



## Ports: policy since 1997

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This note looks at the UK ports industry, including the Labour Government's policy on port development and management and the views of the Conservative-Liberal Democrat Coalition Government. [Statistics](#) on the size and economic impact of the ports industry can be found on the Department for Transport website. The Transport Select Committee has published two reports on the ports industry (in 2003 & 2007) and one on freight (in 2008), all available in their [archive](#). The Welsh Affairs Select Committee published a [report on ports in Wales](#) in November 2009. Further briefings on ports are available on the Shipping pages of the [Parliament website](#).

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# 1 Structure of the ports industry

Ports in the UK are owned and operated by broadly three kinds of authority: private ports, trust ports and municipal authority ports.

Trust ports are set up by an Act of Parliament and controlled and administered by a self-governing independent statutory body, often known as Conservancy Boards or Harbour Commissions. Many trust ports are small, and at present there are approximately 20 trust ports with an annual turnover in excess of £1 million.<sup>1</sup> In 2001, the Office for National Statistics (ONS) reclassified the seven largest trust ports as Public Corporations. The effect was that these ports' new borrowings have had to be accounted for within the Department's budget. These seven ports have since applied for Harbour Revision Orders (HROs) that would disapply certain controls that the Department has over them with the result that they would cease to be classified as Public Corporations. Port of London Authority's HRO has been granted, one has been withdrawn and the remaining five are outstanding.<sup>2</sup>

In a similar way to trust ports, a local authority may act as a landlord with private terminal operators acting as tenants. They are usually small and commercially insignificant, though there are exceptions such as Sullom Voe and Portsmouth.

Between 1992 and 1997 seven former trust ports were privatised.<sup>3</sup> They are generally run on commercial lines by private companies. In its 2000 policy document, *Modern Ports*, the Department for Transport stated that approximately 70 per cent of the UK's port capacity is privately owned and companies operate fourteen of the largest 20 ports by tonnage.<sup>4</sup> In its 2007 report, the Transport Committee related the recent changes in ownership of major UK ports, often into foreign ownership:

[Associated British Ports Holdings plc](#)<sup>5</sup> was formally acquired by the **Admiral consortium** on 14 August 2006. The Admiral consortium consists of four partners: Wall Street bank Goldman Sachs; GIC, the Singapore Government investment company; Canadian pension fund Borealis; and the infrastructure business of the UK's Prudential.

[The Simon Group plc](#)<sup>6</sup> was taken over by **Montauban SA** following Montauban's cash offer of 21 June 2006. Montauban is a subsidiary of the CdMG group of companies based in Belgium. It has interests in a number of port facilities both in the UK and continental Europe.

**P & O**<sup>7</sup> was taken over by [Dubai Ports World \(DP World\)](#) following its £3.3 billion bid in December 2005. DP World is backed by the Government of Dubai and has expanded rapidly in the past two years. Following opposition to the takeover in the USA, DP World was forced to sell-on the American port assets to another company but it still became the world's seventh largest port operator.

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<sup>1</sup> such as Dover, Milford Haven and Lerwick

<sup>2</sup> DfT, [Trust port advice: final report](#), 18 May 2007, p1; and: [HC Deb 26 January 2011, c265W](#)

<sup>3</sup> Clyde, Dundee, Forth, Ipswich, Sheerness, Thamesport and Tilbury

<sup>4</sup> DfT, [Modern ports: a UK policy](#), November 2000, p32

<sup>5</sup> Associated British Ports Holdings was, through its subsidiary Associated British Ports, the owner of the following 21 ports: Ayr, Barrow, Barry, Cardiff, Fleetwood, Garston, Goole, Grimsby, Hull, Immingham, Ipswich, Kings Lynn, Lowestoft, Newport, Plymouth, Port Talbot, Silloth, Southampton (joint venture with P&O), Swansea, Teignmouth and Troon

<sup>6</sup> Simon Group plc owned two ports, Sutton Bridge and the Humber Sea Terminal at Killingholme

<sup>7</sup> Most of P & O's port assets are overseas. Within the UK it had a joint development with Associated British Ports at Southampton and also owned Tilbury

[PD Ports](#)<sup>8</sup> was purchased by **Babcock & Brown Infrastructure** in December 2005. Babcock & Brown Infrastructure is an Australian Investment fund. It also owns an Australian coal terminal and electricity and gas distribution networks.

**Mersey Docks and Harbour Company**<sup>9</sup> was bought by [Peel Holdings](#) in June 2005. Peel Holdings has extensive property holdings such as the Trafford Centre in Manchester, as well as operating Liverpool-John Lennon Airport and owning the Manchester Ship Canal and Clydeport.<sup>10</sup>

Since then, further ownership changes have taken place, perhaps the most notable being the 2011 sale of Forth Ports, the last UK-listed port operator, to the Northstream consortium led by Arcus Capital, and including Peel Ports and the Rreef pan-European Infrastructure Fund.<sup>11</sup>

## 2 Strategy of the Coalition Government, 2010-

The Conservative-Liberal Democrat Coalition Government made no mention of this policy area in the [Coalition Agreement](#). However, there are two areas that have captured the government's attention and on which they have acted over the past 18 months. Firstly, the government has published the National Policy Statement on ports, which will be designated by the end of November 2011; and secondly it has issued new guidance about the sale of trust ports, this is largely due to the ongoing question about the future of Dover Harbour. This paper only deals with the former issue; information on trust port privatisation, including the Dover case, can be found in HC Library note [SN10](#).

As set out below, in November 2009 the Labour Government published a consultation on a draft National Policy Statement (NPS) for ports. The consultation closed in February 2010, the Transport Select Committee published their scrutiny of the draft NPS in March 2010 and then the General Election intervened. The Coalition Government published the final NPS on 24 October 2011, alongside its response to the Transport Committee. In a statement to the House the Transport Minister, Mike Penning, said:

Having considered consultation responses and the report of the previous Select Committee on Transport, I am today laying before Parliament the national policy statement for ports in England and Wales, pursuant to section 5(9)(b) of the Planning Act 2008, together with the Government's response to the Committee.

I am also publishing, on the Department's website, a written response to the consultation and an updated version of the appraisal of sustainability that had been published as part of the consultation process.

The ports industry is a vital contributor to this country's economic recovery and success. Well over 90% of trade by tonnage passes through sea ports, and so the importance of a clear planning framework for their future sustainable development can hardly be overstated.

The NPS gives full prominence to the importance of development in sympathy with the environment, while also stressing the national need for developers' commercial judgments to be respected in what continues to be a successful, market-oriented and responsible sector.

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<sup>8</sup> PD Ports owned the Tees and Hartlepool ports

<sup>9</sup> Mersey Docks and Harbour company owned the ports of Liverpool, Sheerness and Heynsham

<sup>10</sup> Transport Committee, [The ports industry in England and Wales](#) (second report of session 2006-07), HC 61, 24 January 2007, para 17

<sup>11</sup> "Forth ports agrees to £751m takeover", *Financial Times*, 23 march 2011

It has been agreed with the House that the same procedure as proposed in the Localism Bill will be followed for the NPS. The Secretary of State intends to designate the NPS after a period of 21 sitting days has elapsed, or following a debate in the House of Commons if the House wishes one, and approves the NPS, within that period.<sup>12</sup>

The NPS does not appear to contain any serious differences from that put out for consultation by the previous administration.<sup>13</sup> Had the new government wished, it could have re-drafted the NPS and consulted on a new version. It did not do that. In its response to the Transport Committee's March 2010 scrutiny report, which had labelled the draft NPS 'not fit for purpose', the government reiterated its commitment to the broad market-based and devolved approach to port development which has been the overriding policy of successive governments for decades now. It rejected the Committee's concerns that the NPS could not be considered separately from the NPS on national networks (road and rail), which has yet to be published.<sup>14</sup>

### **3 Strategy of the Labour Government, 1997-2010**

#### **3.1 Generally**

The Labour Government published its ports policy paper, *Modern Ports: a UK policy*, on 27 November 2000. The Minister at the time stated that the purpose of the document was to promote better regulation of the industry, and agreed national standards and good practice for port management and port operations alike; to make the best use of existing and former operational land; and to secure high environmental standards whilst support sustainable projects for which there is a clear need.<sup>15</sup> The key points from *Modern Ports* were to promote: UK and regional competitiveness; high nationally agreed safety standards; and the best environmental practice. The four key objectives of the paper were:

to make regulation add value rather than unnecessary cost, ensuring that different regulators co-ordinate their overall demands;

to promote agreed national standards and good practice for port management and port operations alike, without detracting from the legal responsibilities of harbour authorities and other port interests;

to promote training and the recognition of skills for those who work in the ports industry at all levels not just those engaged by harbour authorities;

to maintain a balanced policy on development which aims to make the best use of existing and former operational land, secures high environmental standards, but supports sustainable projects for which there is a clear need.<sup>16</sup>

This would be achieved by better application of regulatory requirements to avoid unnecessary burdens; the industry setting standards and promoting good practice; guidance from government on planning, environmental, etc. requirements; and encouraging ports to reform and 'realise opportunities'. *Modern Ports* was generally well-received by the ports industry, mostly due to the government's continued support for a 'market led' approach to the

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<sup>12</sup> [HC Deb 24 October 2011, c2WS](#)

<sup>13</sup> DfT, *National Policy Statement for Ports*, 24 October 2011

<sup>14</sup> [Government Response to the Committee's Fifth Report of Session 2009–10](#) (tenth special report of session 2010-12), HC 1598, 27 October 2011

<sup>15</sup> [HC Deb 13 February 2001, c109W](#)

<sup>16</sup> *op cit.*, *Modern ports: a UK policy*, para 1.2.2

industry with minimal interference from the centre. The document stated that transport policy “is now firmly based on a partnership between the public and private sectors”.<sup>17</sup>

This was the last major policy document on ports until 2006 when the government launched a ports policy review. The May 2006 consultation paper provided a summary of the government’s intentions in launching the review. On the role of government, it said:

The Government is necessarily involved. Our role currently focuses on 'market failure' - a term which does not imply criticism of the market, but merely conveys the fact that markets cannot solve all our problems on their own. The question for this review is: have we got this right? Have we correctly identified the issues which require Government intervention? Are we intervening when we need to, in the right ways?<sup>18</sup>

The key issues examined in the document include future demand for port capacity; sustainable development; regional development objectives; and help for smaller ports.

In December 2006 the *Eddington Transport Study* was published.<sup>19</sup> The study was intended to seek to understand the precise nature and significance of the links between transport and economic growth and to consider how this could be translated into transport policy in the UK. It discussed some of the issues affecting ports. On capacity, the report stated that there are likely to be further capacity constraints in the south east after 2020 and it is likely that if this is not addressed that traffic would migrate from the region across the channel, not to other areas of the UK.<sup>20</sup> On the broader question of ‘international gateways’ for both passengers and freight (i.e. airports and ports) Sir Rod considered that there may be “a case for a joint, cross-modal objective on these two links, to reflect the need for a coordinated approach to delivering international passenger and freight objectives”.<sup>21</sup> The report also looked at the question of the planning system and in particular whether it was fit for purpose in relation to major transport infrastructure projects, including ports. Sir Rod concluded that the system was overly-complex, took too long, and cost too much money.<sup>22</sup>

In July 2007 the government published the interim report of the ports policy review. The headline outcomes of the review were as follows:

[It] is the Government's responsibility to create the conditions in which investment is encouraged, and yet sustainability is ensured. This report sets out policies to build on the ports industry's success, including by:

- commissioning demand forecasts every five years to aid assessment of national need;
- recommending the use of Master Plans by major ports to improve planning;
- setting out broad guidelines on the safeguarding of port land;
- the pursuit of further trust port modernisation; and

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<sup>17</sup> *ibid.*, p8

<sup>18</sup> DfT, *Ports policy – your views invited*, May 2006, para 2

<sup>19</sup> DfT/HMT, *Eddington Transport Study*, December 2006; in Budget 2005 it was announced that the Secretary of State for Transport and the Chancellor had asked Sir Rod Eddington, then outgoing Chief Executive of British Airways, to work with the Department for Transport and the Treasury to advise on the long-term impact of transport decisions on the UK's productivity, stability and growth (HM Treasury, *Budget 2005*, HC 372, para 3.105)

<sup>20</sup> *ibid.*, Vol. 3, paras 4.96-4.106

<sup>21</sup> *ibid.*, Vol. 4, paras 1.12-1.14

<sup>22</sup> *ibid.*, paras 5.121-5.547

- setting out our plans to enhance the port safety regime.<sup>23</sup>

On regulation the report stated that the government did “not intend to change the regulatory and operating framework for ports in England and Wales in a way which would discourage continuing investment, we believe that the market will continue to provide the additional capacity needed in England and Wales”. However, efficient operation of the market would require a regulatory framework that “facilitates continuing investment where it is most needed, while also ensuring that any additional capacity is provided in a way that is sustainable”.<sup>24</sup> It also announced that major ports would be asked to follow the procedure previously set down for the larger airports and produce master plans.<sup>25</sup>

The planning system was overhauled in 2008, with major infrastructure projects, such as ports, now subject to a new planning procedure.<sup>26</sup> In November 2009 the government published for consultation its draft National Policy Statement (NPS) for ports in England and Wales. The NPS set out:

... the Government’s conclusions on the need for new port infrastructure, considering the current place of ports in the national economy, the available evidence on future demand, and the options for meeting future needs. It explains to planning decision-makers the approach they should take to proposals, including the main issues which, in the Government’s view, will need to be addressed to ensure that future development is fully sustainable, and the weight to be given to the need for new port infrastructure and to the positive and negative impacts it may bring.<sup>27</sup>

The consultation closed in February 2010. The draft NPS was also subject to scrutiny by the Transport Select Committee. The Committee published a report in March 2010 indicating its concerns with the draft NPS and concluding that it was ‘not fit for purpose’.<sup>28</sup> The Labour Government did not have time to respond to the Committee before the 2010 General Election.

### 3.2 Trust ports

Alongside the ports review in 2006, the Labour Government published the results of its review of municipal (local authority-owned) ports in England and Wales. It recommended that the trust port governance system should be extended to municipal ports.<sup>29</sup> The Department for Transport also commissioned PricewaterhouseCoopers (PwC) to undertake a short study looking at the trust port sector; it reported in May 2007. It made recommendations in terms of structure, finance, accountability and stakeholder dividend.<sup>30</sup> After 2000, trust ports were subject to *Modernising Trust Ports: A guide to good governance*. However, in January 2009 the government launched a consultation to revise the guidance, in accordance with the advice it received from PwC.<sup>31</sup> Responses to the consultation were published in August 2009 along with the new edition of the guidance.<sup>32</sup> *Modernising Trust Ports (second edition)* states

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<sup>23</sup> [HC Deb 19 July 2007, c39WS](#)

<sup>24</sup> DfT, *Ports policy review – interim report*, 19 July 2007, paras 11,13 and 14

<sup>25</sup> *ibid.*, para 17

<sup>26</sup> for full details, see HC Library note [SN5041](#)

<sup>27</sup> DfT, *Draft National Policy Statement for Ports*, 9 November 2009, paras 1.2.1-1.3.1

<sup>28</sup> Transport Committee, *The proposal for a National Policy Statement on Ports* (fifth report of session 2009-10), HC 217, 17 March 2010, paras 73-77

<sup>29</sup> DfT, *Opportunities for ports in local authority ownership*, May 2006, p35

<sup>30</sup> *op cit.*, *Trust port advice: final report*, pp6-9

<sup>31</sup> DfT, *Updated Trust Port Good Governance Guide - Consultation Letter*, 12 January 2009; all relevant consultation documents available on the [DfT archive website](#)

<sup>32</sup> DfT, *Trust Port Guidance Consultation - Government response to consultees’ comments*, August 2009

that the “standards are designed to provide a benchmark of best practice for all trust ports in England and Wales” and, further:

The core principles of openness, accountability and fitness for purpose form a common thread running through these standards and should feature in the direction and management of all ports in the trust sector ... we introduce the approach of 'comply or explain', to allow room for ports in certain circumstances to explain why, in a specific case, a particular standard has not been met. In the few places where a particular standard is aimed solely at a certain size of port this is made clear in the text. For all others, these standards should be read as applying to the sector as a whole.

The Government considers that private company ports and municipal ports should also seek to act in accordance with the guidance, while recognising of course the differences in structures and that certain aspects of the guidance will not be directly applicable.

It is accepted that smaller ports will not necessarily be able to comply with all the standards in the guidance.

Although it is aimed specifically at trust ports, all ports are encouraged to use the relevant elements of this guidance as a benchmark, as all ports on whom Parliament has devolved statutory powers and duties in the public interest should be accountable for their use. Municipal ports should, however, focus on 'Opportunities for Ports in Local Authority Ownership'. Given the similarities between the two sectors, it provides useful supplementary reading alongside this document, and vice versa. The aim is to encourage the continued development of an open and accountable relationship between all ports, their users and local communities.<sup>33</sup>

## 4 Construction of new ports

Central to the UK's ports policy have been the much-discussed proposals for five new ports in the South East: at Dibden Bay near Southampton; London Gateway (also called Shellhaven) in the Thames Gateway; Thamesport at Medway; Trinity in Felixtowe; and Bathside Bay near Harwich in Suffolk.

These proposals were made to accommodate the large predicted growth in port traffic in the South East over the next two decades. A study carried out by consultants WISP<sup>34</sup> examined the future prospects of 20 ports from Kings Lynn to Poole between 2000 and 2016. The study concluded that total port traffic would grow by 45 per cent by 2016 and container traffic by 65 per cent.<sup>35</sup> It also concluded that container port capacity in the South East would be exhausted by 2009. The WISP report offered a framework appraisal of the five major container terminal proposals:<sup>36</sup>

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<sup>33</sup> DfT, *Modernising Trust Ports (second edition)*, August 2009, pp2-3

<sup>34</sup> for the South East England Regional Assembly (SEERA), the Greater London Authority (GLA), the London Development Agency and SEAPLAG - which represented 24 local authorities

<sup>35</sup> WISP, *South East England, London and East of England Regional Ports Study: Final Report*, July 2002

<sup>36</sup> *ibid.*, p52

Framework appraisal of major container terminal proposals					
	Dibden Bay	Bathside Bay	London Gateway	Thamesport	Trinity
Forecast TEU capacity, 2016 (million tonnes pa)	2.6	1.7	3.4	1.5	0.4
<b>Accessibility</b>	++ Ideally located with respect to existing global shipping routes	++ Ideally located with respect to existing global shipping routes	+ Capable of serving most existing global shipping routes	+ Capable of serving most existing global shipping routes	++ Ideally located with respect to existing global shipping routes
<b>Economy</b>	++ Meets capacity shortfall by 2016, serves existing shipping markets	++ Meets capacity shortfall by 2016, serves existing shipping markets	++ Meets capacity shortfall by 2016, serves existing shipping markets	++ Meets capacity shortfall by 2016, serves existing shipping markets	+ Meets 30% of Meets capacity shortfall by 2016, serves existing shipping markets
<b>Environment</b>	-- Loss of SPA/SSSI, impact on National Park, impact on RAMSAR site	-- Loss of wildlife habitats being considered for designation as SPA/SSSI, possible secondary effects on nearby designated sites	-- Potential damage to designated sites and river bed from reclamation and dredging	-- Potential impact to nearby designated sites as a result of upgraded transport links	0 Few significant environmental impacts as a result of port development, no land-side transport impacts on environment
<b>Feasibility</b>	+ Currently being pursued through planning system by port authorities	+ Currently being pursued through planning system by port authorities	+ Currently being pursued through planning system by port authorities	0 Development of port not currently being actively pursued by port owners	++ Development able to proceed in near future, subject to final consents
<b>Integration</b>	- Not fully supported by public authorities	+ Public authorities support development	++ Development of Thames gateway a regional and national policy objective	++ Development of Thames gateway a regional and national policy objective	+ Supported by existing planning frameworks
<b>Regeneration</b>	+ Southampton has identified regeneration needs	++ Direct benefits to local community with considerable regeneration needs	++ Direct benefits to local community with considerable regeneration needs	+ Medway has identified regeneration needs	0 Felixtowe is not identified as in need of regeneration
<b>Transport links</b>	-- Some improvements to local road network needed, rail capacity and gauge issues need to be addressed by SRA	-- Improvements required to road network, rail network requires SRA action to tackle capacity and gauge constraints	- Some improvements to local road network needed, rail capacity issues need to be addressed by SRA	-- Considerable improvements to road and rail links required to accommodate an expanded port operation	0 Exploits excellent existing road links, action required by SRA to resolve rail capacity/gauge constraints
Key: -- = severe adverse impact - = some adverse impact 0 = neutral + = some benefit ++ = considerable benefit					

There were campaigns to have the Labour Government approve other port developments in areas further north, in particular at Teesport in the North East.<sup>37</sup> In February 2008 the then Secretary of State did give the go ahead for some expansion at Teesport.<sup>38</sup>

#### 4.1 Dibden Bay

A public inquiry into Associated British Ports' (ABP) proposals to build a container port at Dibden Bay in Southampton opened on 27 November 2001. The inquiry lasted almost two and a half years from launch to the decision being made public, well above the initial estimate of between six and 18 months. ABP had been pushing for a quick decision on the port, based on its estimate that its key Southampton container terminal "risks running out of capacity by the second half of 2005".<sup>39</sup> The Inspector submitted his report to the Secretary of State on 22 September 2003, rejecting the proposals to develop Dibden Bay. The inspector concluded:

<sup>37</sup> see, e.g. "North v South row erupts over port development", *Local Transport Today*, 13 October 2005; [HC Deb 13 December 2005, c1275](#)

<sup>38</sup> DfT, *Teesport Harbour Revision Order decision letter*, 21 February 2008

<sup>39</sup> "ABP warns of limits in capacity", *Financial Times*, 19 February 2004



I accept that that unless substantial new port development takes place in the South East, the UK will have insufficient container handling capacity to handle its foreign trade. I have already acknowledged that the problem is likely to start to bite in about 2006; and that by 2015, the shortfall would be of the order of 3km of deep water container quay. I do not consider that it would be particularly fruitful to make predictions that extend further into the future, which must necessarily be highly speculative (...)

On the evidence available, I consider there to be a reasonable prospect that any shortfall in national container handling capacity would be short-lived; and that subsequently, the UK's need for container wharfage would be met, up to 2015. It follows that, at present, I do not consider there to be "imperative reasons of overriding public interest" to support the Dibden Terminal project.

My conclusion on the ... issue is therefore that the Dibden Terminal would not serve a public interest that is of such importance as to outweigh the adverse impacts of the proposed development. However, this conclusion is based on a finely balanced judgement. I recognise that others might well reach a different conclusion on the same evidence. I also recognise that a different conclusion might well be drawn if the proposed London Gateway, Bathside Bay or Landguard container terminal developments fail to materialise.<sup>40</sup>

The Secretary of State's decision letter, published on 20 April 2004, agreed with the Inspector that, "in accordance with the relevant conservation legislation, the project can only be allowed to proceed for imperative reasons of overriding public interest". The letter went on to say:

Subject to paragraph 69 below, the Secretary of State agrees with the Inspector's conclusions and accepts his recommendations. Overall, the Secretary of State agrees with the Inspector that the disbenefits of the scheme, as borne out by its impact on internationally and nationally environmentally sensitive sites, outweigh the potential benefits.

The Inspector concluded that there were considerable competing public interests at stake as to whether the proposals should be permitted and that ultimately there were value judgements to be made by Government [36.647]. The Secretary of State, while not disputing that he must make value judgements in balancing the public interests referred to, observes that the Inspector nevertheless considered that the conclusions he drew on the merits of the proposals on environmental grounds were clear-cut and determinative in recommending against the applications [36. 671]. For the reasons explained above, and because of the importance which the Government places on meeting its obligations under European Community law and the Ramsar convention, the Secretary of State accepts the Inspector's recommendation that the HRO not be made.<sup>41</sup>

## 4.2 London Gateway

In 2002, P&O applied to the Department for a Harbour Empowerment Order (HEO) under the *Harbours Act 1964* to authorise the construction of a container port at Shellhaven and to establish a new harbour authority. In conjunction with Shell UK, P&O also applied for outline planning permission for a commercial and logistics centre adjacent to the port and for a *Transport and Works Order* for rail works to serve the centre. A public inquiry into the proposals was held between February and September 2003, the outcome of which was a

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<sup>40</sup> *Dibden Bay inquiry – Inspector's report*, 22 September 2003, section 36

<sup>41</sup> DfT, *Decision letter on proposed Dibden Bay contained terminal*, 20 April 2004, paras 68 and 69

recommendation from the Inspector of approval for the developments, subject to conditions.<sup>42</sup> On 20 July 2005 the Department for Transport announced that it was 'minded to approve' P&O's proposals to develop a new container port at the old Shellhaven oil refinery site in Thurrock, Essex.<sup>43</sup> On the main points, the Secretary of State's letter said:

The Secretary of State considers that the principal object of the application for the HEO is to provide deep water berths to accommodate large container vessels. The Secretary of State has already accepted, for reasons given earlier in this letter, that there is a national need for additional deep sea container terminals and container handling capacity within the next decade or so. He notes in this respect that berths for container vessel traffic, as distinct from ro-ro traffic, would permit the onward transshipment of containers by sea with a corresponding absence of pressures on the highway network of the region. The Secretary of State is minded to accept also the case for the ro-ro component of the port, although he agrees with the assessment of the Inspector that the proposed provision of ro-ro capacity in this instance would meet a regional rather than a national need.<sup>44</sup>

Approval for the HEO for London Gateway was given on 1 June 2007.<sup>45</sup>

### **4.3 Bathside Bay**

In December 2005 the Department for Transport announced that it was minded to approve the construction of a new container port at Bathside Bay near Harwich in Suffolk. The development had faced considerable opposition from conservation groups concerned about the effect of building the terminal in wildlife habitats. The Secretary of State, however, stated that he agreed with the planning inspector's recommendation to give initial approval to build the facility:

The Secretary of State accepts, for reasons given elsewhere in this letter, that the proposed container terminal will help to meet the national need for container terminal capacity as part of the development of a modern competitive ports industry. This is in line with the position stated in 'Modern Ports: a UK policy' and is of vital importance to the UK ...

The Secretary of State ... believes ... that there will be sufficient need for terminal capacity within a reasonable timescale which could not be met through a combination of existing capacity, productivity improvements and the proposed terminal facilities at London Gateway and Felixstowe South Reconfiguration going ahead, and that there is no alternative to the Bathside Bay proposal.

The Secretary of State further accepts that imperative reasons of overriding public interest have been demonstrated in the present case. He believes that failing to meet this need would jeopardise the UK shipping industry's ability to compete internationally, and to provide the necessary distribution facility that the UK economy requires.<sup>46</sup>

This was followed, in March 2006, by the announcement that Bathside Bay had been approved. The Secretary of State's overall conclusion was that: "having considered the Inspector's report, all relevant evidence and all relevant post inquiry representations, is

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<sup>42</sup> DfT press notice, "Minister minded to approve London Gateway port proposal", 20 July 2005

<sup>43</sup> the port is now generally referred to as 'London Gateway'

<sup>44</sup> DfT, [Minded view letter on proposed London Gateway port](#), July 2005

<sup>45</sup> DfT, [Decision letter on the London Gateway Harbour Empowerment Order](#), 1 June 2007

<sup>46</sup> DfT, [Bathside Bay container terminal minded letter](#), 21 December 2005. paras 125, 127 & 128

satisfied that the Order should be made and the Consents be given. He considers that all the outstanding issues identified in his minded letter have been satisfactorily addressed".<sup>47</sup>

#### 4.4 Felixstowe

On 1 February 2006 the Department of Transport gave the go ahead for 'harbour reconfiguration' at Felixstowe South providing for a new container port terminal. The Department for Communities and Local Government<sup>48</sup> is also granting planning permission for the landward works forming part of the reconfiguration proposals. The decision to approve the new terminal is in line with the recommendation of the Inspector who reported in 2005 on the public inquiry held into the proposals in 2004. Commenting on the announcement, the then Transport Minister, Derek Twigg, stated:

The proposed reconfiguration of the port will contribute significantly to meeting the national need for additional container handling capacity in a sustainable manner. I am satisfied that the proposals' impacts on infrastructure and on the environment are acceptable and are adequately addressed by the proposed package of mitigation and other measures agreed by the promoters. It is important to ensure that the wider impacts of major port developments are fully taken into account.<sup>49</sup>

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<sup>47</sup> DfT, [Bathside Bay container terminal minded view letter](#), 29 March 2006, para 27

<sup>48</sup> at the time, the Office of the Deputy Prime Minister (ODPM)

<sup>49</sup> DfT press notice, "Felixstowe South port reconfiguration is approved", 1 February 2006; the [decision letter](#) is available on the DfT archive website