

IMMINGHAM EASTERN RO-RO TERMINAL



Issue Specific Hearing 3 Action Points for Deadline 5

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1 Executive Summary and Purpose

- 1.1 Issue Specific Hearing 3 ('ISH3'), during which consideration was given to the issue specific topic of **Navigation and Shipping (including any implications for the operations of the existing Port of Immingham and the Port of Killingholme), Onshore Transportation, Marine Ecology and Policy Considerations**, was held on Wednesday 27 September 2023 and the morning of Thursday 28 September 2023.
- 1.3 At **Table 1** below, this document provides a summary of the action points arising from ISH3 and, where these action points fell to Associated British Ports as the Applicant ('the Applicant') to be addressed for Deadline 5, how these have been addressed.

2 Table 2: Action Points

Action	Description	Action by	Deadline	Applicant's Comment/where has the action been answered
1	<p>Further to the Accompanied Site Inspection (ASI) held on 26 September 2023, submit a note outlining:</p> <ul style="list-style-type: none"> • the names and basic dimensions of vessels observed within and adjacent to the Port of Immingham from the port's Marine Control Centre; and • the weather conditions (particularly wind strength and direction), state of tide and current (speed and direction of flow). 	Harbour Master Humber	D4	
2	<p>Provide a plan or plans showing:</p> <ul style="list-style-type: none"> • the existing manoeuvring areas currently used by vessels arriving at or departing from the inner and outer parts of the Port of Immingham; and • how those manoeuvring areas would be adapted to accommodate the Proposed Development. 	Harbour Master Humber	D4	
3	<p>Provide a note ("the Killingholme note") containing plans, commentary and an explanation of the following:</p> <p>1) the differences between operations at the ports of</p>	CLdN	D4	

	<p>Killingholme and Immingham, specifically referencing:</p> <ul style="list-style-type: none"> • the use of the cassette system; and • the double stacking of containers. <p>2) the operating model and current land/berth capacity of Killingholme port;</p> <p>3) how capacity at the port of Killingholme could be expanded in the future;</p> <p>4) post-Brexit impacts on port capacity and how those conditions have subsequently changed.</p>			
4	Provide written response to the Killingholme note and the potential for Killingholme to serve as an alternative to the Proposed Development.	Applicant	D5	The Applicant's response to this note is provided within the overarching response to CLdN's Deadline 4 submissions which has been submitted by the Applicant for Deadline 5.
5	Jointly prepare a Statement of Common Ground (SoCG) regarding dwell times clearly setting out the differences in baseline capacity and assumptions between the parties and explain what internal and external factors influence dwell times and the consequence of differences in the assumptions.	Applicant, CLdN, DFDS and Stena Line	D5	The Applicant sent a request for availability on 12 October 2023 to CLdN, DFDS and Stena. A draft SoCG was received from CLdN and DFDS on 20 October 2023, which CLdN have passed to Stena for review and comment.
6	Provide as an appendix to ISH3 post hearing submissions the full	CLdN	D4	

	judgments for the cases referred to by CLdN and the Applicant during agenda item 2 discussion regarding the case law and policy considerations for need and alternatives. CLdN and Applicant to agree on the judgements to be included in that appendix to avoid duplication of submissions.			
7	Submit a copy of the Ellesmere Port High Court decision referred to during ISH3, highlighting the most relevant sections for the Examining Authority (ExA) to consider, including highlighting the diametrical opposition between the two Town and Country Planning Act 1990 Section 78 appeal decisions at issue in that case.	IOT Operators	D4	
8	Provide a written response to CLdN's and IOT's submissions on case law and policy regarding need and alternatives.	Applicant	D5	The Applicant's response to this action point is provided within the overarching responses to CLdN's Deadline 4 submissions and IOT's Deadline 4 submissions which have been submitted by the Applicant for deadline 5.
9	Provide references for the relevant Energy Policy considerations that should be taken into account, to include relevant provisions and explanatory statement on fuel resilience from part 12 (once part 10) of the energy bill currently passing through parliament.	IOT Operators	D4	

<p>10</p>	<p>Provide a note on the landlord and tenant relationship (tenancies, licences etc) between the Applicant and IOT Operators and how this interacts with the proposed Protective Provisions, confirming the responsibility for undertaking maintenance and repairs for the Finger Pier and trunkway</p>	<p>Applicant and IOT Operators</p>	<p>D5</p>	<p>The Applicant’s title to the land that consists of the Finger Pier and trunkway is under leasehold title number HS342601. The IOT Operators in turn have rights of access over the Finger Pier and trunkway under the terms of a licence (“the Licence”) dated 14 August 2013 and made between Associated British Ports (1) Humber Oil Terminals Trustee Limited (“HOTT”) (2) Total Lindsey Oil Refinery Limited (3) and Phillips 66 Limited (4). Under the terms of the Licence the trunkway and Finger Pier belong to the Applicant, with the Applicant granting HOTT rights to bring onto and keep the “HOTT Equipment” onto the trunkway and Finger Pier and to berth HOTT Vessels at the trunkway and Finger Pier. HOTT do not have any tenancy, nor other proprietary interest in the trunkway nor the Finger Pier (with the ownership of both remaining with the Applicant).</p> <p>The “HOTT Equipment” is set out in a schedule to the Licence but, broadly, consisting of pipes valves and pumps.</p> <p>Under the terms of the Licence, the Applicant is responsible for the maintenance, repair and insurance of the trunkway and Finger Pier and HOTT are responsible for the maintenance and repair of the “HOTT Equipment”.</p>
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			<p>The proposed protective provisions do not alter this position as:</p> <ol style="list-style-type: none"> 1. HOTT do not have any “land interest” in the trunkway nor in the Finger Pier; and 2. The Applicant is responsible for the maintenance and repair of the trunkway and Finger Pier. <p>Furthermore, the proposed protective provisions provide that any alteration works made to or close to “apparatus” (which would include the “HOTT Equipment”) can only be commenced once HOTT have approved a plan submitted by the Applicant detailing the works that are going to be undertaken (and in consenting, HOTT can require such modifications are made to the plans as may be <i>“reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus”</i> and that any protective works in respect of the apparatus <i>“must be carried out to...” [HOTT’s] “...satisfaction prior to the commencement of any authorised development”</i>). The intention being that HOTTs access to, and use of, the HOTT Equipment on the trunkway and Finger Pier is maintained throughout the proposed development and not interfered with.</p>
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11	Submit a note and plans concerning the comparable Ro-Ro berths and petrochemical berth siting relationship examples referred to by Mr Hannon at ISH3, commenting on relevant manoeuvres and distances.	Applicant	D4	
12	Provide information on the distances between the petrochemical jetty at Thurrock and the CLdN Ro-Ro facility at Purfleet.	CLdN	D4	
13	Submit indicative scaled drawings for the proposed impact protection measures and alterations to the IOT Finger Pier ('the alternative measures') which are the subject of negotiations between the Applicant and IOT Operators outlined in the Applicant's letter of 28 September 2023.	Applicant	D5	The Applicant's Changes Notification, submitted to the ExA on 19 October 2023, included (amongst the non-statutory consultation materials appended to the Notification) a full set of draft General Arrangement Plans [AS-029] , Engineering Sections and Drawings [AS-030] , and Works Plans [AS-031] . These documents, together with the Change Notification itself and the ES Addendum document [AS-028] , detail the Applicant's proposals for enhanced management procedures and impact protection measures.
14	Provide an update with respect to the negotiations relating to 'the alternative measures'.	Applicant and IOT Operators	D4	
15	Submit assessment of the likely environmental effects and marine safety implications of the alternative measures, having regard to the provisions of the Environmental	Applicant	D5, if not already submitted as part of any request	Consideration of the likely environmental effects and marine safety implications of the alternative measures is provided in the Change Notification – Appendix 1 Environment Statement Addendum [AS-028] .

	Impact Assessment Regulations and the Habitat Regulations.		for change to the originally submitted application	The provisions of the Environmental Impact Assessment Regulations and the Habitat Regulations has been taken into account.
16	Clarify the Navigational Risk Assessment [APP-089] conclusions with regard to the hazards related to the operation of the Eastern Jetty and submit details of the navigation simulations undertaken for the pre-application four-berth scheme.	Applicant	D4	
17	<p>Applicant to engage with DFDS and CLdN and IOT Operators to agree parameters for the undertaking of additional simulations to address DFDS' concerns with respect to the Proposed Development's proximity to the Eastern Jetty, including the effects of current direction on the approach to the proposed berths 2 and 3.</p> <p>Applicant to submit not later than D5 a detailed brief and timetable for undertaking any additional simulations, further to discussions to be held with DFDS and CLdN and IOT Operators (see footnote*).</p>	Applicant and DFDS, with the assistance of CLdN and IOT Operators	D5	The Applicant has set out proposed details of additional stakeholder demonstrations in correspondence to CLdN, Stena, Humber Harbour Master, IOT and DFDS. This correspondence is shown in Appendix 1.
18	Submit no later than D6 a report on any additional simulations.	Applicant	D6	The Applicant will provide a response to this at Deadline 6.

19	Identify the currently anticipated operating limits (parameters) for the Proposed Development.	Harbour Master Humber and Dock Master Immingham	D4	
20	Provide an update clarifying the anticipated controls to be applied to the Proposed Development to reduce all navigational risks to “As Low As Reasonably Practicable”, with particular regard to the operation of the IOT.	Applicant and Harbour Master Humber	D5	<p>The controls to reduce navigational risk to ALARP are identified in the Applicant’s Navigational Risk Assessment [APP-089] Section 9.9.</p> <p>In IOT’s sNRA, they identified three controls for further consideration; the relocation of the IOT finger pier, vessel impact protection, and a marine and liaison plan. The Applicant committed to working with IOT to further review these controls.</p> <p>Within the change notification submitted to the ExA [AS-027], the Applicant provided an update on the status of these discussions in paragraphs 2.38 to 2.46.</p>
21	Provide a note clarifying responsibilities and reporting line under paragraph 2.2.5 of the Port of Immingham Marine Safety Management System (MSMS) [REP3-017] with regard to identifying, reviewing and implementing additional risk control measures to mitigate marine risks identified by the relevant Statutory Harbour Master as	Applicant	D4	

	being “intolerable, and/or (with) a significantly high risk score”.			
22	Submit a copy of the 18 May 2023 version of the Port of Immingham MSMS.	Applicant	D4	
23	Provide a note or addendum to the draft CEMP explaining the formal relationship between project construction delivery team and Dock Master during construction phase, specifically having regard to safety considerations of any overlapping construction and operational activity.	Applicant	D4	
24	Review appropriateness of the Construction Environmental Management Plan [REP2-004] for securing marine risk controls and clarifying the responsibilities for the Harbour Master Humber and Dock Master in Table 3.4 of the CEMP; or submit an additional document that can be certified under the dDCO.	Applicant	D5	A revised CEMP, including an updated Table 3.4, has been submitted by the Applicant at Deadline 5. Table 3.4 sets out the mitigation and enhancement measures for commercial and recreational navigation risks and clarifies the responsibilities of the Harbour Master (Humber Estuary Services), Dock Master (Port of Immingham), Vessel Traffic Services and the contractor.
25	Outline the Harbour Works Consent process and how it would relate to the works subject to the dDCO, including those works subject to the Deemed Marine Licence.	Applicant	D4	
26	Provide minutes of the 12 December 2022 Harbour Authority and Safety Board (HASB) meeting and consider whether minutes, notes and reports relevant to the Proposed	Applicant	D4	

	Development arising from discussions prior to that HASB meeting exist and can be submitted into the Examination, redacted as necessary.			
27	Provide minutes of HASB meeting to consider any proposed changes to the Application before the close of Examination.	Applicant	Not later than 25 January 2024	The Applicant will provide a response to this no later than 25 January 2024.
28	Issue corrected version of the table forming Appendix 7 which formed part of REP1-009	Applicant	D4	
29	Consider the data that has been utilised for validation of the traffic flows for the A160.	Applicant	D4	
30	Provide a joint note or SoCG between interested parties, potentially including local highway authorities as necessary. The note should address, amongst other things: <ul style="list-style-type: none"> • for the West Gate, at what level of additional traffic would this gate reach its operational capacity and stop functioning properly; • the split between the handling of accompanied and unaccompanied units and the implications for vehicle generation; • forward transport forecast implications; 	Applicant, CLdN and DFDS	D5	<p>A Statement of Common Ground on highways transportation matters between the Applicant, CLdN and DFDS has been submitted which covers the latest agreed matters regarding West Gate, unaccompanied/ accompanied split, transport forecasts, and A160 issues (document 7.10 - Draft Transport Statement of Common Ground between Associated British Ports, CLdN Ports Killingholme Limited and DFDS Seaways Plc. submitted at deadline 5).</p> <p>The Applicant has also appended a technical note setting out the Applicant's position on outstanding items which are not agreed with CLdN and DFDS (DTA Report 23325-27 provided at Appendix 2.)</p>

	<ul style="list-style-type: none"> • the predicted effect for the operation of the Proposed Development on the operation of the A160; and • wider highway issues as necessary. 			
31	Submit hardcopies of documents which exceed 50 pages	All parties	All deadlines	All documents submitted at Deadline 5 which exceed 50 pages will be submitted in hardcopy in due course.
32	Undertake a review of the cumulative and in-combination effects assessed in Chapter 20 of the Environmental Statement [APP-056] to take account of the submission of the Immingham Green Energy Terminal (IGET) application.	Applicant	D5	<p>The application for the Immingham Green Energy Terminal (IGET) was submitted on the 21 September 2023, and was accepted for Examination on the 19 October 2023. The information supplied in the application documents has been reviewed, particularly Chapter 25: Cumulative and In-Combination Effects of the ES. The assessment in Chapter 25 of the IGET ES was undertaken using all of the information available for the IERRT project (i.e., a full and completed Environmental Statement).</p> <p>Within this assessment, detailed consideration has been given to the IEERT project and the potential for cumulative and in-combination effects with IGET (presented in Appendix 25.C: Assessment of Cumulative Effects). That assessment concludes, for each environmental topic, that there would be no significant adverse cumulative effects resulting from the IERRT and IGET developments both during construction and operation.</p>

				<p>The same conclusion is reached within Chapter 20 of the ES [APP-056] for the IERRT project. On that basis, the assessment of cumulative and in-combination effects is considered robust.</p>
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3 Glossary

Abbreviation/ Acronym	Definition
ABP	Associated British Ports
ALARP	As Low As Reasonably Practicable
APT	Associated Petroleum Terminals
CLdN	CLdN Ports (Killingholme) Limited
dDCO	Draft Development Consent Order
DFDS	DFDS Seaways Plc
ExA	Examining Authority
HASB	Harbour Authority Safety Board
HES	Humber Estuary Services
HOM	Head of Marine
HOTT	Humber Oil Terminal Trustees Limited
IMO	International Maritime Organisation
IOT	Immingham Oil Terminal
IP	Interested Party
ISH3	Issue Specific Hearing Three
MSMS	Marine Safety Management System
MCA	Maritime & Coastguard Agency
NPSfP	National Policy Statement for Ports
NRA	Navigational Risk Assessment
PEC	Pilotage Exemption Certificate
SHA	Statutory Harbour Authority
SME	Subject Matter Expert
TAM	Technical Authority Marine
TA	Transport Assessment

Appendix 1 – Proposed details of additional stakeholder demonstrations correspondence with CLdN, Stena, Humber Harbour Master, IOT and DFDS

Appendix 2 – DTA Report 23325-27