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Mr B Greenwood  
Clyde and Co  
The St Botolph Building  
138 Houndsditch  
London  
EC3A 7AR

Your Ref:

Our Ref: TR030007

Date: 22 January 2024

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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) Further to the Applicant's submission of a Habitats Regulations Assessment Derogation Report (the Derogation Report) [\[REP8-033\]](#), on a without prejudice basis, the Examining Authority (ExA) notes that should the Secretary of State, as the competent authority, conclude that the Proposed Development would have an adverse effect on the integrity of the Humber Estuary Special Area for Conservation (SAC), Special Protection Area (SPA) and Ramsar site compensatory land would be available.

The compensatory land amounting to one hectare, forming part of the 250 hectare Outstrays to Skeffling Managed Realignment Scheme (OtSMRS) on the north bank of the Humber. That compensatory land would be provided at a ratio of 3:1 to replace the intertidal and subtidal habitat affected by the Proposed Development. In paragraph 5.28 of the Derogation Report [\[REP8-033\]](#) it is explained that the one hectare of OtSMRS land would be secured by means of the Applicant entering into a legal agreement with the East Riding of Yorkshire Authority, the local planning authority where the OtSMRS is located.

At paragraph 5.36 of the Derogation Report [\[REP8-033\]](#) it is further explained that the delivery of the compensatory measures will be included as a requirement of a made Development Consent Order (DCO). However, the Applicant has not provided wording for any such requirement in the draft DCO (dDCO) [\[REP10-004\]](#).

The ExA notes that one hectare of the OtSMRS was identified as compensatory land when the Applicant's first application for the Proposed Development was submitted. Following the withdrawal of that application the Planning Inspectorate, in Section 51 advice issued on 2 February 2023, raised concerns about the Applicant's then approach to relying on one hectare of OtSMRS land as compensatory land. The ExA considers that what is now being proposed, on a without prejudice basis, in the Derogation Report to secure the allocation of one hectare of the OtSMRS land in effect replicates what was being proposed as part of the withdrawn application for the Proposed Development. The ExA therefore considers what the Applicant is proposing does not accord with the advice provided in the Planning Inspectorate's letter of 2 February 2023, with the land in question having neither been reported on in the Applicant's Environmental Statement nor assessed in the Habitats Regulation Assessment report.

The Applicant is therefore requested to give further consideration to the mechanism for how one hectare of the OtSMRS land could be allocated as compensatory land for the Proposed Development. In that regard the ExA does not consider that entering into a legal agreement with East Riding of Yorkshire Authority would be appropriate, given that authority has no jurisdiction in respect of the Proposed Development at Immingham. The Applicant is also requested to provide wording for the requirement alluded to in paragraph 5.36 of the Derogation Report [[REP8-033](#)].

- 2) With respect to Article 21 (Operation and use of development) of the dDCO [[REP10-004](#)], further to the submissions made by DFDS in [[REP9-026](#)] and [[REP10-023](#)], comment on why the restriction on the number of passengers using the Proposed Development per day in sub-paragraph (2) only addresses 100 departing passengers and why no limit on arriving passengers has been included in the dDCO.
- 3) The Protective Provisions in favour of the Statutory Conservancy and Navigation Authority for the Humber included at paragraph 17 in Schedule 4 of the dDCO [[REP10-004](#)] is titled "*Removal of wrecks and obstructions, etc. Oil Spillage Plan*" but contains no provisions regarding wrecks and obstructions. Please clarify whether the reference to wrecks and obstructions is an oversight or intentional and if it is intentional submit revised wording for paragraph 17.
- 4) Advise on whether the draft Written Scheme of Investigation [[APP-107](#)] should be specifically listed in Schedule 6 (Plans and Documents to be certified) of the dDCO [[REP10-004](#)], rather than merely being included as part of the general description of the Environmental Statement appendices.
- 5) DFDS has referred in paragraph 40 of [[REP9-026](#)] to the publication of a revised version of the Humber Pilot Handbook on 18 January 2024. DFDS submitted a copy of the previous version of the "*Immingham Dock*" section of the Pilot Handbook as [[REP2-044](#)]. Please submit a copy of the revised version of that Immingham Dock section of the Pilot Handbook together with an explanation of the changes that have been made to it in the latest revision.

Responses should be submitted in writing to the Planning Inspectorate no later than **23:59 on Wednesday 24 January 2024**.

Yours sincerely

*Grahame Gould*

**Grahame Gould**  
**Lead Member of the Panel of Examining Inspectors**

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