

Date: 23 May 2024
Our ref: 475508
Your ref: TR030007



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Dear Inspector,

NSIP Reference Name / Code: TR030007

Title: Natural England's comments in respect of the Immingham Eastern Ro-Ro Terminal Project, promoted by Associated British Ports.

Current consultation: Consultation letter published by the Examining Authority on 09 May 2024 requesting comments from relevant parties on outstanding issues relating to the Immingham Eastern Ro-Ro Terminal (IERRT) project, following consultation with the Secretary of State for Transport ("the Secretary of State"), with a submission deadline of 23 May 2024.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Following the submission of the letter dated 09 May 2024, Natural England are requested by the Secretary of State to comment on three aspects detailed within the Habitats Regulations Assessment section of the letter. Please find our comments in relation to each of these in Appendix 1, Table 1 of this letter.

For any further advice on this consultation please contact the case officer Laura Tyndall and copy to consultations@naturalengland.org.uk.

Yours faithfully,

Laura Tyndall
Lead Adviser
Yorkshire and Northern Lincolnshire Area Team

Appendix 1: Natural England’s response to the Secretary of State’s comments, as outlined in the consultation letter dated 09 May 2024

Table 1: Natural England’s response to the Secretary of State’s comments 09 May 2024			
Paragraph / section reference	Addressed to:	Summary of Secretary of State’s comment / question	Natural England comments
Paragraph 2 of the Habitats Regulations Assessment section.	Natural England, with comments also invited from the Environment Agency, Marine Management Organisation, and any other Interested party.	The Secretary of State notes that Natural England was of the view that it had been given limited opportunity to review the proposed compensatory habitat. Natural England have been invited to provide any further comments it may have on the proposed compensatory habitat.	Natural England have reviewed the Habitats Regulations Assessment (HRA) derogations report [REP8-033] in more detail. We can confirm we remain of the view stated in our Deadline 9 response, that should the Secretary of State be minded to grant consent to the IERRT project, that the proposed compensation at Outstrays to Skeffling Managed Realignment Scheme (OtSMRS) is likely appropriate in terms of its nature, scale, and deliverability to address adverse effects on the intertidal habitat feature of the Humber Estuary SAC.

<p>Paragraph 3 of the Habitats Regulations Assessment section.</p>	<p>The Applicant, Natural England, and any other Interested Party.</p>	<p>The Secretary of State has requested comments on the wording of a possible Requirement to be included in the DCO, in relation to potential compensatory habitat at Outstrays to Skeffling Managed Realignment Site (OtSMRS). The wording proposed is as follows:</p> <p><i>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</i></p> <p><i>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.</i></p>	<p>It is Natural England’s advice that, should it be necessary, the wording provided for a possible Requirement in the DCO relating to compensatory habitat would be considered satisfactory. We have no additional comments / amendments to make in relation to this.</p>
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<p>Paragraph 4 of the Habitats Regulations Assessment section.</p>	<p>The Applicant and Natural England.</p>	<p>The Secretary of State has commented on Natural England’s representation dated 15 January 2024 where we note that in-combination adverse effects on integrity on some of the features of the Humber Estuary SAC, SPA and Ramsar site cannot be ruled out. The Secretary of State has requested the following:</p> <ul style="list-style-type: none"> • That the Applicant confirms which other projects it assessed in-combination; and • for Natural England to confirm which projects, together with the proposed development, that it considers to cause the in-combination impacts. 	<p>It was Natural England’s advice in our response to D9 of the IERRT Examination [REP9-018], that there was insufficient information available to rule out adverse effects on integrity (AEol) in-combination with other plans or projects, for the following features/sub-features of the Humber Estuary Special Area of Conservation (SAC):</p> <ul style="list-style-type: none"> • H1140: Mudflats and sandflats not covered by seawater at low tide (hereafter intertidal habitat) • H1130: Estuaries <ul style="list-style-type: none"> ○ A2.2: Intertidal sand and muddy sand ○ A3.3: Intertidal mud <p>The advice was based on the information available at the time of submission, and we did not consider that sufficient evidence was available to rule out potential AEol in-combination at that stage. Natural England did not agree with the justification provided in the HRA submitted at Deadline 8 [REP8-014] for IERRT regarding the in-combination habitat loss, which concluded that all projects (other than Able Marine Energy Park (AMEP) for which compensatory habitat will be provided for), have both intertidal and subtidal habitat losses that are considered “<i>de minimis</i>” and “negligible” in extent / that are ecologically in-consequential.</p> <p>Our advice was based on the list of projects included in the in-combination assessment of the shadow HRA, including Immingham Green Energy Terminal (IGET). We note that further information has now been provided regarding intertidal habitat loss for the IGET project, in the shadow HRA submitted at D3 [REP3-032]. Natural England considers that this information may be suitable for informing an updated in-combination assessment in the final HRA for IERRT.</p>
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