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Our Ref  
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Date  
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Dear Ms Robbins

**DFDS submission for Deadline 10 - Immingham Eastern Ro-Ro Terminal DCO**

1. We act for DFDS Seaways plc (DFDS) who, as an Interested Party, have been assigned the reference IMRO-AFP007.
2. DFDS has already submitted a final statement of case [[REP9-026](#)] but wishes to make a brief response to the Applicant's response to its D8 submissions [[REP9-012](#)] and Stena Line's position statement [[REP9-029](#)] which are as follows.

**Applicant response to DFDS D8 submissions [[REP9-012](#)]**

3. The Applicant's response states at paragraph 5.8 'The submitted Addendum Transport Assessment clearly sets out in 15 pages the principal updates to the assessment. As the Applicant has made very clear, **all of the changes are as a result of queries raised by IPs.**' (emphasis added). This wording is typical of the Applicant's desire to avoid admitting it has made any errors; the reason for the extensive TA addendum is to correct material errors in the original, principally the PCU error, pointed out by DFDS and Interested Parties.
4. The Applicant further claims that DFDS' and their approaches to terminal capacity reach the same conclusions (paragraph 5.36) which is not the case; DFDS have long maintained and demonstrated that the terminal will not have the capacity to handle the new facility. The Applicant has indicated that operational practices associated with the terminal are commercially sensitive and have refused to undertake an enhanced terminal capacity assessment, despite evidence from the interested parties identifying several issues with what has been provided. This refusal to undertake a detailed assessment means that the Applicant's high-level assessment fails to account for the operational complexities of the terminal.
5. On navigation, the Applicant refuses to admit that the NRA has not assessed Ro-Pax vessels by raising a threadbare argument that it mentions the word 'people', once (paragraphs 5.97 – 5.99),

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and by classifying multiple fatalities as tolerable if they are ‘unlikely’ suggests risks are being underplayed. Once again, rather than acknowledging this clear omission and seeking to address it, the Applicant has instead chosen to denigrate the Interested Parties’ concerns, characterising them as “throw away” and “unsubstantiated” in an attempt to deflect and downplay its own failing. It is alarming that the Applicant should consider the failure to risk assess the safe departure of up to one hundred (100) members of the public a day through the heavily industrial Port of Immingham to be a “throw away” issue.

6. In another example it refuses to admit that the Harbour Master agrees that the tidal direction north of IOT used in the simulations was incorrect, as DFDS have been maintaining, when this is obviously the case (although this is no longer mentioned in the latest submission, it is covered in comments on DFDS’ D7 submissions [[REP8-023](#)] at paragraphs 22.2 and 22.3). As mentioned in DFDS’ comments on D8 submissions [[REP9-025](#)] the newly released 2024 Pilot’s Handbook published by the Applicant/HMH is consistent with the 2017 version of the Handbook and confirms DFDS’ understanding of the tidal direction. The Applicant has long sought to trivialise DFDS’ concerns on this point while simultaneously publishing updated guidance corroborating DFDS’ position on this important point. DFDS would have cross-examined the Applicant and Harbour Master on the issues set out in these paragraphs in order to test their case had it been given the opportunity.
7. This attitude and lack of candour goes to the heart of the Applicant’s development of the project, approach to engagement with interested parties, attitude to navigational safety and behaviour during the examination. Even when it is correcting errors it never admits that is what it is doing; in most cases it maintains tortuous lines of argument to avoid admitting it has made errors and launches attacks on those criticising it, which ironically includes two of its biggest Humber and ABP Group customers who have decades of combined experience and marine expertise operating at the Port of Immingham. Rather than proper engagement it continues to maintain that its assessment is robust in the face of cogent evidence to the contrary.
8. DFDS is not, as is alleged, making any criticism of local authorities, who have gone above and beyond the call of duty in reacting to materially different and voluminous quantities of information at a very late stage; no reasonable authority would be able to fully analyse that information in the time given them. Our point, simply, is that the timescales within which the authorities are being asked to digest and comment is wholly unreasonable for a development of such national significance, which alone provides a compelling case for why this DCO application should not proceed unless the Transport Assessment and Environment Statement is corrected, properly assessed, and impacts are appropriately mitigated.
9. Finally it is wrong of the Applicant to characterise DFDS’ position as driven by opposition to competition as it has repeatedly done. As DFDS has noted throughout the examination, the Stena operations planned for the IERRT are already operating on the Humber, so the construction of IERRT would do nothing to increase existing competition to DFDS. DFDS’ concerns have consistently been on safety grounds and from a navigational safety perspective align closely with those made of the IOT Operators, another key customer of the Applicant, who cannot be said to be making any competitive gain by expressing them.
10. This project should not go ahead in its current form because it is dangerous and the Applicant’s assessment and mitigation of its risks have been completely inadequate.

**Stena Line Position Statement [REP9-029]**

11. Stena Line are an existing operator on the Humber and from CLdN's closing statement have room to expand at Killingholme subject to agreement of commercial terms, to which DFDS would have no objection as no navigational safety issues would arise.
12. The letter from Stena provides interesting background on the Stena Group but does not provide any comment on the merits or failings of the application, the examination process or DFDS' and other Interested Parties' critical safety concerns regarding the application. Instead, it seems to be a high-level appeal from Stena to explain why the IERRT application is important to it but without addressing any of the Applicant's errors and omissions which have required so much time and effort on the part of Interested Parties to examine and highlight.
13. DFDS has never questioned the need for additional Ro-Ro capacity on the Humber; its concerns are purely about the navigational safety of locating the IERRT in close proximity to other port facilities, particularly the IOT, and the knock-on effects on vessel and highway congestion. The suggestion, towards the end of section 6, that without Stena being able to operate from Immingham would only leave DFDS and CLdN operating out of the Humber is incorrect as P&O Ferries operate a regular Ro-Pax service between Hull and Rotterdam and have done so for many years. Furthermore, DFDS has no doubt that another competitor would step in to fill the gap where there is the need for Ro-Ro capacity on the Humber.
14. Stena's Position Statement confirms Stena's intention to use larger Ro-Ro vessels at the IERRT, both in the last paragraph of section 1 and in section 3. The Applicant's position of T-class vessels being the only ones known to be intended to operate at IERRT (paragraph 5.50 of [REP9-012]) is therefore not strictly correct.
15. Stena Line cites Rotterdam as an example of equivalent proximities between Ro-Ro terminals and sensitive liquid bulk/oil and chemical facilities. There are many reasons why Rotterdam is not a suitable comparator, not least by being more than 20 times the size of Immingham it has been able to create and isolate different facilities in a much more structured way than is possible at Immingham, which is now very constrained for any new riverside berths. Rotterdam also has a much more limited tidal range than Immingham and consequently a much less challenging navigational environment. Rotterdam does not have Ro-Ro jetties in close proximity to liquid bulk berths. Instead, terminals at Rotterdam are generally built behind solid quay walls which therefore act as a solid barrier providing impact protection against uncontrolled or stray vessels and avoiding the presence of liquid bulk pipelines running along unprotected and vulnerable jetty structures in close proximity to berthing vessels such as would be the case with IERRT and IOT at the Port of Immingham. As with the Applicant's examples, a vessel merely passing a liquid bulk facility is no comparison with it trying to berth and unberth very close to such a facility. Comparing Immingham with Rotterdam is not credible; the development layout and navigational environment of Immingham are unique and DFDS maintains its position that constructing a Ro-Ro facility within a hundred metres of the IOT and behind a number of its operational berths would be unprecedented in the UK port industry.



Yours sincerely

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**BDB Pitmans LLP**

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