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The Applicant; All Interested
Parties; Affected Persons;
Statutory Parties; and
Danish Environmental Protection
Agency.

Your Ref:

Our Ref:

TR030008

Date:

18 March 2023

Dear Sir/ Madam

Planning Act 2008 (as amended) (PA2008) – Section (s) 89; and The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) – Rules 9 and 17

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

Examining Authority's Procedural Decisions and request for further information

1. Procedural Decision regarding Applicant's additional submission

The Examining Authority (ExA) has made a Procedural Decision under Rule 9 of the EPR to accept the Applicant's submission [AS-020 to AS-022] dated 7 March 2024, as an Additional Submission into the Examination.

2. ExA's Advice on the Applicant's intended changes in line with Advice Note (AN) 16

The Applicant's submission includes:

- a) a summary of the changes that the Applicant intends to propose and accompanying justification;
- b) the Applicant's assessment if The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) would be engaged by the proposed changes;
- c) the Applicant's intended proposals for consultation including the proposed list of consultees; and



- d) the anticipated timeline for requesting the changes.

The Applicant's submission does not constitute the Applicant's notification of intent to request changes. As such, the ExA is therefore not making a Procedural Decision whether it accepts the anticipated Change Request into the Examination.

In line with Step 2 of Figure 1 of AN16, and on the basis of the information before it, the ExA provides advice to the Applicant about the procedural implications of the proposed changes that the Applicant intends to submit, and about the need, scale and nature of consultation that the Applicant may need to undertake.

- a) The ExA notes the summary of changes that are intended, and the accompanying justification. The ExA does not have adequate details of the Applicant's intended changes before it, to advise if the changes, accompanying justification and the associated environmental effects will constitute a change that can be accepted into the Examination in line with AN16.
- b) On the basis of the information before us, the ExA agrees with the Applicant's assessment that CA Regulations are unlikely to be engaged by the proposed changes. However, the ExA has requested further information under Rule 17 of the EPR set out in the following section.
- c) ExA finds that the Applicant's targeted approach to consultation and the proposed list of parties, are sound. Ultimately, the Applicant must make its own judgment on its consultation strategy.
- d) The Applicant's anticipated timeline for requesting the changes is fine, with respect to the Examination.

3. ExA's request for further information under Rule 17 of the EPR

The ExA requests further information from the Applicant at **Deadline 2, Tuesday 26 March 2024**, prior to submitting the formal change request.

- a) The Applicant's reasoning whether CA Regulations are engaged by the proposed changes should be accompanied with a full assessment of relevant legislative and policy provisions.
- b) Provide an update on Regulation 4(b) of the CA Regulations, and the corresponding engagement with the owner of the land affected by Change 3. If consent has not been secured from the landowner, then provide an anticipated timeline with respect to the Examination timetable, showing how the Applicant expects negotiations to proceed. Provide relevant evidence.
- c) Specify if the landowner would be included in the Book of Reference (BoR) (if they are not already included in the BoR). If so, explain if the landowner would be considered an Affected Person.
- d) The Applicant should set out its assessment of what would be required from the Applicant and the ExA to enable the landowner to participate with the Examination fully and fairly. For instance, for procedural fairness, does the



Applicant consider that the landowner should be provided the opportunity to request a Compulsory Acquisition Hearing and / or an Open Floor Hearing?

4. Procedural Decision regarding parties joining the Examination

The ExA has made a Procedural Decision under Rule 9 of the EPR to accept a submission from Regulation 32 - Consultation response from the Danish Environmental Protection Agency (DEPA), into the Examination.

The ExA considers that DEPA may have a valuable contribution to make to the Examination. As such, the ExA makes a further Procedural Decision to treat DEPA as if it were an Interested Party in this Examination. DEPA will receive all Examination communication from this point on. DEPA should review the Examination Timetable [PD-007] and make a note of the deadlines for written submissions. Further information about the Examination so far can be found on the [project webpage of the Planning Infrastructure website](#).

If you have any queries, please contact the case team using the details at the head of this letter.

Yours faithfully

Adrian Hunter

Lead Member of the Examining Authority



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