

Application by Associated British Ports for an Order Granting Development Consent for the Immingham Green Energy Terminal

The Examining Authority's written questions and requests for information (ExQ1)

Issued on 28 January 2024 - Responses due by Deadline 1: Wednesday 13 March 2024.

Please find below answers to the Examining Authority's written questions from the Environment Agency (EA) [ref no. 20047052].

Ref No.	Question	EA response
5	Biodiversity	
Q1.5.2	Marine Ecology	
Q1.5.2.8	<p>Assumptions and limitations The assumptions and limitations in ES [APP-051, Paragraph 9.4.31] relate to baseline surveys and assessment scenarios and states that the surveys used to inform the fish assessment do not overlap specifically with the site but are considered representative of the fish assemblage that could be present within the dredge footprint and surrounding local area. Are you satisfied that the fish survey data used to inform the baseline conditions for the fish assessment are representative of the fish assemblage present in the area?</p>	In principle, the Environment Agency supports the author's use of representative data to act as a proxy baseline for the fish species likely to be present in and around the IGET works. Fish assemblages are inherently highly mobile and, particularly in transitional environments, fish species will move up and downstream and between habitats depending on seasonal and life-history conditions. As such, incorporating information on fish assemblages over a wide geographic area is a suitable approach.
Q1.5.3	Terrestrial Ecology	
Q1.5.3.1	<p>Comments on outstanding ES chapters required You state [RR-010] ES chapters on Terrestrial Ecology and the outline Landscape and Ecology Management Plan [APP-050] [APP-226] have not been reviewed. The ExA welcomes these comments.</p>	Noted

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Q1.8	Flood Risk and Coastal Change	
Q1.8.1	Sequential Test, Flood Risk Assessment and Sustainable Drainage	
Q1.8.1.9	<p>Edited to include ISH Action</p> <p>The Environment Agency Flood Model Updates Anglian Water Services [RR-001] notes the planned updates to the EA flood models in 2024 will include revised climate change allowances. Applicant and the EA provide a joint note advising on when these updates are likely to come forward in the context of Examination and whether it is envisaged that the ES [APP060] would be materially affected by the changes.</p>	<p>The Environment Agency flood model, which Anglian Water Services (AWS) refer to, is the new National Flood Risk Assessment (NaFRA2), which we are currently developing and will provide a single picture of the current and future flood risk from rivers, the sea and surface water using both existing detailed local information and improved national data. NaFRA2 will replace and improve upon the previous National Flood Risk Assessment (NaFRA). Since the publication of NaFRA our mapping and modelling has significantly improved, as well as our understanding of flood risk from other sources such as surface water.</p> <p>The assessment of flood risk for this project has been undertaken using local modelling, which will also be used in NaFRA2 and provides a more site-specific (more detailed) assessment. The NaFRA2 outputs may provide additional scenarios or reinforce existing information, but it is currently unclear as to the extent this may occur. The exact date that these updates will come forward is also not yet known, though it is anticipated that the outputs for NaFRA2 will be released towards the end of this year. The updates should not materially affect the assessment undertaken in the Environmental Statement in respect of tidal and fluvial flood risk, which has already utilised the best available local data. However, should the NaFRA2 information be published during the Examination period we would need to review the assessment against this, at that time.</p> <p>We have confirmed with AWS that this is the modelling it was referring to in its representation [RR-001].</p>
Q1.9.3	Water Framework Directive (WFD)	
Q1.9.3.1	WFD Compliance	The Applicant has advised us that “ <i>The use of the term intermittent in section 3.4 of the WFD assessment was used to describe the</i> ”

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	<p>You have requested [RR-010] additional information/ clarification in respect of the Applicant’s assessment of Water Quality [APP-209, Section 3.4].</p> <p>a) Following receipt of this, are you able to conclude your assessment on whether or not the Proposed Development will comply with the WFD?</p> <p>b) If not what additional information do you still require from the Applicant, to reach a conclusion.</p>	<p><i>risk posed by construction activities to the water quality of the Humber Lower and North Beck Drain water bodies. This term was used as the effects associated with dredging and disposal activities will be temporary, and short-term and any changes to water quality will not persist beyond a single tidal cycle. The impact assessment is set out in the WFD assessment in section 4 (for example, see paragraph 4.2.2, 4.4.23, and 4.4.29’</i>. They also advise that “<i>The construction area adjacent to North Beck Drain will be used for laydown and parking and will be in use during the phase 1 construction period but is not expected to be used for subsequent phases. The use of this area will vary during that period depending on the construction workload, hence describing the potential to affect the water quality of North Beck Drain as intermittent’</i>”.</p> <p>We welcome this additional clarification, which is being considered in relation to the Humber Lower and North Beck Drain water bodies. However, we are not yet in a position to provide our full advice in respect of WFD compliance, as we have not yet been able to review the assessment in relation to terrestrial ecology. Also, any future agreement on the conclusions of the WFD assessment will be on the basis that Natural England does not raise any issue in respect of the Habitat Regulations Assessment conclusions.</p>
Q1.18	Development Consent Order	
Q1.18.3	Articles	
Q1.18.3.1	<p>Article 3 – Application, disapplication and modification of legislative provisions</p> <p>a) This Article does not appear to be appropriately titled given the Article only seeks to disapply various statues (or elements of them) and there is no specific “application” or “modification”.</p> <p>b) Are there any elements of the disapplication in Article 3(1) that overlap with approvals that you are seeking through Protective Provisions in Schedule 14?</p>	<p>c) As outlined in paragraph 3.1 of its Relevant Representation [[RR-010] the Environment Agency does not currently agree to the disapplication of Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 in respect of flood risk activities. This is because we were not consulted on the text for the Protective Provisions that has been included in the draft DCO and these are not in a format that is acceptable to us. Only when Protective Provisions are in a format that we consider will provide adequate protection to flood management assets (for activities that</p>

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	<p>Highlight those overlaps. If you were to secure the Protective Provisions, then do you still need to disapply the relevant elements of the legislation? Provide justification for each case. You can tabulate this information for ease.</p> <p>c) EA and other Statutory Bodies, do you have any concerns regarding the disapplication of consents under Article 3? Explain with reasons.</p> <p>d) Do Affected Persons have any concerns regarding the disapplication of the provisions of the Neighbourhood Planning Act 2017 relating to the temporary possession of land as proposed in Article 3(1)(e)?</p>	<p>the Applicant would otherwise have had to obtain our consent) will we agree to the disapplication.</p>
Q1.18.7	Schedule 15 – Documents and Plans to be Certified	
Q1.18.7.1	<p>Schedule 15 – Documents and Plans to be Certified</p> <p>Are you satisfied that all necessary documents are certified?</p>	<p>The Environment Agency is satisfied that all documents relevant to its remit are listed to be certified.</p>