

IMMINGHAM EASTERN RO-RO TERMINAL DCO APPLICATION

PINS REFERENCE TR030007

COMMENTS ON DEADLINE 7 SUBMISSIONS BY DFDS

Introduction

1. This document consists of comments on various documents submitted at Deadline 7 (11 December 2023) for the above application. The documents commented upon are set out below. Not including documents relating to the examination, the Applicant has submitted 2,749 pages of replacement or supplementary application documents with little explanation as to what has changed and little more than a month left in the examination. This makes it very difficult for IPs – and presumably the ExA – to assess the new material.

- a. Statement of Common Ground between Associated British Ports and North East Lincolnshire Council [\[REP7-005\]](#)
- b. Revised NRA [\[REP7-012\]](#) Tracked
- c. Supplementary Navigation Information Report [\[REP7-030\]](#)
- d. Navigation Simulation Study December 2021 [\[REP7-033\]](#) Part 1 [\[REP7-034\]](#) Part 2
- e. Transport Assessment Addendum [\[REP7-013\]](#)
- f. Applicant's summary of ISH5 [\[REP7-020\]](#)
- g. Applicant's summary of ISH6 [\[REP7-021\]](#)
- h. Applicant's response to the ExQ3 [\[REP7-022\]](#)
- i. Response to IOTT's D6 submissions [\[REP7-024\]](#); reply to IOT letters [\[REP7-025\]](#)
- j. Response to Applicants Response to DFDS's Deadline 6 Submissions [\[REP7-026\]](#)
- k. Response to ExA's proposed changes to dDCO [\[REP7-029\]](#)
- l. Response to Operational Freight Management Plan (FMP) [\[REP7-036\]](#)
- m. ISH5- Action Point 5 – Joint Note- Separation of functions [\[REP7-066\]](#)
- n. Stena Line – Post hearing submissions [\[REP7-072\]](#)
- o. Statement of Common Ground Tracker [\[REP7-016\]](#)
- p. Protective Provisions Tracker [\[REP7-018\]](#)

Statement of Common Ground between Associated British Ports and North East Lincolnshire Council (NELC) [REP7-005]

1. The previous Statement of Common Ground between the Applicant and NELC submitted at Deadline 6 (REP6-019) identified that *'NELC is aware of the ongoing dialogue between the applicant and IPs on the traffic modelling (particularly those raised by DFDS in REP4-025) and notes the updated submissions provided by the applicant at D5 (REP5- 027 and REP5-028). It is understood that discussions are ongoing between the applicant and IPs in relation to sensitivity testing and NELC await further analysis from the parties reviewing the matter.'*
2. This further analysis has been submitted as part of deadline 7 submissions by DFDS in REP7-045 and REP7-057, and the Applicant in their Addendum Transport Assessment (REP7-013) which is still subject to further review. Items which are still not agreed include but are not limited to the lack of evidence and controls to enforce the 85%/15% East/ West gate assignment, the misleading use of the Stena profile for the AM peak hour sensitivity test, the approach to and lack of mitigation, and the lack of controls within the Operational Freight Management Plan (REP7-036).
3. Notwithstanding the above, the current SoCG submitted at Deadline 7 now identifies that *'NELC have reviewed the updated reports and confirms they agree the assessments provided and the conclusions arising. Those conclusions confirm that no specific highway safety or capacity mitigation (other than at East Gate) is required as a result of the proposals.'* It is not clear what updated reports NELC have reviewed and when, or what meetings have taken place or correspondence provided to explain how this conclusion was reached and justify why it is deemed appropriate that no specific highway safety or capacity mitigation is provided. DFDS's view is that this conclusion is premature in the context of Deadline 7 submissions and specifically REP7-057.
4. As per prior comments issued by DFDS in REP6-038, paragraphs 5 and 6, the latest communications with the interested parties (refer Table 2.1 or REP7-005) is recorded as being prior to the 2nd of November 2023 and make no mention of the revised Technical Note 2 (REP5-034). As per responses from DFDS in REP6-038, paragraphs 72 and 93, there are a number of errors contained within REP5-034 which once addressed identify several junctions which exceed their practical capacity, and in DFDS view require mitigation.
5. In addition, the recently issued sensitivity analysis [REP7-013] as issued at Deadline 7, does not fully detail the errors that have been modified from the prior Transport Assessment [AS-008] and thus does not provide sufficient transparency of the changes made within the addendum. As this information has only recently been prepared and provided to interested parties in December, all communications with NELC have predated the publication of this information.
6. It is not clear whether the appropriate and most recently updated information, with necessary corrections made, have been issued, discussed and agreed with NELC. It is DFDS position that NELC, along with National Highways and North Lincolnshire Council should be appropriately and fully consulted in respect to the Addendum Transport Assessment (REP7-013), the Operational Freight Management Plan (REP7-036) and the proposed mitigations identified by DFDS which are provided in REP7-057.

Revised NRA (tracked) [REP7-012]

7. It is not clear how 'baseline NRA for Port of Immingham has been factored into the assessment' as required by ISH5 Action Point 3 [EV10-016] in the rewriting of paragraphs 9.7 and 9.8. Indeed, section 9 has been merged with section 8 and it is not clear where the replacement text now is.
8. A new Table 32 has been added setting out potential controls in the left-hand column and ones that are to be applied in the right. DFDS have the same concerns as the original NRA in that it is not clear which of the latter are required or how they are guaranteed by the DCO. Many of them are also vaguely expressed, such as tidal limits being listed separately four times in Project Specific Adaptive Procedure, and separately under Tidal Restrictions, Specific Berthing Criteria for Each of the Three Berths and Berth Specific Weather Parameters (which would logically include combined tidal effects). Others would not appear to be additional controls but measures that would be taken anyway, i.e. embedded controls ('personnel management', 'control of contractors through management', 'harbour master consent of works').
9. The revised NRA has not alleviated any of the previous concerns that DFDS has over the navigational safety of the IERRT or the adequacy of the Applicant's assessment of risk. DFDS's primary concerns around the navigational safety remain, principally for contact with the IOT and the Eastern Jetty infrastructure and berthed vessels there, are being miscomprehended and the level of required risk controls are therefore being underestimated. The Applicant's revised NRA still does not make any reference to the potential for up to 100 passengers which is a considerable factor in the assessment of risk in this situation.
10. The only notable change to the Applicant's approach to risk assessment is the reversal of the order in which tolerability and ALARP are assessed (paragraph 1.4.16) – previously this had been firstly to ALARP and then to assess tolerability, but it now assesses tolerability first then to determine if this is ALARP. This is small step in the right direction, but does not change the outcomes of the Applicant's assessment. Strangely, this updated order of approach (1: Tolerability, and 2: ALARP) is at odds with the order in which the Cost Benefit Analysis Workshop was carried out, as shown in Annex F (agenda item 5h before item 7j), which agrees future risk controls before discussing tolerability.
11. DFDS acknowledge the updated parts of the text in relation to the proposed changes such as the proposed impact protection at the IOT Finger Pier, but the Applicant has also chosen to update text in a more favourable light in relation to their HAZID workshop 3 (August 2022) and stakeholder engagement: '~~This ensured that all risk assessments were covered, with allowance for stakeholders to review and raise any comment on the whole assessment set~~ fully captured through the engagement process' (paragraph 7.1.8). DFDS continue to raise the same concerns and do not agree that the assessment of risk has been '*fully captured though the engagement process*' at all. DFDS experienced then, and continue to experience, a lack of genuine interest in engagement on navigational safety matters. Furthermore, DFDS were not aware at the August 2022 HAZID workshop that the proposal included RoPax vessel with 100 passengers and can see no evidence of such included in the draft HazLog circulated by the Applicant on 2 September 2022, after the August 2022 HAZID.

12. The Applicant's additional information on the Cost Benefit Analysis (Section 8.8) and the Cost Benefit Analysis Workshop held of 6 October 2022 (Annex F) are welcome, but they still do not explain the rationale behind the decisions made.
13. Furthermore, as mentioned above, the order in which the workshop was facilitated appears to discuss and decide on future risk control measures and then to determine the position on tolerability. Tolerability must be determined at the outset of the assessment as tolerability needs to align with the methodology used to assess the risk in the first place. It is not reliable to first assess risk, then decide risk controls, then determine the position on tolerability.
14. Within the *Review of Controls and future Risk Controls* section of the table (page 185-187), the Applicant states that the '*...impact protection measures for the IOT trunkway required further consideration as a potential future control...*' but the estimated cost of this risk control is not listed and therefore presumably not discussed in the meeting. It is not clear how any assessment of the cost vs benefit could have been made at this meeting and why this risk control has been deemed not required given the clear benefit that it provides and the subsequent determination by the separate IOT and DFDS shadow NRA's as a required risk control to reduce risk to ALARP.
15. For the relocation of the finger pier risk control, the Applicant's estimate of the cost has been shown as c. £35-40 million. However, the quantification (or attempt thereof) of the benefit provided by this risk control has not been explored. Instead the Applicant has assessed this against the capital cost of the project itself. Yet despite this, in paragraph 8.8.5, the Applicant states that '*Where the cost of a further applicable measure was evaluated to be disproportionate to the benefit realised as a result of its implementation, the further applicable control was not carried forward and as such did not become an applied measure.*' DFDS contend that it is irrelevant how much or little the capital project costs with respect to risk reduction and this type of assessment is purely commercially driven and related to the viability of the project. This approach is also repeated within the Supplementary Navigation Information Report [REP7-030], discussed below.

Supplementary Navigation Information Report [REP7-030]

16. In paragraph 2.1 the Applicant states that '*ABP has created an independent Board, known as the Harbour Authority and Safety Board, ("HASB").*' DFDS would question the use of the word 'independent' in this respect and suggest that whilst it may be a 'separate' board that meets outside of the commercial board meetings the fact that it has an almost identical composition to that of the ABP Commercial Board it cannot be considered as truly 'independent' since no oversight from outside of ABP are ever present. If the company was to be subject to an 'independent audit' they would not use their own financial officer, simply wearing a different cap, to do so.
17. In paragraph 3.10, the Applicant notes that the Design Vessel does not exist and has merely been provided to '*establish the maximum extents of marine infrastructure*'. Having noted the Design Vessel does not actually exist, the Applicant then notes in paragraph 3.13 that the simulations result in a conclusion that '*The proposed IERRT infrastructure will be acceptable to operate a 240 m Ro-Ro ferry safely*', though the length of vessel is clearly only one parameter of the Design Vessel. However, given the lack of simulation of a vessel of this size to berth 3 this seems a wholly unsupported conclusion to draw. When this is combined with the failed manoeuvres that the Applicant deemed successful and the lack of modelling of the eastern jetty tug barge this assertion seems wholly inappropriate.
18. In paragraph 3.15 the Applicant deems the anchor trials a success. However, these trials were dependent on the vessel being already in a good position, head to tide and with a crew that was simply waiting for the expected breakdown. These circumstances are simply not representative of a worst case scenario nor realistic in their design.
19. The IERRT is ultimately designed for a larger vessel that has the potential to operate at the terminal throughout the IERRT's planned lifetime. In paragraph 3.23 the Applicant states explicitly that the intention is not to operate a vessel the size of the design vessel at the IERRT, although if this is indeed the case, DFDS do not understand the Applicant's need to design a terminal, including oversizing of construction and dredging requirements, for a vessel that will not operate there. The trend in RoRo shipping is ever larger vessels and we believe that it is hard to see why Stena Line would be the exception to this trend. Practicality indicates that if the terminal is designed for vessel the size of the design vessel, then one would need to ensure the design vessel can safely operate at it. However, if as claimed at paragraph 3.23 the design of the facility has been undertaken to provide a robust envelope for EIA rather than for a future vessel to use the facility, then the DCO should include a restriction to those vessels that have been fully and safely assessed i.e. the Stena T class only.
20. In paragraph 3.25, the Applicant contends that the simulation of the "model adopted" (presumably the Stena Transit class stated in paragraph 3.21 above it) provides '*high level of confidence whilst applying conservatism*'; however, DFDS do not agree that there is any conservatism at all in the simulation of the Stena T class when the DCO and terminal has the design capability to allow larger, heavier and less manoeuvrable vessels to operate there.
21. In paragraph 3.32 the Applicant states that a single tug was demonstrated to be a sufficient enhanced control rather than impact protection to mitigate a risk of allision. This does not however address the issue of a failure of the tug, her line or the crews ability to make such a tug fast. There are still multiple points of failure that only adequate impact protection can mitigate.

22. In paragraph 3.35, the Applicant states that the level of detail of the assessment undertaken for the IERRT goes beyond what would typically be expected for an equivalent port development. DFDS however, disagree with this statement and maintain that the level of detail needs to be proportionate to the risk and impacts associated with the development. Furthermore, various simulations undertaken during the examination period have only been completed due to errors, updates or lack of detail in the earlier simulations – such as incorrect tidal flows, design changes and lack of simulations to Berth 3. The result is that the assessments undertaken still have not assessed the Design Vessel, and there is no confidence that operation of this sized vessel would not give rise to catastrophic consequences at the IOT or the Eastern Jetty. Furthermore DFDS remain concerned that the Applicant will berth dedicated car carriers that have not been simulated and are significantly less manoeuvrable at the IERRT, and have therefore requested a new requirement be included in the DCO preventing such vessels being used until such have been assessed as safe to operate from those berths.
23. In section 4, the Applicant discusses the Navigation Risk Review and DFDS note that many of the points re-iterated by the Applicant have previously been addressed in DFDS's responses to Deadline 6 documents submitted at Deadline 7 documents **[REP7-045]**.
24. Importantly, one of the fundamental concerns that DFDS continues to have is the lack of consideration the Applicant has given to passengers on board the IERRT vessel. Just like the NRA and the revised NRA there is still no reference within this document to passengers, or the vessels operating to the IERRT as Ro-Pax vessels (outside of the appendices of the IOT NRA and the DFDS NRA). In paragraph 4.11, references to the vessel are still identified as "Ro-Ro" only and there is no discussion on the elevated risk associated with drivers or members of the open public. The Applicant's direct comparison of the risk profile between its assessment and the separate assessments of the IOT and DFDS are therefore fundamentally flawed and the significance of an incident to the IOT trunkway, IOT finger pier or Eastern Jetty tanker are significantly higher in the IOT and DFDS NRAs than the Applicant's.
25. Paragraphs 4.17 and 4.24 (re allision with the IOT trunkway and allision with the IOT finger pier) conclude that the risk of allision with IOT trunkway / IOT finger pier is tolerable in the Applicant's NRA because for such an allision to take place there would need to be a number of causal factors all occurring at the same time and each of which the Applicant notes '*are very unlikely to occur in a way that the incident itself would arise*'. As a result, the Applicant concludes that where lots of '*very unlikely*' circumstances need to come together at the same time, the risk of this is extremely low and therefore tolerable. The rationale for this makes some sense but when you consider the causal factors which the Applicant states are '*very unlikely to occur*', they include: adverse weather conditions; restricted visibility; incorrect assessment of tidal flow; human error/fatigue; poor situational awareness - none of which seem to DFDS to be '*very unlikely to occur*'. Inevitably, this Report seeks to downplay the risks of operation.
26. In Paragraph 4.18 the Applicant notes that the IERRT will provide protection to the IOT trunkway thereby reducing the risk of allisions at the Port - a risk currently considered tolerable by IOT Operators. If IOT do consider risk of allision currently to be tolerable DFDS assume this is only because the only vessels operating near to the IOT and its trunkway are presumably IOT vessels. That is a completely different risk from putting in a new facility behind IOT berths and

adjacent to the trunkway and then running daily scheduled services with tug assistance to it. If the implication the Applicant is hoping to make is that the risk of allision with the IOT trunkway today is considered tolerable then the introduction of the IERRT as a part barrier to the IOT trunkway can only be a good thing then such rationale is clearly lacking in any credibility.

27. In paragraphs 4.30 and 4.32 in reference to the eastern jetty the Applicant agrees with the additional control measures suggested by the DFDS NRA **[REP2-043]** of mandatory tug provision to mitigate an allision between an IERRT vessel and a vessel moored on the eastern jetty. DFDS assert that given the significant danger posed by the nature of cargoes transferred at this berth this requirement should be secured as part of the DCO.
28. In paragraphs 4.35 - 4.43 the Applicant seeks to demonstrate adequate Cost Benefit Analysis (CBA) of mitigation has been undertaken. However, DFDS remain of the opinion that no evidence has been provided to indicate an appropriate CBA of mitigation has been undertaken by the Applicant, in particular no CBA for the IOT impact protection measures, prior to the HASB meeting of 12 December 2022. Therefore the HASB had no foundation on which to deem the risks were adequately and appropriately mitigated.
29. Paragraph 4.47 refers to proposed operational control measures including the provision for a minimum of one tug forward on all arrivals to Berth 1, but this is no longer proposed to be secured by the DCO, as was originally set out in the proposed change request documentation. If this control is to be relied upon as a benefit / reduction of an adverse impact then it should be secured.
30. The Applicant concludes in paragraphs 4.46 to 4.52 that cost benefit analysis shows that imposition of control measures, in particular use of tugs, is far cheaper than installing permanent impact protection measures to protect the IOT, that installing impact protection is a '*rather narrow benefit*' to protecting the IOT. It is perhaps understandable that the Applicant is reluctant to commit to spending what is needed to ensure full and permanent protection of the IOT trunkway and finger pier, and DFDS suspect that the cost of such protection has been found by the Applicant to be far higher than it ever predicted – although if the Applicant had sought to engage with this issue at the right time in this process this could have been factored into the Application much earlier than it has been. The fact that proper permanent protection of the IOT is expensive should not result in a conclusion that other control measures, which can never be failsafe, are an acceptable solution just because they are a lot less expensive unless it can be demonstrated beyond reasonable doubt that they will provide a similar level of protection.
31. At paragraph 4.51 there is more clarity on the conditions for constructing the impact protection and what it would be if the proposed applied controls that limit vessel approach speeds were to be removed. More clarity is needed on this, would be all such controls being removed or just some of them? What if the Harbour Master recommended the impact protection measures be constructed even if the applied controls were still in place (e.g. because of an allision or near miss), does this text mean that such a request would be refused? More clarity is needed on the trigger for the impact control measures (although DFDS' case is that they should be implemented from the start and replaced if damaged).
32. Similar to the points raised above in relation to the Revised NRA, the entire CBA section of this document fails to provide any quantification of the benefit of adopting the various risk controls. The

example of the relocation of the finger pier can be seen in paragraph 4.55 and is estimated to cost £35 million, yet in paragraph 4.57 the Applicant states that “*the relocation of the IOT finger pier far outweighs the benefits*” without any assessment of the benefits of the reduction or elimination of the cost of the consequences.

33. Again, and similar to the Revised NRA, the Applicant has determined that the “...*cost of the additional impact protection structure has been estimated at between £10 million to £15 million, or approximately 10% of the overall currently projected capital cost of the project.*” – yet, as discussed in the comments on the Revised NRA, the cost of the mitigation measure has been compared to the capital cost of the project and not to the benefit that the mitigation measure provides. It is not clear how the decision had been made previously, or continues to be made, on what constitutes the required level of risk control to meet ALARP. This omission is also clearly observable in Table 4 which identifies the *Control*, the *Relevant NRA risk* (actually being the hazard, not the risk), the *Control Cost* and the *Environmental Impact*, but not the *Benefit/s*.
34. This Report refers to the Change Application being accepted on 6 December 2023 and was approved by the HASB on 8 December, the working day before Deadline 7 when it was submitted to the examination. It is not clear how long in advance the HASB had the report to be able to consider it properly but it would appear to be less than 48 hours.
35. DFDS note that the HASB meeting held on 20 November 2023 was provided with what appears to be a somewhat more balanced paper and project documentation than had been the case for the December 2022 HASB meeting. However, DFDS note that the NRA documents which were circulated to HASB members do not include details of some of the material concerns raised by DFDS and other interested parties, including, for example, concerns over tidal flow direction used in navigation simulations and broader concerns over the way in which such navigation simulations have been conducted and the vessels used in those simulations or indeed the lack of any risk assessment related to passengers. It, therefore, remains the case that on the documentation submitted, the HASB has not been provided with full details of interested parties’ concerns, the minutes of the recent HASB meetings do not reflect all of the material concerns raised and therefore the HASB continues to take decisions on partial evidence.

Navigation Simulation Study December 2021 [REP7-033] Part 1 [REP7-034] Part 2

36. In the summary on page 3 of Part 1, HR Wallingford state that the proposed infrastructure is '*acceptable to operate a 240m RoRo vessel*' – this has never been tested or simulated and so is not a conclusion it could reasonably and properly have reached.
37. The overall summary should be noted in relation to the need for impact protection measures for the IOT prior to any construction taking place, and a decision on the need for impact protection measures should not to be left to either HMH or the Applicant's discretion – '*it should be noted that manoeuvring to and from the new infrastructure is challenging, requiring precise positing of the vessel, tugs and their attitude to tidal flow and the wind. Mitigating the inherent risk in the manoeuvring operations will require a robust training solution to be in place*'. Underlining has been added by DFDS for emphasis and shows that this is a challenging facility from a navigational perspective with inherent risk considered to be present according to HR Wallingford. Also see page 28 – '*It became clear early in the simulation session that manoeuvring from the main navigation fairway to the approaches to Immingham Harbour, such that the vessel is correctly aligned to make a controlled approach to the new infrastructure, is challenging*' and pages 38 and 39 in the section General Comments – '*Operating to and from the new infrastructure will be challenging in the upper end of environmental conditions regularly experienced on the River Humber, not least the strong tidal flows.*' '*The nature of the new infrastructure and the associated manoeuvres are such that failure to adequately address training and operating procedures might lead to serious incidents*'. This clearly supports the concerns of DFDS and IOT over the navigational safety risks posed by the Proposed Development. The very sensitive location proposed for IERRT immediately adjacent to the IOT trunkway and behind existing IOT operational berths means that this is not just another riverside port development which can be treated in the same way as if it was not close to such a nationally significant and sensitive facility.
38. HR Wallingford also identify in its summary on page 5 and conclusions on page 49, a need to develop '*appropriate limits for an initial operating capability*'. This supports the requirement for operational conditions and constraints to be clearly identified as a requirement of the DCO.
39. It is interesting to note that for the December 2021 simulations, ABP Humber provided wind data collected from the Immingham Maritime Control Centre and not data collected from Humber Airport. This would seem to support DFDS' consistently stated position that wind data taken from the Airport some 15km inland from the Port of Immingham, is not appropriate.
40. HR Wallingford used a ship manoeuvring model representing a 237m long RoRo vessel, the Hollandia Seaways, a Jinling vessel for the December 2021 simulations (page 15 of the simulation study). Although this vessel is smaller than the proposed design vessel for the IERRT (having length of 237m, beam of 33m and draught of 7m vs design vessel of 240m x 35m x 8m) it is nonetheless closer in size to the design vessel than the Stena T class used in later simulations. Why was this vessel, which was clearly available to HR Wallingford, not used in later simulations with the Applicant preferring instead to focus on the smaller Stena T class, rather than simulating both the Stena T class and a larger vessel. DFDS maintains its position that use of the IERRT should be restricted only to those vessels which have been fully and effectively simulated - the Stena T class.

41. Sections 4.5 and 4.6 of the HR Wallingford report clearly demonstrate that IERRT is a challenging facility from a navigational safety perspective. Section 4.5 states that aligning vessels for a controlled approach '*is challenging*', thereby highlighting the very clear risks IERRT present to the existing IOT infrastructure, whilst section 4.6 indicates that vessels departing from berths 2 and 3 (the "inner berths") present a very clear risk of allision to the Immingham Eastern Jetty and to any vessel berthed at that jetty (page 32 to 33 of the HR Wallingford report).

42. As noted in paragraph 2.37 of DFDS' summary of case for ISH [REP7-059] DFDS have previously raised concerns that the eastern jetty tug barge had been erroneously omitted from the earlier simulations. The Applicant has responded by saying that they knew it was there even if it was not shown on the simulations. At Deadline 7 DFDS provided copies of the track plots from the Applicant's simulations undertaken in July 2022 and superimposed the tug barge, the analysis showed that in at least two of the simulations that the Applicant had classed as successes, the tugs assisting vessels off berth 2 would have collided with the tugs on the barge (runs 10 and 55) [REP7-052]. Since the Applicant has now published the report from the December 2021 simulations (at Deadline 7), DFDS has undertaken a similar exercise by superimposing the eastern jetty tug barge and notes again that the two simulation runs undertaken on the three-berth option of the IERRT that were classified as successes would likely be marginal or fails - one would have collided with the tugs on the barge (run 24 to berth 2) and the other was dangerously close to collision (run 18 to berth 3). The updated plots for these runs are shown in **Appendix 1**.

Transport Assessment Addendum [REP7-013]

43. DFDS would like to draw attention to the fact that the Applicant has submitted a Transport Assessment Addendum (TA Addendum) which is 1,726 pages with six weeks left in the Examination. It does not supersede the Transport Assessment (TA) [AS-008], it also provides a number of references to representations submitted throughout the DCO process. The TA Addendum should be a standalone document, with information upon which it relies included as appendices. It is unreasonable to expect Interested Parties to digest such a large amount of information in a matter of days. Furthermore, the Applicant has failed to provide a tracked changes version of the TA [AS-008] but has instead written a lengthy addendum, requiring the reader to work out what has changed and what still stands.
44. DFDS are concerned that the TA [AS-008] remains part of the Application and yet the significant errors relating to the PCU conversion factors and highway capacity assessments contained within that document have still not been acknowledged and brought to the attention of the readers.
45. DFDS requested that the TA was revised in the response to Action Point 27 [REP7-042]. It is unclear why the TA [AS-008] has not yet been superseded when these errors were identified some four months previously as noted in paragraph 53 of REP7-045.
46. It is the view of DFDS that the TA Addendum has been submitted at an unreasonably late stage of the DCO examination process and does not provide interested parties and Local Highway Authorities with sufficient time to fully review the changes to the methodology incorporated into the updated assessments and the outcomes of the assessments in terms of the requirement for mitigation and any implications for the Environmental Impact Assessment such as the omission of sensitive receptors in the form of junctions which are operating in excess of their practical capacity, as noted in paragraph 54 of REP7-045.
47. Given the number of errors already identified in the past submissions and the Applicant's lack of transparency around what actual errors have been addressed by the revision, DFDS are also concerned that there is still a high potential of fundamental errors of analysis and that in the absence of an opportunity for IP's and Local Highway Authorities to fully review the document it may not be error free as issued.
48. We would expect the changes to the original methodology outlined within the TA to be discussed and agreed with National Highways, North East Lincolnshire Council and North Lincolnshire Council. DFDS request that details of consultation with Local Highway Authorities should be appended to the TA Addendum to demonstrate that the changes made have been agreed, in a similar way to the evidence of pre-application consultation provided within the TA (AS-008).
49. The only correspondence with National Highways provided within Appendix B of the TA Addendum cites an email from National Highways in Annex B dated 25 July 2023 which is before the prior TA [AS-008] was reviewed by Interested Parties and fundamental errors identified.
50. As no evidence that local highway authorities have been appropriately consulted during the preparation of the TA Addendum has been provided, reference to the changes within the TA Addendum should be incorporated into updated Statement of Common Grounds with National Highways and NELC to appropriately capture any outstanding issues.

51. Paragraph 5.5.1 of the TA Addendum notes that the proposed base traffic distribution remains unchanged from AS-008 which anecdotally assumed 85% East gate/ 15% West gate. Fundamentally, DFDS retain their position that the baseline assignment applied to the proposed IERRT traffic within the TA (AS-008) is flawed for the reasons summarised in Paragraph 13 of REP7-045. The assignment detailed within the sensitivity test is a more realistic base traffic assignment.
52. The sensitivity test introduced at Paragraph 6.4.5. DFDS do not agree that the application of the Stena Profile for the AM peak period is appropriate since using the Stena profile suppresses the potential impact during the AM peak hour, as explained in REP7-045 paragraphs 64 and 65. It is therefore not a reasonable worst-case assessment and is contrary to the approach derived within the TA [AS-008].
53. Given that this revised approach relating to the use of the Stena profile is not agreed with IP's or Local Highway authorities, no weight should be afforded to the Applicant's "Sensitivity Test" or "Sensitivity Scenario" assessments throughout the TA Addendum [REP7-013].
54. The assessments provided within the TA Addendum is exclusively freight and does not consider the implications of passenger movements within the terminal. Significantly, there is no consideration or assessment of how up to 100 passengers per day can safely move through the terminal whilst freight operations are ongoing.
55. The Applicant claims that the outcome of the assessments in the TA Addendum does not change the conclusions of the TA [AS-008]. DFDS does not agree with this as the assessment clearly demonstrates that the highway network providing access to the Port of Immingham will be congested in the future and is sensitive to additional traffic flows generated by the IERRT development. As described in REP7-045 these impacts are significant and mitigation is required at a number of junctions where these impacts are severe, as outlined within REP-057.

Annex A – Policy Approach to Considering Development Impacts

56. For reasons outlined within previous responses outlined in REP7-045 paragraphs 49 to 72, DFDS does not agree that the proposed IERRT development results in no material change in the future year scenarios, or that there is no justification for mitigation. The recommended approach to mitigation is set out within REP7-057.
57. Within Appendix A, the summary results table applies the Stena profile to any junction operating in excess of its practical capacity of RFC 0.85 in the AM peak hour in order to suppress the impact of the IERRT development in these locations. This is not clearly stated in the document and there is no justification as to why it is appropriate to use the Stena profile in this way, which is both misleading as it potentially understates the impact of the IERRT and is contrary to the approach set out within the TA (AS-008) and the Update to Technical Note 2 provided as Annex G of the TA Addendum. DFDS maintains its position that it is not appropriate to use the Stena profile as a reasonable worst-case assessment in the AM peak hour for the reasons set out within paragraph 64 of REP7-045.
58. Notwithstanding the above, the results suggest that even when using the Stena profile in the AM peak hour a number of junctions are still expected to operate above their practical capacity and

only serves to further demonstrate the sensitivity of the network. The need for mitigation should be considered based upon a reasonable worst-case assessment using the Port of Immingham profile in the AM peak hour as set out within previous responses made in REP7-045 and REP7-057.

Annex G – Update to Technical Note 2 – Junction Modelling Assessments

59. It is noted that the Update to Technical Note 2 assessment in Annex G of the TA Addendum [REP7-013] provides different results to what was previously issued as “Annex D” in REP5-028. The Applicant has not provided explanation for the changes in results. DFDS noted an error in REP5-028 for the A180/A1173 junction as part of responses within REP7-045 paragraph 66 and it is not clear why results for all other junctions have changed. The Applicant should evidence the changes that have been made to the assessment since REP5-028 for agreement with IP’s and Local Highway Authorities.

Annex J – Junction Modelling Assessments – Further Sensitivity Test

60. The sensitivity test undertaken by the Applicant applies the Stena profile to the IERRT development traffic in the AM peak which is not considered to be a reasonable worst-case assessment, for the reasons set out in paragraph 64 of REP7-045 and REP7-057. No weight should be afforded to the Applicant’s “Sensitivity Test” or “Sensitivity Scenario” assessments throughout the Transport Assessment Addendum [REP7-013] given that the Stena profile in the AM peak suppresses the potential impacts on the network.

61. The Applicant should update the sensitivity test using the Port of Immingham profile for the AM peak hour to provide a reasonable worst-case assessment of the IERRT development, which will then inform the approach to mitigation across the network in consultation with interested parties, National Highways, NELC and NLC. In the absence of a reasonable worst-case assessment, it is impossible to know the potential extent of impacts of the IERRT development.

62. The junction improvement schemes identified within REP7-057, together with any additional mitigation measures requested by NH on the A160 corridor should also be incorporated into the sensitivity test to demonstrate that the impact of the IERRT development on the operation of the highway network in terms of capacity and safety is appropriately mitigated.

63. Within the short time available since the deadline 7 submission, a high-level review of the sensitivity test has been undertaken with a number of points of clarification being identified. These are set out below. Responses to these clarifications are required to enable this new document to be comprehensively checked for accuracy, noting there may be a need for further clarifications or changes to this assessment once the requested information is provided by the Applicant. Given the extent of errors in the TA (AS-008) and previous iterations of the Update to Technical Note 2, DFDS consider this needs to be done before any further reliance can be placed on the outcome of the assessments:

- a. The “TA volumes” presented in Table 1 cannot be related back to volumes in Table 1 of the prior TA [AS-008] as referenced by the Applicant in section 1.10. The Applicant should highlight which relevant tables and volumes they have used to produce Table 1 for the “TA” and “Sensitivity Test” volumes as the numbers between the two reports do not appear to correspond.

- b. The volumes presented in Table 2 do not align or clearly link with the volumes presented in Table 1, and therefore a relationship between the two tables cannot be drawn. The Applicant must provide evidence by way of traffic flow diagrams to understand how the traffic has been distributed on the road network for both the “TA” volumes and the “Sensitivity Test” volumes. Similarly, calculations must be provided to show how the “Sensitivity Test” profile and traffic distributions have been obtained.
- c. Evidence for Table 1 and Table 2 should also show the conversion of IERRT traffic volumes into PCU, since the prior Transport Assessment [AS-008] provided traffic volumes as light vehicles and HGVs instead of PCU.
- d. The results summarised in Table 3 cannot be reviewed since the input data in the form of traffic flow diagrams or origin-destination volume matrices is not evident in Appendices A to C.
- e. In Table 4, DFDS note there have been changes to the Update to Technical Note 2 results since the submission of REP5-028 as illustrated by the differences in RFCs between the TA Addendum and REP5-028. As REP5-028 has been superseded by the Update to Technical Note 2 (provided as Annex G of the TA Addendum), then REP5-028 should not be referenced in Tables 4 to 7 as the addendum seeks to supersede all incorrect information previously submitted.
- f. In Table 4, 5 and 6, the difference between the Sensitivity test and the Update to Technical Note 2 test should be based on the same profile in the AM peak for comparison purposes. For example, the Manby Road roundabout result take the Port of Immingham results from REP5-028 and compare it to the Stena profile within the sensitivity test, which is misleading.
- g. Table 4 has a footnote that has not been referenced within the table, which states that *“If the sensitivity test were run with Immingham AM, the worst increase in queueing would not change”*. This statement has not been evidenced in the calculations or modelling results. If the Port of Immingham profile was used in the AM peak it would be expected that this would increase the traffic volumes on the network compared to the Stena profile. The Applicant should clarify this statement and provide supporting evidence, similarly for the footnotes provided in Table 5 and Table 6.
- h. Table 8 ‘Summary of A160/Eastfield Road Signalised Junction Assessment’ does not sufficiently summarise all the necessary information to describe the performance of a signalised junction. Typically, the summary results should show the Degree of Saturation (DoS, as a %) instead of PRC, and the Mean Max Queue (in PCU). The appended results are also only a summary output and do not supply the full detailed reports to review the inputs and detailed outputs in the absence of a LinSig model, and therefore could not be properly reviewed.
- i. From the summary reports for the A160/Eastfield Road Signalised junction, it is evident that the signal staging and phasing in the model do not reflect the actual signal staging and phasing of the junction. Additionally, the cycle time for a single cycle four-stage sequence

in the model during the PM peak hour exceeds the maximum acceptable cycle time. This should be updated.

- j. The Eastfield Road northern approach has been incorrectly designed in the model with two approach lanes of infinite length. Rather, the left turn lane should be modelled as a short lane diverging from the single ahead lane. Therefore, the results overestimate the capacity of Eastfield Road and may impact the overall capacity reported for the junction across all scenarios modelled.
 - k. It is unlikely that National Highways has been given the opportunity to review and approve the signalised junction model. Mitigation may be required since the junction is operating above DoS of 90%, which is the typical practical capacity threshold of signalised junctions.
 - l. Paragraph 3.2 states “as can be seen above” and refers to percentages that are not provided above in Table 8. After reviewing the summary output reports it could be determined that the Applicant was referencing DoS of 92% with development and DoS of 88.2% without development. The Applicant should clarify what figures they are discussing since it is not apparent from Table 8 as key summary details have been omitted.
 - m. The “2032 Sensitivity” scenario in Table 8 shows that the PM peak is operating with –2.0% PRC, and the Applicant has not discussed the impacts of this. The Applicant should discuss the implications of a negative PRC and consider appropriate mitigation.
64. DFDS disagree with the implications and conclusions stated in section 4.0. The 60% west gate assignment and revised percentage of solo tractor movements within the sensitivity test are considered to be the likely base operating characteristics for the IERRT development, and whilst the sensitivity test incorporating these inputs has been welcomed its value has been severely diminished by the application of the Stena profile in the AM peak hour which suppresses the impact of the IERRT development to the extent that it no longer provides a reasonably likely worst-case scenario.
65. In addition to clarification of the points above, a separate scenario applying a 60% assignment to the West Gate using the Port of Immingham AM peak profile should be undertaken with mitigation provided in locations where the IERRT development is adding additional traffic flows to junctions operating in excess of their practical capacity and/ or in locations where potential highway safety issues need to be resolved such as those identified in REP7-057.

Applicant's summary of ISH5 [REP7-020]

Table 1

66. Row 4- the Applicant's representation regarding the Senior Safety Workshop and Commercial Workshop in REP7-020 is not as clear as it should be- it omits to note that neither of these workshops took place due to the Applicant unilaterally withdrawing the offer of such. For clarity, with reference to the following sentence: *'Mr Hodgkin then explained that the Commercial Workshop had resulted from a direct request by DFDS so that they could better understand the commercial implications of the IERRT development on their operations.'* It should be made clear that no Commercial Workshop ever took place, and the above sentence should read *'Mr Hodgkin then explained that the offer of a Commercial Workshop had resulted from a direct request by DFDS'* (our emphasis).
67. Row 13 - the Applicant states: *'Mr Strachan also responded to DFDS's claim that a commercial workshop was cancelled without reason, stating that there were in fact a number of reasons which the Applicant will be outline in writing – for example, the lack of senior representatives being fielded.'* DFDS believe that Mr Strachan had muddled up the proposed senior safety meeting which had been promised by the CEO of the Applicant, which the Applicant cancelled at short notice citing lack of availability – though DFDS had made arrangements to send senior representatives and the Regional Director Humber noted he would arrange separate meetings instead, which he never did – and the commercial workshop promised by the Applicant which was simply never arranged by the Applicant.
68. Row 25 - Mr Parr for HR Wallingford outlined what he saw as the difficulties of modelling a vessel representing the design vessel for the IERRT. Mr Preece for NASH Maritime, on behalf of DFDS questioned whether it was really this difficult to adjust an existing model as an appropriate vessel for the purposes of operational feasibility, especially given the time the Applicant had if it had properly engaged during its navigational simulations prior to submission of its Application. DFDS are aware that HR Wallingford have available vessel models including the G9 Class (Delphine vessel – DFDS previously suggested) which is far closer to the Design Vessel size and displacement and could have been used with appropriate and conservative modification to represent a proxy Design Vessel.
69. Row 68 and 69 - As discussed in REP6-038, the use of the PIANC guidelines for the design of RoRo terminals (as undertaken by the Applicant) is a simplistic approach, which under the operational parameters the Applicant intends to employ, does not accurately reflect the capacity of the port. In addition, the Applicant has not considered all of the advice and guidance provided by PIANC in the Working Group Report that they have referred to. Further commentary on this aspect is provided within our response to REP7-026. The Applicant then suggests that the DFDS capacity assessment is 'flawed' owing to incorrect dwell rates, incorrect modelling of lower throughput levels, and representation of import only slots within the yard. The inputs used by DFDS for the capacity assessment as presented within REP6-038 were those informed by the Applicant. This includes the dwell rate period min and max which was informed by the Applicant during ISH3. For the RoRo import only bays, DFDS used the same input (1,446 bays) as identified by the Applicant within REP5-032. Therefore, if the Applicant considers the DFDS assessment flawed on this basis, they must also consider their own assessment flawed. DFDS have revised the yard capacity assessment based on updated inputs as provided by the Applicant during ISH5 and a refined approach to

randomising the volume of units seen per day, which resulted in similar findings as REP6-038 and that the yard exceeds capacity. This is presented within REP7-056.

70. Row 71 – The implication of vessel delay on queuing of the road network is the arrival and storage of freight units to IERRT. Based on DFDS numbers [REP1-030], only 19% of units entering the terminal would be a tractor head only. Therefore, around 4 out of 5 arrivals will include a trailer which will need to be dropped and stored at the terminal prior to collection of their departure trailer. As there is insufficient space to store all exports as the Applicant intends to use the vessels as capacity, there is an unassessed risk that the terminal will reach capacity if a vessel is delayed prolonging the movement of trailers from yard to vessel. Once the storage capacity is reached, the delivery of trailers will need to be slowed or stopped prior to reaching the port, or stored in other locations, until capacity is once again provided within the terminal.
71. Row 78 – An updated version of the East Gate improvement works does not appear to have been submitted with the TA Addendum [REP7-013] and paragraph 4.2.1 states that there is no change to the access arrangement plans from the TA [AS-008]. DFDS requests that the Applicant submits the updated East Gate arrangement for inclusion in the DCO.
72. Row 80 and 81 - Whilst the Applicant provided a sensitivity test in the TA Addendum [REP7-013] this sensitivity test has been undertaken using the Stena Profile in the AM peak. This has not been agreed and is not considered appropriate for the reasons outlined within the DFDS response to the TA Addendum.
73. Row 83 - The extent of consultation since the identification of the error in the TA [AS-008] remains unclear. It is also not clear what information has been issued to Local Highway Authorities and when. An updated statement of common ground with National Highways and NLC has not been provided. Local highway authorities should be provided with an appropriate opportunity to review and agree any changes to the methodology previously agreed with them within the TA [AS-008], as well as understand and comment on the outcomes of the revised assessments and implications upon the operation of the highway network in the context of capacity and safety. It is questionable whether sufficient time is available for this to take place given the submission of a substantial TA Addendum [REP7-013] at such a late stage.
74. Row 90 - The Applicant's reference to a High Court judgement is tenuous. This judgement related to a care home of 43 retirement living units which resulted in between only 3 and 12 two-way vehicle trips on the highway network in the AM and PM peak periods. It should be carefully considered before placing any weight on the relevance of this judgement in relation to the cumulative highway impacts for a DCO application.

Table 2

75. Action Point 17 – The Applicant's explanation for the cancellation of the senior safety workshop offered by the Applicant's CEO is misleading. It is correct that the Applicant's CEO had directed the invitation for a senior safety meeting to very senior representatives of DFDS and other interested parties. DFDS responded accepting the invitation but making clear that it would not be appropriate or effective to send very senior DFDS executives to a safety meeting who did not have sufficient relevant knowledge of the detailed safety issues and risk issues relating to the Proposed Development. DFDS did, however, agree to send senior representatives who did have sufficient

knowledge to make an informed and positive contribution to any discussions, including Captain Jesper Nielsen, Head of Fleet Management. As has already been reported, DFDS senior representatives had already made travel arrangements and booked tickets to attend the safety workshop, including flights from Denmark. The meeting was then cancelled by Mr Simon Bird, Regional Director Humber at short notice citing an inability for a number of people to attend. Mr Bird indicated he would arrange separate meetings to replace the single senior safety workshop but never did so.

76. Action Point 17 – With regards to the commercial workshop, the request that was made was to hold a commercial workshop for all potentially affected users of the Port and to discuss specifically the impact of proposed operations at IERRT on existing Port operations for all relevant users, including all those using the inner dock at Immingham. The Applicant agreed to hold this meeting but it was never scheduled. This meeting could not be, and was not, replaced by regular day to day commercial meetings with DFDS.
77. Action Point 22 - The Applicant response to action point 22 indicates that they believe that the assessment supports the findings of REP5-032. This is in fact not the case and shows that the throughput exceeds the terminal capacity as discussed in REP6-038 and updated in accordance with the revised inputs provided by the Applicant on 28 November 2023 in REP7-056.
78. Action Point 26 - DFDS have material concerns regarding the sensitivity test submitted within the TA Addendum (REP7-013) submitted at Deadline 7 and do not agree with its conclusions. These concerns together with the required clarifications and actions are set out within the DFDS response to the TA Addendum (REP7-013).
79. Action Point 27 - The Applicant has not responded to the action point provided by the examiner, which asked to clarify what process would be better to either revise and reissue the TA or provide an addendum. The Applicant has instead just provided an addendum. As per our response to the Action Point 27 in REP7-042, DFDS have provided justification as to why a revised TA should be prepared.
80. Action Point 29 - Drawings of required mitigation works have been provided within REP7-057 and should be consulted on with relevant highway authorities. DFDS are concerned that there is no evidence of discussions with highway authorities regarding the need for highway works since the fundamental errors in the TA were identified.
81. Action Point 30 - DTA were tasked with discussing with the relevant authorities following outcomes of discussions, including sharing of the proposed mitigations. This has not been done as the Applicant has taken it upon themselves to decide the outcome as stated in AP29 response.

Applicant's summary of ISH6 [REP7-021]

82. Row 24 - it is stated that the Applicant would provide more information on congestion at Deadline 7, DFDS are not aware that this information has been provided to the Examination, can the Applicant please provide this information. This is an issue of great interest to DFDS.
83. Row 26 - the Applicant records the example of separation of powers within a local authority given by Mr Strachan KC. Mr Strachan KC suggests that the position of the Applicant and also as "independent" Harbour Master Humber exercising different statutory powers within the same legal entity is analogous to a local authority, which is also a highway authority, putting forward a planning application for a local school. DFDS does not consider the analogy to be a good one. In the case of the local authority, it is almost certainly the case that the local authority employees working for the highway authority and the employees working as applicant for the local school will be in entirely separate teams and will have no common reporting lines other than ultimately into the CEO of the local authority and the local councillors. The individuals assessing any proposal and making decisions in the highway authority will do so entirely independently, free from any influence by the local school applicant team and free of any possible conflict of interest from those they report to in separate local authority departments. By contrast, at ABP on the Humber, the HMH is not only an employee of ABP but also reports into individuals whose interest is in promoting a successful IERRT application, namely the head of marine for the Humber and his direct line manager the Regional Director Humber.
84. Row 35 - DFDS does not agree that judicial review is a sufficient recourse here as only legal errors can be challenged.
85. Row 31 - it is noted that Ms Victoria Hutton for HMH stated that the HMH would look at the question of whether the SHA has the power to impose impact protection but did not believe there was anything in the legislation where either the Dock Master or HMH has the power to recommend someone to build a certain piece of infrastructure. If it is indeed the case that the HMH does not believe he has the power to recommend, or indeed more importantly require, that impact protection measures should be constructed, then it is DFDS position, and DFDS understands supported by IOT, that the Applicant should be required to construct impact protection measures under the terms of the DCO. The decision on whether or not impact protection measures for IOT are needed cannot be left to the Applicant to decide.
86. Row 32 - it cannot be left to the HASB to be final arbiter for any disagreement between the SCNA and the Port of Immingham SHA. The HASB is the ABP Board. The fact it holds separate Board meetings from the ABP commercial board so that the ABP directors can state that they are "wearing a different hat" in making decisions, does not alter the fact that it is not an independent decision making body entirely separate from the commercial drivers of the ABP board. The directors of the HASB and the ABP Board are identical. Accordingly, in the interests of fairness (both being achieved and being seen to be achieved) and ensuring navigational safety issues are considered on purely safety grounds, a genuinely independent body from wholly outside ABP should be made final arbiter for any disagreements arising pursuant to the DCO.

Applicant's response to the ExQ3 [\[REP7-022\]](#)

87. TT.3.02. REP7-057 identifies both geometric deficiencies and capacity issues at the Kiln Lane roundabout and provides a suitable mitigation scheme at this location. Given that this is located on a key access route to the IERRT, the implications of intensifying the use of this junction upon the potential risk of accidents in the future should be fully considered. Potential risk of accidents on the A160 corridor in the sensitivity test scenario should also be fully considered in consultation with National Highways.

88. TT.3.04. When producing the extracts of the PIANC report, the Applicant should also include the statement around intended use of the guidelines they are referring to.

Response to Applicants Response to DFDS's Deadline 6 Submissions [[REP7-026](#)]

89. Paragraph 6.2 - The Applicants agrees that the scenarios presented in REP5-027 are not inclusive of all scenarios that should be reviewed. Whilst the Applicant has provided the sensitivity testing which considers demand up to 60%, the Applicant is yet to provide evidence that an assessment of junctions along Kiln Lane, Queens Road, Laporte Road and the Stallingborough interchange with 100% of units using the East Gate has been completed.
90. Paragraph 6.4 - DFDS disagrees with the Applicant regarding the need for mitigations as per previous comments made by DFDS, presented within REP6-057.
91. Paragraph 6.5 - The issuing of the TA Addendum at Deadline 7, a 1,726-page document, is real life example of the situation DFDS identified within paragraph 16 of REP6-038. This document has been issued with only six (6) weeks left in the examination period. The Applicant has not provided a tracked changes version of the TA to allow all parties to reasonably see where changes have been made, rather they have provided a lengthy addendum, requiring the reader to work out what has changed and what still stands. The addendum does not admit the PCU error (or any other errors), just that 'some changes have been made'. As such, DFDS find it unreasonable to expect interested parties to digest such a large amount of information in the remaining time.
92. Paragraph 6.11 - The Applicant does not address the comments raised by DFDS, rather insinuates that the assessment presented in REP5-027 is robust without any further evidence or justification. As per the items and discussion points raised in DFDS submission REP6-038, DFDS do not agree that the 'baseline' conditions presented by the Applicant within the TA Addendum are representative of normal operating conditions. Rather, DFDS position is that the 60% distribution to the West Gate, and a minimum of 19% tractor only units is the baseline. The currently unjustified and non-evidenced 'baseline' conditions as stated by the Applicant in the TA Addendum misleads readers into conceiving that there is limited impact of the project on the network. This should be revised to improve future reading and transparency.
93. Paragraphs 9.1 - In respect of the calculations completed by the Applicant and presented in REP5-032, DFDS assume the Applicant is referring to PIANCs MarCom Working Group Report No 167 – 2023 – The design of terminals for RoRo and RoPax vessels. The Applicant has made the statement within Paragraph 9.1 that '*the Applicant considers the approach to terminal capacity as described in [REP5-032] Section 6 is robust and appropriate*'. This is in fact incorrect as discussed in REP6-038.
94. It is not clear which section of the Working Group Report the Applicant has used to define the terminal capacity as presented in REP5-032, however it is apparent that the Applicant has not considered all the advice and guidance provided by PIANC in the Working Group Report. DFDS would direct the Applicant to section 6.6.3.4 of PIANCs Working Group Report No 167 which discusses terminal planning issues associated with dwell times. Towards the end of this section, the guidance identifies that the number of trailer bays provided for unaccompanied units disembarking from the vessel should be based on the sailing timetables. This section of the PIANC report goes onto to explain that the number of arrivals that occur through a dwell cycle should be counted, and the average number of units delivered to be multiplied by this number of vessel arrivals. The procedure being described within PIANCs Working Group Report No 167 at Section 6.6.3.4 is as per the graphic shown in DFDS yard capacity in paragraph 110 of REP6-038.

95. The Applicant should provide both the scope section, and section 6.6.3.4 of the PIANC Working Group Report No 167 when submitting this file to the Examination.
96. Based on the revised modelling inputs as captured in DFDS response to Action Point 22 (REP7-056), using the PIANCs guidance would indicate that for the case where the maximum daily throughput of 1,800 units per day was achieved:
- a. There will be 578 units that are RoRo unaccompanied imports per day across the three various sailings.
 - b. During the 2.45 day dwell period of the first vessel, a total of nine arrivals would occur (refer to the graphic in paragraph 110 of REP6-038).
 - c. This results in a total of 1,734 trailer bays that would be required according to the PIANC guidelines that the Applicant has referred to, if using the correct section of that document.
97. There are only 1,674 trailer bays provided within the yard and as such the yard doesn't have enough capacity for the discharging units. This is for unaccompanied RoRo imports only, and the yard requirements for containers, unaccompanied RoRo exports, accompanied imports, and trade units need to be added to this.
98. DFDS would also draw the Applicants attention to the scope of the PIANC Working Group Report (section 1) in which the scope is stated that the objective of the PIANC Working Group document is to provide guidance. PIANC have developed this document to support owners, designers, and operators of RoRo and RoPax terminals worldwide. As such, the PIANC guidance covers several variations in terminal design, vessel type, freight units handled, etc and as such needs to provide generalised processes that relate to most RoRo facilities based on a range of anecdotal evidence and design practices.
99. This means that owners, designers and operators should be considerate of bespoke operational procedures that would be unique to the terminal in question, whereby a more detailed approach is required that expands on the generalised approach provided by PIANC. The IERRT terminal is such a design given the limited dwell rates of exported units and the use of vessels as storage areas. The owner, designer and operator of the port should therefore undertake a detailed assessment of the yard using first principles approach, similar to that described within REP6-038.
100. Paragraph 9.2 - The Applicant insinuates that commentary is only on import units, which clearly suggests the Applicant has not read through fully REP6-038. The document (REP6-038) in fact:
- a. Identifies issues of unloading time and storage associated with accompanied vehicles in paragraph 103 a) to allow customs processing to be completed.
 - b. Identifies the unusual situation that the containers have the same dwell rate as the unaccompanied units, whereas at many other ports these rates differ with containers dwelling for longer periods in paragraph 103 c).

- c. That no allocation of space has been made for unaccompanied exports in paragraph 103 f)
- d. The limitations of using a vessel to store export units is discussed in paragraphs 104 through to 109, which focuses on the times identified by the Applicant and notes that the number of slots that is intended to be made available for unaccompanied exports is insufficient in comparison to the number of units held before the vessel can be loading.

The Applicant has not responded to, or provided any evidence to the above points.

101. As the yard capacity is exceeded by the UK imports alone, there is no space and therefore zero capacity for any other unit types. As there is zero capacity, there is no point in undertaking calculations for these other unit types or modes until the lack of capacity for the UK imports is responded to.

102. A more detailed assessment of the yard capacity for UK RoRo imports only is presented in DFDS response to Action Point 22, REP7-056. This assessment shows that the maximum number of trailer bays required for unaccompanied RoRo UK imports is 1,709 (with a tolerance of $\pm 5\%$ to allow for fluctuations in the dynamic simulation approach) which is fairly similar to the PIANC calculations presented above at bullet point c. This still exceeds the 1,674 trailer bays provided and indicates the yard exceeds capacity under UK RoRo imports alone without the addition of UK RoRo unaccompanied exports.

103. To clarify the influence of considering both the imports and exports for the RoRo unaccompanied units, the following high-level assessment could be considered:

- a. Under the max case described in REP7-056, a peak average total of 1,709 trailer bays is required for UK RoRo unaccompanied imports.
- b. A process for taking a high-level view of arrivals of exports to the terminal is to look at the arrival profile in the Transport Assessment [AS-008], which indicates a total of 221 arrivals to IERRT between the last vessel departure (22:00) on the day before and midday the next day (the anticipated time of first loading). Given that most accompanied units are assumed to arrive just prior to the vessel departure as explained in the Transport Assessment [AS-008], it is assumed that these 221 units are UK RoRo unaccompanied exports.
- c. A total of 1,446 ground import slots is provided [REP7-056]
- d. A total of 228 export slots are provided [REP7-056]
- e. Therefore, combining the import and export available slots would provide a capacity of 1,674.
- f. The Applicant has suggested a further 100 slots can be provided [REP7-056], but have not provided any evidence of how this would be achieved. The Applicant has also suggested that the accompanied queuing and wait areas could also be used as overflow, providing an

additional 50 slots at the pre-gate check in area, another 63 slots within the marshalling lanes, and another 25 slots within the trade import area [REP7-056]. This would increase capacity by a further 238 slots.

104. Under the max case, a total of 1,709 plus 221 bays is required (i.e. 1,930 bays in total). Which substantially exceeds the allowance provided by the combined import and export slots of 1,674, and still exceeds the maximum allowance of all additional spaces are considered which provides a capacity of 1,912. This means that the yard exceeds the maximum allowance under UK RoRo unaccompanied movements, providing no capacity for UK RoRo accompanied movements, trade imports (as the area is being used for storage of UK RoRo unaccompanied units) and container exports (note, container imports are considered to occupy the full container storage area). This result remains in line with the conclusions made in paragraphs 113 to 115 of REP6-038, and the findings of REP7-056.

105. The Applicant needs to:

- a. Explain how the yard will be managed during periods where capacity (either maximum or operational) is exceeded.
- b. Explain what mitigations are in place when the yard capacity is exceeded, or in events of disruptions which can occur regularly (i.e., how the Applicant intends to use the existing and future Truckstop capacity, layby areas and other facilities) and how this would affect other operations in the area.

106. DFDS note that Stena have submitted a document [REP7-072] which amongst other things, describes the 'Management of Peak Demand' which identifies that Stena have a clear contingency procedure, however provide no evidence of these procedures. The document [REP7-072] then goes on to identify generic operating practices that uses parts of the additional areas identified above (i.e. pre check in areas, marshalling area, etc) however provide no detail of how this will be done or by what the mean by 'use parts of' given the need to utilise the entirety of these areas under the max case.

107. Under the average case (i.e. 1,440 units per day in total), the number of bays required equates to 97% of the 1,674 slots provided. Under these circumstances, the yard would need to be meticulously managed, with full control over vessel arrivals, haulier arrivals, tug units within the yard, unloading processes, and movement of accompanied units within the terminal. In addition, this level of demand versus capacity provides no real contingency for any operational disruption events.

108. DFDS position is that the terminals landside configuration needs to be expanded to provide the appropriate provisions of trailer bays for it to be suitable to handle the design daily throughputs identified.

109. Paragraph 10.1 - Paragraph 116 of REP6-038 is regarding unaccompanied units, however the Applicant has referred to tractor only units which is only discussed in paragraphs 117 and 118. DFDS assume the Applicant has no comment against paragraph 116. The Applicant refers to Examiner Question responses of TT.3.01 (REP7-022) which still does not provide any justification

for the 10% figure. DFDS comments remain as per paragraph 117 and 118 of REP6-038 in that factual evidence from current operations have been provided to the applicant that indicate the baseline tractor only figure should be a minimum of 19%.

Response to IOTT's D6 submissions [REP7-024]; reply to IOT letters [REP7-025]

110. Paragraph 3.2.1 - The Applicant notes that the "design vessel" does not yet exist and that it was merely intended to provide "a vessel envelope" of the type of vessel that could use the infrastructure in future. It goes on to state that use of the Stena T-Class was entirely appropriate as it is the vessel which will be operated at the facility at commencement of operations. DFDS therefore repeats the position it put forward at the ISH5 hearings, a position endorsed by other key interested parties including IOT, that the DCO should expressly limit use of the IERRT to those vessel types which have been fully and effectively simulated for use at the facility, namely the Stena T Class.

111. It is clear from the Applicant's response that it envisages other vessel types could use the IERRT in future and DFDS believes that the only way this should be permitted is with an amendment to the DCO to ensure that the Applicant has to conduct thorough simulations with full engagement of interested third parties and fully independent scrutiny before any other vessels are permitted to use the facility. Given the very serious navigational safety concerns which have been highlighted throughout the examination and the severe consequences if comprehensive and proper future successful simulations are not undertaken, DFDS believes this is the only way that the ExA and Interested Parties can obtain comfort about future changes in vessels using the IERRT safely. It should not be left to the Applicant and HMH to conduct such simulations internally and without proper external scrutiny and a right of effective challenge.

Statement of Common Ground Tracker [REP7-016]

112. It does not appear the Applicant has updated Table 1 in relation to DFDS, as it only provides the position as of Deadline 5 (23 October). DFDS sent a signed Statement of Common Ground to the Applicant on 8 December 2023, for the Applicant to sign and submit at Deadline 7 and then made an amendment to it on 11 December to refer to RoPax vessels. On the evening of 11 December, the Applicant replied to say DFDS is mischaracterising what the Harbour Master Humber said about the tidal direction at ISH5 and also to object to the inclusion of a reference to RoPax vessels. DFDS does not agree with the Applicant and submitted its signed version (REP7-058). DFDS acknowledge this version is not agreed by the Applicant in relation to those two issues.

Protective Provisions Tracker [REP7-018]

113. It does not appear the Applicant has updated Table 1 in relation to DFDS, as it only provides the position as of Deadline 5 (23 October). On 22 November 2023 DFDS finally received the Applicant's comments on the draft Protective Provisions submitted at Deadline 2 (5 September), DFDS responded to the Applicant's comments on 29 November and provided further amendments on 6 December (REP7-053). The position at Deadline 7 (11 December) is that DFDS is awaiting a response from the Applicant.

Response to ExA's proposed changes to dDCO [REP7-029]

114. DFDS does not agree with the Applicant's response to requirement 10 on noise insulation; the Applicant has not even set out what insulation has been offered to the residents of Queen's Road and there remains no obligation to offer insulation of any adequacy.
115. The comments on requirements 18A and 18 underline the lack of practical independence between the Applicant and the Harbour Master – the Harbour Master only allows the Applicant to review its proposed responses in advance. We do not know whether the Applicant suggested any changes to the Harbour Master and whether they were incorporated in this case or in relation to many other responses.
116. The Applicant overstates the reasons for its objection to the amended requirement 18. It would not create an 'adverse operational precedent' for all ports across the UK. It is common practice in DCOs for mitigation to be required to be in place before projects commence either construction or operation, depending on when the adverse impacts to be mitigated would occur, and this provision is not as strongly worded as that.
117. Further, the Applicant is steadfast in saying that it is not appropriate for anyone to interfere with HMH's statutory responsibility for ensuring navigational safety (see Applicant comments on IOT Operators DCO protective provisions and IOT Operators proposal that it should be able to decide if impact protection measures are needed) but this is exactly what the Applicant is proposing to do by not accepting the decision of HMH over whether the impact protection works need to be undertaken and instead insisting this can only be a recommendation from the HMH but should ultimately be the Applicant's decision.
118. The Applicant's explanatory note in its Appendix to its response to the ExA's comments, which notes that both DFDS and IOT Operators are tenants of the Applicant – which in the case of IOT Operators is not correct as regards the IOT jetty which, as has been explained during the hearings, is actually held under licence by IOT Operators – ignores the fact that none of the agreements in place between the Applicant and DFDS or IOT Operators envisaged the construction of IERRT and therefore none of the arrangements contemplated the need for protection against such a development which could materially impact existing port operations. Accordingly, existing agreements do not provide any protection certainly in the case of DFDS and the suggestion that protection in the DCO should be limited in time to construction only is not correct. The impacts of IERRT may start as soon as construction activity commences and will continue for as long as IERRT is operational.
119. The Applicant claims that the protective provisions requested by DFDS are to the "substantial betterment" of DFDS. This is patently not the case. The provisions requiring that the Applicant hold DFDS harmless from any adverse effects of the construction and operation of IERRT merely keep DFDS in the position it is in now, in other words with no interference or adverse impact from vessels using the IERRT – because this does not exist. If the Applicant constructs and uses the IERRT, this introduces a new facility on the river which DFDS and other interested parties have expressed concerns about in terms of possibilities for disrupting existing port traffic and also for closing the port completely in the event of an incident at IOT. All DFDS is seeking is to be held harmless from any such adverse consequences such that it is essentially put back into the position that exists today. This does not represent betterment, substantial or otherwise.

120. Article 122 of the DFDS protective provisions – It is not correct to say that amendments to this paragraph are made as a result of amendments to other paragraphs in this protective provision. The only amendment sought by DFDS is to include wording to make clear that the environmental statement includes the Navigation Risk Assessment and Transport Assessment. This was merely for the avoidance of doubt since DFDS believe the Applicant had accepted this was the case in ISH5 and ISH6. The Applicant’s desire to remove these words suggests that the Applicant does not consider the Environmental Statement to include the Navigation Risk Assessment and Transport Assessment. If that is the case, this has wider implications for how the Environmental Statement should be used in the DCO.
121. Article 123 – The Applicant’s argument is that a significant proportion of the works will not impact DFDS’s operation. If that is the case, there will be no obligation on the Applicant to consult with DFDS whether that obligation relates to works that may interfere with DFDS’ operations or which are likely to interfere with those operations. DFDS, therefore, does not see why the Applicant should have a problem with DFDS’ requirement that it be consulted where works may interfere with DFDS operations. It should not be left to the Applicant to decide whether it meets the “likely to” test requested by the Applicant.

Response to Operational Freight Management Plan (FMP) [REP7-036]

122. The objectives set out in Section 5 of the Operational Freight Management Plan (FMP) weak, using language such as 'encourage' the use of the East Gate for bother outbound and inbound movement of HGVs. There is no commitment to achieve the base assignment of 85% of traffic using the East gate set advocated within the TA (AS-008).
123. The management measures set out within Section 6 are vague and again uses language such as 'encourage' and 'where practicable'. This provides no commitment or certainty that assignment HGV's to and from the IERRT via the East gate can or will be appropriately controlled.
124. Firm commitments and targets should be clearly set out within the FMP for the purposes of control, monitoring and enforcement.
125. Details of what HGV management system is proposed and how this will interact with freight operators' own booking systems to assist with the temporal distribution of traffic throughout the day, should be provided.
126. The Applicant notes at paragraph 6.3 that the Applicant is engaging with NELC and National Highways to enhance and upgrade wider strategic signage to the port. Details of this engagement should be provided together with an indication of what improvements to the signage are proposed to ensure that the vast majority of HGV's are routed to the East Gate from the Strategic Road Network. If this measure is to be included as a relevant part of the FMP, then a requirement to improve the highway signage to the east gate should be included within the dDCO. It is understood that this is not the case and therefore reference to such theoretical improvements which are unlikely to be implemented should be removed from the FMP.
127. DFDS are concerned that no other tangible measures are proposed to control the route choice of HGV's to and from the IERRT, which further underlines uncertainties regarding the baseline assignment of vehicles across the highway network.
128. The FMP seeks to control the vehicle arrival and departure times to avoid network peak hours, 'where possible'. There is a commitment from the Applicant to develop this strategy with the Operator of the Terminal. Whilst this is welcome, details of what this strategy will involve, and how it will enable activities to be coordinated between the Operator and the Applicant, and to what extent it will seek to minimise HGV movements arising from IERRT during peak periods, should be provided within the FMP.
129. Details of how the 1,800 per day limit will be managed should also be provided.
130. The commitment to monitoring HGV utilisation, queuing and storage occupancy, arrival and departure times and total daily volumes of HGVs (referencing the maximum permitted daily volume of 1,800) are welcome. Details should be provided as to how this monitoring will be undertaken.
131. A requirement for the monitoring of HGV routing to and from the IERRT must also be included within the FMP as this is a key area of concern relating to the impact of the IERRT on the public highway network. Details of how this could be achieved should be provided.

132. Clear targets which are directly linked to the assessment assumptions set out within the TA (AS-008) should be specified within the FMP for the purposes of providing a clear threshold above which remedial actions will be required.
133. A bond securing funding for remedial measures if targets are exceeded should also be considered.

ISH5- Action Point 5 – Joint Note- Separation of functions [REP7-066]

134. With regards to the Joint Note by the Applicant and HMH on separation of functions, DFDS has never questioned the fact that there are clear statutory responsibilities imposed on each of the Applicant as SHA, the HMH and Statutory Conservancy and Navigation Authority (SCNA) and the Dock Master Immingham. What DFDS does question is how the management, reporting and governance structure set up within the Applicant's organisation could possibly ensure or allow for the independence of either the Dock Master Immingham or the HMH when their line management and reporting lines are directly into the senior leadership team of ABP Humber. Both the HMH and the Dock Master's annual objectives, remuneration and employment are dependent on the Humber leadership team and the Regional Director Humber, whose principal goal is to maximise revenues from the ports on the Humber, including Port of Immingham. This is not a healthy governance structure and gives rise to clear conflicts of interest.
135. At paragraph 36 of the Joint Note, the point is made by the Applicant and HMH that "*the responsibilities for safety and mutual co-operation extend to all users of Immingham (including, e.g. IOT and DFDS) and not just the statutory bodies.*" It is interesting that this point should be highlighted by the Applicant and HMH given their overall approach on this project which is that they "know best" and that interested parties should therefore simply accept their views based on their experience. Having consistently argued for the approach that they (the Applicant and HMH) should be left to determine what is safe, what operational measures should be introduced (if any) and what impact protection may be needed (if any), this Joint Note states clearly that actually all users of the Port of Immingham, including DFDS and IOT, have a responsibility for safety at the Port and accordingly the navigational safety concerns which have been consistently and repeatedly raised by DFDS and IOT should be taken seriously by the Applicant and HMH. DFDS do not believe that this has been the case and contend that this supports the view of both DFDS and IOT that the introduction of operational safety measures and of impact protection measures should not simply be left at the sole discretion of the Applicant.
136. Part 3 of the Joint Note (paragraphs 41 to 44) represents a statutory responsibilities and obligations argument in a theoretical world. In the real world in which the Applicant, the SCNA, the HMH and the Dock Master Immingham operate, the management and governance structure embedded in, and operated by, the Applicant does not support the theoretical world in which the Applicant argues that the SCNA should not be able to require impact protection measures to be implemented, that the SCNA and HMH will be free to impose whatever directions they see fit to control vessel movements and that the HMH and Dock Master will be free and unfettered in choosing to exercise their statutory responsibilities however they see fit and regardless of the possible adverse cost or operational consequences to the Applicant's commercial interests at the Port of Immingham.
137. In the real world which exists on the Humber today, the HMH and Dock Master are employees of the Applicant, however much the Applicant and HMH maintain that the SCNA and HMH are responsible to the Harbour Authority and Safety Board (which of course is identical in personnel to the ABP commercial board), and the pilots on the Humber are all also employees of the Applicant. Ultimately, therefore, the Regional Director Humber in practice holds the power to terminate the employment of the HMH, the Dock Master and any Humber pilots. In this governance and management structure there are very real tensions and conflicts of interest and it is clearly unrealistic to suggest, as the Applicant and HMH do in this Joint Note, that the HMH, Dock Master

Immingham and Humber pilots are free to take whatever decisions they think best and/or to raise concerns over navigational safety issues and potentially shut down all operations to IERRT. The governance and management reporting structure are simply not designed to support such a contention.

138. Given the above and the clear position set out in the Joint Note that ultimately only the Applicant can decide whether to introduce impact protection measures, DFDS believe this issue should not be left to the SCNA / HMH and the Applicant to debate and determine but instead the only safe position that can be adopted is either to reject the application for IERRT and require the Applicant to reconsider and resubmit its proposals or to make the installation of impact protection measures for the IOT a condition of the DCO.
139. In the event that the ExA concludes that it is not necessary from a navigational safety perspective to impose impact protection measures at the outset as a condition of the DCO then it should at least ensure that the SCNA and HMH are given the power to require that such impact protection measures are put in place at a later date. In practice, for the reasons set out above, DFDS believes that leaving a decision on the installation of impact protection measures to a later date is fraught with uncertainties and conflict of interest concerns, but if the ExA is not willing to make this decision as part of the DCO then at the very least that decision should not simply be left to the sole discretion of the Applicant, as the Applicant would like.
140. Further, contrary to the Applicant's suggestion in the Joint Note that interested parties with concerns over how the Applicant and/or SCNA and HMH behave in future have a remedy by way of judicial review, as the ExA will be aware this would be a blunt and onerous means of appeal for any interested party to have to follow. Instead, a more effective and efficient route of appeal to a genuinely independent third party arbiter should be included in the DCO.

Stena Line – Post hearing submissions [REP7-072]

141. This document provides a number of generic operational overview associated with the terminal management, management of peak demand, dealing with the 1,800 / day limit, and driver information and terminal operation.
142. All of the information provided within this document is provided at a high conceptual level and has limited specific alignment with IERRT.
143. The document itself does not provide any specifics associated with the terminal itself, such as which bays would be used for storing units if the nominal ground import and export slots are exceeded, what upgrades are needed to the Terminal Management System and when these would be implemented, or what would be the mitigations if processes were not followed (for example, if a driver were to attend the West gate when assigned the East gate, would they be turned around, let through or otherwise?)
144. None of the information provided within the document expands on prior information provided by the Applicant.

145. This document also provides no allowance for the management of passengers within the terminal for RoPax operations (i.e. the operational impacts of the 100 passengers). The operational procedures should at least identify the risk associated with the interaction of freight and passengers within the terminal, and within a port that provides limited passenger capacity.
146. It is noted that Annex 1 of REP7-072 is not accessible. This should be provided.