

IMMINGHAM EASTERN RO-RO TERMINAL



Consents and Agreements Position Statement

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Executive Summary

This Consents and Agreements Position Statement (“Statement”) relates to an application submitted to the Secretary of State for Transport by Associated British Ports (“ABP”) under the provisions of section 37 of the Planning Act 2008 (“PA 2008”) for a Development Consent Order (“DCO”). ABP is seeking approval by way of the DCO for the construction and operation of the Immingham Eastern Ro-Ro Terminal Development (“IERRT”).

The IERRT development will comprise the construction and consequent operation of a new roll-on/roll-off (Ro-Ro) facility with three berths together with landside storage capacity within the Port of Immingham, North East Lincolnshire. The IERRT Project constitutes a Nationally Significant Infrastructure Project (“NSIP”) as defined by section 14(1)(j) and section 24(2) of the PA 2008.

The purpose and objective of this Position Statement is to provide information on the additional consents and licences that are or may be required to construct and operate the IERRT Project.

1 Introduction

- 1.1 This Consents and Agreements Position Statement has been provided in connection with an application that has been submitted to the Secretary of State for Transport by Associated British Ports (“ABP”) under the provisions of section 37 of the Planning Act 2008 (“PA 2008”) for a Development Consent Order (“DCO”).
- 1.2 ABP is seeking development consent for the construction and operation of the Immingham Eastern Ro-Ro Terminal Development (“IERRT”). This will comprise a new three berth Ro-Ro facility, with hinterland cargo storage, at the Port of Immingham, which is owned and operated by ABP.
- 1.3 This Position Statement has been prepared in accordance with regulation 5(2)(q) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 as a document which ABP considers necessary to support the application.

2 Purpose and Objective of the Position Statement

2.1 Introduction

- 2.1.1 The purpose and objective of this position statement is to provide additional information as to any additional consents or licences that may be required to enable the delivery and consequent operation of the IERRT development.
- 2.1.2 The contents of an application for a DCO is prescribed by section 37 of the PA 2008 as supplemented, in terms of accompanying documents by the Infrastructure Planning (Applications: Prescribed Forms and Procedure) regulations 2009 (“APFP Regulations”).
- 2.1.3 The APFP Regulations, regulations 5 and 6, detail the documents that must accompany an application for a DCO. In terms of additional consents and approvals, however, advice in this respect is provided by the Department for Communities and Local Government: “*Planning Act 2008: Application Form Guidance*”, published in June 2013.
- 2.1.4 This provides, in relation to Box 24 of the application form, at paragraph 45 and 46 that –

“Where the proposed development will also require other consents, licences, permits etc to enable it to be constructed and/or operational and for which the Secretary of State is not the authorising body under the Planning Act, then the applicant must list and briefly describe these in Box 24. Reference should be made to any that have already been applied for, and a copy enclosed of any that the applicant may already be in possession of.....

“The applicant should also, either in Box 24 or elsewhere in one of the application documents, set out whether there are, in principle, any reasons why such contents etc., might not be granted. In providing this information the applicant should reference responses received from the relevant authorising bodies regarding the likelihood of such consents etc., being granted.”

- 2.1.5 This Position Statement, therefore, lists the consents/approvals that may be required for the delivery of the IERRT project, although in so doing, it is acknowledged that as the Project progresses through the examination, the need for additional consents may arise, whereupon the Examining Authority will be immediately informed and this Position Statement duly amended.

2.2 The DCO - Consent and approvals

- 2.2.1 Section 33 (1) of the PA 2008 provides that –

“to the extent that development consent is required for development, none of the following is required for the development or given in relation to it”

- 2.2.2 It then lists a number of consents and approvals including –
- (a) planning permission;
 - (c) a pipe line construction authorisation;.....
 - (f) Ancient Areas and Archaeological Areas Act consent;
 - (i) Listed Building Act consent; etc.
- 2.2.3 Part 7 of the PA 2008, which is headed - “*Orders Granting Development Consent*” details at section 120 – “*What may be included in order granting development consent*”.
- 2.2.4 This section provides a comprehensive list of the various elements that may be included in the draft DCO, ranging from in the context of this Position Statement –
- i) Matters ancillary to the development including those matters listed in Part 1 of Schedule 5 of the PA 2008 (for example, the suspension of rights of navigation over waters either compulsorily or by agreement; the removal or resiting of apparatus; the diversion of non-navigable watercourses; deeming a marine licence under Part 4 of the Marine and Coastal Access 2009 and deeming any conditions to have been attached to the marine licence by the Secretary of State, the making of byelaws etc.**
- ii) amending, repealing or revoking statutory provisions of local application required as a consequence of a provision in the Order;
 - iii) the inclusion of incidental, consequential, supplementary, transitional or transitory provisions or savings.
- 2.2.5 It should also be noted that section 150 of the PA 2008 may “*include provision the effect of which will be to remove a requirement for a prescribed consent or authorisation to be granted - [but] - only if the relevant body has consented to the inclusion of that provision.*”
- 2.2.6 The entire ethos of the NSIP regime from its inception has been to provide a consenting process for major infrastructure projects which, following a comprehensive pre-application process, can be progressed through to consent (or as the case may be, refusal), in a timely and efficient manner.
- 2.2.7 A critical component of that process is that the single vehicle for the development consent, ie., the DCO can and should encompass as many related or ancillary consents which whilst not be core to the actual given Project will need to be secured by the promoter of the project before development can commence.

3 The IERRT Project

3.1 ***The IERRT Project*** – on that basis, the draft DCO that has been submitted as part ABP’s application for the IERRT project incorporates –

- a) The core approval for the development itself;
- b) The disapplication, where appropriate, of relevant consenting requirements; together with
- c) the inclusion of protective provisions for those consenting bodies concerned; which
- d) provided they are agreed, can be enforced.

3.2 In addition, however, as noted below, the above may not always be possible.

3.3 In certain circumstances it may be that the consenting body is not prepared to agree to the disapplication of its consenting powers. As far as the IERRT project, this is the case in relation to the possible need for a Water Discharge Permit from the Environment Agency – as note below.

4 Consents and Agreements

- 4.1 A summary of the additional consents and licences required or likely to be required for the construction and operation of the IERRT is set out in **Table 1** below.
- 4.2 This Table 1 lists the type of consent or licence that it is anticipated will be required to deliver the IERRT project, the relevant consenting body, any agreement that has been reached with that body, actions to be undertaken and the status of the consenting/approval process.
- 4.3 The document will be updated by ABP during the examination, as necessary. In addition, any of the IERRT DCO application documents that have been superseded will be clearly identified as such.
- 4.4 It is recognised that as part of the consenting process, agreements with third parties may be required in parallel with and during the course of the NSIP examination and these agreements may take a variety of forms.
- 4.5 **Statements of Common Ground** - A fundamental part of the DCO process, however, is the preparation and agreement of Statements of Common Ground (“SoCG”) with third parties. These Statements will identify the matters on which ABP and the given body are in agreement with a view to narrowing the focus of the examination and thereby assisting the Examining Authority.
- 4.6 These will be progressed by ABP where appropriate during the examination.
- 4.7 The IERRT development will, for the purposes of this Position Statement, be constructed entirely within the Port of Immingham statutory port estate. The Port is owned and operated by ABP, the applicant. All of the required consents and approvals listed in Table 1 below are at various stages of discussion with the relevant consenting bodies. It is not anticipated that any of the consents, if actually required, will be withheld by the relevant body.

Table 1 Other Consents, Licences and Agreements

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
1.	Deemed Marine Licence – dredging and marine works	Part 4 of the Marine and Coastal Access Act 2009 Section 149A of the PA 2008	Marine Management Organisation (“MMO”)	The DCO will incorporate a deemed marine licence. The MMO has been consulted and has confirmed that it is content with this approach being adopted. The draft licence has not yet been agreed with the MMO in final form.	The deemed marine licence is contained in Schedule 2 of the DCO, if granted.
2.	Environmental Permits – water discharge activity	Environmental Permitting (England and Wales) Regulations 2016	The Environment Agency (“EA”)	A water discharge activity permit may be required for discharge of any poisonous, noxious or polluting matter; waste matter; trade effluent or sewage effluent to inland freshwaters, coastal waters or relevant territorial waters. The EA have indicated that if such a permit is required, then it should be formally consented and are not prepared to agree to the disapplication of their consenting powers in the draft DCO	If required, this will be secured prior to the commencement of relevant works.
3.	Environmental Permits – groundwater	Environmental Permitting (England and	EA	An environmental permit for groundwater activity may be	If required, this will be secured prior to the

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
	activity – pumping/dewatering	Wales) Regulations 2016		<p>required if groundwater pumping / dewatering is undertaken.</p> <p>This will only require a permit from the EA if the methodology adopted does not comply with the EA’s regulatory position statement on ‘Temporary dewatering from excavations to surface water’.</p>	commencement of the relevant works.
4.	Licence to abstract water	Water Resources Act 1991 Environment Act 1995, Water Resources (Abstraction and Impounding) Regulations 2006	EA	It is not anticipated that a licence to abstract water pursuant to the Water Resources Act 1991 for the construction works as such works would qualify for an exemption.	If required, this will be secured prior to the commencement of the relevant works.
5.	Environmental Permits – waste management	Environmental Permitting (England and Wales) Regulations 2016	EA	<p>Although not anticipated, in the event that off-site disposal of waste is required, it will be to an appropriately licenced landfill.</p> <p>A hazardous waste assessment would be undertaken, and the</p>	If required, this will be secured prior to the commencement of the relevant works.

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
				contractor will be responsible for ensuring that the necessary applications are made in advance to the EA.	
6.	Environmental Permits – flood risk activity	Environmental Permitting (England and Wales) Regulations 2016	EA	<p>The EA has confirmed that an environmental permit is not required for the IERRT development in respect of flood risk activities as ABP are responsible for the flood defences.</p> <p>For completeness, however, ABP is seeking to disapply the requirement to apply for an environmental permit for flood risk activity in the DCO.</p>	Seeking to disapply this within the DCO. See Article 3 of the DCO.
7.	Highways Consents	Highways Act 1980	<p>North East Lincolnshire Council (“NELC”) (as local highway authority)</p> <p>and / or</p> <p>North Lincolnshire Council (“NLC”) (as local highway authority)</p>	Required to allow any works to public highway.	The relevant agreements will be entered into with the relevant highway authorities in accordance with the requirements of the DCO and prior to start of the necessary highway works.

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
			and / or National Highways (as appointed strategic highways company)		
8.	Building Regulations Approval	The Building Regulations 2010 (as amended)	NELC (as local planning authority)	Will be required in respect of buildings and structures forming part of the IERRT.	Buildings Regulations Approval would be sought prior to and during the construction phase.
9.	Health and Safety Related consents	Health and Safety at Work etc. Act 1974 and subsidiary legislation	Health and Safety Executive ("HSE")	<p>The Health and Safety at Work etc. Act 1974 imposes general duties on employers, employees and other persons concerned with the workplace, to establish safe systems of working. A wide range of more specific regulations apply to particular operations, industries and categories of employees.</p> <p>Applications required to be made by contractor before construction commences as necessary to comply with relevant legislation.</p>	<p>This will follow the DCO being made by the SoS and would be sought by the contractor prior to the relevant works.</p> <p>To the extent that the relevant legislation requires consents, record keeping or other activities before particular operations are undertaken, such actions will be taken as required to comply with the applicable legislation</p>

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
10.	European Protected Species Licence(s)	Wildlife and Countryside Act 1981 The Conservation of Habitats and Species Regulations 2017	Natural England ("NE")	Not expected but discussion with NE will be commenced if required.	If required, this will be secured prior to the commencement of the relevant works.
11.	Land Drainage Consent – Ordinary Watercourse Land Drainage Consent	Section 23 of the Land Drainage Act 1991	NELC (as lead local flood authority) and North East Lindsey Internal Drainage Board (IDB) (as internal drainage board)	Land Drainage Consent may be required pursuant to the Land Drainage Act 1991 from the lead local flood authority/IDB for the erection or altering of a culvert or erection of other structures likely to affect flow in ordinary watercourses. Discussions with the relevant authorities are taking place in relation to the scheme and the disapplication of Section 23 in the draft DCO.	Seeking to disapply this requirement within the DCO. See Article 3 of the DCO.
12.	Byelaws for drainage purposes	Paragraph 5 of Schedule 25 of the Water Resources Act 1991	IDB (as internal drainage board)	Consent to discharge into a watercourse or drain may be required pursuant to land drainage byelaws from the IDB for river and main stream crossings.	Seeking to disapply this within the DCO. See Article 3 of the DCO.

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
				Discussions for the disapplication of the relevant byelaws are taking place with the IDB in relation to the scheme.	
13.	Temporary Traffic Regulation Order ("TTRO")	Road Traffic Regulation Act 1984	NELC (as local highway authority) and / or National Highways (as appointed strategic highways company)	May be required to allow traffic management during the construction period. No action required at present.	If required, this will follow the DCO being made by the SoS. Applications to be made by the contractor before construction commences as appropriate.
14.	Construction Noise Consent	Section 61 of The Control of Pollution Act 1974	NELC	Section 61 consent would offer ABP protection from any subsequent action by the Local Authority under Section 60 of the Control of Pollution Act 1974 or under Section 80 of the Environmental Protection Act 1990 to impose further controls on noise from the site.	If required, this will follow the DCO being made by the SoS. If required, would be applied for prior to specific construction activities.
15.	Notification of Construction Works	The Construction (Design and Management) CDM	HSE	HSE should be notified in writing prior to the start of construction work using the HSE F10 Form.	To be submitted prior to construction.

No.	Consent/Licence	Relevant Legislation	Relevant Body/ Consenting Authority	Status/Comment	Anticipated Timescales
		Regulations 2015			
16.	Permit for of Transport of Abnormal Loads	The Road Vehicles (Authorisation of Special Types) (General) Order 2003 The Road Traffic Act 1988	Vehicle Certification Agency (the Executive Agency of the Department for Transport) and National Highways (as appointed strategic highways company) and NELC (as local highway authority)	No action required at present. A permit(s) would be sought once the number and type of abnormal loads and abnormal indivisible loads has been established following the appointment of the contractor.	If required, this will follow the DCO being made by the SoS.
17.	Crown Consent	Section 135 of the PA 2008	Crown Estate Commissioners	Consent required to acquire interests other than the Crown in Crown land.	ABP will seek consent from the Crown Estate Commissioners and it is anticipated that this will be in place before the close of the Examination.

Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
APFP Regulations	Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order
EA	Environment Agency
EPA	Environmental Protection Act 1990
HGV	Heavy Goods Vehicle
HSE	Health and Safety Executive
IDB	Internal Drainage Board
IERRT	Immingham Eastern Ro-Ro Terminal
MMO	Marine Management Organisation
NE	Natural England
NELC	North East Lincolnshire Council
NLC	North Lincolnshire Council
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
Ro-Ro	Roll-on/roll-off
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
TTRO	Temporary Traffic Regulation Order
UK	United Kingdom