

(ABP: 2 of 5 – DL4)

Proposed Lake Lothing Third Crossing (TRO10023)

Associated British Ports (20013261)

**ABP's comments on the Applicant's Answers to the Examining Authority's First
Written Questions**

This document sets out, insofar as they relate to the Port of Lowestoft, the comments of Associated British Ports ("ABP") on the Applicant's Response to the ExA's First Written Questions (Document Reference: SCC/LLTC/EX/10). These were submitted by the Applicant for Deadline 3 (8 January 2019).

Where appropriate, these responses are cross-referenced to ABP's Written Representations and other submissions made by ABP for Deadline 4.

Generally - As a general point, ABP welcomes the questions that the ExA has raised with the Applicant as to the specific definition and location of the land that the Applicant believes that it requires for the LLTC scheme and is either the subject of permanent compulsory acquisition or temporary possession. ABP is not convinced that the answers given by the Applicant are entirely clear and is concerned that the scheme – even at this stage – still seems surprisingly undeveloped, with considerable emphasis still being placed on the value of lines of deviation. ABP trusts that these issues will be fully tested at the forthcoming examination.

1. EXA QUESTION 1.3:

The ExA's Question:

The Proposed Development incorporates three construction compounds, the land take for these being identified on the Land Plans Sheet 4 [APP- 020]. However, these have not been allocated a specific works number in the dDCO and are not otherwise identified on the Works Plans [APP-022 to APP-024]. Can the Applicant now define the location and extent of the compounds for the specific purposes of the dDCO?

The Applicant's Response:

As the Statement of Reasons (Document Reference 4.1, PINS Document Reference APP-007) explains (at Appendix A), the plots comprising the large areas shaded green on the Works Plans (Document Reference 2.4, PINS Document Reference APP-022 to APP-024), which are proposed to be subject to a power of temporary possession, are proposed to be used as construction compounds.

The construction compounds have not been identified as 'numbered works' in Schedule 1 (Authorised Development) to the dDCO (revised version, Document Reference SCC/LLTC/EX/11). The reason for this is that whilst the construction compounds are required to facilitate delivery of the authorised development, they will not form part of the permanent works comprising the authorised development. In accordance with general drafting conventions (widely accepted in made DCOs), permanent works are identified individually by reference to 'Works Nos', whilst ancillary works, including works required to deliver the permanent works - e.g. the setting up and deployment of construction compounds – are featured in the 'catch-all' provisions at the end of Schedule 1 to the DCO. Such works would therefore not be shown on the Works Plans.

ABP's Response:

- ABP notes that the ExA's question relates specifically to Land Plans Sheet 4 and consequently, the proposed construction compounds referred to above lie beyond the statutory port estate.
- As far as the Port itself is concerned, however, the ExA should be aware that the Applicant has also designated a large area of the port estate (identified on Land Plans Sheet 3), for potential use as construction compounds. At this stage, however, the Applicant has not informed ABP of the specific size, time duration or location of such compounds nor whether all of the land designated in the DCO is required by the contractors. Consequently, the extent of the impact of the compound on the operational port estate is currently unknown, but has the potential to be significant for an undefined period of time.
- As far as ABP can determine from the proposals outlined by SCC thus far, the size and location of proposed temporary compounds will:

- Prevent the use of the marshalling yard and lorry stacking area accessing the Grain Silo and Weighbridge;
 - Restrict/prevent use of operational land and berths;
 - Close Commercial Road to traffic to west of the proposed Bridge;
 - Prevent access to Shed 3 on eastern elevation;
 - Restrict the ability to create new business opportunities in the affected areas between now and completion of any construction works; and
 - Restrict and close Lake Lothing for periods during the construction phase.
- This blight on ABP's port estate creates an ongoing impact on ABP's commercial operations, in particular, as it compromises ABP's ability to negotiate with any potential customers in respect of this area.
 - ABP also notes that the Applicant does not appear to have considered the potential implications relating to access to the construction compounds. This will particularly relate to periods of closure of Commercial Road, as the Applicant has not sought powers over any land required for a diversionary route over the Port estate - the failure in provision of which will render significant parts of the Port inoperable. Any such diversionary route required by the Applicant can only be made with ABP's consent. If such consent is not provided, for example, due to overriding commercial imperatives or health and safety concerns arising from having the main Port road immediately adjacent to the open water of Lake Lothing, the Applicant will be unable to access its construction compound. This issue is discussed further in **Paragraph 10.37 of ABP's Written Representations**.
 - In terms of a potential diversionary route, the Applicant has also failed to consider the safety issues raised by the interaction of their construction traffic with port operational traffic, such as Dudman's marshalling area and traffic, (including non-motorised users), moving to and from the west end of the Port, that would all be required to be diverted through the same area.
 - These factors only highlight that fact that the LLTC application appears to have been rushed by the Applicant. No consideration appears to have been given to important access, safety and traffic issues arising from this scheme, simply underlining the serious detriment that will be caused to the Port's undertaking.
 - In summary, although the extent of any areas of land or water required for temporary possession by SCC for compound use for the construction phase of the scheme has yet to be determined, the fact remains that such temporary possession will act to the

detriment of ABP continuing port operations and business and will similarly impact on ABP's, tenants, Port users and occupiers.

2. EXA QUESTION 1.4:

The ExA's Question:

The ES makes reference to the potential need for cofferdams and temporary piers in relation to both north and south quays. Can the Applicant confirm the necessity for such temporary infrastructure?

The Applicant's Response:

The ES (Document Reference 6.1, PINS Document Reference APP-136) has assessed the impacts of a reasonable assumption as to the construction methodology, including the installation of cofferdams and piers.

Not undertaking such activities would lead to lesser effects on the marine environment (as there would be less potential direct impact to ecology and sediment and no potential sources of pollution), so it is considered that the inclusion of these measures is based on reasonable assumptions as to the potential construction methodology.

The final detailed construction methodology was not available at the time of assessment and will not be confirmed during Examination of the Scheme. There are controls on the detail of the marine methodology contained within the dDCO (revised version, Document Reference SCC/LLTC/EX/11) through the requirement of compliance with the CoCP (updated version, Document Reference SCC/LLTC/EX/28), and the operation of the DML and the Environment Agency's Protective Provisions.

ABP's Response:

- The Applicant's response to this question is very unclear – in ABP's view, not installing cofferdams and piers would lead to a greater effect on marine environment, not lesser.
- ABP also notes that it is imperative that any final detailed construction methodology must fall within scope of ES assessment, i.e. within the assessed 'worst case' scenario.

3. EXA QUESTION 1.6:

The ExA's Question:

- i. Can the Applicant make clear to what extent the ongoing maintenance of the Proposed Development has been assessed in the ES?*
- ii. Can the Applicant also identify within the dDCO the parameters of maintenance activities anticipated for the structure?*

The Applicant's Response (in part):

- i Paragraphs 5.7.2 and 5.7.3 of the ES (Document Reference 6.1, PINS Document Reference APP- 136) identify the maintenance measures that are likely to be required during the lifetime of the Scheme. Paragraphs 6.3.33 and 14.1.3 provide justification for scoping the use of materials out of the assessment and within the assessments Tables 15-3 and 15-4 identify how the use of land take (including for maintenance purposes) has been incorporated within the assessment of effects on private assets.*
- ii As noted above, the extent of maintenance activities are fully contemplated in the ES. The structure maintenance activities of hose replacement, cylinder and pump refitting and cylinder and pump replacement will all be able to take place within the parameters of the powers and controls provided for in the DCO:*
 - ...*
 - For the first 5 year period after the opening of the authorised development, the Applicant may use temporary possession powers for the purposes of the authorised development (article 33 of the dDCO (revised version, Document Reference SCC/LLTC/EX/11)).*
 - Any effect on navigation (which as noted from the ES, is the only potential aspect of maintenance where an effect has the potential to take place) arising in either of the scenarios described above would be able to be controlled by the harbour authority pursuant to paragraphs 53 and 54 of their Protective Provisions in the dDCO.*

ABP's Response:

- As far as ABP is concerned, the Applicant's response is far from clear and it is suggested that the answers need to be tested.
- ABP does not understand to what the Applicant is referring in relation to - "*any effect on navigation arising in either of the scenarios described above.*" Without a clear explanation as to the precise scenarios contemplated, ABP is far from certain whether such impacts on navigation could be controlled by ABP's protective provisions.
- Paragraph 15.5.18 of the ES states that: "*The structure will require maintenance inspection and replacement of parts (see Paragraph 5.7.2) over its lifetime. These will be infrequent and coordinated with ABP.*" There does not appear, however, to be any further consideration of the potential scope of the impacts on navigation that may arise from such maintenance activities – such as partial or full closure of the navigational channel.
- The ES goes on to conclude that, in terms of the impact on the navigational channel during operation of the LLTC scheme, "*the Scheme has no greater than Slight Adverse impact upon commercial vessel movements.*"
- ABP does not agree with that assessment – as it has explained in its own Written Representations.
- In addition, and it is suggested significantly in this respect, the ES does not appear to provide any assessment of the impact on maintenance of ABP's operations, apart from those within the navigational channel – such as displacement of tenants, use of quay space, land impacts etc. It is unclear why this has not been assessed as part of the ES.

4. EXA QUESTION 1.9:

The ExA's Question:

A Mitigation Route Map [APP-135] has been provided which sets out the proposed controls and mitigation measures which the Applicant considers are necessary. Whilst a range of information is supplied to support such an approach it is deficient in key respects. Mitigation measures proposed need to be cross-referenced to specific provisions/ Requirements within the dDCO and Deemed Maritime Licence (DML).

Can the Applicant please provide a summary table for all factors that identifies the receptor, impact, likely effects prior to mitigation, the specific mitigation measure, any residual effects following implementation of the mitigation, and any proposed monitoring that may be necessary?

The Applicant's Response:

The Applicant has provided an updated Mitigation Route Map as part of its Deadline 3 submissions (Document Reference SCC/LLTC/EX/21) to provide more detailed mitigation measure cross-referencing.

In response to the second paragraph of this question, the Applicant has produced a summary table as requested (Document Reference SCC/LLTC/EX/47).

ABP's Response:

- As set out in **Paragraphs 21.2 to 21.17 of ABP's Written Representations**, ABP considers that the Applicant's finding that the LLTC will result in a 'slight adverse' impact on the Port during both construction and operational phases is both misconceived and wholly incorrect.
- ABP has reviewed the Mitigation Route Map Table 1-1 (Document Reference SCC/LLTC/EX/21), particularly in relation the impact of the LLTC scheme on 'Port Operations' and the mitigation measures proposed by the Applicant. In relation to construction impacts of the LLTC on Port Operations, which the Applicant identifies as 'Slight Adverse', the Applicant states that:

"The navigation channel shall be maintained at all times, except when a possession of the entire channel or a restriction on navigation is required to facilitate construction. Such occasions will be notified in advance with ABP pursuant to article 20 of the DCO. The access shall be maintained for port operations at all times, except by agreement with ABP. This access will allow all likely plant and vehicle movements to take place [Previously MRP Reference Number PA1]."

- The ExA should be aware, however, that:
 - Article 20 of the revised DCO requires the Applicant to obtain the consent of ABP prior to any temporary closure or restriction of navigation within Lake Lothing. In this regard, ABP notes that paragraph 2.5.1 of the Interim Code of Construction Practice (Document Reference SCC/LLTC/EX/31) also incorrectly refers to the requirements of Article 20; and
 - There are numerous adverse impacts that will impede port operations during the construction phase of the LLTC Scheme which will require mitigation. ABP does not consider that these impacts have been assessed by the Applicant.

- For clarity, the Mitigation Route Map and the Interim Code of Construction Practice must be updated to reflect the latest version of the DCO, particularly in respect of the Article 20 requirements. For the avoidance of doubt, the DCO provides that the navigational channel cannot be closed by the Applicant without it first obtaining ABP's consent.
- That said, in relation to operational impacts of the LLTC on Port Operations, which the Applicant – incorrectly in ABP's opinion - identifies as 'Slight Adverse', no specific mitigation measures whatsoever have been proposed by the Applicant.
- The Applicant has stated that it - "*remains willing to provide mitigation to ABP on a reasonable and proportionate basis based on robust evidence of necessity and is willing to collaborate with ABP in identifying what mitigation may be necessary in this context*" (Document Reference SCC/LLTC/EX/2).
- The reality, however, is that the Applicant has first, failed properly to assess and second make any offer of mitigation to offset the serious detriment that will be caused to the Port by the LLTC scheme.
- As the ExA is aware, ABP has sought to engage the Applicant in relation to the mitigation measures. As at the date of this submission, however, no assurances have been given by the Applicant and ABP has misgivings as to the true intent of the Applicant in this respect.
- ABP's analysis of the mitigation measures required to offset some of the serious detriment that the LLTC scheme will cause to the Port is set out in **Section 15 of ABP's Written Representations**.

5. **EXA QUESTION 2.6**

The ExA's Question:

Will there be a re-running of traffic modelling in relation to the identified junctions (Waveney District Council and Suffolk County Council) to address highway safety concerns [RR-020]?

The Applicant's Response:

Additional modelling has been carried out by the Applicant in response to the detailed queries raised by SCC following their review of the junction capacity analysis provided by the applicant as reported in the Transport Assessment (Document Reference 7.2, PINS Document Reference APP-093).

The results of the latest junction modelling are included in an updated version of the Transport Assessment (Document Reference SCC/LLTC/EX/23). This will be issued at Deadline 3.

ABP's Response:

- ABP's consideration of the revised Transport Assessment is set out in **Annex 1** to this document.

6. EXA QUESTION 2.23

The ExA's Question:

Please explain in detail why you require the proposed bridge site to be closed to navigation for a continuous period of three weeks during the construction.

The Applicant's Response:

The requirement to close the navigation channel for the duration of the installation of the main bascule bridge span derives from safety considerations, as the Applicant does not consider it safe to allow vessels to navigate beneath the structure while it is being moved into position and in a temporary form.

The duration of 3 weeks is derived from a worst-case assessment of the potential time that could be required to complete the installation and initial commissioning of the main span and includes allowances for potential weather delays.

ABP's Response:

- It is ABP's duty, as Statutory Harbour Authority, to make decisions with respect to navigational safety issues within its jurisdiction – for example, at what point the installation of the bridge span becomes a safety issue which requires the closure of the navigational channel. Although ABP agrees that certain activities will require such a closure, it is important that such a conclusion is only reached on the basis of a robust risk assessment, which has been approved by the Statutory Harbour Authority.
- Given that the final construction methodology and detailed design of the new bridge has not yet been produced by the Contractor, ABP queries whether the 3 week worst-case scenario stated by the Applicant is accurate.

- It is self-evident that any closure of the port will cause serious detriment to ABP's ability to undertake port operations. That impact will be felt, however, not just by ABP, but also its tenants and other users of the port.
- In addition, if the period of closure were to increase, bearing in mind the somewhat speculative nature of the Applicant's [proposals to date, this would simply compound the detrimental impact.
- The response from the Applicant to these questions merely underlines the fact that, in ABP's view, this entire project has been brought forward prematurely. It is clearly not defined – designs are uncertain – impacts have not been mitigated – and construction methodology and timing distinctly ambiguous.

7. **ExA QUESTION 2.24**

The ExA's Question:

A Preliminary Navigation Risk Assessment is provided with the application [APP-208]. When will the final Navigation Risk Assessment be published?

The Applicant's Response:

The final Navigation Risk Assessment will not be able to be produced until the final construction methodology and design of the new bridge has been produced by the Contractor.

Further to on-going discussions with ABP and the Navigation Working Group, the dDCO submitted at Deadline 3 (Document Reference SCC/LLTC/EX/11) includes a revised Requirement 11 which specifically provides for the Applicant to carry out an updated NRA following consultation with ABP and the navigation working group; and to construct and operate the new bridge in accordance with the recommendations of that updated navigation risk assessment and to keep it under review.

Submission of a Preliminary NRA as part of an application has precedent in both the Silvertown and Thames Tideway DCO projects.

ABP's Response:

- As stated in ABP's response to Revision 1 of the DCO, ABP cannot, in its capacity as the Statutory Harbour Authority, accept Requirement 11 as drafted by the Applicant. In short,

as currently drafted, the Applicant proposes that it only needs to consult with ABP and the Navigation Working Group ("NWG"), with no requirement to take into consideration any comments made by such bodies, and then finalise the preliminary Navigation Risk Assessment ("pNRA") without formal approval from ABP.

- As far as the NWG is concerned, the status of this Group seems to ABP to be somewhat undefined – as demonstrated by the fact that when the Applicant placed its proposals before the Scheme of Operation for the LLTC, some of the comments of the Group were effectively ignored and the Applicant simply published a draft Scheme different in content to the one placed before the NWG.
- As far as ABP is concerned, the role of the NWG can only be as an informal advisory group and certainly can have no formal standing as far as statutory responsibility of navigation risk is concerned. Ultimate legal responsibility for the safety of navigation in the Port falls to ABP as the Statutory Harbour Authority, and ABP fails to understand what role the Applicant believes the NWG can fulfil in this respect.
- The ExA should note that ABP is under a duty, pursuant to the Port Marine Safety Code, to consult with stakeholders on matters of navigational safety and risk assessment. Accordingly, the stakeholders forming part of the NWG would be subject to consultation by ABP, as Statutory Harbour Authority.
- Despite numerous discussions on this issue, the Applicant seems unable to understand the critical importance of the NRA exercise. The LLTC proposal must be made subject to a formal and properly undertaken navigation risk assessment ("NRA"). Until this exercise has been properly completed, ABP will not in a position to approve the Applicant's NRA. Without that approval, the scheme cannot be implemented – even if authorised. This is not a position that ABP can compromise nor negotiate. It goes to the fundamental basis of ABP's legal responsibility as the Statutory Harbour Authority.
- As the ExA is aware, the Applicant in response to ABP's concerns has attempted to cite some examples which it believes demonstrate that the NRA process is not as fundamental as ABP states. Those precedents cited by the Applicant, however, which both relate to tunnels under a river, are totally irrelevant in the context of navigational risks introduced by the construction of a bridge through the middle of an operational harbour. Accordingly, ABP considers that no weight can be placed at all on the approach taken in respect of navigational safety in the Silvertown and Thames Tideway DCO projects.
- In terms of the proposed construction of a bridge through the middle of an operational Port, and in the context of the need for a NRA, ABP has always maintained that there is no precedent for such a proposal across the UK – albeit with one exception. The

Applicant has sought to refute this statement by providing a list of what it believes to be comparable examples of bridges across ports. As the ExA will note, none of these examples are in fact comparable.

- ABP's response to the Applicant's comparable bridge examples is set out at **Annex 2** below – the one exception incidentally, being Welsh Government proposal to construct a relief road for the M4 in South Wales through the middle of the Port of Newport. As the ExA will be aware, in that instance, the Applicant accepted that its proposal would cause serious detriment to the port undertaking and has agreed to provide measures to mitigate that detriment.
- Thus, ABP considers that the ExA should be guided by two other more relevant proposals:
 - **M4 Relief Road in Newport** – as noted above, where the impact of the scheme was subject to a formal NRA during the public inquiry process; and
 - **Tidal Lagoon Swansea Bay** – where it was agreed by the Promoter and the ExA that, in order to allow ABP to comply with its statutory obligations, no marine works relating to the project could be commenced until a scheme for safe navigation (i.e. a formal NRA) has been approved by ABP and that the authorised development of the project must be carried out in accordance with the approved scheme.
- Further detailed comments regarding ABP's position on Requirement 11 is set out in **ABP's comments on Revision 1 of the DCO.**

8. **EXA QUESTION 2.26**

The ExA's Question:

Do you intend that your bridge opening regime will be the same as that operated by ABP at the A12/ A47 bridge?

The Applicant's Response:

The opening regime will be determined by the Scheme of Operation, a draft of which is included in this Deadline 3 submission (Document Reference SCC/LLTC/EX/41). An earlier version has been subject to consultation with the Navigation Working Group as explained in Appendix B to this document. A final form of this scheme will be submitted by the end of Examination to become a certified document under the dDCO. Article 40 of the dDCO has

been updated at Deadline 3 to take account of this proposed approach (Document Reference SCC/LLTC/EX/11).

The scheme broadly matches that currently in application at the A47 bridge, with the exception of revisions to the restricted opening times to apply to peak hours.

ABP's Response:

- ABP consider that, as currently drafted, Article 40 and the related Scheme of Operation are unacceptable. ABP's specific comments regarding the defects with Article 40 are set out in ABP's comments on DCO Revision 1, and to avoid duplication, are not repeated here.
- As stated above, the role of the NWG can only be as an informal advisory group and certainly can have no formal standing as far as the operation of the LLTC is concerned. This appears to be confirmed by the fact that, by comparing the draft Scheme of Operation included in Appendix B to the Applicant's Response to ExA's Written Questions (which contains the NWG's comments and proposed amendments) and the Scheme of Operation actually submitted by the Applicant at Deadline 3 – the two documents differ.
- The ExA should be aware that a number of key amendments proposed by the NWG were not adopted by the Applicant, and additionally, the insertion of 'Appendix A' into the Scheme of Operation which in effect significantly limits the Harbour Master's discretion, was not provided to the NWG for consideration or comment. When queried by ABP, the Applicant advised that the NWG was consultative only and the drafts were never intended to be identical.
- It is unfortunate that the Applicant clearly intends to use the NWG on its own terms – accepting the views with which it agrees, and dismissing the views with which it does not.
- More significantly, ABP cannot see how the NWG can have any part to play in the Scheme of Operation for the bridge, apart from a stakeholder consultation required to be undertaken by ABP in accordance with the Port Marine Safety Code. Importantly, for this consultation to be effective, the Applicant must consider all points raised by the stakeholders at the NWG meetings.
- Critically, the ExA should be aware that the bridge opening regime proposed by the Applicant does not match the regime currently imposed by ABP in relation to the A47 Bascule Bridge. There are a number of restrictions contained in the draft Scheme of Operation, particularly those relating to the restrictions on opening the LLTC during peak traffic periods that do not align with the A47 Bascule Bridge. In practical terms, the effect

will be to prescribe extended windows of restriction for the existing bascule bridge for those vessels which need to transit Lake Lothing (i.e. that are located to the west of the LLTC) and will need both an LLTC bridge lift and an existing bascule bridge lift to leave the Port.

- Some of the issues arising from this mis-alignment include:
 - An 'in-combination' effect for operators located to the west of the LLTC, who may in practice need to man their vessels and commence transit out of the Port some hours before they would otherwise need to, in order to clear both exclusion windows of the LLTC and the existing bascule bridge. Similarly, one of the greatest impacts will be on in-bound vessels which clear the A47 Bascule Bridge restriction windows but will then be impeded by the LLTC window. Such vessels will be unable to reach their designated berths for a period of some hours. This adds to cost for the operator – additional programming in terms of time constrained operations - and merely exacerbates the unattractiveness of the Port for future operators.
 - A number of vessels will need to 'clear' the LLTC opening window before the prohibition commences and then essentially 'mill about' in the middle Inner Harbour (i.e. between the LLTC and the existing bascule bridge), until those vessels are able to pass under the existing bascule bridge as part of the scheduled lift. This of itself will increase navigational safety issues and will inevitably impede normal operations within the middle part of the Inner Harbour.
- As such, ABP considers that the difference in opening regimes between the two bridges will create navigational issues within the Port, especially for vessels transiting through the Inner Harbour that will be impacted by the 'double-lift' requirement.

9. **EXA QUESTION 2.29**

The ExA's Question:

How and who will measure the height of yacht masts before allowing them through without the bridge being raised?

The Applicant's Response:

The preliminary NRA (Document Reference 7.6, PINS Document Reference APP-208) identified real time air draft indicators as a means of mitigating some of the navigational risk for the Scheme and Section 7 of that document at paragraph 7.33 states that “the bridge should be identified with suitable marks and lights, as agreed with the SHA and (if necessary) the General Lighthouse Authority (GLA), Trinity House Lighthouse Service”. Such marks and lights would include real time air draft indicators. Consequently, the draft Scheme of Operation (Document Reference SCC/LLTC/EX/41) directs that vessels should have regard to the real time air draft displays.

A real-time clearance display will therefore be incorporated into the navigational markers on the bridge. This will be driven by a water level monitor located within the bridge passage and display the clearance available, with appropriate safety margin (a matter under discussion with the SHA), to approaching craft. This display would also be visible to the Lake Lothing Third Crossing (LLTC) Bridge Operator (as defined in the Scheme of Operation).

While the determination of the air draft of individual craft will be for the vessels Master to confirm, the vessel Master must receive permission from the LLTC Bridge Operator to pass under the Scheme (as set out in the draft Scheme of Operation and as such the ultimate decision is made by the LLTC Bridge Operator.

ABP's Response:

- The possibility of vessels striking the bridge is a serious navigational issue that must be formally assessed by the Statutory Harbour Authority prior to approval of the LLTC application.
- Once a comprehensive formal NRA has been undertaken and submitted to ABP for its approval, the SHA may conclude that a real-time clearance display is not sufficient to act as a measure designed to mitigate risks of a vessel strike on the bridge. For example, ABP notes that, to a large extent, the Applicant relies on a vessel's Master to know precisely the air draft of the vessel. Following decades of experience in ports all around the county, ABP knows that this is more often than not, simply not the case.
- On the contrary, vessels Masters usually pay little heed to the height of their vessel – funnels – bridge superstructure – radio masts - aerials etc - when leaving or entering a port for the simple reason that common sense dictates that ports do not normally have low bridges crossing through the middle of them.

- This reality is merely amplified in the case of recreational vessels, which may be under the control of persons without expansive or even any prior experience of manoeuvring such a vessel.
- Indeed the ExA should note that this concern was specifically raised by the NWG on 18 December 2018 – the NWG Working 3 meeting notes (included at Appendix B to Document Ref: SCC/LLTC/EX/10) states there are "*ongoing concerns about vessels users understanding their air draught.*" In this regard, ABP notes that these concerns have been discussed at all meetings of the NWG, and the use of additional mitigation measures – for example, a 'magic eye system' which measures the height of vessels with a laser prior to them traversing the LLTC – appears to have been ignored by the Applicant.
- The Applicant also stated that "*the ultimate decision is made by the LLTC Bridge Operator*", which is likely to be ABP.
- It must logically follow from the above therefore, that the Applicant has clearly failed properly to assess the navigational risks arising from the potential for vessel strikes on the LLTC, but has instead attempted to shift the ultimate responsibility (and consequential liability) onto ABP when something goes wrong.
- This is simply an additional risk that ABP is not able to accept – and highlights the need for a comprehensive NRA to be undertaken, and formally approved, by the Statutory Harbour Authority.
- In summary, the ExA's question and the Applicant's response have:
 - Underlined the Applicant's naivety in selecting a location for a low bridge so that it passes through the middle of an operational port;
 - Underlined the Applicant's lack of understanding of marine matters in terms of navigation and control of vessels;
 - Underlined the need for a comprehensive Indemnity to protect ABP from the liabilities that will arise by the introduction of an alien hazard into the port; and
 - Underlined the critical importance of a correctly undertaken NRA - to be undertaken and approved by the SHA before the project can be implemented – if authorised.

10. **EXA QUESTION 2.32**

The ExA's Question:

Have you reached agreement with ABP as regards maintenance dredging costs?

The Applicant's Response:

In principle, the Applicant has agreed that any additional maintenance dredging cost, be it associated with additional dredge volume or requirements for alternative dredging methods, will be reimbursed to ABP. The mechanism for assessment and payment of these is under discussion.

ABP's Response:

- This has only been considered by ABP on an informal basis – and although agreement should be achievable, the ExA will understand that any such agreement must be formally documented in a legal agreement, to ensure all relevant costs arising from maintenance dredging are reimbursed by the Applicant.
- For clarity, these costs must include not just the cost of additional dredging or alternative dredging requirements, but also any costs associated with additional reporting to the Marine Management Organisation and re-billing of those costs to the Applicant.
- As the date of this submission, ABP has not received any proposed agreement from the Applicant for review.

11. EXA QUESTION 2.34

The ExA's Question:

Why with the current technology available (CCTV etc) is a control room needed at the site of the proposed new bridge instead of centralising the control of both bridges in one location?

The Applicant's Response:

The potential for a combined control facility was explored early in the scheme development. Initial discussions with the SHA (ABP) over it becoming the operator of the bridge indicated that they did not feel remote operation would be safe, particularly in respect of pedestrians using the bridge and felt that a direct presence of personnel would be required to ensure safe operation. This concern was amplified by the current use of the existing bridge control as the main Port Control - it was felt that the increased demand placed on operational personnel by adding control of the new bridge should the facilities be combined would be too great.

ABP's Response:

- ABP agrees that there is a requirement for two control towers, to ensure all relevant navigation safety issues are able to be viewed by the Operators of the LLTC. This will also require provision of CCTV coverage (for parts of the bridge and navigational channel that are obscured from the control tower) with infra-red capability, to ensure the ability to safely operate the LLTC in maintained during periods of reduced visibility, such as darkness, fog, etc.
- Additionally, a second control tower enhances visibility and knowledge of vessels movements within Lake Lothing – an area for which the existing Port control tower is currently reliant on VHF reporting only.
- The reality is that the construction of the LLTC will lead to the introduction into the middle of the Port of a hazard that does not presently exist. On that basis, a failure to provide a second control tower could have serious long-term consequences.

12. EXA QUESTION 2.36

The ExA's Question:

ABP as the SHA require an emergency berth in the inner harbour.

- What consideration has been given to the provision of an emergency berth in the harbour to the east of the proposed crossing in response to concerns raised by ABP?*
- What is you're the Applicant's preferred solution in the event of your proposed bridge not fully opening for some reason?*

The Applicant's Response:

- An assessment of the potential requirement for an emergency berth in the inner harbour between the scheme bridge and the A47 bridge has been undertaken by the Applicant. This assessment has followed the principles and methodology used in the preparation of the Scheme pNRA (Document Reference 6.7, PINS Document Reference APP- 208). The conclusion of this work was that alternative methods of risk mitigation could be employed that would reduce the residual risk from an event of this nature to an acceptable level without the need for provision of a dedicated emergency berth.*

- ii. *The Applicant is proposing that sequential operational mitigation be implemented, using an operational flow chart identifying the combination of factors that contribute to the risk and the process that is to be followed for each combination. This process is illustrated in an appendix to the draft Scheme of Operation (Document Reference SCC/LLTC/EX/41).*

The Applicant believes this method of mitigation will provide sufficient assurance of navigational safety without disproportionate cost to the Scheme and without impacting on the overall aims of the project.

ABP's Response:

- The Applicant's assessment of the requirement for an emergency berth has followed the principles and methodology applied by the Applicant in the pNRA – which ABP (as Statutory Harbour Authority) considers to be defective. It follows, therefore, that the principles and methodology to determine the need for an emergency berth as applied by the Applicant based on the pNRA must of itself be questionable.
- ABP does not agree with the Applicant's analysis as summarised above. As a consequence, the Applicant's conclusions regarding the perceived lack of need to provide an emergency berth is incorrect.
- In terms of analysis, the vessel movement surveys undertaken to inform the Applicant's emergency berth assessment were undertaken during periods when there were a limited number of large commercial vessel movements that would be required to transit the LLTC. This position has now changed, due to new business currently operating from NQ 6 and NQ 7. As such, the Applicant's consideration of the need for an emergency berth based on a 'snapshot in time' approach is not robust and is already out of date with current Port operational requirements.
- ABP, as the SHA, is of the firm view that an emergency berth must be provided in order to mitigate the serious risks that will arise should a vessel become trapped between the two bridges – for example, where one or both of the bridges fails (stuck down or partially closed), the vessel itself fails or is caught by unfavourable weather conditions.
- ABP considers that the 'sequential operational mitigation' flowchart proposed by the Applicant (attached as Appendix A to the draft Scheme of Operation) as an alternative to the provision of an emergency berth is not operationally practicable in that it fails to recognise port operational and navigational safety imperative, is overly prescriptive and as a consequence, not capable of realistic application without serious risk – the very risk that the provision of an emergency berth is designed to avoid.

- ABP would ask the ExA formally to note, incidentally, the Applicant's inference that what it considers to be a - "*disproportionate cost to the Scheme*" is being used to justify its decision not to provide an essential measure required to mitigate what the Statutory Harbour Authority considers to be a navigational safety issue.
- ABP trusts that the Applicant, by promoting a scheme that will lead to the introduction of a serious safety hazard into the middle of an operational port is not now attempting to avoid its obligations in terms of consequent risk to health and safety of the general public, users of the bridge and the port on the grounds of cost?
- Further information regarding the need for an emergency berth is set out in **Section 18 of ABP's Written Representations**.

13. **EXA QUESTION 2.38**

The ExA's Question:

- What mitigation measures is the Applicant able to put in place to mitigate the closure of the western harbour to recreational and cruising craft over the summer closure period?*
- Do such measures include modifications to the programme to minimise the closure period, reducing the current three week closure period?*
- Has consideration been given to temporary berthing facilities below the proposed bridge location for the duration of the closure period?*

The Applicant's Response:

- The Applicant, for the purpose of identifying a worst case assessment for the ES assessed a three week closure in the summer. It is not necessarily the case it will be in the summer, or it that it will be for three weeks. The Applicant is now working with the appointed Contractor to determine the best method to mitigate the effect of this potential impact, having regard to the likely construction methodology, including availability of plant and where the closure would be required to deliver the most efficient construction programme. Discussions have been held with the Navigation Working Group to obtain their thoughts on potential options and are reported in the report on the most recent meeting appended at Appendix B to this response.*

- ii. *The potential to adjust programme to either reduce the closure period or move the closure period to outside recreational peak season will be explored by the Applicant and the appointed Contractor, however it is too early in the development of the construction sequencing to confirm the ability to achieve this.*
- iii. *The Applicant explored the potential to provide some temporary berthing facilities with the NWG at its most recent meeting. Those discussions have however indicated that provision of temporary moorings within the Port is challenging, but the Applicant will keep the matter under review as further detail becomes available on the likely timing and duration of the closure.*

ABP's Response:

- ABP notes that the Contractor has stated that it is "*too early to comment on either the length or timing of the closure, but whenever it occurred several months' notice would be provided*" and, the project is not sufficiently advanced to be able to provide any reliable predications at this stage (NWG Working 3 meeting notes, Appendix B to Document Ref: SCC/LLTC/EX/10). Although these comments were made in the context of impact on recreational vessels, this clearly will impact similarly on commercial operations at the port, which are seasonal in nature.
- ABP has concerns with the Applicant's suggestion that it will provide temporary berthing facilities for recreational vessels, as are summarised in the NWG Working 3 meeting notes.
- To assist the ExA in this respect, however, it should be noted that ABP confirmed at the meeting, that it would not be able to assist in the provision of berths for recreational vessels due a range of factors, including:
 - berth capacity constraints and safety concerns arising from the interaction of commercial and leisure vessels sharing berths in a confined area of the harbour;
 - the timing of the closure of lake Lothing (at this stage unknown) would affect options for berth available to RNSYC; and
 - the potential for impacts on berth availability due to in-combination effects arising from the construction of the Flood Defence Tidal Barrier (and land take at RNSYC) coinciding with the LLTC scheme construction.
- The response provided by the Applicant is, therefore, in reality totally unacceptable and impracticable. ABP finds it astonishing that at this advanced stage in the process, the

Applicant is still not able to indicate with any degree of certainty the timing of, length of and nature of the impact that the works will have on port operations.

- Bearing in mind ABP's status as a statutory undertake and its obligations in that respect, the Applicant's response merely confirms that the project has been submitted prematurely simply in order – ABP assumes – to retain the promised, but time-limited government funding. This financial justification does not excuse the serious detriment that will be caused to the Port as a result alone of the development uncertainty.

14. **EXA QUESTION 3.7**

The ExA's Question:

The Funding Statement identifies an overall short fall of 8m in funding. Can the Applicant now identify the 'other sources' of funding referred to in the statement that can address the shortfall?

The Applicant's Response:

Paragraphs 3.2.8 and 3.2.9 of the Funding Statement (Document Reference 4.2, PINS Document Reference APP-088) state that should the additional £8m in funding be required, the County Council would make this available. This statement is supported by Appendix C to the Funding Statement, which comprises the Suffolk County Council Cabinet Report dated June 2018 ("the Cabinet Report").

As explained in paragraphs 8 and 9 of the Cabinet Report, whilst a local capital contribution to the funding of the Scheme is expected to be necessary, the sum and sources of that contribution are not expected to be confirmed until the scheme is taken forward to the final business case stage. In the meantime, the Applicant continues to consider potential sources of funding, examples of which are set out in paragraphs 8, 20 and 26 of the Cabinet Report.

ABP's Response:

- ABP is extremely concerned as to the Applicant's ability actually to secure funding for the Scheme. This is particularly in relation to the £8 million funding short-fall and the additional funding required to address the serious detriment caused to the Port by the Scheme – the total of which may be substantial.

- ABP notes that, on 21 January 2019, Suffolk County Council, the promoter of the project, published, amongst others, the following documents:
 - Revenue Budget 2019-20; and
 - Detailed Capital Programme 2019-22.
- The detailed 2019-2022 Capital Programme states that the total LLTC scheme budget is still forecast as £91.011 million (from 2018/19 to 2023 onwards). This statement, of itself, raises some concern as the total estimated cost of the Scheme in March 2016 was £91.73 million.
- Further, SCC acknowledged in June 2018 that the total project costs had increased by £8 million - but as far as ABP understands, that figure does not appear to include adequate provision for mitigation and/or compensation.
- In the light of the above – ABP is bound to query whether SCC has set a realistic scheme budget and actually has the funds available to meet the project costs – which may explain the Applicant's reluctance to engage in genuine discussions with ABP concerning mitigation.
- The '*Borrowing for Growth, Highways and Infrastructure*' set out in the detailed Capital Programme identifies that £13 million is anticipated to be borrowed in respect of the LLTC. It is unclear whether this total includes the identified £8 million shortfall (i.e. has the shortfall now increased by £5 million?), or whether this relates to some other part of the LLTC scheme budget.
- Additionally, the Revenue Budget Report states that the Capital Programme has allocated £15.3 million in funding for LLTC, but it does not clarify where this funding is coming from.
- In respect of Suffolk County Council's financial position, the Report by the Head of Finance (CFO) states that: "*reserves are adequate for the 2019-20 budget and provide some limited buffer against the financial pressures and reductions to grants in the budget up to 2020-21. However, the Council should be under no illusion that the future financial outlook continues to be extremely challenging.*"
- Critically, as far as can be determined, this additional information does little to demonstrate that Suffolk County Council has the ability to fund the LLTC scheme.
- Further, this information highlights the fact that it is entirely unclear what the current budget shortfall for the LLTC is – a factor which may actually be unknown to the Applicant.
- ABP notes that the Revenue Budget, Capital Programme and other related documents are to be considered by the Suffolk County Council at a Cabinet meeting on 29 January

2019. It remains to be seen, therefore, whether this will provide any further insight, and indeed certainty, regarding the Applicant's funding position.

- Further information on ABP's views regarding the funding of the LLTC is set out in **Section 23 of ABP's Written Representations.**

15. **EXA QUESTION 3.10**

The ExA's Question:

Has the Cabinet of Suffolk County Council made any further decisions in respect of securing shortfall funding prior to the anticipated final decision date of autumn 2019?

The Applicant's Response:

The Applicant is currently in discussion with partners, including the New Anglia Local Enterprise Partnership (LEP); however the Cabinet of Suffolk County Council has not made any further decisions relating to a potential funding shortfall since the time of the June 2018 Cabinet Report. As the Cabinet Report explains (at paragraphs 9, 27 and 57), following the completion of the detailed design of the Scheme including any changes as a result of the examination and final DCO, and the exercise of value engineering analysis, the Applicant will be in a better position to identify the extent of any shortfall funding if needed.

ABP's Response:

- As the ExA is no doubt aware, the Applicant must:
 - submit a Funding Statement which provides the Secretary of State with sufficient information so that he is satisfied that the proposed development is likely to be undertaken and not prevented due to difficulties in sourcing and securing the necessary funding (Planning Act 2008: Application form guidance, June 2013); and
 - demonstrate that adequate funding is likely to be available in the timescale within which it is required – the timing of the availability of the funding is a relevant factor (Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, September 2013).

- On the basis of the funding information provided by the Applicant to date, and the further funding information as yet not submitted to the ExA but which is publically available online, ABP considers that the Applicant has failed to demonstrate that adequate funding is available for the Scheme.
- As stated in the June 2018 Cabinet Report, the Applicant has - "*deferred any final decision on any additional funding until Autumn 2019*", after the anticipated final decision date of the LLTC Scheme.
- In these circumstances, ABP is of the view that, in accordance with DCLG Guidance, the Secretary of State is unable to determine the LLTC Scheme on the basis of inadequate funding alone.

Clyde & Co LLP

29 January 2019

ANNEX 1 – ABP REVIEW OF REVISED TRANSPORT ASSESSMENT

1. ABP's consultant team has reviewed the revised Transport Assessment (PINS Document Reference REP3-056) ("TA") submitted at Deadline 3 (8 January 2019). Of particular concern is that the most basic input assumptions have not yet been determined. In this case, Table 7.1 sets out a number of scenarios against which the scheme is assessed in terms of assumed opening and closing times of the various bridges. The supporting text confirms that:

“7.3.3 The operating regime for the Scheme remains to be determined, however the scenarios listed in Table 7.1 are considered to provide a robust range of assessments from which the impact of the Scheme can be determined. A 6 minute Scheme lift would accommodate the one-way transit of a single or two vessels, and a 10 minutes Scheme lift would accommodate the transit of a larger commercial vessel in bad weather.

7.3.4 If both the Scheme Bridge and the Bascule Bridge are required to lift, it is likely that there will be an offset in the timing of the lift of each bridge. Within the VISSIM model, Scenario 5 includes a bridge lift offset of 1.5 minutes, i.e. the Scheme begins to lift 1.5 minutes after the A47 Bascule Bridge reopens to traffic. This is the average offset taken from the Vessel Simulation Report. For further testing, scenarios 5a, 6 and 7 assume that the A47 Bascule Bridge and the Scheme lift at the same time, with vehicular traffic stopped at both bridges together.”

2. Clearly until the operating regime specified in the draft Scheme of Operation is confirmed, there can be no confidence that the closure times assessed are indeed robust.
3. That could have a fundamental and substantive impact on the overall assessment of scheme benefit. In that regard, ABP has serious concerns that the modelling in any event is counter intuitive. By way of example, Table 7.38 shows higher average travel time savings (111s vs 37s in the PM Peak) for SC 7 (when both bridges are closed for 10 minutes) than Sc 9 when the scheme bridge is assumed not to lift.
4. This further supports ABP's position that, fundamentally the location of the bridge needs to be revisited as follows:

5. The decision on which option to pursue was made on the basis of the 2015 Outline Business Case. That business case was supported by a Transport Assessment and model based on work undertaken at the time.
6. The updated TA was originally delayed pending a new model because the Applicant considered the original modelling to be inadequate to test the chosen scheme.
7. In ABP's view, that must undermine the original options appraisal and overall OBC.
8. In line with the guidance set out in Webtag Proportionate Update Process Document section 1.3, there is significant risk to the decision making process being found unsound. ABP wrote to the Applicant on 12 April 2018 and 28 June 2018 requesting confirmation on how that would be dealt with alongside the detailed modelling outputs. A response has not been provided.
9. On 8 August 2018, the Applicant confirmed to ABP, in direct response to the request for an updated alternative assessment that:

“However, as you will have noted in my Chief Executive Officer’s letter of 12 July 2018 to Paul Ager, I have undertaken a brief verification exercise applying the current traffic model to historic options, which reaffirmed the superior performance of the central option. I will not be doing any further reanalysis of discounted options.”

10. That process is not at all consistent with the Webtag guidance and is not acceptable. There is a complete lack of clarity in the TA in relation to issues such as the change in flows arising from the scheme on key routes. The focus on a high level journey time saving completely fails to consider the wider benefits and options available to the authority in terms of a scheme going forward.
11. Importantly, in terms of the TA now submitted there is no direct comparison between the two models provided in the LMVR (Appendix E of TA). There is no report setting out the changes in the flows other the headlines in the TA and those presented in Appendix G which is the Operational Model report (Vissim rather than Saturn). That information was requested and has not been provided.
12. Whilst the TA provides changes in flows on two bridges in terms of AADT, it does not provide comparable numbers for the AM and PM peaks as per the table above. The changes are described qualitatively only (Para 7.7.1 of the TA):

"In both AM and PM peaks there is a decrease in traffic volume on the key strategic route of A47 Battery Green Road and the Bascule Bridge in both directions. In the AM and PM peak the queues extending from the junction of Denmark Road and A47, as a result of the lifting of the Bascule Bridge, are comparatively less in the DS scenario than in the DM scenario."

13. ABP has not, therefore, been able to undertake a comprehensive review of the impacts arising at this stage. The Applicant has confirmed that no further information requested during last year will be made available.
14. As a headline position, however, it is stated that flows on Battery Green Road to the north of Bascule Bridge are said to reduce by 5.5% and 10% in the AM and PM peak respectively with a 5 min closure. That is significantly below the 30+% levels suggested in the OBC.
15. That is a significant shift in position and likely benefit of the scheme. ABP would ask the ExA to consider whether the significance in the shift of position justifies a reassessment of the options.

ANNEX 2 – ABP COMMENTS ON THE APPLICANTS "COMPARABLE CROSSINGS"

1. ABP has, on a number of occasions, made the point, both to the Applicants at meetings and to the ExA in its Written Representations and Comments, that common sense dictates that one should not attempt to construct a low bridge through the middle of an operational port.
2. As such, ABP considers the LLTC proposal to be unique in terms of bridge construction being aware of only one other comparable precedent.
3. The Applicant has refuted ABP's view. This is no doubt because it is very conscious that its failure to assess the impact that its proposal would have on port operations when selecting the location for the crossing has brought into stark relief the realisation that if its decision is viewed against the fact that the proposal is unprecedented for, what ABP would suggest are very obvious practical reasons – issues of "serious detriment" self-evidently arise.
4. As such, the Applicant has attempted to demonstrate to ABP that the LLTC is not a unique scheme and that there are "*quite a few comparable bridges over harbours*" that can be used as a precedent for the LLTC scheme. To support its view, the Applicant provided ABP with a briefing note on 16 November 2018, which sets out a list of what the Applicant considers to be 'comparable crossings'.
5. ABP has reviewed all of the examples of '*comparable crossings*' provided by the Applicant, together with all additional crossings precedents identified by the Applicant during correspondence with ABP and contained within various documents submitted to the ExA.
6. As ABP anticipated, none of the bridges cited by the Applicant are in fact "*comparable*" - and it indeed it is of some concern that the Applicant considered that they may be comparable bearing in mind the substantive differences between them and the proposed LLTC.
7. ABP believes this issue to be material in terms of the ExA's consideration of the LLTC proposal. As such, therefore, for the ExA's assistance, it has noted below the examples claimed by the Applicant to be comparable – together with a short commentary under each, explaining why they are not: -
 - **Mersey Gateway Bridge** – The Mersey Gateway Bridge is a high fixed-level bridge that crosses the River Mersey at a height of 24.25 metres above MHWS.

Furthermore, it is located over 4 miles upstream of the Port of Weston and does not bisect any port operational land. The bridge crosses the Manchester Ship canal at a height that is no more restrictive than the existing Silver Jubilee Bridge, which is located nearly a mile downstream – and again, not within an operational port estate.

- **Twin Sails Bridge (Poole)** – The Twin Sails Bridge is an opening bridge that crosses the Backwater Channel (which links Holes Bay and Poole Harbour) at a height of 2.5 metres MHWS (in a closed position). The bridge is located upstream of the Port of Poole and does not bisect port operational land. All commercial berths operated by the Port are located in the Outer Harbour, seaward of the bridge. As such, port operations are completely unaffected by the bridge. Only adjacent leisure craft mooring and leisure activity upstream of the bridge are impacted by the height restrictions. The ExA should note incidentally, that the Twin Sails Bridge has failed on multiple occasions, some of these caused by adverse weather conditions such as high winds.
- **Charing Cross Bridge/Golden Jubilee Bridge (Hungerford Bridge)** – The Hungerford Bridge crosses the River Thames between Waterloo Bridge and Westminster Bridge at a height of 8.1 metres MHWS. It is located upstream of commercial cargo operations and does not bisect any port operational land.
- **Gateshead Millennium Bridge** – The Gateshead Millennium Bridge is a pedestrian and cyclist tilt bridge that crosses the River Tyne at a height of 4.5 metres MHWS (in a closed position). It is located approximately 9 miles upstream from the main commercial areas of the Port of Tyne and does not bisect port operational land.
- **QE2 Bridge (Dartford-Thurrock Crossing)** – The QE2 Bridge is a fixed bridge that crosses the River Thames at a height of 55.1 metres MHWS. The bridge does not bisect any port operational land although clearly it does cross the navigational channel, albeit at a height which does not impede navigation. Indeed, the ExA should note that one of the key reasons for the height of the bridge is the potential future use of upstream port facilities and the requirement of the Port of London Authority that the bridge not impact detrimentally on navigation within the River Thames.
- **The Port of King's Lynn** – a swing bridge on a little used 'B Class road' crosses the Port of King's Lynn (owned and operated by ABP). Significantly, ABP has unrestricted control of the bridge and its opening regime. The ExA should note in any case that the primary function of the bridge is to facilitate access to the port - public use is secondary.

- **West Dock Bridge within the Port of Goole** – This is a swing bridge on a 'B Class' road within the Port of Goole (owned and operated by ABP). As with King's Lynn, ABP has complete operational control over the opening of the bridge. The primary function of the bridge is to facilitate access to the port, and the public road use is secondary.
8. Overall, it is clear from the above that none of the bridges which the Applicant alleges are 'comparable crossing' precedents are in fact comparable crossing precedents. The majority are not located within an operational port estate or likely to affect port operational traffic - and those that are, are either fully in the operational control of the Harbour Authority or constructed at a height which will not impede the passage of vessels.
9. **M4 Relief Road** - Significantly, the Applicant has ignored the one precedent which ABP would consider to be comparable – namely Welsh Government's proposal to construct the M4 Relief Road through the middle of the Port of Newport. As the ExA is aware, however, for that project to proceed, the promoter of the scheme has acknowledged that the proposed bridge will cause "serious detriment" to the port undertaking and has as a consequence agreed the provision of a series of measures designed to mitigate that serious detriment.