

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

DEADLINE 6

Response on behalf of the Harbour Master, Humber
to Deadline 5 submissions from Immingham Oil Terminal Operators and DFDS

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Introduction

1.1. In this document Harbour Master, Humber (“**HMH**”) responds to the submissions made at deadline 5 by Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited (“**IOT**”) and DFDS Seaways Plc (“**DFDS**”).

1.2. The documents addressed in this submission are:

REP5 – 035 – IOT response to D4 submissions; and

REP5- 042 – DFDS responses to D4 submissions

1.3. The fact that HMH has not responded to any particular point does not mean that he agrees with it or accepts that it is correct. HMH has limited his responses to matters that are directly relevant to his areas of responsibility and where he thinks he can assist the Examining Authority.

2. Table of responses:

Document	Content of D5 Submission	Response on behalf of the Harbour Master, Humber
<p>REP5-035</p> <p>IOT response to D4 submissions</p> <p>Page 2 – Response to Stena Line</p>	<p>“There are a limited number of Tugs in the Humber. If IERRT vessels are needing to Arrive/Sail at similar times to other users (specifically at HW/LW slack water periods) then there will be an increased amount of traffic that requires a tug. Therefore, a preferential ordering system needs to be in place so that IOT vessels are not cancelled because of a lack of Tug availability. The IOT Operators have concerns with the response regarding situations where a tug is not available. Clarity is required on what vessels may or may not do in such situations. This is in terms of vessels arriving and departing the Port and in terms of what “appropriate solutions” can be found.”</p>	<p>Stena vessels currently arrive and depart from Humber Sea Terminal and Immingham Dock.</p> <p>Whichever facility the Stena vessels are using, HES would generally prioritise a tidal vessel arriving at or departing from IOT over a scheduled RoRo service which could more easily be delayed or moved forward.</p> <p>Tugs are used where necessary for safe navigation and are assigned to large tidal vessels first, with smaller vessels falling into line thereafter.</p>
<p>NS.2.05</p> <p>Stakeholder input to assessment of risks</p>	<p>“Further it is not clear in the Applicant ’s response whether in it is responding in the capacity of the developer of the IERRT or in its capacity as the authority responsible for navigation safety –</p>	<p>It is obvious that the response comes from ABP in its capacity as port owner and operator and, therefore, the Applicant.</p>

	the SHA.”	
Page 14 NS.2.06	<p>“It is however identified at pg 4 of the meeting minutes (page 79 of [REP4-009]) that a “Cost-Benefit Analysis meeting was held on 06 WORK \50312187 \v.1 15 • The consideration of costs and benefits which formed part of the NRA process – as is described in the NRA [APP -089]; • The analysis demonstrated that any residual risks in respect of the finger pier were tolerable such that relocation was simply not required; and • The risk assessment considered the risk to be ALARP. October 2022 to evaluate the risk controls from the Hazard Logs (stage 4). Attendees at the Cost -Benefit Analysis meeting included members of the ABP Project Team, ABPmer, the HES Harbour Master, and Clyde & Co (legal team). The summary of this meeting was presented to the ABP SteerCo including the position of tolerability that was reached and the recommended ‘Applied Controls’ (‘Further Applicable Controls’ to be taken forward) on 09 October 2022”.</p>	<p>For the avoidance of doubt, no decision as to tolerability of risk was taken at the meeting on 9 October at which HMH was present and he has played no part in that decision. Having satisfied himself that use of the proposed IERRT could be managed safely by means of operational controls, commercial decisions such as whether or not to implement physical protection measures were solely for the port operator.</p>
Page 16 NS.2.08 Equally challenging manoeuvres on the Humber	<p>“If routine manoeuvres in the River Humber can be described as challenging, then arrivals and departures at the proposed IERRT could be described as ‘exceptionally challenging’.</p> <p>Immingham Outer Harbour (IOH) has a relatively clear approach from seaward and once a RoRo is swung to enter the terminal area, the terminal and berths are protected from flood and ebb tidal flow due to the presence of Immingham Bulk Terminal.</p> <p>Similarly, Immingham Lock has a clear approach from the east and once a vessel is stopped over the ground off the entrance, has the benefit of an area of still water in</p>	<p>It is a fact that each port on the Humber has different navigational challenges. For the purposes of this examination, HMH is interested in the assessment of (i) whether the IERRT berth is safe to operate and (ii) whether the other facilities in that part of the Humber estuary are also safe to operate given the presence of IERRT, rather than comparing its characteristics to other areas on the Humber.</p>

	<p>the area of the lock bellmouth in which to perfect its final approach.</p> <p>RoRo vessels approaching IERRT would be presented with the challenge of manoeuvring close to the IOT berth 1 and associated dolphins, having to deconflict with any vessels finishing their approach to or departing Immingham Lock, then manoeuvring across either a flood or ebb tide where the precise alignment of the vessel's heading in relation to the tidal flow would be absolutely critical to achieving a safe outcome. Longitudinal space constraints between the upstream knuckles of IERRT 2 and 3 and the Eastern Jetty allow minimal margin, especially if tugs are used ahead or astern on design length vessels. Unlike IOH and the Lock, the final stages of the manoeuvre would be in the full force of both the ebb and flood tide, in close proximity to an oil terminal trunkway of national significance”</p>	
Page 29	<p>“It is proposed that the Applicant and SHA (both of which are part of ABP) will solely decide on whether or not to implement procedural controls and what level/magnitude of control is required.</p> <p>The process for establishing procedural controls such as operating limits should be as IOT operators have documented in response to ExA ISH 3 Agenda Question d [REP4-037]”</p>	<p>HMH believes the correct reference should be to page 36 of REP4-035.</p> <p>IOT suggests that the Applicant should develop a detailed IERRT Marine and Liaison Plan in conjunction with IOT and other applicable stakeholders to develop and manage procedural controls related to the IERRT development including setting out berth limits, towage requirements and “operational deconfliction” (the last to be monitored and policed by HES).</p> <p>HMH believes that IOT's proposals are misconceived. Parliament conferred powers to make decisions as to the regulation and management of navigation in the Humber to the Statutory Conservancy and Navigation Authority and to the Harbour Master, Humber. Parliament did not intend for such arrangements to be determined by a committee of non-statutory stakeholders with commercial</p>

		<p>transport interests in the Humber.</p> <p>In addition to its legislative functions and responsibilities, the Port Marine Safety Code requires the Statutory Harbour Authority and Competent Harbour Authority for the Humber to manage navigational safety.</p> <p>Many of the control measures identified by IOT would, as a matter of course, form part of the Humber Marine Safety Management System moving forward.</p> <p>The control measures to be applied would fall out of the Risk Assessment carried out at the relevant time using MarNIS as part of the Humber Marine Safety Management System described in HMH's response to Action Point 20 from ISH 3 (see REP5-039) (see and under the conditions moving forward.</p> <p>These procedures put in place are well known and accord with the PMSC and Government Requirements. It would be inappropriate and potentially hazardous to seek to prescribe alternative arrangements for ongoing operations by means of DCO.</p>
<p>Page 35 NS.2.32 Use of tugs with Ro-Ro vessels</p>	<p>IOT Operators refute the Applicant's comments, particularly those in the first and second sentences. Comments in REP3-026 NS1.8 were submitted in response to ExQ1, postdating and therefore supplementing the content of the sNRA, to better appraise ExA in respect of the advantages and limitations of towage. If the Applicant does not accept comments made by IOT Operators in REP3-026 NS1.8 in which the limitations of tug use with high powered RoRo ferries were described, particularly when operating in a strong tidal flow, then ExA should be even more concerned as to the potential of the Applicant to be aware of and able to understand the dangers, to take</p>	<p>IOT refers to "the Applicant's own Pilot Handbook". For the avoidance of doubt, ABP in its capacity as statutory port operator and the applicant for the IERRT DCO has no pilotage functions and no ownership of the handbook.</p> <p>Turning to the substance of IOT's commentary, HMH believes that it was established at the Stakeholder Simulations that he attended on 7th and 8th November 2023 that risks associated with the use of tugs with Ro-Ro vessels are well-understood and can be managed.</p>

	<p>them into account in their operating guidelines and to operate the proposed terminal safely. The Applicant's own Pilot Handbook for the River Humber gives an example of an incident in which a tug was badly damaged, in only moderate wind and no tidal flow, when assisting a modern RoRo ferry which, according to the MAIB report,³ resulted from the lack of a centre fairlead aft (due to the presence of the centre stern ramp) and the resulting problems which ensued. The Applicant refers to the Towage Guidelines for Portsmouth International Port (PIP). IOT operators highlight the following points:</p> <ul style="list-style-type: none"> • Tug assistance for RoRo vessels in PIP is not at all routine. • Tug assistance was made compulsory (by the then Queens Harbour Master as the SHA for Portsmouth Harbour) only in winds over 30 knots, for the primary purpose of protecting his own infrastructure and military vessels. This was in response to an accident in 2002 when the ferry Pride of Portsmouth attempted to berth in winds gusting 65 knots, leading to an allision with and extensive damage to HMS St Albans. • It should be noted that all of the RoRo vessels routinely using PIP Ferry Port are RoPax ships with significantly higher freeboard and therefore windage than freight ferry RoRo. Importantly, PIP ferry basin has no tidal flow and therefore manoeuvring in the turning and berth area is wholly dissimilar and far less challenging than in the strong tidal flows centre stern ramp) and the resulting problems which ensued. The Applicant refers to the Towage Guidelines for Portsmouth International Port (PIP). IOT operators highlight the following points: • Tug assistance for RoRo vessels in PIP is not at all routine. • Tug assistance was made compulsory (by the then Queens 	
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	<p>Harbour Master as the SHA for Portsmouth Harbour) only in winds over 30 knots, for the primary purpose of protecting his own infrastructure and military vessels. This was in response to an accident in 2002 when the ferry Pride of Portsmouth attempted to berth in winds gusting 65 knots, leading to an allision with and extensive damage to HMS St Albans . • It should be noted that all of the RoRo vessels routinely using PIP Ferry Port are RoPax ships with significantly higher freeboard and therefore windage than freight ferry RoRo. Importantly, PIP ferry basin has no tidal flow and therefore manoeuvring in the turning and berth area is wholly dissimilar and far less challenging than in the strong tidal flows experienced in the area of the proposed IERRT. • PIP Towage Guidelines do not require tugs to be secured. Generally tugs at PIP are used only in pushing mode on the ship's flat side, in recognition of the inherent dangers introduced by the limited securing locations, the limited experience of PEC holders in tug use and the potential for high powered thruster and propeller wash as outlined by IOT Operators comments in REP3-026 NS1.8. To further highlight the infrequency of tug use by RoRo/RoPax ferries at PIP and the inherent dangers, an Annex has been included in the Portsmouth Towage Guidelines entitled 'Portsmouth Towage – A Guide for Ferry Captains'.⁴ This document further explains that PEC holders are recommended to take a pilot when using tugs and emboldens many of the vulnerabilities drawn to ExA's attention by IOT Operators in [REP3- 026] at NS1.8.</p>	
<p>Page 37 NS.2.33 Effects</p>	<p>The tug still needs to be available. If the Ro-Ro has suddenly encountered a mechanical failure, experiences wind gusting above</p>	<p>The point made by IOT is not of particular relevance to the question of whether it is appropriate to make the</p>

<p>arising from contingency of lack of tug availability</p>	<p>that expected or has already swung into the approach to the IERRT, then decides that the conditions are difficult and that a tug is needed - it has already passed a safe abort point. At short notice the Fire Tug may be available but could be 20mins away from the IERRT/IOT.</p>	<p>DCO. Tug operators are commercial operations and it is not usual practice to maintain additional tug availability on a “just in case” basis.</p>
<p>REP5 - 042 DFDS response to D4 submissions Page 2 Para 2</p>	<p>“... the ExA asked a question of the Dock Master (Humber) and Harbour Master (Humber), both of these being statutory duty holders. However this question, and others, were answered by Commander Paul Bristowe, who acts on behalf of the Applicant and is also the line manager to both these statutory duty holders. This reinforces DFDS’s position that the lack of separation between Applicant and Harbour and Port Authority is cause for serious concern. It would appear the Applicant exerts control over all aspects of decision making on the Humber both commercial and regulatory and is effectively judge and jury on estuarial development and safety. The ExA queried whether the Dock Master (Humber) should have independent representation and DFDS supports that and that both statutory duty holders be allowed to answer questions directed toward them. Both parties are experienced Master Mariners with decades of experience on the Humber and should be able to act in an independent and robust manner when questioned as part of this process.”</p>	<p>HMH does not recognise the assertion made by DFDS. In his view, he did not fail to answer any question that was addressed to him by the Examining Authority or in respect of which he considered he had something to say</p>
<p>Page 4 Para 10 Row 20</p>	<p>“The Applicant has suggested that tide data on Admiralty Nautical Charts, and by extension ABP charts, publications and guidance will change due to the data gathered by the AWAC buoy deployed as part of the design process. DFDS would like to know what data has been gathered north of IOT as this is the location of the tidal diamond to which DFDS referred in their written submissions</p>	<p>The tidal diamond on this chart gives tidal information relating to its own geographical position and does not reflect all f the variances of tide in nearby locations.</p> <p>Guidance to vessels using the IERRT will reflect the latest available data at that time, including data for areas already navigated as well as the locality of the proposed IERRT</p>

	and highlighted in answer to ExA questions. Is the Applicant suggesting that, without data north of IOT, it intends to advise the Admiralty to change the published data for such? DFDS also requests that the Harbour Master, Humber (HMH) provide information regarding what changes he proposes to The Pilot Handbook, Notices to PECS and Pilots, Notices to Mariners and Standing Notices To Mariners to reflect these changes that the Applicant's simulation experts have identified."	development. . HMH would expect new guidance to be related initially through Notices to Pilots and PECs as well as VTS and Dockmaster Standard Operating Procedures. It would also be included in Pilot Handbook in due course. HMH recalls that the correlation of the diamond and surrounding areas was dealt with at Stakeholder Simulations 2 and that the tides at the tidal diamond were "exaggerated" to ensure that the effect experienced at the IOT reflected the experience of regular users in line with previous guidance.
Page 5 Para 21	"It would also appear the Harbour Master (Humber) was also satisfied the impact protection was not required."	HMH's position is that he is satisfied from a combination of the information he has seen and his own experience that the IERRT can be navigated safely with or without physical impact protection measures, depending on the implementation of other available control measures.
Page 9 Para 31 – NS.2.29	"The Applicant's response fails to answer what happens if a tug is unexpectedly delayed. Such delays are commonplace when tug assisted manoeuvres for other vessels take longer than anticipated or when tugs are delayed leaving the inner docks. This then requires the vessel to wait within the river until the tug becomes available. This is generally not a problem for Ro-Ro vessels bound for IOH or HST given the room surrounding the terminals, but this is not the case at the Proposed Development."	This is not an issue that relates to the question of whether the IERRT can be operated safely. In practice, where tugs are delayed for one reason or another, a number of things might happen, depending on the situation and conditions at the relevant time. It may simply be that the ETA (expected time of arrival) of the vessel concerned will be adjusted or the vessel may stem east of IOT or anchor up or go to another berth. This would be a matter for HES acting in collaboration with the vessel, port and tug operators and pilot, as appropriate. There are generally a number of safe options, ensuring that voyages pause at the right point and do not pass a point of no return.
Page 10 Para 49 NS.2.39	"DFDS requests the HMH share the data and modelling on which he relies to substantiate his position that the Proposed Development will not lead to additional congestion	HMH has never suggested that his comments are based on specific modelling or other studies. Rather, they are based on his own experience and that of HES over very many years

	and requests guarantees that it will not impact on either its inner dock or outer harbour operations.”	of regulating and managing multiple vessels concurrently around the Humber with the introduction, from time to time, of new port infrastructure.
Page 15, Para 58, Paragraph 11	“DFDS acknowledge that a wind speed of 20 knots cannot be described as ‘benign’ and withdraw that assertion. It does not however, explain how a senior pilot with considerable experience in the area found himself in a position in which his vessel almost struck a mooring buoy, nor has it addressed how such issues will be prevented in the future when the Proposed Development lies in this position. It is clear the pilot, master and bridge team never intended to find themselves in this position so what measures will be introduced to prevent such an incident occurring again in the future?”	As previously stated, the Selin S incident was the result of human error, and it is reasonable to assert that the manoeuvre concerned is not one that would have been undertaken in the first place if there had been a large piece of infrastructure already in situ rather than an expanse of water. The unique and unhappy circumstances of this incident were the subject of an appropriate level of confidential investigation and action as referred to at ISH3.
Page 14 Para 60 Paragraph 15	“HMH confirmed that he was content with the potential amendments to the DCO to include impact protection measures for IOT and its finger pier. He noted that the value of them had been noted in the NRA. HMH confirmed that his position should be protected on the detailed design through the protective provisions.’ Can the HMH clarify if he has requested the impact protection? Since he is ‘content’ with their inclusion and notes their ‘value’ would he reconsider his position should the Applicant and IOT operators fail to agree upon a design for such protection, which is currently the situation?”	<p>HMH wishes to clarify that he noted that the value of the impact protection measures had been recorded in the NRA – not that he personally agreed their value, which has a rather different connotation. HMH remains satisfied, following the simulations that took place on 7th and 8th November, that the jetty can be operated safely without particular physical impact protection measures.</p> <p>Further, pursuant to the protective provisions in the DCO, HES would be able to impose conditions on the authorised works for the protection of traffic in, or the flow or regime of the river, and require protective works in certain circumstances should this be considered necessary as detailed designs are worked up.</p> <p>Of course, it is possible for operational flexibility to be compromised and rendered more expensive by the imposition of non-physical control measures but that is not a matter for HMH/HES.</p>

<p>Page 14 Para 61</p>	<p>“In all the diagrams the vessel in the lock is inbound, could the HMM indicate where vessels are to wait when the vessel in the lock is outbound? This is circumstance where DFDS believe the congestion and conflict issues could arise Could the HMM also indicate how the east and west jetty stemming areas are used when vessels are manoeuvring for the IOH and IERRT simultaneously as this is a likely scenario given the similar scheduled liner services DFDS and Stena operate?”</p>	<p>HMM is asked to indicate how the east and west jetty stemming areas are used when vessels are manoeuvring for the IOH and IERRT simultaneously. If a vessel is outbound, other vessels in the area would move around to accommodate it. If that is not practicable, there would be an impact on operational flexibility. However, HMM expects there to be enough room for vessels to accommodate one another and the simulations on 7th and 8th November have helped to demonstrate this.</p> <p>While it was not the subject of the simulations, it was the subject of discussion with DFDS at the simulations on 8th November and their representatives were in agreement with HMM regarding this.</p>
<p>Page 15 Para 63</p> <p>NS.2.34 and NS.2.35</p>	<p>“The HMM has previously indicated that the tidal data north of IOT in the simulations is not as HES would have expected, see paragraph 26 of REP2-054, paragraphs 3.7-3.9 of REP2-061 and paragraph 4.6 of REP3-024. It would now appear that both have changed their opinions on this matter. DFDS believe we can no longer continue without absolute clarity on this point and certainty on where the Applicant, HMM and the Port Authority stand in terms of the tidal flow in the Immingham area. The submissions by the Applicant and their representatives [REP4-008] indicates they believe the tidal flows they have included in the simulations are correct and thus at odds with the practical experience of mariners, numerous published datasets and a myriad of published guidance documents, in many cases by these self-same institutions and duty holders, over the last 50 years or more and that the published tidal data ‘may’ have to change to reflect the new data acquired as part of this Application.”</p>	<p>HMM believes that this issue has been overtaken by the series of simulations carried out on 7th and 8th November at which the tidal flows were adjusted as requested by DFDS.</p> <p>HMM is happy with the latest simulations and would expect the tidal data to be the same for future simulations of this area of the Humber.</p> <p>Importantly, however, HMM does not consider that this negates the value of those carried out previously and does not undermine the overall robustness of the Applicant’s NRA.</p>

<p>Page 16 Para 67 NS 2.40</p>	<p>“The HMM states ‘The 2003 figures can be compared with the equivalent movements in 2022 and 2023 to date...’; however, does not reference the point previously identified in Applicant’s NRA (section 5.4.8 of APP-089) and the DFD NRA (section 3.4 REP2-043) that although vessel numbers have reduced, the tonnage throughput has not, indicating the vessel sizes have increased. The vessel numbers of the scenario of 20 years ago cannot therefore be simply related to confirm the commercial capacity of a future scenario.”</p>	<p>The navigational risk is based on a combination of factors which includes both numbers of vessels and size, although in relation to congestion and collision risk the number of vessels would be the main factor.</p>
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