



IMMINGHAM EASTERN RO-RO TERMINAL



Applicant's Response to Report on the Implications for European Sites
Document Reference: 10.2.70
APFP Regulations 2009 – Regulation 5(2)(q)
PINS Reference – TR030007
December 2023

Document Information

Document Information		
Project	Immingham Eastern Ro-Ro Terminal	
Document Title	Applicant's Response to Report on the Implications for European Sites	
Commissioned by	Associated British Ports	
Document ref	10.2.70	
APFP Reg 2009	Regulation 5(2)(q)	
Prepared by	IERRT Project Team	
Date	Version	Revision Details
11/12/2023	01 Deadline 7	Submitted at Deadline 7

Contents

1	Purpose of this document	4
2	Questions	5
	Glossary	17

1 **Purpose of this document**

- 1.1 On 15 November 2023, the Examining Authority (ExA) issued its Report on the Implications for European Sites (“RIES”) **[PD-018]**.
- 1.2 This document provides the Applicant’s response to each of the questions raised in the REIS.

2 Questions

RIES Q	Question to:	Question:	Applicant's Response:
1	Natural England ("NE")	Following the addition at DL5 of the harbour seal feature of the Wash and North Norfolk Coast SAC to the assessment, can NE confirm that all relevant European sites and or European site features that could be affected by the project have been identified by the Applicant?	
2	Applicant	The Applicant is requested to revise the HRA Report to provide an extra column in screening Tables 3, 4 and 5, to identify which pathways and qualifying features were considered in relation to LSE screening for in-combination effects. For the impact pathways or potential effects that have been screened into the consideration of site integrity stage for the project alone, no consideration of in-combination effects is required at Stage 1. However, for effects that are small but not significant alone these should be considered in combination with other relevant plans or projects.	<p>Tables 3, 4 and 5 have been revised with the 'Potential for LSE' column now considering projects alone and in-combination. The 'Justification' column also now considers projects in-combination for effects considered small and not significant (i.e., those not resulting in LSE alone). The in-combination assessment is then presented in Section 4.14 of the report.</p> <p>Given the already very large size of the tables, this was considered the best approach to provide the information required rather than adding an extra column.</p> <p>An updated version of the HRA Report has been provided at Deadline 7.</p>
3	NE	Can NE confirm whether it agrees with the conclusions of the screening assessment for the Wash and North Norfolk Coast SAC presented in Table 3 of the HRA Report [REP5-020]? If not, what are the issues it does not agree with?	
4	NE and Marine Management	The HRA Report does not appear to address the potential for accidental spillages to occur during operation. Can NE and the MMO confirm that they	

	Organisation ("MMO")	are satisfied with the absence of an assessment for this potential pathway? If it is not, could NE and the MMO set out what steps the Applicant needs to take?	
5	NE	<p>Following the Applicant's revisions to the HRA Report [REP5-020], can NE confirm its view on the conclusions of the screening assessment for the following additional Humber Estuary SAC habitat features considered in Table 3:</p> <ul style="list-style-type: none"> • H1130 'Estuaries'; • H1110 'Sandbanks which are slightly covered by seawater all the time'; and • H1140 'Mudflats and sandflats not covered by seawater at low tide'. <p>If NE has any issues with the conclusions, could it identify what the Applicant needs to do to address them.</p>	
6	NE	In light of the Applicant's justification at [REP1-013], can NE confirm its view on the conclusions of the screening assessment set out in Table 3 of the HRA Report [REP5-020] in relation to the pathway 'physical change to habitats resulting from the deposition of airborne pollutants'	
7	NE	Following the Applicant's revisions to the HRA Report [REP5-020], is NE satisfied with the revised screening assessment of the construction dust pathway and the screening conclusions with respect to the habitat features of the Humber Estuary SAC and Ramsar site?	

		If it is not, could NE set out what steps the Applicant needs to take?	
8	NE	Following the Applicant's revisions to the HRA Report [REP5-020], in particular the inclusion of Appendix A, can NE confirm whether it is content with the presentation and robustness of the baseline data for coastal waterbirds? If it is not, could NE set out what steps the Applicant would need to take to address NE's concerns?	
9	Applicant	Please rectify the discrepancy in Table 3 between the potential for LSE ('YES') and justification presented ('no LSE') for the 'Direct loss or changes to migratory fish habitat' pathway arising from dredge disposal.	This discrepancy has been rectified in the updated version of the HRA Report provided at Deadline 7.
10	NE	<p>Are you content with the Applicant's assessment of the following pathways in Table 4 of the revised HRA Report [REP5-020]:</p> <ul style="list-style-type: none"> • impact of capital dredge disposal on SPA features; • indirect loss or change to seabed habitats and species as a result of changes to hydrodynamic and sedimentary processes; • changes in water and sediment quality; • artificial lighting. <p>If NE has any issues with the Applicant's assessment, could it set out what the Applicant needs to do to address them.</p>	
11	NE	ID30 of AS-015 requests that the Applicant reviews the screening distance and impact/zone of influence	

		distances. Is NE content with the Applicant's response in REP1-013? If not, please explain what would need to be provided/detailed within the Applicant's HRA report?	
12	NE	The Applicant has revised the HRA Report to provide further information on sedimentation tolerance but maintains its conclusion on no LSE for this pathway arising from the development alone. Are you content with the Applicant's conclusions on this matter? If NE is not content, please explain why that is.	
13	Applicant	Specify, for each of the mitigation measures listed in Table 40, the mechanism by which they are secured (with cross references to the specific locations in the relevant parts of the draft DCO).	Table 40 of the HRA Report [REP5-020] has been updated to specify the mechanism by which each of the mitigation measures are secured.
14	NE and MMO	Section 5.6 of ES Appendix 9.2: Underwater Noise Assessment [APP-088] provides pre-construction underwater noise monitoring results which were undertaken in the Humber Estuary at Green Port Hull (GPH) during October 2014, based on a report from ABPmer. The Applicant provided further detail to this approach to modelling at REP1-013, REP2-009 and REP4-008. Can NE and the MMO advise whether you are content that the underwater noise baseline modelling is robust? If you are not content, please explain why that is the case.	
15	NE	ID22 of [AS-015], supports the mitigation measures set out in paragraph 4.11.39 of [APP-115] that would be implemented during piling to reduce the level of impact associated with underwater noise and vibration on fish and grey seal during construction. The HRA Report was updated at DL5 [REP5-020]	

		and this paragraph [now 4.11.40] has been updated. Please confirm whether you agree with this updated text and whether you have any other concerns in relation to this mitigation protocol?	
16	NE	ID26 of [AS-015] contests the Applicant's application of a high sensitivity given to marine mammals Permanent Threshold Shift and that it is inappropriate to consider the size of a PTS zone in regard to sensitivity. ID26 requests that the ES is amended but the Applicant has amended the HRA Report [REP5-020]. Can NE confirm if it agrees with the updated HRA Report [REP5- 020], particularly the conclusions presented in paras 4.11.32 and 4.11.39? If NE does not agree with those conclusions, please explain why that is the case.	
17	NE	Can you confirm whether the changes made in section 4.11 of the updated HRA Report [REP5- 020] have addressed the concern raised in ID 28 of AS-015 and if not please explain why that is the case?	
18	NE	Following the Applicant's updates to the HRA Report, please confirm whether you agree with the conclusion of no AEol as a result of operational airborne emissions to the habitats of the Humber Estuary SAC and Ramsar site? If NE does not agree with a conclusion of there being no AEol, explain why that is the case.	
19	NE	The conservation objective for the Humber Estuary is that the extent and distribution of qualifying natural habitats should be maintained or restored 'subject to natural change'. In light of the revisions made to the HRA Report [REP5-020] in relation to the loss of intertidal habitat, please advise whether you now	

		concur that AEoI can be excluded? If NE does not agree with a conclusion of there being no AEoI, explain why that is the case	
20	NE and MMO	Please advise whether you are content that the mitigation measures proposed to reduce the level of impact associated with underwater noise and vibration on qualifying species during the construction phase would be sufficient to ensure no AEoI? If you are not content please explain why that is the case.	
21	Applicant	The ExA is concerned about the level of detail provided in Tables 37, 38 and 39 of the revised HRA Report [REP5-020]. The ExA further considers that the Applicant's response to Issue Specific Hearing 3 Action Point 32 [REP5-025] was inadequate, with reliance in effect being placed on using the IGET application documentation to source the necessary information. The Applicant is requested to provide an updated version of the HRA Report with an in-combination assessment which quantifies the extent of in-combination effects wherever possible.	<p>Tables 37, 38 and 39 of the HRA have been updated to include more detailed information on in-combination effects with the IGET project.</p> <p>An updated version of the HRA Report has been provided at Deadline 7.</p>
22	Applicant	Footnote 16 of the HRA Report [REP5-020] reports that benthic communities are expected to recover in less than two to three years. However, maintenance dredging is expected to happen three to four times per year in some areas and every one to two years in others. What are the implications for the recovery of the benthic communities?	As stated in Footnote 16 of the HRA Report [REP5-020], the benthic communities are expected to fully re-establish in typically less than 1-2 years and for some species within a few months. As discussed in paragraph 4.4.48 of the HRA [REP5-020], a comparable macrofaunal community to pre-dredge conditions would be expected to occur over much of the dredged area between maintenance dredging campaigns as maintenance dredging is only anticipated to be required approximately every 1-2

			<p>years, or even more infrequently, for most of the dredge footprint.</p> <p>As stated in paragraph 4.4.48 of the HRA [REP5-020], regular maintenance dredging (i.e., occurring every 3-4 months) is anticipated to be targeted – and therefore will be limited to a relatively small proportion of the total dredge area (i.e., focused around the finger pier piles and adjacent areas of the berth pockets and pontoons – see Figure 7.19 of the ES [APP-063]). For those areas, the benthic community is likely to remain in a more disturbed state. However, a generally impoverished benthic community was recorded during site specific benthic surveys which is likely to reflect the existing high levels of physical disturbance in the area due to strong near bed tidal currents and sediment transport. Based on these factors and the justification provided in Table 15 of the HRA, maintenance dredging is not considered to result in a AEOI on interest features.</p>
23	NE	The ExA notes that NE has withdrawn its previous concerns about the effects of disturbance resulting from the removal of seabed material during maintenance dredging (ID 19 of [AS-015] and [AS-017]). NE is requested to explain why its position has changed.	
24	Applicant	In response to NE’s request for the provision of biosecurity measures during the operational phase, you stated in REP1- 013 that your existing biosecurity measures would be applied to the operational phase. The Draft Statement of Common Ground between the Applicant and NE [REP5-016] states that this matter was agreed on 19 April 2023. Please provide details of the existing biosecurity	<p>ABP’s Humber ports operate in accordance with a Biosecurity Plan originally developed in consultation with Natural England in 2016/2017.</p> <p>The Biosecurity Plan is meant for use in accordance with day-to-day activities at ABP sites and to highlight where one-off events increase the risk of introduction of non-native species. The approach being taken</p>

		<p>measures that have been agreed with NE for the operational phase and indicate how these would be secured within any made DCO.</p>	<p>within this plan is primarily to identify the highest risk pathways for introduction of non-native species and introduce measures that allow for the management of those risks as far as reasonably practicable. This allows management measures to be put in place without detailed knowledge of species present.</p> <p>There is also space within the Biosecurity Plan to include species known to be present to facilitate the inclusion of any specific measures needed although, if a specific management plan is already in place (for example, a Japanese Knotweed plan) it can simply be referenced with any day-to-day actions required.</p> <p>There is also scope to include reference to non-routine activities, which may be better served by a project or event-specific plan. It is not considered necessary to secure biosecurity measures within the DCO as these processes are already embedded within normal operational controls employed at the port.</p>
25	NE	<p>The Draft Statement of Common Ground between the Applicant and NE [REP5-016] states that on 19 April 2023 you agreed to the Applicant implementing their existing biosecurity measures during the operational phase of the Proposed Development. Please confirm that this correctly reflects your position.</p>	
26	NE	<p>With respect to ID25, please confirm whether the content of section 4.11 of the updated HRA Report [REP5-020] has addressed your concern and if not explain why that is the case</p>	
27	NE and MMO	<p>ID33 of AS-015 requests for further detail on how much of the piling could be achieved using vibro-</p>	

		<p>piling to enable greater understanding of how much this mitigation measure could be applied across the piling campaign. The Applicant responded by referring to paragraph 6.2.3 in ES Appendix 9.2 [APP-088]. Can NE and the MMO confirm that this information and mitigation is sufficient for reliable assessment conclusions within the HRA Report and AEoI? If the information included in the ES is considered to be insufficient, please advise how that deficiency should be addressed.</p>	
28	NE	<p>In light of the changes to the HRA Report, does NE agree with the Applicant's conclusions of no potential AEoI on the qualifying interest features of the Humber Estuary SPA and Ramsar site as a result of changes to waterbird foraging and roosting habitat? If not please explain why that is the case.</p>	
29	NE	<p>In light of the clarification provided by the Applicant, can NE confirm whether it agrees with the methodology for assessing waterbird disturbance, in particular the assumptions regarding responses and sensitivity of waterbird species (Table 28 [REP5-020]). If the Applicant's clarification has not addressed NE's concern how might that be addressed by the Applicant?</p>	
30	NE	<p>The Applicant has provided further information on the importance of Sector B (compared to Sectors A and C) in Appendix A of the revised HRA Report [REP5-020]. In NE's opinion, are these changes sufficient to inform a robust assessment of impacts from noise and visual disturbance? If the Applicant's clarification has not addressed NE's concern how might this be addressed?</p>	

31	NE	In light of the revisions to the HRA Report [REP5-020] is NE now content that the assessment of construction noise disturbance is adequate? If not, please explain why that is the case.	
32	NE	With respect to the further assessment of the potential energetic cost of bird disturbance during the construction period requested in ID7 of RR [AS-015], explain what additional information would be required to address NE's concern.	
33	Applicant	In paragraph 4.10.32 of [REP5-020], it is stated that birds would be expected to re-distribute to the nearby foreshore in the Immingham area if disturbed by construction works. Paragraph 4.10.34 of [REP5-020] notes a degree of uncertainty about the ability of other areas of foreshore to accommodate displaced birds. Given that, why does the Applicant consider that the displaced birds could be accommodated elsewhere in the estuary?	<p>Paragraph 4.10.32 of [REP5-020] considered potential displacement effects without mitigation and while birds would be expected to re-distribute to the nearby foreshore in the Immingham area to feed and roost there is some degree of uncertainty as to whether such areas could accommodate displaced birds if this were to occur.</p> <p>However, with the proposed mitigation measures in place, potential disturbance and displacement effects are expected to be much more limited with any changes to the distribution of birds on the foreshore expected to be negligible and temporary as discussed in Table 30 of the HRA [REP5-020].</p>
34	Applicant	<p>The Applicant is requested to clarify:</p> <ul style="list-style-type: none"> - whether the evidence presented in Table 29 of the HRA Report [REP5-020] on the sensitivity of turnstone to disturbance stimuli applies to roosting as well as foraging. - where in the revised HRA Report have the following been considered: 	<p>For clarity, it is assumed that the ExA is referring to Table 28 of the HRA [REP5-020] which considers species sensitivity rather than Table 29 which describes the abundance of birds in Sector B. The Applicant can confirm that the evidence on the sensitivity of turnstone to disturbance stimuli presented in Table 28 applies to roosting as well as foraging.</p> <p>To clarify with respect to roosting structures, as stated in paragraph 4.3.35 of the HRA, Turnstone is the only</p>

		<ul style="list-style-type: none"> • airborne noise and visual disturbance impacts from construction on birds roosting on structures in the intertidal zone; • consideration of whether there are other suitable structures for the birds to use; and • whether additional mitigation measures are required? 	<p>SPA species screened into Stage 2 (Appropriate Assessment) which has been recorded using these structures in the intertidal in the vicinity of the proposed development. Paragraph 4.3.35 goes on to say that <i>‘Turnstone are considered to be very tolerant to potential disturbance and would be expected to continue using these structures during construction. In addition, as stated in Section 1.4 of Appendix A of this HRA, Turnstone are also recorded using other structures in the area such as beams on jetty structures and the bottom of the seawall. Such structures are used for both feeding and roosting by Turnstone. There is, therefore, considered to be a wide variety of alternative structures available in the nearby area for this species to utilise.’</i></p> <p>On this basis, no additional mitigation measures are required.</p>
35	NE	Given the additional information provided in Appendix E of the HRA Report [REP5-020] is NE content that its concern with respect to the proposed measures for mitigating noise and visual disturbance effects has been addressed? If not, please explain how NE’s concern might be addressed.	
36	NE	Does NE consider adaptive monitoring to be necessary to reach a conclusion of no AEoI in the context of operational noise and visual disturbance? If the undertaking of adaptive monitoring is considered necessary to reach a conclusion of no AEoI, please explain why that would be the case.	
37	NE	Following the revision to the HRA Report [REP5-020] is NE content with the assessment of operational noise and visual disturbance and the	

		conclusions of no AEol? If not, please explain how NE's concern might be addressed.	
38	NE	Further to the issues raised by NE and the Applicant's response in REP1-013, please advise whether NE's concern has been addressed and if not indicate what further would be required this concern?	

Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
ALARP	As Low As Reasonably Practicable
CHA	Competent Harbour Authority
DCO	Development Consent Order
DFDS	DFDS Seaways Plc
EIA	Environmental Impact Assessment
EMS	European Marine Site
ES	Environmental Statement
Hazid	Hazard Identification
Hazlog	Hazard Log
HES	Humber Estuary Services
HMH	Harbour Master Humber
IERRT	Immingham Eastern Ro-Ro Terminal
IGET	Immingham Green Energy Terminal
Nav Sim	Navigational Simulation
NRA	Navigational Risk Assessment
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Ro-Ro	Roll-on/roll-off
SHA	Statutory Harbour Authority
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom