

**Infrastructure Planning
Planning Act 2008
The Infrastructure Planning (Examination Procedure) Rules 2010**

Immingham Eastern Ro-Ro Terminal DCO Application

**Deadline 5 Submission
by
CLdN Ports Killingholme Limited
Response to
Deadline 4 Submissions**

1. INTRODUCTION

- 1.1 This document comprises the responses by CLdN Ports Killingholme Limited (**CLdN**) to documents submitted at Deadline 4 of the examination of the application for a Development Consent Order (**DCO**) for the Immingham Eastern Ro-Ro Terminal (**IERRT**) (**the Proposed Development**).
- 1.2 At Deadline 4, CLdN submitted a summary of its Post Hearing Submissions regarding Issue Specific Hearing 3 (**ISH3 Summary**) [**REP4-017**] and Issue Specific Hearing 4 (**ISH4 Summary**) [**REP4-018**], alongside a note providing details in relation to various matters at the Port of Killingholme [**REP4-021**] (together, **CLdN's Deadline 4 Submissions**). It is CLdN's view that CLdN's Deadline 4 Submissions, together with its previous submissions, have already addressed the majority of the points raised by Associated British Ports (**the Applicant**) in its own Deadline 4 submissions. Therefore, CLdN does not consider that it will assist the Examining Authority to duplicate those submissions by responding to each point made by the Applicant in its Deadline 4 submissions.
- 1.3 Instead, CLdN has produced this document to address certain points raised in the Applicant's Deadline 4 submissions that CLdN wishes to provide particular commentary on. CLdN does not concede to the Applicant on any of its submissions that are not responded to within this document; rather, it is CLdN's view as stated above that its previous submissions have already addressed and established CLdN's position, which remains unchanged, on those points.
- 1.4 CLdN acknowledges that the Applicant will be making more substantive submissions at Deadline 5, following its review of CLdN's Deadline 4 Submissions. CLdN awaits these submissions and will respond in due course.
- 1.5 Section 2 of this document contains CLdN's responses to submissions by the Applicant in its Response, at Deadline 4, to CLdN's Comments on Deadline 2 Submissions (submitted at Deadline 3) (**Applicant's Response to CLdN's Comments**) [**REP4-013**].
- 1.6 The table in Section 3 of this document contains CLdN's response to submissions by the Applicant in its Response to the Examining Authority's further written questions and requests for information (**Applicant's Response to ExQ2**) [**REP4-008**].

2. **RESPONSES TO THE APPLICANT'S RESPONSE TO CLDN'S COMMENTS [REP4-013]**

- 2.1 CLdN notes the Applicant has reserved its response to a number of CLdN's submissions until Deadline 5.
- 2.2 CLdN does not agree with the submissions made by the Applicant in paragraph 2.5 of the Applicant's Response to CLdN's Comments. CLdN's position has remained unchanged in relation to this throughout the examination.
- 2.3 CLdN has been working with its appointed economic consultants, Volterra Partners LLP (**Volterra**), to understand the impacts the Proposed Development may have on competition. There is no tension between the two statements that have been selectively quoted by the Applicant from Volterra's reports. Given the nature of the examination, updating Volterra with relevant information and data has been an ongoing process for CLdN. Therefore, some of the points in CLdN's submissions have crystallised as Volterra has been supplied with further information, particularly information emerging during the examination, but CLdN's position remains the same.
- 2.4 CLdN, again, refers to paragraphs 3.12 to 3.15 of the market analysis study and report prepared by Volterra which is included at Appendix 1 of CLdN's Written Representation submitted at Deadline 2 **[REP2-031]**, its submissions made in relation to Agenda Item 2 in the ISH3 Summary (at pages 15-18) **[REP4-017]** and paragraph 2 of CLdN's Response to Comments by the Applicant on CLdN's Written Representation **[REP4-019]**. CLdN's view is that it is clear from these submissions that the Proposed Development does not meet the condition in the National Policy Statement for Ports of "encouraging further competition between ports". Having regard to expert advice from Volterra, CLdN's case is that the IERRT is at best competition neutral, but it is certainly not *beneficial* to competition in the Humber.

3. **RESPONSES TO THE APPLICANT'S RESPONSE TO EXQ2 [REP4-008]**

Question Reference	CLdN Comments on Applicant's Response
BGC.2.02	<p>CLdN refers to the Applicant's submission that it <i>"is of the clear understanding that no party is contending that the Proposed Development is not sustainable in its own right"</i>.</p> <p>CLdN does not agree with this and has made several submissions to the contrary. In CLdN's Written Representation at Deadline 2 [REP2-031], CLdN made it clear that the potentially significant adverse environmental impacts of the IERRT and the availability of alternatives makes it evident that the Proposed Development is not sustainable (paragraph 1.6). CLdN highlighted some of the particular adverse effects within paragraph 7 which showed how the Proposed Development is not a sustainable port development.</p> <p>Further, as confirmed at the Issue Specific Hearing 3 and which is noted in CLdN's ISH3 Summary [REP4-017], CLdN's position remains consistent in that the Proposed Development is not "sustainable development". CLdN refers specifically to the post hearing note on page 18 of CLdN's ISH3 Summary which sets out CLdN's case clearly, including:-</p> <p><i>"In relation to what is actually being proposed, there is a large amount of infrastructure with all of the associated impacts and harms, but it is not clear at all how this responds to the general need for port development or the specific need of forecasted growth in Ro-Ro on the Humber. CLdN says that this is not "sustainable development". It is all being done in order to pursue the operational preferences of one operator who is already being served in the area and in circumstances where nobody has demonstrated that its operations can grow to meet the alleged need."</i></p> <p>It is therefore unclear to CLdN how the Applicant has reached its suggested understanding on this point, which is not supported in the Examination submissions.</p>
NS.2.05	<p>CLdN's position on consensus and stakeholder engagement was made clear in its oral submissions at ISH3. The Applicant views CLdN as a commercial objector that can be dismissed and does not engage with CLdN's submissions to understand its true position (page 4 of CLdN's ISH3 Summary [REP4-017]).</p> <p>CLdN and other interested parties have raised several substantial concerns, but it is revealing that the Applicant is simply dismissing them as commercial objections rather than engaging with the substance of the underlying concerns. CLdN's view is that it is the Applicant's approach that is proving an obstacle to achieving consensus.</p>
NS.2.07	<p>CLdN notes that the Applicant's submissions in relation to this question do not provide any commentary or elaborate on the examples that the Applicant displayed on slides at ISH3 in relation to Agenda Item 3.</p> <p>The images presented on these slides are included in Appendix 1 to the Applicant's ISH3 summary [REP4-009]. However, every example presents a situation where vessels simply pass (unimpeded) by a berth/jetty. None of the examples provided by the Applicant represents</p>

a comparable where Ro-Ro and oil vessels are manoeuvring or mooring in comparable proximities and in the conditions as referred to in the Proposed Development.

CLdN understands that the Applicant is now submitting that the comparable to the Proposed Development is the Port of Immingham as it currently is. It is not clear to CLdN how this can be the case, given IERRT has not been built and there is nothing at the Port of Immingham in its existing condition that can be comparable with IERRT, or indeed elsewhere currently in the UK.

In relation to the Applicant's example of the proximity of Ro-Ro berths at CLdN Ports London to the oil terminal on the river Thames, shown on the image below which is reproduced from Appendix 1 to the Applicant's ISH3 summary [REP4-009], this is not at all comparable to the situation proposed at Immingham, for the reasons set out below this image.



- The Applicant is mistaken in identifying oil jetties close to Ro-Ro jetties at Purfleet.
- The 'Purfleet Oil Storage COMAH Site', identified by the Applicant, handles fuel delivered by pipelines, not vessels.

	<ul style="list-style-type: none"> • The 'oil jetty' the Applicant is showing the distance/proximity of 130m upriver in this example is a CLdN jetty, which does not handle oil. • The 'Oil Storage and Terminal', shown 70m downriver from CLdN's berths, handles vegetable oils. • As explained on pages 5-6 of CLdN's Responses to the Examining Authority's Further Written Questions [REP4-020], the only oil jetties in the area are further down the river, beyond the QEII Bridge, as shown in Figure 1 of the same document and in the image reproduced above. They are not proximate – vessels pass (unimpeded) by those jetties, with no manoeuvring in the vicinity. The example provided by the Applicant is incorrect and, in any case, it is not comparable to IERTT and IOT. <p>CLdN notes that this misunderstanding and misinformation appears to arise from the Applicant's continued reliance on Google Maps to present its analysis without any real knowledge or verification of the jetties/terminals/products/activities concerned. CLdN would welcome any elaboration on comparables by the Applicant that are accurate.</p>
TT.2.05	<p>CLdN has recently shared with the Applicant validated tractor-only data, captured at the entrance to the Port of Killingholme, which evidences up to a 36% share of total HGV movements. This is significantly in excess of the 10% figure adopted by the Applicant in the Transport Assessment [AS-008] to derive maximum daily HGV demand. This metric reinforces CLdN's repeated request for a transparent sensitivity assessment of the assumptions that have informed the Transport Assessment to ensure that the range of impacts is fully and adequately assessed and understood.</p> <p>CLdN is engaging with the Applicant (via the Terrestrial Transport Group) to review the range of data supplied by both DFDS and CLdN, and is endeavouring to agree a representative figure.</p> <p>CLdN welcomes the Applicant's commitment to undertake a sensitivity assessment of HGV impact, and is committed to work with the Applicant to agree the unresolved key metrics that would inform such an assessment (i.e. tractor-only movements, maximum daily unit throughput and East/West Gate assignments).</p>
TT.2.09	<p>CLdN has provided a summary of its concerns in relation to the request for protective provisions on pages 14 and 15 of CLdN's ISH4 Summary [REP4-018].</p>