



IMMINGHAM EASTERN RO-RO TERMINAL



Applicant's Response to CLdN's Deadline 7 Submissions
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1 **Executive Summary**

1.1 This document provides the Applicant's response to the information submitted by CLdN at Deadline 7. These submissions in turn draw upon information submitted by CLdN prior to that deadline. The CLdN submissions to which responses are now being provided are:–

- CLdN's Response to the Applicant's Deadline 6 Submissions **[REP7-039]**;
- Written Summary of CLdN's Oral Submissions at ISH5 **[REP7-040]**; and
- Written Summary of CLdN's Oral Submissions at ISH6 **[REP7-041]**.

2 Introduction

2.1 This document provides the Applicant's response to the information submitted by CLdN at Deadline 7. These submissions in turn draw upon information submitted by CLdN prior to that deadline. The CLdN submissions to which responses are now being provided are:–

- CLdN's Response to the Applicant's Deadline 6 Submissions [REP7-039];
- Written Summary of CLdN's Oral Submissions at ISH5 [REP7-040]; and
- Written Summary of CLdN's Oral Submissions at ISH6 [REP7-041].

2.2 In setting out its response to CLdN's various submissions the Applicant indicates that where it has not specifically responded to a point in the CLdN Deadline 7 submissions, this does not mean that the point CLdN make is accepted. In a number of respects, CLdN are simply reiterating points which they have earlier made during the examination process, and to which the Applicant has already responded. In such instances the Applicant relies upon the responses previously provided and does not repeat those responses in this document.

3 CLdN's Response to the Applicant's Deadline 6 Submissions [REP7-039]

3.1 At paragraphs 2.1 to 2.4, CLdN suggest that, with respect to the Applicant's submissions in relation to CLdN's response to ExQ2 NS.2.07 on comparable Ro-Ro berths and oil jetty proximities (paragraphs 3.4 – 3.7 of [REP6-027]), the Applicant has fundamentally misunderstood the relevant point. The Applicant fully understands that the CLdN operation at Purfleet on the North Bank of the Thames is not exactly the same as the proposed IERRT development. However, the exercise of comparison was to demonstrate that Ro-Ro operations can and do operate in close proximity to COMAH sites and terminals, with jetties taking tankers discharging or loading product. Ro-Ro and other vessel traffic regularly transit and manoeuvre off of the berths at Purfleet.

3.2 At paragraph 2.5, with respect to the fact that the 'Oil Storage and Terminal' downriver from CLdN's berths in handles vegetable oil, CLdN state that *'it is unclear to CLdN whether the Applicant appreciates the difference between vegetable oil and petroleum when relying on its significance as a comparable factor in terms of impact protection – the former is significantly less hazardous and less detrimental to the marine environment than the latter'*. The Applicant of course understand the difference between the two substances, but the assertion about hazard and detriment is wrong. For example, the US Environmental Protection Agency¹ correctly identify that scientific research and experience with actual spills have shown that spills of animal fats and vegetable oils kill or injure wildlife and produce other undesirable effects. Wildlife that becomes coated with animal fats or vegetable oils could die of

¹ US Environmental Protection Agency. (2023). Vegetable Oils and Animal Fats. [Online] Available at: <https://www.epa.gov/emergency-response/vegetable-oils-and-animal-fats#:~:text=Aquatic%20life%20may%20suffocate%20because,aquatic%20environment%20as%20petroleum%20oils.> (accessed 5 January 2024).

- hypothermia, dehydration and diarrhoea, or starvation. Further, aquatic life may suffocate because of the depletion of oxygen caused by spilled animal fats and vegetable oils in water. The US Environmental Protection Agency specifically state that *'spills of animal fats and vegetable oils have the same or similar devastating impacts on the aquatic environment as petroleum oils'*.
- 3.3 The Applicant has set out its position on CLdN's Protective Provisions as a post Deadline 7 Submission, namely document 10.2.79 - Explanation of the Applicant's Position in Respect of Protective Provisions CLdN **[AS-078]**.
- 3.4 In paragraph 4.1, CLDN note their surprise at not receiving any documentation from the Applicant regarding the change request. The Applicant did, in fact, consult with CLdN. This is recorded in the Change Application consultation log (Appendix K – M at Pages 4,12, and 30) **[AS-060]**, and CLdN have made further representations regarding the change request in **REP6-036**
- 4 **Written Summary of CLdN's Oral Submissions at ISH5 [REP7-040]**
- Item 2 – Navigation and Shipping**
- 4.1 The CLdN assertions made regarding growth and capacity in Item 2a are addressed in responses to other items below.
- 4.2 The Applicant's response to Item 2(f) – potential for marine congestion – are addressed in the Applicant's response to Examining Authorities fourth round of questions (document reference 10.2.81) at DCO.4.10.
- Item 3 – Onshore transportation**
- Item 3a – Matters relating to the Freight Handling Capacity of the Proposed Development (REP7-040 Pg 8-12)**
- 4.3 At ISH5, CLdN have made various unevidenced comments on the implications of different dwell times, vessel / storage capacity matters and the proposed limit on the number of units that could be handled at the terminal (proposed by the Applicant to be 1,800 units per day).
- 4.4 **REP7-040** is accompanied – at Appendix 1 by a note prepared by Volterra which covers these issues in more detail. This topic overlaps with terminal capacity points made by DFDS and, therefore, a single comprehensive response has been prepared by the Applicant.
- 4.5 This separate Document – titled Terminal Capacity Statement – has been submitted by the Applicant at Deadline 8. It provides, amongst other things, an overall context for the assessment of relevant capacity matters and a response to **REP7-040** Appendix 1 in particular. It demonstrates that the CLdN assessment and analysis is not relevant to the Decision Maker in terms of either considering need matters or the transport impact of the proposed development.
- 4.6 Even if, however, it were for some reason considered relevant in some way, the Applicant's separate document demonstrates that no weight can, in any event, be given to CLdN's assessment for various reasons, including the fact

that it is based on just two examples of what the vessels using the terminal might be like, assumptions that are neither reasonable nor realistic.

4.7 At the end of Appendix 1 of **REP7-040** – in the Implications and Conclusions section – CLdN make a number of general comments which repeat a number of assertions previously made. In response, the Applicant would simply highlight that, amongst other things:

- (i) There is a misrepresentation by CLdN of the Applicant's case in respect of the need for the proposed development – limited quotations from the Applicant's submissions need to be read within the full context within which those elements are written.
- (ii) There is not a 'lack of consistency' in the evidence which has been presented by the Applicant as is claimed by CLdN.
- (iii) Contrary to CLdN's evidence – which is not based upon reasonable or realistic assumptions – the IERRT facility does have the capacity to acceptably handle the level of activity that has been assessed and does have the ability to accommodate large Ro-Ro vessels.

Item 3a Matters relating to throughput Limits (REP7-040 Pg 8-12)

4.8 As confirmed in **REP7-020** the Applicant proposes a cap of 1,800 units per day and this is proposed to be secured within the DCO. In light of this daily cap there is no need for an annual cap and this has been removed.

4.9 As the Applicant's submissions demonstrate (for example, **REP5-032** and the separate Terminal Capacity Statement now submitted as referred to above) the IERRT facility is able to acceptably handle the 1,800 units per day level of activity. Furthermore – as the Terminal Capacity Statement also demonstrates – the analysis provided by DFDS also demonstrates that the terminal would be able to acceptably handle this level of activity. Further information regarding vessel capacity is addressed in the Applicant's response to the ExA's fourth round of questions BGC.4.04 and 4.05 submitted at Deadline 8 (document reference 10.2.81). In Item 3a post hearing note, CLdN consistently comment on the requirement for Stena to grow existing operations to meet the anticipated six sailings. The Applicant notes that the development of IERRT should cater for the growth of Stena's operations and that it would be highly inappropriate that Stena is required to set out its own commercial growth plans, especially to a key market competitor.

Item 3b Matters relating to the Distribution of Traffic (REP7-040 Pg 12)

4.10 As agreed an Operational Freight Management Plan [**REP7-036**] covers the specific management measures for the IERRT development, including the monitoring measures for the daily cap. An update to this note is provided at Deadline 8 (document reference 10.2.76)

Item 3c Matters relating to the need for Mitigation (REP7-040 Pg 12 3c).

- 4.11 The Applicant's position on the technical and policy basis for considering mitigation as a result of the application is clearly set out in Section 20 of the response to DFDS's Deadline 7 submission (document reference 10.2.84)
- 4.12 The appropriate policy tests are set out Section 2.2 of **REP7-013**, with more detail provided at Annex A of **REP7-013**). The policy tests are clear that mitigation should only be considered if the development in question leads to 'substantial' impacts (in the context of NPSfP) or 'severe' impacts (in the context of the NPPF). Based on the assessments provided such impacts would clearly not be generated by the IERRT Development. There is therefore no need, or justification, for consideration of highway capacity or safety mitigation.
- 4.13 The test in respect of the A160 / A180 junctions which are part of the Strategic Road Network should also take into account the requirements of DFT Circular 01/22. That sets out that the need for mitigation to be required (at paragraph 51) is when "*a transport assessment indicates that a development would have an unacceptable safety impact or the residual cumulative impacts on the SRN would be severe [...]*". There is clearly no such unacceptable safety impact nor severe impact arising from the IERRT Development.
- 4.14 As required by the policy, consideration of capacity, safety and delay is necessary. All these metrics (including RFC) are provided as an output of the assessment and considered in the Transport Assessment [**AS-008**] and Addendum TA [**REP7-013**]. They collectively form the basis of assessment of any development. In this case, there are no discernible changes in RFC, delay or queuing (which might lead to highway safety issues) on any junction tested.
- 4.15 It is noted that the only specific aspect of policy quoted by CLdN in respect of mitigation matters is paragraph 5.4.24 of the NPSfP. As the Applicant's transport expert explained at ISH5, this test relates specifically to accessibility considerations and not capacity. It is therefore an irrelevant test in the context of the IERRT proposals.
- 4.16 Mitigation as suggested is, therefore, unnecessary.
- Item 3c Matters relating to Addendum TA requirements (REP7-040 Pg 13)***
- 4.17 The Applicant's position on these matters is as confirmed at points 85 and 86 of ISH5 [**REP7-020**] and an Addendum Transport Assessment has been published.
- Item 3c Matters relating to Sensitivity Tests (Pg 13-14 post hearing note)***
- 4.18 Notwithstanding the Applicant's view that sensitivity tests are not required (as reported at Annex J of [**REP7-013**]), sensitivity tests have been undertaken following conversations with GHD (for DFDS) and RHDHV (for CLdN).
- 4.19 The tests provide for a proportionate range of different outcomes to be tested and assesses what the Applicant considers to be a wholly unreasonable level of traffic using the A160 corridor.

- 4.20 The Applicant's position with respect to the consideration of mitigation in respect of transport impacts arising from the proposals is set out above. Policy requires assessment of the development in terms of the acceptability of impacts arising from it rather than consideration of pre-determined thresholds of available capacity (or otherwise) on any particular junction.
- 4.21 The updated assessments (both in the base case and sensitivity tests) submitted to the examination confirm that there are junctions in the vicinity of the Port of Immingham which are approaching capacity on the basis of consideration of Ratio of Flow to Capacity.
- 4.22 Development flows up to a 60% split via West Gate results in all junctions operating below an RFC of 1. They also confirm that all junctions affected by the development are operating within capacity at present (in the base case). Future year capacity reduces as a result of growth and committed development. The position in both the year of opening (2025) and future year assessment (2032) with development is that the development traffic itself does not have a material impact on junction operation, queuing or delay.
- 4.23 The range of flows that are tested in this sensitivity test further confirm that the network is resilient in terms of differing flow assumptions, with the net difference between the updated TA base case [REP5-028] and the sensitivity test being marginal in terms of overall impacts.
- 4.24 No further sensitivity is, therefore, warranted.

Item 3c Matters relating to the consideration of Access Points (Pg 14-15 post hearing note)

- 4.25 CLdN appear to be requesting further assessment of Security Gate Capacity. The security gate capacity is considered in detail at Annex L of REP7-013. The agreed position on security gate house capacity is that, subject to the improvements at East Gate, either gatehouse could accommodate 100% of traffic generated by the IERRT development without material impact. It is based on 10% solo HGV ratio as per the Transport Assessment. However, the difference in inbound HGV movements in the peak hour adopting 36% solo HGVs is less than 1 HGV every 3 minutes (see Table 1 of REP5-027). This is in the PM peak when inbound flows are generally well below (less than half) peak flows. The security gate test is, therefore, considers a higher level of traffic than the wider sensitivity tests that have been undertaken.
- 4.26 As already confirmed to the examination a Stage 1 Road Safety Audit has been carried out based on the GA plan for East Gate. The design of the works and required S278 agreement is being progressed and the detailed design will be finalised as part of that process prior to commencement of the works as part of the S278 process, at which point a Stage 2 RSA will be undertaken.

Item 4 – Any Other Business

- 4.27 Within the information provided within the main body of CLdN's response and Appendix 2 there appears to be an inconsistency in terms of which berth at Killingholme can accommodate the G9 class of vessel (the Celine and the Delphine). In the main body of the response it is indicated that these are

restricted to berth 3 – which is the position understood to be earlier indicated by CLdN – whereas Appendix 2 of **REP7-040** at paragraph 4 appears to suggest such vessels are restricted to Berth 1.

- 4.28 Furthermore, Appendix 2 of **REP7-040** now makes reference to restrictions on vessel size that can be manoeuvred onto berths 2 or 5 when either of those berths is already in use. It is interesting to note that this issue was not identified by CLdN in its earlier Killingholme Consolidated Note **[REP4-021]** where the impression was given that there are no such restrictions in place. CLdN's position on the berth capacity and capability at Killingholme, therefore, needs to be considered in light of this latest information from CLdN.

5 **Written Summary of CLdN's Oral Submissions at ISH6 [REP7-041]**

- 5.1 The Applicant has noted CLdN's comments with respect to the dDCO, and has submitted an updated version of this at Deadline 8.

Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
ALARP	As Low As Reasonably Practicable
CHA	Competent Harbour Authority
DCO	Development Consent Order
DFDS	DFDS Seaways Plc
EIA	Environmental Impact Assessment
EMS	European Marine Site
ES	Environmental Statement
Hazid	Hazard Identification
Hazlog	Hazard Log
HES	Humber Estuary Services
HMH	Harbour Master Humber
IERRT	Immingham Eastern Ro-Ro Terminal
IGET	Immingham Green Energy Terminal
Nav Sim	Navigational Simulation
NRA	Navigational Risk Assessment
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Ro-Ro	Roll-on/roll-off
SHA	Statutory Harbour Authority
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom