

**PROPOSED ASSOCIATED BRITISH PORTS (EASTERN RO-RO TERMINAL) DEVELOPMENT
CONSENT ORDER**

DEADLINE 2

Written Representations on behalf of Captain Firman, Harbour Master, Humber

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Introduction and role of the Harbour Master, Humber

Statutory functions of HMM and the Humber Conservancy

1. Captain Andrew Firman is the Harbour Master for the river Humber. He was appointed by, and is employed by, ABP in its capacity as the Statutory Harbour Authority (SHA) and Competent Harbour Authority (CHA) for the Humber charged with the provision of conservancy, safety of navigation and provision of pilotage for the estuary. As referred to in section 2 of the Applicant's document reference 10.2.13 "The Port of Immingham and River Humber – Management, Control and Regulation", ABP is the successor authority to the Humber Conservancy Commissioners who were originally established under the River Humber Conservancy Act 1852 and given powers to maintain and improve the channel and navigation in the river Humber (before being incorporated by further Act of 1868). ABP, in its capacity as SHA and CHA for the Humber is a separate statutory entity and independent of ABP in its capacity as owner and operator of ports on the Humber, including Immingham, and as promoter of the DCO scheme which is under examination.
2. The Harbour Master, Humber was appointed in 2015. His job description includes responsibility for safe operation of navigation and other marine activities in the harbour and its approaches and to ensure that the responsibilities of the Statutory Harbour Authority and Competent Harbour Authority are met in respect of conservancy and navigation and that the powers are used appropriately.
3. The expression "Harbour Master" is defined in section 4 of the British Transport Docks Act 1972 to include the harbour master's deputies and assistants (who are identified as having delegated power of authority). On the Humber, this includes:
 - 1 Deputy Harbour Master
 - 3 Pilotage Operations Managers
 - 1 Harbour Control Manager
 - 6 Assistant Harbour Masters, one of which will be duty at any given time as the VTS Watch Manager

Humber Estuary Services

4. Humber Estuary Services (HES) is merely the name used informally, akin to a trading name meaning ABP in its capacity as Statutory Harbour Authority and Competent Harbour Authority for the river Humber (as distinct from ABP in its capacity as port owner and operator).

Curriculum Vitae

5. Captain Firman has 32 years' experience in the marine industry, including almost 22 years relating to navigational safety on the Humber Estuary. Captain Firman spent 10 years as a Deck Officer in the Merchant Navy gaining a Master (Unlimited) Certificate of Competency. He served as a Humber pilot for four years before moving into pilotage management in 2005. He was appointed as Harbour Master, Humber in 2015, a role he has now held for more than 8 years. He is the holder of a Harbour Master Diploma (with Distinction), is a freeman of the Honourable Company of Master Mariners and a full member of the UK Harbour Master's Association. He has extensive experience of Pilotage and Pilotage Exemption Certificate management, port risk assessment and ensuring continued safe navigation within the Humber upon the introduction of new infrastructure.
6. During his time on the Humber, the Harbour Master, Humber has been involved with relevant stakeholders in the successful planning, licensing, development, delivery and safe operation of a number of large infrastructure projects for new and expanded facilities. These include Greenport Hull, Immingham Outer Harbour, Humber Sea Terminal and Grimsby River Terminal and he has also been a consultee in respect of a number of other projects relating to the Humber Estuary. The Harbour Master, Humber is participating in the examination to assist the panel with his opinion on the safe and efficient operation of the harbour. Although he initially raised some issues regarding the drafting of Requirement 18 of, and the protective provisions in Part 1 of Schedule 4 to, the draft DCO, the Harbour Master, Humber is content with the revised drafting of both requirement 19 and the protective provisions for the Humber. He has no other comments on the draft DCO.

HES as Statutory Harbour Authority

7. HES as SHA is responsible for conservancy and is tasked with the maintaining and improving navigations within the statutory limits including the removal of impediments and obstructions

to the free navigation of the river, of whatever origin or other nuisances, and includes the licensing of works in the river, subject to other consents.

8. The Harbour Master, Humber, in his statutory role, has a number of navigational safety functions, including provision of Aids to Navigation which themselves include lighting and buoyage in the harbour and the removal of wrecks and other obstructions. He has powers to regulate the activities of other persons at the harbour including, in particular, the movement and berthing of ships in the harbour, by means of directions and byelaws.
9. HES (as the SHA for the Humber) maintains its own Marine Safety Management System (MSMS) to manage marine hazards, risks and emergency preparedness, as required by the Port Marine Safety Code (PMSC). The Duty Holder (referred to below) is responsible for ensuring that the Harbour Master has adequate resources to manage marine operations effectively and to adhere to relevant policies, procedures and systems and including adequate resource for training.
10. The Humber MSMS is produced in compliance with the requirements of the PMSC and in accordance with the Guide to Good Practice on Port Marine Operations, which requires harbour authorities to develop a formal risk assessment for the safe operation of the harbour with the aim of eliminating risk or reducing risk to “as low as reasonably practicable (“ALARP”). The “Duty Holder” for the purposes of the Humber is ABP’s Harbour and Safety Board (HASBoard) which comprises the same membership as the main board but meets separately and has its own remit. According to the PMSC, the Duty Holder is accountable for compliance with the code and its performance in ensuring safety of marine operations. The Humber MSMS is independently audited as required by the Port Marine Safety Code and treated as such with respect to Maritime and Coastguard Agency (MCA) PMSC health checks.
11. There is also a Designated Person for HES, who is appointed by the Duty Holder in line with the requirements of the Port Marine Safety Code to provide independent assurance and oversight of the MSMS.

Harbour Works Consents

12. Consent for the construction of works in the harbour area below Mean High Water Springs is dealt with by HES. Consent would not be granted until the applicant for the works has also obtained consent from the Marine Management Organisation (“MMO”). Any approval may be

given subject to reasonable conditions imposed by HES for the protection of conservancy and navigation interests, which may include protective works, lights etc.

Byelaws and Directions

13. The conservancy authority is empowered (by section 10 the Humber Conservancy Act 1899) to make byelaws for the following purposes:

- For the management and improvement of the Humber and navigation thereof;
- For the regulation of traffic in the Humber;
- For the prevention of obstructions in the Humber;
- For the government, good order and regulation of persons navigating the Humber;
- For preventing the removal or alteration of any water mark set up by the Commissioners for the purpose of showing the height or depth of water in the Humber;
- For appointing places at which only vessels may be broken up and for regulating the mode of breaking up vessels;
- For preventing any nuisance to riparian residents or other persons by persons using the Humber or the banks or shores thereof.

14. The current byelaws are the Humber Navigation Byelaws dated 1990. Importantly, and amongst other requirements to control the movement of vessels in a safe manner, the byelaws require the master of every vessel (other than a river craft or other small vessel) to give prior notice to VTS HUMBER of its arrival at, departure from or movement within the Humber and must also report to VTS Humber when passing the published “Reporting Points” along the river. The byelaws also require the master of every power-driven vessel to maintain a continuing listening watch on the appropriate radio channel for the area in which the vessel is navigating unless using an operating radio channel for berthing. The byelaws also require the master of a vessel to report any incident to VTS HUMBER and, where its seaworthiness is affected or likely to be affected, the master shall not move the vessel, except to clear the fairway or to moor or anchor in safety, otherwise than with the permission and in accordance with the directions of the Harbour Master. Practically, there is a time during which each vessel entering or leaving the Port of Immingham will be in radio contact with both VTS Humber and the Dockmaster. VTS Humber’s involvement with a vessel approaching the port does not end until the vessel has reached a safe point for berthing.

15. Byelaw 14 relates to navigation and speed of vessels. It requires the master of a vessel to navigate the vessel with due care and caution and at a speed and in a manner which shall not endanger the safety of any person or any other vessel or cause damage thereto or to a floating navigational mark or mooring or other property. It also requires the master of a vessel to reduce the speed of the vessel when passing any other vessel employed in works and to ensure that the vessel does not exceed a speed of 5 knots when approaching and passing any jetty when any vessel is mooring, moored or unmooring at the jetty.
16. In addition to the controls established by the byelaws, the conservancy authority is also empowered to give and enforce general and special directions within the Humber. The Harbour Master, Humber is empowered to give special directions. Directions relate to the movement of ships in the harbour and safety of navigation.

General Directions

17. General directions for the Humber are given by HES by means of Standing Notices to Mariners.
18. The current “General Directions for Navigation in the Humber” impose a duty on all masters of vessels navigating the River Humber to comply with the directions, which include:
- controls on notice of arrival,
 - a prohibition on anchoring in a fairway (that is, a navigable channel which is a regular course or track of shipping) except in an emergency, for the purposes of manoeuvring or when anchoring in a designated anchorage area;
 - a prohibition on moving in poor visibility for certain vessels

Special Directions

19. Special Directions issued formally are rarely used but may be given by the Harbour Master, Humber to a specific vessel at a specific time in a specific circumstance.

Pilotage and Pilotage Exemption Certificates

20. HES, in its capacity as Competent Harbour Authority, has duties and responsibilities under the Pilotage Act 1987. This includes authorising and providing pilots and, deciding the circumstances where pilotage should be compulsory (required in the interests of safety under ss7, 8 and 15 1987 Act). The requirements are published in the local pilotage directions, currently the Humber Pilotage Directions 2016. HES also issues Pilotage Exemption Certificates ('PECs') under s8 of the 1987 Act. This provides that a PEC is granted where an application is made and HES is satisfied that the skill, experience and local knowledge are sufficient to navigate the ship in the area without a pilot. Qualifying criteria for certification as a PEC are published in the supplementary provisions to the Humber Pilotage Directions.

Lighthouse authority - aids to navigation

21. HES, in its role as a Local Lighthouse Authority, maintains aids to navigation in accordance with the requirements of the General Lighthouse Authority (Trinity House).

Funding

22. HES functions are funded by revenue raised by conservancy dues on vessels entering the River Humber from the sea. Further revenue is raised through charges relating to the provision of the pilotage services provided through HES, including boarding and landing of pilots.

Navigational Safety on the River Humber

23. The HMH manages the safety of navigation on the Humber estuary in compliance with the PMSC. In other words, he sets marine procedures to form a MSMS based on the management of risk using formal risk assessment to reduce the risks to ALARP. Significant risk control measures on the Humber include provision of Pilotage, VTS to provide an oversight in the scheduling and management of vessel movements within the Estuary and provision of suitable aids to navigation and hydrography.

24. The Humber is a busy tidal estuary where a significant proportion of the movements rely on the two tides per day. Typically, there are currently 60 movements a day, although historically there have been up to 100 movements. No commercial vessel of over 12 metres in length can navigate the Humber unless under the supervision of VTS Humber. Congestion within the Humber Estuary is prevented by the simple expedient of requiring vessels to arrive, depart

and transit the Humber in a planned manner. The same principles apply however many vessels are being moved.

Involvement of the HMM in the development of the application

25. The Harbour Master, Humber has had a consultative role on the proposals to ensure that risks and impacts relating to his areas of responsibility could be appropriately considered. The Harbour Master Humber was a statutory consultee pursuant to section 42 and the Planning Act. He submitted a response to the Risk ID consultation on 15 September 2022, a copy of which (undated) is appended to these submissions at Annex 1. In this letter, the Harbour Master, Humber records his observations that a number of the risk scores were higher than he may have normally expected, including for barges and the construction phase, noting that the consequences relating to Risk ID 04 were worthy of consideration. He also clarified what HES consider as a “future control” in its risk assessment process, such as pilot training relating specifically to the IERRT.
26. The Harbour Master, Humber, having reviewed the output of the early simulations, shared with the project team his concern that the tidal data used in the first simulations and the proposed orientation of the jetty at that time were not what HES would have expected based on collective experience of navigating in the vicinity (but not the actual location) of the proposed jetty. In his view, the tide would be flowing in a direction of approximately 10 degrees to the northwest/southeast. In response to his feedback, the project team carried out further measurements across the area.

HazID Workshops

27. HazID workshops are used to identify Marine Hazards and assess the associated Risks and how they may be managed. In practice for HES this most often involves carrying out formal risk assessment reviews at regular intervals, where possible involving third party stakeholders to ensure a broad and balanced view
28. The Harbour Master, Humber attended project related HAZID workshops on 7 April 2022 and 16-17 August 2022. Attendance was purely as a stakeholder and the ABP project team provided the lead and methodology. Such workshops are by their nature collaborative, with contributions being welcomed to identify and rank hazards/risks. These particular workshops

were the broadest attended that the Harbour Master, Humber had experienced during his time on the Humber and very open in nature. Indeed, the Harbour Master, Humber was of the view that that the project team was so accommodating of all stakeholders' views that it resulted in artificially high levels of risk being recorded. This viewpoint is reflected in his response to the Risk ID Consultation dated 15th September 2022.

Simulations

29. The Harbour Master, Humber attended simulations conducted by HR Wallingford on 28-30 November 2022) and, at the end, was of the opinion that all attendees were broadly satisfied that any concerns raised had been dealt with. (Previous simulations were attended on behalf of HES but not by the Harbour Master, Humber).

30. In the experience of the Harbour Master, Humber, the IERRT project has carried out more simulations with third party involvement, at this stage of the project design development, than any previous Humber infrastructure scheme. He is satisfied that the runs to date have considered extreme conditions in terms of tidal and wind conditions. The commissioning of HR Wallingford to carry out the trials provided an added layer of independence. Further, local tug operators and pilots were involved at all the simulations including those attended by the Harbour Master Humber. His recollection is that they were content with the simulation process and confident that the vessels could safely navigate to and from the new berths. No concerns have been raised to him from the tug operators or pilots who were present at any of the trials.

Aborts and fails in the context of simulations

31. The purpose of initial simulations is to assess limits and consider appropriate operational procedures. Simulations that were entirely successful are unlikely to have been sufficiently challenging. Thus, mixed results, including aborts and fails, should not be interpreted as meaning that these outcomes would be likely in real life. Failed and aborted simulations have typified the process of feasibility simulations for many projects on the Humber which are now operating safely. They inform the learning process and refine parameters, procedures and manoeuvring techniques to ensure safe navigation in the real world.

Congestion

32. The Harbour Master, Humber is of the view that the IERRT will not have a material impact on the operation of the Humber. The Humber Estuary was subject to c22,000 pilotage and PEC movements in 2022 (in 2003 those movements were c31,000). The proposal therefore represents a very small increase in movements which can be accommodated.

Harbour Master Humber's conclusions on the Navigation Simulations and Risk Assessment (December 2022)

33. The Harbour Master, Humber is content that the simulations that he attended were comprehensive and robust. He has reviewed the NRA and considers that it has robustly assessed the risks.

How the Harbour Master would use/build on the NRA/Simulations were the DCO to be made

34. Going forward, if the proposed development is implemented, more focussed simulations will be carried out to develop experience and practical learning to flesh out operational parameters, manoeuvring and tug guidance and pilotage/PEC training and familiarisation. (Simulators are not only used in the context of proposed new infrastructure, they are also used on a regular basis to provide pilotage training, as well as assessments of new pilots. In addition, simulators provide opportunities for refresher training and continuous professional development for more experienced Pilots as part of the larger programme of training and development.)
35. Specific assessments and restrictions would be implemented for the construction phase to ensure it is carried out safely with minimal impact to other estuary users. The issuing of a Harbour Works consent would be subject to any requirements being met, usually along with the MMO approval process.
36. To ensure that the operational phase of the new facility would be implemented safely it would be usual to phase any potential operational restrictions (timings of ship movements and berthings, wind speed, tides, use of tugs, speed of approach etc). In simple terms the tightest restrictions would apply first with a vessel arriving at Slack Water in daylight with less wind until operational experience was gained and operating windows expanded and developed.

37. The general principle is that the Harbour Master, Humber would not allow IERRT to be operated in a manner which is unsafe should operational reality cause any concern that may require a change in parameters from those originally identified.
38. The Harbour Master, Humber would ensure that if the IERRT is consented and built, all navigational safety risks associated with it are ALARP. An example of where this has occurred is the Grimsby River Terminal where the Harbour Master, Humber has required ships to have the assistance of three tugs. This was the result of feedback from pilots and the PEC group who had tested berthing at that terminal through simulations.
39. If the Harbour Master, Humber was not content with the operation of the IERRT, either because of its impact upon navigation in the estuary or the safety of vessels he would ensure that measures are taken to ensure the acceptable operation of the IERRT. This could be achieved through the issuing of harbour directions, if necessary.
40. Overall, and in light of the Harbour Master, Humber's statutory role and the powers available to him, the Harbour Master, Humber is of the view that if built the proposed IERRT can be operated safely.

Conclusion

41. The Harbour Master, Humber is participating in this examination to provide input on behalf of the Statutory Harbour Authority and Competent Harbour Authority in relation to his areas of expertise and responsibility, acting independently of ABP as promoter of the Development Consent Order.

Winckworth Sherwood LLP