

Immingham Eastern Ro-Ro Terminal

Written Representation

**of Associated Petroleum Terminals (Immingham) Limited
and Humber Oil Terminals Trustee Limited**

Planning Inspectorate Ref: TR030007

5 September 2023

Table of contents

Section		Page
1.	Introduction	1
2.	Need for the IERRT and IOT	1
3.	Navigation and Shipping	5
4.	COMAH Implications	9
5.	Mitigation and Protective Provisions	10
6.	Engagement with ABP	12
7.	Responses to the Examining Authority's First Written Questions	13
8.	Comments on Deadline 1 Submissions	18
9.	Conclusion	19

1 INTRODUCTION

- 1.1 This Written Representation is submitted on behalf of Associated Petroleum Terminals (Immingham) Limited (“**APT**”) and Humber Oil Terminals Trustee Limited (“**HOTT**”) in relation to Associated British Ports’ (“**ABP**”) application for a development consent order (“**DCO**”) for a new Roll-on/Roll-off (“**Ro-Ro**”) cargo facility at the Port of Immingham, North East Lincolnshire known as the Immingham Eastern Ro-Ro Terminal Development (the “**IERRT Development**”).
- 1.2 HOTT is the licensee (from ABP) of the Immingham Oil Terminal Jetty (“**IOT**”) and lessee (from ABP) of the associated oil terminal and tank farm (“**Oil Depot**”). APT operates IOT and the Oil Depot on behalf of HOTT (HOTT and APT are referred to together in this response as “**the IOT Operators**”).
- 1.3 The IOT Operators previously submitted a Relevant Representation on 19 April 2023 [RR-003] and Principal Areas of Disagreement Summary Statement (“**PAD**”) [PDA-003] in relation to the IERRT Development. The Relevant Representation and the PAD contains further background information on the IOT Operators and the importance of the IOT as well as providing an overview of the IOT Operators’ concerns on the IERRT Development. This Written Representation will provide further detail on the IOT Operators’ concerns and should be read alongside the IOT Operators’ Relevant Representation and PAD.

2 NEED FOR THE IERRT AND IOT

- 2.1 The Planning Statement [APP-019] and Chapter 4 of the Environmental Statement (“**ES**”) on Need and Alternatives [APP-040] submitted with the DCO application sets out that there is an imperative need for the IERRT Development to provide additional Ro-Ro freight capacity within the Humber Estuary in order to meet the growing and changing nature of demand, and thereby strengthen the estuary’s contribution to an effective, efficient competitive and resilient UK Ro-Ro freight sector.
- 2.2 ABP also state that the content of the National Policy Statement for Ports (“**NPSfP**”) is key to the consideration of the DCO application for the IERRT Development and that there is no aspect of the NPSfP which would suggest that consent for the IERRT Development should be refused.
- 2.3 The IOT Operators do not seek to directly challenge the need case presented by ABP in the Planning Statement and Chapter 4 of the ES. However, the need for the IERRT should be considered in light of the significant need for the IOT and refineries which rely on the IOT. The need for the IOT and refineries is of undoubted national significance and risks to its operations should weigh heavily in consideration of the proposals.

Policy context

2.4 There is clear policy support in favour of the IOT and the refineries which are contained in the NPSfP and Overarching National Policy Statement for Energy EN-1 (“**NPS EN-1**”).

2.5 Paragraph 3.1.5 of the NPSfP states:

“Ports have a vital role in the import and export of energy supplies, including oil, liquefied natural gas and biomass, in the construction and servicing of offshore energy installations and in supporting terminals for oil and gas pipelines. Port handling needs for energy can be expected to change as the mix of our energy supplies changes and particularly as renewables play an increasingly important part as an energy source. Ensuring security of energy supplies through our ports will be an important consideration, and ports will need to be responsive both to changes in different types of energy supplies needed (and to the need for facilities to support the development and maintenance of offshore renewable sites) and to possible changes in the geographical pattern of demand for fuel, including with the development of power stations fuelled by biomass within port perimeters.”

2.6 The NPSfP is clear that there is a critical need for ports which import and export energy supplies such as oil and that ensuring security of energy supplies through ports will be an important consideration.

2.7 There is also clear policy support for oil terminals and refineries which is emphasised in paragraph 3.9.3 of the extant NPS EN-1 which states:

“The UK needs to ensure it has safe and secure supplies of the oil products it requires. Sufficient fuel and infrastructure capacity are necessary to avoid socially unacceptable levels of interruption to physical supply and excessive costs to the economy from unexpectedly high or volatile prices. These requirements can be met by sufficient, diverse and reliable supplies of fuel, with adequate capacity to import, produce, store and distribute these supplies to customers. This in turn highlights the need for reliable infrastructure including refineries, pipelines and import terminals and the need for flexibility in the supply chain to accommodate the inevitable risk of physical outages.”

2.8 Furthermore, notwithstanding the UK’s net zero ambitions, there remains an important role for oil in the future which is confirmed in the draft NPS EN-1 published in March 2023. This is set out in paragraph 2.3.11:

“The UK’s oil and gas sector recognises the demand for oil and gas will be much reduced in the future, but also recognises the key role that it can play in helping the UK meet its net zero commitment. Clear action will need to be taken to build on the proven capabilities within the sector to lead in new and emerging energy technologies.”

2.9 The importance of oil in the future is also set out in the UK Government's recent Energy Security Plan¹ released in March 2023 ("Powering Up Britain") which states at pp. 3-4:

"Demand for oil, gas, and other fossil fuels will decline but they retain a crucial role. They are critical transition fuels, key to ensuring secure energy supplies and will form an important part of our future economy. We must take the necessary steps to ensure we can rely on the supply of gas and oil, whether from domestic production or from importing these fuels."

2.10 The recently introduced Energy Bill also refers to the possible duty on major operators to report an incident which poses a significant threat to the continuity of fuel supply to the country². This shows the increasing government focus on the risk to fuel supply.

2.11 There is therefore clear national policy guidance which emphasises the current and future importance of oil as part of the UK's energy mix. The need for the IERRT Development should be considered in the context of potential impacts on the UK's energy security.

2.12 In addition, the importance of the Humber Refinery and the Lindsey Oil Refinery to the region and the wider country's economy is expressly acknowledged in a wide range of economic and development plan policy documents.

2.13 This includes *Greater Lincolnshire LEP – Strategic Economic Plan: 2014-2030* which confirms that *"The Humber petrochemicals/ chemicals sector is of European scale and the second largest in the UK, supported by the Humber ports. Two oil refineries, Phillips66 and Total Lindsey, provide 27% of the UK's refinery capacity and are located on the South Humber Bank"*.

2.14 Furthermore, paragraph 9.39 of the *North Lincolnshire Core Strategy* also emphasises the importance of the refineries:

"The South Humber Bank employment area is currently occupied by a range of estuary-related industrial operators such as large oil, gas and electricity companies, riverside terminal facilities and associated activities including storage, processing and distribution. The area is also fast becoming an energy capital. The site is already home to a number of chemical companies, which provide 27 percent of the UK's oil refinery capacity."

2.15 The *North East Lincolnshire Council – Local Plan 2013 to 2032* also expressly mentions the importance of the refineries to the UK's refining capacity at paragraph 6.9.

¹ Powering Up Britain: Energy Security Plan (updated 4 April 2023). Available here:

<https://www.gov.uk/government/publications/powering-up-britain/powering-up-britain-energy-security-plan>

² Energy Security Bill factsheet: Core fuel resilience (updated 1 September 2023). Available here:

<https://www.gov.uk/government/publications/energy-security-bill-factsheets/energy-security-bill-factsheet-core-fuel-resilience>

Importance of the IOT

- 2.16 The IOT was opened in 1969 and was built to serve the oil refineries that had been built north west of the Immingham Dock site: the Continental Oil Refinery (now the Humber Refinery) and the Lindsey Oil Refinery. The IOT continues to be a critical aspect of the operation of these oil refineries.
- 2.17 The IOT and the refineries are deemed to be Critical National Infrastructure by the National Protective Security Authority. They are of national significance in terms of energy security given the importance of the facilities for the UK's oil supplies and to the UK's economy.
- 2.18 The IOT consists of product storage tanks, associated pumps, pipe work and equipment for product transfers between ship and shore and vice versa, operational control facilities, management, maintenance and support facilities, together with a jetty approximately 1,000 metres long with seven berths for ships to dock. These consist of three main berths, two coaster berths and two barge berths. The coaster and barge berths, known as the Finger Pier, would be the closest berths to the IERRT Development.
- 2.19 The IOT imports and exports products and is of critical importance for 'just in time' supply to Scotland and the regions. Approximately 45% of the UK's marine oil goes through the IOT. For example, if the Finger Pier were damaged for any period of time then this will impact the supply of oil products to Scotland and the Scottish Isles. In order to maintain supply, product will have to be sourced elsewhere leading to higher supply costs (product and freight) and increased likelihood of stockouts (particularly in the Scottish Isles).
- 2.20 The IOT is essential to the operations of the Humber Refinery and the Lindsey Oil Refinery, as all crude oil for the Lindsey Oil Refinery and some crude oil for the Humber Refinery arrives by tanker at the IOT before being transferred to the refineries by pipeline. Furthermore, approximately 30% of the Humber Refinery's production and 33% of the Lindsey Oil Refinery's production is exported and the IOT is essential to the export capabilities of the refineries. Products from the refinery are transported via pipeline to the IOT tankage and can be transported onwards via tanker.
- 2.21 The IOT Operators are joint venture companies owned equally by Phillips 66 Limited ("**Phillips 66**") and Prax Lindsey Oil Refinery Limited ("**Prax**"). Phillips 66 is the owner of the Humber Refinery and Prax is the owner of the Lindsey Oil Refinery. The principal activity of the IOT Operators is the operation of marine terminals on behalf of Phillips 66 and Prax. They are also responsible for the operation of much of the pipeline system between the IOT and the two refineries.
- 2.22 The activity of the IOT Operators is almost entirely in response to the requirements of Phillips 66 and Prax for marine movements of feedstock and products to and from the two

refineries. The principal aim of the IOT Operators is to maximise the efficiency with which its facilities (including the IOT) are used whilst having proper regard for safety and the environment.

- 2.23 Vessel movements to and from the IOT are critical to the operation of the Humber Refinery and the Prax Lindsey Oil Refinery. Any prejudice to the operations at the IOT would result in prejudice to the continuing operations of the Humber Refinery and the Lindsey Oil Refinery.
- 2.24 The Humber Refinery is a nationally significant piece of infrastructure. It provides approximately 11% of UK road fuel demand and 15% of all UK demand for transport, heat and power. The Humber Refinery also produces high grade petroleum coke used to recycle steel and for components in lithium ion batteries used for smart phones, tablets and electric vehicles. The Humber Refinery is one of the most complex refineries in Europe. It has an expansive range of upgrading units that allow the refinery to manufacture a range of products, including materials not manufactured elsewhere in the UK or Europe.
- 2.25 Phillips 66 is pursuing projects, technologies and collaborations that support decarbonisation and the U.K. Government's 2050 net-zero ambitions through its Ten Point Plan for a Green Industrial Revolution. This includes acquiring feedstocks and upgrading waste to lower-carbon fuels and products at the Humber Refinery.
- 2.26 The Lindsey Oil Refinery is a nationally significant piece of infrastructure. It incorporates some of the most advanced refining and conversion processes in Europe and has the capacity to process up to 113,000 barrels of oil a day. The greater part of the refinery's output is petrol and diesel for road vehicles, with the remaining proportion being speciality products such as fuel oil, bitumen, kerosene and aviation fuel.
- 2.27 The Prax Lindsey Oil Refinery is reducing the carbon intensity of its fuels through a regional Carbon Capture and Storage project, investments in energy efficiency and increasing use of low-carbon, sustainable biofuels, blended in its main grades of gasoline, jet and diesel fuels, alongside bespoke low-carbon fuels.
- 2.28 Together, the Humber Refinery and Lindsey Oil Refinery make up approximately 27% of the UK's refining capacity.
- 2.29 The refineries are also crucial to the region and the country's economy. The Humber Refinery is a key business within the Yorkshire and the Humber region, providing significant economic opportunity and spending millions of pounds annually with over 1,000 businesses across the region.
- 2.30 Nearly 800 jobs were directly employed by Phillips 66 in 2022 at the Humber Refinery and an additional 160 jobs in the company's London head office. Phillips 66 is pursuing

projects, technologies and collaborations that support decarbonisation and the UK Government's 2050 net-zero ambitions through its Ten Point Plan for a Green Industrial Revolution. This includes acquiring feedstocks and upgrading waste to lower-carbon fuels and products at the Humber Refinery. The Lindsey Oil Refinery is also highly valuable to the region's economy and employs approximately 400 staff and another 400 contractors.

- 2.31 The refineries are also crucial to the UK's economy given that numerous industries are reliant on the supply of oil and on security of energy supply.
- 2.32 Any prejudice to the continuing operation of the Humber Refinery or the Lindsey Oil Refinery would be contrary to the public interest in terms of the impacts on the local and national economy and on the UK's energy security. The essential need for the IOT and refineries means that the need for the IERRT Development, and any risks it creates for the safe and efficient operation of the IOT and refineries, should be considered in this context.
- 2.33 Further detail on the impacts of the IERRT on the IOT and refineries are included in section 10.3 of the shadow Navigation Risk Assessment submitted with this Written Representation. This section also addresses Item 31 of the Hearing Action Points arising from Issue Specific Hearing 2 [EV3-012].

3 NAVIGATION AND SHIPPING

- 3.1 The IOT Operators have significant navigation and shipping concerns in relation to the IERRT Development. The Navigation Risk Assessment ("**NRA**") submitted with the DCO application [APP-089] does not adequately assess the navigation and shipping risks of the IERRT Development. The IOT Operators have therefore commissioned an independent NRA from NASH Maritime Ltd which addresses the deficiencies of ABP's NRA. This has been submitted to the Examination at Deadline 2 alongside this Written Representation.
- 3.2 The IOT Operators have various concerns on ABP's NRA for the IERRT Development. These are set out in section 2 of the NRA submitted with this Written Representation. In summary, they include the following:
 - (a) **Methodology:** The NRA methodology is stated as complying with guidance provided in the Port Marine Safety Code ("**PMSC**"), and that consideration had been given to Marine Guidance Note ("**MGN**") 654 and International Maritime Organisation ("**IMO**") Formal Safety Assessment ("**FSA**") methods. However, the actual methodology deployed does not appear to be based on this or any other published NRA methodology relating to UK marine safety, and as such seems to have been developed for ABP specifically for the IERRT Development. Furthermore, standards of acceptability (as mandated by the PMSC) have not

been agreed with IOT Operators (and other stakeholders), and as such it is not clear what level of risk would be acceptable with the IERRT Development in place and operational.

- (b) **Data sources:** It is noted that the vessel traffic (AIS) data sources provided for the NRA are different to that provided to stakeholders for the HAZID workshops. In addition, no quality checks on the IERRT NRA AIS data appear to have been undertaken (such as location of the receiving stations or details on any post-processing of data), or justification for the change in underlying data which was provided for use in the NRA by a third party.
- (c) **Baseline information:** The baseline information does not document or describe the marine infrastructure and associated vessel movements in the vicinity of the proposed IERRT Development; as such a clear baseline is not provided in the assessment on which a reader may make a judgement about the impacts on marine safety directly attributable to the proposed IERRT Development.
- (d) **Marine development:** The proposed marine operations for the IERRT Development are not clearly defined, which focuses on a cursory review of IERRT Development infrastructure and doesn't consider the marine operational concept for the IERRT Development including sea room required and operational limitations (e.g. passage plan, tug use, berthing duration, metocean limits, etc.). The inclusion of implicit impact protection in the IERRT Development design is not defined as part of the assessment and as such no designed-in impact protection is provided for within the IERRT Development infrastructure to protect the IOT and IOT Trunk Way. There is also no clear design vessel specification provided within the NRA.
- (e) **Future baseline:** The future baseline contained within the NRA is generic and not specific to the berths at and around the IERRT Development, and neither does it consider future developments such as Immingham Green Energy Terminal – an ABP development in close proximity to IERRT Development. The NRA should have undertaken an assessment of the cumulative effects of this project in relation to safety of navigation brought about by other proposed developments such as the Immingham Green Energy Terminal.
- (f) **Simulations:** The IOT Operators have various concerns with the simulations undertaken by ABP including that the conditions simulated were falsely sterile, and therefore unrealistic, with the use of highly experienced, senior Pilots and Masters operating in a rehearsed, simulated environment, lacking dynamic variations, and having no other moving traffic, external time pressures, or the unpredictability and distractions regularly experienced on the bridge of a ship in a

busy, fast flowing river. The conditions are falsely sterile because the human element and machinery reliability are not 'sterile' in practice and therefore the simulations do not provide a realistic assessment of risk.

- 3.3 The shadow NRA (“**sNRA**”) commissioned by the IOT Operators is intended to address the shortcomings of ABP’s NRA. Additional information and data have been requested by the IOT Operators to assist with the sNRA which has not been provided to date [REP1-035].
- 3.4 The sNRA concludes, based on the information and data available, that the IERRT Development poses an unacceptable risk to IOT infrastructure (and consequently the refineries), although with the risk control measures specified by the IOT Operators in place, the navigation risk is mitigated to Tolerable (if ALARP) levels. The risk control measures are set out in section 5 below.
- 3.5 The sNRA commissioned by the IOT Operators demonstrate that there is a real risk of the IERRT Development having significant adverse safety effects on the IOT during both the construction and operational phases of the IERRT Development. This includes the risk of:
- (a) Allision (contact) of dredgers, construction vessels and Ro-Ro vessels with IOT infrastructure as a result of the IERRT Development.

The IOT Operators are concerned that the increase in shipping traffic during the construction and operational phases of the IERRT will increase the likelihood of Ro-Ro vessels making contact with IOT infrastructure. This is of particular concern during an ebb tide as any loss of power would result in a vessel drifting towards the IOT.

This will have significant safety implications and will impact the IOT Operators’ business. In particular an allision would be very likely to cause substantial damage to the IOT jetty and the IOT Operators’ equipment and infrastructure which would cause the IOT Operators’ business to cease for a significant period of time. It would also have substantial impacts on the refineries which rely on the IOT and may lead to shortages in national fuel supplies.

- (b) Collision between dredgers, construction vessels and Ro-Ro vessels (and other vessels including IOT vessels) as a result of the IERRT development.

The IOT Operators are concerned that the increase in shipping movements due to the IERRT will increase the likelihood of collisions between tanker vessels using the IOT and vessels associated with the construction of the IERRT. The IOT Operators are also concerned that the IERRT substantially increases the future risk of collisions occurring due to the presence of Ro-Ro vessels particularly

as there will be less space for vessels to manoeuvre in the vicinity of the IOT. This will affect tankers in transit and those moored at the IOT.

This could lead to significant damage to tanker vessels which could have implications on human health and the environment as well as having a substantial impact on the IOT Operators' business which in turn may have impacts on the refineries which rely on the IOT not only for feedstock import but export by sea of refined products to other UK ports and elsewhere, and may lead to shortages in national fuel supplies.

- (c) Impacts to the IOT Operators' Control of Major Accident Hazards ("**COMAH**") safety case as a result of the IERRT Development leading to unacceptable risk and associated need for mitigation.

3.6 These safety risks remain despite the risk control measures advanced in ABP's NRA. The further risk control measures identified by ABP are either very similar to each other or very similar to embedded risk control measures (i.e. those measures that are already currently in place for the management of navigation risk in the area). The IOT Operators therefore consider that additional risk control measures are necessary which are considered in section 5 below.

3.7 In addition to these safety risks, the IOT Operators also consider that the IERRT Development will have an unacceptable impact on tankers using the IOT. The Ro-Ro vessels using the port during the operational phase may have unacceptable impacts on tanker movements. In particular, this will be an issue where tidal conditions are such that there is a clash between a tanker arriving or departing from the IOT (which is tidal constrained) and the scheduled arrival or departure of a Ro-Ro vessel. Furthermore, this could have implications on the availability of tug and pilot operations for tankers using the IOT's facility. This will have unacceptable commercial impacts on the IOT Operators' business and will lead to other issues such as having a significant impact on demurrage.

4 COMAH IMPLICATIONS

4.1 The IERRT Development has the potential to have a significant impact on the IOT Operators' COMAH safety case.

4.2 The IOT Operators consider that the increase in shipping movements in the area and the increased likelihood of allisions, contacts or collisions occurring as a result of the IERRT Development may have an impact on the IOT Operators' COMAH safety case. This impact would require additional expenditure to reduce this risk and the IOT Operators do not regard this as an expenditure that should be payable by the IOT Operators as a result of the IERRT Development. The risk should be adequately mitigated by ABP under the agent of change principle as set out in Section 5 below.

4.3 Additional detail on the IOT Operators' position in relation to COMAH is included in section 5.2 of the sNRA submitted with this Written Representation.

5 MITIGATION AND PROTECTIVE PROVISIONS

5.1 As set out above and in the IOT Operators' Relevant Representation [RR-003], the IOT Operators have significant safety concerns in relation to the IERRT Development including the increased risk of allisions, contacts or collisions occurring as a result of the IERRT Development. These risks may also have a significant impact on the IOT Operators' COMAH safety case.

5.2 These effects could lead to significant damage to the IOT infrastructure or vessels using the IOT which would have severe human health consequences and implications on the operations of the IOT and refineries. This could lead to adverse economic and energy security effects given the importance of the IOT and refineries on a local, regional and national scale.

5.3 The clear and significant risks posed by the IERRT Development to the IOT and the refineries means that risk control measures will need to be taken to reduce this risk. It would be wholly inappropriate for the IOT Operators to undertake these measures at their own expense. Instead, the risks should be adequately mitigated by ABP under the agent of change principle which means that the party introducing a new land use is responsible for managing the impact of that change.

5.4 The risk control measures identified in ABP's NRA are not considered sufficient to deal with the safety risks mentioned in section 3 above. The IOT Operators therefore require specific additional mitigation measures to ensure that the IERRT Development is acceptable from a safety perspective. These are:

- (a) Relocation of IOT Finger Pier: The IOT Operators consider that the IOT Finger Pier (or at least berths 8 and 9 of the IOT) including all associated infrastructure should be relocated to a suitable location. This should be delivered by ABP at their cost in consultation with and with the approval of the IOT Operators. Construction and commissioning of the new Finger Pier should be undertaken prior to ceasing operations at the existing Finger Pier and prior to commencing construction of the IERRT Development. The sNRA concludes that this measure has a benefit of 2.7 times the cost. Alternatively in conjunction with (b) below, a scheme to relocate berth 8 from the southern side of the Finger Pier to the north side of the Finger Pier could be considered if the Finger Pier was to be extended in length to accommodate the additional berth, By careful design of the impact protection berth 9 could remain open to much smaller barges.

- (b) Vessel impact protection: The provision of adequate vessel impact protection is considered essential to mitigate against the risk of allision or contact taking place with the IOT trunkway and IOT Finger Pier. The impact protection should be sufficient to protect the IOT and arrest errant vessels of the size and type proposed for the construction and operational phases of the IERRT Development. It should also account for the worst-case impact velocities including peak ebb tidal flow and strong winds. The impact protection should be designed to enable continued access to IOT infrastructure for operational maintenance. The detailed design of appropriate impact protection measures will need to be agreed with the IOT Operators. The IERRT Development infrastructure should also be designed to the same specification to ensure that allision with it by IERRT Development vessels does not result in impact with the IOT trunkway. The sNRA concludes that this measure has a benefit of approximately 20 times the cost.
- (c) Marine Liaison Plan: The IOT Operators require the provision of a comprehensive Marine Liaison Plan detailing the construction methodology and schedule of works for the IERRT Development. The plan should outline the need for the removal of conflicts between construction activity and the operations of the IOT. This may include exclusion zones for construction vessels, priority access to the IOT finger berths during construction works, scheduling of potentially hazardous construction activities, attendance of safety standby tugs and/or workboats and weather limits. The approval of the plan should include engagement and agreement with the IOT Operators through regular meetings and approval of documents. The IOT Operators also consider that a draft plan agreed between the IOT Operators and ABP should be submitted to the Examining Authority during the DCO Examination. The sNRA concludes that this measure has a benefit of more than 100 times the cost.

- 5.5 Further details on these mitigation measures including a Cost Benefit Analysis is included in the sNRA submitted on behalf of the IOT Operators at Deadline 2.
- 5.6 The IOT Operators also consider that tankers should be given priority over Ro-Ro vessels in the vicinity of the IOT given tidal constraints on tankers arriving and departing from the IOT. This is to deal with the impacts of the IERRT Development on IOT tanker movements.
- 5.7 The IOT Operators consider that the mitigation measures outlined above are essential to ensure that the IERRT Development is acceptable. In order to secure these measures, the IOT Operators have provided suggested amendments to the protective provisions contained in Part 4 of Schedule 4 of the draft DCO [APP-013] submitted with the application. These suggested amendments were provided to ABP's solicitors on 6 July 2023 and [to date no response has been received]. A copy of the amended protective

provisions with the IOT Operators' changes shown in track was submitted to the Examining Authority at Deadline 1 [REP1-039].

- 5.8 The amended protective provisions ensure that the offshore works relating to the IERRT Development, namely Work Nos. 1 and 2 in the draft DCO [APP-013], must not commence until the mitigation measures outlined in paragraph 5.4 above are delivered in consultation with the IOT Operators and to the reasonable satisfaction of the IOT Operators. The provision of plans and the agreement of the IOT Operators will also be required before the offshore works can commence in order to ensure that the IERRT Development is constructed in a satisfactory manner and that the jetty and berths will have adequate impact protection to sufficiently protect the IOT in the IOT Operators' reasonable opinion. Furthermore, the agreement of the IOT Operators can be made subject to reasonable commitments and requirements by ABP which could include ensuring that vessels and tankers using the IOT are given priority and that the IOT Operators do not suffer more interference than is reasonably practicable.
- 5.9 For the reasons set out above, the IOT Operators consider that these additional mitigation measures are essential to deal with the risks of the IERRT Development and including the commitments in the protective provisions is an appropriate way to ensure that ABP deliver these measures at their own expense in line with the agent of change principle.

6 ENGAGEMENT WITH ABP

- 6.1 The IOT Operators have had ongoing engagement with ABP and their consultants since they were first notified of the proposals in 2021. A statutory pre-application consultation was undertaken in early 2022 and a response was submitted to ABP by the IOT Operators on 22 February 2022 which outlined the IOT Operators' main concerns on the proposals. A copy of this response is enclosed with this Written Representation.
- 6.2 Throughout 2022, there was further engagement between ABP and the IOT Operators. This included attending hazard workshops, marine simulation sessions and meetings and correspondence to address some of the IOT Operators' main concerns on the IERRT Development. Various letters were sent to ABP by the IOT Operators on 29 April 2022, 25 July 2022, 26 August 2022 and 16 September 2022 which set out the IOT Operators' key concerns in relation to the IERRT Development. These letters are enclosed with this Written Representation (excluding enclosures included with the letter dated 25 July 2022).
- 6.3 In October 2022, a supplementary statutory consultation under section 42 of the Planning Act 2008 was undertaken to reflect amendments to the proposals. An additional response to this supplementary consultation was submitted on behalf of the IOT Operators on 25 November 2022 which flagged continuing concerns with the IERRT Development. This response is also enclosed with this Written Representation.

6.4 Since the second statutory consultation the IOT Operators and ABP have been in correspondence on the protective provisions included in the draft DCO [APP-013] and as mentioned above amended protective provisions were sent to ABP in July 2023 and submitted to the Examining Authority at Deadline 1 [REP1-039].

6.5 There has also been correspondence between the IOT Operators and ABP in relation to navigation and shipping information. The IOT Operators requested various documents and information on 19 May 2023 which was declined by ABP on 26 June 2023. A response to these points was provided on behalf of the IOT Operators on 15 August 2023. These letters and enclosures were submitted to the Examining Authority at Deadline 1 [REP1-035].

7 RESPONSES TO THE EXAMINING AUTHORITY’S FIRST WRITTEN QUESTIONS

7.1 The IOT Operators wish to respond as follows to the Examining Authority’s first written questions and requests for information (“**ExQ1**”) [PD-010]:

NS Navigation and Shipping		
ExQ1	Question	IOT Operators’ response
NS 1.1	Stakeholder consensus in NRA Expand on the views made at ISH2 that the Applicant is required to produce a Navigational Risk Assessment (NRA) with stakeholder consensus. (If not already included in written note following representations made at ISH)	Paragraph 2.29 of the Port Marine Safety Code states that <i>“Notwithstanding the duties and powers an organisation may have, it should seek to maintain a consensus about safe navigation in its harbour or facility with users and service providers as far as possible.”</i> This requirement was also identified by the Maritime Coastguard Agency in their Deadline 1 submission [REP1-021].
NS 1.9	Bunkering from barges Do vessels at the Finger Pier berths 8 and 9 ever need to be bunkered from barges rather than the jetty’s infrastructure?	Vessels on Berth 8 now only bunker using the jetty infrastructure. Berth 9 is reserved for barges, which due to their size, more commonly bunker via the road tanker at other berths rather than using the IOT’s infrastructure. However, due to the intention of the refineries to reduce reliance on crude oil and supplement feedstocks with alternative green and sustainable feedstocks, such as Used Cooking Oil (UCO), into the refinery’s crude assays, it is the intention of the IOT that de-plotting to a barge should also resume.

		<p>The Port Authority has already been approached to assist in procuring the required legislation and licences to facilitate this at the IOT.</p> <p>The de-slopping process is where cargo tank washings from these alternative feedstocks are discharged to a barge alongside, rather than into the IOT infrastructure. This method of de-slopping improves the efficiency of using these alternative feedstocks, as less water is injected into the feedstock lines.</p> <p>De-slopping to barge would further reduce the clearance between a vessel berthed at Berth 8 and the IEERT Development.</p>
<p>NS 1.10</p>	<p>Tug assistance at IOT Berths 8 and 9</p> <p>How frequently is it necessary to use a tug or tugs for arriving or departing vessels and what are the factors that determine when and how many tugs will be required?</p>	<p>All vessels operating at the Finger Pier berths utilise the IOT's Finger Pier Tug for both berthing and sailing operations. This can only provide limited assistance due to its ability to push only and not pull.</p> <p>For Navigational Safety, coastal vessels (>1000t Sdwt) are restricted to berthing or departing the Finger Pier berths (6 & 8) only against a flooding tide, i.e. from 1hr after LW Immingham to HW Immingham.</p> <p>The APT terminal regulations state:</p> <p>Vessels berthing at the Finger Pier must have an additional harbour tug to supplement the Finger Pier tug if the "off-berth" wind speed is forecast to be above 40mph, or if the "on-berth" wind speed exceeds 30mph.</p> <p>Vessels sailing from the Finger Pier are recommended to use an additional Harbour tug for sailing if winds are above 30mph. Sailing from the Finger Pier in wind speeds above 40mph is not permitted.</p> <p>However, lower environmental and tidal parameters may also require the additional harbour tug to facilitate safe operations. The APT Berthing Master will consult with the Master/Pilot and recommend such action.</p> <p>From January to July 2023 there were 331 vessels (not including barges) on the Finger Pier:</p>

		<p>Eight ships took an extra tug to assist with berthing and there are three occasions of ships taking an extra tug for sailing.</p> <table border="1"> <thead> <tr> <th>Vessel Name</th> <th>Berth</th> <th colspan="2">Tugs</th> </tr> </thead> <tbody> <tr> <td>STOLT SANDERLING</td> <td>8</td> <td>1</td> <td>0</td> </tr> <tr> <td>CAPEWATER</td> <td>6</td> <td>1</td> <td>0</td> </tr> <tr> <td>WISBY ARGAN</td> <td>8</td> <td>1</td> <td>0</td> </tr> <tr> <td>SPECIALITY</td> <td>8</td> <td>1</td> <td>1</td> </tr> <tr> <td>THUN BLYTH</td> <td>6</td> <td>1</td> <td>1</td> </tr> <tr> <td>RAVEL</td> <td>8</td> <td>1</td> <td>0</td> </tr> <tr> <td>SHANNON FISHER</td> <td>6</td> <td>1</td> <td>0</td> </tr> <tr> <td>THUN BLYTH</td> <td>6</td> <td>1</td> <td>1</td> </tr> </tbody> </table>	Vessel Name	Berth	Tugs		STOLT SANDERLING	8	1	0	CAPEWATER	6	1	0	WISBY ARGAN	8	1	0	SPECIALITY	8	1	1	THUN BLYTH	6	1	1	RAVEL	8	1	0	SHANNON FISHER	6	1	0	THUN BLYTH	6	1	1
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NS 1.14	<p>Consequences of decision to abort berthing manoeuvre</p> <p>If a pilot or ship's master with a pilot exemption certificate for Immingham decides dynamically that conditions would make it unsafe to continue with a berthing manoeuvre or entry into the Port's lock, what are the consequences for that physically and administratively?</p>	<p>Physically, from an IOT perspective if an inbound Ro-Ro has sufficient room to manoeuvre to abort and turn around safely before rounding IOT Berth 1, this should have no extra impact to the IOT.</p> <p>Once past the IOT and approaching to inside the bell mouth the issue is if the vessel has enough room and ability to turn around in the prevailing conditions, without coming further towards the Finger Pier.</p> <p>At the IOT, Vessels greater than 1000mt are only allowed to berth at the Finger Pier into the flooding tide. Therefore, if they need to abort their manoeuvre, the flood tide pushes them away from the Finger Pier structure, towards safer water.</p> <p>There is insufficient sea room to simultaneously berth or sail a vessel from the Finger Pier when a vessel would be berthing or sailing from the IEERT Development.</p> <p>If the Ro-Ro's are transiting at all stages of the tide, then they will have to cut across the tidal flow. On the stronger ebbing tides this could quickly set the vessels down onto the Finger Pier.</p> <p>Administratively, for the IOT an abortion in manoeuvring could delay</p>
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<p>NS 1.17</p>	<p>Societal Risk Assessment</p> <p>Explain what risks have been assessed in the application with respect to the potential impact of the Proposed Development’s proximity to Control of Major Accident Hazards (COMAH) sites, including collateral societal risk for energy supply in the United Kingdom and how any necessary mitigation would be secured in a made DCO.</p>	<p>The IOT Operators consider that ABP have not demonstrated adequate assessment of impacts to the IOT COMAH safety case, despite this being raised by the IOT Operators early on in the NRA process. The IOT Operators provided extracts from its COMAH safety case to demonstrate that shipping collision with the IOT is already amongst the highest hazard managed by the IOT Operators and provided details on risk acceptability (defined through the hazard risk matrix, consequence descriptors and likelihood classifications).</p> <p>On review of the IERRT Development ES, the IOT Operators concluded that ABP had not adequately assessed impacts to the IOT COMAH safety case (primarily as the methodology employed was subjective and did not follow the IOT COMAH requirements), and as no standards of acceptability were defined. With no standards of acceptability, no methodological details and a subjective / qualitative approach to risk assessment the IERRT Development’s cost benefit assessment is fundamentally flawed.</p>

		<p>As a result, the IOT Operators consider that ABP's NRA findings are flawed and deficient in respect of addressing the IOT's COMAH impacts. Further they do not include any assessment of societal risk, both in relation to loss of life, impact to the environment and wider socio-economic considerations and implication from causing impacts to two major oil refineries.</p> <p>In order to address these, and other issues identified within ABP's NRA, the IOT Operators commissioned a sNRA which was based on IOT's standards of acceptability (as derived from the HSE) and considered societal risk through a quantitative risk assessment methodology (using event and consequence modelling). The sNRA found that societal risk of the IERRT Development was intolerable without additional risk control measures not adopted by ABP. Through a transparent cost benefit analysis, the sNRA demonstrated that the IOT Operators' risk control measures were cost effective in reducing risk to acceptable levels.</p> <p>Fundamentally, even small incidents involving contact with the IOT Finger Pier and IOT Trunkway could result in the entire section of pipelines and its infrastructure being removed from service, even if just to undertake the necessary inspection for any damage. Even using rope access techniques to access the supporting structure and pipelines and the process could take several weeks.</p> <p>Therefore even a "slow speed" allision (contact / impact) by an IERRT Ro-Ro vessel of a ship moored at Berth 8 could cause a catastrophic chain of events. For example, a Ro-Ro contacting a vessel on Berth 8 whilst it is loading motor spirit.</p> <p>The Ro-Ro only needs to come out of position from the IEERT by 80m to contact the coaster. The comparatively large mass of the Ro-Ro (60,000mt) would push the coaster (5,000mt) out of position breaking her moorings.</p> <p>The coaster would then be pushed or caught by the wind/tide and move out of position. This would damage the 8" loading arm, which could then move</p>
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		<p>out of its operational range and potentially topple.</p> <p>Motor spirit would escape from the loading system and if it found an ignition source would ignite and depending on the leak rate and time until ignited any vapour cloud would explode which could seriously or fatally damage other IOT personnel, lead to loss of other oils to the marine environment (typically oils that have much more of an environmental impact than motor spirit), cause damage to other IOT vessels and infrastructure and would be a risk to human life.</p> <p>Depending on the severity of such an event, this type of incident would place the entire IOT out of use for many months whilst incident investigations, legal proceedings and then repairs are assessed, tendered and completed.</p> <p>The cost of this outage to the wider market would provoke short-term fuel supply issues, resulting in potential panic buying and inflate domestic fuel prices. The overall result could have a notable effect on the UK economy particularly at a time of existing difficulties in the cost of energy and fuel supplies.</p>
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8 COMMENTS ON DEADLINE 1 SUBMISSIONS

- 8.1 The IOT Operators note submissions made the Marine & Coastguard Agency (“**MCA**”) at Deadline 1 [REP1-021] which states that they are satisfied that to date an appropriate NRA has been undertaken by ABP but that they would expect every attempt to be made by ABP to resolve the concerns raised by the interested parties, with more detailed justification provided where consensus cannot be achieved.
- 8.2 For the reasons set out in Section 3 above and in the sNRA submitted at Deadline 2, the IOT Operators do not agree with MCA’s initial view that the NRA submitted by ABP uses an appropriate risk assessment methodology or follows the Port Marine Safety Code. The IOT Operators note that the MCA will continue to monitor progress on this point. This Written Representation and the sNRA provide additional detail of the IOT Operators’ concerns with ABP’s NRA which should assist other parties, including the MCA, to understand the deficiencies with ABP’s NRA.
- 8.3 The IOT Operators do not wish to comment specifically on any other submissions made at Deadline 1 other than to mention that points raised by ABP in response to the IOT

Operators' Relevant Representation [REP1-013] are dealt with in this Written Representation and the IOT Operators' NRA submitted at Deadline 2.

9 CONCLUSION

- 9.1 This Written Representation, the sNRA and other Deadline 2 submissions set out the IOT Operators' key concerns regarding to the IERRT Development. For the reasons set out above, the IOT Operators do not consider that the IERRT Development should be granted consent unless satisfactory risk control measures are secured to ensure that operation of the IOT and refineries, both deemed to be Critical National Infrastructure by the National Protective Security Authority, are not adversely impacted by the IERRT Development.