



The Examining Authority  
National Infrastructure Planning  
The Planning Inspectorate  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**Our ref:** AN/2023/134135/06-L01  
**Your ref:** TR030007  
**Date:** 23 October 2023

Dear Sirs

**Application by Associated British Ports for an Order Granting Development Consent for the Immingham Eastern Ro-Ro Terminal – Deadline 5 submission**

Pursuant to Deadline 5, the Environment Agency notes that the Examining Authority invites comments on any submissions received at Deadline 4.

Accordingly, the Environment Agency wishes to update the Examining Authority on progress with the Statement of Common Ground and the Principal Areas of Disagreement (PAD) statement, both of which are referred to in submissions made by the applicant at Deadline 4; [REP4-005](#) and [REP4-006](#) respectively.

**Statement of Common Ground**

The Environment Agency received a first draft Statement of Common Ground from the Applicant on 9 October 2023. It was our view that this document was insufficient to meet the expectations of the Examining Authority (as set out in your Procedural Decisions letter of 26 May 2023 [[PD-005](#)], in that it only listed one matter under the heading of PAD Statement and Protective Provisions. It did not “*cover all the matters raised by the Environment Agency in its Relevant Representation and accompanying letter of 19 April 2023 [RR-009]*”. In addition to this it incorrectly stated that all matters are now agreed. We enclose below at Appendix A, a copy of our reply to the Applicant dated 10 October 2023, which provides more detail in respect of the matters that are under discussion.

Notwithstanding this, we can now provide an update regarding our discussions with the Marine Management Organisation (MMO) in respect of our request for an additional monitoring condition, for temperature and dissolved oxygen, during times of percussive piling. The MMO’s advisers have reviewed the submissions regarding this and concluded that in this instance the imposition of the condition is not necessary. The MMO has declined to include this condition. Accordingly, the Environment Agency will not pursue this issue further and withdraws its representation on this matter.

**Principal Areas of Disagreement**

We confirm that point 3 of our PAD statement [[PDA-010](#)] has been resolved. Point 2 is now withdrawn in line with the information provided above. Whilst we remain confident that point 1 can be resolved within the Examination timeframe, this is not yet the case.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours faithfully

**Annette Hewitson MSc MRTPI**  
**Principal Planning Adviser**

Direct dial 02030 254924

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## **APPENDIX A**

**Copy of Environment Agency letter to Associated British  
Ports, dated 10 October 2023**

Mr T Jeynes  
Sustainable Development Manager  
Associated British Ports  
Dock Officer  
Immingham DN40 2LZ

**Our ref:** AN/2023/134135/05-L01  
**Your ref:** TR030007  
**Date:** 10 October 2023

*(sent by email only)*

Dear Tom

## **Immingham Eastern Ro-Ro Terminal – Outstanding issues and draft Statement of Common Ground**

Thank you for your letter dated 9 October 2023 setting out your review of the Environment Agency's comments and outstanding matters.

On the whole, we share your view that most of the outstanding matters have now been dealt with. However, there are some exceptions to this, which are explained below.

### **Construction Environmental Management Plan (CEMP)**

The CEMP is an ongoing matter for the Examination and as such the Examining Authority asked the Environment Agency for its view on whether the submitted CEMP was sufficiently detailed or whether it should be treated as an outline CEMP with a more detailed version to be submitted to North East Lincolnshire Council for approval prior to the commencement of development.

For information, I attach a copy of the Environment Agency's submission for Deadline 4, which explains our views on this and why we consider this is an ongoing matter that is not yet resolved.

### **Protective Provisions**

Thank you for your confirmation that the text in Schedule 4, part 2 will be amended in paragraph 20(3)(b) of the draft DCO. We note that this has already been done in Revision 2 of the draft DCO, which was submitted at Deadline 1 [[REP1-004](#)].

However, we would draw your attention to paragraph 1.7 of our Written Representations [[REP2-013](#)], which states:

*“we now note that the Applicant has inserted additional text into clause 19(1), which we do not accept. The additional wording will cause the Protective Provisions to no longer apply at the commencement of the operation of the*

*development. If there are still residual issues to be dealt with at that time, such as “all debris and surplus material being removed from the land adjacent to the flood defence to avoid erosion” specified in clause 22 for example, this would no longer be able to be dealt with through the Protective Provisions. Accordingly, we cannot provide our formal agreement to the disapplication of the Environmental Permitting Regulations 2016 and the inclusion of these Protective Provisions until this additional wording is deleted”.*

Accordingly, the agreement of Protective Provisions is an ongoing matter that is still to be resolved.

### **Chapter 9: Nature Conservation and Marine Ecology**

We note that you are having ongoing discussions with the Marine Management Organisation (MMO). However, as set out in paragraph 4.1 of our Written Representations, this is a matter that we are also continuing to discuss with the MMO. As such, it is not one that we consider is yet resolved.

### **Principal Areas of Disagreement and Statement of Common Ground**

You will note from the comments above that it is our view that points 1 and 2 in our Principal Areas of Disagreement (PAD) statement are still to be resolved. Only point 3 has so far been adequately addressed.

Accordingly, we are not able to agree the Statement of Common Ground (SoCG) as drafted. We would also comment that your SoCG draft is unlike many we have previously been party to, in that it does not follow the conventional format of covering all of the environmental issues reviewed, under the Environment Agency’s remit. We would also refer you to the Examining Authority’s Procedural Decisions letter of 26 May 2023 [[PD-005](#)], which stated that the SoCG should “cover **all** of the matters raised by the Environment Agency in its Relevant Representation and accompanying letter of 19 April 2023 [RR-009]”. On this basis, we would suggest that additional text covering issues such as relevant DCO Requirements, physical processes, water and sediment quality, nature conservation and marine ecology, coastal protection and flood risk, ground conditions and land quality, and cumulative effects should also be covered in the SoCG.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours sincerely

**Annette Hewitson**  
**Principal Planning Adviser**

Direct dial 02030 254924

Direct e-mail [annette.hewitson@environment-agency.gov.uk](mailto:annette.hewitson@environment-agency.gov.uk)

Enc: copy of the Environment Agency’s submission for Deadline 4

The Examining Authority  
National Infrastructure Planning  
The Planning Inspectorate  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**Our ref:** AN/2023/134135/04-L01  
**Your ref:** TR030007  
**Date:** 06 October 2023

Dear Sirs

**Application by Associated British Ports for an Order Granting Development Consent for the Immingham Eastern Ro-Ro Terminal – Deadline 4 submission, response to the Examining Authority’s 2<sup>nd</sup> Written Questions**

Pursuant to Deadline 4, the Environment Agency provides below an answer to the Examining Authority’s Written Question:

**BGC.2.10: Construction Environmental Management Plan (CEMP)**

*Advise whether you consider the submitted CEMP [APP-111] is currently sufficiently detailed to enable it to be used during the construction phase for the Proposed Development or whether this document should be treated as an outline CEMP, with a more detailed version needing to be submitted for NELC’s approval prior to the commencement of the Proposed Development. Should you be of the view that the currently submitted CEMP is deficient, please identify those deficiencies and explain how they might be rectified.*

The Environment Agency is of the view that the submitted CEMP is not fully complete for the reasons outlined in paragraph 12.4 of its Relevant Representation [[RR-009](#)] and paragraphs 1.3-4 of its Written Representation [[REP2-013](#)].

The CEMP also states in paragraph 1.1.1 that "*Once appointed, the Principal Contractor will develop their own CEMP in accordance with the principles within this CEMP. The ‘Principal Contractors CEMP’ would be updated regularly throughout construction, acting as a ‘live’ document to capture all construction and environmental issues*".

The CEMP then states in paragraph 1.5.2 that "*All construction works associated with the IERRT project must be carried out in accordance with the approved CEMP unless otherwise agreed with the relevant authorities*". However, the Applicant removed the mechanism for the relevant authorities to do this through the amendment made to Requirement 8 in its DCO Revision 2 draft.

Therefore, it appears that there will be no mechanism for North East Lincolnshire Council, or the Environment Agency as a consultee, to review the Contractor's own CEMP or ensure it complies with the submitted CEMP. Accordingly, we believe the current CEMP should be considered an outline document and a more detailed (Contractor's) version needs to be submitted and approved by North East Lincolnshire Council, following relevant consultation being undertaken.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me at the number below.

Yours faithfully

**Annette Hewitson MSc MRTPI**  
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