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Mr B Greenwood
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Your Ref: 10276966

Our Ref: TR030007

Date: 12 January 2024

Dear Mr Greenwood

Planning Act 2008 (PA2008) and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17

Application by Associated British Ports for an Order Granting Development Consent for the Immingham Eastern Ro-Ro Terminal Project

Request for further information

In connection with the above mentioned Nationally Significant Infrastructure Project (NSIP) application, we are writing under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) making the following requests for further information.

- 1) With regard to concerns expressed by DFDS in [REP8-045, paragraphs 40 and 111] about the validity of the navigational safety assessments completed to date, on a without prejudice basis, provide wording for requirements to cover the two matters listed below, together with any contingent amendments that may be necessary to the Protective Provisions in favour of the Statutory Conservancy and Navigation Authority (SCNA). The ExA is making this request so that wording for requirements would be available for the Secretary of State to consider in the event of the ExA recommending that one or other or both ought to be included in any made Development Consent Order (DCO) instead of or in combination with one or other or both of Requirements R18 and R19 included in the draft DCO [[REP8-005](#)]:
 - a) A requirement limiting the use of the proposed berths to Stena T-class vessels; and
 - b) A requirement for the impact protection measures for the Immingham Oil Terminal (IOT) Finger Pier comprising proposed Work Number 3 be constructed in full prior to any of the proposed berths being brought into use.
- 2) With regard to concerns expressed by IOT Operators in [REP8-057, NS.4.06 and paragraph 22] regarding the Outline Offshore Construction and Environmental

Management Plan, what security can be offered through the draft DCO to the IOT Operators:

- a) assuring engagement between the Statutory Harbour Authority for Immingham, the SCNA and the IOT Operators in the development of the marine liaison process and tanker berthing protocols during the construction and construction-operation phases; and
 - b) restrictions on the use of Berth 1 of the IOT in certain conditions to ensure safe arrival and/or departure of coastal tankers to and from IPT berth 8.
- 3) With regard to the comments made by the IOT Operators [REP8-057, including paragraphs 1, 11, 13, 18, 21, 22 and 58] about the December 2023 navigational simulations and precedent for impact protection at the Immingham West Jetty:
- a) What would the most likely consequences be following allision between a Ro-Ro vessel and infrastructure or another vessel berthed at the Proposed Development and the consequent damage or disablement to vessels and/or attendant tugs?
 - b) Why were requests by the stakeholders to simulate the use of an arrest tug for the entirety of the berthing manoeuvre denied, and why would that “*open a can of worms*” as noted by the IOT Operators [paragraph 11(b) in REP8-057]?
 - c) Comment on the alleged refusal of one of Stena Line masters in attendance to continue with the simulation runs as noted by the IOT Operators “*During the course of the simulations in December a Stena Master refused to continue with the runs as he stated that he would never operate in greater than 20 knots of wind or 2.5knots of tide ...*” [paragraph 18 in REP8-057].
 - d) Confirm whether any of the simulation runs led to “hard landings” or approach speeds or angles for IOT vessels that exceeded IOT’s operating limits or safety guidelines.
 - e) Provide an explanation for why impact protection was installed at West Jetty Berth 4 and the process for how the requirement for that protection was triggered and pursued.
- 4) In relation to the HMH’s alternate wording for Requirement 18, suggested in response to ExQ4 DCO.04.05 on a non-preferred basis [REP8-052], does the Applicant have any observations to make about that alternate wording for Requirement 18, most particularly sub-paragraph (1)? The HMH’s wording for the alternate version of Requirement 18 is set out below with some amendments to the text that the ExA considers should be made in the interests of precision.

“18.-(1) In the event that the Statutory Conservancy and Navigation Authority determines, ~~at its discretion,~~ that impact protection measures are required ~~in the interests of navigational safety in the River Humber,~~ and upon receiving notification of that decision from the Statutory Conservancy and Navigation Authority, the undertaker must construct the impact protection measures as determined by the Statutory Conservancy and Navigation Authority. ...

*(3) No works for the construction of the impact protection measures may commence until the undertaker has obtained the **written** consent of the Statutory Conservancy and Navigation Authority (~~such consent not to be unreasonably withheld~~).*

(4) Upon receiving notification of the Statutory Conservancy and Navigation Authority's determination referred to in **sub-paragraph (1)**:

(a) the undertaker must— within 10 business days, notify the operator of the Humber Oil Terminal and the MMO of that determination; and

(b) within 30 business days, notify the operator of the Humber Oil Terminal and the MMO as to the steps it intends to take as a result of the Statutory Conservancy and Navigation Authority's notification.

[Note: the ExA remains of the view that in sequencing terms this sub-paragraph should follow sub-paragraph (1)]

(5) The detailed design referred to in **sub-paragraph (2)** [or sub-paragraph (3) if the running order of sub-paragraphs is altered in line with the ExA's comment above] must be:

(a) within the limits of deviation shown on the relevant plans of the works plans;

(b) in general accordance with the detail shown on the relevant engineering sections drawings and plans; and

(c) in general accordance with the detail shown on the relevant general arrangement plans.”

- 5) With respect to new Requirement 19 (introduced as an alternative to the ExA's suggested Requirement 18A) included in the Deadline 8 version of the draft DCO [[REP8-005](#)]:
- a) The Applicant should submit a copy of the extant version of the “Port of Immingham Operations Manual”.
 - b) The Applicant must review the wording of Requirement 19 and/or other parts of the dDCO and submit appropriate amendments because this requirement as currently drafted abruptly introduces the incorporation of “*Enhanced Operational Measures*” in sub-paragraph 1, apparently with no other reference(s) to Enhanced Operational Measures in either Requirement 19 or any other part of the dDCO, for example in paragraph 2 Interpretation, in the Schedule 3 (deemed Marine Licence) and in Schedule 6 (Plans and Documents to be certified). Accordingly, the ExA considers the reference to Enhanced Operational Measures in Requirement 19 lacks precision, thereby affecting the enforceability of this requirement.
 - c) The Applicant must clarify whether the document titled “*Immingham Eastern Ro-Ro Terminal Enhanced Operation Controls*”, included as Appendix 1 in [[REP8-020](#)], has been correctly titled or should instead be titled “*Immingham Eastern Ro-Ro Terminal Enhanced Operational Measures*”, as per the wording used in Requirement 19 of the dDCO?
 - d) With respect to the drafting of the document currently titled “*Immingham Eastern Ro-Ro Terminal Enhanced Operation Controls*” (the controls/measures document):
 - i. What is meant by “large” and “small” inbound vessels? The ExA considers definitions for large and small vessels should be included in the wording of the controls/measures document.
 - ii. The controls/measures document includes various abbreviations (VTS, PPVs, IERRT, ADM, AHM, PEC). Some of those abbreviations from the application documents and Examination evidence will be/are familiar to all

parties participating in the Examination and the ExA. PPV is an entirely new abbreviation. In the interests of precision and enforceability the ExA considers that the controls/measures document should include text defining all of the abbreviations included in it. Accordingly, the Applicant should submit an amended version of the controls/measures document that clarifies its title and defines any abbreviations included in it.

- 6) Given the multiple revisions that have been made to the dDCO the Applicant must undertake a review of the Explanatory Memorandum, which was last updated in November 2023. Further to the undertaking of that review an updated version of the Explanatory Memorandum must be submitted at Deadline 10.
- 7) The Navigational Study of Enhanced Control Measures [REP8-029] appears to overlap substantially with the Navigational Simulations document [AS-071]. Provide a clarifying note or document highlighting any changes made to the content of the [AS-071] by [REP8-029].
- 8) With regard to the points raised by DFDS in [AS-080] on the selection of a “*most challenging day*”, provide a justification of how and why the day selected was chosen and why it did not include the arrival of a “*restricted vessel*”.
- 9) Further to National Highways’ (NH) Deadline 8 responses [REP8-036 and REP8-037] can the Applicant confirm whether it would be content with NH being added to Requirement 13 in respect of approving the final version of the Operational Freight Management Plan (FMP)?
- 10) In preparing the final FMP, can the Applicant confirm that it will consider the comments made by DFDS at paragraphs 122 to 133 in [REP8-045], particularly noting their comments in respect of the need for firm commitments and targets?

Responses should be submitted in writing to the Planning Inspectorate no later than **23:59 on Thursday 18 January 2024 (Deadline 10)**.

With there being a limited amount of time between Deadline 9 (15 January 2024) and the issuing of this letter there is potential for some or all of the ExA’s requests for further information to be addressed in any submissions you are intending to make at Deadline 9. To avoid unnecessary duplication, it will be in order to simply make a cross reference to any Deadline 9 submission that addresses any of the ExA’s requests for further information included in this letter.

Yours sincerely

Grahame Gould

Grahame Gould
Lead Member of the Panel of Examining Inspectors

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