

Bill Hammill
Manager, Track Access
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

Freightliner Group Limited
3rd Floor, The Podium
1 Eversholt Street
London NW1 2FL

Tel: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]
Web: www.freightliner.co.uk

4th February 2015

Dear Bill

Appeal under Regulation 29 of The Railways Infrastructure (Access and Management) Regulations 2005 for access and services at Southampton Maritime Freightliner Terminal

Thank you for your letter dated 14th January 2015 advising Freightliner Limited (FL) of an appeal for access and services at Southampton Maritime Freightliner Terminal ("Maritime") under regulation 29 of The Railways Infrastructure (Access and Management) Regulations 2005 ("the Regulations") from DB Schenker ("DBS"). This letter and its attachments constitute FL's written representations in respect of that appeal.

Freightliner notes that this letter and the supporting documentation (i.e. Appendices 1 - 7) contain a significant volume of confidential and business sensitive information, the publication of which would "*seriously and prejudicially affect the interests*" of Freightliner, as envisaged by Section 71(2)(b) of the Railways Act 1993. Freightliner notes that, under Section 71 of the Railways Act 1993, the ORR is under an obligation to have regard to any such information when considering whether publication is appropriate.

Should the ORR wish to publicise or consult further on any of the information included in this response, Freightliner would be willing to provide the ORR with a non-confidential version, together with appropriate justifications as to why it considers the information to fall within the category of information described in Section 71(2)(b) of the Railways Act 1993. For clarification, Freightliner considers that the provision of this response or any of the related documentation to DBS (which may also raise concerns from a competition law perspective), would "*seriously and prejudicially affect the interests*" of Freightliner and should only be done by way of a non-confidential version.

Yours sincerely



Lindsay Durham
Head of Rail Strategy
Freightliner Group Limited

RESPONSE TO APPEAL

SUMMARY

Freightliner has considered DBS's request for access to its Maritime terminal at Southampton.

Freightliner is unable to provide access to DBS as requested because of the non-availability of capacity at this terminal. Freightliner has nevertheless offered DBS access to its Millbrook site for 1 service. Notwithstanding this absence of capacity at the Maritime site, DBS has in any event been unable to show that "viable alternative means of the service being provided under market conditions do not exist," as set out in regulation 29(6)(b) of the Access and Management Regulations 2005 (the "Regulations").

Freightliner sets out below why a "viable alternative" in current "market conditions," as described in the ORR's Guidance on Appeals to ORR under the Railways Infrastructure (Access and Management) Regulations 2005 (the "Guidance"), does in fact exist. Freightliner then goes on to explain why it is unable in any event to provide access to its Maritime terminal because of the absence of any available capacity, forcing Freightliner itself to run trains out of its Millbrook terminal.

As well as responding to the specific arguments raised by DBS in its appeal and related documentation, Freightliner has considered carefully the Guidance and sets out below a fully reasoned and objectively justified set of considerations informing its final decision to deny DBS access. Freightliner notes that the ORR will, if possible, rely solely on the information provided by DBS and Freightliner for the purposes of its determination. In response to DBS's appeal and its commissioned 'capacity evaluation' report, based on historic publically available information, Freightliner has sought to provide the ORR with sufficient "realistic information"¹ to allow it to reach a firm conclusion on the relevant issues.

COMMERCIALLY VIABLE ALTERNATIVE

FL contends that the DBS site in 109 berth, Herbert Walker Avenue, Western Docks, Southampton is a commercially viable alternative to the FL Maritime terminal for the following reasons:

- FL understands that DBS have been running services at this facility since 2006, and started doing so under the previous ownership, English, Welsh and Scottish Railways ("EWS"), from 2000.
- FL understands that DBS have consistently been running between 3 and 6 services a day out of the Western Docks Terminal and have run up to 8 daily services
- It would therefore appear that DBS is alleging that the site has suddenly become uneconomical after about 15 years of successful operation.
- FL's customers regularly advise us that rates quoted by DBS are the cheapest in the market.
- The site was improved by ABP in 2006. During that work, FL provided access to DBS at the Maritime terminal. Post completion of those works, the service returned to the Western Docks Terminal.
- Until the approach in February 2014, there have been no further requests from DBS since 2006 for access to either of Freightliner's sites.
- There is another alternative commercially viable site at Millbrook and access has already been offered by Freightliner for one train.

Commercial Viability

Freightliner does not believe that the costs of operating at Western Docks Terminal are fundamentally different to the costs of Maritime Terminal. As far as FL is aware DBS has not supported its appeal with any information about the difference in cost in operating the Western Docks Terminal versus their perceived cost of access into Maritime Terminal. It also appears that

¹ The Guidance, paragraph 4.12.

DBS have provided no justification on why they are unable to invest in the Western Docks Terminal or how that would impact on the cost of handling.

The largest driver of the terminal cost per container is the throughput of containers to be divided into the total cost, many of which are fixed.

There are many other rail terminals around the country in existence with similar restrictions to the Western Docks Terminal that appear to be viable, competitive and economic. DBS operate trains into Burton, Wakefield and Barry Docks, all of which have no overhead cranes and limited siding capacity. These are very similar and comparable to the successful Freightliner terminal at Bristol.

Existing Services from Western Docks Terminal

FL is aware that DBS currently run 4-5 daily services from Western Docks Terminal. DBS have requested that 3 of these existing services are operated from Maritime terminal, but at an increased length.

It is clear that there is sufficient capacity at the Western Docks Terminal for DBS to operate their current train plan, as they are operating on a daily basis.

In 2007 DBS were operating up to 8 services a day out of the Western Docks Terminal so FL believes that DBS do have capacity to run more trains from their terminal.

It is unclear what DBS would propose to do with the remaining 1-2 services that currently operate from Western Docks Terminal (4M69 to Burton and 6B94 to Barry).

Continuing to operate only 1-2 services per day would reduce the viability of the terminal, as many of the costs are fixed and would have to be covered by fewer services and therefore numbers of containers.

FL would be concerned if DBS are proposing to close the terminal as this would reduce the overall terminal rail capacity available from Southampton. This would have an impact on the value for money from the investment made through the Strategic Freight Network fund to increase train lengths, as the total number of trains to and from Southampton Port would reduce. Any reduction in rail capacity would also be a concern in light of Network Rail's Freight Market Study forecasts suggesting that an extra train path per hour will be required into Southampton to meet unconstrained demand by 2023.

FL would also be concerned if DBS secured access at Maritime Terminal on the basis that the Western Docks Terminal is commercially unviable and then replace the 3 services with 3 new services, in contradiction to their claims that the site is unviable.

Traffic tariffs

FL's customers regularly advise us that rates quoted by DBS are the cheapest in the market.

The Guidance sets out that the overall aim of the Regulations is "to facilitate competition between rail undertakings".² Price competition between trains originating at Freightliner's Maritime terminal and DBS's Western Docks Terminal already exists and, in fact, DBS is frequently able to undercut Freightliner on price. It is unclear how DBS envisages that any difference in handling or other port related costs between its Western Docks Terminal and Freightliner's Maritime terminal could under any circumstances be sufficiently significant as to make the proposed services in any sense "unviable" where they originate from DBS's own facility.

Investment in Western Docks Terminal

Freightliner does not believe that DBS have made any investment in the Western Docks Terminal in the 15 years that DBS has operated the site. Freightliner suspects that, due to the lack of continued

² The Guidance, paragraph 2.4.

investment, there is now a requirement to invest, and DBS's appeal is an attempt to avoid the required investment.

This is in contrast to the considerable investment that Freightliner has made in the Maritime terminal site, including £9.5m for cranes and crane roads, continual repair and improvement of the internal road structure and investment in an up to date reach-stacker (see Appendix 3 for details).

Investment in a terminal over the long term should be a cost that is budgeted for in operating a terminal and included in the cost base.

Freightliner does not see any reason why DBS could not support investment in new side-loaders or an alternative proposal for reach-stackers and groundwork and the cost of this could be spread over many years. There is no reason for the case for investment being any different at Maritime Terminal to Western Docks Terminal.

Freightliner understands that DBS has rejected proposals to enhance the facility and replace and update current equipment.

The Guidance sets out that the ORR has “a duty to strike a balance between the applicant’s right of access, the legitimate commercial interests of the facility owner and the maintenance of a long-term investment incentive.”³ Notwithstanding the absence of available capacity at Freightliner’s Maritime terminal, the purpose of the Regulations is not to permit an access request to free-ride on Freightliner’s investment, in order to avoid making similar investment. As the ORR acknowledges, “most access requests will be at the margin of a facility’s capacity, and so could never justify the construction of a new facility.”⁴ From DBS’s perspective, should it feel that its Western Docks Terminal requires additional capacity (despite currently being under-utilised) or modernisation, it would only be required to make a modest and proportionate investment in comparison to that which Freightliner would be required to make in order to create additional capacity (for example, by installing a third crane).

Handling at the port is only one element of cost and only by looking at total cost versus revenue can you declare a site unviable. FL suggests that the cost of re-investing in the side-loaders required would equate to a few pounds per container lift.

Operation at Western Docks Terminal

DBS point to the fact that the terminal is a single line, loading is performed by unreliable and uneconomic side-lifters and the site is not in close proximity to the deep-sea container berths.

The site itself is located within the dock boundary, although it is further away than the Maritime terminal, it is within 1 mile. Because the Western Docks Terminal is located within the port boundaries DBS has the ability to use internal shunt vehicles (internal shunt vehicles do not have to pay VED, can use red diesel (at lower fuel duty) and are not subject to the same emission standards as road vehicles), instead of private road vehicles to transfer containers between the container storage pad and their terminal.

In the Western Docks Terminal, containers are lifted directly from lorry trailer to wagon and vice versa. At Maritime Terminal, an additional lift has to take place as the containers are placed on the ground by the straddle-carriers and then moved on and off the wagons by the overhead crane. There is therefore a cost saving in lifting costs at the Western Docks terminal compared to the Maritime Terminal.

Train length

Freightliner understands that trains at the Western Docks Terminal usually operate at 20 x 60ft wagon equivalent. The Network Rail GRIP 2 study states that “520m trains can be accommodated at West Bay Road Crossing without fouling the junction between the Docks Branch Line and the Up Docks Branch Line.” A 520m trains would equate to 27 x 60ft wagons plus a locomotive.

³ The Guidance, paragraph 2.15.

⁴ The Guidelines, paragraph 2.30.

DBS own the yard at Eastleigh, within 5 miles of the port. Eastleigh yard provides DBS with the opportunity to join together trains, thus overcoming the issue of short sidings within the handling facilities. This was a key discussion point when DBS made their access request in 2014. DBS's view at the time was that they could run a train from the Western Docks Terminal and one from Millbrook and join them at Eastleigh to get the maximum train length.

Historic use of Western Docks Terminal

Freightliner believes that during 2006/7, 8 trains a day were frequently operating from the Western terminal site. At present the Western Terminal, which currently operates 4/5 trains a day, therefore appears to not be fully utilised.

Currently DBS operate up to 5 trains daily, Wakefield, Burton, BIFT, TP and Barry Docks. Using information collected from the TOPS system the total weekly wagon count for w/c 18/1/15 was 806 and container volume 1282. There is clearly capacity at the Western Docks terminal for these services and container volumes currently.

Strategic Freight Network investment

Strategic Freight Network investment is funded and planned on the arrival/departure line outside the Western Docks Terminal that will enable longer trains from DBS's Western Docks Terminal (up to 775m). This planned investment is in the order of £3 million and it is wholly funded by the Strategic Freight Network.

See Appendix 7 for:

- details of the Strategic Freight Network investment required
- map showing Strategic Freight Network investment in the Southampton train lengthening project with specific reference to Southampton Western Docks Terminal
- letter dated 5/1/15 from South West Trains to Southampton City Council

If DBS believe that their terminal is commercially unviable, and "uninvestible" it is surprising that DBS are pursuing this project, to be delivered by Network Rail, and funded by government.

Millbrook terminal

See Appendix 3 for background on Millbrook terminal

This is one of Freightliner's terminals and it is commercially viable; Freightliner has operated this site successfully since 1967. 3 round trip services a day are currently operated out of this terminal; Freightliner would not do this if it was not viable.

Millbrook terminal is further from the deep-sea container berths than the Western Docks Terminal and it requires the use of fully licensed lorries, using fully taxed diesel, to move containers. Freightliner estimates that the cost of using lorries to shunt between the berth and a local terminal is £2 per container more expensive than the cost of using tugs to shunt between the berth and a local terminal.

The siding lengths are shorter than at Maritime Freightliner (maximum of 16 x 60ft wagon or equivalent) however this is counter-balanced by other factors, which also apply to the DBS Western Docks Terminal, including :

- The equipment used at the site is lighter and therefore causes less impact on concrete
- Containers are not lifted to the ground but straight on and off lorries to and from the train

CAPACITY AT MARITIME TERMINAL

See Appendix 3 for background on Maritime terminal

The Guidance sets out that, where capacity is constrained, a facility owner may reasonably refuse to grant access following a request. Freightliner's Maritime terminal has no spare capacity, either for Freightliner itself to utilise, or to provide access to another rail operator. In rejecting DBS's request, and as is required by the ORR, Freightliner has examined all options for accommodating the applicant's request, and includes below a reasoned explanation of this decision. DBS has not been treated in any way unfairly or discriminated against; Freightliner itself would benefit from additional capacity at its Maritime terminal, should such capacity exist, without the need for significant further investment.

Freightliner would prefer to operate all of its services from one terminal as the accompanying economies of scale would reduce costs of terminal staff and management. Following the installation of new cranes in 2013, Freightliner did originally plan to consolidate all operations to Maritime, and mothball Millbrook. In practice, at that time, only 2 services were able to be transferred to Maritime, despite the new cranes. A 3rd service has since commenced from Millbrook, as there was no capacity in Maritime to accommodate it.

Availability of slots in the terminal

The plan in Appendix 5 demonstrates that there are no available slots at Southampton Maritime terminal for an additional train of 31 x 60ft wagons (or equivalent) at the times requested, as trains are already being loaded at these times. There are no other slots during the 24 hour mid-week period that accommodate a 31 x 60ft wagons (or equivalent) train as requested.

A slot at any other time of day, would also have to be matched against available capacity on the rail network, but this has not been considered in this response.

The terminal slots requested by DBS specifically cannot be accommodated for the following reasons:

- | | |
|-----------|--|
| 1243-1640 | Track capacity exists in roads 7 (18 wagons) and 8 (12 wagons) between 1415 and 1630. Allowing 30 minutes for safety check on arrival and 1 hour for a pre-departure check, this provides a total of 45 minutes to strip and reload 30 wagons, which is impossible. |
| 1713-2130 | No spare track capacity exists to meet these times |
| 2228-0239 | Track capacity exists in roads 7 (18 wagons) and 8 (12 wagons) between 2245 and 0445. Until recently, Freightliner handled 4017 (arriving at 2154 and departing as 4E01 at 0215) within this slot for a trial period. It did not work for 3 key reasons: <ul style="list-style-type: none"> • The reachstacker was required to lift non-port containers to road vehicles • There was insufficient terminal capacity to handle the wagons to/from the maintenance depot and • The terminal lost its ability to respond to late arriving/departing services. This capacity now exists to manage shunts to/from maintenance and provide contingency. |

Freightliner's safety requirements require trains to have a one hour cut off prior to departure. This is to allow safety checks of the train before departure and the train to be ready to depart 10 minutes before booked departure (in order to ensure an on-time departure).

DBS have requested approximately 4 hour unloading and loading slots in each case, so this would leave only 2.5 hours to unload and load the train. This would require circa 124 lifts or 49.6 an hour (based on 2 containers per platform) on and off the train. This would necessitate both cranes

working solely on DBS trains for the time they are on site. At all of the times requested, there are a minimum of 4 Freightliner trains which need to be stripped and reloaded. It is therefore the case that, even if rail capacity existed, crane capacity does not.

The shortest unloading/loading time for a Freightliner train in the Maritime site is 4.75 hours (4029 arrives at 2302 and departs as 4M95 at 0348). Using the same time for the safety check this leaves 3.25 hours and the service conveys just 24 wagons. Using the same wagon utilisation of 2 containers per wagon platform, the required lift rate is 29.5 lifts per hour.

If there was an additional slot that could be made to match with a path on the network, and it was commercially viable, Freightliner would operate this already. Freightliner's business plan for growth out of Southampton is to increase the length of all services, where this is viable. Freightliner is currently constrained from implementing these plans. As acknowledged by the ORR in its Guidance, the Regulations place no obligation on Freightliner to incur "a disproportionate cost"⁵ in order to allow DBS access to its terminal, as it would in reality be required to do.

There are many factors within a terminal that impact on the capacity, utilisation and performance of the terminal. It is also important to understand that it is how all these factors interact with each other that is key to capacity availability. In the case of the Maritime Terminal the factors include:

- Restricted siding length
- Number of lifts per hour that can be achieved safely by the crane
- Straddle carrier efficiencies
- Requirement to shunt wagons to and from the wagon shed within the terminal to undertake maintenance
- Restrictive shunt movements while fuel point in use
- Performance of services arriving at the terminal off the rail network
- Site conditions
- Engineering access on the rail network

Any one of these factors at a particular time could restrict capacity at a terminal. For example, there may be capacity available on a track to place a train but if there is no crane lift capacity at that time the capacity on the track is of no use.

Restricted siding length

FL's current trains range between 24 and 30 x 60ft wagons (or equivalent) in length whilst the sidings at Maritime Terminal are between 12-21 x 60ft wagons (or equivalent) in length. Therefore every service has to be shunted under the cranes and around the terminal. See Appendix 5 - Maritime loading plan. The current maximum train length is 30 x 60ft (or equivalent), but this cannot be achieved on every train due to the complex shunting arrangements required.

Freightliner is currently trialling operating longer services a day up to a maximum of 30 x 60ft equivalent length per day. This takes extremely careful planning and management of shunting. It is not possible to run any more trains of this length per day until the Strategic Freight Network funded works in Redbridge Sidings have been completed. Our current understanding from Network Rail is that this work will be completed in 2 stages, by the end of 2015 and in 2017.

Due to the excessive amount of shunting it is often impossible to access the space that is theoretically available under the cranes.

Number of lifts per hour that can be achieved safely by cranes

There is a difference to what is theoretically possible with cranes and what can be achieved in practice.

⁵ The Guidance, paragraph 2.16.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Due to planned inspection and maintenance, as well as driver shift changes, the cranes are available for 22 hours a day.

In addition there are numerous times in the day when the crane has to be stationary for safety reasons. These include shunting, and arrival and pre-departure checks. Furthermore most trains arriving at Southampton convey wagons that are required to be shunted out of trains and into the maintenance roads for routine maintenance. The shunting operations result in periods of time where the tracks are inaccessible for crane loading/unloading.

The height of the new cranes at Southampton has increased the distance between crane operator and twistlock/spigot. Coupled with the steep angle that the operator is required to obtain in order to achieve a good line of sight to safely ground container onto rail wagon, the average seconds per lift is higher now in comparison to the previously lower cranes.

The span of the new cranes is much wider than the previous cranes, meaning that movements between the tracks take longer. Furthermore when the cranes traverse the sprinter roadway to 5, 6 and 7 roads, and vice versa, there are safety restrictions which increase the time required.

Continued from above

Despite these constraints, the efficient mode of operation within the terminal ensures a high average number of movements an hour being achieved over a 22 hour period. However, the factors described above prevent the highest number of theoretical movements an hour from being accomplished consistently.

The number of crane lifts required exceeds the container throughput on the trains, therefore you cannot directly equate the crane lifting capacity to the throughput of containers. The reason for this is that certain boxes have to be lifted more than once. A proportion of the terminal throughput moves are to non-berth sites elsewhere in Southampton using lorries, and therefore require more than one lift. There are also a number of containers that are moved to a holding area to await customer paperwork. Once they are cleared, they are lifted by the cranes on to the chevrons for collection by the straddle carriers, incurring a double lift.

Straddle carrier efficiencies

The site is served by 4-5 straddle carriers, these are supplied and operated by DP World. The port itself has to manage daily peaks and troughs of demand and therefore has to manage the supply of straddle carriers to feed the rail terminal around these peaks. This means there is not a steady flow of movements between the rail terminal and the port.

The straddle carriers have to cross the main port road, which is controlled by a type of “level crossing”. The crossing is only available to the straddle carriers for limited windows within a 24 hour period, depending on port road traffic. This restricts the free movement of straddle carriers to and from the site and is out with Freightliner’s control.

Performance of services arriving at the terminal off the rail network

Any plan must allow for absorbing shocks during perturbation that will arise from time to time, whether it is on or off the rail network. Examples include late train arrivals, crane failures and weather network issues.

The average arrival time of trains arriving in Southampton Maritime is between 30 and 60% on time (see Appendix 6 - source Network Rail). The average departure time of trains from Southampton Maritime is between 40 and 90% on time. On average trains departing are about 25% more punctually than trains arriving.

When there are delays, wagons and/or locomotives are quite often “stepped up” to cater for late running services or loco problems. The knock on effect of this action is that the loading/unloading windows for inward/outward trains are sometimes reduced, placing more workload on the two rail mounted gantry cranes to achieve extremely tight turnarounds of services.

FL has been working very hard to improve performance at Maritime terminal. The main focus has been to reduce the number of late starts, even when inward trains are late. In particular trains that start late are more likely to cause delay to 3rd party trains and the Schedule 8 performance regime incentivises Freightliner to reduce these delays. Freightliner currently pays £46.13 per minute for each minute of delay it causes to third party services; this has a very considerable impact on the viability of services operated, as any profit from a train can be wiped out by a train starting just a few minutes late and the subsequent knock-on impact.

The third party delay minutes caused by Freightliner Intermodal for Period 1-10 2014/15 were 13% less than the third party delay minutes caused for Period 1-10 2013/15.

Performance of terminals and the number of trains operated are intrinsically linked and it is important that an optimal balance is achieved so that performance across the network does not deteriorate.

This programme has been on-going for several years. Indeed, one of our managers Jon Bunyan won an award in 2010 for his work on the right-time railway group based in Southampton.

A series of working groups have been held with a range of operational staff to understand root cause of terminal delays. Essentially the cause of delays falls into three main categories:

[REDACTED]

- congestion at the fuel point
- congestion of the tracks and the requirement to move wagons to the maintenance facility

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Shunting

Shunting at Southampton Maritime is primarily completed using 2 Class 08 shunting locomotives. There are three main types of shunts which are conducted at the terminal.

The Maritime site also includes Freightliner's national wagon maintenance centre where FL's national fleet of 1925 wagons are maintained. This is a 24/6 facility with a constant throughput of wagons. 12-24 wagons per day are maintained at this facility. This centre provides pre-planned maintenance for Freightliner's entire wagon fleet. Roads 9 and 10 are used to stable wagons pre and post maintenance. Wagons have to be shunted from roads 9 and 10 to and from the wagon maintenance centre.

Demic wagons are removed from inwards services ready for presentation to the wagon repair facility. These shunts often require long and time consuming movements to gain access to the wagons which are required to be removed. Whilst shunting is taking place the cranes cannot work on the same road or lift containers off adjacent roads. This therefore affects crane lift productivity.

The second type of shunt involves the pushing and pulling or re-marshalling of a train. The main crane area can only fit 21 standard 60ft length platforms under the cranes. All services from Southampton currently run between 24 and 30 standard wagon lengths. All services therefore have to be push/pulled in and out of the crane area to get lifting access to the ends of the train or they have to be split over one or more roads. Some trains formed on the roads 5-8 have to be shunted onto roads 1-4 in order to be formed into trains in order to depart the terminal. This is a time consuming process and requires careful planning to avoid blocking access to arriving or departing trains. Crane lift productivity can be affected if wagons are not correctly positioned in a specific time slot.

At the west end of the terminal there is a locomotive fuelling point that fuels 18 locomotives per day, which necessitates the third type of shunt. Service checks and examinations of locomotives are also undertaken. Whilst locomotives are being shunted on to the fuel point and the pit road, wagon shunts cannot take place at the same time, as the same set of points is required. This can cause delays to shunting movements throughout the site.

Flexing Rights

All access rights associated with slots in the terminal can be flexed by +/- 30 minutes by Network Rail at timetable changes. Sufficient capacity has to be left in the terminal plan to accommodate these possible changes that take place each May and December.

Site conditions

The site is built on reclaimed land and includes a culvert that does restrict the site use. The concrete roadways do suffer more than other FL sites as a result and this is not helped by the weight of the straddle carriers (used to move containers to and from the terminal to the port). Over the last 5 years [REDACTED] has been spent on maintaining and improving the roadways in the terminal. This is a continuing programme, with an average spend of [REDACTED] per annum, but the amount fluctuates from year to year.

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Over the last 5 years substantial investments have been made maintaining and improving the roadways in the terminal. This is a continuing programme involving significant investment each year.

Freightliner is therefore required to (and does) invest annually in its Maritime facility. This creates a strong incentive to operate the terminal at maximum capacity, as the higher the throughput of containers, the lower the unit cost.

Engineering access on the rail network

Engineering access on the rail network means that trains to and from Southampton frequently have to be diverted over longer routes. The terminal must be able to accommodate trains that either have to leave early or arrive late within the overall resilient operational capacity and capability of the site. For example the access that is required over the next year includes:

- Diversions via Laverstock - 14 weeks of midweek nights per year - circa 40 minutes increased journey time per train
- Diversions via Sutton Park - 17 weeks of midweek nights per year - circa 30 minutes increased journey time per train
- 9 day blockade of Reading West - all W10 trains via London - circa 90 minutes increased journey time per train, all W8 trains via Melksham - circa 60 minutes increased journey time per train

RESPONSE TO CAPACITY EVALUATION REPORT

As part of their evidence DBS appended a document called “Maritime Terminal Southampton Capacity Evaluation” dated 16th Nov 2014.

This is a very generic report that makes no specific analysis of the capacity available at Southampton Maritime terminal. DBS states in its application form that this report is based on ‘information in the public domain’. The historic and inevitably incomplete nature of the information on which this report has been based has in reality resulted in a high number of inaccuracies and simply incorrect and misleading statements. The ORR’s Guidance stresses the importance of the parties providing “as much realistic information as possible” in order that it can rely solely on the information provided by the parties in making its determination.⁶ DBS’s commissioned report provides the ORR with an inaccurate picture of the current conditions at Freightliner’s Maritime terminal, in particular:

- Statements on siding length are incorrect
- The impact of the maintenance facility on the operation has been completely overlooked or ignored
- Statements on crane performance are incorrect
- Allocation of straddle carriers is massively over-stated

In order to assist the ORR in making its determination, Freightliner addresses a number of these inaccuracies below.

The report includes no analysis of whether the 3 slots requested by DBS could be accommodated at those times, or indeed at any other time of the day.

Overall Freightliner finds the report very simplistic, it does not reflect the actual complexities of running a terminal. It gives no credit for the investment that Freightliner has made at its risk or the many operational improvements that have been made alongside DP World and ABP over many years. It also seems to assume that the most efficient lay-out of the terminal has not been considered previously; this is an area that Freightliner are constantly reviewing and considering options for improvement.

Please find below Freightliner’s more detailed response to some of the observations and statements made within the document. The points below pick out the major issues; where specific paragraphs have not been specifically addressed, this should not be taken to mean that FL is necessarily in agreement with DBS.

2.1.2 This paragraph states that the DBS operation has restricted/limited capacity but does not quantify the limitation of the capacity. Given that the services that DBS have requested to be moved into Maritime terminal are already operating out of DBS’s Western Docks Terminal, there is clearly capacity for them. Freightliner understands that future Strategic Freight Network investment will allow these services to operate at a longer length, as requested by DBS. It is also noted that DBS could operate trains of a longer length now by joining portions in Eastleigh yard, which is 5 miles away.

Freightliner understands that EWS began using the site in 2000 using Containerlift as a sub-contractor. Major enhancements were made by ABP in 2006 including to track layout, as existing track/land was under-utilised. DBS came to an arrangement with Pentalver ltd to use 2 reconditioned Fantuzzi side lifters and x 1 new side lifter. The reconditioned equipment had a 5 year life span. The same equipment is in use today. The use of more modern and efficient equipment would increase the capacity of the terminal without requiring DBS to incur prohibitive costs.

2.3.3 The report states that Freightliner stated in a press release that the new cranes would eventually increase lifting capacity by up to 80 per cent, although the overall capacity will be increased in stages.

⁶ The Guidance, paragraph 4.12.

The old Stothert & Pitt cranes were achieving 12-14 lifts per hour due to design and age.

The Liebherr RMG cranes can and do operate at up to 30 lifts per hour. However on average across a 22 hour period around 24 lifts per hour are achieved. 80% of theoretical lifting capacity has been successfully achieved. See page 7-8 for details of the reasons why theoretical lift capacity cannot be achieved in an operating terminal.

3.1.2 The report omits any detail regarding the 24/6 wagon and loco repair/maintenance facility and loco refuelling facility within the Maritime terminal footprint. This facility has a considerable impact on the operation and capacity at the terminal. The facility carries out:

- Up to 18 locos per 24 hour period receive service checks, exams and refuelling
- Between 12-24 wagons per 24 hour period are maintained and repaired in the wagon maintenance facility on site.
- The site is also used to pre-stage wagons for wagon General Repair trips to Eastleigh that take place twice weekly. As a consequence of all this activity, many shunts take place on site in order to ensure that other movements within the terminal can continue to take place.

The design of the terminal means that the maintenance and fuelling facilities impact on the ability to shunt trains for loading and unloading within the site itself and to and from Redbridge sidings.

This is a constraint to the total number of trains that can be operated and critically to the length of trains that can be operated. If Freightliner were able to operate any more longer trains in the terminal it would already be doing so.

3.2.1 This statement is incorrect - the 4 roads under the crane can only handle 21 x 60ft rail wagons and not 30 FEA wagons as stated. 30 FEA wagons can be accepted within the overall siding length but not under the crane. By placing 30 wagons in any of the 4 sidings, the adjacent sidings are foul. Longer trains can only be achieved with complex shunting. This is fundamental.

3.2.3 This statement is inaccurate - rail sidings 9 and 10 are used for wagon maintenance roads or pre-staging of work for wagon maintenance shed.

3.3.2 This area is used to place containers in "transit" awaiting restitution to local container depots (Pentalvers and Eldapoint etc.) as well as boxes awaiting clearance. It is not for container storage.

3.4.1 Figure 7 shown on page 8 is actually a copy of a diagram drawn up by Freightliner in 2011 or 2012. This layout was not adopted and does not reflect the current layout of the site. This type of basic inaccuracy is representative of a number of incorrect assumptions on which DBS's commissioned report is based.

3.4.3 This statement is incorrect. DPWS operate between 4-5 machines daily that operate between port and railhead, not x 10 as stated in document. There are both physical and financial constraints in increasing the number of machines operated.

4.1.1 The sources of information regarding sub-optimum performance are not stated.

4.2.1 The siding lengths under the crane can only handle between 17 and 21 x 60ft rail wagons. To form a train over this length portions must be shunted together. The shunting is not straightforward due to the constrained layout of the terminal, for example the fuel point and inspection pit cannot be shunted at the same time as the rest of the terminal.

4.2.2 This road is used to place containers in "transit" awaiting restitution to local container depots (Pentalvers and Eldapoint etc.) as well as boxes awaiting clearance. This road is not used for container storage, please refer to Appendix 4, point 5.

4.2.3 Freightliner does not agree regarding the in-line versus chevron statement. See response to 6.2.3.

4.3.1 The Liebherr RMG cranes can and do operate at 30 lifts ph. However on average across a 24 hour period between 22-24 lifts per hour are achieved. See page 7-8 for details of the reasons why theoretical lift capacity cannot be achieved in an operating terminal.

4.3.3 FL operates an in depth crane competency programme that routinely measures crane operators competencies and capabilities. Introduction of Spinnaker (a new I.T. system) to measure operator performance has also made this activity easier. Following the initial installation of the cranes further investment was made to add a camera system to the cranes to assist drivers and increase crane utilisation. The erroneous criticism of Freightliner employees is unwelcome.

4.4.2 The improvements have been jointly made between Freightliner and DPWS. Freightliner has a close working relationship with DPWS, as you would expect from two companies who share a customer base.

5.1.1 It is unclear what document the report refers to as it is not referenced. This number of paths does not exist currently and are not identified in Network Rail's Strategic Capacity Statement. Strategic Freight Network investment is committed and being planned to enable longer trains both from Southampton Maritime terminal and DBS's Western Docks Terminal.

There is currently no commitment of Strategic Freight Network funds to increase the number of paths from Southampton, though Freightliner understands it is possible that some related schemes such as Basingstoke grade separation may be nominated for possible Control Period 6 funding in the Initial Industry Plan.

5.2.2 13 services run from Maritime and 3 from Millbrook.

5.2.7 From the comparisons within the report, you can see that Freightliner has increased its daily services from 14 (with one multiple destination, to 16 with two multiple destination trains) - an increase of 2. What is not shown is that in April 2011, 4 of these were out of Millbrook and only 3 are now in Millbrook. Therefore a total of 3 services per day have been added at Maritime. Its timetabled weekend services have also increased from 4 to 5.

5.2.8. Train lengths have increased significantly as part of Freightliner's business plan and the extent of this is not recognised here. In April 2011, the train plan at Maritime totalled ■ wagons compared with today's number of ■. This is a 41% increase.

To deliver the increase in wagon capacity from all ports, the national operating wagon pool has increased from 1,678 to 1,925 thus increasing the number of wagons being maintained and repaired at the maintenance facility.

6.1.1 Maritime currently handles 13 daily trains compared with 10 daily trains prior to crane replacement. This is a 30% increase.

6.1.2 The increase delivered is 41%. Not a small increase by any means.

6.1.3 The level of capacity increase already provided has clearly been under-evaluated.

6.1.4 Freightliner is not constrained by lack of drivers (our graduate driver scheme has been extremely successful), locomotives or wagons (■).

6.2.1 & 6.2.2 Such systems are already in place and have been for a long time. Each day DPWS are given a list of all future bookings held in our system, which should eventually move by rail. This allows DPWS the option to lift straight from ship to warehouse stack and avoid additional lift/shunt. The real challenge here is not the processes between FL and DPWS but what the customer is

prepared to do. Currently, there are a very small percentage of containers that customers are prepared to pre-nominate for rail. Also see DPWS comments in Appendix 4 item 1.

6.2.3 FL has studied and considered very carefully over many years the benefits of chevron versus parallel stacking of containers adjacent to railhead.

[Redacted]

[Redacted]

Reworded the above redacted text to remove sensitive information

Chevron stacking is the most efficient mode of operation at Southampton. In comparison to parallel stacking, chevron stacking increases the amount of container pre-staging that can be achieved under the cranes.

In addition to this, there are a number of other disadvantages with the use of parallel stacking, including:

- A reduction in the efficient operation of the straddle carriers.
- Significant safety issues with straddle carriers and crane spreaders working in the same row. Even if a method of work could be found (through further technologies/safe systems of work) it is highly likely that both crane and straddle work efficiencies would be significantly reduced as the machines would have to constantly 'stand-off' to allow each other to work.

The new port at London Gateway sent representatives to view the operation in early 2013 and included a number of ideas within their 'state of the art' facility. This included the layout of chevrons to maximise capacity under the rail-mounted gantry cranes on their rail terminal.

6.2.5 This statement clearly shows a total lack of understanding of the operation and has been covered in great detail within this document. It is incorrect.

6.2.6 See comment 6 Appendix 4.

6.2.7 - 6.2.8 - Freightliner does stable trains/wagons around the Southampton vicinity and as far away as Cardiff and all other inland terminals. Locally Eastleigh and Bevois Park are used in addition to Redbridge sidings.

Freightliner has requested the use of DBS's Eastleigh yard for both wagon stabling and for the lighting of trains in readiness for their onward path, but these requests have been rejected in the past.

6.2.9 This statement is sweeping, but without any suggestions or facts presented.

6.3 Freightliner acknowledges that further investment could be made in the future in Maritime terminal, including an additional crane, although the detail of all the observations made in the report is not accepted. Freightliner will invest further when there is demand and it is able to make

a business case. As set out in the ORR's Guidance, the ORR does "not consider that the Regulations create an obligation on the facility owner to provide a service facility which does not already exist and/or which would impose a disproportionate cost on the facility owner."⁷

It should be noted that it is very hard to make a business case to invest in a terminal to allow growth if the output is access for another operator's service. Freightliner would only make investment if it was able to meet its set down criteria and it was able to raise capital. Such a justification would only usually be possible on the basis of increased profitable services operated by Freightliner themselves. This is consistent with Freightliner's "legitimate commercial interests," as referenced by the ORR in its Guidance.⁸ This is not linked in any way to any desire or incentive to discriminate against DBS or in any way to restrict competition in downstream markets.

6.3.5 ABP has not approached FL at any point regarding the funding of a third crane. FL and ABP work closely and meet regularly and at no time has this ever been raised (subsequently reaffirmed post receipt of the DBS appeal under regulation 29). ABP might provide funding for the right commercial terms to Freightliner; similarly, ABP might provide funding for investment on the right commercial terms to DBS for new lifting equipment at the Western Docks Terminal.

When the new cranes were being planned, leading to erection in 2012, DPWS and ABP were both involved throughout the process and changes were made to the design and operation, in particular from a safety perspective. The final design and subsequent operation was as a result of this collaboration.

Overall capacity

The report provides no benchmarking to justify whether Maritime is working effectively or not. Felixstowe is the only realistic comparison - see below:

Over the 3 rail terminals in Felixstowe, the rail sidings provide 490 x 60ft wagon lengths under the cranes. The total daily train plan for all operators is 754 wagons. This gives a wagon handled / wagon space available ratio of 1.54.

At Maritime, the rail sidings provide 136 wagons under the crane, plus 12 wagons that can be served only by the reachstacker. The daily train plan totals 380 giving a wagon handled / wagon space available ratio of 2.57.

This would indicate that the Maritime terminal is currently 67% better utilised than the terminals at Felixstowe.

⁷ The Guidance, paragraph 2.16.

⁸ The Guidance, paragraph 2.15.

LIST OF APPENDICES

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- APPENDIX 2 Maritime terminal plan
- APPENDIX 3 Freightliner Southampton terminals summary
- APPENDIX 4 Copy of email from Chris Lewis - Managing Director of DPW Southampton
- APPENDIX 5 Loading plan of Maritime terminal
- APPENDIX 6 Southampton Maritime on-time statistics Period 10 14/15 (source Network Rail)
- APPENDIX 7 Details of Strategic Freight Network plans to enable longer trains from Western Docks Terminal
Map of Southampton train lengthening project
Letter dated 5th January 2015 from South West Trains to Southampton City Council