

APPLICATION BY ASSOCIATED BRITISH PORTS FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE PROPOSED IMMINGHAM EASTERN RO-RO TERMINAL

Issue Specific Hearing 4 (ISH4)

Date: Thursday 28 September 2023

Venue: Stallingborough Grange Hotel and MS Teams

Action Points

No	Party	Action	Deadline
1	Applicant	Further consider replacing references to “Company” with “Undertaker” in the draft Development Consent Order (dDCO) [REP3-002].	D5
2	Applicant	Undertake a general review of the drafting for the Articles and Requirements and other provisions within the dDCO. In undertaking this review the Applicant should assess the need for all the Articles, Requirements and other provisions of the dDCO and ensure that all of the retained Articles, Requirements and other provisions include all necessary ‘anatomical’ elements. That is, do the Articles, Requirements and other provisions amongst other things state: what has to be done (eg make submissions for approval), by whom and by when; include timing and implementation clauses, as necessary; and include any retention and/or maintenance clauses. The use of “tailpieces” should also be avoided.	D5
3	Applicant	In relation to Article 4, further review the sections of the Harbours, Docks and Piers Clauses Act 1847 (the 1847 Act) intended for incorporation into any made DCO, ensuring that only extant sections of the 1847 Act are cited. Consideration should be given to positively wording Article 4. The reason(s) for incorporating each section of the 1847 Act into any made DCO must be included in an updated version of the Explanatory Memorandum [REP1-007].	D5

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4	Applicant	Consider the extent to which maintenance has been assessed in the Environmental Statement and how that has been reflected in the drafting of the dDCO. Review the dDCO and DML definitions for 'maintain' and 'construct' and the description of maintenance activities within the Environmental Statement.	D5
5	Applicant	Consider the need for and drafting of the tailpiece in Article 21(2). If that tailpiece is to be retained, then a written justification should be submitted.	D5
6	Applicant	Consider appropriateness of amending Article 21(1) to incorporate a daily Ro-Ro unit limit.	D5
7	Applicant	Further clarify in the Explanatory Memorandum the wording in the dDCO. To include: <ul style="list-style-type: none"> • Article 22 (Power to appropriate) • Article 28 (Agreement with highways authority); and • Article 29 (Defence to proceedings in respect of statutory nuisance) 	D5
8	Applicant	Consider amending Requirement 4 (Construction hours) and provide reasons for retention/amendment.	D5
9	Applicant	In relation to Requirement 6 (Piling and marine construction works restrictions) explain how the restrictions on piling and marine construction works have been determined. Refer to the assessments where appropriate.	D5
10	Applicant	Engage with the Marine Management Organisation to ensure that it has reviewed the dDCO in full and not limited its consideration of the dDCO to Schedule 3 (the deemed Marine Licence).	D5
11	Applicant	Explain where the worst case for simultaneous construction and operation activities was assessed in the Environmental Statement, demonstrating that simultaneous construction and operation has been assessed.	D5
12	CLdN and DFDS	Each party to submit a signposting document identifying the dDCO drafting concerns raised in its Relevant Representations and subsequent written Examination submissions.	D4
13	Applicant	Provide responses to CLdN's and DFDS' written submissions concerning dDCO drafting made in	D5

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		their Relevant Representations and subsequent written Examination submissions.	
14	Applicant	<p>Consider if the Construction Environmental Management Plan (CEMP [REP2-004] should be considered as being a draft/outline or final version document. If the CEMP is to be considered as being a draft/outline document, then consider redrafting the dDCO to:</p> <ul style="list-style-type: none"> • require the submission of a final version of the CEMP for approval; • include the approval process; • the individual mitigation measures to be developed under the CEMP; and • include monitoring provisions to ensure compliance. 	D5
15	Applicant	Review compliance responsibilities within in the CEMP, including what has been stated in Table 3.4.	D5
16	Applicant	Explain the details of the offer of noise insulation subject to Requirement 10 in the dDCO in an updated version of the Explanatory Memorandum.	D5
17	Applicant	Review Requirements 8 (CEMP), 13 (Flood risk assessment) and 15 (Construction and operational plans and documents) and amend as necessary to address any duplication.	D5
18	Applicant	Delete 'in general' in Requirement 15.	D5
19	Applicant	Consider the appropriateness of the reference to the submitted Navigational Risk Assessment (NRA) [APP-089] within Requirement 15. Provide a written justification for why the Applicant considers the NRA should or should not be document listed in Requirement 15.	D5
20	Applicant and IOT Operators	<p>Consider and comment on the drafting for Requirement 18 (Impact protection measures) in light of the emerging negotiations between the Applicant and IOT Operators, as outlined in the Applicant's letter of 28 September 2023.</p> <p>Under a scenario where agreement is not reached with respect to altering the layout for the IOT Finger Pier and amending the design for the proposed impact protection measures, review the wording for Requirement 18 and, amongst other</p>	D5

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		things, comment on whether the Secretary of State for Transport or any other regulator should have the responsibility for discharging the provisions of Requirement 18.	
21	Applicant	Provide update on negotiations on Protective Provisions.	D4
22	CLdN	Provide submissions explaining the need for Protective Provisions in favour of CLdN in any made DCO, including a detailed explanation as to why Protections Provisions concerning the railway line connection with the Port of Killingholme are considered necessary.	D4
23	Applicant	Submit any change request(s) as considered necessary.	As soon as possible*

* Any change request must have regard to the need to comply with the Environmental Impact Assessment Regulations 2017 and the procedures and guidance for making changes to submitted Nationally Significant Infrastructure Project applications.