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Your Ref:

Our Ref: TR030007

Date: 26 May 2023

Dear Sir / Madam

Planning Act 2008 – Section 89(3)

Application by Associated British Ports for an order granting development consent for the Immingham Eastern Ro-Ro Terminal (TR030007)

Procedural Decisions following the submission of Relevant Representations by Interested Parties

The ExA has made the following Procedural Decisions under Section 89(3) of the Planning Act 2008 (PA2008) relating to the preparation of Statements of Common Ground (SoCGs) and summaries of Principal Areas of Disagreement (PADs).

Further to the submission of Relevant Representations (RR's) by Interested Parties (IPs) and in the absence of any draft Statements of Common Ground (SoCG) having been submitted with the application or the Applicant providing a comprehensive list of the parties it intends to complete SoCGs with, the Examining Authority (ExA) has made a Procedural Decision that the Applicant and the IPs listed below should prepare SoCGs and submit a final signed version of each at or before a deadline date that will be identified in the Examination timetable during the Examination. Although North Lincolnshire Council (NLC) has not submitted a RR the ExA is of the view that it will be of assistance to the Examination of the application if NLC and the Applicant also enter into a SoCG.

As a minimum, the topics identified by the ExA below for each of the SoCGs should be included. However, should the Applicant and the relevant party be of the view that other topics should be included in their respective SoCG then the ExA will have no

objection to that. The Applicant, IPs and NLC will see that there are some topics, for example shipping and navigation, marine ecology and highway effects, which are to be addressed in a number of the SoCGs. There may, therefore, be scope for some of the topics to be addressed on a more thematic basis, with the Applicant and two or more parties entering into topic specific SoCGs. The ExA would be supportive of such an approach being taken, particularly if that would assist the expeditious preparation of the SoCGs.

The Applicant and the other parties who will be entering into SoCGs should note that the ExA will be expecting final signed SoCGs to be submitted as Examination documents no later than the midpoint for the Examination. The precise date will be determined following the holding of the Preliminary Meeting and the formalisation of the Examination timetable. In the meantime, the ExA urges the Applicant, other IPs and NLC to commence work on preparing their SoCGs at the earliest opportunity.

The aim of a SoCG is to agree factual information and in relation to other matters to inform the ExA and all other parties where there is agreement and where there are differences between the Applicant and the other party or parties entering into a SoCG. A SoCG should provide a focus and save time by identifying matters which are not in dispute and therefore do not need the submission of large amounts of additional evidence. A SoCG can also very usefully identify where and why there may be a disagreement between the Applicant and other parties. The reasons for any differences can then be expanded upon in the evidence presented by the Applicant and other parties. Once a SoCG has been concluded and signed by the Applicant and the other party (or parties in the case of any topic specific SoCGs) then the Applicant should take responsibility for submitting the SoCG at the next available Examination deadline or by the final deadline for the submission of SoCGs.

In addition, to assist with the Examination of the application, including the preparation of the SoCGs, the ExA considers that the IPs listed below should identify any Principal Areas of Disagreement (PAD) they have with the Applicant. The ExA is of the view that the early identification of any PADs, to be read alongside the RRs, would assist in providing focus for the Examination and the preparation of any Written Questions to be asked by the ExA. Identifying the PADs during the pre-Examination stage need only take the form of submitting a summary position statement. The ExA envisages that the detailed substance of any PADs will be expanded upon in Written Representations (WRs) and Local Authority's Local Impact Report (LIR).

Accordingly, further to the Procedural Decision concerning the preparation and submission of SoCGs, the ExA has made a further procedural decision that each party that has been requested to enter into a SoCG should prepare and submit a PAD Summary Statement. Parties should submit their PAD Summary Statements not later than 23:59 on 6 July 2023. The parties' Summary Statements should be submitted in table form and for each PAD should cover the following matters:

- State the individual PAD;

- Provide a brief explanation of the PAD which the party will then report on in full in their subsequent Written Submissions;
- Summarise what, in the party's view, would need to change/be amended/included so as to address the disagreement; and
- The party's view about the likelihood of the concern being resolved during the Examination stage.

Examples of submitted PAD Summary Statements can be found amongst the Additional Submissions sections of the Examination libraries for the A66 Northern Trans-Pennine NSIP¹ and Lower Thames Crossing NSIP² applications.

Following the submission of the PAD Summary Statements the Applicant must prepare a PAD Tracker. The PADs Tracker will provide a record of how PAD have or have not been addressed during the course of the Examination. The PAD Tracker must be updated and resubmitted by the Applicant at every Examination deadline, with the first version of the tracker to be submitted at the first Examination deadline following the holding of the Preliminary Meeting.

Statement of Common Ground (SoCG) between the Applicant and:	Matters the Examining Authority considers should be included in signed SoCGs to be submitted jointly by the Applicant and the respective Interested or Other Parties
Able Humberside Ports Limited	<ul style="list-style-type: none"> • Implications of the capital and maintenance dredging associated with the proposed Immingham East Ro-Ro Terminal (IERRT) for dredging disposal capacity in the Humber. • Any cumulative or in-combination effects concerning the construction and operational phases for the proposed IERRT and the proposed Immingham Green Energy Terminal. • Any implications for the operation of the public highway associated with the proposed IERRT, including the adequacy of the baseline traffic data relied upon by the Applicant.
Anglian Water Services Limited	<ul style="list-style-type: none"> • The need for and the wording of any Protective Provisions to be included in

¹ [TR010062-000628-A66 EL.pdf \(planninginspectorate.gov.uk\)](#)

² [TR010032-001818-LTC Examination Library.pdf \(planninginspectorate.gov.uk\)](#)

	<p>the draft Development Consent Order (dDCO).</p>
<p>Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustees Limited (IOT Operators)</p>	<ul style="list-style-type: none"> • The adequacy of the of the Applicant's Navigational Risk Assessment (NRA), including the methodology for undertaking the NRA. • The assessment of construction and operational effects of the proposed IERRT for the operation of the Immingham Oil Terminal (IOT). • The feasibility of relocating the IOT finger pier. • Having regard to the proposed provisions of Requirement 18 in the dDCO [APP-013], what the intended decision-making process would be for establishing whether any vessel impact protection measures should be installed. • What form any other mitigation for the construction and the operational phases of the proposed IERRT might take, including any Protective Provisions in favour of the IOT Operators.
<p>Cadent Gas Limited</p>	<ul style="list-style-type: none"> • The need for and the wording of any Protective Provisions to be included in the draft Development Consent Order (dDCO).
<p>CLdN Ports Killingholme Limited (Killingholme)</p>	<ul style="list-style-type: none"> • The Ro-Ro berthing capacity at Killingholme and the current utilisation of that capacity. • The assessment of the future Ro-Ro freight demand amongst all of the Humber's ports, including: <ul style="list-style-type: none"> ➤ how that demand might be distributed between accompanied and unaccompanied Ro-Ro freight; ➤ the dwell times for accompanied and unaccompanied Ro-Ro freight; and ➤ the types of vessel that might be required to service the demand for Ro-Ro freight.

	<ul style="list-style-type: none"> • The need for the proposed IERRT having regard to Killingholme’s Ro-Ro capacity. • Effects on the operation of the public highway. • The need for: <ul style="list-style-type: none"> ➤ any protective provisions to protect the operation of Killingholme; and ➤ Killingholme to be included as a consultee in connection with the discharge of any of the Requirements included in Schedule 2 of the dDCO [APP-013].
<p>Corporation of Trinity House of Deptford Strond (Trinity House)</p>	<ul style="list-style-type: none"> • Any implications of the proposed IERRT development on matters of navigation coming within Trinity House’s area of responsibility.
<p>DFDS Seaways (DFDS)</p>	<ul style="list-style-type: none"> • The adequacy of the Applicant’s Navigational Risk Assessment (NRA), with particular regard to: <ul style="list-style-type: none"> ➤ the assessment methodology employed, including the application of standards and guidance; ➤ the wind and tidal conditions applied to simulation runs; ➤ the approach to undertaking simulation runs and categorising the results (successful, marginal, fail and aborted); ➤ the type of vessels used in simulation runs; ➤ the amount and duration of bow thruster used to be used by vessels arriving at or departing from the proposed berths and the existing adjoining berths. • The capacity of the Port of Immingham to accommodate any additional shipping movements arising from the operation of the proposed IERRT, including any effects on the availability of vessel waiting (stemming) areas and tugs and the operation of the Inner Dock’s lock.

	<ul style="list-style-type: none"> • The implications of the disposal of capital and maintenance dredged materials arising from the proposed IERRT on shipping operations and dredging disposal capacity in the vicinity of the Port of Immingham. • The adequacy of the landside (both public highway and Immingham Port’s internal road system) traffic assessment and any implications for the Applicant’s proposals for mitigation to address the effects of any additional road going traffic associated with the proposed IERRT. • The need for any protective provisions in favour of DFDS.
Environment Agency	<ul style="list-style-type: none"> • To cover all of the matters raised by the Environment Agency in its Relevant Representation and accompanying letter of 19 April 2023 [RR-009], including: <ul style="list-style-type: none"> ➤ clarification as to whether the proposed IERRT would or would not affect the integrity of any flood defences. ➤ the precise wording of the protective provisions in favour of the Environment Agency to be included in Part 2 of Schedule 4 of the dDCO [APP-013]; and ➤ the need for any additional Condition or Conditions in the draft Deemed Marine Licence (Schedule 3 of the dDCO) to address effects of the proposed IERRT on fish.
Health and Safety Executive (HSE)	<ul style="list-style-type: none"> • Clarification with respect to the proposed IERRT’s “population” to enable the HSE to reach a conclusion as to whether it would advise for or against a DCO being made.
Historic England (HE)	<ul style="list-style-type: none"> • The adequacy of the Schedule 2 Requirements and/or Schedule 3 Conditions included within the dDCO to safeguard marine archaeology within the proposed Order Limits.

	<ul style="list-style-type: none"> • Acceptability of the draft Written Scheme of Investigation [APP-107]
Lincolnshire Wildlife Trust	<ul style="list-style-type: none"> • Any effects of capital and maintenance dredging on the ecology of the Humber Estuary's designated habitats (SAC, SPA, Ramsar site and SSSI, including whether there is any alternative to disposing of dredged material within the river. • Any other construction and operational effects of the proposed IERRT (project specific and cumulative) on the ecology of the area.
Marine Management Organisation (MMO)	<ul style="list-style-type: none"> • To cover all of the matters of concern identified by the MMO in its Relevant Representation [RR-014]. • The adequacy of the provisions contained in the Deemed Marine Licence included in Schedule 3 of the dDCO [APP-013]
Maritime and Coastguard Agency	<ul style="list-style-type: none"> • The adequacy of the Applicant's NRA, with particular regard to the assessment methodology employed, including the application of standards and guidance. • The adequacy of any proposed safety mitigation.
Natural England (NE)	<ul style="list-style-type: none"> • To cover all of the matters of concern identified by NE in its Relevant Representation [RR-015], ie those in the 'Amber' item category identified in Part II of RR-015. • Any benthic ecological concerns identified by NE following the completion of its initial assessment of the proposed IERRT's effects on benthic ecology. • The adequacy of the requirements included in Schedule 2 and the provisions of the Deemed Marine Licence (Schedule 3) of the dDCO [APP-013].
National Highways	<ul style="list-style-type: none"> • Any effects of the proposed IERRT on the operation of the strategic road network (SRN) and the SRN's interface with the local road network, including the

	adequacy of the Applicant's traffic baseline.
Network Rail Infrastructure Limited (Network Rail)	<ul style="list-style-type: none"> • Any implications of the proposed IERRT on the operation of the rail network operated by Network Rail within and beyond the confines of the Port Immingham, including any effect on the availability of freight paths on the rail network and the need for any mitigation. • The wording of any protective provisions needing to be included in the dDCO.
North East Lincolnshire Council	<ul style="list-style-type: none"> • Any effects of the proposed IERRT on the operation of the local road network, including the adequacy of the Applicant's traffic baseline and mitigation proposals. • The cumulative and in-combination effects of the proposed IERRT. • The adequacy of the Articles and the Requirements included in Schedule 2 of the dDCO [APP-013].
North Lincolnshire Council	<ul style="list-style-type: none"> • Any effects of the proposed IERRT on the operation of the local road network, including the adequacy of the Applicant's traffic baseline and mitigation proposals. • The cumulative and in-combination effects of the proposed IERRT. • The adequacy of the Articles and the requirements included in Schedule 2 of the dDCO [APP-013].