



Department for Transport

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To:

The Applicant, Natural England,
Environment Agency, the Marine
Management Organisation,
Volkswagen Group United Kingdom
Limited, Associated Petroleum
Terminals (Immingham) Limited and
Humber Oil Terminal Trustees
Limited and Interested Parties

9 May 2024

Dear Sir/Madam

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

Application by Associated British Ports (“the Applicant”) Seeking Development Consent for the Proposed Immingham Eastern Ro-Ro Terminal Project (“the Proposed Development”)

Following the completion of the examination on 25 January 2024, the Examining Authority submitted to the Secretary of State for Transport (“the Secretary of State”) on 25 April 2024 a report and recommendation in respect of its findings and conclusions on the above application. In accordance with section 107 of the Planning Act 2008, the Secretary of State has until 25 July 2024 to determine the application. The Secretary of State requests the parties identified in bold to provide an update or further clarification on the outstanding issues below.

Habitats Regulations Assessment

1. The Secretary of State notes that, in respect of the Conservation of Habitats and Species Regulations 2017 (as amended), the matter of the possible need for the provision of compensatory habitat in respect of the potential effects of the Proposed Development on the Humber Estuary SAC was considered during the examination, and that the Applicant submitted a [Habitats Regulations Assessment Derogation Report](#) on 9 January 2024.

2. The Secretary of State has considered [Natural England’s representation dated 15 January 2024](#) which states in Appendix 3 that it considers that the compensatory habitat proposed by the Applicant is likely appropriate in nature, scale and deliverability to address adverse impacts on the Humber Estuary SAC. The Secretary of State notes, however, that Natural England was of the view that it had been given limited opportunity to review the proposed compensatory habitat. The Secretary of State invites **Natural England** to provide any further comments it may have. The Secretary of State and also invites comments on

the proposed compensatory habitat from the **Environment Agency**, the **Marine Management Organisation** and **any other Interested Party**.

3. The Secretary of State requests comments from the **Applicant**, **Natural England** and **any other Interested Party** on the following wording of a possible Requirement to be included in the DCO should it be necessary, following his Habitats Regulations Assessment, to require such compensatory habitat:

The derogation report means the Immingham Eastern Ro-Ro Terminal Habitats Regulations Assessment Derogation Report - Document 10.2.93 - APFP Regulations 2009 – Regulation 5(2)(q) PINS Reference – TR030007 January 2024

Construction of Works Nos. 1 to 3 of the authorised development must not commence until an Environmental Monitoring and Maintenance Plan (the EMMP) for the Outstrays to Skeffling Managed Realignment Scheme (the OtSMRS), has been submitted to and approved in writing by the Secretary of State (following consultation with Natural England). The EMMP for the OtSMRS must include no less than 1 hectare of intertidal compensatory habitat at the OtSMRS site, identify the location of the compensatory habitat, explain how the compensatory habitat is secured, provide for the ongoing monitoring and management of the compensatory habitat and otherwise reflect the compensatory measures included in the derogation report.

4. The Secretary of State is aware that [Natural England's representation dated 15 January 2024](#) also states that it cannot rule out in-combination adverse effect on integrity on some of the features of the Humber Estuary SAC, Humber Estuary SPA and Humber Estuary Ramsar site. The Secretary of State requests the **Applicant** to confirm which other projects were assessed in its in-combination assessment, and **Natural England** to confirm which projects together with the Proposed Development it considers to cause the in-combination impacts.

Compulsory Acquisition

Volkswagen Group United Kingdom Limited

5. The Secretary of State notes that negotiations between the Applicant and Volkswagen Group United Kingdom Limited (“VWG”) regarding the compulsory purchase powers sought in relation to plot 9 in the Book of Reference remained outstanding at the close of examination. The Secretary of States asks the **Applicant** and **VWG** to provide an update on the status of their negotiations. If negotiations remain outstanding, the Secretary of State requests the Applicant and VWG to confirm when agreement might be reached.

Protective Provisions

6. The Secretary of State understands that negotiations on the Protective Provisions contained in Part 4 of Scheule 4 of the proposed development consent order (“the Order”) for the benefit of Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminal Trustees Limited (“IOT Operators”) also remained outstanding at the close of examination. The Secretary of State requests the **Applicant** and **IOT Operators** to provide an update on the status of their negotiations. If negotiations remain outstanding, the Secretary of State requests the Applicant and IOT Operators to confirm when agreement might be reached.

Impact Protection Measures

7. The Secretary of State is aware that during the examination, IOT Operators and other Interested Parties submitted representations on the need for Impact Protection Measures to

reduce the risk of vessel allision with the IOT Operators' infrastructure to as low as reasonably possible.

8. The Secretary of State considers that if he were to agree with the IOT Operators' position on this matter the wording of Requirement 18 in the Applicant's final version of the Order might require amendment so that Work No. 3(b), the 'dolphin' IPM at the western end of the IOT's finger pier, would be constructed prior to the first use of Berth 1. Requirement 19 might also need amendment to aid precision and enforceability, and to reflect the changes to Requirement 18. The suggested amendments to both Requirements are shown in red text in the document attached to this letter. The Secretary of State invites comments from the **Applicant, IOT Operators and any other Interested Party** on those amendments.

9. The Secretary of State notes that the term "the operator of the Humber Oil Terminal" is not defined in the Order and is inconsistent to references made in Requirement 19 and the Protective Provisions for the IOT Operators. He considers that the term 'IOT Operators' (an abbreviation for the Immingham Oil Terminal Operators) should replace "the operator of the Humber Oil Terminal", with the terms 'IOT' and 'IOT Operators' being added to the interpretation provided in paragraph 1 of Part 1 of Schedule 2.

10. The Secretary of State invites comments from the **Applicant and other Interested Parties** on this amendment.

Deadline for Response

The deadline for response is 23 May 2024.

Submissions sent by post may be subject to delay therefore your response on the information requested above should be submitted to the Case Team, if possible, by email to: imminghameasternroroterminal@planninginspectorate.gov.uk

If you will have difficulty in submitting a response by the consultation deadline, or difficulty in submitting a response by email, please inform the Case Team.

Responses will be published as soon as possible after the deadline on the Immingham Eastern Ro-Ro Terminal project page of the National Infrastructure Planning website at:

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/TR030007>

This letter is without prejudice to the Secretary of State's decision on the Immingham Eastern Ro-Ro Terminal Application, and nothing in this letter is to be taken to imply what that decision might be.

Yours faithfully,

Transport Infrastructure Planning Unit

Impact Protection Measures for the IOT trunkway

18. – (1) ~~The undertaker must give due consideration to any recommendation received from~~ In the event that the Statutory Conservancy and Navigation Authority or the dock master determine that the impact protection measures comprising Work No. 3(a) are required in the interests, upon receiving notification of ~~navigation safety in the River Humber.~~

~~(2) No works for the construction of the impact protection measures may commence until the undertaker has consulted with the Statutory Conservancy and Navigation Authority, the dock master, the operator of the Humber Oil Terminal and the MMO as to the detailed design of the impact protection measures and has had regard to the representations made to the undertaker by any such person.~~

~~(3) If the undertaker receives such a recommendation, the determination~~ from the Statutory Conservancy and Navigation Authority or the dock master ~~it~~, the undertaker must construct the impact protection measures

(2) Upon receiving notification of the Statutory Conservancy and Navigation Authority's or dock master's determination referred to in sub-paragraph (1):

(a) the undertaker must — within 10 business days, notify the ~~operator of the Humber Oil Terminal~~ IOT Operators and the MMO of ~~the receipt of a recommendation that~~ determination; and its content; and

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

(3) The construction of Work No. 3(a) must not be commenced until the undertaker has consulted with the Statutory Conservancy and Navigation Authority, the dock master, the IOT Operators and the MMO as to the detailed design of Work No. 3(a) and has had regard to any consultative representations received by the undertaker.

(4) No works for the construction of Work No. 3(a) may be commenced until the undertaker has obtained the written consent of the Statutory Conservancy and Navigation Authority to construct Work No. 3(a).

(5) The detailed design referred to in sub-paragraph (23) must be:

- (a) within the limits of deviation shown on the relevant plans of the works plans;
- (b) in general accordance with the detail shown on the relevant engineering, sections, drawings and plans; and
- (c) in general accordance with the detail shown on the relevant general arrangement plans.

Impact Protection Measures for the IOT finger pier

19. – Prior to the commencement of ~~construction of the authorised development] or [Prior to the commencement of~~ commercial ~~operations at operation of berth 1, using the authorised development]~~ berth numbering adopted on General Arrangements Plan B2429400-JAC-00-ZZ DR-ZZ-0202 Revision P04, the undertaker must:

- a. notify the Statutory Conservancy and Navigation Authority, the dock master, the MMO and the ~~operator of the Humber Oil 8 Terminal~~ IOT Operators of its intention to install the impact protection measures; comprising Work No. 3(b);
- b. agree a programme of works with the parties identified in sub-paragraph (~~1a~~) above; and
- c. install the impact protection measures detailed as Work No. 3"(b).