

(ABP: 5 of 5 – DL5)

Proposed Lake Lothing Third Crossing (TRO10023)

Associated British Ports (20013261)

Response to the Applicant's Response on Environmental Statement Matters

1. Introduction

- 1.1 Within Appendix C of the Applicant's Response to Written Representations (Document Reference: SCC/LLTC/EX/51), a response is provided by the Applicant to matters raised by ABP in Section 21 of its Written Representations as to the adequacy of the LLTC Environmental Statement ("ES"). This document provides ABP's response to the Applicant's response.
- 1.2 Regrettably, despite its apparent length, the Applicant's response is sadly lacking in detail and substance. In this regard, the style adopted in the Applicant's response (consisting largely of a summary of the points made by ABP, factual points not in dispute or a commentary on matters not actually queried by ABP) gives the impression that the Applicant's response is more substantial than is actually the case.
- 1.3 Be that as it may, the following points highlight, in ABP's view, the inadequacy of the ES.

2. The inadequacy of the assessment methodology used

- 2.1 The Applicant's response does not address one of the principal points raised by ABP, which is that the assessment methodology used is inadequate because it does not follow the usual best practice approach, whereby the overall significance of an effect is formulated as a function of the receptor value and the magnitude of the impact.
- 2.2 A lack of a specific response on this point is somewhat surprising, bearing in mind that this is the methodology set out in the DMRB – the approach which the Applicant indicates is appropriate because it is the national standard for such developments (see ES paragraph 6.4.9). In addition, this was an issue specifically identified by the SoS in the Scoping Opinion. The ExA will be aware that ABP provided the Applicant with the

relevant extracts of the appropriate methodology set out in the DMRB at Annex 2 to its Written Representations.

- 2.3 Tellingly, ABP notes that whilst the Applicant repeats the conclusions ABP has reached when applying the DMRB methodology (Paragraph C.6.) it does not seek to rebut those conclusions – namely that the Port is a receptor of ‘High Value’ and the magnitude of the impact of the LLTC on the Port would be of major magnitude.
- 2.4 In fact, in this regard, ABP notes that the Applicant specifically – at the end of paragraph C.11. – indicates that it *“does not seek to contest the value or significance of the Port in its entirety”*
- 2.5 This is important in that the judgements formed by the ES simply fail properly to assess the overall significance of the effect of the Scheme on the Port, fundamentally undermining both the utility and reliability of the ES.

3. The incorrect application of the Applicant’s own methodology

- 3.1 Within paragraphs C.7 to C.11, the Applicant seeks to rebut ABP’s criticism that the Applicant’s assessment has incorrectly applied its own methodology. It seeks to explain – albeit, notably, only in any detail by reference to construction phase impacts – that the impact of the LLTC scheme on the Port is only ‘slight adverse’, and, therefore, not significant. It does so by relying on the criteria given in the ES (at Table 15-2) that such an impact relates to *“landtake that is not essential to existing or intended use”*.
- 3.2 Leaving aside the fact that no basis for the various criteria given in ES Table 15-2 has been provided by the Applicant, it is notable that, within the rebuttal now provided in Annex C, the Applicant has misquoted its own assessment criteria in support of its position.
- 3.3 At the end of paragraph C.7, the Applicant indicates that a ‘significant effect’ would be one which consists of landtake *“which would preclude existing or intended use”*. This, however, does not accurately reflect the methodology used within the ES. Paragraph 15.3.5 of the ES makes clear that a ‘significant effect’ includes an impact identified as a ‘moderate adverse impact’. The relevant definition given in ES Table 15-2 for a moderate adverse impact is that this is an impact which consists of landtake *“that compromises but does not preclude existing or intended use”*. Therefore, a significant impact – according to the Applicant’s own methodology – does not just consist of landtake that would preclude existing or intended use.

- 3.4 Furthermore, at the end of paragraph C.8, the Applicant supports the position it takes by making clear that, in its view, the *“landtake is not essential to the continued operation of the Port...”*. Unfortunately, however, this wording does not relate to the various significance criteria given in ES Table 15-2.
- 3.5 Leaving aside the fact that ABP disagrees with the Applicant’s view on the extent of the identified impacts that would be generated during the construction period and also considers that there are additional impacts during construction not touched on by the assessment – matters explained throughout ABP’s various submissions - it is hard to understand how it can be concluded from the Applicant’s own analysis that the land being taken during construction does not, at the very least, ‘compromise existing or intended use’.
- 3.6 In support of this, ABP notes the way in which the Applicant assesses the impact of the LLTC scheme on ‘Motorlings’. Table 15-4 of the ES describes the impact on Motorlings as:

*“Part of the forecourt area for this car showroom is included within the Scheme Order limits, to accommodate the southern roundabout and diverted utilities. Additionally, land adjacent to the alignment would be required for the construction phase and access for maintenance will be required. Permanent land take during the operational phase is approximately 9% of the total land and as identified in the significance criteria presented in Table 15-2, **this compromises but does not preclude the existing or intended use of the overall site.** However, the site will also benefit from an increase in passing traffic along its Waveney Drive and Riverside Road frontages where passing traffic has been modelled to increase from 11,291 to 29,507 per day.....”*

(emphasis added)

- 3.7 In light of this analysis of the impact, the ES concludes that overall the impact on Motorlings is ‘Moderate adverse (overall)’ and, therefore, constitutes a significant effect.
- 3.8 It is somewhat difficult to understand in the light of this consideration within the ES, how the impact on the Port is concluded to be only ‘slight adverse’. Any reasonable and rational assessment would have to conclude that, at the very least, the land taken from within the Port ‘compromises but does not preclude the existing or intended use’ of the Port.

- 3.9 As indicated in its Written Representations, however, ABP actually considers that – particularly when the impacts associated with both the construction and operation phases of the LLTC are taken into account – the effect on the Port is more aligned with the description given in respect of ‘Substantial Adverse’ effect within Table 15-2.

4. Study Area

- 4.1 Within paragraph C.12, the Applicant claims that the definition of the study area given in the ES – namely “*the Order limits of the Scheme and adjacent land parcels*” – represents a clear and precise definition of the study area for the purposes of the ‘Private Assets’ assessment.
- 4.2 Unfortunately, this is not a clear and precise definition, in that the actual geographical extent of the adjacent land parcels is not clear. ABP notes that some further clarification is now provided at the end of paragraph C.12, where it is made clear that it is those land parcels ‘directly’ adjacent to the Order limits to which reference is being made, but there is still a lack of clarity as to what geographical extent is actually covered by the study area.

5. Evolution of the baseline

- 5.1 In seeking to rebut points raised by ABP about the inadequate consideration of the evolution of the baseline environment, the Applicant discusses the availability of permitted development rights available to ABP within the Port of Lowestoft.
- 5.2 Although the discussion provided does not entirely reflect the accurate position in respect of the use of permitted development rights at the Port, it is clear from the discussion set out that the Applicant is aware of these rights. In light of this knowledge, it is somewhat surprising that the Applicant’s assessment contained within the ES does not appear to consider the implications of the application of such rights within the Port.

6. Conclusion

- 6.1 For the reasons set out above and within ABP’s Written Representation and its various submission made at Deadline 4 and Deadline 5, it is ABP’s view that the ES does not contain an adequate assessment of the effects of the LLTC on the Port of Lowestoft.