

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

DEADLINE 7

Written summary of the Harbour Master, Humber's Oral Submissions at ISH6

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1. Ms Hutton confirmed that the SHA should be a consultee for the marine part of the CEMP but not for the landside. However, she confirmed that this would overlap with the SHA for the Port of Immingham to some extent and the HMH would take this away and respond in writing.
2. With regards to Requirement 18 Ms Hutton stated that there is nothing in the current legislation covering the Humber and the Port of Immingham which would put the SHA (SCNA) in the position of being the arbiter of what is built. However, there is the power to license works which is proposed to be disapplied in the draft DCO. There is also the power of the SHA (SCNA) to make general directions and the HMH has particular powers to make special directions regarding the moving and berthing of particular vessels. In light of this it would not be appropriate for HMH or the SHA (SCNA) to be arbiter of whether measures are put in place or not. The HMH's role is to say vessels cannot berth except in certain circumstances.
3. From the work carried out to date the view of HMH is that the impact protection measures are not required. HMH confirmed that his concern is the management of risk, and he recognises the consequence of the impact with the trunkway and this is the risk which the impact protection measure applies to. At the moment his view is that other control measures could be in place: tugs, tidal windows etc. to reduce that risk to ALARP. In the absence of these controls or where the risk increases - that is where the impact protection measures would become relevant. With regards to how that would be determined, there would be a soft start to check that the reality aligns with the simulations. It is very unlikely that HES would find its' assessment was so far off that impact protection would become a requirement.
4. In response to a query from Inspector Bradley that, hypothetically, if the soft start indicated that it would be difficult to continue to use management measures and that would be the trigger for advising the construction of Impact Protection Measures, would that mean that vessel operations would be inhibited until such a time as that was in place, HMH responded that this was possible but it might be that vessels could only berth on a flood tide only or only on a certain amount of ebb tide. There would be an assessment on a scale. Further, the soft start would not be 'reactive' but it would be proactive and controlled and assessed as it proceeds. HMH/HES would not wait for a 'near miss' but would assess matters as they go along. There would be a period of familiarisation and confirmation that all is as expected.
5. HMH confirmed that he would expect the assimilation period to be weeks; however, there are a number of facets to it. An understanding of weather conditions and tidal cycles would be required. Further, there would be a need to ensure that each vessel, pilot and PEC had been through the process. As such it would be difficult to put a time period on the assimilation. It would be wrong to be prescriptive about the duration of the assimilation period. It will take as long as it takes to gain a comprehensive understanding over the course of different weather conditions and tidal cycles. Ultimately, there is never an end point because HES will continue to learn as there are so many different conditions and vessels. Continuous improvement is part of the Port Marine Safety Code.
6. HMH confirmed that if an operator had a number of different vessel types, the operating controls would be specific to the type of vessel. PEC's authorisations are based upon a specific vessel to a specific destination. Immingham Outer Harbour and Killingholme both

have the capability to handle both Ro-Ros and pure car carriers and these are subject to different towage and tidal requirements.

7. HMM confirmed that the earlier he and HES are involved in developing proposals then the more successful the outcome. It is part of normal business to take vessels to places that have already been built. Vessels will be designed for their likely run. HES is open to assisting and has a long track record of that kind of work.
8. HMM confirmed that the starting control measures would be conservative in terms of the amount of towage and would occur in benign conditions and the whole operation would be carefully planned to ensure the correct towage, pilots who have been involved in simulations and the correct PECs, linesmen etc. The towage is key, as is not operating in extreme conditions and on slack water. The limits will not be tested in the early days.
9. HMM confirmed that the towage requirement would be documented through the Immingham Dockmaster and also in the pilot guidance and Humber VTS would be aware. HMM would expect ongoing requirements to be set out in documents, reassessments, and movements at a procedural level rather than a general direction level.
10. Any changes to generic requirements would be specific to that vessel as such there would be direct communication to those ships. Ships carry their own visit notes for specific visits on top of the underlying generic requirements set by the Dockmaster.
11. In response to a comment from Inspector Bradley regarding progressive learning, HMM confirmed that experience will be built up.
12. In response to a concern from IOT about priority for their vessels HMM responded that IOT vessels are mostly subject to the Humber Passage Plan and are given more priority because of their class and ability to manoeuvre. Vessels for the finger pier would be ordered up as normal and have a berthing time and other vessels would be berthed around them. HMM assured the Inspectors that he did not foresee a position where a finger pier vessel is sat for an hour waiting for three IERRT vessels.
13. HMM confirmed that coastal tanker operations will have an effect on operating conditions at the IERRT but that this would be managed safely. Only one vessel can be berthed at the IOT Finger Pier or IERRT at any one time. The berthing of a tanker would have an effect on the time for berthing an IERRT vessel. Main phase berthings at the Finger Pier are planned because they can only take place on the flood tide. If HES orders other services to berth at a certain time, then a plan is made further out so that vessels can arrive in the area at the right time.
14. If the soft start berthing time clashed with the IOT Finger Pier berthing time, then HES would use another time for the IERRT berthing. The time of the conditions that HES wants the vessel to berth at will be planned over the first few weeks, taking into account the tanker movements. The window that it takes to berth a vessel at IOT Finger Pier would not affect carrying out a soft start.
15. In response to a concern from DFDS, HMM confirmed that it is normal for a RoRo vessel to either wait for, or get ahead of, other vessels.

16. HMH highlighted that management of vessels does not necessarily mean stemming. Vessels will know what is ahead of them and they can time their arrival by slowing their passage. Almost always, vessels allow the RoRo vessels to pass and they co-exist so that there is no delay impact. Thus a wait in the river would not necessarily mean a slowdown in passage. It is likely that the IERRT vessels would be affected the most. There was positive discussion around this at the stakeholder simulations.
17. HMH stated that there would be no formal prioritisation of IOT and Humber Sea Terminal over IERRT. Were a DFDS vessel to call up at the same time as an IERRT vessel, the pilots, VTS and user community would decide between them who can go first. HMH gave a number of examples where there have been soft starts to establish operating parameters – Grimsby River Terminal, Humber Sea Terminal berths 3 to 6 and Green Port Hull.
18. Ms Hutton posited that it is not open to the ExA to find that the SHA and HMH are not independent of the Applicant and that controls are needed over how they exercise their powers. The independence is a matter of law. It is not open to the SoS to reach a decision on the basis he considers the SHA will act unlawfully. Ms Hutton cited paragraphs 1.3 and 1.4 of the Port Marine Safety Code which state:

‘1.3 Harbour authorities have a range of statutory and non-statutory duties and powers relating to marine operations; other organisations may not have access to the same range of powers but will still have duties under general legislation and non-statutory provisions.

1.4 For a harbour authority, these duties include a duty of care to those using the harbour which means they have an obligation to conserve and facilitate the safe use of the harbour as well as a duty of care against loss caused by the harbour authority’s negligence. Duties to ensure the safety of marine operations are matched with general and specific powers to enable the authority to discharge these duties. There are procedures for these to be changed where necessary.’
19. That is the position under the legal regime that currently exists. The protective provisions in the draft DCO give an extra layer of protection in particular paragraphs 3 and paragraphs 16.
20. With regards to the overlap of functions HMH confirmed that his interest is in controlling all navigational incidents in the Humber including impacts with the trunkway. He would see himself as forefront of controlling those risks. The situation of overlapping functions is a common one. In regard to COMAH, HMH considered that in general HSE territory ends at the gangway and MAIB assumes responsibility after that. The sensitivity of the infrastructure that mariners are within is taken into account. Treating everyone the same does not mean that HMH and the SHA are not having regard to particular sensitivity - that is a huge part of the risk assessment.
21. In response to a query as to whether there was a legislative gap, Ms Hutton explained that the Immingham SHA has both landside and marine responsibilities and there is area of overlapping harbour master responsibilities.

22. In response to a query as to whether there is a legislative hierarchy, Ms Hutton explained that she wasn't aware of one. However, if HMH came to the view that a berthing was unsafe he could make a special direction. That is his power alone.
23. Ms Hutton confirmed that HMH would issue a special direction to a vessel not to the Port of Immingham. Under the draft DCO, the responsibility falls to the SCNA to approve the safe operating procedures submitted by the Applicant.
24. Ms Hutton responded to Mr Owen for CLDN who highlighted Rep 1-014. That document makes clear that some operations need to be collaborated on. For example, VTS is operated by HES but this cannot be undertaken efficiently and safely without collaboration from Immingham Dock.
25. The ExA raised a query as to whether the DCO should provide for the Dockmaster to recommend impact protection as opposed to the SHA for the Humber. Ms Hutton stated that HMH would take that away and respond in writing.
26. Ms Hutton also confirmed that HMH would respond in writing as to whether the president of the ICE would be an appropriate arbitrator if there was a dispute between the Applicant and the SHA.
27. Ms Hutton confirmed that HMH would consider the terms of paragraph 16 of the SHA's protective provisions. However, HMH would resist operational controls being specified in the DCO. Further, if a stakeholder disagreed with a decision of the HMH on operational controls then they could judicially review his decision. It would be inappropriate for stakeholders to be standing in the shoes of the SHA/HMH.

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