

# IMMINGHAM EASTERN RO-RO TERMINAL



Applicant's Response to ExA's Rule 17 Letter dated 22 January 2024  
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## **Applicant's Response to the Rule 17 Letter**

- This submission responds to the ExA's Request for Further Information as set out in its Rule 17 letter dated 22 January 2024.
- Each question as it appears in the Rule 17 Letter is provided below followed by the Applicant's response.

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to secure the allocation of one hectare of the OtSMRS land in effect replicates what was being proposed as part of the withdrawn application for the Proposed Development.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].**

- 1.1 ***The legal principle*** – The ExA’s question encompasses a number of issues and to be of assistance, the Applicant responds to each sub-question in turn, but also deals with some preliminary points of principle:
- 1.2 ***Immingham Green Energy Terminal (IGET)*** – First, and fundamentally, it should be noted that, as referenced in the Applicant’s Response to Natural England’s Deadline 9 submission provided at Deadline 10 [REP10-018], and in the context of the examination of the IGET DCO application which is commencing in February 2024, the Applicant (the Applicant for both projects) has already confirmed in its response to Natural England and to the Examination that if the Secretary of State determines that the provision of compensatory habitat is required for an in-combination impact with IGET, that compensatory habitat will be provided as part of the IGET proposal.
- 1.3 Even if the Secretary of State concludes that compensation is required on an in-combination basis, there is no requirement to secure such compensation as part of the Proposed Development because it can be secured, if required, by the control that the Secretary of State retains over the IGET project. This is by reason of the fact that the IGET project (and any in-combination effect it causes) is not part of the Proposed IERRT Development.
- 1.4 Accordingly, the Applicant maintains not only that no such in-combination effect will give rise to AEol (as addressed in its submissions) as far as the Proposed Development is concerned, but that in addition, the avoidance of any such in-combination effect can be addressed by the IGET project. As a consequence, it is unnecessary and not required as a matter of law to secure any provision in relation to the Proposed Development.
- 1.5 The requirement to assess potential in-combination effects in the EIA and HRA has been fulfilled, but those in-combination effects could only occur if both developments were to proceed. It is, therefore, clear as a matter of law that the ability to impose measures to address any such in-combination effects through the IGET project ensures that there is full compliance with the HRA in permitting the Proposed Development to proceed. This is without incorporating compensation to deal with an in-combination effect which might never arise, but if it were to arise, would be addressed by the IGET proposal and the terms of any DCO granted.
- 1.6 As identified by the Court of Appeal in *R (Forest of Dean(Friends of the Earth) v Forest of Dean District Council)* [2015] EWCA 683; [2016] Env LR by Sales LJ (as he then was) at [13]:

“...Where a series of development projects is in contemplation, the strict precautionary approach required by the Directive will be complied with in relation to consideration of the first particular

proposed development project if that project will not of itself have a detrimental impact on a protected site and there will be an appropriate opportunity to consider measures in relation to a later project, when it is applied for): see Smyth at [87]-[102]. In other words, so long as the relevant assessment of options has been carried out at the level of the relevant development plan (land use plan), as explained in Commission v UK... it will be lawful when planning permission is sought for the first specific development project in the series for the relevant planning authority to assess that that project taken by itself will not have any relevant detrimental impact on the protected site (and then grant planning permission for it) even though it is possible that there might be future “in combination” effects on the protected site if planning permission were later granted for the next project in the series. The planning authority will be able (and obliged) to ensure that adequate mitigation measures are incorporated in the later project to deal properly with any potential “in combination” effects or to refuse to grant permission for that later project, and in this way safeguard the protected site and hence comply with the strict precautionary approach required by Article 6. The planning authority is entitled to adopt a staged approach to consideration of individual projects as they are brought forward, ensuring at each state that the protected site is not subject to detrimental impact. [Emphasis added]

- 1.7 This same principle was recently cited, and endorsed in the context of a NSIPs subject to a National Policy Statement (NPS), in the recent decision of the Court of Appeal in *R (Together Against Sizewell C Ltd) v Sec of State for Energy Security and Net Zero* [2023] EWCA Civ. 1517. As explained in that judgment, DCO development is subject to NPSs (rather than Local Plans), but those NPSs are also subject to Sustainability Appraisal complying with the SEA Directive in principle before being adopted. In relation to the subsequent application of the HRA to development brought forward under a DCO, the Court of Appeal specifically cited and endorsed the principle identified by Sales LJ in the *Forest of Dean* case – see Judgment at [93].
- 1.8 In the case of the Proposed Development, Natural England have confirmed that they do not consider there to be any AEoI arising from the Proposed Development alone in terms of impact on mudflats, sandflats, sub tidal or intertidal habitat. There is no requirement for compensation from the Proposed Development.
- 1.9 Natural England’s only concern in this respect is in relation to “in-combination” effects in terms of loss in combination with the separate IGET project which is being proposed and which is not yet at examination. In accordance with the above principles, therefore, the precautionary principle is fully met by granting consent for the Proposed Development in circumstances where any in-combination effect with IGET (if it is consented) will necessarily be

addressed by that project and such controls as may be applied to secure any required compensation.

- 1.10 It is, therefore, wrong in law to require the Proposed IERRT Development to provide compensation for an in-combination effect that will only arise if and when a future development might proceed and in circumstances where the Secretary of State retains all necessary powers to control and prevent any such in-combination effect occurring.
- 1.11 What follows is, therefore, submitted entirely without prejudice to that legal principle which renders consideration of any derogation for an in-combination effect unnecessary in light of Natural England's confirmation that it is only an in-combination effect in this respect which is at issue.
- 1.12 **Introduction** – As an introduction to set the context of this part of the response, the Applicant would point out that the ExA, in framing its request, is proceeding on the basis of a fundamental misapprehension.
- 1.13 The Applicant respectfully notes that Question 1 contains and is based on an important error in paragraph 3 which affects the basis for Question 1 itself. Paragraph 3 of Question 1 states: "*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*" (emphasis added). The Question then proceeds on that premise, thus for example suggesting that the PINS Section 51 advice was raising concerns about the approach of relying on one hectare of OtSMRS land as "compensatory land". As is explained below, this is not correct.
- 1.14 The Applicant has never relied upon or referenced the one hectare of the OtSMRS as compensatory land and did not do so in the application which was the subject of the Section 51 advice. Indeed, the Applicant has never considered that compensation under the Habitats Regulations is required and remains of that view to date (for all the reasons given).
- 1.15 The Without Prejudice Derogation Report deals with the allocation of 0.381 of one hectare within the Outstrays to Skeffling Managed realignment Scheme (OtSMRS) as compensatory land for the first time (on a without prejudice basis) to address the situation if, contrary to that position, it were to be concluded that there is any AEoI requiring compensation which would not be addressed by the IGET proposal.
- 1.16 By contrast, as identified in more detail below, the Applicant had previously proposed the specific identification of additional "*environmental enhancement*" in connection with the Proposed Development - not "*compensation*" for the purposes of a potential derogation for the HRA - on land, owned by the Applicant, which falls within the OtSMRS. That identification of additional environmental **enhancement** was being proposed in connection with the Proposed Development. It is that proposal for environmental enhancement that was the subject of the Section 51 advice, not any proposal for the identification of compensatory land for the purposes of a derogation for the HRA. That is an important difference as explained below.

***Background – the proposal for delivery of environmental enhancement as part of the Proposed Development***

- 1.17 When the Applicant submitted its original application for the Proposed Development, it included two areas of “*environmental enhancement*”. The first comprised improvement works to an area of land at Long Wood which lies to the east of the Port estate.
- 1.18 The second was the provision of one hectare of land at the OtSMRS to be identified as “*environmental enhancement*” in respect of the Proposed Development.
- 1.19 Both areas of “*environmental enhancement*” were included within the original DCO application red line and the East Riding of Yorkshire Council (ERYC) was a formal consultee.
- 1.20 Neither area of land was proposed as “*compensation*” under the Habitats Regulations. Indeed, the Applicant’s submitted Environmental Statement clearly identified that such compensation was not considered to be required for either the construction or operation of the IERRT development [**APP-036 – APP-109**]. That, of course, remains the Applicant’s principal case today.
- 1.21 When submitting the original IERRT DCO application, the Applicant identified that the OtSMRS had already been subject to formal assessment by ERYC and planning permission had already been granted and works on realignment proposals had already commenced. This was, therefore, not development which required any consent. The intention was simply that one hectare of the OtSMRS would be identified as environmental enhancement on the realisation of the Proposed Development (in addition to those other environmental benefits that form part of the Proposed Development itself).
- 1.22 In early January 2023, Mr Greenwood acting for the Applicant, was contacted by PINS and was informed that PINS had a concern that part of the OtSMRS had been included within the IERRT DCO application as environmental enhancement was to be delivered by the Proposed Development, but where it did not appear to have been assessed as such as part of the DCO application.
- 1.23 In response, it was explained that it was not considered necessary to include any further reassessment of the environmental impact of works on one hectare of managed realignment within a 250 hectare realignment scheme in circumstances where that work had not only already been comprehensively environmentally assessed when the application for consent for it was being considered, but had subsequently then been consented by the local planning authority (East Riding of Yorkshire Council - ERYCRYC) – with the approval of Natural England – and therefore accepted in terms of its environmental effects - and works had already commenced. That still remains the Applicant’s view today.
- 1.24 Nevertheless, PINS sent the attached letter to the Applicant on 24 January. In that letter PINS expressed the view that “*the inclusion of Work 13 insofar as it relates to land at Skeffling, would address some national and local policies concerning enhancing biodiversity*” [Appendix 1].

- 1.25 In this respect, it is worth noting that there are no provisions requiring the delivery of Biodiversity Net Gain for an NSIP. The Applicant, as a responsible port operator, however, was proposing (as it owns part of the OtSMRS) to secure the identification of the relevant area of environmental enhancement that would be delivered under its own permission in connection with the Proposed Development. There was – and still is - no formal policy or legal requirement for the Applicant to do this, but it nevertheless wished to put it forward as part of the IERRT project.
- 1.26 Despite this, the PINS letter of 24 January 2023 suggested that – “... *it is not clear how any diversity enhancement at Skeffling would be brought forward in connection with the IERRT NSIP rather than the extant planning permission. This has implications for the adequacy of the information informing any appropriate assessment to be undertaken under the Habitats Regulations ....*”
- 1.27 The Applicant provided a response to this as set out in Appendix 2. The Applicant pointed out that –
- “the objective of developing the OtSMRS is explained in the Marine Enhancement Plan (MEP) (Application Document 9.3) at paragraph 2.2.6, where it is made clear that the objective is to - “*create new intertidal habitat that can then be taken into account as necessary and appropriate, in the context of future port development on the Humber.*”
  - “*The one hectare identified within the Skeffling site is being specifically allocated for the IERRT project – effectively being “ringfenced” from any other ABP projects which may be forthcoming in the future and which may require compensatory habitat, mitigation or as with IERRT, ecological enhancement.*” – that was in the circumstances already explained (and maintained) that the IERRT project is not one that requires compensatory habitat.
  - The Applicant pointed out that – “*The physical delivery of the OtSMRS, including the one hectare element referenced in the IERRT application documentation, does not, therefore, form part of the IERRT ‘proposed development’, as this is occurring under a separate process. Rather it is the act of allocating the ecological benefits generated by the identified one hectare area of the OtSMRS, which forms part of the IERRT ‘proposed development’. It is considered that this is made clear in the MEP (Application Document 9.3).*”
  - The Applicant concluded that “*The physical delivery of the one hectare element of the OtSMRS does not, therefore need to be assessed within the IERRT documentation as this has already been addressed under a separate process and does not form a part of the IERRT ‘proposed development.’*”
- 1.28 The full correspondence between the Applicant and PINS has been provided at Appendices 1 and 2. The correspondence from the Applicant correctly identifies that the Applicant has never been under any legal or policy



requirement to provide any “*environmental enhancement*” in connection with its proposals for IERRT.

1.29 Further, at no time has any such requirement been identified as required by the local planning authorities or the environmental regulators. One hectare of the Skeffling site was being offered for identification by ABP as a responsible port operator in that the Applicant considers environmental enhancement to be beneficial and in its capacity as the part owner of a managed realignment scheme purchased precisely for such purposes, ABP considered that identification of that proportion of the OtSMRS would have been appropriate in the original application.

1.30 ***The view of PINS*** – Unfortunately, for reasons which are not clear to the Applicant, PINS did not agree. The Applicant does not agree with the position taken by PINS and has never done so, but the issue was and is an academic one for the Applicant - given the absence of any policy requirement to offer environmental enhancement. By contrast, there was and remains an urgent need for the delivery of the Proposed Development (both as a matter of national policy but also specifically for ABP as the Applicant and for Stena Line if it was to be able to remain operating on the River Humber) with a consequent requirement to proceed as quickly as possible. In those circumstances, rather than challenge the views of PINS further, the Applicant simply adopted the pragmatic course of withdrawing the inclusion of the environmental enhancement at Skeffling from the DCO application as previously proposed, but nevertheless retained reference to it as “environmental enhancement” to be tied to the IERRT project and falling within the management plan that will be adopted for the whole OtSMRS.

1.31 Accordingly, the one hectare of land that was identified as environmental enhancement was removed. It is worth noting, however, what PINS acknowledged in respect of the Applicant’s position in its Section 51 advice on 2 February 2023 as follows:

- *“Although the IERRT project will not create an adverse effect in terms of environmental impact, ABP has nevertheless decided, in light of its overriding statutory obligations and policy requirements in terms of the need to enhance biodiversity interest... to make provision for certain environmental enhancements a part of the scheme ...”*
- *“Work No. 13 is not being provided to act as either ecological mitigation or ecological compensation”*
- *“The one hectare identified within the Skeffling site is being specifically allocated for the IERRT project – effectively being ringfenced from any other ABP projects which may be forthcoming in the future and which may require compensatory habitat, mitigation or as with IERRT, ecological enhancement.”*

1.32 Notwithstanding that correct identification of the Applicant’s position, PINS took the view in the Section 51 advice that – *“If the application is resubmitted and the Applicant considers that Work No. 13 should be included as a requirement and a requirement securing its provision would need to form part*

*of a made DCO. [The Work No.13] ... would need to be fully assessed in line with requirements of the Environmental Impact Assessment Regulations and the assessment reported in the ES”.*

- 1.33 This response does not deal with the fact that such work had already been assessed, consented and indeed works on site had already commenced under a separate consent (as the Applicant has pointed out). The Applicant did not and does not agree with that advice, but for the reasons stated above, it was not necessary nor expedient to deal with that point of disagreement any further because the one hectare of environmental enhancement could be removed from the DCO application as noted above and in addition there was an urgent need to proceed with the consent process.

***Identification of the land as compensation***

- 1.34 As can be seen from that history, the Applicant has never put forward the one hectare of land as compensatory land for the purposes of its HRA and PINS’s Section 51 advice was not considering it as such. It is only put forward as identified compensation for any AEoI if (contrary to the Applicant’s principal case) any AEoI is found to arise. As dealt with elsewhere, that possibility has only been raised by Natural England as an in-combination effect with the IGET project, and not from the Proposed Development on its own. The Applicant has already dealt with the principle that the IGET development would deliver compensation as part of its proposal if any such in-combination effect were concluded to exist (contrary to the position of the Applicant for both projects), and so the issue of securing compensation to deal with any in-combination effects can necessarily be addressed in the determination of the IGET application and, as a matter of law, does not need to be addressed in respect of the Proposed Development at all.
- 1.35 Without prejudice to that point, if and to the extent that it is necessary also to address the issue of compensation for the Proposed Development (for whatever reason), then the proposed identification of part of the one hectare of OtSMRS does not present any difficulty in principle and does not involve consenting any additional development or any issue in respect of environmental assessment at all (and PINS has not dealt with that proposal previously).
- 1.36 As identified, if any compensatory habitat were to be required – the Applicant has calculated provision on a precautionary 3:1 ratio. This would amount to the need to provide an area of only 0.381 of a hectare to compensate for the loss of 0.044 of a hectare and 0.083 of a hectare of intertidal and subtidal habitats respectively (i.e.,  $0.044 + 0.083 = 0.127$  hectare, then multiplied by 3 = 0.381 hectare).
- 1.37 The Applicant has proposed the identification of this compensatory habitat as part of the one hectare of land from the 250 hectare OtSMRS that is already consented, assessed, and where work has commenced and which was always available to provide compensation in respect of any such project if it were required as such. As the ExA is aware, the OtSMRS is a joint venture between the Environment Agency and ABP. ABP, the Applicant, owns 82

hectares within the total 250 hectare site and so is able to provide the compensation, should such be required, from within that hectare.

- 1.38 It is clear that such compensation (if it is required) can be delivered and secured (as addressed further below). As a matter of law, it is not correct to suggest that the identified area of land requires any further consent or assessment (given that a separate consent has already been given and the basic reason why OtSMRS has been consented and is being delivered for just such purpose).
- 1.39 The previous Section 51 Advice from PINS is not applicable on the facts, as that related to a proposal concerning identification of environmental enhancement. The Applicant has explained above, however, why as a matter of law the Section 51 Advice cannot be correct in relation to what is proposed by way of compensation here (if the need for it arises). It has not been identified nor explained why any additional consent or EIA is or could be required in principle.
- 1.40 **Legal commitment** – As has been indicated, the Applicant will legally commit 0.381 of a hectare within the one hectare of land allocated as environmental enhancement in the OtSMRS as compensation for the Proposed Development - if it is concluded that such compensatory habitat cannot be secured as part of the IGET scheme (contrary to the Applicant's position above) and that such compensatory habitat is required (again contrary to the Applicant's position). This can be reflected and secured in a Requirement included within the made DCO. The Applicant can meet the Requirement by entering into a legal agreement with the consenting authority, ERYC which will itself be supplemented by ABP entering into an Environmental Monitoring and Maintenance Plan (EMMP) for the OtSMRS scheme – as noted below.
- 1.41 In light of the analysis above, the Applicant has respectfully explained that Question 1 proceeds on the basis that one hectare of compensatory land was previously proposed, when that is not the case. The one hectare of land at Skeffling was never offered by the Applicant as compensation and the Applicant still remains strongly of the view that compensation under the Habitats Regulations is not required for the Proposed Development.
- 1.42 PINS has not previously raised concerns about the principle of providing compensation (if required) from the consented and assessed OtSMRS.
- 1.43 Consequently, the Applicant respectfully points out that it does not agree with the comment that – *“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”*.
- 1.44 Further, it should be noted that the Applicant's without prejudice Derogation Report does not identify one hectare of the OtSMRS as compensatory land. It identifies that 0.381 hectare of the “ring fenced” one hectare of the previously environmentally assessed and already consented OtSMRS (Skeffling) scheme as potential compensation where that, in and of itself, involves a highly precautionary approach of 3:1 compensation.

- 1.45 The ExA state that – “*it 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 respectfully does not agree with the concern in terms of jurisdiction. Where environmental enhancement or compensation is being provided in respect of a project in one local authority area, but the enhancement or compensation will be provided in another local authority area, this form of arrangement is commonplace and all that matters in law is that the relevant enhancement /compensation is secured. Thus, for example:
- *Green Port Hull*: within Hull City Council area – environmental enhancement is provided at Goxhill (bird roosting platform) and compensation at Alkborough within the administrative area of North Lincolnshire Council and compensation at Welwick and enhancement at Heden Haven Pools, within the boundary of ERYC (with the Welwick managed realignment site being, incidentally, adjacent to Skeffling);
  - *AMEP*: within North Lincolnshire Council – compensation is provided at Cherry Cobb Sands within East Riding of Yorkshire Council;
  - *Immingham Outer Harbour*: within North East Lincolnshire Council – compensation is provided at Welwick in ERYC and at Chowder Ness in the administrative area of North Lincolnshire Council.
- 1.46 This is a standard process. Proceeding by way of a legal agreement with or undertaking to ERYC is a way of ensuring the consenting authority – which will not be the Secretary of State - will be fully aware of the Applicant’s obligations insofar as the Proposed Development is concerned in connection with the ring-fencing of the one hectare at Skeffling. The Applicant, therefore, considers this to be appropriate and the provision of the compensation can be secured through the imposition of a Requirement (if such compensation is required) and by a legal obligation by the Applicant, as discussed below. The Applicant would have no objection to including NELC within the agreement as an authority that could enforce its terms as well.
- 1.47 ***The Applicant’s Position*** – As explained in paragraphs 5.12 to 5.15 of the Habitats Regulations Assessment Derogation Report [REP8-033], 0.381 ha of compensatory habitat would be provided at the OtSMRS, if it were considered to be required, to compensate for the loss of 0.044 ha and 0.083 ha of intertidal and subtidal habitats respectively (a compensation ratio of 3:1). Given the difficulties associated with the monitoring and maintenance of small habitat parcels it is proposed that a unit of one hectare is identified. The compensation will be delivered out of this allocated one hectare of intertidal habitat and secured by the Requirement and legal undertaking.
- 1.48 The additional 0.619 ha of intertidal habitat that will be created in this location in addition to the compensation that may be required is appropriately to be regarded as an enhancement delivered by the Proposed Development. The compensation and enhancement allocated to the Project would together amount to one hectare of intertidal habitat in total. If no compensation were deemed necessary by the Secretary of State, one hectare of land at the OtSMRS will be delivered as an enhancement measure (not compensation).

- 1.49 Any legal agreement will reflect a requirement for the long term management of the compensation site in question. Thus, for example, in 2003 in providing compensatory habitat under the provisions of the Habitats Regulations for the development of the Immingham Outer Harbour, ABP entered into an agreement with English Nature (now Natural England), the RSPB, Lincolnshire Wildlife Trust and Yorkshire Wildlife Trust whereby an Environmental Steering Committee was created which was responsible for managing the performance of the compensatory habitat. A copy of that agreement is attached at Appendix 3.
- 1.50 As far as the IERRT proposals are concerned, ABP as the Applicant is in a slightly different position in that not only does it own the compensatory habitat in question (should it be required), but that compensatory habitat has been comprehensively assessed, consented by the local planning authority, ERYC, and approved in principle as providing appropriate compensatory habitat by Natural England [REP8-033].
- 1.51 In addition, once the OtSMRS is functioning, the principal parties will have in place an EMMP which, as its name implies, will ensure the monitoring and maintenance of the entire OtSMRS scheme – including the one hectare ring fenced for IERRT.
- 1.52 As a consequence, it is the Applicant's view that the logical way forward would be for it to enter into a legal agreement with the consenting body, namely ERYC, which will commit the Applicant to enter into the OtSMRS EMMP prior to the commencement of construction of the IERRT.
- 1.53 As a result of the timing for the request for the without prejudice derogation report, it has not been possible to conclude that agreement but such a legal obligation can be provided if required before any determination is made and/or the requirement for one to exist can be reflected in a Requirement in any event.
- 1.54 **Draft Requirement** – The Applicant notes the ExA has now requested the Applicant to provide a draft of a potential requirement should the Applicant be required to provide compensatory habitat for an in-combination effect.
- 1.55 In the context of the draft Requirement set out below, the Applicant refers again to the fact the OtSMRS scheme has been consented by ERYC following a comprehensive environmental assessment and approved by Natural England, works are still continuing on-site and have not yet been completed. When the works are completed (anticipated some time in midsummer 2024), the principal parties, who it is believed will include the Applicant, the Environment Agency and Natural England, will enter into an EMMP as noted above.
- 1.56 Significantly, while the planning permission for the OtSMRS does not contain a condition requiring an EMMP it does contain a condition requiring compliance with the submitted OtSMRS Environmental Statement which in turn states that an EMMP will be produced and a site manager will be appointed to manage and monitor the site.

- 1.57 Further, The Non-technical summary of the OtSMRS Environmental Statement commits to the following:

*“Monitoring and maintenance*

*The Scheme will be monitored after construction is completed, to ensure that it is delivering on its environmental objectives. This will be in accordance with the Environmental Maintenance and Monitoring Plan for the Scheme, and specific targets for birds that will be agreed with Natural England.*

*The Environmental Monitoring and Maintenance Plan will also include measures to maintain habitats, trees and hedges across the site.”*

- 1.58 The Environmental Statement itself provides that:

*“An Environmental Monitoring and Maintenance Plan will be produced by the Main Works Contractor, in consultation with the Site Manager, the EA, and Natural England. This plan will include specific targets to promote growth, development, and distribution of scrub, which will be finalised as the Scheme progresses. A site manager will be appointed to manage and monitor the site. The first 10 years of site management is included in the Scheme costs, and it is anticipated that management and monitoring will continue in the long term.”*

- 1.59 The EMMP will encompass the entire OtSMRS – including the IERRT ring fenced one hectare. The Applicant considers, however, that to provide certainty, a possible Requirement could be as follows:

*“Construction of Works Nos. 1 to 3 of the authorised development must not commence until the undertaker has entered into an Environmental Monitoring and Maintenance Plan for the Outstrays to Skeffling Managed Realignment Scheme (in a form approved by Natural England in writing) which includes compensatory habitat reflecting the compensatory measures included in section 5.12 of the derogation report.”*

- 1.60 Definitions would be added to paragraph 1 of Schedule 1 (interpretation) as follows:

*““the derogation report” means the document with that name included in Schedule 6 (plans and documents to be certified) certified by the Secretary of State as the derogation report for the purposes of this Order;”*

*““Outstrays to Skeffling Managed Realignment Scheme” means the permission by the Council under application reference 19/00786/STPLFE comprising a joint initiative developed by the Environment Agency and the undertaker using a managed realignment approach to create new intertidal habitat (mudflats and saltmarsh) and*

*wet grassland for wildlife on the north bank of the Humber estuary, near Welwick and Skeffling;”*

- 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 subparagraph (2) only addresses 100 departing passengers and why no limit on arriving passengers has been included in the dDCO.**
- 2.1 The Applicant would refer the ExA to Chapter 18 of the Environmental Statement (ES) [APP-054] which deals with the matter of Land Use Planning and which identifies why the Proposed Development is only subject to a restriction on the number of departing passengers per day and no such restriction is relevant or required in respect of arriving passengers.
- 2.2 As paragraph 18.8.4 of Chapter 18 of the ES [APP-054] explains, the position is as follows:

*“Any passenger use of the IERRT will be limited to ensure that there are no more than 100 members of the public present (waiting to board) at any one time (passengers will be in vehicles only – there will be no foot passengers). In order to ensure that this limit is met, there will be a daily limit of no more than 100 passengers departing on vessels by means of vehicular transport. Disembarking passengers will immediately drive off the port after a passport check. The north/south extent of East Riverside Road will be kept in place for emergency access to the new jetty and for the very occasional abnormal load, but passengers will be routed around the DPZ, not through it.” (Emphasis added).*
- 2.3 The restriction on passengers waiting to board a vessel as identified in the ES and given effect in the dDCO reflects the guidance received from the Health and Safety Executive (HSE) at the pre-application stage. The restriction has been provided to allay the HSE’s concern regarding the need to limit the number of passengers within the waiting area of the Terminal which is located within the Middle Zone of the combined land use planning zones for COMAH sites.
- 2.4 The area for passengers, held in their cars and waiting to board a departing vessel is located in the HSE’s Middle Zone. As the location of the area for departing passengers is within that specific land use planning zone, with the passenger waiting area being denoted in HSE guidance as having ‘sensitivity level 2’ being “development type DT2.5 - Outdoor Use by Public”, the HSE guidance was to limit the numbers of such departing passengers that would be in that zone at any one time.
- 2.5 The HSE furthermore noted in its pre-application correspondence on 8 December 2021: *‘You have asked for clarification of the status of passengers waiting in the middle zone to board a ferry. We consider that the upper limit of 100 people in an outdoor waiting area would apply to members of the*

*public. In this case, they would not include commercial HGV drivers waiting to board the ship (i.e. accompanied freight).'*

- 2.6 By contrast, passengers disembarking from a vessel will not be present in the Terminal for any substantial time, as they will, having disembarked the ship, drive directly off the Terminal (following Border Force checks) and then off the wider port estate in that it is in the operational interests of terminal staff to facilitate their exit from the port as quickly as possible.
- 2.7 The Applicant has demonstrated to the HSE's satisfaction that those disembarking passengers – and indeed the embarking ones – will not pass through the Development Proximity Zones that partially cover the Northern Storage Area.
- 2.8 There is, therefore, no need, or indeed reason, to limit the number of arriving passengers disembarking from vessels, as they will not be waiting within the DPZs or other Land Use Planning Zones (nor indeed in any part of the port) and there are, as a consequence, no relevant concerns from the HSE. The HSE have focussed their attention on passengers waiting to embark the vessel i.e., departing from the port by sea, hence the agreed position on passenger numbers, as reported in the Statement of Common Ground between the Applicant and the HSE [REP10-013].
- 2.9 In summary, therefore, the Applicant, through those pre-application discussions and ongoing consultation with the HSE, has agreed that the maximum number of members of the public who may be present in the waiting area of the Terminal will not exceed 100 at any one time.
- 2.10 The pre-application engagement and consultation with the HSE is summarised in Table 18.1 of Chapter 18 of the ES [APP-054].
- 2.11 Further details regarding the restriction on passengers is provided in Chapter 18 of the ES [APP-054] at paragraphs 18.9.10 to 18.9.11, paragraphs 18.11.1 to 18.11.3 and paragraphs 18.13.2 to 18.12.4, as well as in ES Addendum [AS-070] at paragraphs 18.3.1 to 18.3.2.
- 2.12 DFDS have misunderstood or misinterpreted the position so far as the HSE is concerned and the reasons for the limits on departing passengers and have confused this with the separate question of the navigational risk assessments that have been undertaken. As has already been clearly explained [REP10-010], the Applicant's navigational risk assessment takes full account (in considering the extent to which any risk is tolerable or ALARP) of the fact that the RoRo vessels will have passengers on board [REP7-011, and AS-065].
- 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.**

- 3.1 The Applicant confirms that references in paragraph 17 in Schedule 4 of the dDCO [REP10-004] is a typographical oversight and should be amended to remove references to 'wrecks and obstructions' and should be titled "Oil Spillage Plan".
- 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.**
- 4.1 The draft Written Scheme of Investigation is already: (i) part of the Environmental Statement (which is already described in Schedule 6 to the dDCO); and (ii) appended as Appendix D to the outline offshore construction environmental management plan [REP8-012] which is also identified as a document to be certified in Schedule 6 to the dDCO.
- 4.2 The Applicant therefore considers that it is unnecessary and duplicative for it to be specifically listed in Schedule 6. The Applicant, however, has no objection to it being so listed if the ExA or Secretary of State considers it necessary to do so for whatever reason.
- 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.**
- 5.1 The Applicant attaches a copy of the January 2024 version of the 'Immingham Dock' section of the Pilot Handbook as requested, at Appendix 4 to this response. The Applicant draws the ExA's attention to the fact that the Pilot Handbook covers all terminals within the River Humber pilotage jurisdiction. The Immingham Dock section of the Pilot handbook has not been amended, as no changes were required following the latest review.
- 5.2 The DFDS reference to a revised version of the Humber Pilot Handbook appears to relate to the matter of tidal flow which has already been considered through the Examination and on which the Applicant has already provided a number of responses, including in Section 4 of [REP8-023] and within [REP10-017].
- 5.3 The comments made by DFDS at paragraph 40 of [REP9-026] have been addressed explicitly by the Applicant at paragraph 22.3 of [REP8-023]. The Applicant would point out that DFDS, at paragraph 40 of [REP9-026], have only partially quoted the HMM and have omitted the start of the sentence which notes '*This concerns HMM less in relation to the validity of the simulations...*' [REP8-050]. In addition, the comprehensive assessment of

tidal flow and the reasons why tidal flows referred to in paragraph 40 do not affect the validity of the simulations has been explained on a number of occasions by HR Wallingford.

- 5.4 That extensive evidence has explained the validity of and confidence in the tidal flow model for the IERRT (south of the IOT infrastructure) which has been validated against empirical data **[REP6-033]**. Expending significant time and effort revalidating the model north of the IOT was considered by the experts as of little value as flows in this area are already well understood by the pilots and PECs who navigate in that area frequently and it is already established that vessels can and do manoeuvre in this area in practice and safely. It is, therefore, simply incapable of having any relevance or material effect on the simulations in issue.
- 5.5 Notwithstanding that, the Applicant's navigational simulation report from November 2023 **[REP6-035]** includes a section titled 'Flows North of the IOT' and Appendix B specifically considers modelled flows against the tidal diamond published in the Pilot Handbook. As the ExA will note, this specifically confirms and concludes that *"the general correlation of the mean spring model with the mean spring tides from the tidal diamonds, in terms of both speed and direction, demonstrates that the representation of flows in the models used in this study are appropriate and particularly when considering the general complexity in the flows at Immingham."*
- 5.6 In raising this issue again, DFDS has not engaged with the evidence provided by the Applicant. It has now omitted the fact that this matter was discussed in detail both prior to and during the navigational simulations undertaken with stakeholders in November 2023 **[REP8-023 – Appendix 1, Item 6]** and **[REP6-035]**.
- 5.7 Despite all of that and the clear view from the experts that it is unnecessary to do anything further, HR Wallingford applied a vector during the November 2023 simulations so that the simulations were conducted with a flow model that incorporated DFDS's operational expectations of the tidal flows in the area in question. This vector was then disapplied at the appropriate point in the simulation so the model reverted back into the verified flows which have been extensively modelled, tested and validated by buoy data and are known to be accurate in the vicinity of the IERRT.
- 5.8 The Applicant acknowledges the submissions made by HMH throughout the Examination, including at **[REP2-061, REP8-050]** and his position. The Applicant does, however, disagree that there is any impact on the validity of the navigational simulations undertaken for the reasons outlined above in light of the comprehensive evidence base provided to the Examination.

## Appendix 1



# The Planning Inspectorate

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Your Ref:

By email

Our Ref: TR030007

Date: 24 January 2023

Dear Mr Greenwood

## Planning Act 2008 (as amended)

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

The Inspectorate has yet to make a decision on acceptance in relation to Immingham Eastern Ro-Ro Terminal (IERRT) DCO application. The Planning Inspectorate is seeking assistance from the applicant in signposting it to information within the application in order to proceed with the acceptance decision.

Please note, the Planning Inspectorate cannot consider any new or additional information and can only make the acceptance decision on the basis of the information within the application documents submitted to the Planning Inspectorate on 5 January 2023. To that end, please provide only signposting information as specifically requested in the table below. Could you please provide us with the requested information by 10:00am Thursday 26 January 2023.

	<b>Questions to Applicant for Clarification:</b>	<b>Document Reference and section reference within application documents</b>
1	Work 13 is referred to in the context of both mitigation and enhancement within the application. Requirement 11 of the draft Development Consent Order (Document 3.1 dDCO) is titled as "Off-site mitigation", while the two management plans for these works	<i>To be provided by Applicant</i>

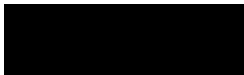
<p>have enhancement in their title. The Environmental Statement (ES) and Schedule 1 of the dDCO refers to these Works as enhancement.</p> <p>The Marine Enhancement Plan (MEP, Document 9.3) describes the purpose of the wider Outstrays to Skeffling Managed Realignment Scheme (OtSMRS) as providing ecological enhancements. However, it also includes a link to the Environment Agency website for the OtSMRS which states that the purpose it to create new <i>compensatory</i> habitats for wildlife. Paragraph 2.3.55 of the ES furthers this and refers to the scheme providing flooding and climate change benefits.</p> <p>The Explanatory Memorandum to the dDCO (Document ref 3.2, Paragraphs 2.19 to 2.22), MEP, ES and Planning Statement (PS, Document 5.3) advise that OtSMRS is subject to an extant planning permission and a marine licence all of which were assessed and approved to provide new intertidal habitat. The construction phase has already begun and is expected to be completed by the end of 2024 or early 2025 (see Paragraph 2.2.9 of the MEP). The reason for including Work 13 within the DCO as part of the OtSMRS is therefore unclear, as the creation of the intertidal habitat is currently being delivered.</p> <p>Paragraph 2.3.5 of the MEP explains that the 1ha parcel of land was chosen based on the “hydrodynamic modelling conducted for the site” and Paragraph 2.3.4 of the MEP states that it was chosen as an ecological enhancement to align with local and national policy. The PS at Paragraph 8.3 advises that policy implications of implementing the OtSMRS were taken account of as part of obtaining the planning permission for this scheme. The PS advises that the inclusion of Work 13, insofar as it relates to the land at Skeffling, would address some national and local policies concerning enhancing biodiversity. However, it is not clear how any diversity enhancement at Skeffling would be brought forward in connection with the IERRT</p>	
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	<p>NSIP rather than the extant planning permission.</p> <p>This has implications for the adequacy of the ES should Work 13 be relied upon as mitigation for the outcomes of the EIA. This may also have implications for the adequacy of the information informing any appropriate assessment to be undertaken under the Habitats Regulations, noting that Habitats Regulations Assessment (Document 9.6) does not provide information in relation to derogations or compensatory measures under the Habitats Regulations.</p> <p><b>Please direct the Planning Inspectorate to where the purpose of Work 13 is definitively provided.</b></p>	
2	<p>Within the ES Chapter 2: Project Description (Paragraphs 2.3.54 to 2.3.56) sets out a summary for the OtSMRS which it is intended Work 13 would form a part of. However, in Paragraph 2.3.56 it is expressly stated that “...it should be noted that the intertidal enhancements at the OtSMRS are not specifically assessed in this ES, given the fact that the necessary environmental assessments have already been completed as part of the consenting process for that scheme”.</p> <p>Noting that the EIA Regulations 2017, Regulation 14 (2)(b) requires an ES to include “a description of the likely significant effects of the proposed development on the environment” and 14(2) (c) which requires an ES to include “a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment.”</p> <p><b>Please direct the Planning Inspectorate to any other application documents which consider the environmental effects in relation to Work 13 as part of the Proposed Development.</b></p>	<i>To be provided by Applicant</i>
3	<p>Some of the elements of the project description, in particular vertical alignments/</p>	<i>To be provided by Applicant</i>

	<p>height parameters are described variably in the ES and DCO.</p> <p>ES Chapter 3: Details of Project Construction and Operation (Document 8.2.3) explains the need for flexibility in the design and as such the worst-case parameters have been assessed and refers to the Rochdale Envelope. There is however limited reference to maximum or minimum infrastructure parameters within the ES Chapters 2 (Document 8.2.2) and 3, their associated figures and the General Arrangement Plans (Document 2.5) and the Engineering Sections, Drawings and Plans (Document 2.6). The drawings in Documents 2.5 and 2.6 for example do not clearly identify where lighting masts might be located and how tall they would be relative to existing and any new structures, with there being a vertical cut line in the two sections that do show lighting masts (B2429400-JAC-00-ZZ-DR-ZZ-0740 and B2429400-JAC-00-ZZ-DR-ZZ-0741), with that drawing being notated “Do Not Scale”. The approximate dimensions provided in the ES and the information included on the plans accompanying the application are not sufficient to establish a worst case (“Rochdale Envelope”) approach (note Paragraph 2.4 of Advice Note Nine: Rochdale Envelope).</p> <p>The drawings accompanying the application do not have building or structure heights notated on them and given the do not scale rider notated on them cannot be used to ascertain heights. Requirement 7 of the dDCO states that construction of the buildings under Work 4f (includes the Malcolm West Fork Lifts Ltd according to the General Layout Plans), Work 5(c) (terminal building, welfare building and ancillary buildings) and Work 5(e) (UK Border Force Facilities) would not be commenced until details for them have been approved by the relevant planning authority. Any departure from the indicative layout drawings would only be in accordance with the authorised development if it did not give risk to any materially new or different effects from those assessed in the ES. However, as the parameters for the proposed structures and buildings have not been clearly defined within</p>	
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	<p>the ES and on the application drawings, it is unclear what the Rochdale envelope for the Proposed Development would be and how compliance with Requirement 7 would be measured.</p> <p><b>Please direct the Planning Inspectorate to any application documents which set out the building heights (including parameters) identified above.</b></p> <p>Regulation 14(2) (a) and Schedule 4, Part 1 of the EIA Regulations 2017 require a description of the proposed development. A lack of clarity on what the Proposed Development includes and what has been assessed has implications for the adequacy of the ES.</p> <p><b>With reference to Paragraph 3.1.2 of the ES, please provide all necessary document references to explain how the ‘Rochdale Envelope’ for the Proposed Development has been defined and how it has been secured in the dDCO.</b></p>	
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Yours sincerely



**Gail Boyle**  
**Operations Lead – National Infrastructure and Environment**

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## Appendix 2



# The Planning Inspectorate

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By email

Your Ref:

Our Ref: TR030007

Date: 24 January 2023

Dear Mr Greenwood

## Planning Act 2008 (as amended)

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

The Inspectorate has yet to make a decision on acceptance in relation to Immingham Eastern Ro-Ro Terminal (IERRT) DCO application. The Planning Inspectorate is seeking assistance from the applicant in signposting it to information within the application in order to proceed with the acceptance decision.

Please note, the Planning Inspectorate cannot consider any new or additional information and can only make the acceptance decision on the basis of the information within the application documents submitted to the Planning Inspectorate on 5 January 2023. To that end, please provide only signposting information as specifically requested in the table below. Could you please provide us with the requested information by 10:00am Thursday 26 January 2023.

	<b>Questions to Applicant for Clarification:</b>	<b>Document Reference and section reference within application documents</b>
1.	Work 13 is referred to in the context of both mitigation and enhancement within the application. Requirement 11 of the draft Development Consent Order (Document 3.1 dDCO) is titled as "Off-site mitigation", while the two management	<b>Please direct the Planning Inspectorate to where the purpose of Work 13 is definitively provided.</b>  The purpose of Work No.13 is definitively provided in Section 14 of ES Appendix 4.2 (Application Document 8.4.4(b)).

<p>plans for these works have enhancement in their title. The Environmental Statement (ES) and Schedule 1 of the dDCO refers to these Works as enhancement.</p> <p>The Marine Enhancement Plan (MEP, Document 9.3) describes the purpose of the wider Outstrays to Skeffling Managed Realignment Scheme (OtSMRS) as providing ecological enhancements. However, it also includes a link to the Environment Agency website for the OtSMRS which states that the purpose it to create new <i>compensatory</i> habitats for wildlife. Paragraph 2.3.55 of the ES furthers this and refers to the scheme providing flooding and climate change benefits.</p> <p>The Explanatory Memorandum to the dDCO (Document ref 3.2, Paragraphs 2.19 to 2.22), MEP, ES and Planning Statement (PS, Document 5.3) advise that OtSMRS is subject to an extant planning permission and a marine licence all of which were assessed and approved to provide new intertidal habitat. The construction phase has already begun and is expected to be completed by the end of 2024 or early 2025 (see Paragraph 2.2.9 of the MEP). The reason for including Work 13 within the DCO as part of the OtSMRS is therefore unclear, as the creation of the intertidal habitat is currently being delivered.</p> <p>Paragraph 2.3.5 of the MEP explains that the 1ha parcel of land was chosen based on the “hydrodynamic modelling conducted for the site” and Paragraph 2.3.4 of the MEP</p>	<p>Paragraph 14.1 of that document states - <i>“Although the IERRT project will not create an adverse effect in terms of environmental impact, ABP has nevertheless decided, in light of its overriding statutory obligations and policy requirements in terms of the need to enhance biodiversity interests, ....to make provision for certain environmental enhancements as part of the scheme .....</i>”.</p> <p>Paragraph 14.2 continues - <i>‘The objective is to meet those policy requirements of relevance to the IERRT which indicate that advantage should be taken of opportunities to enhance biodiversity conservation interests as part of new development proposals.’</i></p> <p>These policy requirements are then considered within the Planning Statement (Application Document 5.1), including in respect of paragraphs 5.1.4 and 5.1.5 of the NPSfP (PA Appendix 1, page 145), Policy B1O2 of the East Marine Plans (PA Appendix 2, page 250) and Policy 41 of the North East Lincolnshire Local Plan (PA Appendix 3, page 295).</p> <p>The rationale for Work No 13, therefore, is to provide an element ecological enhancement to meet extant policy aspirations.</p> <p>Work 13 is not being provided to act as either ecological mitigation or ecological compensation.</p> <p>As ES Chapter 9 (Application Document 8.2.9) and the Habitats Regulations Assessment (Application Document 9.6) make clear, Work No. 13 is not required nor is it in any way needed to make the development acceptable from an environmental impact or Habitats Regulations perspective – see for example Table 9.26 of ES Chapter 9.</p>
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	<p>states that it was chosen as an ecological enhancement to align with local and national policy. The PS at Paragraph 8.3 advises that policy implications of implementing the OtSMRS were taken account of as part of obtaining the planning permission for this scheme. The PS advises that the inclusion of Work 13, insofar as it relates to the land at Skeffling, would address some national and local policies concerning enhancing biodiversity. However, it is not clear how any diversity enhancement at Skeffling would be brought forward in connection with the IERRT NSIP rather than the extant planning permission.</p> <p>This has implications for the adequacy of the ES should Work 13 be relied upon as mitigation for the outcomes of the EIA. This may also have implications for the adequacy of the information informing any appropriate assessment to be undertaken under the Habitats Regulations, noting that Habitats Regulations Assessment (Document 9.6) does not provide information in relation to derogations or compensatory measures under the Habitats Regulations.</p> <p><b>Please direct the Planning Inspectorate to where the purpose of Work 13 is definitively provided.</b></p>	<p>The reference to 'Off-site mitigation' as the heading to Requirement 11 in the draft DCO (Application Document 3.1) is an error and should be amended to read 'Off site enhancement'. It is clear from the wording of the requirement itself and the documents to which it cross refers, however, that the Requirement is concerned with the provision of environmental enhancement and not environmental mitigation.</p> <p>ABP propose that the draft DCO should be amended at the appropriate time.</p>
2.	<p>Within the ES Chapter 2: Project Description (Paragraphs 2.3.54 to 2.3.56) sets out a summary for the OtSMRS which it is intended Work 13 would form a part of. However, in Paragraph 2.3.56 it is expressly stated that "...it should be noted that the intertidal enhancements at the</p>	<p><b>Please direct the Planning Inspectorate to any other application documents which consider the environmental effects in relation to Work 13 as part of the Proposed Development.</b></p> <p>As identified in the queries raised by PINS, the fact that the Outstrays to Skeffling Managed Realignment</p>

<p>OtSMRS are not specifically assessed in this ES, given the fact that the necessary environmental assessments have already been completed as part of the consenting process for that scheme".</p> <p>Noting that the EIA Regulations 2017, Regulation 14 (2)(b) requires an ES to include <i>"a description of the likely significant effects of the proposed development on the environment"</i> and 14(2) (c) which requires an ES to include <i>"a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment."</i></p> <p><b>Please direct the Planning Inspectorate to any other application documents which consider the environmental effects in relation to Work 13 as part of the Proposed Development.</b></p>	<p>Scheme (OtSMRS) already benefits from planning permission and marine licence approval and is currently in the process of being implemented, is referenced in various application documents.</p> <p>The objective of developing the OtSMRS is explained in the Marine Enhancement Plan (MEP) (Application Document 9.3) at paragraph 2.2.6, where it is made clear that the objective is to - <i>"create new intertidal habitat that can then be taken into account as necessary and appropriate, in the context of future port development on the Humber."</i></p> <p>The MEP, for example in paragraphs 1.3.1, 2.2.7 and 2.3.8 explains that ABP proposes to provide, by means of the allocation of the ecological benefits of one hectare of this already consented (and under construction) scheme, an element of ecological enhancement. The one hectare identified within the Skeffling site is being specifically allocated for the IERRT project – effectively being "ringfenced" from any other ABP projects which may be forthcoming in the future and which may require compensatory habitat, mitigation or as with IERRT, ecological enhancement. It should be noted incidentally that no such other projects have as yet been brought forward.</p> <p>The physical delivery of the OtSMRS, including the one hectare element referenced in the IERRT application documentation, does not, therefore, form part of the IERRT 'proposed development', as this is occurring under a separate process. Rather it is the act of allocating the ecological benefits generated by the identified one hectare area of the OtSMRS,</p>
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	<p>which forms part of the IERRT 'proposed development'. It is considered that this is made clear in the MEP (Application Document 9.3).</p> <p>It is, however, acknowledged, having regard to the queries raised, that the wording describing Work 13 in the draft DCO could be clarified by the addition, after the words - “..... <i>East Riding of Yorkshire Council</i>” by the words – “<i>in accordance with planning permission 19/00786/STPLFE and marine licence L/2020/00271/1...</i>” .</p> <p>The physical delivery of the one hectare element of the OtSMRS does not, therefore need to be assessed within the IERRT documentation as this has already been addressed under a separate process and does not form a part of the IERRT 'proposed development'.</p> <p>In terms of the act of allocating the ecological benefits generated by the identified one hectare area the MEP demonstrates that this will generate beneficial environmental effects. Chapter 9 of the ES (Application Document 8.2.9) - for example within the last entry to Table 9.7 – makes it clear that further information on this element of the project is provided within the MEP (Application Document 9.3).</p> <p>Table 7 of the Consultation Report (Application Document 6.1) - which provides the summary record of the Continuous Consultation undertaken outside the statutory consultation process - (at page 97) makes clear that in July 2022 ABP engaged in email correspondence with East Riding of Yorkshire Council as one of the consenting authorities for the</p>
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		<p>OtSMRS to advise the Council that the IERRT project now included the use of land at Skeffling – being the 1 ha of land of the OtSMRS project allocated to the IERRT project. In this context it should be noted that Chapter 6 of the ES (Application Document 8.2.6) also records a comment from Natural England in Table 6.1 (pages 6.26 to 6.27) as follows - <i>“Natural England welcomes the commitment by ABP to include one hectare of land owned by ABP within the Skeffling managed realignment site as a marine environmental enhancement (for clarity, this will not be compensation or mitigation)”</i>.</p>
3.	<p>Some of the elements of the project description, in particular vertical alignments/ height parameters are described variably in the ES and DCO.</p> <p>ES Chapter 3: Details of Project Construction and Operation (Document 8.2.3) explains the need for flexibility in the design and as such the worst-case parameters have been assessed and refers to the Rochdale Envelope. There is however limited reference to maximum or minimum infrastructure parameters within the ES Chapters 2 (Document 8.2.2) and 3, their associated figures and the General Arrangement Plans (Document 2.5) and the Engineering Sections, Drawings and Plans (Document 2.6). The drawings in Documents 2.5 and 2.6 for example do not clearly identify where lighting masts might be located and how tall they would be relative to existing and any new structures, with there being a vertical cut line in the two sections that do show lighting masts (B2429400-JAC-00-ZZ-DR-ZZ-0740 and</p>	<p><b>A) - Please direct the Planning Inspectorate to any application documents which set out the building heights (including parameters) identified above.</b></p> <p>The inclusion of the notation ‘Do not scale’ on the General Arrangement Plans (Application Document 2.5) and the Engineering Sections, Drawings and Plans (Application Document 2.6) is an error, that simply reflects a default setting on the drawing package used.</p> <p>ABP can confirm that these plans and drawings have all been produced to scale and, along with the description given in ES Chapter 2 (Application Document 8.2.2), represent the scheme description information on which the environmental assessment has been undertaken. For clarity, ES Chapter 2 – at paragraph 2.3.5 – highlights the relationship between Chapter 2 and the various plans, drawings and sections listed.</p> <p>Requirement 7 is designed to ensure that any future departure from the ‘authorised development’ as defined – should one prove necessary – is bound by the parameters presented in</p>

<p>B2429400-JAC-00-ZZ-DR-ZZ-0741), with that drawing being notated “Do Not Scale”. The approximate dimensions provided in the ES and the information included on the plans accompanying the application are not sufficient to establish a worst case (“Rochdale Envelope”) approach (note Paragraph 2.4 of Advice Note Nine: Rochdale Envelope).</p> <p>The drawings accompanying the application do not have building or structure heights notated on them and given the do not scale rider notated on them cannot be used to ascertain heights. Requirement 7 of the dDCO states that construction of the buildings under Work 4f (includes the Malcolm West Fork Lifts Ltd according to the General Layout Plans), Work 5(c) (terminal building, welfare building and ancillary buildings) and Work 5(e) (UK Border Force Facilities) would not be commenced until details for them have been approved by the relevant planning authority.</p> <p>Any departure from the indicative layout drawings would only be in accordance with the authorised development if it did not give risk to any materially new or different effects from those assessed in the ES. However, as the parameters for the proposed structures and buildings have not been clearly defined within the ES and on the application drawings, it is unclear what the Rochdale envelope for the Proposed Development would be and how compliance with Requirement 7 would be measured.</p>	<p>ES Chapters 2 and 3, the accompanying application plans, drawings and sections and the application documentation generally.</p> <p>In respect of the specific lighting mast query that has been raised, the detail of the lighting is provided in the Lighting Plan document (Application Document 2.8) which includes, at Appendix A, a plan showing the proposed lighting arrangement including the height of the different lighting masts and their positioning.</p> <p><b>B) - With reference to Paragraph 3.1.2 of the ES, please provide all necessary document references to explain how the ‘Rochdale Envelope’ for the Proposed Development has been defined and how it has been secured in the dDCO.</b></p> <p>For the purposes of this assessment, it has not been considered necessary for the ‘Rochdale Envelope’ to be specifically defined. That said, the Rochdale Envelope approach has clearly been adopted in that a series of relevant development parameters have been identified that result in the worst case environmental effects being identified and assessed.</p> <p>Both the description of the development provided in Chapter 2 of the ES (Application Document 8.2.2) supported by the accompanying plans, drawings and sections, and the details of the project construction and operation provided in Chapter 3 of the ES (Application 8.2.3) take account of worst-case environmental effects parameters referred to in ES paragraph 3.1.2.</p> <p>By way of examples, paragraph 2.3.8 of the ES highlights the maximum diameter of piles that have been considered, paragraph 2.3.17 of the</p>
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<p><b>A) - Please direct the Planning Inspectorate to any application documents which set out the building heights (including parameters) identified above.</b></p> <p>Regulation 14(2) (a) and Schedule 4, Part 1 of the EIA Regulations 2017 require a description of the proposed development. A lack of clarity on what the Proposed Development includes and what has been assessed has implications for the adequacy of the ES.</p> <p><b>B) - With reference to Paragraph 3.1.2 of the ES, please provide all necessary document references to explain how the ‘Rochdale Envelope’ for the Proposed Development has been defined and how it has been secured in the dDCO.</b></p>	<p>ES indicates that the maximum spatial extent of the dredge has been considered and paragraph 3.1.13 of the ES sets out the maximum pile driving scenario that has been considered.</p> <p>In certain instances, the information in Chapters 2 and 3 of the ES has been supplemented by further details contained within the different assessment chapters. For example, paragraph 14.8.27 of ES Chapter 14 (ES Chapter 8.2.14) indicates that for the purposes of the noise assessment all relevant plant has been assumed to be operating at the realistic closest point to Noise Sensitive Receptors.</p> <p>Through a combination of the information contained within Chapters 2 and 3 of the ES (supported by the plans drawings and sections) and measures detailed in relevant topic assessments the documentation identifies those parameters that have ensured that the worst-case environmental effects have been identified and assessed as required in the first bullet point to paragraph 2.3 of PINS Advice Note Nine – namely the adoption of a “cautious ‘worst case’ approach” In light of the signposting above it is considered that the level of information provided is sufficient to have enabled “the main” or ‘likely significant’ effects to be assessed, as referenced by bullet point 2 of paragraph 2.3 of PINS Advice Note Nine.</p> <p>ABP is, therefore, of the view that these matters have been appropriately secured through the relevant Requirements included within the draft DCO (for example, Requirements 3, 6, 7, 8, 9, 14, 15 and 16) and the conditions included within the draft Deemed Marine Licence.</p> <p>In light of the above, again with reference to paragraph 2.3 of PINS</p>
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		Advice Note Nine, ABP is of the view that by the imposition of the controls outlined above and the adoption of a worst case approach, the “need for flexibility” has not been abused.
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Yours sincerely



**Gail Boyle**  
**Operations Lead – National Infrastructure and Environment**

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## Appendix 3

Dated 30 June 2003

- |   |     |
|---|-----|
| Associated British Ports                  | (1) |
| English Nature                            | (2) |
| The Environment Agency                    | (3) |
| Royal Society for the Protection of Birds | (4) |
| Lincolnshire Wildlife Trust               | (5) |
| and                                       |     |
| Yorkshire Wildlife Trust Limited          | (6) |

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Compensation Agreement for  
Immingham Outer Harbour and Hull Quay  
2005

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^  
NORTON ROSE

1 THIS AGREEMENT is made the 30<sup>th</sup> day of June 2003 between:

- (1) ASSOCIATED BRITISH PORTS of 150 Holborn London EC1N 2LR ("ABP")
- (2) ENGLISH NATURE of Northminster House, Peterborough, Cambs, PE1 1UA ("English Nature")
- (3) ENVIRONMENT AGENCY of Kingfisher House, Goldhay Way, Orton Goldhay, Cambs, PE2 5ZR (the "Agency")
- (4) ROYAL SOCIETY FOR THE PROTECTION OF BIRDS of The Lodge, Sandy, Bedfordshire, SG19 2DL ("RSPB")
- (5) LINCOLNSHIRE WILDLIFE TRUST of Banovallum House, Manor House Street, Horncastle, Lincolnshire, LN9 5HF ("LWT")
- (6) YORKSHIRE WILDLIFE TRUST LIMITED of No. 10 Toft Green, York, YO1 6JT ("YWT")

## 2 Recitals

- 2.1 This Agreement underlines ABP's wish as port operator to play a full part in the long term sustainable management of the Humber Estuary and in particular the Humber Estuary European Sites.
- 2.2 ABP are seeking consent and authorisations under two Harbour Revision Orders ("HRO") made pursuant to Section 14 of the Harbours Act 1964 for
  - (a) the Outer Harbour; and
  - (b) Quay 2005
- 2.3 In considering the impact of the proposed construction of the Outer Harbour and Quay 2005 respectively ABP have carried out Appropriate Assessments in accordance with Regulation 48 of the Habitats Regulations and have concluded that:
  - (a) the effects of the Harbour Development Works are as identified in ABP's Appropriate Assessments as summarised in Schedule 1 of the Agreement and in particular will lead to an overall loss of 31ha of mudflat used by some 800 feeding and 300 roosting water birds.
  - (b) the Outer Harbour is likely to have an Adverse Effect on the integrity of the combined Phase 1 and Phase 2 Humber Estuary SPA and Ramsar Sites and on the Possible Special Area of Conservation; and
  - (c) taking into account the mitigation proposed by ABP Quay 2005 will not have an Adverse Effect;
- 2.4 In compliance with the Habitats Regulations ABP have identified the following Habitats Schemes as appropriate compensation and/or mitigation for the Harbour Development Works, namely:
  - (a) In respect of the Outer Harbour:
    - (i) a managed realignment scheme at [REDACTED] in the outer Humber Estuary designed to create around 45 hectares of intertidal habitat as described in Schedule 2;

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- (ii) a managed realignment scheme at [REDACTED] in the inner Humber Estuary designed to create around 11 hectares of new intertidal habitat - 6 hectares of which shall be deemed to constitute mitigation for Quay 2005 as described in Schedule 3; and
- (iii) a habitat enhancement scheme of around 3 ha of inter-tidal mudflat at Doig's Creek, Pyewipe as described in Schedule 4;

all of which is designed to include in aggregate not less than 31 hectares of intertidal mudflat.

(b) In respect of Quay 2005:

- (iv) the creation of replacement roosting areas at Quay 2005 and Queen Elizabeth Dock Extension as described in Schedule 5; together with
- (v) the said 6 hectares at [REDACTED] referred to in clause 2.4(a) (ii) above;

2.5 Subject to clause 6.1 and the terms of this Agreement generally, as at the date of this Agreement, acceptable aggregate objectives to be taken as one of the measures of quality in assessing the effectiveness of the successful implementation and delivery of the Habitats Schemes include-

- (a) The creation of intertidal habitats with the ability to provide feeding habitat for in excess of 800 (peak mean over five years) feeding water birds with typical species in the following relative proportions: 60% dunlin; 20% black-tailed godwit; 10% redshank and 10% other bird species delivered through the creation of inter-tidal habitats at [REDACTED] and enhancement of inter-tidal habitat at Doig's Creek;
- (b) Replacement roosting structures to support in excess of 300 (peak mean over five years) roosting water birds with typical species of dunlin; redshank and ringed plover delivered through artificial roosting structures adjacent to Quay 2005 and Queen Elizabeth Dock

2.6 English Nature, the Agency, RSPB, LWT and YWT are satisfied and hereby acknowledge that the delivery of the Habitats Schemes if successfully implemented in accordance with the environmental objectives set out in clauses 2.4 and 2.5 above will meet their concerns in relation to the requirements of the Habitats Regulations in terms of compensation for the Outer Harbour and mitigation for Quay 2005 as set out in the Appropriate Assessments prepared for the Harbour Development Works.

2.7 To the extent that this agreement is made between ABP and English Nature, it shall be construed as a management agreement pursuant to Regulation 16 of the Habitats Regulations.

### 3 Definitions

"Adverse Effect" shall mean Adverse Effect within the terms of Regulation 48 of the Habitats Regulations.

"Appropriate Assessment" shall mean an Appropriate Assessment carried out for the purposes of Regulation 48 of the Habitats Regulations.

"Environmental Statements" shall mean as appropriate -

- (a) the Outer Harbour Environmental Statement dated August 2001 and/or
- (b) the Quay 2005 Environmental Statement dated September 2000 and/or
- (c) the Reclamation East of Queen Elizabeth Dock Environmental Statement dated November 1995

"ESC" shall mean the Environmental Steering Committee referred to in clause 5.3 of this Agreement, the membership of which shall comprise ABP's Project Environmental Managers and representatives of the Agency, English Nature, the DfT, CEFAS, the relevant local authorities, RSPB, the YWT and the LWT.

"Habitats Regulations" shall mean the Conservation (Natural Habitats etc) Regulations 1994.

"Habitats Schemes" shall mean all of those schemes separately identified in clause 2.4 of this Agreement.

"Harbour Development Works" shall mean ABP's proposals for the Outer Harbour and Quay 2005.

"Humber Estuary European Sites" shall mean those sites identified in the Immingham Outer Harbour Environmental Statement.

"Implementation Plan" shall mean the Implementation Plan attached in Schedule 6 to this Agreement as may be amended from time to time with the agreement of the ESC, save that no amendment shall be made which will impact upon the Agency's Flood Defence function other than with the Agency's specific agreement.

"Monitoring Plan" shall mean the Monitoring Plan attached as Schedule 7 to this Agreement as may be amended from time to time with the agreement of the ESC.

"Outer Harbour" means ABP's proposals to construct a five berth roll on-roll off terminal at the Port of Immingham.

"Phase 1 and Phase 2 Humber Estuary SPA and Ramsar Sites" shall mean those sites identified in the Immingham Outer Harbour Environmental Statement.

"Possible Special Area of Conservation" shall mean that site identified in the Immingham Outer Harbour Environmental Statement.

"Quay 2005 shall mean ABP's proposals to construct riverside berthing at the Port of Hull.

"Queen Elizabeth Dock Extension" shall mean that area identified in the Reclamation East of Queen Elizabeth Dock Environmental Statement.

## 4 Effect

4.1 This Agreement becomes binding upon ABP in respect of:

- (a) those elements of the Habitats Schemes detailed in clause 2.4(i), (ii) and (iii) upon the issue of the HRO for the Outer Harbour in terms satisfactory to ABP and the decision of ABP to implement the Outer Harbour HRO; and
- (b) those elements of the Habitats Schemes detailed in clause 2.4(iv) and (v) upon the issue of the HRO for Quay 2005 in terms satisfactory to ABP and the decision of ABP to implement the Quay 2005 HRO.

4.2 For the avoidance of doubt, this Agreement is not to be construed as prohibiting or limiting ABP's rights to develop the Ports of Immingham and/or Hull pursuant to later consents issued or secured after the date of this Agreement.

4.3 If for any reason a public inquiry is convened to consider ABP's proposals for the Outer Harbour and any of the signatories to this Agreement make representations which are considered by ABP to be contrary to the terms or spirit of this Agreement, then it is accepted by all signatories that

- (a) this Agreement shall not act as a fetter or restriction on the giving of representations at the inquiry by any or all of the parties to this Agreement; and
- (b) this Agreement shall cease to have effect insofar as it relates to the Outer Harbour and those elements of the Habitats Schemes detailed in clause 2.4(i), (ii) and (iii).

4.4 Should for any reason

- (a) an HRO not be issued for the Outer Harbour and/or Quay 2005; or
- (b) an HRO be issued for the Outer Harbour and/or Quay 2005 but not in terms satisfactory to ABP; or
- (c) following issue ABP decide not to implement either or both HROs

Then ABP will send written notification to each of the parties to this Agreement informing them that ABP does not intend to implement the Outer Harbour HRO and/or the Quay 2005 HRO whereupon this Agreement shall be of no effect insofar as it relates to the Outer Harbour and those elements of the Habitats Schemes detailed in clause 2.4(i), (ii) and (iii) and/or Quay 2005 and those elements of the Habitats Schemes detailed in clause 2.4(iv) and (v) as the case may be.

5 ABP hereby covenants:

5.1 Not to commence the development of the Outer Harbour or Quay 2005 until

- (a) it has sufficient proprietary interest in the relevant land required for either the Outer Harbour or Quay 2005 Habitats Schemes as appropriate to enable it to carry out the works described in the Implementation Plan; and
- (b) any consents which are required for the implementation of the relevant Habitats Schemes have been issued with the exception of the consents required for Chowder Ness which shall be secured by ABP as soon as reasonably practicable.

5.2 To deliver subject to Appropriate Assessment the relevant Habitats Schemes in accordance with the Implementation Plan and the conditions of this Agreement;

5.3 To establish the ESC as soon as may be practicable after execution of this Agreement the terms of reference of which if appropriate shall include:

- (a) the review and approval of the monitoring requirements for the Harbour Development Works and Habitats Schemes to be set out in the Monitoring Plan as summarised in Schedule 7 hereto;
- (b) the review of any environmental information collected by ABP during the life of the management of the Harbour Development Works and Habitats Schemes;
- (c) the review and approval as appropriate of any changes required in the environmental management of the Harbour Development Works and Habitats Schemes;

5.4 To arrange, as far as practicable, that the ESC meets at least twice a year - the ordinary running expenses of the members as appropriate of the ESC (which shall include travel and attendance at meetings) being borne by the respective parties.

5.5 To make available to the ESC such information as may reasonably assist the ESC to fulfil its objectives as stated in clause 5.3 above provided such information would not be prejudicial to ABP's interests and/or its statutory duties as port operator and subject always to commercial confidentiality.



- 5.6 To monitor the impacts of the Harbour Development Works and the performance of the Habitats Schemes in accordance with the Monitoring Plan which will be based on the elements outlined in Schedule 7.

## 6 Review Procedure

- 6.1 The measure of the performance of the Habitats Schemes and the success or otherwise in meeting their objectives including those in clause 2.5 will be a matter for review by the ESC in accordance with the Monitoring Plan at the formal review periods of 5 and 10 years after completion of the construction of the Habitats Schemes all relevant factors and prevailing conditions (including those beyond the control of ABP) having been taken into account.
- 6.2 If the ESC identifies problems in the performance of the Habitats Schemes, ABP working with the ESC will use all reasonable endeavours to overcome the problems in a way which most accurately reflects the original objectives of the schemes including those set out in clauses 2.4 and 2.5.
- 6.3 The obligations set out under clause 5 of this Agreement will continue in force for a period of ten years, or if at the expiry of that period problems have been identified with the performance of the Habitats Schemes, until such later date as it becomes clear that the said schemes are performing satisfactorily according to the ESC.

## 7 Covenants

- 7.1 In relation to the Outer Harbour: -
- (a) English Nature, the Agency, RSPB and the LWT hereby covenant to withdraw their objections to the Outer Harbour HRO within 21 days of the date of this Agreement, such withdrawal to be made in writing to the Secretary of State and copied to ABP
- 7.2 In respect of Quay 2005:-
- (a) English Nature, RSPB and the YWT hereby covenant to withdraw their objections to the Quay 2005 HRO within 21 days of the date of this Agreement, such withdrawal to be made in writing to the Secretary of State and copied to ABP

## 8 Generally

- 8.1 Nothing in this Agreement shall be construed as prejudicing English Nature's independent and separate power or obligation to discharge its functions and English Nature shall remain entitled to apply all requirements of the Habitats Regulations any statutory re-enactment thereof and any further legislation that English Nature is now responsible for discharging or that it may become responsible for discharging in the future.
- 8.2 Nothing in this Agreement shall be construed as prejudicing or affecting the exercise of any statutory duties of the Agency.
- 8.3 Any dispute or difference arising out of or in connection with this Agreement (including without limitation any questions regarding its existence, validity, interpretation, performance or termination) shall be referred to and finally resolved by arbitration under the rules of the London Court of International Arbitration which are deemed to be incorporated by reference into this clause. The number of arbitrators shall be one.

IN WITNESS whereof the parties hereto have executed and delivered the Agreement as a Deed the day and year first above written.

## Schedule 1

### Summary of the effects of the Harbour Development Works

Further to clause 2:3 of this Agreement, a summary of the effects of the proposed construction of the Harbour Development Works are as follows:

#### Immingham Outer Harbour

Direct habitat loss = 22ha inside pSPA

Indirect losses= 5ha estimated

Function lost: mudflat used by feeding water birds in middle estuary

Typical species affected: shelduck, teal, ringed plover, lapwing, black-tailed godwit (126), curlew, redshank, and dunlin.

Total number affected: 603 peak mean (279 average)

Source of information: record of Appropriate Assessment April 2002.

#### Quay 2005

Direct habitat loss = 4ha outside SPA

Function lost: mudflat used by feeding water birds in middle estuary

Typical species: ringed plover, curlew, redshank, and dunlin

Total number affected: Peak in Feb 96 = 334

Peak in Jan 02 = 97

Mean of two peaks = 215

Function lost: loss of high tide roosting structures:

Typical species: dunlin, redshank and ringed plover

Total number affected: Peak in March 1996 = 376

Peak in Sept 2001 = 277

Mean of two peaks = 326

Source of information: Appropriate Assessment September 2002

Schedule 2  
Managed Realignment Scheme

A managed realignment scheme will be undertaken on around 50ha of agricultural land at [REDACTED]. The scheme will involve the following elements:

- Removal of existing flood bank and the reconstruction of new flood defences to the rear of the site. The new defences will be constructed with a minimum crest width of 4m and a minimum height of 5.6m above ODN, in line with the Agency guidance and to the Agency's reasonable satisfaction.
- Reprofilling of the site by between 0 to 1m resulting in the relocation of 94,000m<sup>3</sup> of material which will be retained on site and incorporated into the new flood defences.
- Construction of appropriate breaches through the existing saltmarsh fronting the site.
- Re-routing of overhead power cables along the trackway to the east of the site.
- Provision of a footpath along the crest of the new defences to the rear of the site.
- Ploughing of the site prior to inundation to mitigate for any over-consolidation of sediment.

After 10 years, the scheme is predicted to create between 7-37ha of intertidal mudflat, 8-32ha of saltmarsh and 9-15ha of grassland, over a total area of 54ha.

Risks associated with the scheme some of which may be addressed through scheme design are:

- New design never tried before
- Compaction due to movement of heavy equipment may result in poor quality mudflat
- Poor quality saltmarsh due to the presence of rubble at the bank at the foot of the new sea wall

Schedule 3  
[REDACTED] Managed Realignment Scheme

A managed realignment scheme will be undertaken on 13.6ha of agricultural land at [REDACTED]  
[REDACTED] The scheme will involve the following elements:

- Removal of existing flood bank and the reconstruction of new flood defences to the rear of the site, where required. The new defences will be constructed with a minimum crest width of 4m and a minimum height of 5.9m above ODN, in line with the Agency guidance and to the Agency's reasonable satisfaction.
- Reprofilling of the site by between 0 to 1m resulting in the relocation of 48,000m<sup>3</sup> of material which will be retained on site and incorporated into the new flood defences.
- Provision of a footpath along the crest of the new defences to the rear of the site.
- Ploughing of the site prior to inundation to mitigate for any over-consolidation of sediment.

After 10 years, the scheme is predicted to create around 10.5ha of intertidal mudflat, 0.8ha of saltmarsh and 2.3ha of grassland.

Risks associated with the scheme some of which may be addressed through scheme design are:

- New design never tried before
- Compaction due to movement of heavy equipment may result in poor quality mudflat
- Disturbance from footpath may reduce potential bird usage of site

## Schedule 4 Doig's Creek Habitat Enhancement Scheme

A habitat enhancement scheme will be undertaken on 4ha of existing intertidal area at Doig's Creek, Pyewipe. The scheme will involve the following elements:

- Closure of Doig's Sluice
- Construction of a new sluice of the face of the existing Grimsby Dock gates

The closure of the existing sluice will permit natural infilling of Doig's Creek with estuary sediment and lead to increases in the abundance and diversity of invertebrate species in the area. After 10 years, the scheme is predicted to enhance between 2-4ha of intertidal mudflat.

## Schedule 5

### Provision of Roosting Areas at Quay 2005 and Queen Elizabeth Dock Extension

An appropriately designed roost site will be installed at the western end of Quay 2005 to accommodate roosting birds displaced by the demolition of the West Wharf pier. The roost site will be separated from operational areas by an acoustic screen.

The Queen Elizabeth Dock Extension will be fronted with rock armour to provide some new long-term roosting habitat. Once these works have been completed, the existing footpath will be managed to minimise disturbance to roosting birds.

A risk associated with the scheme which may be addressed through scheme design is that the design of roosting structures may not attract the species affected by the development.

Compliance with the provisions set out in Section 4 of the Appropriate Assessment which mitigate the potential impacts of construction.

## Schedule 6 Implementation Plan

The implementation plan provides details of the general mitigation measures and sets out the planned sequence of construction and timetables for the Habitats Schemes. Detailed timings will depend on the timings of consent approvals.

### General Mitigation Measures During Construction

- A Code of Practice to be agreed by the ESC will be established for construction workers to ensure that they are aware of the particular sensitivities of the estuarine environment;
- Construction work will be required to adhere to the Agency's Pollution Prevention Guidelines for working on construction sites (PPG6) and other relevant Agency guidelines;
- Construction work will be suspended for any period during which there is a severe weather ban on wildfowling in force on the estuary;

### Managed Realignment Scheme

It is proposed to construct the scheme over a period of two years in a number of stages. Construction works will be limited to the period April to August to avoid disturbance to over wintering waterfowl.

#### Year 1

- Construction of new sea defences to rear of the site using material from temporary borrow pits or from site reprofiling;
- Reprofiling of site to desired levels
- The front face of the embankment will be seeded with fast growing grass mix to promote stabilisation;
- The rear face of the embankment will be seeded with grass mix, supplemented with mowings from an area of high plant diversity from elsewhere on the North Humber bank,
- Translocation of rare plant species to new embankment from existing embankment.

#### Year 2

- Removal of existing sea defences in stages;
- Removal of fronting saltmarsh to create breaches;
- Ploughing of site to mitigate for any over-consolidation

### Managed Realignment Scheme

It is proposed to construct the scheme over a period of two years in a number of stages. Construction works will be limited to the period June to October to avoid disturbance to bittern and minimise disturbance to over-wintering waterfowl.

### Year 1

- Construction of new sea defences to rear of the site using material from temporary borrow pits or from site reprofiling;
- Reprofiling of site to desired levels
- The front face of the embankment will be seeded with fast growing grass mix to promote stabilisation;
- The rear face of the embankment will be seeded with grass mix, supplemented with mowings from an area of high plant diversity typical of the area;

### Year 2

- Removal of existing sea defences in stages;
- Ploughing of site to mitigate for any over-consolidation.

### Doig's Creek Habitat Enhancement

Construction of new sluices on the Grimsby dock gates can be completed within 12 months. Thereafter the existing Doig's Sluice can be closed. Sediment will then accrete naturally in Doig's Creek over a period of years until the area reaches an equivalent elevation to adjacent mudflat.

### Creation of Replacement Roosting Areas at Quay 2005 and Queen Elizabeth Dock Extension

The rock armour wall for the Queen Elizabeth Dock Extension will be constructed following discussions with English Nature about the after use for this area. The construction of Quay 2005 is anticipated to require around 2 years. The roosting site will be constructed towards the end of this period.



## Schedule 7 Monitoring Plan

The monitoring plan provides details of the generic environmental monitoring that will be undertaken for the Harbour Development Works and Habitats Schemes. Detailed monitoring requirements will be agreed by the ESC.

### Immingham Outer Harbour


- Disturbance to waterfowl adjacent to the development;
- Suspended sediment concentrations in the vicinity of the dredging works;
- Deposition of sediment on intertidal areas in the vicinity of the dredging works;
- Deposition of sediment at and in the vicinity of the sediment placement sites;
- Deposition of sediment on intertidal areas adjacent to the sediment placement sites;
- Changes to intertidal profile upstream and downstream of Immingham Outer Harbour;
- Changes to intertidal invertebrates upstream and downstream of Immingham Outer Harbour;
- Changes in bird usage on intertidal areas adjacent to Immingham Outer Harbour;
- Monitoring of maintenance dredging disposal.

### Quay 2005

- Concentrations of contaminants in the water column in the vicinity of the dredging works;
- Changes to intertidal profile upstream and downstream of Quay 2005;
- Changes in intertidal invertebrates upstream and downstream of Quay 2005;
- Changes in bird usage on intertidal areas upstream and downstream of Quay 2005

### Managed Realignment Scheme

- Changes in intertidal profile within and in the vicinity of the Scheme;
- Changes in saltmarsh within, fronting and in the vicinity of the Scheme;
- Changes to intertidal invertebrates within, fronting and in the vicinity of the Scheme;
- Changes to waterfowl usage of intertidal areas within, fronting and in the vicinity of the Scheme;
- Changes to waterfowl usage of roosting areas in the vicinity of the Scheme;
- Monitoring of grassland habitats created in the Scheme;
- Monitoring of saline pools created in the Scheme;
- Monitoring of bird usage of grassland habitats created in the Scheme.

 Managed Realignment Scheme

- Changes in intertidal profile within and in the vicinity of the Scheme;
- Changes in saltmarsh within, fronting and in the vicinity of the Scheme;
- Changes to intertidal invertebrates within, fronting and in the vicinity of the Scheme;
- Changes to waterfowl usage of intertidal areas within, fronting and in the vicinity of the Scheme;
- Changes to waterfowl usage of roosting areas in the vicinity of the Scheme;
- Monitoring of grassland habitats created in the Scheme;
- Monitoring of bird usage of grassland habitats created in the Scheme.

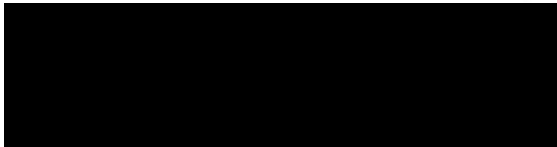
Doig's Creek Habitat Enhancement Scheme

- Changes in intertidal profile at the site;
- Changes in intertidal invertebrates at the site;
- Changes in bird usage at the site.

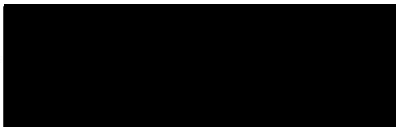
Provision of Roosting Areas at Quay 2005 and Queen Elizabeth Dock Extension

- Monitoring of bird usage of roosting areas at Quay 2005 and Queen Elizabeth Dock Extension.

Executed as a Deed on behalf of  
Associated British Ports by



Executed as a Deed on behalf of  
English Nature by



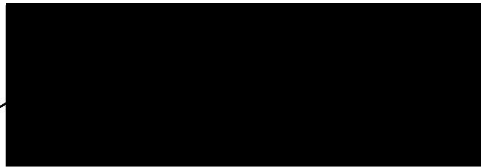
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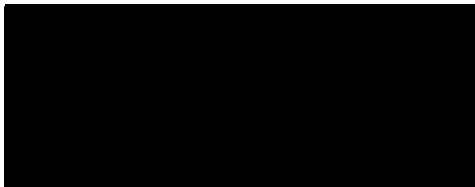
Executed as a Deed on behalf of the  
Royal Society for the Protection of Birds by



Executed as a Deed on behalf of the  
Lincolnshire Wildlife Trust by



Executed as a Deed on behalf of the  
Yorkshire Wildlife Trust Limited by



## Appendix 4

# Humber Pilot Handbook

January 2024

[www.humber.com](http://www.humber.com)



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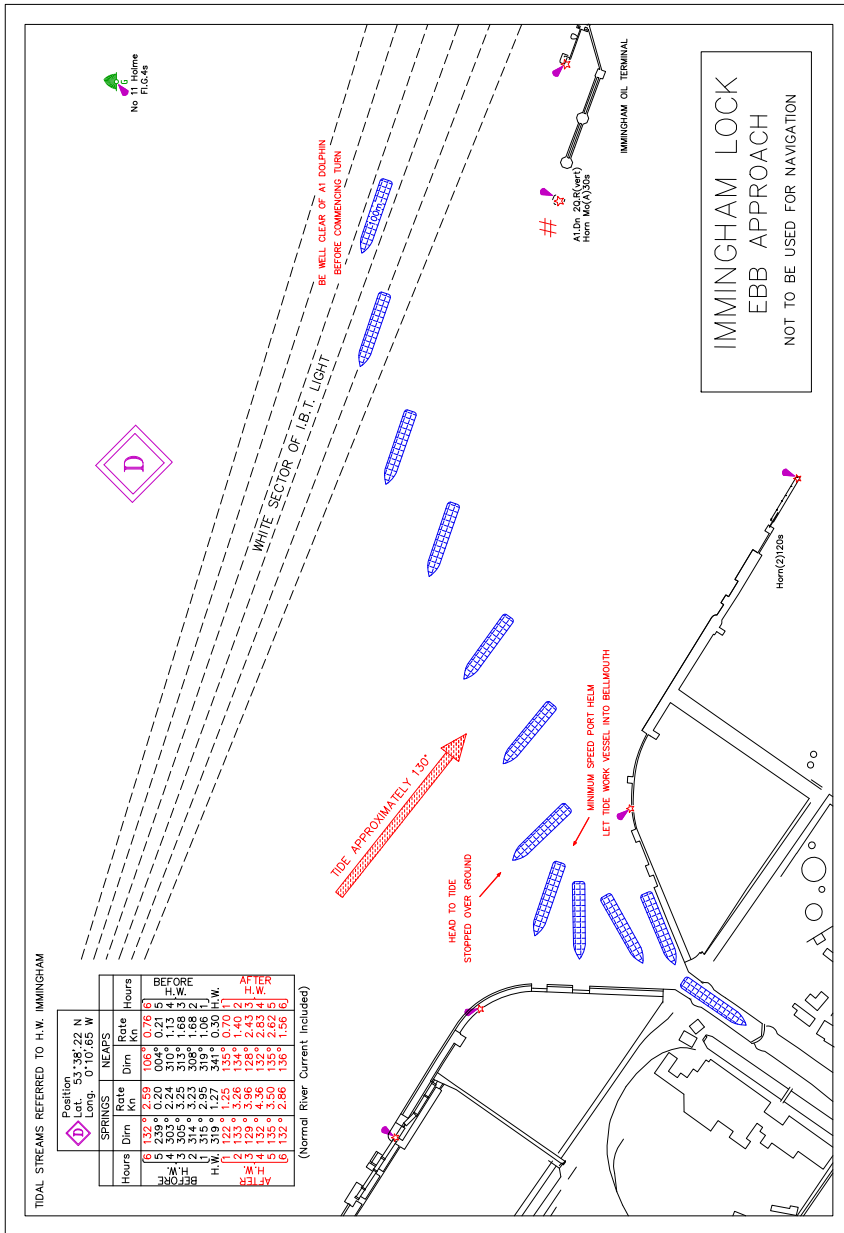
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## PREFACE

This manual, entitled **Humber Pilot Handbook**, has been designed as both a training guide for new trainee pilots and an on-going source of reference for serving pilots and is based on practical experience, proven techniques, and accepted wisdom accumulated over many years. Certain procedures, such as communication with VTS, are mandatory; whereas others relating to manoeuvring will always require the pilot to exercise his skill, judgement and common sense when executing the procedures.

Every care has been taken in the compilation of the information contained herein and at the time of going to press was believed to be accurate, but Associated British Ports cannot be held responsible for any errors or for any consequences arising from them.







# Immingham Dock

<b>OPERATOR</b>	ABP	01469-570506
	ADM	01469 570505
<b>CHARTS</b>	Stallingborough to Skitter Haven - Annual Survey	
<b>VHF</b>	19 & 68 ,71,73, 17 (with B.S.C.) 69 (with A.P.T.)	
<b>MAX. VESSEL</b>	<b>Length</b>	<b>Beam</b>
1/2 Lock (N)	79 m	26.8 m
1/2 Lock (S)	136 m	26.8 m
Full Lock	223 m	26.8 m
<b>Draft</b>	10.36 m	
<b>LOCK</b>	<b>Length</b>	<b>Breadth</b>
	256m	27.2m
	<b>Outer Sill 7.6m</b>	
	Level: HOT 7.0m up to HW -10mins.	
	Pens: 24hrs, closes 14.8m on sill, HOT 7.2m	
<b>DOCKING SIGNALS</b>	3 Red lights in a vertical line prohibit entry from Sea. 3 lights: Green, White, Green in a vertical line show entry into Immingham Dock permitted.	
<b>ARRIVAL</b>	<b>Flood</b>	HW - 5hrs to HW Swing to port once lock open & stem off W. jetty (O.1c). Do not swing too early as vessels turn readily to port on the flood tide. Be aware of traffic and Clay Huts and the set onto No 11 buoy. Have a spring ready to land on W. jetty if necessary. From a position stopped over the ground, with WJ knuckle abeam & EJ knuckle/light fine to Stbd., gather min. headway. As WJ open, keep bow close to EJ and work into the Bellmouth. Watch approach speed and do not enter until lined up. Note tidal eddy may push bow to port at the entrance. Beware when first of flood (LW to HW -2.5hrs.) as mud behind jetties may be exposed and vessel may be set to port and then to Stbd. in bell mouth.
	<b>Ebb</b>	Watch set onto "A1" dolphin. Put tide on Stbd. bow and crab down to the E. Jetty. Stem tide approx. 1 ship length off (heading 310 deg) and get vessel stopped in water. Organise BM to stand by for a spring on EJ approach if landing on. Gather min. headway and

crab into Bellmouth. Watch port quarter on knuckle, alter too soon and you may get set onto it. Wait until vessel is inside of the line of the E/W jetties and then come hard round to head for the east knuckle on the port side. Keep vessels turning to port as they may straighten up and end up stemming with WJ. Reduce speed, which will increase as you get back into the slack water. Aim to land on the east side of the lock entrance, as it is better fendered. You are less likely to be pinned alongside by the current rather than further north on the approach jetty. As there is a counter current, which may push the bow to Stbd. and make it difficult to land on. Do not use Stbd. helm but a kick astern if needed to land on flat. Get a spring out ASAP.

**REMINDER:**

If it is ascertained during the pilot/master exchange that the master will have the con during the approach to the lock, the pilot must make time during the passage up river to fully discuss the intended manoeuvre and ensure that the master's understanding and proposed actions are consistent with the guidelines for safe entry. During the manoeuvre the pilot should continue to play an active role within the bridge team, offering advice and corrective action as necessary.

**Ebb from up river**

Slow down off clay huts & swing to Stbd off WJ. Allow plenty of sea room bearing in mind the strength of the tide. **[GNTP 16/2008]** Let vessel swing until parallel to EJ & stem tide. Then proceed as for normal approach.

**NOTE:**

**If there is a vessel leaving the lock, then it will be safer to stem uptide of the lock entrance. Tidal flow charts are available for reference at Port House, Immingham Dock Master and in Spurn and Grimsby lobbies.**

**DEPARTURE**

**Ebb**

Plenty of power ASAP & A/C to port if necessary to allow for set. Do not A/C to Stbd. until face of IOT is open. On spring tides, no tugs fast fwd, and do not back out on standby boats.

**Notes**

Tide ebbs until approx. LW Hull that is approx. 1 hour after LW Immingham.

East side of lock is fendered.

Leading lights at No. 5 Quay in the dock - W (2) 10 secs - to assist in lining up for the lock when outbound.

The bollards on the east side of the lock are numbered from the lockhead.

Fixed fenders over the side of a vessel are not permitted.

## LOCK ENTRY TRAFFIC SIGNALS

Recently a large ferry was stemming the ebb tide for Immingham Lock entrance waiting for outbound traffic to clear the lock prior to making her final approach and entry. A misunderstanding on the part of the PEC holder on the ferry led him to believe that only one vessel was waiting to leave the lock when, in fact, there were two vessels. A and B. Once Vessel A had left the lock, the ferry commenced her final approach into the Bellmouth. Vessel B was not visible from the ferry bridge at this time as the lock was run down and it was approaching low water. At this time, Vessel B was making her way out of the lock. Both the PEC holder on the ferry and the master of Vessel B were very surprised to see each other and both vessels had to take immediate evasive action to avoid a collision. Unfortunately, during these manoeuvres, Vessel B made contact with fendering on the outer end of the eastern jetty causing substantial damage to that structure and a small amount of damage to herself.

The traffic signals at Immingham were set at three reds, prohibiting entry from the sea and they remained on red throughout this incident. The PEC holder on the ferry who was on the helm, engine controls, bowthruster and VHF had not observed these signals. It should also be noted that the second vessel leaving the lock, contrary to the Humber Navigation Byelaws 1990, had failed to sound her whistle signal.

The lessons to be learned are:

- During critical stages of a ship's passage, in this case manoeuvring for Immingham Lock, the workload needs to be shared amongst the full bridge team. It is not acceptable that the PEC holder or pilot take responsibility for almost the full workload, resulting in overload and, in this case, a near miss which could have been much worse.
- Members of the bridge team should be tasked to take an active part in the pilotage passage, a challenge and response culture is the proven way for safe and efficient bridge operations.
- Checklists should be used on board vessels to help make sure all procedures have been carried out correctly and, in this case, that the green/white/green signal for entry into Immingham are indeed showing and specific orders for entry have been received from the Dock Master.
- Visual lookout should be maintained until the vessel is safely in the lock.
- Outward bound vessels are reminded that the use of a whistle signal as per the Humber Navigational Byelaws 1990 (23) will alert the other craft of your imminent departure from the lock, even when not visible to them **[GNTP 04/06]**

## TURNING SHORT ROUND OFF THE I.O.T.

In a recent incident a vessel from up river bound for Immingham Dock on the ebb tide was swung to stbd in the vicinity of No. 11 buoy. She was overcome by the tide and set quickly down towards the IOT. Unfortunately her port quarter made contact with the bulbous bow of a moored tanker on IOT No. 1. Prior to the swing the pilot had made VHF contact with a ferry inwards bound for the IOH and agreed a green to green passing, expecting to pass in the vicinity of No. 11 buoy. This was a flawed plan especially given the direction and strength of the tide.

Turning short round towards the IOT, especially on the ebb, except for the purposes of berthing or to avoid collision, should be avoided. Pilots are advised to carefully plan the swing for Immingham when approaching from up river on the ebb. If, due to traffic, it is not considered prudent to swing above the bell mouth, then vessels should continue past the IOT and swing when clear to do so downstream of the jetties. *[GNTP 16/08]*

# Port Operations - Immingham

## 1 ENCLOSED DOCK

- 1.1 The dock depth and depths in the approaches to the lock are maintained by dredging. The water level in the dock is generally maintained by pumping water from the lock, and from the river via the lock. This is known as impounding. There are three points during a vessels transit from river to dock and vice versa, at which under keel clearance can be considered to be critical. These are: -

### A The Bellmouth Approach

This area being tidal is an area of active siltation and is regularly surveyed and dredged. To ensure an adequate under keel clearance in the bellmouth (which takes into account such siltation) reference is made to the outer sill. A vessels draft must be such that clearance over the outer sill is at least 1.5m on a rising tide and 2.0m on a falling tide. The latter increment being to allow for any fall in tide height whilst the vessel is manoeuvring prior to lock entry. For regularly visiting, powerful and manoeuvrable Ro-Ro ferries, these clearances may be reduced to 1.0m and 1.5m respectively.

### B The Inner Lock Gate Sill

The maximum height of water that can be retained in dock by the lock gates is 14.8m when measured at the outer sill.

This equates to 11.13m (36'6") at the inner sill. The specified maximum draft for a vessel entering or leaving the dock is 10.36m (34'0") when the dock is full. Dock water is used to re-fill the lock during penning operations, thus each time the lock is filled, the level of the dock water decreases. The amount of this decrease varies depending on the height difference between the dock level and the tidal river. To minimise the reduction in height of the dock water and the subsequent reduction in under keel clearance, impounding operations take place to maintain the dock level.

### C The Inner Dock and Berths

As mentioned previously, the depth of the dock is maintained by dredging, a procedure necessary to remove the silt deposited from the water which accompanies a vessel penning inwards and the water pumped into the dock during impounding operations. There are recognised depths specified for different berths in the dock. These are the depths that the dredging programme is designed to achieve. Siltation which occurs between dredging campaigns and between subsequent surveys of the dock, added to the variation in dock water height due to penning operations will vary the under keel clearance on the berths. The recognised depths of the berths in dock

are 9.0m for No.8 Quay and the Terminal berth, both in the North West Arm and 11.0m for all other berths except Henderson's dry Dock where a depth of 7.2m is generally specified, dependent upon the current siltation deposits.

With the variation in height of the dock water there will be occasions when the height of the rising tide outside the lock gates matches the height of the water in dock. When this occurs both inner and outer gates may be opened simultaneously allowing a vessel to pass through the lock **'on the level'** without being penned with the proviso that at least one set of gates, either inner or outer, is closed at least ten minutes before high water.

During periods of spring high waters, there will be occasions when the height of tide in the river equals or exceeds the height of water, which can be retained in dock. For example, a spring high water of 15.3m (measured at the outer sill) regularly occurs, exceeding the maximum retained height of 14.8m by 0.5m. When this occurs, the tide is said be **'over the top'** of the gates, both sets of gates can be opened and vessels passed through the lock on the level. The height of the dock water is obviously simultaneously increased by the tide flowing in. With the increase in dock water height comes an identical increase in under keel clearance. This would allow a vessel into the dock with a draft greater than the permitted maximum; however, retention of this height of dock water is not physically possible. As the tide in the river falls, the excess water in dock escapes over the top of the gates and through the sluices until normal maximum dock water height is achieved, approximately 1.25 hours after high water. Any vessel in dock with a greater draft than the 10.36m permitted maximum may well take the bottom as the water level in dock falls to the maximum retained level.

When the tide is sufficiently high to go over the top of the gates, it is a requirement that at least two sets of gates out of the inner middle and outer sets be closed at least 10 minutes before high water. Once the gates have been closed, the sluices are lifted and as the tide turns and falls the water escaping from the dock through the sluices, along with the water escaping over the top of the gates to the river causes the dock level to fall.

Due to engineering constraints the lock gates are not allowed to be moved during the ebb, with more than 0.1m of water over the top of them. Thus no vessel movements can take place through the lock from 10 minutes before high water until the dock level falls to 11.23m (36.9"), which may take up to 1.25 hours. This period of inactivity is known as the **'run off'**.

### Ordering Procedures

Once a vessel has been nominated for a particular berth by the Port commercial section, the ship's agent must contact the duty Assistant Dock Master (ADM) to



arrange a time for entering the lock. Prioritisation may take place and numerous factors will influence this decision making process including, but not limited to: -

### Safety

The safety of vessels, the Port and its equipment will take precedence over all other factors.

### Draft

Any vessel of approximately 7.5m draft or more can be considered to be a deep drafted vessel and as such would require to be docked at or near to high water, on the flood tide, and would be given priority at that time. (See Draft / Length / Tide matrix).

### Length and Beam

The middle gates of the lock can divide the lock into two parts approximately 1/3 and 2/3 of the overall length. The smaller part at the northern end is able to accept vessels up to 75m in length, and is known as the Small Lock. The larger part to the south is able to accept vessels up to 130m in length and is known as the Big Lock.

When combined the total length of what is now known as the Full Lock is 232.5m. The maximum length of vessel acceptable in this lock is dependent upon several factors: -

- i Length of vessel
- ii Tugs, numbers used, their position and size
- iii Beam of vessel
- iv The lines of the vessel, whether fine lined or of a more bluff construction.
- v Manoeuvrability of vessel, type and power of auxiliary machinery such as bow and stern thrusters.

Differing combinations of factors will produce different acceptable lengths. For example, a vessel using two tugs, if it has fine lines and is only of average beam, would be able to overlap the tugs by a greater extent, especially if one of the tugs is of a smaller class. The maximum acceptable length of such a vessel would be in the order of 197m. If the beam and the lines of the vessel were such that little or no overlap of the tugs was possible, the acceptable length would be reduced.

Longer than normal vessels can be accepted by bringing the vessel into the lock using the head and stern tugs then releasing the stern tug once the vessel is moored in the lock. The stern tug leaves the lock; the outer gates are closed and the vessel runs up to dock level. The vessel is then moved forward into the dock until the stern is to the south of the middle gates. The vessel is held in this position by the head tug and by mooring lines whilst the small lock is used to bring in the stern tug, which is then reunited with the vessel before proceeding to the berth. There is an obvious time penalty in carrying out this operation.

Even longer vessels can be accepted such as specialist 'Great Lakes' vessels equipped

with powerful bow thrust units which use pushing tugs forward and a stern tug to ease the vessel into the lock. The vessel is then run up to dock level alone in the lock where it is met by additional tugs that assist it to the berth.

The maximum acceptable beam in the lock is 26.8m but vessels over 26.2 will only be accepted with the Dock Master's approval.

A vessel exceeding 120m combined with a beam which approximates to the maximum beam acceptable would be considered to be a tidally restricted vessel and would thus require to be docked within the slack water period, either high or low water depending upon the draft. Large, deep drafted arriving vessels would normally be ordered so as to be off the lock one hour before high water. Should there be two such vessels to dock on the same tide, the first and generally the least hampered vessel would be requested to present itself off the lock two hours before high water. Similarly, large deep drafted vessels sailing from the dock would be ordered off the berth approximately one hour before high water so as to be leaving the lock at high water. Occasionally the period of slack water is specifically targeted to ease the docking of especially sensitive vessels. (See Draft/Length/Tide matrix)

### **Working Vessel**

A working vessel, that is a vessel working on arrival, would be given priority over a non working vessel, however, there may be times when priority is given to sailing a non working vessel in order to free a berth for the next working vessel.

### **Special Known Characteristics**

Vessels with known characteristics, for example hull protrusions, overhanging equipment such as safety craft, sonar equipment or heli-decks which could only safely dock at high water to prevent contact between said equipment and the lock side would be given priority at high water. Similarly, a vessels known lack of power, poor speed or poor handling characteristics would generate different priorities to a vessel known to be powerful, fast and manoeuvrable.

### **Tug Requirements**

A vessels tug requirements along with tug availability can alter a vessels priority. A vessel may displace a vessel that has to wait for a tug or tugs, which is happy to move without tug assistance. In cases where there is a shortage of tugs, the tug service provider will decide upon priority of tug allocation.

### **Dredging Craft**

Dredging craft can generate a degree of priority due to the high cost of hiring such vessels and the need to make such operations cost effective.

### **Tugs**

Tugs themselves can claim some degree of priority. Tugs servicing passage plan

vessels bound for the deep-water riverside berths have a responsibility to be at their correct station in accordance with the passage plan schedule. The port authority has a responsibility to ensure properly ordered tug movements through the lock are carried out.

### **Bunker Barges**

Whilst generally a fairly low priority such vessels can command a much greater degree should their services be required by a vessel waiting to sail, especially if such vessel is tidally restricted and has numerous tugs ordered to assist.

### **Commercial Vessels**

These will invariably be given priority over non-commercial vessels.

### **Seniority**

All other things being equal, priority will be given to the senior vessel, that is the vessel, which arrives at the stemming or designated arrival point first.

### **Scheduled Ferry Movements**

These will be prioritised, especially at the peak ferry arrival and departure periods, but not to the exclusion of tidally restricted vessels, passage plan tugs and other commercially sensitive arrivals.

Arrangements for the sailing of vessels from the dock are broadly similar to the above. At all times the ADM will endeavour to be commercially sensitive to customer needs whilst making best use of the restriction on traffic flow imposed by the lock. The safety of vessels will be paramount.

Vessels moored in the lock on the east side making use of the self-lubricating propylene fenders, which are only fitted to that side. It is possible under special circumstances to moor on the west side. This is discouraged due to the lack of bollards at the south end of the lock in the region of the impounding pump house and the poorer energy absorption of the steel plate fenders on the west side. Port authority staff carries out all mooring in the lock.

ABP lockside staff will advise on which bollard Spring lines are to be placed prior to vessel entering the lock to allow vessels to be correctly positioned.

## **2 EAST AND WEST JETTIES**

### **2.1 Under Keel Clearance**

Lying within the complex tidal streams of the River Humber, the berths on the East and West jetties are subject to varying degrees of siltation. Scouring by the current is greater on the East jetty than on the West, requiring more attention to be paid

by the dredger to the West jetty berths than to those on the East. Deposition of silt is greater at the ends of the jetties. Regular dredging campaigns are carried out along with regular surveys.

Due speed of silt deposition especially at the western end of the West Jetty, the latest sounding charts and the dates of these charts must be consulted along with the draft tables. In this way trends may be deduced to give a more accurate picture of the current state of the berths.

## 2.2 Ordering Procedures

Once a vessel is nominated for a particular berth on the jetties the agent will contact the duty ADM for a berthing time. Operational priorities will have already been decided by the berth operators and incorporated in their nomination of the berth.

### **Manifold Position and Tidal Stream at the Time of Arrival**

As vessels almost always stem the tide when berthing, the stream direction will indicate the heading of the vessel on berthing.

There may be occasions when a vessel has an offset manifold i.e. not amidships that the vessel can only fit on the berth one way round. This could mean the vessel having to wait for the tide to turn in order that it may make its approach from the desired direction.

Large or deep drafted vessels will only be berthed and sailed near the slack water periods at high or low water, dependant on draft and for vessels sailing upon their heading. The proximity of the Immingham Oil Terminal and the large vessels which occupy those berths require care to be taken when considering any movement of large vessels on or off the jetties during any period of ebb tide. Care must also be taken when considering a relatively long vessel berthing on the extreme, which takes place in that region.

On no account should a vessel on either the east or west jetties extend towards the bellmouth past lines which run parallel to the east and west lead in jetties measured 30m behind the fender line of the lead in jetties. This is to prevent such vessels fouling the bellmouth and interfering with the navigation of vessels making for, and leaving the lock.

## 2.3 Restricted Vessels at Immingham Dock

### **Definitions**

Tidally Restricted Vessel = A standard equipped ship i.e. single fixed pitch propeller, conventional rudder, no thrusters units and a LOA of 140 meters or more.

Time of HW and LW = Tide table times at Immingham (for the parameter stated over).

“Arrival Off Dock” = Vessel stemming tide with tugs made fast.

“Sailing Time” = Run down ready to leave the lock.

“Ordered Time” = Time to commence singling up, tugs in attendance. (Pilot is expected to be on board in time to complete Passage Plan with Master and allow gangway to be lifted). [Ordered time to be at least sailing time - 1 hour.]

“Dock Master” = means the Dock Master appointed by ABP and includes his authorised deputies, assistants and any other person authorised by the Authority to act in that capacity.

## **ARRIVAL AND SAILING PARAMETERS FOR TIDALLY RESTRICTED VESSELS AT IMMINGHAM DOCK AND E/W JETTIES**

### **High Water Arrivals**

Tidally Restricted Vessels up to 180m LOA and/or less than 10m draft can, when the tidal range is 4.8m or less, be docked in the period *HW - 2 hours up to HW*.

Tidally Restricted Vessels up to 180m LOA and/or less than 10m draft can, when the tidal range is more than 4.8m, be docked in the period *HW - 1.5 hours up to HW*.

### **Low Water Arrivals**

Tidally Restricted Vessels up to 180m LOA are to be ordered for flood tide entry only and to be ordered to be off dock at *LW + 1 hour*.

If a second vessel is to be docked on the same tide, the tide range must be 4.8m or less and the second vessel is to be ordered off dock for *LW + 1.5 hours*. Vessel is to be landed on West Jetty approach as soon as first vessel is in the lock and docked no later than *LW + 2 hours*.

### **High Water Departures**

Tidally Restricted Vessel of 140m to 145m LOA and/or less than 10m draft can, when the tidal range is 4.8m or less, sail in the period *LW + 0.5 hours up to HW*.

Tidally Restricted Vessel up to 180m LOA and/or less than 10m draft can, when the tidal range is 4.8m or less, sail in the period *HW - 2 hours up to HW*.

Tidally Restricted Vessel up to 180m LOA and/or less than 10m draft can, when the tidal range is more than 4.8m, sail in the period *HW - 1.5 hours up to HW*.

### **Low Water Departures**

Tidally Restricted Vessel of 140m to 145m LOA and/or less than 10m draft (draft permitting) can, when the tidal range is 4.8m or less, sail in the period *LW + 0.5 hours up to HW*.

Tidally Restricted Vessel up to 180m LOA and/or less than 10m draft can, when the tidal range is 4.8m or less, sail in the period *LW + 0.5 hours to LW + 2 hours*.

Tidally Restricted Vessel up to 180m LOA and/or less than 10m draft can, when the tidal range is more than 4.8m, can sail in the period *LW + 0.5 hours to LW + 1.5 hours*.

**Vessel LOA > 180m and/or more than 10m Draft**

Tidally Restricted Vessel greater than 180m LOA and/or more than 10m draft may only dock or sail within the period *HW -1 hour up to HW* or sail within the period *LW +0.5 hours to LW +1.5 hours* (draft permitting).

At the discretion and full agreement of both the pilot on board and the Dock Master, the sailing time may be extended by 30 mins.

**Low Water Sailings**

**Head West.** Tidally Restricted Vessel can be sailed in the period *LW -05. hours up to LW +1.5 hours*.

**Head East.** Tidally Restricted Vessel can be sailed in the period *LW up to LW +1.5 hours*.

**TUG REQUIREMENTS**

Tug provision for the Port of Immingham is by several private companies.

Tugs should normally be ordered by the master through the ship’s agent. Immingham Dock or pilots will assist with the ordering if required. The master must state which towage company is preferred. Details of towage companies and tugs can be found on the following link:-

**<http://www.humber.com/Estuary-Information/Navigating-the-Estuary/Towage-Tugs>**  
or in the General Notice to Pilots/PEC’s No 2 of each year.

Tidally Restricted Vessels up to 160m LOA and/or 8m draft will be recommended to use 2 tugs when entering the lock.

Tidally Restricted Vessels over 160m LOA and/or 8m draft will be required to take a pusher tug in dock. One of the wire tugs should be a class ‘A’ tug.

Inward vessels should be met by tugs below the IOT and outward at least one tug should accompany the vessel until clear of IOT.

*Tug Classification*

Class A .....	50t bollard pull and above
Class B .....	40 - 50t
Class C .....	30 - 40t
Class D .....	25 - 30t

All vessels inward that require a tug or tugs to berth at IMMINGHAM DOCK must reduce their speed and complete making tugs fast before the vessel passes No. 10

Upper Burcom Buoy - SH 34 - 2011.

A fire tug is on immediate notice, external to the Dock, to assist any vessel in unforeseen difficulties in the Immingham area; this is generally limited to a machinery failure.

The above tug requirements may be varied following declaration of suitable additional manoeuvring equipment such as multiple propellers, rudders, and thrusters units. Pilotage assessments will be used to make informed decision on varying tug requirements.

Masters and pilots are reminded that tug requirements vary greatly depending on the weather and tidal pattern. The Duty Assistant Dock Masters may recommend tug usage and masters and pilots should heed the advice provided.

In the event of the possibility of a serious incident, the Duty Assistant Dock Master can require a vessel to take tugs as a special direction.

### **Towage Operations on Vessels not equipped with centre leads when transiting locks**

In a recent incident a tug was badly damaged when assisting a large modern RoRo ferry that was being manoeuvred bow first through King George Lock from the river. See report on page xxx.

### **STANDARD BERTHING INFORMATION**

Vessels moor in the lock on the east side making use of the self-lubricating propylene fenders, which are only fitted to that side. It is possible under special circumstances to moor on the west side. This is discouraged due to the lack of bollards at the south end of the lock in the region of the impounding pump house and the poorer energy absorption of the steel plate fenders on the west side. Port authority trained marine staff carries out all mooring in the lock and dock.

***[GNTP 03/22 + SSOW For Immingham dock arm]***