

IMMINGHAM EASTERN RO-RO TERMINAL



Applicant's Response to CLdN's Deadline 6 Submissions with Appendices

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1. Executive Summary

- 1.1. This document provides the Applicant's response to the information submitted by CLdN at Deadline 6 **[REP6-036]** which in turn draws upon information submitted by CLdN at earlier stages of the examination.
- 1.2. Within its Deadline 6 submissions **[REP6-036]** CLdN make various comments that allege that the Applicant has altered or revised its position on need and alternatives matters throughout the examination process. The Applicant does not agree with these allegations, and without prejudice to the detail it has already provided summarises its position on need and alternatives within section 3 of this document.
- 1.3. In section 4 of this document, the Applicant responds to the introductory section of **REP6-036**, explaining why the position set out misrepresents the Applicant's position in various respects or is incorrect.
- 1.4. In respect of forecast demand, dwell times and capacity matters, section 5 sets out the short-term growth rates queried by CLdN before explaining why, contrary to the position set out by CLdN, there is not sufficient existing Ro-Ro capacity on the Humber to handle the forecast demand.
- 1.5. In terms of CLdN's 'key issues' set out in section 3 of **REP6-036**, section 6 of this report considers and responds to each of the points raised in turn.

2. Introduction

- 2.1. This document provides the Applicant's response to the information submitted by CLdN at Deadline 6 **[REP6-036]** which in turn draws upon information submitted by CLdN at earlier stages of the examination.
- 2.2. In addition to this response for Deadline 7, the Applicant - in response to ISH5 Action Point 32 – is in the process of producing a targeted update to the Humber Shortsea Market Study **[APP-079]** to take account of updated information that has emerged through the examination process. That update will be submitted at, or prior to, Deadline 7A.

3. The Applicant's position on need and alternatives matters

- 3.1. Within its Deadline 6 submissions **[REP6-036]** CLdN make various comments that allege that the Applicant has altered or revised its position on need and alternatives matters throughout the examination process. The Applicant does not agree with these allegations. Without rehearsing again the Applicant's position in detail set out previously, and without prejudice to that detail, the Applicant summarises its position on need and alternatives as follows.

The need for the IEERT development

- 3.2. The starting point for the consideration of the need for the IERRT development is the position laid down by the National Policy Statement for Ports (NPSfP).
- 3.3. Section 3 of the NPSfP sets out 'Government policy and the need for new infrastructure'. In explaining the essential role of ports in the UK economy it is made clear that, amongst other things, shipping will continue to provide the only effective way to move the vast majority of freight in and out of the UK, and the provision of sufficient sea port capacity will remain an essential element in ensuring sustainable growth in the UK economy (NPSfP, paragraph 3.1.4).
- 3.4. Section 3.4 of the NPSfP sets out 'The Government's assessment of the need for new port infrastructure', which confirms that the total need for port infrastructure depends not only on 'overall demand for port capacity' – the matter which CLdN have largely concentrated on in their submissions – but also on:
- (i) the need to retain flexibility that ensure that port capacity is located where it is required;
 - (ii) the need to ensure effective competition in port operations, and
 - (iii) the need to ensure effective resilience in port operations (NPSfP, paragraph 3.4.1).
- 3.5. From the more detailed analysis of these aspects of need contained within the NPSfP (paragraphs 3.4.2 to 3.4.15) the following points are specifically noted:
- (i) The capacity needed to provide for competition, innovation, flexibility and resilience can be delivered by the market and is likely to exceed what might be implied by a simple aggregation of demand (NPSfP paragraph 3.4.9);
 - (ii) In order for capacity to be located in the right place and at a wide range of locations there exists the possibility that traffic will move from existing ports to new facilities generating surplus capacity (NPSfP paragraph 3.4.11);
 - (iii) Government does not wish to dictate where port development should occur. Port development must be responsive to changing commercial demands, and the Government considers that the market is the best mechanism for getting this right (NPSfP paragraph 3.4.12);
 - (iv) UK ports compete with each other and the Government welcomes and encourages such competition which drives efficiency and lowers costs for industry and consumers (NPSfP paragraph 3.4.13);

- (v) Effective competition requires sufficient spare capacity to ensure real choices for port users (NPSfP paragraph 3.4.13);
 - (vi) Effective competition also requires ports to operate at efficient levels, which is not the same as operating at full physical capacity (NPSfP paragraph 3.4.13);
 - (vii) The port industry and port developers are best placed to assess their ability to obtain new business and the level of any new capacity that will be commercially viable (NPSfP paragraph 3.4.13);
 - (viii) Spare capacity helps to assure the resilience of the national infrastructure (NPSfP paragraph 3.4.15), and
 - (ix) Resilience is provided most effectively as a by-product of a competitive ports sector (NPSfP paragraph 3.4.15).
- 3.6. Having regard to the analysis of the need matters it considers, the NPSfP concludes (at paragraph 3.4.16) that there is *“a compelling need for substantial additional port capacity over the next 20-30 years”*, and clearly, that compelling need is not only related to the ‘overall demand for port capacity’ which is concentrated on by CLdN in its submissions. The outcome of excluding the possibility of providing additional capacity through new port development is identified in paragraph 3.4.16 of the NPSfP as being *“strongly against the public interest”*.
- 3.7. Following on from this, Section 3.5 of the NPSfP then goes on to provide guidance to the decision maker on assessing the need for additional port capacity. It is made clear (at paragraph 3.5.1) that *“the decision-maker should accept the need for future capacity to”*, amongst other things:
- (i) Cater for long-term forecast growth in volumes of imports and exports by sea for all commodities indicated by the demand forecasts sets out in the MDST forecasting report accepted by Government.
 - (ii) Offer a sufficiently wider range of facilities at a variety of locations to match existing and expected trade, ship call and inland distribution patterns and to facilitate and encourage coastal shipping.
 - (iii) Ensure effective competition among ports and provide resilience in the national infrastructure, and
 - (iv) Take full account of both the potential contribution port developments might make to regional and local economies.
- 3.8. Paragraph 3.5.2 of the NPSfP then further makes clear that *“Given the level and urgency of need for infrastructure of the types covered as set out above”*,

the decision maker should start with a presumption on favour of granting consent to applications for ports development. This presumption applies unless *“any more specific and relevant policies set out in this or any other NPS clearly indicate that consent should be refused”*. The presumption is also subject to the provisions of the Planning Act 2008.

- 3.9. It is clear from the wording of paragraphs 3.5.2 that it is not necessary for a proposed port development to deliver capacity for all of the matters listed in the preceding parts of the NPSfP in order for the need for it to be accepted or for it to benefit from the presumption in favour of granting consent. Rather if a port development were to provide any capacity for any one of the matters listed, then the need for it is to be accepted and the presumption in favour of granting consent applies.
- 3.10. In respect of matter (i) from NPSfP paragraph 3.5.1 set out above, the MDST forecasting report that is referred to has been superseded by ‘UK Port Freight Traffic 2019 Forecasts’ (DfT, 2019) which predict a significant 130.5% increase in the amount of Ro-Ro traffic (both tonnes and units) between 2016 and 2050. These DfT 2019 Ro-Ro forecasts are further considered in section 4 of the Applicant’s Deadline 5 submission **[REP5-032]**.
- 3.11. Furthermore, in respect of matter (i), the NPSfP does not indicate that any proposed future capacity needs to cater for a particular amount of the long-term growth that is forecast in order for the need for it to be accepted or the presumption in favour of granting consent to apply.
- 3.12. As the Applicant has demonstrated, the IERRT development will provide future capacity that will cater for a proportion of the growth in Ro-Ro trade that is indicated by the national forecast.
- 3.13. The only other evidence on this matter submitted to the examination is that of CLdN. The Applicant understands CLdN’s position to be one where they are not disputing that there will be future growth in Ro-Ro traffic, but it appears that they are suggesting there is no need for additional capacity to be provided on the Humber to meet such forecast demand because they claim that existing facilities – largely their own facility at Killingholme – have the potential ability to accommodate such growth. The Applicant does not agree with the position of CLdN and further responds to these points within later sections of this document. The CLdN position also ignores the other aspects of need that are identified in the NPSfP in any event. It does not reflect the basic principle that the identified need is not simply about providing capacity to a specified quantum, but ensuring, for example, choice, competition and resilience as set out in more detail in the NPSfP.
- 3.14. Notwithstanding this, it is clearly the case that the IERRT development will provide future capacity to cater for a proportion of the long-term forecast growth in volumes of imports and exports by sea for commodities handled via Ro-Ro

cargo that are indicated by the demand forecast figures set out within the Government's latest forecasting figures. That, in and of itself, is something strongly supported by the NPSfP and its assessment of need (as properly interpreted).

- 3.15. In respect of matter (ii) from NPSfP paragraph 3.5.1 set out above, the NPSfP does not provide any limitation in terms of what makes up 'a sufficiently wide range of facilities'. In respect of this matter, the IERRT development will provide a new facility at a location where existing and expected trade, ship call and inland distribution patterns clearly indicate such a facility should be located.
- 3.16. In respect of matter (iii) from NPSfP paragraph 3.5.1 set out above, the NPSfP similarly does not set out any restriction or limitation on the extent of effective competition and resilience that is being sought. The policy does not suggest that once a certain level of resilience or competition is reached that there is no longer a need to seek further improvements. In respect of this matter, the IERRT development will make a significant beneficial contribution to competition amongst ports and Ro-Ro facilities and terminals as well as make a significant beneficial contribution to the provision of resilience in the national infrastructure.
- 3.17. The IERRT development will, amongst other things, provide three new in river Ro-Ro berths, able to accommodate significant Ro-Ro vessels (and thereby provide resilient infrastructure in respect of the trend for Ro-Ro vessels), supported by sufficient and suitable landside storage and operational infrastructure in a location benefiting from suitable landside transport connections able to satisfactorily accommodate the levels of traffic predicted. Furthermore, the facility will be operated by an existing established Ro-Ro freight operator (who will be able to directly control matters such as cost, service levels, routes served etc) that competes with other Ro-Ro operators and activities occurring on the Humber and elsewhere within the UK.
- 3.18. Again, the only other evidence on these matters submitted to the examination is that of CLdN which has already been responded to by the Applicant. The Applicant does not agree with the position of CLdN and responds to the further points raised by CLdN in **[REP6-036]** in further detail within later sections of this document (see section 6).
- 3.19. In respect of matter (iv) from NPSfP paragraph 3.5.1 set out above, the IERRT development will make a significant contribution to the local and regional economy. On this matter, it is highlighted that the IERRT development is considered by both the Applicant and the relevant host Local Authority to be in accordance with the land use strategy for the area set out within the adopted Development Plan, a strategy which has ports and logistics as one of a number of key sectors which the strategy wants to see grow.

- 3.20. Furthermore, in respect of this matter, it is also highlighted that the NPSfP (at paragraph 4.3.5) makes clear that the decision maker should give 'substantial weight' to the positive impacts associated with economic development in line with the policy set out within the NPSfP.
- 3.21. The only other evidence on this matter submitted to the examination is that of CLdN within its various Deadline 4 submissions. As explained in the Applicant's Deadline 5 submission (at paragraphs 7.10 to 7.15 of **[REP5-032]**), CLdN's evidence only relates to employment matters, and then only to the operational phase of the IERRT development and does not actually dispute the number of jobs indicated as being created, but rather purports to take issue with the way in which the magnitude of that beneficial impact is described.
- 3.22. The IERRT development, therefore, will clearly provide future capacity for at least four of the matters specifically set out in paragraph 3.5.1 of the NPSfP which the decision maker is told to accept the need for.
- 3.23. From the preceding analysis it is clear that the NPSfP does not – as has been suggested by CLdN – simply identify the need for port capacity generally but identifies the need for development such as the IERRT specifically where it is providing future capacity for the matters specified within the policy.
- 3.24. Having regard to the wording of paragraph 3.5.2 of the NPSfP, the IERRT development is clearly an application for port development for which the decision maker should start with a presumption in favour of granting consent. For reasons addressed elsewhere, there are no more specific and relevant policies set out within the NPSfP or another NPS which 'clearly' indicate that consent should be refused. Neither does any provision of the Planning Act 2008 indicate that consent should be refused.
- 3.25. Therefore, under the policy set out within the NPSfP there is no requirement for the Applicant to demonstrate or prove a need for the IERRT development, as a compelling and urgent need for the type of infrastructure that would be provided by the IERRT development is already established in the NPSfP itself.
- 3.26. Without prejudice to this important point, the Applicant has, however, provided further clear evidence of the need for the IERRT development beyond that already established by the NPSfP, albeit that there is no policy requirement to do so and the presumption in favour of the proposed development that is set out in the NPSfP applies regardless of such evidence.
- 3.27. This separate demonstration of need is set out within Chapter 4 of the ES. The chapter begins by explaining that this separate demonstration of need arises out of a number of different national and local imperatives, objectives and matters, which are then explained. Those matters, in a number of respects, relate back to those elements which make up the Government's assessment of the need for new port infrastructure contained within the NPSfP and, contrary

to the allegations made by CLdN in its evidence, are more than simply matters relating to ensuring there is sufficient capacity to meet overall demand. In addition, for example, those matters also highlight the issues surrounding the lack of suitable Ro-Ro facilities on the Humber Estuary to meet the current and future needs of an existing Ro-Ro operator – namely Stena Line.

- 3.28. Having set out the contextual background, and drawing all of the various strands together, ES Chapter 4 then sets out, at paragraph 4.2.79, a statement of need. This is then followed, at paragraph 4.2.80 by a series of primary objectives that arise out of the statement of need and its contextual background.
- 3.29. From a full analysis of the information provided by the Applicant, it is clear that references to the urgent, compelling and imperative need are not – as CLdN suggest - just references to those elements of the need concerned with ensuring there is sufficient capacity to meet overall demand, a matter which is returned to further below in Section 4.

Consideration of alternatives

- 3.30. The NPSfP does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option (NPSfP paragraph 4.9.1).
- 3.31. The relevance or otherwise to the decision making process of the existence or alleged existence of alternatives to the proposed development is a matter of law. Broadly speaking, in that respect, in addition to the alternatives duty under the Infrastructure Planning (EIA) Regulations – which is a largely procedural duty to set out what alternatives have been considered and something that has been documented in the IERRT ES - there is only a requirement to consider alternatives if, in summary, a proposal:
- a. causes significant planning harm – which does not apply in the case of IERRT, or
 - b. needs to meet a specific relevant topic related policy requirement – which is not an issue for IERRT, or
 - c. needs to consider such matters for the purposes of demonstrating a compelling case in the public interest for compulsory purchase powers – which again is not an issue for IERRT, or
 - d. causes adverse effects to the integrity of a designated site as part of the process under the Habitats Regulations – which again is not considered to apply in the case of the IERRT.
- 3.32. As it happens, however, the Applicant has considered alternatives in any event, as set out section 4.3 of ES Chapter 4 even though there is no requirement to do so over and above the EIA Regulations duty. In short, this analysis demonstrates that there is no alternative for meeting the identified need given the specific requirements identified.

- 3.33. The only alternative that has been suggested by an Interested Party is additional Ro-Ro capacity which CLdN claim they could provide at the Killingholme facility. However, even if it were relevant to consider alternatives (which it is not in any case) this is not a true alternative in any event for Stena Line for reasons which it has identified and it is not a true alternative for the need which is identified in the NPSfP given that the identified need is not simply one of capacity in any event. The relevant policy contained within NPSfP paragraph 4.9.3 means that CLdN have failed to demonstrate that its claimed alternative is an alternative. In addition to not being a true alternative to the identified need, the claimed alternative posited through CLdN's submissions remains inchoate and not capable of being considered as an alternative anyway. It does not meet the specified requirements of the need which the Applicant sets out in its evidence, and which is set out in the NPSfP.
- 3.34. Having set out the above summary position, the remainder of this response now considers each section of the CLdN Deadline 6 submission **[REP6-036]**. In doing so, however, the Applicant indicates that where it has not specifically responded to a point in the CLdN Deadline 6 submission, this does not mean that the point CLdN make is accepted.

4. Response to Introduction section of [REP6-036]

- 4.1. CLdN (in paragraph 1.4) state that its participation in the IERRT examination arises because the Applicant has *"chosen to present its case for the Proposed Development on the basis that there is an urgent need for additional port capacity arising from capacity constraints at the Port of Killingholme"*, and that this is the *"central premise"* of the Applicant's case. As a proper analysis of the evidence submitted by the Applicant - including information provided in the application documentation – demonstrates, this is a misrepresentation of the Applicant's case for the proposed development.
- 4.2. Within the Introductory section of CLdN's response (see paragraph 1.5.7 by way of example) it is also indicated that the Applicant's 'original case' for the Proposed Development related solely to meeting demand matters and that only recently the Applicant's reasoning has moved away from solely this to competition and resilience matters. This is simply not the case.
- 4.3. Leaving aside the fact that need for the proposed development is established by the NPSfP, the Applicant's case for the scheme has, from the outset, always had efficiency, competition and resilience matters as key aspects – see for example, the statement of need and related objectives set out at ES Chapter 4, paragraphs 4.2.79 and 4.2.80.

- 4.4. Throughout CLdN's submission, including the introductory section, there are various references made that the need for the proposed development is not urgent and imperative. The Applicant makes the following points in response:
- (i) The Applicant's case is not, and never has been, that an urgent and imperative need only relates to overall demand and capacity elements of need considerations – which appears to be what CLdN are suggesting at, for example, paragraph 1.5.7, 2.15 and 2.21 of **[REP6-036]**.
 - (ii) The various quotations from the Applicant's submissions relating to this matter presented by CLdN at paragraph 1.7 of **[REP6-036]** ignore the context in which they were written and, for example:
 - (a) when referring to the broad overall need for the project (i.e. the need identified within the NPSfP and the separate demonstration of need identified by the Applicant) the quotations are highlighting that the broad overall need for the project is urgent and imperative, and
 - (b) when referring to a specific element of the overall need for the project, those quotations are highlighting that the specific element being referred to is itself urgent and imperative.
- 4.5. So, for example, in paragraph 1.7.2 CLdN quote from paragraph 4.22 of the Planning Statement **[APP-019]**, which is found within a section of the Planning Statement which is highlighting the lack of suitable Ro-Ro facilities on the Humber Estuary to meet the current and future needs of an existing Ro-Ro freight operator – namely Stena Line. This element of the overall need for the project is itself urgent and imperative for the reasons which have been set out within the Applicant's evidence.
- (iii) As already indicated, the need for the type of infrastructure that would be provided by the IERRT facility which is established in the NPSfP, is itself identified within the NPSfP as urgent and compelling (see, for example, paragraphs 3.4.16 and 3.5.2 of the NPSfP).
- 4.6. At paragraph 1.5.5 of **[REP6-036]** CLdN claim that the Applicant has continuously altered its figures in relation to the throughput of the IERRT facility. Again, this is not the case. The Applicant has always indicated that the maximum level of activity which the IERRT facility would be capable of handling would be 660,000 Ro-Ro units a year, equivalent to 1800 units a day. CLdN's more specific points on the ability of the IERRT facility to handle this amount of Ro-Ro freight (provided in Appendix 2 of **[REP6-036]**) are responded to in section 7 of this document.
- 4.7. At paragraph 1.5.3, CLdN suggest that the Applicant is not well placed to assess the Port of Killingholme's throughput and existing capacity. The points raised by the Applicant in this regard in **[REP5-032]** relate to the fact that the

suggestions being made by CLdN about existing capacity did not appear to reflect the position that is occurring at the facility having regard to information provided by CLdN to the DfT, or to the examination on the amount and breakdown of unaccompanied Ro-Ro cargo handled. The Applicant is unaware of a specific response from CLdN on the points raised in this regard in **[REP5-032]**.

- 4.8. In paragraph 1.5.1, CLdN criticise the Applicant for not seeking to obtain relevant evidence from terminal operators. The Applicant would highlight that it did attempt to engage with CLdN during the pre-application process in respect of factual information about the Killingholme facility, including the number of trailer and container slots available at the facility (see Appendix 1). No relevant response was received.
- 4.9. CLdN, at paragraph 1.6, suggest that the Applicant has a tendency towards inconsistency in its approach. The Applicant does not accept this claim and refers to its evidence in its entirety. The Applicant has sought to engage fully with CLdN's case and respond to it accordingly.
- 4.10. Matters relating to capacity and dwell times are given further consideration in sections of this response which follow. As demonstrated in those responses, the Applicant does not consider the existing or future capacity position to be as claimed by CLdN albeit that this does not affect the basic position on need as already identified above.

5. Forecast demand, dwell times and capacity matters

- 5.1. Within its Deadline 6 submission **[REP6-036]** CLdN provide commentary on dwell time and capacity matters. This is provided within:
 - Section 2 of **[REP6-036]** titled 'Recent Developments',
 - Section 3 of **[REP6-036]** under the sub-heading 'Capacity' at paragraphs 3.5 to 3.7, and
 - Appendix 2 of **[REP6-036]**.
- 5.2. From its reading of these sections of **[REP6-036]** the Applicant understands that CLdN are, in effect, making two points. Those points being:
 - (i) Whilst not strongly challenging the Applicant's demand forecasts, CLdN query why the Applicant's forecasts begin from 2025 particularly as the period from 2022 to 2025 appears to have a higher growth rate than the later periods.

- (ii) When applying the various dwell times set out within the Dwell Time SoCG to the respective terminals on the Humber, CLdN contend that the Applicant has underestimated existing Ro-Ro capacity on the Humber by some 87%.

5.3. These two points are now responded to below without prejudice to the basic points on need already made above.

Demand Forecasts

5.4. Within the Applicant's Deadline 5 submission **[REP5-032]** the period 2025-2050 was used in order to focus on the long-term growth rates to determine the revised long-term demand projection. The table below (Table 1) provides the relevant growth rates for the short-term period. However, it should be noted that:

- The UK Government forecasts include intermediate volumes for each 5 years from 2020 onwards. This forecast is for the UK as a whole and only considers Ro-Ro trade. Given, for the reasons explained in the Market Study **[APP-079]**, the strong position of the Humber as a location for serving the Ro-Ro trade, it is logical that the national growth rate is lower than those used in the Market Study.
- The MDS Transmodal forecasts (for the National Infrastructure Commission) only include a starting point (based on 2015 actual traffic data) and an end point (for Ro-Ro + Lo-Lo in the Humber). As such it is possible to calculate the corresponding CAGR over this entire period assuming a linear profile

5.5. In the short term the forecasts produced on behalf of the Applicant use higher growth rates to reflect a stronger shift to shortsea trades, post Brexit effects and an increasing market share for the Humber region – matters explained further in the Market Study. In addition, these growth rates are short term growth rates which cannot be directly compared to the long term CAGR of the other forecasts. The long-term growth rates used on behalf of the Applicant are themselves lower than these short-term growth rates.

Table 1: Short Term period growth rates

Forecast	CAGR 2019-2025	CAGR 2021-2025	CAGR 2022-2025
UK Government 2019 Forecast	2.0%	2.1%	2.1%
MDS Transmodal Humber Forecast for the National Infrastructure Commission	3.6%	3.5%	3.4%
Applicant Revised Forecast – Humber	3.2%	3.7%	5.0%

Capacity and dwell time matters

- 5.6. As summarised above, the Applicant understands that a large part of CLdN's Deadline 6 submission **[REP6-036]** is part of a contention that the Applicant has underestimated both the current amount of Ro-Ro storage capacity available on the Humber and the future capacity which is alleged to be deliverable on the Humber.
- 5.7. The Applicant has responded to CLdN's points on existing and potential future capacity at the Port of Killingholme in section 5 of **[REP5-032]** and those points are not repeated here. It is, however, noted that CLdN have not responded in **[REP6-036]** to those queries and points raised by the Applicant in any substantive way.
- 5.8. The points now being raised by CLdN on existing and future capacity on the Humber as a whole are found in paragraphs 14 to 19 of Appendix 2 of **[REP6-036]**. The headline claim being made is that the Applicant has underestimated capacity by some 87%. It is said that rather than capacity being approximately 962,000 unaccompanied Ro-Ro units annually, this should in fact be 1,664,000 unaccompanied Ro-Ro units in 2023 (paragraph 18 of Appendix 2 of **[REP6-036]**). Again, as already noted, even if this were the case, it would not affect the position on need set out in the NPSfP in its various facets as summarised above. However, the Applicant does not agree with CLdN's contention.
- 5.9. For clarity and by way of a starting point, the Applicant notes that the 2023 figures given by CLdN in fact suggest a 73% underestimate. The 87% underestimate claim appears to relate to CLdN's suggested 2025 capacity at Killingholme, the details of which remain unexplained.
- 5.10. Irrespective of the precise level of underestimate being alleged, the Applicant does not agree with the claim for the reasons now summarised.
- 5.11. *First* – The Applicant's estimate of capacity contained in the Market Study **[APP-079]** was not an assessment of absolute operational capacity, but an estimate of an efficient level of storage yard capacity and ranged between 560,000 unaccompanied units to 1,270,000 unaccompanied units (depending on dwell time used).
- 5.12. *Second* - Although it is not entirely transparent as to how CLdN have calculated the 1,664,000 figure (contrary to what is said in paragraph 19 of **[REP6-036]**) the Applicant understands that what CLdN has done is apply dwell times derived from the Dwell Time SoCG **[REP6-020]** to the methodology set out in Appendix 7 of the Market Study **[APP-079]**.

- 5.13. Before dealing further with the detail of CLdN's claim it is highlighted that on this basis, the 2023 1,664,000 figure put forward by CLdN can only ever be an estimate of the storage yard capacity which might be available on the Humber. The storage yard capacity of a terminal does not necessarily equate to the overall capacity of that terminal. Other factors, such as berth availability and capacity and operational infrastructure and processes, also need to be taken into account.
- 5.14. *Third* - In terms of the dwell times which have been used by CLdN, whilst CLdN indicate that they have used 1.16 days as an average dwell time for unaccompanied cargo at the Killingholme facility ([REP6-036] Appendix 2, paragraph 16) they do not appear to have specified the dwell time they have used for the DFDS operations, simply indicating 'a weighted average has been calculated' ([REP6-036] Appendix 2, paragraph 18).
- 5.15. No explanation, for example, is provided as to how CLdN have split the current DFDS throughput across the four services operated by DFDS, how they have split out the non-trailer unaccompanied traffic or which dwell time or dwell times from the SoCG they have used as their starting points. From the dwell time figures provided within the SoCG the Applicant notes that it is possible to come up with a variety of different dwell times that could be used, each having a different implication for storage yard capacity estimates.
- 5.16. In respect of the 1.16 day average dwell time put forward by CLdN for its facility, it is noted that this is based on the figure of 0.92 (which appears to be the average between the import / export dwell times given for Killingholme for the short 10 month Jan to Oct 2023 period within the dwell time SoCG [REP6-020]) rather than the more historic 1 to 1.5 day period also specified in the SoCG. In addition, no detail is provided as to how the dwell time for containers has been considered within the calculation undertaken to reach the 1.16 average dwell time figure ([REP6-036] Appendix 2, paragraph 16).
- 5.17. The use of low operational dwell times, achieved over a short period of time and not necessarily taking account of yearly fluctuations or longer-term influences on dwell times, does not necessarily result in an efficient or resilient estimate of storage yard capacity, and certainly not, it is suggested, an estimate on which considerations of the need for additional capacity to meet demand should be based. Bearing in mind the timescale taken to deliver additional capacity, the ports industry, sensibly, does not wait until full operational capacity is reached – with consequent efficiency and resilience issues - before taking steps to provide additional capacity. These are matters which the NPSfP highlights in its analysis of the need for additional capacity.
- 5.18. *Fourth* - Leaving the above points aside, taking CLdN's claim (at [REP6-036] Appendix 2, paragraph 17) that the Killingholme facility has a current 2023 capacity of 675,764 unaccompanied units at face value (although questions relating to this have been raised by the Applicant in [REP5-032]), what CLdN

are saying is that there exists an additional current 2023 capacity equating to some 988,236 unaccompanied units within the other Ro-Ro facilities across the Humber (1,664,000 minus 675,764).

5.19. Taking those other facilities in turn:

- (i) *Hull* - The Port of Hull handles a limited number of unaccompanied units with the only Ro-Ro specific facility – operated by P&O – being a predominantly accompanied freight and passenger facility where the existing one berth is already effectively fully utilised by existing sailings. From figures reported to the DfT and reflecting information presented to the examination, in 2022 the Port of Hull in total handled around 52,000 unaccompanied units (both Ro-Ro and Lo-Lo) and, due to the make-up of the main facility at Hull as summarised above, it is highly unlikely to handle a significantly greater amount of unaccompanied units than this – even if the landside storage areas theoretically have the ability to handle a greater amount of such units.
- (ii) *Stena Immingham* – The one berth in dock Stena Line Ro-Ro facility at the Port of Immingham handled in the order of 94,000 unaccompanied units in 2022, with a similar level likely to be handled in 2023. Due to the facility being served by one berth which is effectively fully utilised by the existing Rotterdam Europort service and the limited storage area available, neither the Applicant (nor Stena Line) consider that this facility could handle a significantly greater amount of unaccompanied units than it currently does.

Furthermore, as made clear in various of the Applicant's submissions to the examination there is no guarantee that, once Stena Line vacate this facility, that the area will remain in Ro-Ro use. As an area of port land immediately adjacent to a straight line quay the site of the Stena Line in dock terminal is of potential value to a number of other trades handled at the Port of Immingham. There is, therefore, no certainty that the existing Ro-Ro capacity provided by this facility will continue in the future, meaning that it cannot be relied upon in any future capacity calculations.

- (iii) *DFDS Immingham* – From the summary analysis set out above it can be concluded that what CLdN are in effect indicating is that the vast majority of the alleged existing spare capacity elsewhere on the Humber has to be within the DFDS facilities within the Port of Immingham.

Removing the 2022 Hull and Stena Line (Immingham) throughput figures from the overall alleged 2023 capacity indicates that CLdN's claims would mean that the existing DFDS operations at Immingham have an

existing current capacity of somewhere in the region of 840,000 unaccompanied units.¹

This, the Applicant, suggests does not reflect reality. The Applicant estimates from DfT data and information submitted to the examination that DFDS (in 2022) handled 460,033 unaccompanied units through their facility, a level some 380,000 units below the 2023 level of existing capacity being suggested by CLdN. However, through the IERRT DCO examination DFDS:

- (a) on the accompanied site visit – indicated that they were currently operating at 90 to 95% of capacity at Immingham, and
- (b) at the ISH5 hearing – through their Counsel – made clear that they had expressed an interest in taking over the land occupied by the current Stena in dock terminal once it had been vacated by Stena.

5.20. These examples of ‘real world’ evidence do not support the suggestion that there is a significant level of existing spare capacity within DFDS’ Ro-Ro facilities within the Port of Immingham. The Applicant considers this to be the case even if, contrary to what is occurring in the real world, some additional throughput of unaccompanied units could be achieved at Hull and by Stena at its in dock Immingham facility.

5.21. The Applicant’s position remains, therefore, that it does not consider that there is sufficient existing Ro-Ro capacity on the Humber to handle the forecast demand that its advisors have predicted. Furthermore, it is again highlighted that the demand forecasts in any event only extend to 2050, continued growth will occur beyond that period.

5.22. The only evidence before the examination on alleged additional capacity that could be created elsewhere on the Humber other than through the IERRT facility is solely that made in the assertions by CLdN that additional capacity can be created at the Killingholme facility. These claims have been responded to by the Applicant already in its submissions but in summary, there is no proper basis for claiming that the level of additional throughput can actually be delivered at Killingholme (including the requirement for consents that would be necessary as addressed in the Applicant’s submissions), let alone in a competitive, resilient or acceptable way and within the timeframe needed.

5.23. Finally, as has been reiterated throughout the Applicant’s submissions, such a scenario would still be incapable of meeting the need identified by the operator

¹ 1,664,000 minus 675,764 (Killingholme) minus 52,000 (Hull) minus 94,000 (Stena, Immingham)

(for its own facility) and it is not a scenario which either policy or legislation indicates needs to be considered.

6. CLdN's issues for the Examining Authority's consideration

- 6.1. This section sets out a response to what CLdN consider to be the 'key issues' to be assessed to 'ensure the proper consideration and examination of the Application' (paragraph 3.1 or **[REP6-036]**).

Need (**[REP6-036]** paragraphs 3.2 to 3.12)

- 6.2. *Policy (paragraphs 3.2 to 3.4)* – At paragraph 3.2 of **[REP6-036]** CLdN quote from paragraph 3.9 of the Applicant's Deadline 5 submission **[REP5-032]** and suggest that the Applicant is agreeing with CLdN that the NPSfP presumption of granting consent is "*the starting point*", and generally that the Examining Authority must consider the weight to be given to that presumption.'
- 6.3. The presumption in favour of granting consent for port development is found within paragraph 3.5.2 of the NPSfP. This makes clear that the presumption applies unless any more specific and relevant policies set out in the NPSfP or another NPS clearly indicate that consent should be refused. The presumption is also subject to the provisions of the Planning Act.
- 6.4. The ExA, therefore, have to consider whether there is any relevant policy within an NPS which 'clearly' outweighs the presumption. What can be weighed against the presumption is, therefore, limited and, furthermore, it needs to 'clearly' outweigh that presumption, i.e. it needs to be something that is of significance. The Applicant does not consider there is any such policy engaged here (for all the reasons addressed in evidence elsewhere).
- 6.5. Paragraphs 3.3 and 3.4 of CLdN's submission **[REP6-036]** seek to make points that have already been responded to in section 4 of this document.
- 6.6. *Capacity (paragraphs 3.5 to 3.7)* – The key capacity related points raised by CLdN in paragraphs 3.5 to 3.7 of **[REP6-036]** have been responded to in section 5 of this document.
- 6.7. *Competition and Resilience (paragraphs 3.8 to 3.12)* – The Applicant provides the following responses to the submissions of CLdN in paragraphs 3.8 to 3.12 of **[REP6-036]**.
- 6.8. *CLdN paragraph 3.8.1* – Whilst cost matters are clearly a key element of competition considerations, matters such as destinations served, service levels and performance are also important. In this regard it is highlighted that there

are a number of destinations which are currently only served by one direct Ro-Ro service from the Humber meaning that competition for Ro-Ro trade to and from those destinations does not currently exist on the Humber.

- 6.9. Even if it is considered that competition on the Humber – in terms of cost considerations – is currently at acceptable levels (which appears to be what CLdN are suggesting) there is, firstly, no guarantee under current arrangements and circumstances that this will be the position that will continue in the future, and, secondly, there is no reason why the current position cannot be further improved.
- 6.10. *CLdN paragraph 3.8.2* – The Applicant does not agree that the economic efficiency of the IERRT is in question in the way suggested by CLdN. In this respect, it is again highlighted that the NPSfP makes it clear,
- (a) that the Government seeks to *“allow judgements about when and where new developments might be proposed to be made on the basis of commercial factors by the port industry or port developers operating within a free market environment;”* ... (NPSfP, paragraph 3.3.1, bullet point 2);
 - (b) when discussing competition matters, that *“The Government believes the port industry and port developers are best placed to assess their ability to obtain new business and the level of any new capacity that will be commercially viable”* (NPSfP, paragraph 3.4.13), and
 - (c) when discussing locational matters, that *“Port development must be responsive to changing commercial demand, and the Government considers that the market is the best mechanism for getting this right, with developers bringing forward applications for port developments where they consider them to be commercially viable”* (NPSfP, paragraph 3.4.12).
- 6.11. Both the Applicant and Stena Line consider that the proposed IERRT facility is commercially viable.
- 6.12. *CLdN paragraph 3.8.3* – For the reasons explained in detail in the Applicant’s Deadline 5 submission **[REP5-032]** (see, for example, paragraphs 7.16 to 7.29 of that submission) the IERRT facility is not ‘at best, competition neutral’. The facility will significantly benefit the enhancement of competition.
- 6.13. *CLdN paragraph 3.8.4* – It is again highlighted that the NPSfP does not set out any restriction or limitation on the extent of effective resilience. The policy does not suggest that once a certain level of resilience is reached that there is no longer a need to seek further improvements. In respect of this matter, the IERRT development will make a significant beneficial contribution to the provision of resilience in both the local and the national infrastructure.

- 6.14. As already made clear, the IERRT development will, amongst other things, provide three new in river Ro-Ro berths, able to accommodate significant Ro-Ro vessels, supported by sufficient and suitable landside storage and operational infrastructure in a location benefiting from suitable landside transport connections able to satisfactorily accommodate the levels of traffic predicted. Furthermore, the facility will be operated by an existing established Ro-Ro freight operator that competes with other Ro-Ro operators and activities occurring on the Humber and elsewhere within the UK.
- 6.15. *CLdN paragraph 3.9* – As explained above, even if it is considered that competition on the Humber is currently at acceptable levels there is, firstly, no guarantee under current arrangements and circumstances that this will be the position that will continue in the future, and, secondly, there is no reason why the current position cannot be further improved.
- 6.16. In respect of the current position on dwell times being referred to by CLdN in this paragraph it is noted by the Applicant that this is reflecting a position where Stena Line – albeit only in respect of one of its services and from a restricted facility – are already operating their own facility for one of their services.
- 6.17. *CLdN paragraph 3.10 and 3.11* – The argument put forward in these paragraphs by CLdN does not reflect the fact that – as made clear within the NPSfP and as quoted above – the Government makes it clear that it is the role of the ports industry and port developers to determine whether it is viable to create more capacity. Therefore, if additional capacity is able to be delivered by CLdN at Killingholme in the way that they have claimed – or anywhere else for that matter - then it will be the decision of CLdN or the relevant port developer, in the first instance, to determine whether they consider it to be viable to bring that additional capacity forward, for example, through seeking any relevant or necessary approvals.
- 6.18. Furthermore, there is no basis for suggesting that the IERRT development would be an economically inefficient use of land or that it would generate harms that outweigh the benefits it would create. The opposite is the case, albeit that the NPSfP is clear in allowing developers and port operators to make decisions in respect of creating the infrastructure to address the need identified in the NPSfP.
- 6.19. *CLdN paragraph 3.12* – From the evidence which the Applicant has submitted to the examination it is clear that the presumption in favour of granting consent set out in the NPSfP applies to the IERRT facility, that the IERRT facility is sustainable development and that it is addressing an urgent and imperative need.

Sustainable Development ([REP6-036] paragraphs 3.13 to 3.14)

- 6.20. In its Deadline 5 submission **[REP5-032]** the Applicant set out comprehensive submissions on the various claims that have been made by Interested Parties against the proposed development being sustainable development. Those submissions, which have not actually been responded to in any significant way by CLdN in its Deadline 6 response **[REP6-036]**, are not repeated in detail here.
- 6.21. As to the two additional 'Sustainable Development' points which CLdN indicate they make at paragraph 3.14.1 and 3.14.2 of **[REP6-036]** the Applicant responds as follows.
- 6.22. CLdN's paragraph 3.14.1 is a misrepresentation of what the Applicant sets out in paragraphs 7.7 to 7.9 of **[REP5-032]**. Having correctly set out what NPSfP paragraph 3.3.1 bullet point 1 says and what it means, the Applicant in those **[REP5-032]** paragraphs makes it clear that, in any event, the evidence clearly demonstrates that the IERRT facility will cater for long-term forecast growth and is, therefore, inherently sustainable in that respect.
- 6.23. In the first part of paragraph 3.14.2 of **[REP6-036]** CLdN state:
- "CLdN previously submitted that the Proposed Development does not make a significant contribution to the other matters in paragraph 3.3.1 of the NPSfP. All the Applicant has noted in response, per paragraph 7.12 of the Applicant's DL5 Response is that the "policy does not require any specific or particular level of contribution to local employment, regeneration and development to be made for the development to be sustainable".*
- 6.24. Again, this is a misrepresentation of the Applicant's submission. Paragraph 7.12 of **[REP5-032]** - which is quoted by CLdN - is an explanation of what bullet point 1 of NPSfP paragraph 3.3.3 requires, not paragraph 3.3.1 of the NPSfP as CLdN suggest.
- 6.25. Furthermore, it is just simply not correct to imply that all the Applicant has noted in response to CLdN's previous submissions on NPSfP paragraph 3.3.1 is what is set out in paragraph 7.12 of **[REP5-032]**.
- 6.26. In addition, for present purposes, on this part of CLdN's response the Applicant would simply highlight that its explanation of what the policy requires as set out in paragraph 7.12 of **[REP5-032]** is correct. The policy set out in bullet point 1 of NPSfP paragraph 3.3.3 does not require any specific or particular level of contribution to local employment, regeneration and development to be made. It simply requires a contribution.
- 6.27. Finally, it is reiterated that in respect of the matters set out in bullet point 1 of paragraph 3.3.3 of the NPSfP, CLdN have only raised a criticism relating to the

way in which the magnitude of the level of employment to be generated by the proposed development is described.

6.28. In the second part of paragraph 3.14.2 of **[REP6-036]** CLdN state:

“It is not in dispute that some level of contribution is required. It is then a matter of judgement for the Examining Authority to decide if the Proposed Development can be considered to be sustainable development. CLdN queries how the presumption in favour of development in the NPSfP can apply to IERRT if there is no specific reference to the other matters in paragraph 3.3.1 of the NPSfP.”

6.29. The Applicant finds this text confusing. Due to the misrepresentation of the Applicant’s case and the conflation between the policy contained within NPSfP paragraph 3.3.1 bullet point 1 and NPSfP paragraph 3.3.3 bullet point 1 within the first part of paragraph 3.14.2 of **[REP6-036]**, it is not clear what matter is being referred to when CLdN are talking about ‘some level of contribution’. In any event, however, as the evidence of the Applicant demonstrates, the IERRT development will make a significant contribution to both meeting long-term forecast growth and also to local employment, regeneration and development.

6.30. The Applicant agrees that the Examining Authority will consider if the proposed development is sustainable development, but that decision needs to have regard to the relevant policy on this matter contained within the NPSfP. As the Applicant’s evidence demonstrates – evidence summarised in paragraphs 7.1 to 7.66 of **[REP5-032]** – the IERRT development is clearly sustainable development having regard to the relevant policy contained within the NPSfP.

6.31. In respect of the final point raised by CLdN in the second part of paragraph 3.4.12, the presumption in favour of development set out within the NPSfP – which is found at paragraph 3.5.2 of the NPSfP – needs to be understood within the context of that part of the NPSfP in which it is set out. For the reasons already explained in detail by the Applicant, the presumption clearly applies to the IERRT development.

6.32. Finally, the Applicant would highlight that from the outset of the examination it has provided reference to all of the matters which are set out in NPSfP paragraph 3.3.1 and explained why the IERRT development is in accordance with this policy. For example, see paragraph 8.4 and Appendix 1 of the Planning Statement **[APP-019]**. The ‘other matters’ within NPSfP paragraph 3.3.1 were not explicitly referred to in **[REP5-032]** because that document was responding to specific points of relevance to NPSfP paragraph 3.3.1 that had earlier been raised by CLdN.

Alternatives ([REP6-036] paragraphs 3.15 to 3.17)

- 6.33. As already indicated in the Applicant's submissions it is not relevant to consider alternatives in respect of the IERRT. The reasons for this are not repeated here again.
- 6.34. Even if it were relevant, however, the Applicant's case is that the IERRT facility is the only way of meeting the separate demonstration of need which it has set out from the outset as well as the other aspects of need identified in the NPSfP for which CLdN is not offering a true alternative anyway. In particular, the Applicant notes that even if it were relevant to consider alternatives, CLdN's claimed alternative of alleged spare capacity at the Port of Killingholme (leaving aside the fact that it remains vague, hypothetical and general in nature) does not, and could not, meet the need identified or the other aspects of need in terms of competition and resilience and, therefore, cannot be a true alternative anyway.
- 6.35. Comments relating to the need being urgent and imperative have been responded to elsewhere within this submission but, in summary, the need for the IERRT facility – whether that be the need for it identified through the NPSfP or the separate demonstration of need which the Applicant has set out – is urgent and imperative.
- 6.36. Furthermore, in respect of these paragraphs of CLdN's submission the Applicant makes clear that it fundamentally disagrees with CLdN's suggestion that what the Examining Authority are doing is balancing a development which is *“(at best) neutral when responding to the desired features of the NPSfP, against the continuation of a perfectly acceptable status quo.”* Firstly, the IERRT facility is not neutral in respect of the desired features of the NPSfP – the evidence provided simply does not support such a claim. Secondly, the current status quo is not acceptable. There is a clear urgent and imperative need for the development, and the suggestion that the status quo is acceptable is entirely contradictory to the position set out in the NPSfP that there is a need for additional capacity of the type provided by the IERRT facility. The position being put forward by CLdN would be – to use the words of the NPSfP at paragraph 3.4.16 – to exclude the possibility of providing additional capacity for the movement of goods and commodities through new port development and thereby accept limits on economic growth and on the price, choice and availability of goods imported into the UK and available to consumers. It would also limit the local and regional economic benefits that new developments might bring. To quote the NPSfP, *“Such an outcome would be strongly against the public interest”*.

Transport ([REP6-036] paragraphs 3.18 to 3.28)

- 6.37. There are two issues raised by CLdN in relation to terrestrial transport matters and both have been addressed comprehensively by the Applicant – namely

throughput capacity and the need for the Transport Assessment to assess 2,250 units per day.

- 6.38. As discussed at ISH5 the Applicant proposes an amendment to the DCO to limit the daily throughput of the IERRT facility to 1,800 units, in place of the originally drafted annual cap.
- 6.39. In respect of sensitivity test matters, these have been undertaken and issued to CLdN (and other interested parties) for comment. They are being formally submitted to the examination at Deadline 7. That work concludes that adopting the sensitivity test assumptions requested by DFDS and CLdN does not alter the overall outcomes or conclusions of the Transport Assessment. No mitigation is required as a result of the development and this position has been agreed with NELC as Highway Authority.

Ecology ([REP6-036] paragraphs 3.29 to 3.30)

- 6.40. In paragraphs 3.29 of **[REP6-036]** CLdN note the production of the updated Habitats Regulations Assessment (HRA) **[REP5-020]** and Construction Environmental Management Plan (CEMP) **[REP5-018]**. It also notes that its previous comments on these documents still apply, and, in any event, it will not be presenting any different case to that presented by Natural England. The Applicant remains in close discussions with Natural England with respect to their comments on the IERRT project and it should be noted that the vast majority of Natural England's points are now resolved, as reflected in the Statement of Common Ground (SoCG) between the Applicant and Natural England **[REP6-010]**.
- 6.41. In paragraphs 3.30 of **[REP6-036]** it is noted that CLdN has also reviewed the Applicant's Environmental Statement Addendum (ES Addendum), at Appendix 1 to the Proposed Changes Notification Report **[AS-028]**, and notes that its initial concerns in relation to cumulative loss of habitat still stand. The Applicant has provided an updated cumulative and in-combination assessment as part of its submissions at Deadline 7. In respect of cumulative loss of habitat this assessment demonstrates that loss of habitat will be of a magnitude that will not change the overall structure or functioning of the nearby mudflats within the Port of Immingham area or more widely in the Humber Estuary, and will therefore not cause an Adverse Effect on Integrity (AEoI).

Draft DCO Including Protective Provisions ([REP6-036] paragraphs 3.31 to 3.32 and Appendix 1)

- 6.42. At paragraph 3.31 and Appendix 1 of **[REP6-036]**, CLdN provide further comments on the dDCO submitted by the Applicant at Deadline 5 **[REP5-004]**. The dDCO was the subject of a further issue specific hearing – ISH6 – held on Thursday 23 November where, amongst other things, CLdN's Deadline 6

comments on the dDCO were discussed. A summary of the Applicant's oral submissions made at ISH6 is provided at **document reference 10.2.63 – Written Summary of the Applicant's Oral Case at Issue Specific Hearing 6** submitted by the Applicant at Deadline 7. Any further revisions required to the dDCO will be made to the updated version to be submitted by the Applicant at Deadline 8.

- 6.43. In respect of paragraph 3.32, the Applicant confirms that the updated dDCO to be submitted at Deadline 8 will provide protective provisions in favour of CLdN. At 6pm on 8 December 2023 (the working day prior to Deadline 7), CLdN provided the Applicant with a revised draft set of protective provisions, which the Applicant is reviewing. The Applicant will amend this latest draft as necessary, and provide commentary on its revisions, shortly after Deadline 7.

Future Capacity at Killingholme and Permitted Development Rights ([REP6-036] paragraphs 3.33 to 3.37)

- 6.44. In its Deadline 5 submission **[REP5-032]** the Applicant raised a number of questions and queries relating to the ability of CLdN to rely upon permitted development rights in the way suggested at the Port of Killingholme in respect of the delivery of additional capacity.
- 6.45. CLdN's response is simply that the Applicant's analysis 'is fundamentally flawed' with no explanation provided as to what these alleged fundamental flaws are. The Applicant stands by the submissions it made at Deadline 5 and reiterates that CLdN have not demonstrated whether or how permitted development rights could be relied upon as suggested.
- 6.46. CLdN conclude this section of **[REP6-036]** by stating that CLdN's ability to obtain any future planning consents is, therefore, not a matter which the Examining Authority needs to determine in its consideration of the Application. This statement, however, contradicts the position which CLdN have taken on alternatives matters. If, as CLdN argue and contrary to the clear legal and policy position of relevance, there is a requirement to consider alternatives in respect of the IERRT facility, and the alleged additional capacity at Killingholme is being put forward as an alternative by CLdN then – having regard to the principles guiding the decision maker on what weight should be given to alternatives provided at paragraph 4.9.3 of the NPSfP – matters relating to, amongst other things, the prospect and timescale of the delivery of such an alternative, along with whether such proposals are inchoate, are inevitably relevant in law. Such matters clearly require a consideration of necessary consents required, the prospects of such consents being granted and the timescales involved. Particularly having regard to the fact that any such proposals are clearly inchoate given the way that CLdN has chosen to respond at Deadline 6 without any explanation of how such delivery could occur without consents, how it would occur (in terms of actual plans) and when it would occur.

7. Other matters

The ability of IERRT to handle the maximum level of activity indicated ([REP6-036] Appendix 2, paragraphs 20 to 24)

- 7.1. The three points that are being made by CLdN in these paragraphs of Appendix 2 of **[REP6-036]** are responded to below. Before doing so, however, the Applicant notes that none of the points raised by CLdN questions the ability of the physical infrastructure that makes up the IERRT facility to handle the maximum level of activity that has been indicated.
- 7.2. In respect of the accompanied Ro-Ro traffic points being made (**[REP6-036]** paragraph 24.1), the Applicant's forecasts indicate that this element of the Ro-Ro sector will grow in the period to 2050, but at a more modest rate than the unaccompanied element. The forecasts indicate that by 2050 the accompanied traffic demand level across the Humber will be (at circa 226,000 units) greater than the level indicated in the IERRT storage capacity and throughput analysis spreadsheets provided at Appendix 4 of the Applicant's Deadline 5 submission **[REP5-032]**.
- 7.3. In addition, it should be noted that the purpose of the IERRT throughput and capacity information provided by the Applicant at Deadline 5 was to further demonstrate the ability of the facility to handle the maximum level of activity that had been identified for the purposes of ensuring a robust 'reasonable worst case' assessment of the proposed development had been undertaken. Whilst the Applicant's growth forecasts have been presented up to 2050, the lifetime of the proposed development will be longer than this. There is, therefore, no necessity for the maximum level of activity to be achieved within the timescale of the growth forecasts that have been presented.
- 7.4. In respect of the larger vessel points being made by CLdN (**[REP6-036]** paragraph 24.2), the Applicant would highlight that all the relevant storage capacity analysis requires is for the facility to handle 1800 units per day. To achieve this the number of daily vessel calls will need to collectively handle 900 import units and 900 export units. This could be achieved through various combinations of vessels of different sizes. For example, it could be achieved by one large vessel with a capacity greater than 300 units and two smaller vessels. To achieve the maximum level of activity indicated by the Applicant it is not, therefore, the case that this would involve the running of exclusively large vessels as CLdN claim.
- 7.5. At paragraph 24.3 of **[REP6-036]** CLdN suggest that "the lower" dwell times might affect the Transport Assessment. This suggestion is incorrect because, fundamentally, the Transport Assessment adopts a robust approach which assumes 900 units enter and leave the facility on a daily basis – irrespective of

the dwell time. The profile of that amount of throughput is based on observed hourly check in and out times for both accompanied and unaccompanied freight and assumes a constant throughput of 1,800 units per day every day. The timing of collections of unaccompanied import units generally reflect working times of HGV hauliers and are completely independent of sailing times or indeed dwell times. Those outputs would be the same on a daily basis regardless of how long those units had been held within the terminal itself.

Abbreviations and Acronyms

Acronym	Definitions
ABP	Associated British Ports
AEOI	Adverse Effect on Integrity
CAGR	Compound Annual Growth Rate
CEMP	Construction Environmental Management Plans
DCO	Development Consent Order
DfT	Department for Transport
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority / Examining Panel
HRA	Habitats Regulations Assessment
IERRT	Immingham Eastern Ro-Ro Terminal
ISH	Issue Specific Hearing Session
NELC	North East Lincolnshire Council
NPSfP	National Policy Statement for Ports
NPS	National Policy Statement
Ro-Ro	Roll-on / Roll-off
SoCG	Statement of Common Ground
TA	Transport Assessment
UK	United Kingdom

Appendix 1 – Pre-Application request for information from CLdN

From:
Sent: 11 December 2023 15:48
To:
Subject: FW: ABP - Immingham Eastern Ro-Ro Terminal - CLdN
Attachments: CLdN Killingholme Terminal information 221011.docx

From:
Sent: 21 October 2022 18:43
To: [REDACTED]
Subject: ABP - Immingham Eastern Ro-Ro Terminal - CLdN

Dear I . . .

As you will have guessed, our Immingham Ro-Ro project has been undergoing a number of final iterations and I did not want to send you our factual note detailing our understanding of the CLdN operation on the Humber until we were nearing the finalisation of our Need case.

I should say at the outset that I have not attached extracts from our Need chapter itself which when finalised will form part of our environmental statement. This is because, as you will understand, the references to CLdN appear throughout the chapter, CLdN being a principal Ro-Ro operator and owner of a Ro-Ro facility on the Humber. In addition, the chapter itself is not quite in its final form! Suffice to say, however, we have tried in setting out our case on need, to be as neutral as possible, identifying a need for additional Ro-Ro facilities on the Humber generally – not just at Immingham.

We do, however, need to be factually accurate, and Adams Hendry who have been working on the Need case have kindly let me have what is really a bullet point factual analysis of how we believe CLdN operate on the Humber

Suffice to say, it would be extremely helpful if you could review the attached bullet point description and let me have any corrections where you do not agree with what we believe to be the case.

Finally, to pre-empt your inevitable email on Monday, as far as timing is concerned, as the IERRT project has evolved we have inevitably introduced one or two changes – more refinements – to the scheme as outlined in our PIER. As a consequence, before submitting the application, ABP has decided to undertake what I have termed as a “Supplementary Statutory Consultation” detailing the changes that we have made to the scheme so that all regulators, stakeholders and indeed the local community are fully informed as to what we are proposing before I submit the application.

We will, of course, be giving CLdN formal notice of the additional consultation next week, both to you personally and to the CLdN corporate address – but to give you advance warning, the supplementary consultation will begin next Friday 28 October and close on Sunday 27th November. I then hope to submit the application mid- to late December, depending of course, on the number of consultation comments and responses that we receive during the consultation period.

If you would like to meet to discuss, please let me know – I am in Immingham every week.

Best regards,

If our account details change, we will notify these to you by letter, telephone or face-to-face and never by email.

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CLdN Killingholme Terminal – Information proposed to be included within Associated British Port's DCO application documentation for the Immingham Eastern Ro-Ro Terminal (IERRT).

1. The following note sets out information regarding the CLdN Killingholme Terminal which is currently proposed to be included within the documentation that makes up ABP's IERRT DCO documentation.

- (i) The Killingholme facility is a key Ro-Ro facility on the Humber Estuary, which – along with the Port of Immingham - is in a location where the Ro-Ro market wishes capacity to be provided.
- (ii) The facility is one which is owned and operated by CLdN Ports.
- (iii) The facility handles both Ro-Ro freight cargo (both accompanied and unaccompanied) as well as trade car vehicles.
- (iv) The facility has six berths. The length of the berths ranges from 208m to 262m and benefit from a range of possible alongside depths, as shown in the following table. The berth depth figures indicated are the depths which are understood to be able to be achieved at the berths in question.

Berth	Max Length of vessel accommodated	Max possible depth of berth (below chart datum)
1	246m	9.35m
2	246m	9.35m
3	262m	9.35m
4	208m	8.25m
5	230m	9.35m
6	225m	9.35m*

*It is understood that berth 6 is currently not dredged and is unused at present.

- (v) It is understood that the outer western berth is able to accommodate the largest Ro-Ro vessels operating out of the Humber Estuary – the Celine and the Delphine, both 234m LOA, 38m beam and 8.1m draught.
- (vi) The facility covers an area of approximately 107 hectares.
- (vii) The general area utilised for Ro-Ro trailer and container storage is estimated to be in the order of 33ha, all located to the north-east of the railway line that dissects the facility. An image showing the indicative areas used for Ro-Ro trailer and Ro-Ro container storage is reproduced below.
- (viii) It is estimated that the facility currently has in the order of 1790 Ro-Ro trailer slots and 220 Ro-Ro container ground slots – although it is recognised that some flexibility has been built into the terminal layout so that some parts of the terminal can be used for either Ro-Ro storage or trade car storage.



- (ix) The main Ro-Ro shipping line services handled at the facility are those of the terminal operators shipping line CLdN Cobelfret. The sailings currently offered by CLdN Cobelfret consist of:

- (a) Killingholme – Esbjerg: Two sailings in both directions per week.
- (b) Killingholme – Gothenburg: Five sailings from Killingholme and four from Gothenburg every week.
- (c) Killingholme – Zeebrugge: Six sailings in both directions per week.
- (d) Killingholme – Leixos: Two sailings each way per week.
- (e) Killingholme – Santander: Three sailings in both directions per week.
- (f) Killingholme – Rotterdam: Six sailings in both directions per week.

(It is acknowledged that some of the above sailings operate on a loop basis – i.e. Zeebrugge, Killingholme and Esbjerg – rather than being a two location point-to-point service.)

- (x) It is estimated that four berths are needed at the Killingholme facility to ensure that all current CLdN Cobelfret services and the Stena Line service can maintain their published sailing schedules.
- (xi) The facility is heavily utilised for Ro-Ro freight activity – reflecting its attractiveness to the market. In its current form without further development, however, a substantial increase in Ro-Ro throughput is not thought to be possible.
- (xii) The facility is surrounded by:
- (a) the proposed Able Marine Energy Park and land owned by Able to the south;
 - (b) the proposed Able Logistics Park and Business Park and land owned by Able to the north and west, and

- (c) an existing power station, refinery and industrial uses to the west.
- (xiii) Part of the facility and an element of land to the west (28ha in total) benefit from planning permission granted in November 2021 for the construction of an additional vehicle storage area and associated on-site infrastructure.
- (xiv) Large parts of the facility – primarily those in the south / south-western part of the facility – form part of the site on which there is an existing Development Consent Order approval for a thermal generating station Nationally Significant Infrastructure Project. The project was approved in 2014 with non-material amendments subsequently approved in 2021. Commencement of the development is required to have begun by October 2026.