wales, the Ports of Newport, Cardiff, Barry, Swansea and Port Talbot.

6.6 As I have already mentioned, section 33 of the Harbours, Docks and Piers Clauses Act 1847 (**CD 3.1.2**) requires ABP to maintain an "open port" to all vessels. I am advised that this statutory provision is incorporated within the local legislation of each port and applies separately to each Port. It imposes an obligation upon ABP, in the context of the Port of Newport, to keep the Port open as a separate entity, rather than as one amongst a number of port facilities within ABP's overall statutory undertaking. ABP has no discretion to close facilities at Newport and simply replace them with facilities at another of its Ports.

6.7 ***Location -*** The Port of Newport lies immediately to the South of the City of Newport. The statutory port estate extends to some 620 acres (251 hectares) – all of which is port operational land, thereby benefiting from the statutory powers granted to ABP as a statutory undertaker – with the single exception of some 3.8 acres of land, the freehold of which is owned by Island Steel (UK) Limited.

6.8 As is evident from the Plan of the Port at **Appendix 5 in ABP/1B**, the Port is bounded to the east by the River Usk, to the north by the Southern Distributor Road and residential and commercial development of Newport, to the west by the Newport landfill and the River Ebbw and to the south by the Severn Estuary. In the context of the Plan incidentally, I should point out that it is slightly out-of-date (October 2014), although that does of itself underline the dynamic and ever-changing nature of the port industry.

6.9 The Port of Newport is classified as a 'major sea port' by the Department for Transport, in that it handles in excess of one million tonnes of freight a year. Whilst the boundaries of the Port are physically restricted - thereby precluding any

possibility of port expansion beyond those fixed boundaries – the Port does nevertheless enjoy a number of advantages over and above our other Welsh ports which makes it attractive to customers. Chief amongst these are its transportation links - by sea, rail and road. Dealing with these in turn –

6.10 ***Sea –*** The port is capable of accommodating fully laden vessels of approximately 40,000 tonnes deadweight, 30.1m beam, 10.4m draft and 244m in length. When required the port has handled part-laden vessels of up to 47,500 tonnes deadweight.

6.11 ***Rail –*** Rail access is provided to both the north and south sides of Newport Dock connecting to the UK's mainline network just outside Newport. Rail access is important to a number of key trades including steel, coal, and scrap.

6.12 ***Road -*** today, the port of Newport is well connected to its hinterland, via the existing A48 Southern Distributor Road which links east and west to the M4, as well as to the A449 dual carriageway which serves the all-important Midlands traffic that uses the port. On present evidence provided by WG, the need for the Docks Way Junction does not appear to be justified, as other ABP evidence will demonstrate.

6.13 ***Port operations -*** The Port operates with two interconnected Docks – the North Dock and the South Dock. As I have noted, these together operate as an integral whole, as discussed by Rod Lewis in his evidence which deals with vessel movements and marine operations within the Port. The Dock is accessed by a lock which, underlining its importance, is the largest lock in Wales, and indeed the fourth largest in the UK. As Rod Lewis also explains, the lock infrastructure is being upgraded to meet the needs of the next fifty years.

6.14 Being an enclosed Dock, we are as a consequence able to regulate water levels within the dock area which, combined with the size of the lock means that we can accommodate larger vessels in Newport than any of our other Welsh ports, with the exception of Port Talbot which is a tidal, not an enclosed harbour, designed as a specialist facility. In essence, we can maintain a maximum water depth of 13.55m Above Chart Datum – which will be increased to 14.21m due to the impacts of Sea Level Rise, but which even now enables us to accept vessels up to 10.4m draught.

6.15 One significant feature of the Port is the availability of highly flexible operational land and facilities within the port estate, adjacent to quays for the loading, unloading

and storage of various cargoes. This, together with the flexibility afforded by the availability of such high quality quayside in both North Dock and South Dock enables the port to accommodate rapidly changing shipping needs. Such critical operational flexibility is essential and places the Port in the enviable position of being able to react, at short notice to customer demands in a dynamic market.

6.16 One principal factor that does act as a constraint upon this high degree of operational flexibility at present is the fact that for a vessel to access North Dock from South Dock, it has to pass through what is known as "Junction Cut". This can be seen clearly on the Port Plan, **Appendix 5 of ABP/1B**. As I have explained, historically the North Dock was constructed first. Indeed, for many years, North Dock was the Port of Newport and was accessed directly from the River Usk. When in 1892 the Port was expanded with the opening of the first phase of South Dock, a cut was made in the then existing harbour wall to enable access between the two Docks. At the time - with vessels far smaller than those in operation today – a width of approximately 17 metres was considered sufficient to enable unimpeded vessel access between the two docks. Unfortunately that is not the case today. With the opening of the new South Lock in 1914, much larger ships of around 30m beam could then enter the Port – but were still barred from North Dock.

6.17 As Rod Lewis explains in his evidence, to ensure efficiency of commercial operations and to give us the essential flexibility to accommodate vessels wishing to load or unload their cargoes at berths nearest to their respective storage or loading facilities (some of which will be in North Dock and some in South Dock), it is at times necessary to move vessels between berths in North and South Dock in order to optimise berth utilisation.

6.18 This vessel management exercise is, of course, exacerbated today by the increasing size of vessels – in terms of beam, length, draught and height (air draught) – which makes it more challenging to achieve flexibility – which of itself, tests the efficiency of port operations and inevitably adds cost, both in terms of the movement of cargoes with the port estate and the towage of vessels in the Dock – as is discussed by Chris Green and Road Lewis respectively. As a consequence, restricting access to vessels with a beam of some 17 metres at Junction Cut, as currently configured, is a constraint on our operations. We have, therefore, investigated the widening of Junction Cut to accommodate almost all of the largest vessels that use the Port.

6.19 The widening works have not been capable of being taken forward because of the commercial threat to North Dock posed by the various WG Schemes. We still wish to widen Junction Cut given the beneficial impact it will have on the Port's ability to handle an increasing proportion of larger deep-sea vessels, although those benefits will not be capable of being realised if the WG Scheme as currently proposed goes forward. If that threat was removed permanently, I would be recommending to the ABP Board that we proceed with the widening works.

6.20 As far as costs for these works are concerned, in 2008, ABP commissioned Jacobs Babtie to consider the options for ABP should we wish to undertake the necessary works. Our consultant's conclusions were that it would be technically feasible to widen Junction Cut and that this would be best achieved by removing some 15 metres of the western side of the cut. This was considered to be preferable to modifying the eastern side of the cut due to the shorter length of quay wall removal required, leading to faster construction timescales and lower overall project cost. The cost of this project was forecast to be in the range £1.8m to £3.8m, with a central range forecast of £3.2m, before contingencies and at 2008 prices. Even allowing for higher than RPI inflation, a feature of specialist marine engineering work, this still equates to under £5.0m capital expenditure at today's prices.

6.21 This assessment was undertaken when the Port was blighted not only by a Highways TR111 Direction (**CD 4.2.4**), reserving a 134m wide corridor, running through the middle of the Port protecting the route of the motorway, but also by the Article 4 Direction, **Appendix 3 in ABP/1B**. For these reasons, the project – in spite of its relative simplicity and cost-effectiveness – has not been put to the ABP Board, due to the 'Damocles sword' hanging over it from its inception.

6.22 That said, the cost of widening Junction Cut has been included in our Welsh Ports' five year capital expenditure programme so that we are in a position to commence the process of obtaining the necessary internal approvals should the scheme currently being promoted by WG not be taken forward.

6.23 ***Business at the Port –*** I give only a brief overview of the land use and business undertaken within the Port leaving Chris Green, the Port Manager to deal with the specifics. In brief, however, land use within the Port estate is diverse, thereby affording us – and our tenants - that critical flexibility required to anticipate and accommodate fluctuations in the UK and the International economy.

6.24 A plan of the Port appears as **Appendix 5 in ABP/1B**. The Port, although operated as an integral whole, can for the purposes of this proof be described as comprising three operational areas, being the south side of the Port, the east side and the west side. These three distinct areas are each served by South Dock and/or North Dock, as I explain.

6.25 ***South side*** – the south side of the port comprises the operational area essentially to the south of South Dock and served by South Quay which is marked on the plan. South Quay is 1031m long, with 6 sections. This area contains a coal terminal, a large steel terminal and various other warehouses, including the newly refurbished Atlantic Shed. There is also some development land in this part of the Port.

6.26 ***East side*** – this part of the Port extends from the Cement Terminal in South Dock which is also marked on the plan (**Appendix 5 in ABP/1B**), past Junction Cut and the Port Office along the eastern side of North Dock. This area therefore includes the eastern sides of Middle Quay and North Quay. The Middle Quay area comprises 253m of quay length, with a further 545m of usable quay in North Quay, including the dry dock and tug and lay-by berths. This part of the Port is given over to a wide variety of uses including extensive warehousing primarily for steel, a dry docking facility, open storage areas, tug boat mooring and ABP's Central Workshops.

6.27 ***West side*** – this is an extensive part of the Port and, in marine terms, is served by the north side of South Dock as well as the west side of North Dock. The north side of South Dock comprises 510m of berthing, although 220m is used exclusively by Sims Metals under their agreement with ABP. The west side of North Dock has a further 462m of usable quay space. The west side area contains a wide variety of uses including extensive warehousing for animal feeds, fertiliser and steel (sheds 8, 9, 10 and 11 on the plan (**Appendix 5 in ABP/1B**), a scrap metals import and export facility operated by Sims Metals (shown as Metal Reprocessing Terminal on the plan), and the Timber Terminal, which is also marked on the plan. This area is actually occupied by a number of users including International Timber, Premier Forest Products and Burt Boulton and Heywood. As I mentioned this is an extensive part of the Port which depends on access from both South Dock and North Dock in order to function.

6.28 ***North Dock and South Dock*** – my description demonstrates that it would be an error to view the South Dock and the North Dock as two separate operating entities because the two docks operate as an integrated whole, each serving the adjacent operational areas. As both Chris Green and Rod Lewis explain, ideally vessels will berth adjacent to their required storage or transportation facilities – but the ideal is not always possible, with vessels having to be repositioned as required. This is particularly the case around spring tides when the largest vessels can access Newport Docks.

6.29 In any event, it is generally ABP's responsibility, as port operator, to ensure that the appropriate cargo handling facilities are available for loading or unloading and that cargoes reach their correct destination within the Port.

7. THE PORT OF NEWPORT MASTER PLAN

7.1 Given the significance of the Port of Newport to the Welsh and English economies, and in line with Government policy for major sea ports, we first prepared a draft Master Plan for the Port in 2009. That exercise has since been repeated, with the comprehensive update of the Port's Master Plan in 2015, the adopted version of which is provided as **ABP12/H**. The Master Plan considers trade demand forecasts, growth strategies and associated development opportunities for the period to 2035.

7.2 The Master Plan states that the strategy for future growth will focus on a series of key, planned developments that will be progressed to meet trade demand forecasts for the port's key trades within the agribulks, solid fuels, steel and scrap, construction, forest products, recyclables and specialist cargoes sectors. I do not repeat in detail the trade demand forecasting process that we undertook for the Port, but would refer to chapter 4 of the master plan (**ABP12/H**). In summary, we are planning for a period of sustained growth in the Port's key trades.

7.3 The Master Plan then considers the physical development of the port required to accommodate that growth, over three phases – the short term (the next five years); medium term (five to ten years) and the long term (ten to twenty years), each of which I shall consider briefly.

7.4 ***Current land use*** – today, the current land use at the port reflects the variety of tenants and trades that operate from the port – a copy of the current land use plan appears at page 25 of the Master Plan (**ABP12/H**). The plan shows that the port is well developed but, critically, has still been able to maintain flexibility, as well as the ability to reserve land for additional large-scale port-related development.

7.5 ***Short term developments*** – pages 26 to 28 of the Master Plan (**ABP12/H**) describe port developments expected in the period up to 2020, including commercial development within the power generation sector, additional provision for dry bulk cargoes and forestry products in the west side of the port, and the widening of Junction Cut. A copy of the land uses anticipated by 2020 appears on page 27 of the master plan (**ABP12/H**).

7.6 ***Medium Term developments*** – pages 30 to 31 of the Master Plan (**ABP12/H**) describe port developments expected in the period up to 2025. During this period ABP expects the construction of a biomass power station within the port to have been completed and the station to be fully operational in the early 2020s, bringing a major biomass import requirement to the port, to be handled at the port's existing bulk cargo terminal. Steel imports and exports are expected to continue to grow at the port, which means that the redevelopment of the steel terminal at North Dock will be taken forward to include a new rail connection and a reconfiguration of existing covered warehousing. In addition, it is anticipated that upgrading of steel shed facilities to new modern warehouses fitted with mechanised gantry cranes will also be completed during this period. It is also anticipated that the currently under-utilised dry dock, situated within North Dock will either be re-established for the repair and maintenance of vessels up to 8,000 tonnes or, alternatively, could be repurposed as an undercover vessel facility for handling weather-sensitive cargo. Finally, the plan envisages development of the 60 acre site in the south eastern corner of the port, to be taken forward in line with the requirements of new customers. All these developments are shown within the 2025 land use plan that appears at page 31 of the Master Plan (**ABP12/H**).

7.7 ***Long term developments*** – are described at pages 32 and 33 of the Master Plan (**ABP12/H**). We intend to infill the northern section of North Dock (currently characterised by the disused timber-stage section of quay) in order to create a new berth and 10 to 12 acres of accompanying prime quayside for storage or warehousing for new or expanding customers. We also anticipate that the 60 acre

development plot previously referred to will have been fully developed during this period in line with customers' requirements – in large part occupied by significant additional warehousing space as illustrated in the 2035 land use plan shown at page 33 of the master plan (**ABP12/H**).

7.8 Also, in the long term, and subject to future market demands, we may consider the construction of two further berths with deep sea capabilities on the north western side of South Dock. However, in a commercial context, such a development could not be taken forward on a speculative basis due to the high costs involved. In a similar vein, in the context of increasing vessel size, we may also consider investing in a new larger entrance lock running parallel to the existing lock entrance to the port. Again, an infrastructure project of this scale would only be undertaken if suitable funding was available to make it viable.

7.9 The 2015 Master Plan therefore sets our development plans and aspirations for the port over the next twenty years, absent the WG Scheme. If, on the other hand, the WG Scheme is approved in its current form, I can say with confidence that the Port will not be able to develop in this way and will be very severely constrained in the future. That will be bad for the Port, the Newport economy, the South Wales economy and parts of the UK economy, and will cause serious detriment to the Port.

7.10 It is also worth noting that the consultation version of the Master Plan (**CD 7.1.6**) was met with general assent, with very few comments being received during the consultation period which closed on 1 August 2016. I should add that comments were received from Robert Goodwill MP, Minister of State at the Department for Transport, the full text of which is included at **Appendix 6 in ABP/1B**, stating –

> *"In terms of the [Master Plan] document itself, your team should be congratulated on the production of a clear and informative document, and I look forward to seeing the final version, post consultation."*

For completeness, other consultation comments on the draft master plan are provided at **Appendix 7 in ABP/1B**.

7.11 After the close of the consultation period, however, WG wrote to the Head, Maritime Commerce and Infrastructure Division at the Department for Transport recommending that ABP be encouraged to consider delaying the finalisation of the

Master Plan until the outcome of the M4 public local inquiry is known, when ABP would be better placed to consider any implications for the longer term future of the port. A copy of WG's letter appears as **Appendix 8 ABP/1B**. This was a somewhat surprising comment given that the implications of the WG Scheme are discussed within the Master Plan at page 45 (**ABP12/H**).

7.12 At a very high level, however, the WG Scheme, if built, will cut two swathes through the Port – one from east to west, and one from north to south. In total, the Port will lose around 20% of its operational port land through compulsory purchase by WG and, as importantly, North Dock will no longer be able to function properly in perpetuity. It is my opinion that the damage to the long term prospects for the Port will be far-reaching and permanent, and will far out-weigh any potential modest benefit derived from the east – west connections that the M4 may bring during peak hours. Details of the full extent of the serious detriment to the Port are contained within the proofs of my colleagues Chris Green and Rod Lewis and Philip Rowell of Adams Hendry, who will deal with the relevant operational impacts that would be created by WG's scheme.

7.13 It is in this context that I note that at various times WG and its advisers have argued in support of their current crossing proposal that additional capacity can be created in South Dock to offset the impacts of the 25m bridge restriction on North Dock. Indeed, WG's marine adviser, Global Maritime, state in their shipping analysis report dated 16 July 2015 **ABP12/G** that – *"there are four areas within South Dock that could be developed and provide an additional 1,115m of serviceable quay frontage*". In suggesting this, however, WG and their advisors have ignored the inconvenient reality that it would cost some £135m, and take a number of years, to undertake these berth works, not to mention the need to create new cargo storage areas adjacent to those berths. In any event, ignoring the duration and expense of the necessary works, such an exercise would merely replace in South Dock berthing effectively lost in North Dock as a result of the WG Scheme. The direct consequence would be to permanently deprive the Port of areas to construct additional berths in response to new commercial opportunities.

8. HISTORY OF THE WG SCHEME

8.1 As far as I am aware, ABP first received notice of a proposal to consider the need for a relief road to serve the southern stretch of the M4 in April 1992 when the then

Chief Executive of ABP received a letter from Ove Arup & Partners acting on behalf of the Welsh Office informing him of their appointment "*to examine possible routes for an M4 relief road between Magor and Castleton, in Gwent*". A copy of that letter appears as **Appendix 9 in ABP/1B**.

8.2 That meeting took place later that month when a file note (**Appendix 10 in ABP/1B**) records that the study would include the possibilities of a northern or southern route and that the –

> *"height clearance for a bridge crossing the Usk downstream of the Port was discussed and the figure of 70 metres given in previous telephone conversations was confirmed as a realistic provisional [height] figure".*

8.3 This note was later confirmed by agreed minutes of the meeting **at Appendix 11 in ABP/1B**, which included the following observation –

> *"Future development of the South Dock is planned in parallel with the widening of the south lock. The entrance to the North Dock limits development in the size of ships that can pass through the lock but larger vessels could be accommodated by widening the junction cut into the North Dock and deepening the dock, both of which are considered to be relatively simple engineering options".* (Minute of meeting, 3 June 1992)

8.4 In August 1992, following a further meeting/discussion, the minutes (**Appendix 12 in ABP/1B**) recorded the following –

> *"The research shows that the maximum bridge clearance within the UK is 54.8m at the Erskine Bridge, Clyde and worldwide is the proposed Tsing Ma Bridge currently under construction in Hong Kong of 61 m ……*
>
> *Ove Arup's current view that a working clearance of approximately 50 m would provide a clearance compatible with shipping movements envisaged at Newport Dock."*

8.5 It would appear that discussions continued and, by letter dated October 1992, Welsh Office Highways Directorate asked ABP to confirm whether an "air draft clearance of 37 metres" would be acceptable. A copy of this letter appears as **Appendix 13 in ABP/1B**.

8.6 ABP's response, on 19 November 1992, which appears as **Appendix 14 in ABP/1B**, was that a height of 61 metres would in fact be acceptable, the letter stating that -

> *"I note that for the purpose of your preliminary assessment you are proceeding on the basis of a clearance of 37 metres, which I presume is related to the cost and environmental implications. There is, however, no indication that it is based on the current and potential navigation requirements at Newport."*

8.7 That letter continues -

> *"For your further information, I read in a recent publication from the Port of Yokohama that the Tsurumi Fairway bridge is now under construction and that "since vessels of more than 30,000 tonnes navigate the Tsurumi Fairway, the main passageway is 440 metres wide and requires a height of at least 49 metres." You will be aware that Newport currently handles vessels of approximately 40,000 tonnes and that we are actively evaluating plans for improvements to our lock entrance and even a new lock which would at the very least enable us to accommodate the largest Panamax vessels in use with a possibility of accommodating part laden vessels to the 100,000 tonnes size. I am, therefore concerned at your preliminary clearance of 37 metres and have to say that this is unacceptable to me."*

8.8 It is as well to emphasise that this correspondence was taking place over 20 years ago in 1992. The point to be borne in mind throughout is that Newport is a deep-sea port, not a short sea or inland port. As explained in other evidence, vessel sizes have grown considerably since 1992 – and continue to grow. Today, the Port regularly handles vessels of some 40,000 tonnes deadweight on their extensive global trading voyages.

8.9 Following further meetings, a letter dated 13 April 1993 to the Highways Directorate of the Welsh office, a copy of which is at **Appendix 15 in ABP/1B**, provided details of typical vessels entering the Port, all of which supported ABP's original request for a safety height clearance for any bridge across the entrance to the port of some 61 metres. That letter continued –

"Given the existing use of the port and the present detailed exploration of the feasibility of either improving the existing lock to take vessels of 32 metres or the construction of a new larger lock, it is our considered view that a navigation clearance of at least 61 metres would be required over any part of the entrance channel or the South Lock or any part of the South Dock.

"With regard to the North Dock, vertical navigation clearance of 44 metres would be required to cater for the largest vessel which can currently use this facility."

8.10 On 31 March 1993, a meeting was held between ABP and the Welsh Office and the meeting note, circulated by the Welsh Office, records that - *"The largest air draft of these vessels in ballast entering the South Dock was some 46 metres. The equivalent figure for vessels entering the North Dock was 40 metres. ABP considered it appropriate to provide navigation clearance of these figures plus 10% viz… 44 metres above maximum impounded dock water level [for North Dock]..*" From this early date, ABP's position was quite clear – a bridge over Junction Cut will have to be high enough to allow for the free passage of vessels that use North Dock. A copy of the agreed file note appears as **Appendix 16 in ABP/1B**.

8.11 On 8 April 1993 Ove Arup on behalf the Welsh Office sent ABP an indicative plan identifying the line of their preferred crossing Junction Cut (**Appendix 17 in ABP/1B**).The route marked as the 'current alignment' passes over Junction Cut in precisely the same way as the current proposal some 23 years later.

8.12 A public consultation exercise was carried out by Welsh Office in June 1993 and the results were summarised in a "Statement of Results of Public Consultation and Reasons for Selection of Preferred Corridor" (**CD 4.1.17**) – the results of that particular consultation were however inconclusive as regards the crossing of the River Usk and Newport Docks.

8.13 A further consultation exercise was undertaken in November 1994, for three possible routes over the River Usk and Newport Docks (known as routes X, Y and Z), with ABP being requested to complete a questionnaire produced by Welsh Office. A copy of ABP's response appears as **Appendix 18 in ABP/1B**. Question 6 asked whether respondents had a navigation interest and, if so, to identify it. We responded as follows - *"ABP has a direct navigation interest for ships entering the South and North Docks and the river berths…. We require a navigational clearance*

of 61 metres for alignment X [a potential route over the lock entrance to the Port] and 44 metres for alignment Y and Z [two potential routes over North Dock]".

8.14 Slightly earlier, in September 1994, Eagle Lyon Pope (now Global Maritime) reported in a study commissioned by Ove Arup, consultants to the Welsh Office on 'Considerations given to height clearance requirements of shipping using Newport...' This is replicated at **Appendix 19 in ABP/1B**. At page 5, it reported as follows:

> "*In summary, therefore, for the sample of ship arrivals at Newport, the greatest air draft noted was 41.0 metres and the greatest for passage into the North Dock was 25.0 metres."*

8.15 In subsequent correspondence dated 8 November 1994, replicated at **Appendix 20 in ABP/1B**, the then Port Manager, Mr RCF Williams, responded as follows:

> *"You will see that our position differs significantly from that of the consultants which you have employed not least because of the narrow sample they have taken for the three months from 9 May to 12 August 1994. This is an exceptionally short period over which to gather data for ports and shipping."*

8.16 By late 1994, therefore, the essential ingredients of the plan for the crossing were in place – being a route that crossed Junction Cut and a bridge height of around 25m. Simultaneously, ABP's opposition to such a low bridge height has been also been a constant theme since then.

8.17 The position was confirmed in a press release issued on 12 July 1995 by the Welsh Office, which appears as **Appendix 21 in ABP/1B**, and the preferred route over Junction Cut was then protected for planning purposes through the publication of a TR111 Notice (which was actually superseded by a slightly revised notice published 1 April 1997).

8.18 A further meeting was held on 23 August 1995 with representatives from Ove Arup, the Welsh Office's consultants, where we reiterated, at paragraph 8.0 of the meeting notes, (**Appendix 22 in ABP/1B**) the need for a 44m crossing of Junction Cut. The supplementary need to move the Port's then newly-acquired Mobile Harbour Crane was also identified – a required headroom of 53m is quoted in the agreed notes of the meeting for that particular crane (now decommissioned).

8.19 The next contact from the Welsh Office was in July 1997, when we were advised by letter of the arrangements Ove Arup were seeking in order to survey the land. Further geotechnical surveys were also commissioned in November 1999 by the National Assembly for Wales along the same route and a Notice of Intention to Enter on Land was duly issued to ABP.

8.20 There then followed a lull of over three years – with the next contact from Ove Arup on 25 October 2000, seeking an update on required navigational clearances to North Dock – a copy of this letter appears as **Appendix 23 in ABP/1B**. We supplied this information to Ove Arup & Partners on 27 November 2000 – a copy of our response appears at **Appendix 24 in ABP/1B**.

8.21 On 30 October 2001, the National Assembly for Wales wrote to ABP indicating that they would shortly be issuing a direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995, removing ABP's permitted development rights from a large swathe of land through the middle of the Dock. This is included at **Appendix 25 in ABP/1B**. The National Assembly for Wales subsequently made the Article 4 Direction in November 2001 (**Appendix 3 in ABP/1B**).

8.22 There then followed a further lull of around three years, with the route corridor and junction strategy being re-examined in late 2004 through to 2006. This involved a meeting with WG in September 2004 to discuss navigational impacts on the Port. The agreed meeting notes recorded, inter alia, that three mobile harbour cranes were now in use at the port, with a further one on order and that North Dock usage had increased since 2001 with various long term agreements being signed with Jewsons, International Timber and Dowds, and a new shed and processing facilities being progressed with Burt Boulton & Haywood – see **Appendix 26 in ABP/1B**.

8.23 In 2005, a series of three meetings between ABP and WG, were held on 12 July 2005 (**Appendix 27 in ABP/1B**), 22 August 2005 (**Appendix 28 in ABP/1B**) and 6 March 2006 (**Appendix 29 in ABP/1B**) to discuss impacts of the protected route corridor on the Port. Whilst most of the matters discussed were routine in nature, I would draw your attention to paragraph 2.5 of the 12 July 2005 meeting notes which states –

"ABP expressed the view that it was considered unlikely that port traffic would use the New M4, as the SDR [Southern Distributor Road] was a more likely route to link to the M4."

8.24 This view was repeated at the 22 August 2005, with the agreed meeting notes recording, at paragraph 2.11, that –

"ABP do not see the New M4 offering any potential direct benefits to Newport Docks distribution, irrespective of junction locations – the geography does not suit docks access…"

8.25 Subsequent to these meetings a modified TR111 was published on 19 April 2006 (**CD 4.2.4**).

8.26 There was then no meaningful communication between ABP and WG until March 2008, when ABP's then Chief Executive Peter Jones wrote to the First Minister of Welsh Assembly Government (**Appendix 30 in ABP/1B**) reiterating the Company's opposition stating that –

"..the currently proposed design of the relief road looks to construction of the motorway at a height which I'm afraid is totally unacceptable – being so low that it will actually impede the passage of vessels into our North Dock – whilst on a line that will in practical terms bisect the port, separating one commercial part from the other."

8.27 The response of the then First Minister, dated 16 April 2008, (**Appendix 31 in ABP/1B**) in short, whilst accepting that the proposal would restrict the movement of cranes, did not address the issue of navigational clearances, other than to note –

"…. you will be aware that measuring the heights of vessels entering the North Dock has been ongoing for the last 18 months by the consultants engaged on the project, in order to understand the shipping movements and vessel profile currently using the docks. This information is being used at official level to identify a suitable clearance of the structure to the docks and to understand the implications to the port operations of maintaining, raising or lowering that level."

8.28 ABP's position was reiterated in January 2009, in a letter from Huw Turner, Estates Manager, to the Welsh Assembly Government's Project Engineer, Matthew Enoch, (**Appendix 32 in ABP/1B**), and states at page 3 –

> *"ABP's position, as you are fully aware, is that the Company remains fully opposed to the construction of the M4 should it be constructed in such a position that it bisects the Port of Newport and at a height that will damage the commercial viability of the use of the North Dock in terms of passing vessels."*

8.29 In July 2009 a further 'pause' was placed on the M4 relief road by WG on affordability grounds, as confirmed to ABP by Welsh Assembly Government's Deputy First Minister in September 2009 (**Appendix 33 in ABP/1B**), and no further formal contact took place with WG on the proposals until July 2012, when a further consultation was carried out by WG, on four options – being:

> *"Option A: Additional high quality road to the south of Newport;*
>
> *Option B: At-grade improvements to the A48 Southern Distributor Road (SDR)*
>
> *Option C: Grade separated junction improvements to the A48 Southern Distributor Road (SDR)*
>
> *Option D: On-line widening of the M4 J24 – 29, including an additional tunnel at Brynglas."*

8.30 In our response, we made it clear that we were opposed to Option A on the basis that - *"it will have a temporary and permanent impact on the Port of Newport's estate and operations including the ability to move large harbour mobile cranes around the docks" and that it "requires a major new crossing over the River Usk."* We supported options B and C and noted, as regards option D, that the resilience of the Brynglas Tunnels is an important consideration. The full text of our response appears at **Appendix 34 in ABP/1B**.

8.31 I shall refrain from going through the more recent history of the project as it has been well documented elsewhere, except to record that ABP has continued to voice its opposition to any scheme that impacts on the ability of the port to handle shipping in North Dock. ABP has been consistent in indicating that any crossing of

the Port at Junction Cut would have to have been significantly higher than the 25m crossing that has been promoted by WG.

9. THE WG SCHEME - OPERATIONAL IMPACT ON THE PORT

9.1 Chris Green, Rod Lewis and David Crockett will be presenting detailed evidence on the impacts of the proposal on the Port – I therefore restrict myself to making a small number of high-level comments.

9.2 ABP is concerned that its statutory duties and obligations as harbour authority in terms of its ability to provide a port function will be impeded by the WG Scheme as explained by Chris Green and Rod Lewis. In my opinion, the function of providing and operating the facilities of the Newport Dock will be seriously impeded if a six lane low motorway bridge is constructed through the middle of the Port. This is the case in terms of day-to-day port operations, the need to operate the port efficiently and the need to operate the port safely.

9.3 At an operational level, WG's proposal in its current form will have a number of very broad-reaching impacts that, in ABP's view, will each separately have a seriously detrimental impact on the Port. These include:

a) WG's intention to take around 20% of the Port's land area by compulsion. Whilst WG has indicated that around half of this land is required only for the build phase of the bridge (around 4 years), as such there is no mechanism to pass that land back to ABP and also, as yet, no indication has been provided by the promoter of the terms of any hand-back, nor the extent of any restrictions that WG will place on that land. The loss of such a large area of the Port will severely and permanently constrain the Port going forward. Further evidence on the impact of the WG Scheme on the wider economy will be addressed by David Crockett.

b) WG's intention to split the Port into three distinct operational areas, effectively rendering it impossible to pass vital equipment – most importantly our very large cargo-handling cranes – between areas within the Dock. Further evidence will be provided by Chris Green.

c) The very significant commercial impacts – both present and future – on ABP and its customers and tenants resulting from the proposed bridge. This includes the incompatibility of having a number of sensitive Port operations taking place in proximity to the M4 and the consequential need to either relocate or, in some cases, cease certain Port operations. In addition, matters such as compliance with the Port Security Regulations 2009 do not appear to have been appreciated by the M4CAN team – the consequences of which may even require closure of the M4 over the Port during periods of heightened security. These aspects are also covered further within Chris Green's evidence.

d) The imposition of a height restriction to shipping using the Docks. This will impact on ABP's statutory dock undertaking and the reasonable rights of navigation within the Dock in two primary ways. First, the imposition of an absolute height restriction on vessels wishing to access North Dock, an integral part of the operational whole, and second, the fact that the existence of a bridge crossing at Junction Cut will impact on shipping using South Dock both operationally in terms of berthing and with regard to the physical measures will have to be put in place to prevent vessels in the Middle Quay area of South Dock from inadvertently colliding with the bridge structure. Rod Lewis addresses these points in detail in his evidence.

e) The consequent loss of utility of North Dock and the inevitable consequential impact of this on the Port's entire shipping programme, especially during peak times around spring tides. The loss of utility will be exacerbated by the frustration of ABP's development plans – which have already had to be put on hold for almost two decades – to widen Junction Cut to accept larger vessels into North Dock, thereby enhancing the deep-sea capability of the Port. Rod Lewis also addresses this point in detail.

9.4 This is, of course, based on our understanding today of the impacts the WG Scheme will have on the Port. What we cannot predict with any certainty, however, is the likely range of impacts in the future. Whilst my predecessors did an excellent job of building a Dock sufficiently large to accommodate vessels in use today some one hundred years after construction - they would not have been able to predict with any certainty at that time that those larger vessels would actually come into use. Similarly, my predecessors built Newport Dock principally to service the coal

export market at a time when Welsh coal was exported all over the world. They could not have foreseen a time when no coal would be exported from Newport but, instead, the Port's prosperity being based on the import and export of general cargo, as is the case today.

9.5 What can be predicted with certainty, however, is that we will remain an island nation and that the Port will still be around and needed in a hundred years from now. For this reason, the Port must, in my view, retain its critical flexibility to adapt to a changing world. Building a motorway, with a junction, on a low-level bridge across the middle of the Port, with the attendant loss of operational land areas, is entirely contrary to that aim.

10. THE WG SCHEME – COMMERCIAL IMPACT UPON THE PORT

10.1 ABP is a commercial company that operates in a very competitive market where the difference between winning and not winning business can depend on very small marginal differences on the per tonne cargo rate. That competition is on our doorstep (in the form of Birdport), regionally (in the form of Bristol, Sharpness and Briton Ferry) and nationally (in the form of Bristol, Liverpool, and Tilbury). Whilst we are happy to embrace a competitive market (and indeed this is Government policy), it does mean that our competitors are eager to understand our financial structures and we are determined not to divulge them for reasons of commercial sensitivity.

10.2 The Port's revenue is derived from a combination of tariff charges and other contractual charging arrangements that together cover ships dues, wharfage, cranage, cargo handling, storage and value-added services. These arrangements are, in my experience, common within the Ports industry. Many of the commercial arrangements are subject to confidentiality clauses within individual customer agreements.

10.3 For these reasons, I am necessarily limited on what I can say publicly with regard to the financial consequences for ABP if the M4 proposals are allowed to proceed in this form.

10.4 The Port is also faced with very substantial operating costs which include the provision of labour, security, utilities and services, the provision and maintenance of

a wide variety of specialist equipment such as Mobile Harbour Cranes, and the upkeep of the Dock and the roads and other infrastructure therein.

10.5 Ports are financially complicated with many inter-dependent revenue and cost streams. My responsibility, together with my team, is to maximise the profitable and sustainable performance and growth of our business.

10.6 The WG Scheme will further complicate this picture and have knock-on financial consequences for the Port. Thus, for example, if additional Mobile Harbour Cranes had to be acquired because of the severing effect of the M4 proposals, the Port would face additional maintenance costs and service personnel (as the cranes will need looking after); additional insurance charges (they will need to be insured); more replacement parts and spares, the cost of more statutory safety inspections: additional depreciation charges etc.

10.7 Furthermore, the height restrictions imposed by the proposed WG Scheme bridge will prevent a commercially serious proportion of vessels from entering North Dock (the details of which are covered by Rod Lewis). WG's suggested solution, for the cargo owner to charter vessels that can fit under the bridge, is superficial. The reality is, of course, very much more complicated than that. Low air draft vessels tend to have cargo carrying capacities of around 3,000t, around 50% less than the largest vessels that can currently use North Dock. They are also not as abundant as the vessels currently calling at North Dock and they tend to result in higher freight rates. That additional cost will have to be absorbed by the operation affected which may represent the difference between continued commercial viability at Newport and relocating elsewhere, as detailed by Rod Lewis in his evidence. Furthermore, if we are unable to service one cargo shipment for a particular customer, we run the real risk of losing all of that customer's business to a rival Port.

10.8 It must also be remembered that some of the Port's business is highly mobile and may be lost to the Port (and possibly Wales) if a competitor Port is able to handle the cargo at a more cost effective price. A good example of this is the Midlands steel trade. Currently Newport is well-placed to pick up this trade due to our ability to handle large steel vessels, the availability of covered storage adjacent to the berths (in both North and South Docks) and the ability to haul the steel to the Midlands (either by road, using the A449 and M5) or by rail. Constructing the WG Scheme is unlikely to affect, either positively or negatively, the inland transportation

costs of this cargo. On the other hand, however, increasing the distance that the cargo needs to be shunted within the Port, (because, for example, vessels cannot access North Dock due to air draft restrictions), will impact on the delivered cost of this product.

10.9 I have referred to the likelihood of trade being lost from the Port of Newport to other ports, possibly outside of Wales. Any loss of trade from Newport is unlikely to be to another South Wales port, given the relative commercial, operational and locational advantages of Newport compared to our other ports for the trades in question. The combination of its open/covered storage, its key location, its excellent transport links and connectivity and its valuable deep-water capability, together distinguish the Port of Newport from all of ABP's other South Wales ports.

10.10 ***The Port of Cardiff*** - lying some 15 miles west of the Port of Newport, has a significantly smaller landed port estate than the Port of Newport – by some 100 acres. In addition, Cardiff does not offer the same mix of available covered and open storage/processing land close to operational quayside or transport connectivity to the national cargo hinterland as Newport.

10.11 Operationally, it is more constrained than Newport – thus, while it can provide a similar commercial offering, it cannot do so on the same scale as Newport, due to a combination of a lack of spare quayside land and smaller lock dimensions.

10.12 Vessel entry at Cardiff is restricted to a beam of 27 metres and a maximum ship length of around 198 metres.

10.13 Whilst this difference between the ports may seem small in comparison, in operational terms it is translated to Newport being able to accommodate fully laden deep-sea vessels of 40,000 tonnes deadweight and part-laden vessels of up to 47,500 tonnes deadweight, whilst Cardiff is limited to vessels of around 30,000 tonnes deadweight with a cargo limited to some 20,000 to 25,000 tonnes. In other words, Newport is able to accommodate, by virtue its superior marine access and extensive operational facilities, vessels considerable larger than those able to access Cardiff.

10.14 As such, it would be operationally impracticable for ABP even to contemplate attempting to service in Cardiff the international trade now serviced by the Port of Newport due to the physical limitations of the Port in terms of vessel accessibility,

the lack of the available land and storage capability (which remains an inhibiting factor irrespective of vessel accessibility) and its less favourable transport links in relation to cargo destination, given the significance of haulage to the Midlands.

10.15 ***The Port of Barry*** – lies nine miles west of the Port of Cardiff and some 25 miles from Newport. Its principal purpose today is to support and supply the region's chemical industry – essentially liquid bulks for Dow Corning, one of the largest and most advanced manufacturing facilities in the world for the production of silicone-based materials. By comparison with Newport, it is a relatively small port – already physically constrained – and with only limited deep-water facility and not well-connected by road.

10.16 In addition, a large proportion of the land surrounding one of the two contiguous Docks within the Port of Barry is not in ABP ownership – and the land retained within the operational dock estate is largely tenanted. The main lock is limited to vessels of 19.4 metres beam and the secondary entrance through the basin lock is restricted to a very small window around high water. In addition, there are no means by which water levels could be maintained by either impounding or feeding the Dock from any other source.

10.17 ***The Port of Port Talbot*** – lies some 40 miles to the west of the Port of Newport. It has a deep water Outer Harbour although this harbour was constructed for the sole purpose of servicing the immediately adjacent Port Talbot Steel works. As such, this part of the Port comprises essentially a single very narrow pier-type jetty that is only capable of servicing a conveyor-type discharge of bulk material.

10.18 The Port also has a small Inner Dock, controlled by a lock - albeit of relatively narrow width, some 18 metres, and a maximum length of only 130 metres. The Dock has insufficient maintained water level – nor indeed is it of sufficient size to accommodate and manoeuvre the types of vessels that regularly visit the Port of Newport.

10.19 ***The Port of Swansea*** – Swansea lies some 50 miles further to the west of Newport. For reasons of location alone, the Port of Swansea, like the port of Port Talbot, cannot replicate the facilities offered to the national and international trade by the Port of Newport, in terms of connectivity. The use of road haulage to service the business currently conducted at Newport, at Swansea instead – even if the

business could be transferred, which it is not considered to be practical – would add around 100 miles per round-trip to that part of the logistics chain.

10.20 In addition, however, the Port of Swansea has similar constraints to Cardiff with a lock width of some 27 metres and a maximum ship length of around 200 metres. This of itself would be sufficient to dissuade international carriers to transfer their business to Swansea. It would force them to consider the use of ports outside the Welsh region.

10.21 It is unlikely, therefore, that business lost from Newport as a result of the WG Scheme, will transfer to another South Wales port.

10.22 My assessment of the threat to the Port of Newport, as a result of the WG Scheme is that it is almost certain that the Port will lose customers and, by association, jobs. Moreover in my view, the size of this negative far outweighs any positives arising from the better east – west connections at peak hours that the WG Scheme may provide.

10.23 ABP cannot force trade to move between its South Wales ports and it would be commercially naïve to suggest otherwise.

11. ALTERNATIVES

11.1 Such is the seriousness of the impact on the Port of the WG Scheme that ABP has incurred considerable expenditure in seeking to identify alternative routes that either would have no impact on the Port at all or would have a reduced impact that could be mitigated to an acceptable degree so as to avoid serious detriment.

The ABP Alternative Northern Routes

11.2 As a consequence of the above, ABP has identified and proposed to WG two alternative routes, namely ANR1 and ANR2. There is also an option that could be applied to both ANR1 and ANR2, which looks to lower the height of the bridge materially and hence lower the cost of the River Usk crossing. I refer to this variant as the 'Low Level Usk crossing' (LLUC).

11.3 The ANRs do have an impact on the Port, albeit less than that of the WG Scheme. They have been worked up by consulting engineers CH2M whom we instructed to

identify a route – to full motorway standards – that would cross the Port further north than the WG Scheme, thereby reducing the impact on the Port to more acceptable levels. The ANRs also have the added benefit of skirting the Gwent Levels SSSI, rather than crossing it as the WG Scheme does. CH2M have achieved this by routing the line of the alternative along an existing transport and utilities corridor that comprises the London to Cardiff railway line and various electricity pylon routes.

11.4 The routes are described in detail by Willie Wilson who is a specialist in the design of highways. In brief, however, both ANR1 and ANR2 diverge from the WG Scheme to the east of the River Usk and follow an alignment that crosses the river closer to the Newport Transporter Bridge, before crossing the northern end of North Dock and running parallel to the existing A48 Southern Distributor Road. The route then crosses the northern perimeter of Newport Landfill facility before curving southwards to run alongside, but east of, the London to Cardiff railway line, before re-joining the WG Scheme to the west of Lighthouse Road overbridge.

11.5 The ANRs do in fact adopt a number of the features of the purple and red routes that were considered and rejected by WG in 2013. In simple terms the ANRs broadly follow the red route over the River Usk and the Port, to a point adjacent to the Maesglas East roundabout on the A48 Southern Distributor Road, before switching to broadly the purple route and then re-joining the WG Scheme just to the west of Lighthouse Road overbridge.

11.6 It is instructive to reflect for a moment on the reasons given by WG for their rejection of the red and purple routes. It would appear that the red route was rejected because it was to be built to non-motorway (dual carriageway) standard and therefore suffered from significantly reduced capacity. This deficiency has been fully addressed within the design of ANR1 and ANR2, which are to full motorway standard.

11.7 As described at page 20 of the WG Scheme Non-Technical Summary – March 2016 (**CD 2.3.3**), the purple route was rejected because it did not perform as strongly as the WG Scheme across a range of factors including distance travelled, journey times, proximity to Newport Landfill Facility, proximity to the residential area of Duffryn and impacts on Newport Docks and the River Usk. The last two factors are curious inclusions as the purple route, in our view as the owner and operator of

Newport Docks, self evidently has less impact in comparison to the WG Scheme and is neutral as regards the impact on the River Usk. As far as the first four factors identified by WG as reasons to reject the purple route are concerned, I understand that they can all be satisfactorily addressed.

11.8 The advantages of ANR1 and ANR2 in comparison to the WG Scheme include:

a) A better fit with WG's own Scheme Specific Objectives, in that -

i) Objective two: "Improved transport connections within Wales and England, the Republic of Ireland and the rest of Europe ***on all modes*** (emphasis added) on the international transport network"; and

ii) Objective four: "Best possible use of the existing M4, local road network and ***other transport networks***" (emphasis added);

are both better achieved by the ANRs as they have demonstrably less impact on the Port and international shipping.

b) Furthermore, objective seven: "Improved safety on the M4 corridor between Magor and Castleton" is better achieved by locating the motorway away from Junction Cut to remove entirely the risk of vessels transiting the Port colliding with the motorway bridge. This, and other planning related matters, is addressed in more detail by Philip Rowell of Adams Hendry.

c) The impact on shipping access to North Dock is nil.

d) They allow for additional large-vessel berth capacity to be added at the Port by the widening of Junction Cut (this would be a futile exercise if the motorway passed over Junction Cut at only 25m above dock water level as larger ships would not be able to pass under the bridge).

e) The degree of loss of Port operational land is lower, at around 7% compared to around 20% for the WG Scheme.

f) A reduced overall ecological impact on the Gwent levels SSSI, as will be explained by Tim Goodwin of Ecology Solutions. Additionally as explained by Chris Taylor and Richard Stait, the ANRs perform satisfactorily in air quality and noise terms.

g) Jonathan King will also explain that the ANRs in terms of visual impacts and impacts on landscape character also perform satisfactorily.

11.9 ANR2 has been designed to accommodate a junction to serve Newport Docks, in a similar way to the proposed Docks Way Junction on the WG Scheme, although we question its necessity, particularly in the context of the serious detriment that would be caused to the Port.

11.10 On the available evidence I am of the opinion there is insufficient justification for the inclusion of this junction and link-road. This is addressed by Simon Tucker.

11.11 I referred earlier to the option of the 'Low Level Usk crossing' (LLUC). This option can be applied to either ANR1 or ANR2, as these are identical to the east of Newport landfill facility. This option is possible because the ANR crosses the River Usk upstream of Dallimore's wharf, which is now the most northerly commercially operating wharf on the River Usk. By way of comparison, the WG Scheme crosses the River Usk downstream of Dallimore's wharf and, hence, suitable bridge air draft provision has had to be made. This constraint may not necessarily apply to the ANRs, however. The LLUC therefore envisages crossing the River Usk at a materially lower height – the M4 road deck being around 10-15m lower than the WG Scheme – with a consequential saving in scheme cost. The exact height of the LLUC would need to be determined in consultation with Newport Harbour Commissioners, having regard to the reasonable requirements of navigation on the River Usk. Under this alternative, the M4 would still be required to cross the north end of North Dock, the impacts being described in Chris Green's evidence. The LLUC option therefore serves to off-set some of the additional cost of the ANRs compared to WG Scheme, arising from the fact that it is some 0.7km longer. In my view, therefore it represents a further potential refinement to ANR1 and ANR2 that is worthy of consideration by WG.

11.12 It is the case that ANR1 and ANR2 would still have a seriously detrimental impact on the Port of Newport, but ABP would be prepared to forego any reliance on the section 16 "serious detriment" test if our ANR1 were to be adopted by the promoters. Whilst ANR1 and ANR2 have not been subjected to public consultation by ABP, the inquiry process provides the opportunity for that to take place.

11.13 I am certainly strongly of the view that ANR1 and ANR2 are worthy of serious consideration and, whilst they do have some significant operational implications for

the Port which will be addressed by Chris Green in his evidence, in overall terms it is a solution that ABP could accept insofar as an over-riding need for the Relief Road is actually demonstrated and provided the impacts on our customers are dealt with comprehensively.

WG Scheme Proposal without Docks Way Junction and Link Road

11.14 I have identified earlier in my evidence that we do not consider that a compelling case for the inclusion of the Docks Way Link Road and associated junctions has been demonstrated, at least on the evidence presently available. The WG Scheme with the Docks Way Link Road and associated junctions removed therefore represents an alternative solution for consideration, although one that still causes serious detriment to the Port. Thus, whilst we do not wish to see this alternative promoted, we do wish it to be considered in the absence of a justification for the Docks Way Junction and Link Road, especially bearing in mind the scale of loss of Port operational land that is caused. An indicative illustration of this appears as shown on the plan entitled 'Newport Docks – M4 Realignment – WG Scheme Without Docks Way Junction', annexed to the letter at **Appendix 2 in ABP/1B**.

Higher WG Scheme

11.15 I have already discussed ABP's previous feedback over the past 22 years to WG and its predecessors that a bridge of around 25m over Junction Cut will cause serious problems for current and future ship access at the Port, and that ABP has argued consistently for a higher crossing over the Port if that still remains the preferred WG Scheme.

11.16 In order to avoid any impact to the largest vessels using the Port, and hence not interfere with the reasonable rights of navigation, it will be necessary to construct the bridge over Junction Cut at around 54m above highest future dock water level (allowing for sea level rise). This is because the vessel height restriction currently imposed on Newport Docks is by reason of the existing power lines that cross the shipping channel into the Port are at 54m above the Highest Astronomical Tide experienced at Newport and would therefore equate to a bridge at the same height above the dock water level, albeit adjusted for sea level rise of 14.21 m Above Chart Datum, after allowing for a suitable safety margin to be determined by risk assessment. Given our intention to widen Junction Cut to around 35m width, such large vessels will be able to access both North Dock as well as South Dock.

11.17 A very high bridge over Junction Cut will, however, still not solve the problems I have previously identified in connection with the WG Scheme, of taking up a large amount of port operational land, splitting the Port into a number of distinct areas and the incompatibility of having a number of sensitive port operations taking place in proximity to the M4, which still amount to serious detriment to the Port. For these reasons, we are not promoting a higher black route as an alternative to the WG Scheme.

11.18 In summary, as regards to alternatives, there exist credible and practical alternative proposals that warrant further detailed consideration by WG. These would allow a scheme to proceed in so far as overcoming the serious detriment hurdle and which have been put forward with that constructive aim in mind, assuming that need is demonstrated.

12. SECTION 16 ACQUISITION OF LAND ACT 1981

12.1 As I have already indicated, ABP is the Statutory Undertaker with responsibility for the statutory dock undertaking comprising the Port of Newport. This is by virtue of the various Acts of Parliament that, firstly, established the Docks in the nineteenth century and, in the mid twentieth century, transferred ownership of the port to the British Transport Commission (1948), the British Transport Docks Board (1963) and latterly to ABP (1982).

12.2 Section 16 of the Acquisition of Land Act 1981 (**CD 3.1.6**) identifies “Special Kinds of Land” – this refers to land belonging to statutory undertakers such as ABP which is excluded from compulsory purchase.

12.3 Section 16(1) sets out the criteria to be met for the tests in section 16 to apply. In summary the land must have been acquired and be used for the purpose of the statutory undertaking and a representation must have been made to the appropriate Minister (in this case the Secretary of State for Transport) within a defined period. In the case of the Port of Newport, the Docks have been used as part of our statutory port undertaking since originally being acquired and our representation was made to the Secretary of State within the timescales set out.

12.4 Section 16(2) prohibits the compulsory purchase of land belonging to a statutory undertaker unless the appropriate Minister (again the Secretary of State for Transport) certifies that he is satisfied that the land can be compulsorily acquired and either not replaced without serious detriment to the carrying on of the statutory undertaking or, if compulsorily acquired, can be replaced by other land either belonging to, or capable of being acquired by, the statutory undertaker without serious detriment to the carrying on of the statutory undertaking.

12.5 This gives rise to a number of questions. Firstly, can the land at Newport docks that WG proposes to acquire compulsorily, be acquired without serious detriment to the Port? The answer to this question is 'no'. As I, and other witnesses demonstrate, the Port will suffer serious detriment if it loses the land that WG are seeking to acquire. Moreover, the answer would still be same even if only the land to be permanently required is considered (although I have noted above there is no mechanism to temporarily acquire land by compulsion). This is because the land proposed to be acquired is in use as port operational land or is being held as strategic expansion land for the purposes of our statutory dock undertaking. Moreover the inclusion of the Newport Docks Way junction – the need for which is currently unproven – increases the level of detriment to the Port, given the extent of land required to construct it.

12.6 Secondly, can the land to be compulsorily acquired be replaced by other land belonging to the Port of Newport? Again the answer to this question is 'no'. This is because the only land that ABP as the owner and operator of the port owns in the vicinity of Newport Dock already falls within the statutory port estate. Its permanent deprivation because of the WG scheme would, therefore, represent a lost opportunity in relation to the earning potential of land already being held by ABP as part of its port undertaking. The replacement of land to be compulsorily acquired by land that already falls within the statutory port estate would merely exacerbate the serious detriment caused by the scheme.

12.7 Thirdly, can the land to be compulsorily acquired be replaced by other land that could be acquired by the Port of Newport? Once again the answer to this question is 'no'. The Port is surrounded by the River Usk to the south and east, all forming part of a Special Protection Area. As a consequence, to all practical intents and purposes, it would not be possible to acquire additional port land along this boundary. To the south-west, the Port is bounded by the River Ebbw and any

expansion of the port in this direction is, again, not feasible. To the west and north-west of the port is located Newport Land Fill facility and it would not be a practical proposition to acquire the landfill and reconfigure this to expand the port. Finally, to the north, the port is bounded by the A48 Southern Distributor Road which acts as a boundary to further expansion north, especially as there is extensive residential and commercial development immediately to the north of the A48.

12.8 On this basis I am advised that the Secretary of State cannot lawfully certify that the section 16(2) test is capable of being met, bearing in mind the impact that the WG Scheme will have on the Port.

12.9 The ANRs on the other hand will still cross the Port, entering the port estate close to its north eastern periphery and crossing diagonally toward the north western corner of the estate. They will also cross North Dock, albeit within the area of the dock that is not used by shipping and is not dredged. As a result, however, there would be no impact on the ability of any commercial shipping to use the operational berths within North Dock. Inevitably, some occupiers of the Port will be still be seriously affected as identified in Chris Green's evidence, although the precise extent of disturbance during construction and operation would have to be determined in conjunction with the bridge engineers and the promoters of the scheme.

12.10 The ANRs would clearly have less impact upon the Dock than the scheme as presently being promoted by WG. In the light of our wish to be constructive, as I have mentioned, ABP would be prepared to forego any reliance on the section 16 serious detriment test if the ANR is adopted by WG. Whilst there would still be harmful residual impacts on the Port, if the need for the M4 Relief Road is justified, we would accept the level of harm that the ANRs would cause provided that the impacts are mitigated by WG. The residual harm I have referred to primarily relates to the inability to manoeuvre Mobile Harbour Cranes around the Docks (although, in this case, this amounts to a splitting of the Port into two distinct areas rather than the three caused by the WG's Scheme) and the need to address impacted customers during construction and operation of either ANR1 or ANR2.

13. CONCLUSIONS

13.1 ABP's position is that the WG Scheme as proposed should not proceed.

13.2 The Port of Newport is of critical importance to the South Wales economy. In addition, given its location and size, it competes also at a national level in servicing the UK Midlands market, which makes Newport unique amongst the South Wales ports.

13.3 The Port depends upon having sufficient berths available in order to service our customers' requirements. North Dock is a critical part of that overall commercial offering today and, when Junction Cut has been widened, its function will be even more critical, as it will effectively operate as a continuation of South Dock in terms of vessel acceptance. This is consistent with the trend of larger vessels being introduced into shipping fleets.

13.4 The WG Scheme, if approved, will prevent the Port from servicing current, let-alone future, customer requirements by imposing an artificially low height restriction across the Port and excising around 20% of the Port's land area. The impact of this will be bad for the Port, the Newport economy, the South Wales economy and parts of the UK economy.

13.5 The WG Scheme as proposed should not proceed because:

a) The compulsory purchase, without replacement by the WG, of land which is used for the purposes of carrying on the undertaking of the Port of Newport would result in serious detriment to the undertaking and cannot be replaced by other land belonging to or available for acquisition by the Port without serious detriment (section 16 of the Acquisition of Land Act 1981, **CD 3.1.6**).

b) The WG scheme would interfere with the reasonable requirements of navigation over the waters within the Port. This is a consideration which is specifically required to be taken into account by the decision-maker under section 107(1) of the Highways Act 1980, **CD 3.1.5**.

c) The WG Scheme would interfere with our ability to carry out our statutory functions as Statutory Harbour Authority and insufficient consideration appears to have been given to the practical implications of the motorway across the Port.

d) Assuming the underlying need for the WG Scheme is demonstrated, alternatives have been identified which would better meet the objectives of the WG Scheme.

e) In any event, ABP does not consider that a compelling case for the inclusion within the WG Scheme of the Docks Way Link Road and associated junctions has been demonstrated, at least on the evidence presently available.