

IMMINGHAM EASTERN RO-RO TERMINAL



Applicant's Response to Immingham Oil Terminal Operators' Deadline 7 Submissions
Document Reference: 10.2.83
APFP Regulations 2009 – Regulation 5(2)(q)
PINS Reference – TR030007
January 2024

Document Information

Document Information		
Project	Immingham Eastern Ro-Ro Terminal	
Document Title	Applicant's Response to Immingham Oil Terminal Operators' Deadline 7 Submissions	
Commissioned by	Associated British Ports	
Document ref	10.2.83	
APFP Reg 2009	Regulation 5(2)(q)	
Prepared by	IERRT Project Team	
Date	Version	Revision Details
08/01/2024	01 Deadline 8	Submitted at Deadline 8

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1 **Executive Summary**

1.1 This document provides the Applicant's response to the information submitted by Immingham Oil Terminal Operators ("IOT Operators") at Deadline 7. These submissions in turn draw upon information submitted by IOT Operators prior to that deadline.

1.2 IOT Operators' submissions to which responses are now being provided are:-

- **Deadline 7 Post Hearing Submissions [REP7-069]** comprising:
 - Responses to the ExA's ExQ3;
 - Comments on the ExA's Recommended changes to the dDCO;
 - IOT Operators position on the ExA action points from ISH5 and ISH6;
 - Protective Provisions;
- **Deadline 7 Submission Appendices [REP7-070]** comprising;
 - Appendix 1 - IERRT – IOT Operators' preferred protective provisions and justification;
 - Appendix 2 – Statement of Common Ground;
 - Appendix 4 - IOT Operators, IOT COMAH Report (2019) (excerpts); and
 - Appendix 7 - IOT Operators Oral Summary of Submissions at ISH5 and ISH6.

2 Introduction

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 - Appendix 7 - IOT Operators Oral Summary of Submissions at ISH5 and ISH6.

3 Comments on IOT Operator's Post-Hearing Submissions **[REP7-069]**

Introduction and Summary

3.1 The Applicant refutes IOT Operators' assertion at Paragraph 1 that the IERRT poses a significant risk to their ongoing operations. The Applicant has thoroughly assessed the Proposed Development in light of IOT's operations and has continued to do so in light of the IOT Operators' representations to the Examination. The Applicant takes the issue of safety and the continuance of operations at the IOT Terminal very seriously, and has a mutual interest in securing that operations continue to be conducted safely. All of the Applicant's comprehensive assessments have demonstrated that such operations can continue safely and effectively with the Proposed Development in place.

3.2 The Applicant disagrees with the IOT Operators' criticisms raised in Paragraph 2 of a lack of engagement prior to the submission of the DCO application. The Applicant's engagement with IOT Operators is evidenced in the Consultation Report **[APP-021]** and specifically at Annex L **[APP-034]**. The formal engagement undertaken with IOT Operators prior to submission of the DCO application includes the statutory consultation, the supplementary statutory consultation, and a navigational stakeholder simulation event. The Applicant rejects the assertion that there has been a lack of engagement with

- IOT Operators either prior to, or during, the Examination. The Applicant has, throughout the Examination, responded to the IOT Operators' concerns and dealt with its representations in detail. As clarified in **[REP7-025]**, the Applicant's letter of 28 September 2023 reports the Applicant's intention "*to work with the IOT Operators with a view to developing a scheme of marine infrastructure protection for the IOT*" (based generally on high level potential design for additional impact protection measures proposed by Beckett Rankine, albeit with possible refinements) without prejudice to the respective positions of the parties as to the need for such measures. The letter makes the Applicant's position clear that its NRA process had concluded that impact protection measures are not required when considering the Applied Controls that will be implemented. As anticipated in the letter, the Applicant and the IOT Operators continued to engage with regard to the proposals for additional impact protection measures. Subsequently, the Applicant's request for changes to the project comprised four proposed changes, one of which - Change 4 – addressed marine infrastructure protection for IOT in the form of 'enhanced operational marine controls and the possible provision of additional marine impact protection measures' - as explained in the Changes Request Report **[AS-072]**.
- 3.3 As to Paragraph 4, the Applicant disagrees both that the change request presented insufficient impact protection and that there was a lack of detail in the information presented. The Applicant has provided a full response to the IOT Operators at **[REP7-025]**. The Applicant has sought to engage extensively with the IOT Operators to understand their concerns, including holding a series of Design Meetings and engaging in discussions regarding the proposed enhanced operational controls. The Applicant has also undertaken an additional set of navigational simulations to support with the IOT Operator's specific interests, which are reported in the navigation simulations report submitted at Deadline 8 (document reference **[10.2.90]**).
- 3.4 In addition, a Design Basis Report was provided to the IOT Operators on 15 November 2023 **[REP7-025]** which the Applicant prepared specifically to address the IOT Operators' queries on the level of 'impact' that the Vessel Impact Protection had been designed to accommodate. All of this has been done notwithstanding the conclusions reached in the Applicant's NRA **[APP-089]** (and demonstrated throughout the Examination) based on expert professional advice that the risks of an IERRT vessel alliding with the IOT trunkway are minimal and both tolerable and ALARP, given the operational controls that will be in place by virtue of the SHA and SCNA duties toward safe navigation as well as the enhanced operational controls to which the Applicant has already committed **[AS-072]**. All of these initiatives have been progressed without prejudice to the assessments undertaken for the Applicant that the Proposed Development had already satisfactorily addressed any risks to IOT.
- 3.5 The Applicant has responded to the IOT Operator's D6 submissions at **[REP7-024]**.

- 3.6 Regarding Paragraph 5 and 7, the Applicant has responded to the IOT Operator's evidence in various representations throughout the Examination, including in the provision of the updated version of the NRA [REP7-011] and the production of the Supplementary Navigation Information Report [REP7-030]. The Applicant would refer to the Cost Benefit Analysis in Annex F of [REP7-011] and Section 4 of [REP7-030].
- 3.7 In response to Paragraph 6 the Applicant confirms that it has provided the HASB meeting minutes and briefing papers for 12 December 2022 in the Supplementary Navigation Information Report [REP7-030] submitted at Deadline 7 in response to ISH5 Action Point 4. Similarly, notes of the project governance meeting held in October 2022 are appended to the updated version of the NRA [REP7-011] submitted at Deadline 7 in response to ISH5 Action Point 2.
- 3.8 In Paragraph 8, IOT Operators contend that no written material has been provided by the Applicant to justify its position on Impact Protection Measures. Whilst IOT Operators may not agree with the Applicant's conclusions, it is clearly not the case that no written material has been provided. The Applicant refers to the Applicant's Navigational Risk Assessment and appendices [APP-089] (and most recently submitted at Deadline 7 [REP7-011]) and the Supplementary Navigation Information Report [REP7-030].
- 3.9 In Paragraph 9, IOT Operators conclude that their principal concern is that the amended DCO change application will continue to present an unacceptably severe risk of a potential catastrophic event which causes damage to the IOT infrastructure. The Applicant does not accept this and refers to the supplementary Navigation Information Report [REP7-030].
- 3.10 The Applicant notes IOT Operator's summary of their position for the Examining Authority at Paragraph 16 *'that in the absence of adequate mitigation measures'* the DCO should be refused on account of the adverse impact of the proposed development outweighing its benefits under section 104(7) of the Planning Act 2008. The Applicant, as demonstrated throughout the Examination, strongly rejects this suggestion and refers to all of its evidence and analysis that has been provided and the conclusions reached in the Applicant's NRA [APP-089] and updated NRA [REP7-011] and Supplementary Navigation Information Report [REP7-030], all of which definitively demonstrate that any risks of an IERRT vessel alliding with the IOT trunkway or finger pier having regard to the consequences of such an allision are more than tolerable and ALARP. The Applicant's position also has regard to the operational controls that will be in place by virtue of the SHA and SCNA duties toward safe navigation, as well as the enhanced operational controls put forward by the Applicant in [AS-072], and there are therefore no adverse impacts of the type being claimed.

Protective provisions for the IOT Operators

- 3.11 In response to Paragraphs 13 to 14 and 17 to 21 in respect of the protective provisions the Applicant responds as follows.

- 3.12 Whilst the IOT Operators have criticised the delay in the Applicant providing comments on its draft protective provisions, the Applicant notes that discussions regarding the wording of the protective provisions have necessarily been delayed by the without prejudice negotiations between the Applicant and IOT Operators.
- 3.13 The Applicant has, however, provided a full response on the IOT Operators' protective provisions, including justification for its amendments, in Table 1 of Appendix 1 to the Applicant's Response to the ExA's Schedule of Proposed Changes to the dDCO submitted at Deadline 7 **[REP7-029]**.
- 3.14 The Applicant has included the text of the protective provisions from **[REP7-029]** in the version of the dDCO submitted at Deadline 8.

Need for vessel impact protection identified by IOT Operators

- 3.15 In response to Paragraph 22, the Applicant does not accept this assertion that any further impact protection measures are necessary, given the enhanced operational controls that will be applied to the operation of IERRT **[AS-072]**. This is supported by the Supplementary Navigation Information Report **[REP7-030]**, the navigational simulations undertaken by the Applicant **[AS-071]** and the recent navigation simulations undertaken on 13/14 December 2023, the report of which is submitted at Deadline 8 (document reference 10.2.90).
- 3.16 Further, the Applicant has provided evidence of the cost benefit analysis undertaken with the submissions at Deadline 7 - see Cost Benefit Analysis in Annex F of the updated NRA **[REP7-011]** and Section 4 of the Supplementary Navigation Information Report **[REP7-030]**.
- 3.17 In response to Paragraphs 25 and 26, the Applicant has engaged extensively with the IOT, including undertaking extensive without prejudice discussions. Extensive engagement and consultation was undertaken during the production of the NRA **[APP-089]** in advance of the DCO submission in early 2023.
- 3.18 Notwithstanding the conclusions of the NRA **[APP-089]** and updated NRA **[REP7-011]** the potential for impact protection measures to be installed in the future has not been entirely ruled out, for example if these are deemed to be required by the SHA or the SCNA. Requirement 18 of the DCO provides the mechanism for the potential provision of impact protection measures if they are required in the interests of navigational safety.
- 3.19 The Applicant has expended significant effort in seeking to reach agreement with IOT Operators on the extent of any physical infrastructure impact protection measures.
- 3.20 Following ISH3, and the submission of the letter dated 28 September 2023 **[AS-020]**, the Applicant continued to engage in ongoing discussions with IOT Operators seeking to establish their requirements for the proposed risk control measures through a series of meetings, which included the Applicant's marine architects and engineers – a number of which were without prejudice. The Applicant's change submission was based on what it had understood IOT

- Operators were suggesting, but in circumstances where the IOT Operators stated requirements proved to be very different to those originally provided and disproportionate.
- 3.21 Four without prejudice design meetings were held between the 3 and 9 October 2023 to review and seek alignment on design options for the impact protection measures.
- 3.22 By way of culmination of those discussions, it was on 12 October 2023 - a week prior to the commencement of the proposed changes consultation, that the Applicant concluded that the IOT Operators' aspirations for physical changes were disproportionate and unjustified. The Applicant communicated to IOT Operators the conclusion of the feasibility assessment during a call, when it was explained that the infrastructure required to meet the IOT Operators' further design parameters was undeliverable. This is explained further in the Applicant's Change Request Report **[AS-072]** and was summarised by Mr Hodgkin and Commander Bristowe on behalf of the Applicant at ISH5 **[REP7-020]** (see item 49).
- 3.23 Notwithstanding this, the Applicant continued to engage with the IOT Operator's during the consultation on the proposed changes, and the Applicant's Change Notification was shared directly with IOT Operators on 19 October 2023, ahead of the formal submission to the ExA.
- 3.24 The proposed enhanced operational controls were shared with IOT Operators on 4 November 2023, ahead of a call to discuss the proposals which took place on 9 November 2023. As noted above, a Design Basis Report was also provided to the IOT Operators on 15 November 2023 **[REP7-025]** which the Applicant prepared specifically to address the IOT Operators' queries on the level of 'impact' that the VIP had been designed to accommodate.
- 3.25 In light of the above, the Applicant is satisfied that it has had proper regard to the impacts on the safe operation of the IOT Operators' infrastructure and does not accept that the IERRT Development would cause an adverse impact which would outweigh its benefits.

Cost benefit analysis – project viability

- 3.26 The Applicant has provided a consistent explanation of the approach to the Cost Benefit Analysis undertaken as part of the NRA for the IERRT and refers to its submissions made at ISH5 **[REP7-020]**.
- 3.27 In response to Paragraphs 28 to 31, evidence of the cost benefit analysis undertaken by the Applicant is provided within the updated NRA **[REP7-011]** (see Annex F - Cost Benefit Analysis) and the Supplementary Navigation Information Report **[REP7-030]** (see Section 4).

Further, as set out by the Applicant in **[REP7-025]** it is not the Applicant's case that the provision of adequate protection measures are too expensive, it is that the additional protection measures proposed by IOT Operators are neither reasonable nor practicable, when considered in combination with the operational controls that will be applied. This is supported by the IOT Operator's own shadow NRA which indicates that the cost/benefit of an

impact protection structure is marginal for low impact speeds (2 knots). The operational controls proposed to be employed will ensure a minimum of 1 tug is employed during all arrivals to berth 1. The risk of allision is mitigated by the use of tugs, as demonstrated by the navigational simulation undertaken on 15 November 2023 reported at **[AS-071]** and further supported by the simulations undertaken on 13/14 December 2023, at which stakeholders including the IOT Operators were present. This is reported in the navigational simulations report submitted at Deadline 8 (document reference 10.2.90).

Risk assessments

- 3.28 At Paragraphs 32 and 33, the IOT Operators suggest that it is not clear how conclusions on the apparent safety (or otherwise) of the IERRT Development have been reached by those statutory harbour authorities. The NRA **[APP-089]**, and updated NRA **[REP7-011]** set out the assessment of navigational risk, based on extensive consultation with subject matter experts, including the Harbour Master, Humber and Dock Master. It should also be noted that impact protection measures have not been ruled out as a possible risk control which could, if required in the interests of navigational safety, be implemented at a future date. Requirement 18 of the draft DCO (submitted at Deadline 8 – Application Document reference 3.1) is drafted accordingly to provide for such possibility.

Vessel impact protection offered by ABP

- 3.29 In response to Paragraph 34, the vessel impact protection is, in fact, designed to withstand an allision with the design vessel (noting this is not in fact a vessel, but a set of envelope parameters) at an impact speed of 1.8 knots. This was made clear in the Design Basis Report provided to the IOT Operators on 15 November 2023 **[REP7-025]**. Further detail has been provided to IOT Operators in responding to IOT Operators' letter of the 22 December 2023. This information has also been submitted to the Examining authority at Deadline 8 comprising a copy of the Applicant's letter of response to IOT Operators, dated 5 January 2024 provided at Annex 1 to this document, which enclosed the Vessel Impact Protection Structure – Concept Design information, dated 3 January 2024 a copy of which is submitted at Deadline 8 (document reference 10.2.92).
- 3.30 In response to Paragraph 35, the draft DCO (submitted at Deadline 8 – Application Document reference 3.1) includes a requirement - Requirement 18 – which includes a mechanism for the provision of vessel impact protection in the event that it is required in the interests of navigational safety in the River Humber.
- 3.31 In respect of Paragraphs 36 and 37, the Applicant received the Beckett Rankine report and letter from the IOT Operators at 16:49 on 4 December 2023, requesting a response by 6 December. The letter was sent by the IOT's legal representatives to a project consultation inbox, separate to the direct email correspondence underway between the Applicant and the IOT Operators. The letter also included some duplication of points that were already under discussion – particularly in relation to the navigational simulations and flow modelling. The Applicant had responded where possible

to do so via email correspondence in December. However, in addition to this, the Applicant has provided a full and comprehensive report regarding the design parameters of the IERRT infrastructure (raised in the IOT Operator's letter of 4 December 2023 and specifically, the "Design Basis Review" prepared by Beckett Rankine) in the Applicant's letter of response dated 5 January 2024, provided at **Annex 1**.

Without prejudice discussions

- 3.32 In respect of Paragraphs 39 to 43 the Applicant considers that reference to without prejudice exchanges which took place prior to the 28 September 2023 do not assist IOT Operators as they reflect differences of view and, given that, as stated in Paragraph 41, '*The objectives / parameters of the design where clearly and expressly outlined in the text of the letter of 28 September [AS-020]*' (which was accompanied by the indicative Beckett Rankine proposal) which subsequently evolved.

COMAH Impacts

- 3.33 In response to Paragraphs 44 to 48 the Applicant responds as follows.
- 3.34 The Applicant acknowledges IOT Operators' clarification in Paragraphs 44 to 48 in respect of their status as a COMAH site. This information is useful to ensure precise definitions are applied but does not change the overall tenor of the Applicant's view on the NRA process and its inapplicability to risk assessments carried out in the pursuance of running a COMAH site.
- 3.35 It is noted that IOT Operators define the extent of their COMAH site – for the purposes of compiling and operating to the requirements of their COMAH safety report – as including the marine infrastructure as well as the landside tank farm. The Applicant also notes, however, that the land use planning zones which form the basis of the Health and safety Executive's ("HSE") planning advice only contemplate the risk of petroleum fire/explosion events from the point of view of the landside storage areas. In other words, the Development Proximity Zone, Inner, Middle and Outer zones are only concerned with the landside elements of the IOT Operators' facility.
- 3.36 The Applicant considers that it is not unreasonable for IOT Operators to consider the totality of the site – including marine infrastructure – as their COMAH site and indeed adopting such a holistic approach would be expected by the HSE and EA, who are the regulators when it comes to compliance with COMAH. Similarly, the Applicant does not consider it unreasonable for a key identified risk to be vessel allision. Where the Applicant's opinion differs from that of IOT Operators is centred around IOT Operators' conflation of COMAH risk – which necessarily includes key societal considerations – with navigational risk. Whilst the two risk assessment processes clearly involve an interrelationship, both serve different functions as they are concerned with the statutory duties of two completely different operators who are adhering to different sets of legislation. The Applicant also considers allision to be a key known risk, and is satisfied that this has been adequately addressed in the

HAZID workshops, production of the NRA **[APP-089]** and updated NRA **[REP7-011]**.

- 3.37 The Applicant notes that the IOT Operators' 2019 COMAH safety report indicates a relatively high frequency for allision or a significant spill based on present day vessel operations occurring in proximity to the IOT, it therefore seems unlikely that the relatively small number of additional vessel movements a day associated with the proposed IERRT Development would change the overall risks from tolerable to intolerable. When set in the context of declining vessel numbers at the Port and in the estuary as a whole, it should also be possible to show that the risks including the IERRT Development are actually less than indicated in the IOT Operators' 2019 COMAH safety report.
- 3.38 The fact that IOT Operators' trunkway and finger pier are currently unprotected is presumably considered to be a tolerable risk at present, even though ebb tide lock departures could be swept on to the IOT Operators' infrastructure in the event of an engine failure. Given that there is a general downward trend in terms of vessel visits at the Port, and that the IERRT Development infrastructure will effectively shield a considerable length of the IOT Operators' trunkway – although admittedly not all of it – then the Applicant presumes that the overall risk profile of vessel allision even with IERRT Development in place will be lower than it was in 2019, or indeed when previous iterations of the IOT Operators' COMAH safety report were produced.
- 3.39 In this vein, the Applicant is concerned that the NASH NRA **[REP2-064]** submitted by IOT Operators appears to regard the chance of vessel allision as being far more likely with IERRT Development in place than is shown in IOT Operators' 2019 COMAH safety report. Leaving aside the fact that using societal impacts in an NRA to amplify severity is not appropriate, the Applicant is unsure why frequency of vessel allision should be assumed to increase so much once IERRT Development is in place. The Applicant accepts that IERRT Development will increase vessel movements at the Port by up to 6 movements per day, but this needs to be viewed in the context of declining vessel numbers overall. The IOT Operators contend that IERRT Development will bring those vessels much closer to their marine infrastructure, thereby increasing the likelihood of allision. The IOT Operators' infrastructure is, however, already vulnerable to vessels losing power and drifting towards it, particularly ebb tide departures from Immingham lock. As mentioned above, the physical presence of IERRT Development will in fact act as impact protection for the benefit of a substantial section of the trunkway and the Applicant has already set out the enhanced operational controls that will apply to the Berth 1 ebb tide arrivals during the operation of the IERRT **[AS-072]**.
- 3.40 Even an allision of an errant vessel with the remaining 'unprotected' section of the trunkway is unlikely given that it would – on the assumption that it has lost all engine power – have to drift 'cleanly' between the IERRT marine infrastructure and the IOT finger pier. In any case, the Applicant would assume it would be logical for vessel allision with the finger pier to have a lower severity

rating than an impact with the trunkway, given that the finger pier is not in and of itself supporting all refining activity in the same way that the trunkway and deep-sea jetty heads are.

- 3.41 Further, the Applicant undertook navigational simulations on 13/14 December 2023, at which stakeholders including the IOT Operators were present, which provides evidence that the enhanced operational controls are effective in an emergency scenario. It was demonstrated that tugs are effective to prevent an allision with the IOT trunkway in the extremely unlikely event of a vessel engine failure. This is reported in the navigational simulations report submitted at Deadline 8 (document reference 10.2.90).
- 3.42 IOT Operators will have to update their COMAH safety report to reflect changes in their vicinity such as IERRT Development, address any risks that those activities pose to the IOT, and any risks that the IOT poses to all those in the vicinity. The extent to which that results in an increase (or decrease) in risk compared with the 2019 COMAH safety report may depend on the details of the analysis. Given however that it does not seem likely that the quantum of risks associated with IERRT would be significant compared with the sheer extent of the other existing risks posing an existential threat to IOT, it would be difficult to argue that the IERRT alone and in its own right was responsible for any egregious increase in the risk profile of IOT Operators' site.
- 3.43 COMAH safety reports are required to be updated (or at least reviewed and confirmed as still being correct) and re-submitted to the HSE/EA every 5 years (or more often if there is a significant change – such as a major new plant on the site). The Applicant therefore presumes that IOT Operators are currently working on preparing the 5-year update to their COMAH safety report for submission in 2024.

Inadequacy of EIA

- 3.44 At paragraphs 49 to 62, IOT Operators continue to suggest the Applicant has not assessed the impacts associated with the design vessel. The Applicant strongly refutes this assertion. For context, at paragraph 3.25 of Chapter 3 of the ES [APP-039] it is stated that *'the berthing facilities have been designed to handle vessels with a length overall (LOA) of 240 m, a breadth of 35 m, and a draught of up to 8 m'*.
- 3.45 The Applicant has responded at multiple stages in the examination to explain that the vessel LOA, breadth and draught described in ES Chapter 3 represent an envelope which have provided the parameters for the design of the IERRT infrastructure and to provide a robust envelope for the EIA. Given the 50 year design life of the IERRT infrastructure, this means it could safely accommodate a vessel of up to 240m length (which would be expected to have a lower beam or draught accordingly) or a vessel of up to 35m draught (likely to have a reduced LOA or draught) or a vessel of up to 8m draught (with a lower LOA or beam). It is not representative of a specific vessel that is intended to use the IERRT infrastructure. As described in the Applicant's submissions at ISH5

[point 30, **REP7-020**], the Statutory duty and associated controls implemented by the Harbour Master Humber (which were also explained orally by HMH during ISH5 – see [**REP7-067**]) would apply before any ‘new’ vessel is authorised to berth at the IERRT. This is to ensure the Harbour Master Humber and Dock Master Immingham are satisfied that the infrastructure can be operated safely. This is the same process that is followed today and, incidentally, was followed for the introduction of the DFDS Jinling vessel at IOH.

- 3.46 Firstly, with respect to navigation simulations, the vessel models used in the simulations are appropriate. The extensive simulations using the Stena T class model demonstrate that the safeguards and proposed controls that will be applied for initial operations at IERRT are reasonable, practical and the operations will present no significant risk to IOT operations. Moreover, the initial feasibility study considering the IERRT design and operations using a Jingling Class model demonstrated that operations for a similar sized and powered vessel at IERRT infrastructure are feasible and practicable. It would be a waste of time and misleading to undertake further work on a large vessel at this stage, as the results could not be just transferred to any other vessel that might be brought into service. The Applicant refers to the evidence on this matter provided at Issue Specific Hearing 5 [**REP7-020**] (see agenda items 19 to 21 and 25 to 26).
- 3.47 Specifically in respect of Paragraph 57 the Applicant would clarify that the aim of the navigation simulations is to understand the feasibility of operations for large powerful modern RoRo, the most appropriate model identified by HRW at the time of the feasibility study was the 237m Jingling. In undertaking the feasibility assessment there are other factors such as propulsion and hull form which are important in reaching conservative conclusions. It has always been noted that additional work will be required during the procurement and introduction into service of a larger vessel. The Applicant would refer to the submissions made by HMH at ISH5 in this respect [**REP7-067**], which clearly explains the stringent considerations and assessments by the HMH prior to the introduction of a new vessel operating at the facility.
- 3.48 The DCO process is designed to oversee the development of infrastructure and whilst it should ensure appropriate oversight for the operational management of the infrastructure is in place, it is not reasonable to expect the process to manage the detail of all operational controls that might be foreseen in a 50 year operating window.
- 3.49 In respect of Paragraphs 50 to 62, the Applicant believes that the requirements of the EIA Regulations have been fully satisfied, and confirms that the assessment undertaken is in line with the Planning Inspectorate’s Advice Note Nine and the ‘Rochdale Envelope’ approach, as explained as follows.
- 3.50 With respect to the assessment within the NRA [**APP-089**] and the updated version of the NRA submitted at Deadline 7 [**REP7-011**], the assessment considers a vessel of the size and type set out in paragraph 4.5.2 of the NRA. All HAZID workshops and consultation to inform the assessment was undertaken on this basis, and the worst case and most likely hazard scenarios for each risk consider Ro-Ro vessels of this size. On this basis, a worst-case

scenario has been fully assessed in the NRA, which is in line with The Planning Inspectorate's Advice Note Nine and the 'Rochdale Envelope' approach. The findings of the NRA will feed into the formal risk assessment (FRA) for port marine operations in the form of procedures within the Marine Safety Management System (MSMS). These procedures need to be applied to specific vessels and are kept under constant review.

- 3.51 With respect to other areas of the EIA and ES, not directly related to navigation, a worst-case scenario with respect to vessel size has been assessed wherever material. As described in Chapter 2 [APP-038] and 3 [APP-039] of the ES (as amended by the ES Addendum [AS-028]), the marine infrastructure and landside buildings have been assessed on the basis of their maximum parameters. The maximum parameters of the marine infrastructure have been designed to handle vessels of the size specified. This includes, for example, the length and position of the finger piers, the size and number of piles, and the extent and depth of the dredged berth pocket. These scheme details have been specifically assessed throughout relevant chapters of the ES, including Chapter 7 [APP-043] on physical processes, Chapter 8 [APP-044] on water and sediment quality, Chapter 9 [APP-045] on nature conservation and marine ecology, Chapter 10 [APP-046] on commercial and recreational navigation, Chapter 11 [APP-047] on coastal protection, flood risk and drainage, Chapter 15 [APP-051] on cultural heritage and marine archaeology, and Chapter 19 [APP-055] on climate change. As a specific example, Chapter 7 of the ES [APP-043] considers the hydrodynamic impacts of three vessels on-berth with a LOA of 240 m, breadth of 35 m and draught of up to 8.0 m. Chapter 13 [APP-049] on air quality and Chapter 14 [APP-050] on noise and vibration also considered effects relating to the size and position of marine infrastructure and three vessels of the size specified operating from the berths. The other assessment chapters in the ES, namely Chapter 12 [APP-048] on ground conditions including land quality, Chapter 16 [APP-052] on socio-economics, Chapter 17 [APP-053] on traffic and transport and Chapter 18 [APP-054] on land use planning are not affected by the size and location of the marine infrastructure or the dimensions of the vessels that will operate from the proposed IERRT.
- 3.52 The Applicant's evidence and submissions demonstrate that a vessel up to the size of the design parameters specified has been appropriately considered within all relevant and necessary assessments, which conclude that the use of vessels up to this size would be appropriate and acceptable. On this basis, the requirements of the EIA Regulations have been fully satisfied. The assessment undertaken is in line with The Planning Inspectorate's Advice Note Nine and the 'Rochdale Envelope' approach.

Priority for IOT Vessels

- 3.53 In respect of Paragraph 63 and 64 the Applicant confirms that it would be business as usual for the Port of Immingham. Priority is given to passage plan vessels which are tidally restricted. The Applicant acknowledges the information provided by IOT Operators to support Action Point 5 from ISH5.

Simulations

- 3.54 In response to Paragraph 65, the Applicant has responded to engagement to the November Simulations previously and it disagrees with the IOT's suggestion that there was insufficient engagement. The Applicant has also explained the purpose of a design vessel, in so far as it is a design parameter envelope, not a constructed or designed vessel.
- 3.55 To avoid repetition of the Applicant's position that the IERRT simulations have been appropriately and robustly undertaken, the Applicant refers to its response to the IOT's D6 submissions **[REP7-024]** and the submissions made by Mr Parr at ISH5 **[REP7-020]**. This clearly sets out the appropriateness of the vessels used for the simulations, which is also described in Section 3 of the Applicant's Supplementary Navigation Information Report **[REP7-030]**.
- 3.56 In reference to run 30, the Applicant notes that it would certainly be unusual for IOT berthing to be undertaken in winds above their normal operational threshold. However, it should therefore be unsurprising that in such conditions it is demonstrated that managing the approaching vessel onto the berth in these situations will result in a 'hard' landing. This outcome is due to the strength and orientation of the wind and the nature of the vessels involved rather than any effects of the IERRT facility. That practice is clearly currently acceptable at IOT and the Applicant sees no reason why IOT Operators would need to amend their operational guidance after the construction of IERRT.
- 3.57 In Paragraph 68, IOT Operators state that operating in conditions of gusting above 40mph (35 knots) is deemed to be commonplace. It should be noted that these conditions above 40mph are not commonplace, and according to the Applicant's statistical analysis of windspeeds at Pol may occur once or twice a year (at 10m Above Mean Sea Level). The Applicant notes the IOT Operator's reference to their SMS but could not locate this.
- 3.58 In Paragraph 69, simulations presented in **[AS-071]** and in the December 2023 Simulation Report (document reference 10.2.90 submitted at Deadline 8) have shown that reasonable alternative positions can be taken by masters and PECS which enable them to operate at the IOT berths without using all of the additional space that currently exists. Clearly there will need to be some training and revalidation for pilots and PECS after the construction of IERRT Development but that is unsurprising and standard.
- 3.59 In response to Paragraph 70, the simulations have taken into account the blocking and diverting effect of the flows described. Special attention has been given to the point in time just after low water when this effect is most noticeable. Additional modelling taking into account larger pontoons has now been undertaken and demonstrated to IOT, Navigation to and from IOT 8 is unaffected by the change. This is reported in the Applicant's D8 submissions of the updated tidal modelling report (document reference 10.2.75) and 13/14 December navigational simulations report (document reference 10.2.90).
- 3.60 Moreover it is worth noting that due to the general vagaries of the LW slack flow regime at IOT, it is existing practice to wait until the flood is in full flow. Therefore, operations at IOT 8 and 6 do not commence until 60 to 90 minutes

after LW Immingham, at a time when modelling shows there is no significant effect from the blockage in any event. HRW consider that the overriding factor regarding the blockage at the berths will be the pontoons during the flood and vessels berthed at IERRT will provide minimal additional disturbance to the flows due to a combination of their better hydrodynamic profile and the additional under keel clearance that is provided by the dredged berthing box.

- 3.61 In response to paragraph 71, the Applicant will ensure that, unlike a mooring buoy, IEERT cannot drift out of position. The simulations on 13 and 14 December 2023, examined both arrival and departure of IOT vessels. Equivalence should not be given between an errant mooring buoy and a fixed piece of marine berthing infrastructure.
- 3.62 In response to paragraph 72, HR Wallingford's experience is that normally a pilot or master discuss 1 to 2 beam widths as an appropriate 'rule of thumb'. When assessing HR Wallingford routinely use 1 beam width as the clear delineator that a manoeuvre requires further analysis or investigation. However, the data should be considered in relation to the prevailing circumstances and conditions. In this example it would be appropriate for the vessel approaching IOT to be up to one beam away from the RoRo vessel berthed on IERRT 1 in a SW wind regime. Conversely, a more conservative approach using the available space to the north would be appropriate in a NE regime. These approaches have been demonstrated in simulations. They can readily be incorporated in training and harbour guidance in due course.
- 3.63 In reference to Paragraph 74, the annotated tidal flows presented by the IOT Operators are not based on modelling and overplay the effect of the blockage. The Applicant's updated tidal modelling report submitted at Deadline 8 (document reference 10.2.75) provides further detail on the effect of the IERRT infrastructure on the navigation channel between IERRT and IOT and concludes that there is no material change.
- 3.64 In paragraph 75, additional simulations undertaken at HRW on 13 and 14 December 2023 have taken this into consideration. A simulation report has been submitted by the Applicant at Deadline 8 (document reference 10.2.90).
- 3.65 The approaches to IOT 8 considered approaches using Wisby Teak in peak and mean spring tides considering 1 hr after LW and LW +3 flows and 8 runs were successfully completed. 1 run was considered marginal in 27.5kt wind simulating the exceptional case where wind increases above 30mph (26knots) during the final 2 hours of the approach to the berth. The ability to control the vessel in the final parts of this approach was due to the environment in relation to IOT berth 8 and is unchanged from the same situation in the present day port layout. The flows (as modelled) modified by the presence of the IERRT pontoon do not adversely change the ability of vessels to operate at the IOT 8 compared with existing operations, noting that adaptation of the piloting strategy will be required to reflect the existence of the IERRT infrastructure.

- 3.66 In conclusion, and in response to Paragraph 76, the tidal flow model has been reviewed in relation to the latest IERRT infrastructure design and the Applicant has submitted a report produced by HR Wallingford at D8 (document reference 10.2.75). Sensitivity simulations to the IOT berths were undertaken during the 13 and 14 December 2023 simulations which the IOT Operators attended, and a simulation report (document reference 10.2.90) has been submitted at Deadline 8. The operations of bunker barges were considered in stakeholder demonstrations in November 2022 **[AS024]**.

Future Use of the IERRT

- 3.67 In response to Paragraph 77, the Applicant contests this unfounded assertion, as the Applicant has never stated that Pure Car Carriers (PCCs) would use the IERRT. Any such reference at ISH3 is not recalled by the Applicant. Indeed, the Applicant has sought to understand where this comment has originated, and has reviewed the written record, and can confirm that there are no references to PCCs in either the Applicant's or IOT's summary of oral submissions made at ISH3 **[REP4-009 & REP4-034]**, nor in any transcript of the hearing. The only reference to PCCs in any of the Issue Specific Hearings was made during ISH6 when the Harbour Master, Humber (as opposed to the Applicant) referred to PCCs but only then to use them as an example to demonstrate that operational controls are vessel-specific (as such vessels would require different towage and tidal requirements to the vessels that would be using the IERRT facility). This is evidenced in the Written Summary of the Harbour Master, Humber's Oral Submissions at ISH6 **[REP7-068]**. There was nothing to indicate during this discussion that PCCs would be used at the IERRT in the future. Indeed, in the Applicant's Response to ExQ1 Submissions by Interested Parties **[REP3-016]**, it was confirmed at NS.1.19 that it is not the Applicant's intention to use the IERRT for PCCs and that the infrastructure has, as a result, not been specifically designed or tested to accommodate this vessel type. Indeed, this position was acknowledged by DFDS in their Deadline 4 Submissions **[REP4-024]**.

Senior Safety Forum Meeting

- 3.68 In Paragraph 78 and 79, IOT raise points related to the senior stakeholder forum and the assumed reasons for this meeting not taking place. The Applicant's response is provided in its response to ISH5 Action Point 17 **[REP7-020]**.

Action points from ISH5 and ISH6

- 3.69 Paragraph 80 provides IOT comments on the action points arising from ISH5 and 6. In response to these the Applicant notes:

- 3.70 ISH5-5: The Applicant's notes the provision of information from IOT and refers to the Applicant's response to this Action Point.
- 3.71 ISH5-11: In practice, during the construction and operational periods, the tidally restricted vessels and tankers transiting to and from the IOT would continue to be given priority by Vessel Traffic Services in conjunction with the Harbour Master Humber and the Dock Master Immingham. This has been made clear by the Humber Harbour Master's submissions [**REP4-032, REP7-064**]. It would not be appropriate, however, for the protective provision to attempt to contradict these statutory jurisdictions, or for the Applicant to be required to provide a protective provision which it has no power to undertake – that power falling to the aforementioned statutory authorities. The Applicant has, therefore, made amendments to IOT Operator's draft protective provisions in [**REP7-029**].
- 3.72 ISH5-16: The tidal modelling report was discussed at simulations on 13/ 14 December 2023 with IOT Operators. The Applicant has subsequently sought to address any queries in a revision to the modelling report. This was sent to IOT on 5 January 2024 and is being submitted to the Examining Authority as part of this submission (document reference 10.2.75).

Conclusions on acceptability of development

- 3.73 In response to Paragraph 81 to 84, the Applicant reasserts its position in respect of the impact protection measures as set out at the relevant paragraphs above, and in its responses confirming that the requirements of the EIA Regulations have been fully satisfied, the assessment undertaken is in line with the Planning Inspectorate's Advice Note Nine and the 'Rochdale Envelope' approach and the Applicant therefore refutes the assertion that the DCO must be refused on these grounds.
- 3.74 In response to Paragraph 85, the Applicant believes that it would not be appropriate for a requirement to be incorporated in the DCO which limits the size of vessels able to use the IERRT Development to the Stena T Class. The Applicant has also provided a full response to DFDS's submissions in this respect.

4 Appendix 1 - IOT Operators' preferred protective provisions and justification

- 4.1 The Applicant has provided a full response on the IOT Operators' protective provisions, including justification for its amendments, in Table 1 of Appendix 1 to the Applicant's Response to the ExA's Schedule of Proposed Changes to the dDCO submitted at Deadline 7 [**REP7-029**], whilst also providing high level comments in [**AS-044**]. The protections afforded in the Applicant's draft are adequate and proportionate in light of the existing legal relationships between the parties.

5 Appendix 2 – Statement of Common Ground and Letters to ABP

- 5.1 The Applicant notes the letter from APT on the 4th December 2023, alongside the letter from APT on the 20th December 2023. Both letters have been addressed in response by Applicant on the 5th January 2023.

5.2 The draft Statement of Common Ground received from IOT Operators on 4 December was submitted by the Applicant at Deadline 7 **[REP7-004]**. This has now been amended by the Applicant in light of NS.4.04 in the Examining Authority's fourth set of written questions **[PD-022]** and has been provided to IOT Operators at Deadline 8.

6 **Appendix 4 - IOT Operators, IOT COMAH Report**

6.1 The Applicant has responded to topics related to IOT's COMAH report in the Applicant's response to the Examining Authorities fourth round of questions (document reference 10.2.81). These are addressed in BGC.4.03 and BGC.4.04.

7 **Appendix 7 - IOT Operators Oral Summary of Submissions at ISH5 and ISH6 [REP7-070]**

ISSUE SPECIFIC HEARING 5

7.1 In respect of Paragraphs 1.1 to 1.4, the Applicant submitted information regarding the cost benefit analysis undertaken at Deadline 7 - see Cost Benefit Analysis in Annex F of the updated version of the NRA **[REP7-011]** and Section 4 of the Supplementary Navigation Information Report **[REP7-030]**.

7.2 In respect of Paragraph 1.5, clarification regarding the separation of the Applicant and the Harbour Master Humber ("HMH") has been provided in the joint response prepared by the Applicant and HMH to ISH5 Action Point 6 **[REP7-063]** (see section 2) submitted at Deadline 7. In addition, the Applicant refers to the note which deals with the various bodies and persons as well as how they interact **[REP1-014]**.

In response to Paragraph 1.6, the Applicant has set out its position regarding its compliance with the Rochdale Envelope approach and the assessments undertaken above within this document under the heading '**Inadequacy of EIA**'.

ISSUE SPECIFIC HEARING 6

7.1 In response to the matters pertaining to the discussion regarding COMAH, the Applicant has addressed COMAH in the Applicant's response to EXQ4 (BGC.4.06) submitted at Deadline 8 (document reference 10.2.81).

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
IOT	Immingham Oil 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