

IERRT ISH2: The IOT Operators' Summary of Oral Submissions



This note summarises the submissions made by Associated Petroleum Terminals (Immingham) Limited (“**APT**”) and Humber Oil Terminals Trustee Limited (“**HOTT**”) (together the “**IOT Operators**”) at Issue Specific Hearing 2 (“**ISH2**”) on 27 July 2023. This document does not summarise the oral submissions of other parties.

The IOT Operators raised points in relation to the need for the Immingham Eastern Ro-Ro Terminal Development (“**IERRT**”) and in relation to the navigation and shipping effects of the IERRT.

1 AGENDA ITEM 2: NEED FOR THE PROPOSED DEVELOPMENT

- 1.1 The IOT Operators stated that the need for the IERRT must be viewed in the context of the need for the Immingham Oil Terminal (“**IOT**”) and the two refineries which rely on the IOT. When assessing the need for the IERRT, and the weight to be given to it, it will be necessary to take into account other national needs in play.
- 1.2 The relevant representation submitted by the IOT Operators [RR-003] sets out the importance of the IOT and the refineries to UK energy security. This has been emphasised by the recent draft version of NPS EN-1 and in the UK Government’s recent Energy Security Plan which is clear that notwithstanding the move to net zero, security of energy supply from fossil fuels will remain crucial.
- 1.3 The IOT and the refineries form a critical national resource with the refineries making up approximately 27% of the UK’s refining capacity and around 45% of UK’s marine oil goes through the IOT. Issues such as shipping and navigation and its potential impact on the IOT Operators’ Control of Major Accident Hazards (“**COMAH**”) safety case will be an important consideration. The IOT and the refineries form a countervailing need issue which will need to be considered against the need case for the IERRT.

2 AGENDA ITEM 5: NAVIGATION AND SHIPPING EFFECTS

- 2.1 The IOT Operators raised various concerns with regards to the shipping and navigation effects of the IERRT and the Navigation Risk Assessment (“**NRA**”) undertaken by Associated British Ports (the “**Applicant**”) [APP-089] in its relevant representation [RR-003] and Principal Areas of Disagreement Summary Statement (“**PAD**”) [PDA-003].
- 2.2 The IOT Operators stated that the Applicant must be able to demonstrate through its NRA that the IERRT is appropriate and safe. The IOT Operators are not commercial competitors to the IERRT but the agent of change principle means that because the Applicant wishes to develop the IERRT, it must demonstrate that it is not having an adverse effect on the safety or operations of existing facilities at the port nor that it will impose unreasonable restrictions on those existing operations given their significance. The IOT Operators are therefore seeking to ensure that its operations remain safe and efficient and are not adversely impacted by the IERRT.
- 2.3 The IOT Operators do not agree that the Applicant has done what is needed to demonstrate that there will be no adverse effects on the IOT. The IOT Operators intends to produce its own NRA for Deadline 2 as the Applicant has failed to deal with a number of important methodological issues and detail in the NRA.
- 2.4 The Applicant has referred to various documents which are not available to the IOT Operators. The IOT Operators requested documents from the Applicant in May 2023. This included the Marine Safety Management System (“**MSMS**”) for the Port of Immingham and Humber Estuary Services which the IOT Operators were told is confidential. This

appears to be contrary to the Port Marine Safety Code including paragraph 2.17 of the code which states that organisations should consult those likely to be involved in or affected by the MSMS they adopt and the opportunity should be taken to develop a consensus about safe navigation in the harbour. We referred to a number of ABP MSMS that are available on line. The MSMS should be disclosed to establish how the Applicant's NRA is consistent with the MSMS (or so much of it as is necessary to allow the point to be verified).

- 2.5 The IOT and refineries are deemed to be Critical National Infrastructure which depend on the safe and continued operation of the berths, finger pier and the pipeline trunkway which ensures a consistent flow of product destined to other parts of the UK. The IERRT is intended for vessels of up to 240m length with just 100m clearance to the finger pier, that also has to allow for movement of tugs and workboats.
- 2.6 The underlying data supporting the NRA including characteristics of the IERRT vessels and incident data has not been shared with the IOT Operators. The operation and design of the IERRT are not well defined such as tug use, berthing duration, metocean limits and characteristics of risk control. The standards and limits of acceptability are also not well defined and they do not appear to align with COMAH standards. There is a disconnect between the limits of tolerability between the IOT Operators and the Applicant and indeed it is not clear how the Applicant has determined what are considered to be the limits of tolerability which is critical.
- 2.7 The workshops did not facilitate the input of all stakeholders and no attempt was made to reach consensus on the key issue of tolerability. Additional risk controls were identified and considered effective by the Applicant which are already considered to be part of normal operations. Other risk controls were identified but discounted without any apparent cost benefit analysis.
- 2.8 The navigation simulations were useful to building an evidence base to contribute to the NRA but there were several issues which undermine the credibility of the conclusions. These issues include lack of vessel detail and the omission of wind shielding and gusting. The simulations only showed what is theoretically possible not what is realistic. The PAD mentions that information has been requested of the Applicant and the response that has been received. That correspondence will continue.
- 2.9 The IOT Operators have provided comments and suggested changes to the Applicant on the protective provisions included in the draft DCO [APP-013]. The IOT Operators have not received a response from the Applicant on these amendments. In any event, to understand whether these amendments proposed by the IOT Operators will render the Protective Provisions acceptable or not, information relied on for the Applicant's NRA should be provided. Without this information, and a greater degree of cooperation by the Applicant and its consultants, the IOT Operators will have no choice but to proceed on the basis of the information available.
- 2.10 The IOT Operators will be providing its own NRA and additional detail on its concerns at Deadline 2. If the Applicant does not cooperate as requested this must risk the need for further evidence if the Applicant's position only becomes clear after the IOT Operators submit their own NRA.