

Date: 6 February 2024
Our ref: GOOD/3004864.3
Your ref: TR030008
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By email only to imminghamget@planninginspectorate.gov.uk

Dear Madame,

**Planning Act (2008) Sections 88, 89, 90 and 96 and the Infrastructure Planning (Examination Procedure) Rules 2010 ("EPR") Rules 4, 6, 9, 10 and 13
Application by Associated British Ports ('the Applicant') for an Order Granting Development Consent for the Immingham Green Energy Terminal ('IGET')
Applicant's Response to Rule 6 Letter
Application Reference: TR030008**

As you know we act on behalf of the Applicant in relation to the application for development consent (the "**Application**") for the IGET (the "**Project**").

This letter is sent in response to the letter dated 8 January 2024 from the Planning Inspectorate ("**PINS**") to the Applicant, all Interested Parties, Statutory Parties, and other persons sent under Rule 6 of the EPR (the "**Rule 6 Letter**", [**PD-005**]), the purpose of that letter being to invite the recipients to the Preliminary Meeting and to notify the recipients of Issue Specific Hearings ("**ISH**" or "**ISHs**" as appropriate) in respect of the Application and to provide details of Procedural Decisions in respect of the Examination, and to confirm the information requested by the Examining Authority ("**ExA**") for submission by Procedural Deadline A on Tuesday, 6 February 2024.

This letter is structured as follows (including Appendices):

- (a) Section 1 addresses the Applicant's intended approach to the Preliminary Meeting and ISHs 1 – 3, including the Agenda Items which the Applicant's representatives will address, the individuals who will speak to the Items and the documents which the Applicant intends will be referred to.
- (b) Section 2 addresses other matters concerning the Examination of the Application, including Examination venue availability for the proposed ISH dates and clarification on the draft Examination Timetable included in the Rule 6 letter and the layout of the Examination room;
- (c) Section 3 addresses further submissions required from the Applicant at Procedural Deadline A, being an Itinerary and for the Familiarisation Site Inspection 1, an update on the Unmanned Drone Footage; and updates to the draft Development Consent Order ("dDCO")

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and accompanying updates to the Explanatory Memorandum as well as a tabulated Schedule of Changes to the dDCO;

- (d) Section 4 contains requests for clarification in respect of points in the Rule 6 Letter, relating to updates to the dDCO and the timing of witness attendance at hearings.
- (e) Section 5 contains requests for clarification in response to points in the draft First Written Questions [**PD-006**];
- (f) Section 6 discusses additional Application material the Applicant is submitting along with this letter, being an updated Guide to the Application and a list of errata;
- (g) Section 7 addresses additional Application material the Applicant will submit at Examination Deadline 1 (13 March 2024); and
- (h) Section 8 addresses proposed changes to the Application for development consent which the Applicant intends to apply for.

The following documents are appended to this letter:

- (a) Appendix 1 – Applicant’s Draft Itinerary for FSI1 to be conducted 23 February 2024 (including map of proposed route);
- (b) Appendix 2 – Table of Errata;
- (c) Appendix 3 – Updated Guide to the Application (Clean);
- (d) Appendix 4 – Updated Guide to the Application (Tracked);
- (e) Appendix 5 – Updated dDCO – revision 2 (Clean);
- (f) Appendix 6 – Updated dDCO – revision 2 (Tracked);
- (g) Appendix 7 – Applicant’s Schedule of Changes to draft Development Consent Order;
- (h) Appendix 8 – Explanatory Memorandum – revision 2 (Clean); and
- (i) Appendix 9 – Explanatory Memorandum – revision 2 (Tracked)

1 **The Preliminary Meeting and ISHs 1 – 3**

1.1 **The Preliminary Meeting**

- 1.1.1 The Applicant will attend the Preliminary Meeting at 10:00am on Tuesday, 20 February 2024 and will be represented by Mr Hereward Phillpot KC, instructed on behalf of the Applicant by ourselves and Charles Russell Speechlys LLP (who represent Air Products (BR) Limited (“**Air Products**”)).
- 1.1.2 The Applicant has provided the information to be input into the Event Participation Form confirming its attendance at the Preliminary Meeting, and ISHs 1 – 3, to the ExA as an Excel spreadsheet file. This file contains all information about who will represent the

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Applicant at the Preliminary Meeting, and other information requested by the Event Participation Form. Representatives of the Applicant, its professional team, and Mr Phillpot will appear in person, and as such the contact information provided for those individuals attending the Preliminary Meeting does not include individual phone numbers, as none of the individuals join the Preliminary Meeting virtually.

- 1.1.3 The Applicant will address the Preliminary Meeting in relation to all items on the agenda, primarily through Mr Phillpot although other members of the Applicant's Project team may also need to contribute. This will obviously be managed to ensure the Preliminary Meeting proceeds efficiently and expeditiously.
- 1.1.4 Subject to one point below concerning Item 2 on the high level agenda for ISH 2 on Wednesday 21 February the Applicant does not anticipate needing to make detailed and specific submissions at the Preliminary Meeting as to how the Application should be examined, although obviously it will participate constructively in any discussion that is necessary on such matters.
- 1.1.5 In relation to Item 2 of ISH 2, the Applicant suggests that it may be of benefit to the ExA and the smooth running of the ISHs 2 and 3 and the efficient use of time for Item 2 of ISH 2 to be moved to become an agenda item for ISH 3 on Thursday 22 February 2024. A number of the witnesses required for ISH 3 would be required in order to deal with Item 2 of ISH 2 and by switching Item 2 of ISH 2 to ISH 3, that would represent a more efficient use of time for both the ExA, the Applicant and other Interested Parties and the relevant witnesses. If the ExA agrees with our views in this respect, we would request that they adjust the agenda for ISH 2 and ISH 3 accordingly. Even if that amendment to the Agendas for ISHs 2 and 3 is not made we would expect the issue of Habitat Regulation Assessment to be referred to under Item 4 of the Agenda for ISH 3 and so it may be worth clarifying the Agenda for ISH 3 in that respect.
- 1.1.6 As the Preliminary Meeting is solely a procedural hearing and is not concerned with the substance of the Application we do not anticipate the need to refer to the substantive documents comprised in the Application in any detail at the Preliminary Meeting. For the purpose of assisting the ExA in confirming how the Application is to be examined he the Applicant may refer to the following documentation as appropriate:
- (a) the Rule 6 Letter;
 - (b) the Draft Development Consent Order ("dDCO", [APP-006]) and Explanatory Memorandum [APP-007] to explain how certain matters have been approached and how that might influence how the Application is examined but not to discuss or present on the substance of the drafting contained within the dDCO;
 - (c) the ExA's draft First Written Questions [PD-006]; and
 - (d) the National Policy Statement for Ports and possibly the Energy National Policy Statement EN1.
- 1.1.7 The Applicant intends to provide the ExA with an update on the progress of the Statements of Common Ground, referred to in Annex F of the Rule 6 Letter, at the Preliminary Meeting. This is to ensure the ExA is aware of the progress of these statements and in order that

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can be taken into account in finalising the Examination programme and necessary hearings into the Application.

1.2 **Issue Specific Hearing 1 (“ISH 1”)**

- 1.2.1 The Applicant provided the information to be input into the Event Participation Form confirming its attendance at the Preliminary Meeting, and ISHs 1 – 3, to the ExA as an Excel spreadsheet file. This file contains all the relevant information required by the Event Participation Form about those attending on the Applicant’s behalf at ISH 1 on Tuesday 20 February at 2:00pm concerning the “Strategic Overview of the Proposed Development”. Representatives of the Applicant, its professional team, and its counsel will appear in person.
- 1.2.2 In accordance with the requirements in the Rule 6 Letter relating to information that must be included in the Event Participation Form in Annex E, we have set out below the details of who will be giving evidence on the Applicant’s behalf at ISH 1 based on the high-level agenda published for ISH 1 and in relation to which agenda items and the documents the Applicant may refer to. The Applicant reserves the right to amend or add to this information upon publication and sight of the detailed agenda for ISH 1 when it will be able to confirm whether the notification made below is sufficient or whether it needs to be added to.
- 1.2.3 The Applicant will address the ISH 1 in relation to all agenda items set out in the high-level agenda published for ISH 1 at Annex E of the Rule 6 letter In relation to Item 1 of the agenda, the Applicant intends to present and explain the need for the Proposed Development, the components of the Nationally Significant Infrastructure Project (“**NSIP**”) and Associated Development through presentation and explanation through submissions by Mr Phillpot, Mr Phillip Rowell of Adams Hendry (planning consultant), Simon Bird (the Applicant’s Regional Director for the Humber), Caroline Stancell (Air Products’ General Manager, Hydrogen for Mobility Europe and Africa), Adam Varley (the Applicant’s Project Development Manager), Timon Robson (Air Products’ Project Director) and Alan Lewis (Environmental Impact Assessment lead for the Project from Aecom).
- 1.2.4 The Applicant intends to commence Item 1 with a short introductory statement by Mr Phillpot, followed by an explanation of the need for the Project by reference to the relevant policy guidance in the National Policy Statement for Ports by Mr Rowell. He will be followed by Mr Bird with a short explanation of the Applicant’s decision on the need to promote the Project. Caroline Stancell will then explain Air Products’ decision to provide the hydrogen production facility at Immingham, which forms the Associated Development part of the Project. Mr Phillpot and Mr Rowell will explain the components of the Project which comprise the NSIP and the Associated Development. Mr Varley, Mr Robson and Mr Lewis will explain the construction programme.
- 1.2.5 Mr Phillpot, Mr Varley and Mr Robson will speak to Item 2 on the Agenda, concerning the flow of the process from the beginning to end as the Applicant and Air Products intend to operate the Project, including the green credentials of each element of the Project.
- 1.2.6 The Applicant anticipates that its presentation in response to Agenda Items 1 and 2 will take around 1.5 hours and will ensure that the presentation is completed in a timeframe allowing sufficient time for questions from the ExA and participation by other Interested Parties as necessary concerning these agenda items.

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1.2.7 The Applicant will refer to the Application for Development Consent generally, and in particular, may refer to the following documentation forming part of the Application and further relevant documents as appropriate:

- (a) Draft Development Consent Order (“**dDCO**”, [APP-006]) and Explanatory Memorandum [APP-007];
- (b) Works Plans [APP-012];
- (c) Illustrative Layouts [APP-013];
- (d) Illustrative Sections and Elevations [APP-014];
- (e) Environmental Statement Chapter 2: The Project [APP-044] and related figures [APP-070] – [APP-076] and appendices [APP-172] – [APP-174];
- (f) Environmental Statement Chapter 3 Need and Alternatives and related figure [APP-045];
- (g) Outline Construction Environmental Management Plan [APP-221];
- (h) Planning Statement [APP-226] and related Appendices [APP-227] - [APP-233];
- (i) ExA’s draft First Written Questions; and
- (j) National Policy Statement for Ports, Energy NPS (EN1) and other relevant policy documentation concerning national energy policy and the Government’s policy for transition to net zero.

1.2.8 The Applicant reserves the right to amend or add to this information should it appear necessary upon sight of the detailed Agendas for ISH 1. Should the Applicant feel it necessary to add additional reference documentation it will notify ExA in advance (insofar as it practical to do so).

1.3 **Issue Specific Hearing 2 (“ISH 2”)**

1.3.1 The Applicant provided the information to be input into the Event Participation Form confirming its attendance at the Preliminary Meeting, and ISHs 1 – 3, to the ExA as an Excel spreadsheet file. This file contains all relevant information required by the Event Participation Form about those attending on the Applicant’s behalf at ISH 2 on Wednesday 21 February at 10:00am concerning the “Landside Issues, including draft Development Consent Order”. Representatives of the Applicant, its professional team, and its counsel will appear in person.

1.3.2 In accordance with the requirements in the Rule 6 Letter relating to information that must be included in the Event Participation Form in Annex E, we have set out below the details of who will be giving evidence on the Applicant’s behalf, in relation to which agenda items, and what documents are intended to be referred to. The information provided is based on the high-level agenda published for ISH 2.

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- 1.3.3 In terms of overall approach the Applicant's evidence and submissions will be led by Mr Phillpot with assistance from Mr Varley, Mr Robson, Mr Rowell and Mr Lewis as necessary.
- 1.3.4 If Agenda Item 2 of ISH 2 is not switched to ISH 3 as explained above at paragraph 1.1.5 then Ms Natalie Frost (Head of Environment at ABPmer) will give evidence on Item 2.
- 1.3.5 We have indicated below by reference to each Agenda Item who we currently expect to speak on behalf of the Applicant alongside Mr Phillpot. Please note it is also possible that some detailed technical questions may need to be referred to appropriate technical specialists forming part of the Applicant's Project team, in which case we will respond through the relevant specialist at the hearing (if that is possible) or it may be necessary to respond in writing after the ISH at the appropriate Examination Deadline.
- 1.3.6 The Applicant will address the ISH 2 in relation to all agenda items. For each agenda item the Applicant will refer to the Application for Development Consent generally, and in particular may refer to the following documentation forming part of the Application and further relevant documents as appropriate:
- (a) In relation to all agenda items:
 - (i) dDCO and Explanatory Memorandum;
 - (ii) Works Plans;
 - (iii) Illustrative Layouts;
 - (iv) Illustrative Sections and Elevations;
 - (v) Planning Statement;
 - (vi) Environmental Statement Chapter 2: The Project and related figures and appendices; and
 - (vii) National Policy Statement for Ports and other relevant policy documentation.
 - (b) In relation to Item 1: Terrestrial Ecology (Mr Lewis on technical matters and Mr Rowell on policy matters), the documents the Applicant may refer to include:
 - (i) Environmental Statement Chapter 8: Nature Conservation (Terrestrial Ecology) [**APP-050**] and related appendices [**APP-180**] – [**APP-185**];
 - (ii) Environmental Statement Chapter 10: Ornithology [**APP-052**] and related figures [**APP-092**] – [**APP-097**] and appendix [**APP-188**];
 - (iii) Outline Woodland Compensation Strategy [**APP-224**];
 - (iv) Outline Construction Environmental Management Plan;
 - (v) Outline Landscape and Ecology Management Plan [**APP-225**];

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- (vi) Plan of Potentially Affected Hedgerows and Trees [**AS-013**]; and
 - (vii) Statutory and non-statutory nature conservation plans.
- (c) In relation to Item 2: Habitats Regulation Assessment, (Ms Frost and Mr Rowell), the documents the Applicant may refer to include:
- (i) Environmental Statement Chapter 9: Nature Conservation (Marine Ecology) [**APP-051**] and related figures [**APP-085**] – [**APP-091**] and appendices [**APP-186**] – [**APP-187**];
 - (ii) Environmental Statement Chapter 10: Ornithology and related figures and appendix;
 - (iii) Without Prejudice Report to inform Habitats Regulations Assessment (HRA) Derogation [**APP-235**]; and
 - (iv) Shadow Habitats Regulations Assessment [**APP-238**].
- (d) In relation to Item 3: Major Accidents and Hazardous Substances (Mr Varley, Mr Robson, Mr Rowell and potentially Fiona Kirkham (Engineering Associate, Process Safety at Air Products)), the documents the Applicant may refer to include:
- (i) Environmental Statement Chapter 22: Major Accidents and Disasters [**APP-064**];
 - (ii) Statement of Reasons [**AS-008**];
 - (iii) Statutory Nuisances Statement [**APP-237**]
 - (iv) Construction Environmental Management Plan; and
 - (v) Health and Safety Executive Relevant Representation [**RR-011**].
- (e) In relation to Item 4: Traffic and Transport (Mr Simon Tucker (transport planning consultant at DTA) and Mr Robson), the documents the Applicant may refer to include and the documents the Applicant intends to refer to shall include:
- (i) Environmental Statement Chapter 11: Traffic & Transport [**APP-053**] and related figures [**APP-098**] – [**APP-102**] and appendices [**APP-189**] – [**APP-190**]
 - (ii) Street Works and Accesses Plan [**APP-016**];
 - (iii) Traffic Regulations Measures Plan [**APP-018**];
 - (iv) Stopping Up and Restriction of Use of Streets and Public Rights of Way Plan [**APP-017**]; and
 - (v) Outline Construction Traffic Management Plan [**APP-223**].

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- (f) In relation to Item 5: Construction Effects, (Mr Varley, Mr Robson, Mr Lewis and Mr Rowell), the documents the Applicant may refer to include:
- (i) ES Chapter 6: Air Quality [**APP-048**] and related figures [**APP-078**] – [**APP-083**] and appendices [**APP-175**] – [**APP-176**];
 - (ii) Environmental Statement Chapter 7: Noise and Vibration [**APP-049**] and related figure [**APP-084**] and appendices [**APP-175**] – [**APP-176**];
 - (iii) Environmental Statement Chapter 13: Landscape & Visual Impact [**APP-055**] and related figures [**APP-108**] – [**APP-117**] and appendices [**APP-177**] – [**APP-179**];
 - (iv) Environmental Statement Chapter 23: Socio-economics [**APP-065**] and related figures [**APP-159**] – [**APP-164**];
 - (v) Environmental Statement Chapter 24: Human Health and Well-being [**APP-066**];
 - (vi) Environmental Statement Chapter 25: Cumulative and In-Combination Effects [**APP-067**] and related figures [**APP-165**] – [**APP-166**] and appendices [**APP-218**] – [**APP-220**];
 - (vii) Outline Construction Environmental Management Plan; and
 - (viii) Outline Construction Traffic Management Plan.
- (g) In relation to Item 6: Cumulative Effects, (Mr Lewis, Mr Tucker and Mr Rowell) and the documents the Applicant may refer to include:
- (i) Environmental Statement Chapter 25: Cumulative and In-Combination Effects and related figures and appendices.
- (h) In relation to Item 7: Other Environmental Issues, the Applicant's witness alongside Mr Phillipot will be confirmed upon sight of the detailed hearing agenda but are likely to be from the main group presenting for the Applicant (i.e. Mr Phillipot, Mr Varley, Mr Robson, Mr Rowell and Mr Lewis). The documents the Applicant may refer to will also be confirmed upon sight of the detailed hearing agenda.
- (i) In relation to Item 8: Draft Development Consent Order, Mr Phillipot and Mr Sheridan Treger (Senior Associate, BCLP) will speak on behalf of the Applicant and the documents the Applicant may refer to include:
- (i) The dDCO;
 - (ii) The Explanatory Memorandum; and
 - (iii) Relevant precedents (if considered necessary, with confirmation to be provided following receipt of the detailed agenda).

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1.3.7 Please note the Applicant reserves the right to amend or add to the documentation and information listed above in paragraphs 1.3.6 (a) to (i) should it appear necessary upon sight of the detailed Agenda for ISH 2. Should the Applicant feel it necessary to add additional reference documentation it will notify ExA in advance (in so far as it practical to do so).

1.4 **Issue Specific Hearing 3 ("ISH 3")**

1.4.1 The Applicant provided the information to be input into the Event Participation Form confirming its attendance at the Preliminary Meeting, and ISHs 1 – 3, to the ExA as an Excel spreadsheet file. This file contains all information required by the Event Participation Form about those attending on the Applicant's behalf at ISH 3 taking place Thursday 22 February at 10:00am, concerning "marine side issues, including draft Development Consent Order". Representatives of the Applicant, its professional team, and its counsel will appear in person.

1.4.2 In accordance with the requirements in the Rule 6 Letter relating to information that must be included in the Event Participation Form in Annex E, we have set out below the details of who will be giving evidence on the Applicant's behalf, in relation to which agenda items, and what documents are intended to be referred to. The information provided is based on the high-level agenda published for ISH 3.

1.4.3 In terms of overall approach, the Applicant's evidence and submissions will be led by Mr Phillpot with assistance from Mr Varley, Mr Robson, Mr Rowell, Mr Lewis and Ms Frost as necessary.

1.4.4 We have indicated below by reference to each Agenda Item who we currently expect to speak on behalf of the Applicant alongside Mr Phillpot. Please note it is also possible that some detailed technical questions may need to be referred to appropriate technical specialists forming part of the Applicants Project team in which case we will respond through the relevant specialist at the hearing (if that is possible) or it may be necessary to respond in writing after the ISH at the appropriate Examination Deadline.

1.4.5 The Applicant will address the ISH 3 in relation to all agenda items. For each agenda item the Applicant will refer to the Application for Development Consent generally, and may refer in particular to the following documentation forming part of the Application and further relevant documentation as appropriate:

- (a) In relation to all agenda items:
 - (i) The dDCO;
 - (ii) The Explanatory Memorandum;
 - (iii) The Works Plans;
 - (iv) Illustrative Layouts;
 - (v) Illustrative Sections and Elevations;
 - (vi) Planning Statement;

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- (vii) Environmental Statement Chapter 2: the Project and related figures and appendices;
- (viii) National Policy Statement for Ports and other relevant documentation
- (b) In relation to Item 1: Flood Risk and Coastal Change (Mr Lewis, Ms Frost, Mr Varley, Mr Robson), the documents the Applicant may refer to include:
 - (i) Environmental Statement Chapter 18 (Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage) [**APP-060**] and related figures [**APP-146**] - [**APP-150**] and appendices [**APP-209 – APP-211**]; and
 - (ii) Environmental Statement Appendices – Appendix 18.A: Flood Risk Assessment [**APP-209**].
- (c) In relation to Item 2: Water Quality and Resources (Mr Lewis, Mr Robson and Mr Rowell, Ms Frost) and the documents the Applicant may refer to include:
 - (i) Environmental Statement Chapter 17: Marine Water and Sediment Quality [**APP-059**] and related figures [**APP-143**] – [**APP-145**];
 - (ii) Appendix 17A Water Framework Directive Compliance Assessment [**APP-208**]
 - (iii) Environmental Statement Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage and related figures and appendices;
 - (iv) Anglian Water Services Relevant Representation [**RR-001**]
- (d) In relation to Item 3: Navigation and Operational Safety (Mr Varley, Mr Paul Bristowe (the Applicant’s Head of Marine) John Beattie (Director, Anatec)) and the documents the Applicant may refer to include:
 - (i) Environmental Statement Chapter 12: Marine Transport and Navigation [**APP-054**] and related figures [**APP-103**] – [**APP-107**];
 - (ii) Environmental Statement Appendices – Appendix 12.A: Navigational Risk Assessment [**APP-191**];
 - (iii) Environmental Statement Appendices - Appendix 12.B: Navigational Simulation Survey [**APP-192**];
 - (iv) CLdN Ports Killingholme Limited Relevant Representation [**RR-005**];
 - (v) DFDS SEAWAYS PLC Relevant Representation [**RR-008**]; and
 - (vi) The IOT Operators Relevant Representation [**RR-014**]
- (e) In relation to Item 4: Marine Ecology (Ms Frost) and the documents the Applicant may refer to include:

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- (i) Environmental Statement Chapter 9: Nature Conservation (Marine Ecology) and related figures and appendices.
 - (f) In relation to Item 5: draft Development Consent Order, Mr Phillpot and Mr Treger will speak on behalf of the Applicant and the documents the Applicant may refer to include:
 - (i) The dDCO;
 - (ii) The Explanatory Memorandum; and
 - (iii) Relevant precedents (if considered necessary, with confirmation to be provided following receipt of the detailed agenda).
- 1.4.6 Please note the Applicant reserves the right to amend or add to the documentation and information listed above in paragraphs 1.4.5 (a) to (f) should it appear necessary upon sight of the detailed Agendas for ISH 3. Should the Applicant feel it necessary to add additional reference documentation it will notify ExA in advance (in so far as it practical to do so).

2 **Other matters concerning the Examination of the Application**

2.1 **Examination venue availability for proposed ISH dates**

- 2.1.1 The Applicant has confirmed that the Stallingborough Grange Hotel is available as the Examination venue for the duration of the weeks commencing 19 February 2024, 8 April 2024, 15 April 2024, 1 July 2024, save that on Wednesday, 17 April, the room proposed to be used as the ExA's breakout room, the Mill Room, has been booked for a conference and is not available for the Examination. There is no suitable alternative break out room available for the ExA on 17 April.
- 2.1.2 The Applicant would therefore suggest that should the ExA decide to hold Hearings or Site Inspections in the week commencing 15 April 2024, that Wednesday, 17 April 2024 be reserved as the date on which any Accompanied Site Inspection be carried out.

2.2 **Clarification on Draft Examination Timetable Hearing schedule**

- 2.2.1 The Draft Examination Timetable included at Appendix D of the Rule 6 letter includes dates reserved for Hearings during the six-month Examination period. We note that hearings have been programmed through the months of March, April and July. It is clearly not possible to determine at the present time the precise agendas or subject matter of those hearings, however the Applicant would be grateful for any early indication of likely potential subject matter for these later hearings from the ExA at the Preliminary Meeting as that would be of assistance in programming future attendance at and preparation for hearings beyond ISHs 1-3.

2.3 **Layout of Examination room**

- 2.3.1 We refer to an email conversation between the Applicant and PINS regarding the layout of the Examination hearing room, whether it will be conducted theatre style or roundtable

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style. We understand that it is agreed that the roundtable style will be used for all ISHs. The Applicant agrees with that approach.

3 **Further submissions required from the Applicant at Procedural Deadline A**

3.1 **Itinerary for Familiarisation Site Inspection 1 ("FSI1")**

3.1.1 The Rule 6 Letter requests at paragraph 11, Annex E and Annex F, Procedural Decision 2 that the Applicant prepare an itinerary for FSI1 which will be held Friday, 23 February 2024. The itinerary is requested to include a map of the proposed route. We understand the attendees for FSI1 comprise members of the ExA, the PINS case management team for the Application and officers from North East Lincolnshire Council ("**NELC**").

3.1.2 The itinerary and map are appended to this letter at Appendix 1. The itinerary addresses the priorities the ExA has set out in its letter, being (a) the marine side terminal, including the berth and jetty; (b) the jetty access road, pipe-racks, and pipelines; and (c) the existing jetty.

3.1.3 The timings and the itinerary reflect email exchanges dating from 10 January – 31 January 2024 between the Applicant and the Planning Inspectorate to clarify the requirements for FSI1 included the Rule 6 Letter. The itinerary proposes that the attendees of FSI1 (whether from the ExA, the PINS case management team or NELC) are picked up from the Stallingborough Grange Hotel at 8:00am and that FSI1 will finish at approximately 1:00pm. Although these timings deviate from the 9:00am start and 12:00pm finish requested in the Rule 6 letter, the extra time is needed given operational requirements of the tour, in order to ensure that appropriate safety briefings are given and that there is sufficient time to incorporate all priorities for the inspection the ExA requested in the Rule 6 Letter. The Applicant also caveats that the launch timings proposed in the itinerary for the marine portion of the FSI1 are subject to appropriate weather conditions.

3.2 **Unmanned Drone Footage**

3.2.1 You have requested (at item 10, paragraph 12 and Annex F, Item 12, of the Rule 6 Letter) that the Applicant submit "unmanned drone footage of the land within the Order Limits, as well as for areas adjacent to the Order limits, both on the marine and landside" This also requested that the Applicant provide to PINS at least five working days prior to submission of the video footage a "Video Submission Proforma". The Applicant submitted this form by email on 30 January 2024. Subsequent correspondence with PINS to confirm the requirements for accessibility meant that a voiceover narrative and accompanying subtitles were added to the drone footage and an updated proforma confirming the measure taken to address accessibility were submitted today. If you require a document setting out the voiceover narrative in writing, please let us know.

3.3 **Updated dDCO**

3.3.1 The Rule 6 Letter requests at point 13(i) of Appendix F (Other Procedural Decisions made by the ExA) that the Applicant submit a full revised dDCO at Procedural Deadline A.

3.3.2 An updated revised dDCO is appended to this letter at Appendix 5 in clean form, and a version showing tracked changes from the version of the dDCO submitted with the

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Application is submitted at Appendix 6. A Schedule of Changes to the dDCO is appended at Appendix 7.

- 3.3.3 An updated dDCO validation report is not appended, as it is not considered necessary to submit that with every revision of the dDCO. The latest version of the dDCO is based on the original dDCO in respect of which a validation report was successfully provided. An updated validation report will be provided along with the submission of the final dDCO, at the end of the Examination period.
- 3.3.4 Please note that the revised dDCO appended to this letter does not incorporate various changes that may be required as a result of points raised in the First Written Questions. For the avoidance of doubt, an updated dDCO that incorporates these changes as well will be submitted as required at Deadline 1, on 13 March 2024.
- 3.3.5 Also attached to this letter is an updated Explanatory Memorandum, in clean and track change format at Appendix 8 and Appendix 9, respectively.

4 **Requests for clarification in respect of Rule 6 Letter**

4.1 **Updates to draft DCO [APP-006]**

- 4.1.1 Item 8, Paragraph 12 of the Rule 6 Letter requests that "*whenever changes are made to the drafting in the dDCO, the Applicant provides the clean and marked up versions of the dDCO as specified*" in Annex E. Item 10 of Annex E goes on to detail the following documents required to be submitted to be included whenever changes are made to the dDCO:
- (a) a tabulated schedule of changes setting out what the changes are and the reasons underpinning them; and
 - (b) three versions of the DCO, being:
 - (i) clean;
 - (ii) tracked changes against the previous version submitted; and
 - (iii) "*composite track changes with all changes colour coded for each subsequent version of the dDCO*".
- 4.1.2 We would be grateful for clarification in relation to item (b)(iii) above as to whether the ExA require a single document that shows, using different colours for each version, all changes made to the dDCO in every version. To the best of our knowledge, we are not aware of software that can compare in one document multiple versions of the dDCO.
- 4.1.3 In order to show the cumulative changes to the dDCO, the Applicant would propose submitting a comparison of the latest version of the dDCO submitted at each particular deadline, against the original version of the dDCO, submitted on 21 September 2023. This, along with the comparison of that latest version against the version immediately preceding it, would enable the ExA to see both new changes, and all changes, that have been made to the originally submitted dDCO. The Applicant would be grateful for confirmation from the ExA that this is an acceptable approach to the ExA requirements in this respect.

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4.2 **Timing of witness attendance at hearings**

4.2.1 Annex A to the Rule 6 letter states that access to the Preliminary Meeting may not be possible for late arrivals (whether virtual or in person), as the event begins promptly at 10am. Please could the ExA or the PINS case management team clarify that this also apply to ISHs?

4.2.2 The Applicant requests that PINS clarify to the extent possible at this time whether those appearing in person or in particular virtually are required to attend from the beginning of a ISH regardless of when they may be required to give evidence to the Hearing, or if it will be possible for witnesses to be able to join/attend only in relation to and at the time the specific Agenda item to which they are speaking occurs, in circumstances where there is clarity on likely timings of when particular issues will be considered.

5 **Request for Clarification in response to First Written Questions [PD-006]**

5.1 Throughout the draft First Written Questions, reference is made to the term "Proposed Development". From the context in which that phrase is used it appears that it is referring to the landside hydrogen production facility site and connecting pipelines and other connecting media route forming part of the Associated Development included within the Project as opposed to the jetty, which forms the NSIP applied for in the Application. We would be grateful if the ExA could clarify that that was its intention, and that it is not referring to some wider part of the Project including the jetty in use of the term "Proposed Development". The Applicant would be happy to discuss further at the Preliminary Meeting if this would be of assistance.

5.2 Further, we would be grateful if the ExA could clarify whether reference to "the port" in Question 1.10.2.1 of the First Written Questions is intended to refer to the wider Port of Immingham, or specifically to the IGET jetty that is the NSIP applied for in the Application.

5.3 Related to this, we suggest it might be of assistance to the ExA and the Interested Parties if we could agree the following definitions of specific terms to assist in the clarity of the Examination:

- (a) the Project – the Immingham Green Energy Terminal comprising Works No. 1 and 2, the Hydrogen Production Facility and associated temporary works as listed in Schedule 1 of the draft Development Consent Order;
- (b) the NSIP – the nationally significant infrastructure project is solely comprised in Work No. 1 listed in Schedule 1 of the draft Development Consent Order;
- (c) the Associated Development – the associated development element of the Project is comprised in Work Nos. 2-10 together with ancillary works listed in Schedule 1 of the draft Development Consent Order;
- (d) the Port – the existing Port of Immingham; and
- (e) the Hydrogen Production Facility – the permanent facility being constructed by Air Products to produce Hydrogen comprising Work Nos. 3-7.

6 **Additional Application Material from the Applicant**

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6.1 Guide to the Application

- 6.1.1 We attach an updated Guide to the Application in clean at Appendix 3 and a comparison against the previous version at Appendix 4 in accordance with the requirement at point 10 of Appendix F for the submission of an updated Guide at every Examination Deadline.
- 6.1.2 Please note that the document that is currently on the Document Website with PINS Reference AS-016 appears to be a duplicate of a previous version of the Traffic Regulations Measures Plan included in the original Application [**APP-018**]. This version of the Traffic Regulations Measures Plan has since been superseded by the version dated 3 January 2024, which was accepted by PINS as an additional submission [**AS-009**]. This version accompanied a letter from the Applicant dated 3 January 2024 [**AS-007**] responding to PINS' letter dated 19 October 2023 sent in accordance with Section 51 of the PA 2008 [**PD-003**] and Section 55 Acceptance of Application Checklist [**PD-001**].
- 6.1.3 Accordingly the updated Guide to the Application does not include the version of the Traffic Regulations Measures Plan with reference [**AS-016**], as it duplicates a superseded version of this plan. The Applicant would request that the duplicate with reference [**AS-016**] is removed from the PINS Project library.

6.2 Errata

- 6.2.1 The Applicant has identified some minor errors in a few of the Application documents and therefore encloses a Table of Errata at Appendix 2 which identifies the relevant document and paragraph reference and proposed correction to the document.

7 Additional material from the Applicant to be submitted at Deadline 1 (13 March 2024)

- 7.1 **Update to Shadow Habitats Regulations Assessment [APP-238] ("Shadow HRA") and Without Prejudice Report to inform Habitats Regulations Assessment (HRA) Derogation [APP-235] ("the Derogation Report")**
- 7.1.1 The Applicant will provide an updated Shadow HRA and Derogation Report at Deadline 1 on 13 March 2024. These will be provided to take into account the acceptance of the request made on 29 November 2023 for changes to the application for development consent of the adjacent proposed Immingham Eastern Ro-Ro Terminal ("**IERRT**") (PINS application reference: TR030007). The application for development consent for the IERRT was initially made 10 February 2023 and accepted for Examination 6 March 2023. Examination commenced 25 July 2023 and completed 25 January 2024.
- 7.1.2 The acceptance of the change to the IERRT application for development consent requires an update to the in-combination HRA for IERRT and IGET submitted in respect of the Application for the Project to reflect an increase in the predicted intertidal and subtidal habitat loss associated with the IERRT scheme. This is not, however, of a scale that changes the conclusions of the Shadow HRA. It therefore remains the Applicant's view that the Project does not result in an adverse effect on integrity of any protected site. The Derogation Report will be updated to reflect the change in potential compensation requirement associated with the revised prediction of intertidal loss. The updated Derogation Report will also include further evidence as to the suitability of the Skeffling

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managed realignment site to provide compensatory habitat (should this be deemed necessary).

7.1.3 The Applicant will also take this opportunity to provide clarifications within the updated Shadow HRA to a number of points that have been raised by Interested Parties within their relevant representations. Again, this does not result in any change to the conclusions reached within the Shadow HRA.

7.2 **Land Interest Tracker**

7.2.1 As requested in the Rule 6 Letter, the CA Schedule and Statutory Undertaker Schedule which comprise the Land Interest Tracker will be provided by the Applicant at Deadline 1, being 13 March 2024. These schedules include the status of all negotiations which will effectively supersede the information contained in Appendix 1 (Schedule of Negotiations) to the Statement of Reasons (version dated 3 January 2024, which was accepted by PINS as an additional submission on 8 January 2024 [AS-008]). On that basis, to avoid unnecessary duplication, the Applicant does not intend to provide further updates to Appendix 1 (Schedule of Negotiations) to the Statement of Reasons to the Examination at future Deadlines and would be grateful for confirmation that this is acceptable to the ExA.

7.3 **Updates to the Outline Construction Traffic Management Plan ("Outline CTMP") [APP-223] and Outline Construction Environmental Management Plan ("Outline CEMP") [APP-221]**

7.3.1 The Applicant will also provide an updated Outline CTMP and Outline CEMP at Deadline 1. Amendments to the Outline CEMP are to (a) respond to points raised in the Network Rail relevant representation concerning level crossings [RR-020]; (b) clarify which element of Work No.1 (marine or terrestrial) is being referred to where there is reference to "all works"; and (c) include an updated Appendix B Soil Management Plan (which will clarify where within Work No. 9 temporary buildings, plant or materials may be located in relation to the fluvial floodplain and fluvial flood defence). Amendments to the Outline CTMP are to respond to points raised in the Royal Mail relevant representation [RR-025].

8 **Changes to the Application**

8.1 The Application for the Project was based on the engineering design of the Project at the Application date, being 21 September 2023. Further design development of the Project since the Application was submitted has revealed that the Applicant needs to apply for three changes to the Application to reflect the detailed development of the design of the Project since submission, in respect of the proposed design of both the jetty and hydrogen production facility.

8.2 The Applicant is currently confirming its process for applying for these changes to the Application including publicity and consultation on them. This is being done having regard to the guidance in PINS Advice Note 16. The Applicant wishes to provide the ExA with early notice that this application for changes to the Application for the Project will be forthcoming. Set out below is an explanation of these proposed changes.

8.3 There are two proposed changes to the jetty design which concern:

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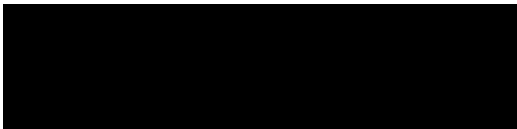
- 8.3.1 the monopiles forming part of the IGET jetty berth and to be constructed as part of Work No. 1 and referred to at paragraph 3 of Schedule 3 of the dDCO [**APP-006**]; and
- 8.3.2 change in the diameter of piles that support the jetty forming part of Work No. 1 in the dDCO.
- 8.4 The change to the monopiles is required because the Application initially included reference to two fender monopiles immediately in front of the berth platform. Further development of the design has identified that an alternative fender design is required. This new fender design requires an additional two monopiles. As a result there will be 4No. monopiles in total at the Loading Platform opposed to the 2 proposed in the Application as submitted.
- 8.5 The change to the pile diameter on the approach jetty is required to support the loading beneath the pipe racks. Further design work is being completed to finalise the pile diameter required.
- 8.6 In addition, following recent detailed discussions with Cadent Gas of the issue that is identified in their Relevant Representation [**RR-002**], it is now understood that a more restrictive approach will need to be taken to the activities that will be possible in proximity to the high-pressure gas pipeline crossing Work No. 7. As a consequence, in the eventual layout (which is not for approval at this stage), the development will need to be moved approximately 10-15 metres to the north of the gas pipeline. There are two changes to the application that are thought likely to flow from this.
- 8.7 The first is that the location of the permanent road access to Work No. 7 labelled "AB" on the Street Works and Accesses Plan will need to change by moving approximately 10-15m to the north.
- 8.8 The second is that it is anticipated that there will be a need for a small area of additional land temporarily during construction. This small area will accommodate the layout of the pipeline sleeve ahead of its installation as part of Work No. 6.
- 8.9 Subject to the second point above, the implications of the information most recently received from Cadent Gas can all be addressed within the Application site boundary. It is not anticipated that there would need to be any other changes to the application for development consent.
- 8.10 The small extension to the Application site boundary would require temporary powers of possession during the construction period. The land agent for the Applicant has recently been in contact with the landowner's agent in order to alert them to this probable change and to initiate discussion in respect of the voluntary acquisition of the necessary rights. The small area of land was originally included within the Application site boundary at the first statutory consultation but not for the second statutory consultation. The landowner has been kept up-to-date regarding the Project as it is the owner of other interests within the Application site boundary (and as such is an Affected Party).
- 8.11 An update to the environmental statement will be provided to address the implications of the above as necessary.

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The Applicant would be pleased to answer any queries which you may have on the matters addressed herein.

We are copying this letter to Charles Russell Speechlys LLP, who act for Air Products.

Yours faithfully,



Bryan Cave Leighton Paisner

Enc.

Appendix 1 – Applicant’s Draft Itinerary for FSI1 to be conducted 23 February 2024 (including map of proposed route)

Appendix 2 – Table of Errata

Appendix 3 – Updated Guide to the Application (Clean)

Appendix 4 – Updated Guide to the Application (Tracked)

Appendix 5 – Updated draft Development Consent Order – Revision 2 (Clean)

Appendix 6 – Updated draft Development Consent Order – Revision 2 (Tracked)

Appendix 7 – Applicant’s Schedule of Changes to draft Development Consent Order)

Appendix 8 – Explanatory Memorandum – Revision 2 (Clean)

Appendix 9 – Explanatory Memorandum – Revision 2 (Tracked)