

- **IMMINGHAM EASTERN RO-RO TERMINAL DCO APPLICATION**

PINS REFERENCE TR030007

COMMENTS ON DEADLINE 1 SUBMISSIONS BY DFDS

Introduction

1. This document consists of comments on various documents submitted at Deadline 1 (15 August 2023) for the above application. The documents commented upon are:

- a. The revised draft Development Consent Order [[REP1-005](#)]
- b. The Applicant's comments on Relevant Representations [[REP1-013](#)]
- c. The Port of Immingham and River Humber, Management Control and Regulation [[REP1-014](#)]
- d. The Local Impact Report [[REP1-023](#)]

Draft DCO

2. A revised draft Development Consent Order was submitted by the Applicant [REP1-005]. While it has incorporated some changes suggested by DFDS in its Relevant Representation [RR-008] and amplified at Issue Specific Hearing 1, the following changes have not been made and DFDS continues its case that they should be:

- Article 2: the definition of 'construct' still too wide;
- Article 6(1) the exception of variation of the ability to maintain remains unnecessary;
- Article 7(b) still does not refer to building schedule;
- Footnotes have gone wrong in tracked change version from page 12 onwards. They are correct in the clean version but should be in bold in the text to avoid confusion.
- Article 21(1) still has an annual cap of 660,000 units rather than a daily cap, and no monitoring is provided;
- Article 21(3): the tailpiece has been amended but such amendments usually refer to 'new or different' environmental effects;
- Article 25 is still not subject to Schedule 3, the Deemed Marine Licence;
- There is no change to works, including the lettered ancillary works at the end;
- Requirement 4(2)(c) still has a tailpiece;
- Requirement 5(1) is now redundant;
- Requirement 10 (noise insulation) is unchanged and potentially provides no protection at all – what is offered by the Applicant should be required to reach a specified standard of protection;
- Requirement 18 (when impact protection implemented) is simply a weaker version of the previous version – instead of the harbour authority directing that Work No. 3 be built, they can only recommend this;
- Schedule 3, paragraph 8 – two typos not corrected: 'licensed' and missing word 'strategy'; and
- Schedule 4 should have protective provisions for DFDS added, as submitted to the Applicant before Deadline 2.

Applicant's comments on Relevant Representations

3. The Applicant has submitted a lengthy response to the Relevant Representations it received, a large proportion of which addresses DFDS' representation. The Applicant's rebuttal to all points raised by DFDS in this process is that this is merely an objection made because DFDS is a competitor to Stena. It is disappointing that the Applicant has sought simply to question DFDS' motives in objecting to certain aspects of the IERRT rather than seeking to address the various genuine marine safety and marine and land congestion concerns which have been raised by DFDS.
4. These issues have not only been raised by DFDS, a major customer of ABP for many years which has invested heavily in the Port and local area, but also by other key stakeholders of the port which operate entirely outside the Ro Ro freight market.
5. It is, therefore, also disappointing to note the tone of the rebuttal put forwards by the Applicant which might suggest that the Applicant does not have reasonable or evidenced answers to many of the safety and process concerns, many of which have been raised consistently by DFDS (and other non-Ro Ro operator stakeholders) over a prolonged period. Instead, the Applicant has simply sought to attack DFDS motives in an attempt to deflect attention from this failure to provide adequate answers on their part.
6. In response to the suggestion from the Applicant that its concerns are merely competitive in nature, DFDS would note that the Ro Ro services which would be operated from IERRT, if built, are already operated today by Stena out of alternative facilities with confirmed capacity to accommodate growth on the Humber, including within the Port of Immingham. Accordingly, there is no obvious competitive advantage to be gained by DFDS in trying to ensure that any new facility that is built is safe to use and does not have the potential to disrupt the existing operations, not only of DFDS, but also other current users of the Port of Immingham.
7. By way of further explanation of DFDS motives in scrutinising the Applicant's IERRT proposals, DFDS originally examined the proposals because at the start of the process the Applicant had made clear to DFDS that, due to space restrictions at the port of Immingham, implementing IERRT would result in operational impacts on DFDS such as the proposal to move Drury off the Immingham port estate (although this proposal has subsequently been dropped). Drury Engineering (DE) are contracted to maintain the DFDS equipment used for vessel operations and cargo carrying, items commonly referred to as mafi's, cassettes and trestles. DFDS delivers and collects around 40 items every day, transporting them on bespoke equipment that is licenced for use on the dock estate but not on the public highway. The original proposal was to relocate DE outside of the port estate, to an area of land outside of the west gate on the corner of Laporte Road. This proposal would mean DFDS were unable to deliver and collect the equipment which would have a significant impact for the business. The equipment is critical for vessel operations and if DE were located outside of the dock estate, DFDS would need to design and build an entirely new transport system that met public highway legislation. DFDS would also need to upskill or employ a dedicated pool of employees who were licenced to drive HGVs on the public highway. This solution, if achievable, would have added multi million pounds of cost to the existing operation and is what prompted

DFDS to perform a deep dive into the project. The proposal has since been changed to retain DE on the port estate, thus removing this risk. Such changes to existing operations at the Port would have had a detrimental commercial and operational impact on DFDS and accordingly DFDS was very concerned about them. It was also concerned about the attitude and approach being taken by the Applicant which, as the dominant port operator on the Humber, seemed to consider its proposals would simply be waived through irrespective of any concerns which any stakeholder might have and irrespective of whether it had followed due process and applied due rigour in promoting the project.

8. Having initially been concerned about the commercial and operational changes to DFDS' existing operations which the Applicant indicated it intended to make in connection with the IERRT application, the more DFDS looked into the proposals, the greater DFDS concerns grew over the project. DFDS therefore engaged relevant experts to help it assess the proposals and this only served to heighten DFDS' anxieties. Concerns moved from the immediate impacts which the Applicant sought to impose on DFDS operations such as relocating Drury, to inherent safety concerns about the proposed facility. The issues raised by DFDS (and others) have the potential to impact DFDS (and other port stakeholder) operations on a daily basis due to vessel congestion in berthing and unberthing at IERRT and the very real prospect of activities at IERRT resulting in a potentially catastrophic incident with Immingham Oil Terminal and/or Eastern Jetty chemical operations, which could close the entire port to operations for a material period of time – not to mention potential for injury or loss of life and potential harm to the environment.

9. Given the location of Port of Immingham, which means that many living around the Port depend on it for their livelihood, the dominant position which the Applicant enjoys on the Humber as a whole, operating four of the five material harbour facilities found on the Humber estuary, and the fact that the Applicant is both commercial port operator at Immingham and also Statutory harbour Authority for the Humber River as a whole, DFDS suspect that the Applicant did not expect any opposition to its plans for IERRT. Its approach to much of the project right up to its reluctant acceptance of the need to undertake a supplementary / second statutory consultation due to its regular changes to proposals reflects that. In many aspects of this project, the Applicant has not done its homework properly because it did not think it needed to, and it has sought to fit its evidence to what it wanted to build rather than ensuring that its evidence drove what may be built – to highlight just one example, its misleading representation of tidal flow direction in vessel simulations and in the NRA.

10. The table below provides DFDS's response to the Applicant's comments on Relevant Representations in [REP1-013](#), the Applicant's page numbers have been adopted.

Page	Topic	Summary	DFDS Comment
142	In combination: construction and operation	Simultaneous construction and operation has been considered, at sub-section 8 of each chapter	<p>This is simply not true, simultaneous construction and operation are not considered at sub-section 8 of each chapter, it is only mentioned in chapters 10 (navigation) and 18 (land use). All the other chapters specifically use the phrase 'construction and subsequent operation' when describing impacts. Paragraph references: 7.8.1 in [APP-043], 8.8.1 in [APP-044], 9.8.1 in [APP-045], 11.8.1 in [APP-047], 12.8.1 in [APP-048], 13.8.1 in [APP-049], 14.8.1 in [APP-050], 15.8.1 in [APP-051], 16.8.1 in [APP-052], 17.8.1 in [APP-053] and 19.8.24 in [APP-055].</p> <p>The Applicant should not be permitted to carry out simultaneous construction and operation until it has been environmentally assessed, including from the point of view of navigational safety.</p>
	In combination: IGET	IGET is 'inchoate' and so the Applicant can conclude that the cumulative effects are insignificant	That is logically incorrect, at best the cumulative effects are unknown.
151	6.1 Road: unrepresentative sampling	2023 flows are comparable or lower than 2021	<p>DFDS is disappointed not to have been invited to the 'Traffic Assessment Group' given that it is by far the largest transport user at the Port of Immingham.</p> <p>DFDS have provided the survey data captured in June 2022 as a response to ISH2 Action Point 11 in REP1-029. This analysis showed that the 2021 Applicant's baseline traffic volumes assessed are generally lower than the volumes recorded within other data sources reviewed by DFDS landside</p>

			<p>consultants, GHD. This conclusion is consistent across the A1173, A160, A180 and Queens Road.</p> <p>Whilst it is acknowledged that the baseline survey data has been agreed as appropriate to use for the purposes of assessment, the Applicant has provided additional data for 2023 but has not yet provided commentary on why the data obtained by the applicant should be used as the baseline assessment in favour of other datasets from the same locations that were recorded within the last five years, for example the 2019 NKPP counts (see Appendix 7 to the DFDS Written Representation).</p> <p>The continued use of the 2021 traffic flows incorporated within the Applicant's assessment therefore risks overstating the current capacity of the highway network.</p> <p>Further details regarding this point are provided within DFDS Written Representation, under 'Survey of Existing Traffic Flows'.</p>
	6.3 Road: ATC used at Gatehouse	Methodology agreed with relevant highways authorities	DFDS would request that the Applicant explain the validation and calibration method used for the ATCs located on approach to the East and West gates.
152	6.4 Road: 10% Tractor Only Units	See ABP response to AP10	<p>DFDS have provided a detailed review of the tractor only movements which is presented in our response to ISH2 Action Point 12 [REP1-030]. The sample collected by DFDS identified that 18.9% of HGV movements through the port gatehouses are tractor-only movements.</p> <p>This figure (18.9%) only accounts for movements through the port gatehouses. There is a high likelihood that additional tractor only movements</p>

			<p>will be generated by HGVs that have a split drop off / pickup location between operators across the port (i.e. a haulier brings a trailer to DFDS dockside facilities, and is picking up a trailer from IERRT). These additional movements will generate further traffic volumes on the port internal road networks, (i.e. the percentage of which have not been taken into account within the current Transport Assessment. Further details regarding this point are provided within DFDS Written Representation, under 'Tractor Only Movements'</p>
152	6.5 Road: assessment within port	Additional information to be provided at D2	<p>No evidence has been provided within the applicants Transport Assessment regarding how the terminal is to achieve the nominal maximum throughput, with an action currently outstanding on the Applicant from the Examining Authority to justify the terminal capacity to ensure all HGVs will be catered for on-site.</p> <p>It is requested that the Applicant provide justification of their statement of capacity of the terminal within their response to response to ExAQ1 TT.1.1 at Deadline 2, and identify next steps. During a discussion held with the Applicant on 10 August 2023 between the Applicant, CLdN and DFDS, the Applicant identified that they would consider imposing a daily peak volume of vehicle control limit within the dDCO. This would mitigate the potential for daily volumes to exceed the currently utilised peak volume, however further considerations are likely required to mitigate congestion and queuing on the port road network being generated by high utilisation of the terminal.</p> <p>DFDS reserve the right to provide further commentary on this topic until following the provision of the Applicant's response to ExAQ1 TT.1.1 at Deadline 2.</p>

			Further details regarding this point are provided within DFDS Written Representation, under 'Terminal Capacity'.
152	6.6 Road: accommodation of peak inbound traffic	This is assessed in TA Appendix M	<p>DFDS have multiple areas of concern regarding the current traffic generation and distribution to the internal port road network, including:</p> <ul style="list-style-type: none"> • Peak day volume and terminal capacity; • Ratio of tractor-only movements; • Accompanied versus unaccompanied; and • East versus West gate assignment. • Peak day volume and terminal capacity: <p>As captured within our response to the comments regarding the terminal capacity, no evidence has been provided within the Applicant's assessment that justifies the statement that the number of HGV parking and storage provided on site means that all vehicles will be catered for on-site and there will not be any queuing as presented in paragraph 7.3.1 of the Transport Assessment [AS-008].</p> <p>DFDS have conducted an independent analysis of the terminal capabilities under the proposed configuration and identified that high utilisation under peak day operations, and insufficient capacity for the annual throughput identified within the dDCO [REP1-005], both leading to congestion of the terminal and leading to queuing back onto the port road network. Further information regarding this assessment is provided in 'Annual Throughput and Terminal Capacity' (Appendix 5 to the DFDS Written Representation).</p> <p><i>Ratio of tractor-only movements</i></p>

DFDS has also identified that the volume of ratio of tractor-only movements should be increased to reflect current operating conditions, including further review of shunting and tractor-only movements that are likely to occur between operators (i.e. between DFDS and IERRT) which would increase the ratio further.

Accompanied versus unaccompanied

The Applicants Transport Assessment [AS-008] only provides a singular view of the distribution between the accompanied and unaccompanied freight units as a percentage split. No evidence is provided to indicate how this split has been generated, whether this is a forecasted distribution for future volumes, or if this a representation of current distribution of the operator.

Due to the variations in impacts of accompanied and unaccompanied freight units, and the uncertainty of future freight unit modes (i.e. either accompanied or unaccompanied), it is our recommendations that a range of distributions is considered. This range of distributions should be established following evidence of historical operations from CLdN, with the implications of the distribution amendments flowing through to the Transport Assessments Modelling.

East versus West Gate Assignment

DFDS has also identified that the assignment to of movements to the west gate of 15% as stated within the Transport Assessment [AS-008], is likely to underestimate the west gate assignment, particularly for inbound vehicles. If the assignment was to increase from 15% to 82%, then a higher volume of vehicles will be move between the IERRT facility and the west gate which are yet to be analysed within the current Transport Assessment.

			<p><i>Summary</i></p> <p>Without appropriate consideration of the appropriate peak day volume, and distribution of tractor-only movements, accompanied to unaccompanied freight units and movements to the east and west gates, there is a risk that the Applicant's Transport Assessment may over or under estimate the implications of the IERRT project on the ports local road network.</p>
153	6.7 Road: queueing at gates	See Applicant's response to ISH2 Action Point16	<p>The Applicant's response to Action Point 16 [REP1-009] states that "<i>The operation of the Port Security "Gates" is set out in the TA at Section 6.4.10 [AS-008]. The action list from ISH2 includes the need for discussion with CLdN and DFDS on routing assumptions and traffic generation forecasts (Action Points 14 and 15). Therefore, further appraisal of this issue may be necessary following the outcome of those discussions and upon receipt of data from these parties.</i>"</p> <p>The demand for the gatehouses generated by IERRT will be influenced by a number of factors, including the daily peak volume, the assignment between the West and East gate, the ratio of accompanied versus unaccompanied units, and the number of tractor only units. It is DFDS view that following the agreement between the Applicant and interested parties regarding these input elements, that the gatehouse capacity assessment will be revisited, and where necessary appropriate mitigations be provided. Any mitigations proposed should be accompanied with sufficient justification and evidence of the suitability and level of impact these mitigations provide (i.e. justification of how the proposed additional lane at the east gate provides the appropriate capacity).</p>

			Further details regarding this point are provided within DFDS Written Representation, under 'Gatehouse Capacity'
153	6.8 Road: 15% assignment to West Gate	See Applicant's response to Action Point 16	<p>The Applicant's response to Action Point 16 [REP1-009] states that "<i>The operation of the Port Security "Gates" is set out in the TA at Section 6.4.10 [AS-008]. The action list from ISH2 includes the need for discussion with CLdN and DFDS on routing assumptions and traffic generation forecasts (Action Points 14 and 15). Therefore, further appraisal of this issue may be necessary following the outcome of those discussions and upon receipt of data from these parties.</i>"</p> <p>DFDS have provided a commentary of the accompanied or unaccompanied assignment approach, and of the East versus West Gate assignment, which are presented in its responses to ISH2 Action Points 14 [REP1-031] and 15 [REP1-032]. Further details regarding this point are provided within DFDS Written Representation, under 'Traffic Assignment to Gatehouses'</p> <p>To validate the Applicant's statement, DFDS consultants reviewed the differences in journey times between the three routes (A160 to West Gate, A160 to Manby Rd to East Gate, and A1173 to East Gate). From this review, DFDS noted that whilst the East Gate is equal quickest, there is insignificant differences in journey times between the three available routes with differences only equating to a one (1) minute drive time. It is DFDS view that differences in journey time would, on its own, be unlikely to justify the heavy weighting towards the use of the Eastern gate without the implementation of management controls which would essentially remove natural route choice and enforce the use of prescribed routes to the IERRT.</p>

Driver route choice is typically driven by a number of factors in addition to drive time. Though the IERRT project and planned new developments are located closer to the East Gate, a number of behavioural factors are likely to incentivise use of the West Gate, including habits, direction of travel, wayfinding and suitability of carriageway (these factors are further described within DFDS response to Action Point 15 [[REP1-032](#)]).

In addition to the above items, a major influence on route choice will be driver facilities. There are a several major facilities on the A160, including DSV road limited depot and distribution centre, and DFDS Logistics depot and distribution centre. These two sites represent a large percentage of offsite capacity and are major contributors to trip generations and were not part of the offsite truck stop or driver amenity facilities considered by the Applicant in their Transport Assessment [[AS-008](#)].

Without appropriate consideration of the distribution of accompanied to unaccompanied freight units or the distribution between the West and East gate, there is a risk that the Applicant's Transport Assessment may over or underestimate the implications of the IERRT project on the ports local road network, the gatehouses, and the strategic road network. Implications may be inclusive of unassessed congestion, potential impacts on existing users, as well as communities from additional traffic, noise and air pollution.

Due to the unknowns associated with driver behaviours, without controls it is DFDS recommendation that a broad assessment is conducted, considering the potential that:

- 100% of development traffic uses the A1173 corridor; and

			<ul style="list-style-type: none"> Existing distribution of traffic between East and West Gates is maintained (i.e. 18% to the East Gate, and 82% to the West Gate)
153	6.10 existing gate diverting	Road: west traffic	<p>Won't happen since no new signage</p> <p>There is some inconsistency as to whether new signage is being provided or not. This suggests it is not, but North-East Lincolnshire Council's LIR [REP1-023] suggests it is.</p> <p>The Applicant seems to be expecting that the truck drivers will be swayed by a minute difference in drive time and GPS information. They only seem to think one truck stop exists in the local area and that all other driver facilities, and nearby operations (i.e. drivers from DSV site, truck stops, fuel stations, etc) is non influential to their analysis, which DFDS disputes.</p> <p>The Applicant's consultant seems to consider that it is the interested parties' role to provide the data around how the drivers will react and develop their routing and that they do not need to furnish that type of information, whereas DFDS considers that the Applicant should do this.</p> <p>The Applicant is also asked to clarify if changes to strategic signage is intended or not, as the comment provided by the Applicant contradicts the Environmental Statement [APP-053] which identifies "<i>ABP have identified that East Gate is not currently being signposted on the local or strategic highway network. ABP are therefore separately pursuing agreements through Section 278 of the Highways Act 1980 to deliver a change to the existing signage arrangement to improve directional signage to the Port of Immingham generally.</i>"</p> <p>It is noted that in Annex C of the Applicants Transport Assessment [AS-008], that a signage strategy was provided to North East Lincolnshire Council, North Lincolnshire Council, and National Highways for review. The signage</p>

			<p>strategy was identified in email communications between these parties and the Applicant's consultant in an email dated 31 May 2022, identified as Appendix I.</p> <p>As far as DFDS are aware, this signage strategy has not been provided as part of the planning application, nor is it included in the requirements as stated within the draft DCO. It is thereby requested that the Applicant confirm if a signage strategy has been agreed, and whether this may influence East versus West gate assignment, and volume of vehicles on project to utilise the A1173. Intent to modify the strategic signage is also identified within the Environmental Statement [APP-053].</p>
153	6.11 impact A1173	Road: on	<p>Impact minimal N of King Street - only 22 two-way light vehicles expected in each peak</p> <p>The Applicant's response is in regards to the evidence provided within the Transport Assessment [AS-008], however the original query raised by DFDS is in respect of the Environmental Statement [APP-053] which identifies the magnitude of change on the A1173 as moderate, however undertakes no further investigation as the identified receptors are of negligible or low sensitivity.</p> <p>Whilst it is recognised that there are limited receptors along this route at present, in the future that will no longer be the case with the implementation of developments such as the Stallingborough Interchange Business Park. The effects of significant increases in HGV traffic along this route in terms of severance, driver delay, pedestrian delay and amenity, accidents and safety and fear and intimidation, need to be appropriately considered and mitigated.</p> <p>In addition, the assessment of impact on receptors should be considerate of any changes derived from responses to the daily peak volume, the</p>

			assignment between the West and East gate, the ratio of accompanied versus unaccompanied units, and the number of tractor only units.
154	6.12 Road: junction capacity	Transport assessment agreed with relevant highway authorities, however, the Applicant awaits information from AP11 and AP17	<p>DFDS have provided the Applicant with modelling and our assessment for the five public highway junctions that have been identified to be operating above capacity by 2032 our response to ISH2 Action Points 17 [REP1-033]. The modelling provided in the response to Action Point 17 showed that without appropriate mitigations, five junctions will operate over capacity in 2032. DFDS would expect the Applicant to justify why it has not included highway capacity mitigations as part of the proposed development and to provide detail how on how the Applicant intends to address the junctions' capacity issues.</p> <p>It is worth noting that adjusting the daily peak volume, the assignment between the West and East gate, the ratio of accompanied versus unaccompanied units, and the number of tractor-only units will have an impact on the results shown within the response to ISH2 Action Points 17 [REP1-033] and ultimately influence the type and level of mitigations required.</p> <p>The junctions identified above capacity included:</p> <ul style="list-style-type: none"> – A160 Humber Road / Eastfield Road Signalised Junction – A160 Humber Road / A1173 Manby Road Roundabout (Manby Roundabout) – A1173 / Kiln Lane Roundabout – A1173 / New Site Access (Pioneer Park) Roundabout – A180 / A1173 Roundabout

			<p>Capacity issues at some of the above junctions have also been identified in other committed developments in the area.</p> <p>Further details regarding this point are provided within DFDS Written Representation, under 'Junction Capacity' and 'Impacts on the A1173'</p>
215	Noise	<p>Acoustic screening: this could provide more than 5 dB attenuation, 5 dB comes from BS 5228:2009; ambient noise levels have been used, see para 14.8.14; statement about simultaneous construction activities is not correct, assessment does include this (no reference given); on a/c DFDS is jumping between construction and operation, ABP has consulted occupiers to determine a/c situation; fixed plant will be designed not to be noisy; works outside core hours will be controlled by a s61 application to the local authority; assessment based on diesel-powered plant rather than electrical (no reference given); noise insulation is proposed to reduce noise levels to not significant, this is in schedule of mitigation</p>	<p>There is no commitment to provide noise insulation to a certain level of attenuation and there should be.</p> <p>In relation to the PAM building, the commitment in the CEMP (Table 3.8 in APP-111) is just to provide screening, not to screen to a particular level of attenuation.</p> <p>In relation to residential receptors, the commitment in the Schedule of Mitigation (page 23 of APP-116) simply reads 'Offer noise insulation to affected residential NSRs', it does not require it to reduce noise levels to not significant as claimed in the Applicant's response to relevant representations.</p> <p>Noise insulation is only provided upon request, so this is not a full commitment and requires the occupants of nearby properties being made aware of the availability of the scheme. An appropriate communications protocol should be established to ensure all affected parties are made aware of the availability of this mitigation.</p>
172	Navigation: busy area	<p>If DFDS questions NRA process, it has failed to understand it; DFDS' criticisms are motivated by being competitor to proposed operator; Statutory</p>	<p>See comments on 'commercial objection' allegation above. The Applicant should conduct proper stakeholder engagement when considering navigational safety; this implies that only its own and its harbour authority's views are necessary.</p>

		Harbour Authority (SHA) that DFDS operates under are satisfied; NRA acknowledged proximity of IOT	<p>DFDS was founded in 1866 and was at one point the largest shipping company in the world; it is today the second largest Ro-Ro operator in Europe, operating 55 routes across Europe. To imply a lack of knowledge of risk assessment and safe navigation is not worthy of a response. DFDS' concerns are genuine and continue to be unanswered.</p> <p>As can be seen in DFDS's independently produced NRA, one of the biggest safety risks is not in fact to Immingham Oil Terminal but the Eastern Jetty. It may therefore be that the Applicant are the ones who have failed to understand the NRA process. What is more alarming is that in all the 73 simulations undertaken as part of the assessment of the safety of operating to and from this facility DFDS highest risk, vessels moving in and out of IERRT berth 3, the closest to the Eastern Jetty, was only simulated once.</p>
173	Navigation: previous incidents	Less than measured language is inaccurate; misleading to allege have been multiple incidents on the Humber; historic incidents have been considered as part of NRA; both SHAs agree with NRA	'Multiple' would seem correct. The incidents in the Immingham area alone have led to 'multiple' Notices to PEC's and Pilots including amongst others 04-2004, 21-2004, 05-2005, 09-2008, 16-2008, 06-2013, 06-2015 (appended to this document).
175	Navigation: wind	Relying on CAA guidance (!); Immingham not required to have wind recording; should use best source of data; cf Tilbury 2, which used London City Airport and Gravesend; allegations strongly refuted	<p>Answered in DFDS' written representation, however in brief:</p> <ol style="list-style-type: none"> 1. Whilst Tilbury 2 made use of London City Airport data it also used the Gravesend Tower Data which is 600m away on the south bank and fully exposed to the estuary. London City Airport is adjacent to the river, not several miles inland. 2. The Applicant seems to indicate that ABP does not record the wind data at Immingham MCC as the VTS service offered is an LPS.

			However, 12 months of data were made available previously for the simulations conducted by ABP.
176	Navigation: tide	No substance to criticism; two independent surveys conducted; high degree of confidence in data (plus see AP26 and AP27)	<p>Answered in DFDS' written representation, however in brief,</p> <p>We question the data in the areas we are familiar with. These areas are north of the IOT and in the Immingham bellmouth areas.</p> <p>In ISH2 Mr Mike Parr acting on behalf of the Applicant stated at 00:29:22: '<i>I think HR Wallingford would agree with DFDS that the flows to the north of IOT aren't represented in the way that pilots experience them on a day-to-day basis.</i>'</p>
178	Navigation: simulation process	Very surprised at criticisms and clearly misleading allegations - greater complexities with IOH DFDS manoeuvres; standard practice to test boundaries; selecting single failed simulation misrepresents purpose of simulation; DFDS would use the same process and have 'fails'; very concerning single run was presented at ISH2 as showing NRA flawed; simulations used accurate AWAC buoy data; used bellmouth flows as are well understood	<p>See DFDS' written representation. DFDS have consistently detailed their concerns about the flaws in the assessment of risk. It is misleading to imply that DFDS are overstating the flaws because they don't face greater complexities with Immingham Outer Harbour manoeuvres. The manoeuvre for the Immingham Outer Harbour (IOH) is by its very nature a completely different operation in that the vessel is moving from an area of high tidal flows into an area of slack water, so once inside the IOH the vessel is no longer subject to these forces and is therefore able to complete the manoeuvre for the berth with a much higher degree of control, in the vast majority of occasions without the assistance of tugs. By contrast the IERRT vessels are subject to the influence of the tide at all times, including in the final stages of manoeuvring when coming close to the terminal infrastructure making it a much more complex operation.</p> <p>The risks inherent in the location of the IERRT also compound the dangers involved in the manoeuvres with vessels bound for the inner two berths</p>

			frequently coming close to the Chemical Tanker berthed on the Eastern Jetty in the Applicant's simulations. By contrast it is unusual for IOH vessels to get within 200m of the Chemical Tankers berthed on the Western Jetty.
181	Navigation: ship models	HR Wallingford very experienced, were testing limiting conditions; DFDS would do the same themselves	'Testing boundaries' is not a valid excuse for using atypical manoeuvrable vessels
183	Navigation: bow thrusters	Simply unjustified concerns and at odds with Stena masters involved and SHAs; Humber harbourmaster attended and was aware of vessels selected and are confident appropriate vessel machinery was used	<p>The harbourmaster was only in attendance for the stakeholder engagement simulations, which in terms of the IERRT was a smaller project vessel (a Stena T Class) and only onto and off Berth No 1 which is the easiest berth in terms of manoeuvring.</p> <p>In these simulations, which were conducted in a more collaborative manner the bow thruster use was not an issue. DFDS are questioning the use of the bow thruster in the Applicant's simulations (APP-090 and APP-091) utilising the DFDS Jinling vessels. In these simulations bow thrusters were used at 100% for periods exceeding 15 minutes. DFDS is very experienced with this class of vessel and know from practical experience such thruster use is not consistent with a 'safe manoeuvre'.</p>
185	Navigation: towage	SHA satisfied with use of tugs that was demonstrated; data will be used to identify towing requirements; tug companies will expand to meet demand	<p>The suggestion 'the market will respond' is facile. Supplying extra tugs is an extremely expensive business for the towage company both in terms of Capex and Opex.</p> <p>Unless Stena are instructed to take tugs on a regular basis (which is commercially disadvantageous to their operation), the tugs that will need to be provided will need to be financed by all the other users of the port. ABP's</p>

			<p>comment does not reflect that its existing customer base will have to pay more for this.</p> <p>There is also the more fundamental concern that none of the simulations that were carried out feature the East Jetty tug berth, which was established as a recommendation of the Stena Gothica sinking incident to ensure there are enough rigs available to service the major river jetties. If the berth is not in fact to be demolished, then the simulations are flawed as they omit it, but if the berth is to be removed, then the impact of its loss needs to be assessed. The Applicant has remained silent on plans to ensure tugs are able to quickly react to operational requirements at the entrance to Immingham rather than waiting for tugs moored inside the Dock to be penned out a process that potentially wastes valuable time in an emergency situation. DFDS would welcome clarity as to the future of tug berthing at Immingham.</p>
186	Navigation: pilots	Refute DFDS allegations; pilots conducting simulations confirmed manoeuvring was safe; not aware of DFDS expressing concern at simulations; there will be an iterative training process; SHA will deal with availability of tugs and pilots	<p>The Applicant cannot claim that training pilots is an additional mitigation as it is already done.</p> <p>DFDS have consistently expressed concerns at errors in the simulation process and have followed up in writing many times.</p>
187	Navigation: trunkway protection	Mitigation of protection being very substantial was "just" a stakeholder view, not that of Applicant or SHAs; protection will be provided if circumstances change; DFDS vessels have to manoeuvre close to Western Jetty which doesn't have protection; requirement has been amended	<p>The Western Jetty is not comparable (e.g. no oil) and vessels do not go as close to it, as the Applicant will be aware.</p> <p>The amendment of the requirement merely reduces the likelihood that the impact protection will be provided – see DFDS' comments on the revised dDCO.</p>

191	Navigation: methodology	<p>MCA have approved the approach adopted; DFDS' suggested approach is in fact largely what was done; having a 'score' creates a false sense of security; SHAs agree with approach; incorrect to say IMO FSA commonly followed, there are many forms of guidance, although it was in fact followed; incorrect to say different methodologies were used, MGN 654 contains same principles; NRA is based on PMSC and Guide to Good Practice, which e.g. does use the word 'tolerable'; DFDS participated in determining risk outcomes at workshops; both IERRT and IGET used PMSC, worrying that DFDS have got this wrong; it would be appreciated if future representations were more measured; DFDS' views not shared by either SHA and not agreed</p>	<p>DFDS do not agree that the methodology was the PMSC alone, as can be seen in its own Navigational Risk Assessment produced by Nash. DFDS do not agree that using numerical values gives a false sense of security – they are less easy to downplay.</p> <p>DFDS refutes the allegation that they participated in determining all of the risk outcomes at the workshop. DFDS were present at the workshop and did participate in determining the risks, but only 33% of the hazards were discussed at the workshop. The rest were commented in on writing.</p> <p>Risks C7 (dredger grounding while engaged in operations) and O6 (collision of Ro-Ro vessel with another vessel) are examples of identified risks where some or all of DFDS' comments were disregarded. Furthermore DFDS questions the effect of some of the 'further applicable controls', such as berthing criteria when these criteria were not suggested by the simulations.</p>
198	Navigation: HAZID workshops	<p>GtGP has five-stage assessment similar but not identical to IMO FSA, which is not primary policy in UK; stakeholders had opportunity for subsequent comment and SHA satisfied with judgment employed; explanations of descriptions were in fact available at workshops; stakeholders free to choose their attendees; engineering reps were in fact in attendance at third workshop; there was compliance with PMSC, confirmed by MCA; IMO FSA does not have to be followed; differences in opinion common at workshops; agreement with</p>	<p>The Applicant conveys the impression that the MCA has endorsed its Navigational Risk Assessment and that it therefore is representative of a 'safe development'. This however is not the case since the MCA have not, and would never be, involved in the NRA process since this is a task for the Statutory Harbour Authority which in this case happens also to be an emanation of the Applicant. The MCA have stated that the methodologies employed are consistent with the PMSC five step process which has never been contested by DFDS. DFDS has questioned the use of more than one methodology as the heterogenous system used does not allow the reader to follow the process by which the risks of the proposed development have been deemed tolerable nor how the HASB reached that conclusion. The MCA also</p>

		<p>experts suggests workshops correctly undertaken; ABP Mer did not express positions, just ; allegation about subsequent discussion and disagreement with stakeholders is unsupported; DFDS position again commercially motivated, and has not substantiated view about inadequate assessment; no obligation to comment on unrelated historic incidents</p>	<p>stressed in their communication with the Applicant the importance of stakeholder engagement and consensus. DFDS are disappointed that its experience of 'stakeholder engagement and consensus' in terms of assessing the key navigational safety aspect of the project, falls short of industry standards.</p> <p>The lack of a defined project leader and the constant churn of project management staff at the Applicant has resulted in a disjointed and frustrating process. DFDS are disappointed that their experience of 'stakeholder engagement and consensus' in terms of assessing the key navigational safety aspect of the project, falls well short of industry standard and the expectations of engagement for a DCO application.</p> <p>The Applicant seeks to create the impression they are the only organisation involved in this process with marine navigational expertise, repeatedly stating there was no dissension at the various workshops and simulations despite the fact both DFDS and APT representatives consistently argued against the process and the Applicant's decision making during the sessions.</p> <p>DFDS request sight of all the Applicant's internal assessment presentations and minutes (detailed in item 11.1 of the Applicant's Governance review) as supporting the decision-making process which resulted in the Applicant's HASB concluding it was 'satisfied with the approach taken to marine navigational risks and that the risks identified were ALARP and tolerable'.</p>
202	Navigation: duty holder	<p>Criticism of expertise is fully refuted, see note on governance, some ABP directors are marine professionals; statement re independence of designated person is being misused, it's only</p>	<p>This response is couched in particularly aggressive and dismissive language; DFDS have expended considerable trouble and cost to analyse the IERRT application and its concerns should be taken seriously.</p>

independence of decision-making process; ref to para 2.3.21 of GtGP is wrong and 'worryingly misleading'; designated person does not have to be someone independent from the organisation nor attend all stages of risk assessment; ALARP is not a numerical value and DFDS' assertions would constitute a fundamental departure from PMSC guidance; assertion that if stakeholders view had been included would not be ALARP/tolerable shows fundamental lack of understanding and questions credibility of DFDS' entire representation - the stakeholders are not the SHA and do not make the decisions, although their views have been taken into account; it is inevitable that the applicant is also the statutory authority, the Applicant as the SHA is the determining body

The reference to paragraph 2.3.21 does not show a 'fundamental lack of understanding', it is simply referring to the text box immediately below the paragraph and is the correct reference as can be seen in this image; this seems to be a typical inaccurate overreaction from the Applicant.

2.3.21 It is important that executive and operational responsibilities should be assigned appropriately by organisations – and to properly trained people. The organisations employees should have training appropriate to the responsibilities for marine operations assigned to them relating to the safety of marine operations. In some small organisations, functions may be combined. It is also important in all cases that there is a proper separation of safety and commercial functions. This is important for organisations of all sizes.

Measuring and auditing performance

A **'Designated Person'** is required to provide independent assurance directly to the 'duty holder' that the safety management system is working effectively. A safety management system should include proper record procedures so that the duty holder and designated person can be satisfied that the system is functioning properly. Incidents and complaints about safety should be promptly investigated; and the incident and investigation both properly recorded.

The UK Government's Port Marine Safety Code requires a Harbour Authority to appoint a Designated Person (DP) – "*to provide independent assurance about the operation of the marine safety management system. The DP must have direct access to the Duty Holder*".

At ABP the DP is the ABP Group Technical Authority Marine. ABP describe this as an entirely 'independent' role, as it is a group role and not a role associated with any particular operational or commercial part of the business. The role is focussed on ensuring ABP's compliance with the PMSC (e.g., by way of carrying out audits etc) and reporting to the HASB at its meetings on progress against actions/outcomes of audits/marine incidents etc. The DP

monitors and reports on the effectiveness of the MSMS and provides independent advice on matters of marine safety.

Given the sensitivity of this project due to the potentially hazardous operations at IOT berths and the Eastern Jetty facilities and the tidal conditions in the area, discussions on developing the NRA were always going to be intense. It therefore seems incomprehensible that the DP was not involved in any of the sessions on NRA production nor vessel simulations to witness the challenges facing vessel Masters accessing the terminal. The DP would not have had the opportunity to listen to or discuss the issues with the key marine stakeholders manoeuvring vessels in the area every day when they were discussing the real world situation at NRA and simulation workshops. We also question how DP could assure HASB of the rigour of the process undertaken when he was not involved in any of the workshops and simulations discussing the navigational issues with those who operate on the environment every day. We understand that the Applicant's DP left the Applicant's employ after this application was submitted and has been replaced.

DFDS continue to have genuine safety concerns and have found it extremely difficult to understand ABP's lines of responsibility for safety. Safety considerations have involved a number of different individuals, some with statutory responsibilities, some without and DFDS remain unconvinced that the right people within ABP have fully grasped the challenges associated with this development. There is no clear evidence of oversight or acceptance of overall responsibility.

207	Vessel congestion	Impacts are assessed in chapter 16 of ES (incomplete sentence); SHA has concluded increase is not material to efficient operation; tug companies (SMS and Svitzer) say they will grow in response	<p>DFDS have legitimate commercial concerns about the disruption to service and cost of DFDS Terminal operations at Immingham which service both their own vessels and also third party customers, Eimskip and Sea-Cargo, who call on regular scheduled basis into DFDS terminal. DFDS have conducted an assessment of likely delays to vessels entering and exiting the lock entrance to Immingham Dock (where one of DFDS' terminals is based). The Applicant's response to this was to promise a commercial workshop to review these concerns and allay customers' fears. Despite several requests this workshop has never been organised by Applicant.</p> <p>Chapter 16 of the Environmental Statement [APP-052] does deal with potential congestion but only superficially, and not backed up by any data. In paragraph 16.8.35 it is stated that because the harbour authorities for Immingham and the Humber work to a schedule, there will be no delay, but this does not address the issue of vessels taking longer in their manoeuvres than before that will make scheduling more difficult. 16.8.36 adds operation as an afterthought and mainly deals with construction congestion. DFDS' concerns are addressed at paragraph 16.8.51 on the basis of the navigational simulations, the conclusions of which DFDS disagrees with. It is noted that Yara UK Ltd, APT and Rix Petroleum also raised issues about congestion.</p>
189	Dredging	Capacity concerns unjustified; HU060 disperses rapidly; licensed for 7.5m wet tonnes already; HU056 is retentive but material will be placed in deeper areas	DFDS' response is contained in its Written Representation.

Applicant's governance paper

11. The Applicant provided a paper on the governance and roles and responsibilities for the harbour entitled '*The Port of Immingham and the River Humber – Management, Control and Regulation*' [REP1-014]. DFDS comments as follows, where references in brackets are to paragraphs in that document.
12. As the Applicant admits (2.1), the navigation-related governance arrangements relevant to the IERRT proposal are '*complex – and occasionally confusing*'. The statement at (12.1) that ABP '*does undeniably understand the complexities of port operations and navigational safety*' is insufficient to give the requisite assurance that the navigational safety of this project has been assessed properly.
13. There is a complete lack of independent scrutiny of the IERRT navigational risk assessment process. ABP Commercial, the Immingham Dock Master, the Humber Harbour Master, the Harbour Authority and Safety Board, the Duty Holder, the Designated Person and even ABP's navigational risk consultant ABPmer all ultimately work for or are owned by the same overall company, and many holders of these offices are line managers of each other. Even within ABP, the number of different roles on this project and their overlapping yet not clearly defined responsibilities, worsened by recent changes in personnel, and the intermittent involvement by various parties has aggravated the lack of robustness in the process of risk assessment for it. In its response to DFDS' relevant representation the Applicant complains that DFDS is motivated by commercial considerations but underlying this project it is the Applicant's commercial considerations that are compromising its assessment of the safety of the project.
14. When any third party seeks to question the process, as DFDS, APT and others have done, the Applicant simply denies that there is an issue and that the views of its various emanations are sufficient. This runs counter to the MCA's second comment in their submission following ISH2 [REP1-021] - ABP have not striven '*to maintain a consensus about safe navigation*' and are relying entirely on 'marking their own homework'. It is not clear that those approving the risk assessment method and conclusions were even made aware of such views.
15. The importance of proper discussion on navigational safety of the project was acknowledged by the Applicant's CEO who directed that a 'Senior Safety workshop' be organised to discuss DFDS' and APT's navigation safety concerns. Unfortunately after having been scheduled, it was cancelled at short notice and was never rescheduled despite promises by the Port Director to do so. A 'commercial workshop' to discuss the commercial impacts of the project on existing port users such as DFDS, Eimskip and SeaCargo was also promised but never held.
16. In terms of particular comments on the paper:
 - a. the Applicant, the SHA Immingham, SHA Humber and CHA are introduced in paragraphs 1.1-1.3 and described as independent entities (1.4), but in what follows it is clear that they are not fully independent;

- b. the Applicant has set up a Harbour Authority and Safety Board (HASB) as Duty Holder accountable for compliance with the PMSC, which (10.24) meets 'separately from the main ABP Board' but then concedes that it *is* the main ABP Board, so any separation is merely one of the topic under discussion;
- c. although the PMSC requires a Marine Safety Management System (MSMS) to involve consultation with those likely to be involved in or affected by it, the MSMS remains unpublished and third parties cannot discern if this project has complied with it. The Applicant stated during the ISH2 that it was unable to make the MSMS available when requested due to security concerns, yet other ports and, indeed ABP itself makes their MSMS available at other ABP ports such as South Wales, see **Figure 1** below;
- d. when it comes to the Designated Person who is to provide independent assurance about the MSMS, paragraph 10.30 says this is an '*entirely independent role*' (quote marks in the original) providing independent advice on matters of marine safety. However the holder of this position was at the relevant time another ABP employee, and when describing the approach to navigational risk at 11.1-11.4 the Designated Person is only described as having been present rather than providing the requisite assurance, and it is not clear if the dissention of DFDS and APT were mentioned;
- e. (11.15) the paper states that the Harbour Master and Dock Master will have to be satisfied with the outcome of the HAZID Workshop and consequential NRA but it is not clear if they were present at any or all of the workshops and if not, how they were satisfied of their outcomes, indeed, how the outcomes were presented to them and by whom; the Port Director and Head of Marine (Humber) also appear to have had only intermittent direct involvement;
- f. in order to be satisfied with the risk assessment process, the examination should be furnished with the materials that were provided to the HASB, including the views of third parties, that allowed it to reach the conclusion (11.4) that the approach was acceptable and the risks were ALARP and tolerable, although even from what it knows of the process DFDS is concerned that many elements were not properly assessed;
- g. in relation to the HSE, paragraph 9.11 says ABP assured it that IERRT would not cause any major accidents, but only on the basis of hazardous substances not passing through IERRT; the possibility of an IERRT-bound vessel alliding with a hazard site such as the IOT or the Eastern Jetty does not appear to have been mentioned and this is a significant risk; and
- h. 11.1(c)(iii) refers to an ABP Steering Committee but it is not mentioned anywhere else and its purpose and constitution is unknown.

Figure 1



PORT
INFORMATION

MARINE
INFORMATION

PILOTAGE

LIVE
SHIPPING

PORT
MARINE
SAFETY

NOTICES

CONSULTATIONS

ABP Marine Operational
Procedures Manual

South Wales Regional Port
Marine SMS

PORT MARINE SAFETY MANAGEMENT SYSTEM

Please click on the left menu links to view the ABP group and regional Port Marine Safety Management System documents

Local Impact Report from North East Lincolnshire Council

17. North-East Lincolnshire Council (NELC) submitted the only Local Impact Report (LIR) [\[REP1-023\]](#). Its only residual concerns are with highways matters.

18. NELC will consider submissions arising from ISH2 and make comments in due course (see paragraph 5.22). In the Applicant's comments on DFDS' relevant representation [\[REP1-013\]](#), it says on page 153 that there will be no new signage and hence no concern that existing traffic using the West Gate will be encouraged to use the East Gate along with new traffic; however at paragraph 5.24 the LIR says that a s.278 agreement is to be concluded between NELC and the Applicant 'for an updated signage strategy across the port and wider highway network', which appears to be at odds with that statement.