

PROPOSED IMMINGHAM EASTERN RO-RO TERMINAL

PINS REFERENCE TR030007

RESPONSE TO PROPOSED CHANGES CONSULTATION FROM DFDS SEAWAYS UK PLC

1.1 This is a formal response from DFDS Seaways UK PLC (DFDS) to the consultation on the proposed changes to the Immingham Eastern Ro-Ro Terminal (IERRT) DCO application made by Associated British Ports (the Applicant) on 19 October 2023.

2 **The Proposed Changes**

2.1 We note the below proposed changes (together comprising the Proposed Changes) are set out primarily in the Proposed Changes Notification Report (the Changes Notification Report) and Appendix 1 of the Proposed Changes Notification Report - Environmental Statement Addendum (ES Addendum) and consist of:

2.1.1 Proposed Change 1: The Realignment of the Approach Jetty and Related Works;

2.1.2 Proposed Change 2: A Realignment of the Internal Link Bridge and Consequential Works;

2.1.3 Proposed Change 3: The Rearrangement of the UK Border Force Facilities; and

2.1.4 Proposed Change 4: Enhanced Management Controls and Options for the Potential Provision of Additional Impact Protection Measures.

2.2 While DFDS' main concerns continue to be around navigational safety and the insufficiency of Proposed Change 4 of the Proposed Changes, we set out our response to each of the changes suggested in the Proposed Changes in turn at paragraph 4 below.

3 **Proposed Changes – Additional Request for Stakeholder Engagement**

3.1 Further to the Changes Notification Report, on 10 November DFDS received a letter relating to the Proposed Changes asking for the view of key stakeholders within the Port of Immingham as to whether the Proposed Changes may have any implications for commercial and recreational navigation, which appears to be fulfilling the undertaking made in paragraph 10.2.3 of the Environmental Statement Addendum, albeit late. While DFDS appreciates the Applicant seeking the views of stakeholders, only five working days have been given to provide these views. DFDS will aim to respond within this timeframe, but it may not be possible, and would be more realistic to expect a full response by Deadline 7 on 11 December, given the hearings which are taking place in the last week of November and their subsequent follow-up actions.

3.2 The letter states that there are no new impact pathways or unique risks in relation to commercial and recreational navigation, however the impact protection added to the end of the IOT Finger

Pier may itself have an impact on navigation as it effectively makes the pier longer, not only on vessels using the IERRT but also the south side of the finger pier, and further navigational simulations of such movements should be carried out with the proposed impact protection in place.

4 Proposed Change 1: The Realignment of the Approach Jetty and Related Works

4.1 DFDS note the reduction in length of the jetty, the reduction of size but additional number or piles and additional restraint dolphins for the pontoons.

4.2 The Jetty Structure has been raised to enable ease of access with an increased clearance height of 2.1m to facilitate inspection of the pipes running underneath. The additional height in the Jetty Structure in the bridging of the foreshore pipelines has not been reflected in the DCO works.

5 Proposed Change 2: A Realignment of the Internal Link Bridge and Consequential Works

5.1 DFDS note that Proposed Change 2 includes the creation of a new level crossing and suggests the Applicant notifies Network Rail if it has not already done so.

6 Proposed Change 3: The Rearrangement of the UK Border Force Facilities

6.1 DFDS notes that Proposed Change 3 includes changes to the operational layout including the creation of a new unaccompanied lane which has been created between the passport control booth and marshalling lanes to allow continued transit of unaccompanied freight and improve customs operations.

6.2 We note the Rearrangement of the UK Border Force Facilities is part of a wider increase in trailer spaces from 1,430 to 1,699. (3.3.6 of the ES Addendum).

6.3 Whilst the changes made to the configuration of the yard, including the new unaccompanied lane and additional bays, will no doubt improve capacity, DFDS' primary concern is that the yard has insufficient capacity for the Applicant's nominated maximum throughput of 660,000 units per annum, or will exceed operating targets under nominal conditions. DFDS' assessment of the yard capacity, which already incorporates the amendments to the configuration as advised in the change proposal, is as reported in [\[REP6-038\]](#), paragraphs 99 to 115, and identifies that the yard has insufficient capacity to hold the import and export freight units.

7 Proposed Change 4: Enhanced Management Controls and Options for the Potential Provision of Additional Impact Protection Measures

7.1 Enhanced Management controls:

7.1.1 As part of Proposed Changes 4, the Applicant is suggesting an amendment to the DCO to add navigational management controls. It is understood that the proposal is that the Applicant will, in lieu of installing adequate impact protection, require vessels arriving at Berth 1 on the ebb tide to have a mandatory bow tug to protect the IOT

Finger Pier in the event of an issue. It is DFDS' opinion that such a measure is not a suitable replacement for, nor as reliable as, physical protection measures. Physical impact protection does not suffer machinery breakdown, lack of availability, towline issues such as parting or fouling of the towline, are not affected by wind nor tide, nor are reliant on any human input.

7.1.2 The proposal of these enhanced navigation controls appears to be a cost saving measure which is indicative of a lack of proper cost benefit analysis on the part of the Applicant in their NRA production since had they carried out this crucial analysis, they would not have proposed impact protection measures at ISH3 and then decided against that proposal at this late stage.

7.1.3 DFDS would however support enhanced navigational controls in respect of the Immingham Eastern Jetty. Since the establishment of physical impact protection in this area would be impossible to achieve whilst keeping the Eastern Jetty operational, DFDS, as part of our NRA suggested the implementation of enhanced navigational controls requiring the presence of a standby tug (in addition to ordinary towage requirements) to prevent a vessel bound for IERRT Berths 2 or 3 alliding with a vessel berthed at Eastern Jetty.

7.1.4 If the Applicant thinks the enhanced management controls are necessary, DFDS suggests the Application should implement this system for the controls already proposed in the NRA, which the Applicant has previously said they cannot do as it interferes with the independence of the Harbour Master.

7.2 Options for Potential Provision of Additional Impact Protection Measures:

7.2.1 DFDS remains concerned about the approach the Applicant is taking to Impact Protection Measures, and nothing in this Proposed Changes allays those concerns. DFDS does not think Proposed Change 4 satisfactory for the following reasons:

7.2.2 DFDS does not understand the rationale for promoting a change that no party appears to support. The Applicant does not think any additional Impact Protection Measures are required (2.29 of the Notification Report), the IOT Operators say (in their comments [[REP5-035](#)] paragraph 2) that:

“the IOT Operators wish to note their surprise and disappointment that the Applicant has made that proposed change request without (a) providing the IOT Operators with a copy of the proposed changes prior to the materials being submitted and consulted on, given that they differ significantly from those attached to the letter of 27 September 2023 [AS-020] (b) seeking the IOT Operators’ agreement to (or even comments on) those proposed changes or (c) providing any details of the “enhanced management control” measures that the Applicant now intends to rely on.”

The Applicant does not consider ‘the scheme required by the IOT Operators to be feasible for a number of reasons – including navigational, engineering practicability, environmental impact and scheme viability.’ (2.38 of the Notification Report). DFDS

queries why the Applicant is promoting Proposed Change 4 of the Proposed Changes which satisfies neither the Applicant nor the IOT Operators.

- 7.2.3 DFDS wonders whether the reason the Applicant does not consider the scheme required by IOT Operators to protect the IOT jetty and vessels berthing at it to be feasible is simply that the Applicant is unwilling to pay the cost of including adequate impact protection and/or because the inclusion of adequate impact protection measures as part of the construction timetable would add delay to delivery of a working IERRT facility rather than because there are any navigational, environmental or practical barriers to providing such impact protection. If this is the case, then neither is a good or indeed reasonable reason for refusing to implement such important risk mitigation measures to protect a vital UK infrastructure asset and reduce the risk of construction and operation of the IERRT to the Port of Immingham's existing operations as a whole.
- 7.2.4 The design of Impact Protection Measures 'is still being finalised' (2.5.3 of the ES Addendum) so this consultation is premature. Should the designs change either through further development by the Applicant or following agreement with the IOT Operators, another opportunity should be given for stakeholders to comment on any differing proposal.
- 7.2.5 It is also not clear if the measures are 'sacrificial', i.e., they would only survive one collision and would have to be replaced. If that is the case, the Applicant should indicate whether and in what circumstances they would be replaced and what is intended for IERRT operations whilst waiting for replacement; DFDS would wish them to be replaced immediately and to restrict IERRT vessel movements until replaced.
- 7.2.6 There is not enough time to examine the Proposed Changes properly before the close of the examination as it will (or at least should) involve re-running appropriate simulations, updating the NRA and allowing the opportunity for Interested Parties to comment on these. DFDS has already attended additional simulations on 7 and 8 November which did not include these proposed Impact Protection Measures nor a vessel of appropriate dimensions; if this change is to go ahead those simulations would seem to be redundant.
- 7.2.7 DFDS supports the position of IOT Operators that adequate impact protection measures should be required to be installed by the Applicant prior to the start of any construction activities or operation of IERRT, as recommended by DFDS' own NRA [\[REP2-043\]](#). It is DFDS view that such measures are needed to mitigate the risks which have been clearly identified to the IOT facility. These measures should be designed to protect the IOT trunkway, the IOT finger pier and any vessels berthed on the IOT finger pier.
- 7.2.8 Although the Applicant maintains its position that such impact protection measures are not needed and should, if required, be recommended unilaterally by the Statutory Conservancy and Navigation Authority (i.e. the Applicant), the fact that the Applicant avoided discussion of this issue at the last hearings by indicating it was intensively

engaged with the IOT Operators in agreeing what impact protection is needed, the fact that DFDS understand that several weeks later the Applicant remains in discussions with IOT Operators about what might be acceptable to IOT Operators and the fact that the Applicant has chosen to advance a change process which includes revised impact protection measures even though we are already some four months into the six month application examination period, indicates that the Applicant accepts that impact protection measures are almost certainly required to mitigate the risks of the IERRT project. If that were not the case, it is hard to see why so much time and effort has been spent by the Applicant in seeking to agree impact protection measures which it states in its view are not needed.

7.2.9 Accordingly, the Impact Protection Measures as proposed in the Proposed Changes are insufficient as they remain conditional on a recommendation by the Statutory Conservancy and Navigation Authority, as detailed in Requirement 18 of the draft DCO. DFDS has already set out in its Relevant Representation ([RR-008](#), paragraphs 3.48 and 7.17) and Written Representation ([REP2-040](#), paragraph 195) why conditional measures are insufficient and remain of this view – the measures should be required to be implemented before the main works are permitted to commence. DFDS, therefore considers the Proposed Changes to offer little reassurance in respect of navigational safety concerns and the potential impact on users of the Port of Immingham and the Humber Estuary.

7.3 In summary DFDS does not think the proposals at Proposed Change 4 are satisfactory as there is uncertainty as to:

7.3.1 Whether the Applicant considers Impact Protection Measures are needed or not, and in what circumstances their implementation would be triggered (which should not be left to the Humber Harbour Master to decide),

7.3.2 their acceptability to the owner of the infrastructure they are designed to protect,

7.3.3 what the final design for any Impact Protection Measures will be and when they will be produced,

7.3.4 whether they would be able to withstand a vessel the size of the design vessel,

7.3.5 whether they would be replaced in the event of a collision,

7.3.6 what event or circumstance would trigger their conditional implementation, and

7.3.7 whether there will be sufficient time for these changes to be properly examined.

7.4 None of this reduces the safety concerns which DFDS, and the IOT Operators, have raised with the Applicant long before the application for this DCO was submitted.