



# Immingham Green Energy Terminal

9.43 Applicant's Comments on D1 Submissions from North  
East Lincolnshire Council

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## Introduction

### Overview

- 1.1 This document has been prepared to accompany an application made to the Secretary of State for Transport (the "Application") under Section 37 of the Planning Act 2008 ("PA 2008") for a Development Consent Order ("DCO") to authorise the construction and operation of the proposed Immingham Green Energy Terminal ("the Project").
- 1.2 The Application is submitted by Associated British Ports ("the Applicant"). The Applicant was established in 1981 following the privatisation of the British Transport Docks Board. **The Funding Statement [APP-010]** provides further information.
- 1.3 The Project as proposed by the Applicant falls within the definition of a Nationally Significant Infrastructure Project ("NSIP") as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

### The Project

- 1.4 The Applicant is seeking to construct, operate and maintain the Immingham Green Energy Terminal, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the "Port").
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited ("Air Products"). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the UK's net zero agenda by helping to decarbonise the United Kingdom's ("UK") industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement ("ES") Chapter 2: The Project [APP-044]**.

### Purpose and Structure of this Document

- 1.7 This document provides the Applicant's response as necessary to:
  - The draft Local Impact Report ("LIR") of North East Lincolnshire Council ("NELC") submitted at Deadline 1 **[REP1-070]**
  - NELC's response to the Examining Authority's ("ExA's") First Written Questions **[REP1-071]**
- 1.8 This document only provides a response to those parts of the above documents for which a response is considered necessary at this stage of the Examination. The majority of NELC's draft LIR and responses to the ExA's First Written Questions are aligned with the position of the Applicant on the matters considered and, therefore, do not need a specific response from the Applicant.

## 1. Applicant's Comments on the draft Local Impact Report from North East Lincolnshire Council

### REP1-070

#### Response

The Applicant welcomes the position of North East Lincolnshire Council ("NELC"), as helpfully summarised in the conclusion of NELC's draft Local Impact Report ("LIR"), that:

- (i) The Project would generate economic benefits that are well aligned with the strategic objectives of NELC as set out in the North East Lincolnshire Local Plan.
- (ii) The Project is not considered likely to generate any unacceptable impacts in respect of neighbouring land uses, visual impact, heritage, ecology, drainage and flood risk.

In terms of traffic matters, whilst NELC conclude that the Project would not unduly harm highway safety or amenity, the Applicant notes that ongoing discussions are indicated as being required in respect of the extent of works within the adopted highway and how this is worded within the **draft DCO [REP1-016]**. For the avoidance of doubt, such discussions are continuing to take place between the Applicant and NELC.

In respect of the remaining queries, which NELC have raised in respect of the potential implications of the Project's likely HSE related Land Use Planning or Consultation Zones on neighbouring sites, the Applicant's position is as set out in its response to the ExA's Written Question Q1.12.2.5 **[REP1-033]**. This matter is, in any event, the subject of ongoing discussions between the Applicant and NELC, and the outcome of those discussions will be reflected in an updated Statement of Common Ground.

## 2. Comments on North East Lincolnshire Council's Responses to the Examining Authority's First Round of Written Questions

Q1.4 Design	
Q1.4.1.3	
Question	Interested Party's Response
<p><b>Design Assessment</b></p> <p>a) Do you agree with the assessments within the application [APP-226, Section 4.3] [APP-233] and are you satisfied that there is sufficient information contained within the application to secure design outcomes that would be compatible with the surrounding area should the Proposed Development be granted Development Consent?</p> <p>b) Are there Local Design Policies that would be important and relevant to the design outcomes of the Proposed Development? Explain how these have been taken into account by the Applicant in either the Design Evolution document [APP-233] or elsewhere in the Application?</p> <p>c) Applicant may also respond.</p>	<p>NELC agree with the assessments made within the application and are satisfied that the information set out will enable acceptable design outcomes to be achieved. The authority are well versed in dealing with large scale developments within the industrial landscape of the South Humber Bank. It is accepted that the design evolution of the development is heavily dictated by operational requirement.</p> <p>Policy 22 of the NELLP requires that new development has regard to good design. The first aspect of this Policy is understanding the context of the area in which the site is located and what the Local Plan allocates the land for. In this instance the site occupies existing Operational Port Area, allocated Employment sites and land directly adjacent to these areas. The Landscape Character Assessment, prepared for the Local Plan, identifies this area as part of the South Humber Bank Industrial Landscape and references the existing large scale industrial developments such as the ports, refineries and chemical factories. It should also be noted that there are extant planning permissions for further large-scale industrial developments in the immediate area to the proposed development. These developments further the industrial landscape and are of a similar scale to the proposed development. It is recommended that the applicant investigates how these developments would tie into the proposed development.</p>

### Applicant's Comment

The Applicant has separately responded to Q1.4.1.3 [REP1-025] and the detail of that response is not repeated here. It is, however, noted that in its response, NELC refers to the importance of understanding the existing context of the area in which the Project is proposed to be located, including developments in the vicinity of the site which have been granted planning permission but not yet constructed. A similar point is made in Paragraph 5.2.6 of NELC's draft LIR [REP1-070] and was also a point made by the Applicant in its response to Q1.4.1.2. For ease of reference, the Applicant highlights that the locations of these consented developments that are within close proximity to the site of the Project are shown on the plan (**ES Figure 25.2 (2)**) provided in **Appendix 1** to the Applicant's response to Q1.16 [REP1-037]. Some additional information on the scale of development consented is provided below:

- (i) The Velocys sustainable transport fuels facility on land at Hobson Way (ref: DM/0664/19/FUL) contains a proposed main stack some 75m in height and a flare in the order of 80m in height.
- (ii) The South Humber Bank Power Station on land at Hobson Way (ref: DM/1070/18/FUL) contains various proposed stacks up to around 100m in height, along with other industrial type buildings in the order of 59m in height.
- (iii) The North Beck Energy Recovery Facility on land south of Queens Road (ref: DM/0026/18/FUL) contains a proposed 90m high emissions stack and a circa 45m high main building.

This information further emphasises that, from a design perspective, the proposed location of the Project is within an area that is heavily industrial in nature, being dominated by port infrastructure, chemical and manufacturing facilities, oil processing and handling facilities and power generation facilities.

### Q1.4 Design

#### Q1.4.3.1

##### Question

##### Detailed Approval

The dDCO requires LAs' approval for external materials to be agreed for several buildings, in R4 (1)(a)(b)(c).

##### Interested Party's Response

a) NELC consider that there should be involvement in the overall final appearance of the whole development. Whilst it is understood that the development will be heavily governed by engineering requirements it is still a large development, visible in the area, and should therefore be subject to a degree of review prior to installation.

<p>a) NELC, are you satisfied with the input required from you in R4 is limited to external materials? Or do you consider input on other matters of appearance should also be required? Explain with reasons.</p> <p>b) Applicant may also respond.</p> <p>c) Applicant, explain the process of detailed approval with reference to what has been secured through management plans and the dDCO?</p> <p>d) NELC, is the process of detailed approval with reference to what has been secured through management plans and the dDCO clear to you? And are you satisfied?]</p>	<p>d) The process for of the detailed approval of the Requirements is clear and are satisfied that it allows for proper and effective input and resolution of any issues that may arise through that process.</p>
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**Applicant's Comment**

The Applicant has separately responded to Q1.4.3.1 [REP1-025] and the detail of that response is not repeated here. As made clear in that response, however, an appropriate degree of review by NELC prior to installation of those matters of the Project where design flexibility still exists (i.e. those elements the design of which is not separately determined by operational and technical requirements, including in respect of separate regulatory regimes) is provided for in relevant requirements of the **draft DCO [REP1-016]**. The Applicant notes that NELC is satisfied that the process for the detailed approval of these matters that the Applicant has set out is both clear and allows for proper and effective input and resolution of any issues that may arise through that process.

**Q1.4 Design**

**Q1.4.3.2**

<b>Question</b>	<b>Interested Party's Response</b>
<b>Design Review</b>	b) The use of independent design review is a tool that NELC regularly promote to help ensure that good design principles are secured in new development. However, this is normally for urban development and

<p>NPSfP (Paragraph 4.10.5) states “At an early stage, applicants and the decision-maker should consider seeking professional and independent advice on what constitutes 'good design' of a proposal.”</p> <p>a) Applicant, confirm whether you are intending to use independent Design Review advice and/or whether you have a Design Champion on the development team.</p> <p>b) NELC, would you consider the use of independent Design Review advice to be useful? Explain with reasons.</p>	<p>regeneration projects it is not usual for this type of industrial development to be subject to Design Review. There may be some benefit in having a design review process embedded into the Requirements that relate to materials etc. to assist NELC in ensuring a high quality finish to the development.</p>
<p><b>Applicant's Comment</b></p>	
<p>The Applicant notes and agrees with NELC's position that it is not usual for industrial developments such as the Project to be subject to design review within the NELC area. In response to Q1.4.3.2 [REP1-025], the Applicant has explained what design reviews it will be undertaking through the ongoing detailed design process for the Project. The Applicant has no issue with NELC seeking its own design review advice in respect of the subsequent discharge of the design related requirements set out in the DCO, but highlights that this has to be subject to one of the important underlying design principles in respect of which the design of the Project has been undertaken (and which will need to continue to be adhered to), namely the need to comply with necessary operational and technical requirements of the Project, including in respect of separate regulatory regimes.</p>	
<p><b>Q1.7.2 Assessment</b></p>	
<p><b>Q1.7.2.1</b></p>	
<p><b>Question</b></p>	<p><b>Interested Party's Response</b></p>
<p><b>Assessment of Landscape and Visual Impact</b></p> <p>The ES [APP-055] provides a Table showing the Landscape Sensitivity Assessment and Tables showing the Assessment</p>	<p>a) NELC have considered the assessment methodology and the subsequent findings of the Assessments and generally concur with the findings.</p>



<p>of Landscape and Seascape Effects during Construction and Operation.</p> <p>a) Do you agree with the methodology and findings of these Assessments?</p> <p>b) Do the Assessments respond sufficiently to your Local Plan policies on Landscape Protection, noted in Table 13.2?</p>	<p>b) In board terms it is considered that the Assessments do respond sufficiently to the Local Plan Policies on Landscape protection. However, it is considered that additional landscaping within the site should be considered to help soften close views of the development, in particular around Queens Road and Kings Road.</p>
<p><b>Applicant's Comment</b></p>	
<p>The Applicant welcomes NELC's indication that it concurs with the methodology and findings of the landscape and seascape assessment which has been undertaken, and that the assessment responds sufficiently to Local Plan policies on landscape protection. In response to NELC's suggestion that consideration should be given to the provision of addition landscaping within the Project Site, particularly around Queens Road and Kings Road, the Applicant highlights that a careful analysis of landscape and ecology opportunities within the Site has been undertaken and is reported in the <b>Outline Landscape and Ecology Management Plan ("OLEMP")</b> [APP-225]. <b>Figure 1</b> of the <b>OLEMP</b> identifies those areas of the Site where landscaping is considered feasible, and <b>Table 1</b> of the <b>OLEMP</b> explains the rationale behind the position presented on <b>Figure 1</b>, including an explanation as to why different parts of the Site are not appropriate locations for landscaping.</p>	
<p><b>Q1.7.2 Assessment</b></p>	
<p><b>Q1.7.2.2</b></p>	
<p><b>Question</b></p>	<p><b>Interested Party's Response</b></p>
<p><b>Assessment of Views</b></p> <p>The ES [APP-055, Table 13.4] provides assessment of the chosen viewpoints and ascribes a value.</p> <p>a) Do you agree with these assessments?</p>	<p>a) NELC broadly agree with the assessments in this section.</p> <p>b) NELC Consider that additional points may be of benefit for views from the Lincolnshire Wolds National Landscape/AONB.</p>

<p>b) Are there any other near or far viewpoints that you would like to see included in the assessment?</p>	
<p><b>Applicant's Comment</b></p>	
<p>b) The Lincolnshire Wolds National Landscape/AONB, at its closest point (just east of Irby upon Humber), is approximately 8.75km due south of the Site Boundary. Given: (i) this separation; (ii) the Zones of Theoretical Visibility (ZTVs) which were determined for the Project (shown on <b>ES Figure 13.2: Zone of Theoretical Visibility - Bare Earth [APP-109]</b> and <b>ES Figure 13.3: Zone of Theoretical Visibility - Visual Screening [APP-110]</b>); and (iii) the relatively low rolling topography of the Wolds, assessment of impacts on the National Landscape/AONB was scoped out of the Landscape and Visual Impact Assessment. Any impacts from viewpoints, if they exist, would almost certainly be negligible, with even the largest structures and buildings associated with the Project being barely perceptible from the National Landscape/AONB. However, the Applicant will review this further and determine a long-range ZVI to confirm whether any viewpoints could theoretically exist within the National Landscape/AONB, from which the Project may be visible. This will be tested on a purely theoretical basis, based on topography and giving consideration to vegetation cover. The results of this work will be confirmed at Deadline 3 and the Applicant will seek to agree the results of this additional analysis with NELC in this period. If any viewpoints are present, the Applicant would seek to agree with NELC the need for any additional photomontages, these then being submitted at Deadline 4.</p>	
<p><b>Q1.10.2 Cumulative Effects</b></p>	
<p><b>Q1.10.2.1</b></p>	
<p><b>Question</b></p>	<p><b>Interested Party's Response</b></p>
<p><b>Impact Assessment</b></p> <p>a) NH/ NELC – The ES [APP-190, Table 17, link No.3] states an increase in traffic of 21%; do you agree with this conclusion?</p> <p>b) Provide your assessment of the severity of the increase in traffic.</p>	<p>a) NELC Highways consider that further assessment is required, in particular through the construction period and in combination with other development such as the IRRRT project, in order to demonstrate this point. Discussions remain ongoing with the applicant on this matter to ensure all potential issues are fully addressed.</p>

<p>c) Applicant – Has a worst case scenario for traffic impacts, which includes the port being utilised at full capacity, been carried out?</p>	
<p><b>Applicant's Comment</b></p>	
<p>NELC correctly identifies that discussions are ongoing in respect of the assessment of the traffic impacts. The Applicant considers the scope of the submitted assessment to be adequate and appropriate to confirm the conclusion reached in Paragraph 5.4.3 of the draft LIR <b>[REP1-070]</b>, but is working proactively with NELC to ensure that any additional information requested is provided and agreed.</p>	
<p><b>Q1.12.2 Identifying and Managing Risk</b></p>	
<p><b>Q1.12.2.5</b></p>	
<p><b>Question</b></p>	<p><b>Interested Party's Response</b></p>
<p><b>Impact on Surrounding Area and Environment</b></p> <p>NELC has expressed concern [RR-022] around the extent of the COMAH zones that would be associated with the proposed development and how that may affect the surrounding area in regard to future development growth.</p> <p>a) NELC - Further to the discussion at ISH2 [EV4-004] [EV4-005], expand on your relevant representation [RR-022], by providing further explanation on your position in relation to COMAH constraining future development opportunities.</p> <p>b) Applicant – What are the expected significant adverse effects, the Proposed Developments vulnerability to potential major accidents and/ or disasters, could have on the surrounding area and environment.</p>	<p>The application site is located adjacent to allocations on the NELLP for Employment ELR025A, ELR025B, ELR027 (extant permission for a waste to energy plant), ELR016B, ELR037, green space allocation off Waterworks Street and existing residential areas of Immingham. There are clear potential impacts of associated COMAH Zones on these sites and their future development opportunities. There would be serious concerns if the associated zones effectively sterilized these areas. At this time the extent and impact of the associated Zones is not known. NELC are working with the applicant to understand this issue further, once exact zones are produced by the HSE, NELC will be able to comment further. It should be noted that NELC are familiar with dealing with these matters given the numerous examples of other COMAH Zones around the South Humber Industrial Area.</p>

<p>c) Applicant – provide details of the potential cumulative effects of overlapping COMAH zones and how this may affect future land use planning and development opportunities.</p>	
<p><b>Applicant's Comment</b></p>	
<p>The Applicant's response to Q1.12.2.5 [REP1-033] is of relevance. The Applicant notes NELC's comments and reiterates that it is in an ongoing productive dialogue with NELC. In particular, the Applicant notes the helpful comment made by NELC that it is familiar with COMAH (or Land Use Planning) Zones, and the crucial role that the HSE has in determining them. This experience will assist the Applicant in its discussions with NELC on any potential impacts of the imposition of these zones – the Applicant does not anticipate that the zones will have any material bearing on the land allocations referred to.</p>	
<p><b>Q1.13.1 General Construction Issues</b></p>	
<p><b>Question</b></p>	
<p><b>Q1.13.1.4</b></p>	<p><b>Interested Party's Response</b></p>
<p><b>Street Works – Work No. 10</b></p> <p>a) With respect to Work No. 10, confirm what discussions have taken place with the LHA in relation to the proposed street works.</p> <p>b) LHA, are you satisfied with the Applicant's approach towards these works? If not, explain what additional detail is required.</p>	<p>High-level discussions have been held around this subject matter but final detail has not yet been provided. NELC Highways welcome further discussion on this matter to fully understand the proposed works and potential impacts.</p> <p>NELC Highways request a pre-condition survey is undertaken with our street works inspectors.</p> <p>Working hours proposed may not be possible due to street works reducing the hours on certain roads. For example, Queens Road, due to the volumes of traffic already on this route the hours are reduced to 9.30-3.30.</p>

	<p>NELC Highways request that consideration is given to the provision of pedestrian access to the site and pedestrian crossings at the end of Kiln Lane (near Catch) and at Kings Road next to the roundabout.</p>
<p><b>Applicant's Comment</b></p>	
<p>The Applicant continues to engage with NELC Highways in respect of street works and Work No. 10 in order fully understand and seek to resolve NELC's concerns.</p>	
<p><b>Q1.18.1 DCO General</b></p>	
<p><b>Q1.18.1.2</b></p>	
<p><b>Question</b></p>	<p><b>Interested Party's Response</b></p>
<p><b>Discharging Requirements and Conditions</b></p> <p>a) All discharging authorities to check the Schedules in the dDCO for accuracy and provide the ExA with suggested corrections and amendments.</p> <p>b) Applicant, where you are seeking to discharge requirements, or seeking approvals, these should be sought "written approvals". Either make relevant drafting edits, or explain your reasons for not doing so.</p> <p>c) Discharging Authorities may also present a view with reference to any provision that are relevant to them.</p>	<p>NELC wish to comment on R9 and in particular section (3), it is considered that 72 hours is too long a period to notify the authority and request that this is reduced to 24 hours.</p>
<p><b>Applicant's Comment</b></p>	

The Applicant notes NELC's response and agrees to reduce the notification period in **Requirement 9(3)** of the **draft DCO [REP1-016]**, in respect of the undertaking of emergency works, to 24 hours. This update will be reflected in the revised **draft DCO** to be submitted at Deadline 3 **[TR030008/APP/2.1 (4)]**.

### Q1.18.2 Definitions

#### Q1.18.2.5

##### Question

##### Commence

- a) Commence has been defined in Schedule 2, R1. Should this also be defined in Article 1?
- b) The definition of "commence", excludes several activities, in particular but not only: demolition work, archaeological investigations, remedial work in respect of any contamination or other adverse ground conditions, the receipt and erection of construction plant and equipment, the erection of temporary contractor and site welfare facilities, the diversion, laying and connection of services, the erection of any temporary means of enclosure. These works can have significant effects. How are those activities and their effects monitored and controlled?
- c) LAs, are you satisfied that the adverse effects of the activities excluded from the definition of "commence" are adequately controlled?
- d) LAs, for which specific activities excluded from the definition of "commence", would you consider require to be controlled and why?

##### Interested Party's Response

NELC consider that remedial works in respect of any contamination or adverse ground conditions, erection of construction plant and equipment, temporary contractor and site welfare facilities and diversion and laying of services should be included in the definition of 'commence' as these works could lead to effects that should be controlled through the measures in R6, R7 and R9. This is particularly important for Works no.7 (given proximity to Immingham town) and no.9 (given its proximity to the estuary).

e) Applicant, further to discussion at ISH2 [EV4-008] [EV4-008], explain the cumulative and incombination or overlapping effects of the activities that have been excluded from the definition of commence.

f) Applicant, further to discussion at ISH2 [EV4-008] [EV4-008], explain how environmentally significant each of the activities excluded from the definition of commence would be and how the adverse effects would be controlled.

g) Applicant, further to f, identify all instances where the activities excluded from the definition of commence, are covered by other provisions in the dDCO.

#### **Applicant's Comment**

The Applicant notes NELC's comments seeking remedial works in respect of any contamination or adverse ground conditions, erection of construction plant and equipment, temporary contractor and site welfare facilities, and diversion and laying of services to be included within the definition of "commence" in the Requirements at **Schedule 2** of the **draft DCO [REP1-016]**.

As set out in the Applicant's response to Q1.18.2.5 submitted at Deadline 1 **[REP1-039]**:

- The **dDCO [REP1-016]** submitted at Deadline 1 contained amendments to the definition of "commence" to exclude, in respect of the receipt and erection of construction plant and equipment and the erection of temporary contractor and site welfare facilities, those operations where they relate to Work No. 9.
- **Requirement 15** ensures that no below ground works can be carried out without submission and approval of an appropriate remediation strategy to deal with any contamination which is required in respect of those works, and therefore, as appropriate control is already provided, the Applicant does not consider "commence" needs to be further amended in this regard.
- To the extent the diversion, laying and connection of services would require below ground works, these would also be subject to approval of an appropriate remediation strategy under **Requirement 15**. No other likely significant environmental effects are considered to arise that would require control through the above plans and strategies or monitoring.

The Applicant therefore considers that the concerns raised by NELC in its response to this question have been appropriately addressed by the Applicant in its responses submitted at Deadline 1 and does not propose further amendments to “commence” but will discuss with NELC whether the above position resolves its precise concerns.

### Q1.18.3. Articles

#### Q1.18.3.4

Question	Interested Party's Response
<p><b>Article 9 – Power to alter layout, etc., of streets</b></p> <p>The ExA is unclear why such wide powers are required in Article 9(1) to carry out “any works” in the street and in 9(2) “without limitations”.</p> <p>a) Should Paragraph (4) seek written consent from the street authority?</p> <p>b) Street Authority, are you satisfied with the provisions in this Article?</p>	<p>a) NELC Highway Authority would like the applicant to justify further why such extent of provisions is requested, at this time are not certain such powers are required.</p> <p>b) At this time NELC Highway Authority are not satisfied with these provisions but welcome further justification and discussion on the matter.</p> <p>It should also be noted that NELC would invite discussion with the applicant over the proposed Articles in the DCO that relate or could impact upon the Highway network.</p>

#### Applicant's Comment

(a) The Applicant refers to its response to Q1.18.3.4(a) submitted at Deadline 1 **[REP1-039]** and **Paragraphs 8.13 and 8.14** of the **Explanatory Memorandum [REP1-004]**. The powers sought in **Article 9** are necessary because, in order to construct, operate, maintain and decommission the authorised project, the undertaker will need to alter street layouts and establish suitable accesses to ensure that the authorised project can be accessed effectively while ensuring there is minimal disruption to the local highway network. As explained in the Applicant's response to Q1.18.3.4(a) submitted at Deadline 1, the powers sought are not wide. **Article 9(1)** provides that the Secretary of State is in the **dDCO [REP1-016]** authorising specific temporary and permanent alteration of streets as set out in **Schedule 5 (alteration of streets)**, and **Articles 9(1) to (4)** set out a separate mechanism for the undertaker being able to apply to the street authority for approval for other works for the alteration of streets not currently anticipated and thus not included in the **dDCO**.



(b) In respect of NELC's comments on Q1.18.3.4(b), the Applicant notes that discussions are ongoing between the Applicant and NELC Highways in respect of the powers sought and their application.

**Q1.18.5 Requirements**

**Q1.18.5.1**

**Question**

**Interested Party's Response**

**Requirement 9 – Construction hours**

As with Q1.18.1.2 it is requested that timing to report emergency works is reduced to 24 hours.

a) LAs, are you satisfied with the exclusion provision in R9(2).

b) LAs, are you satisfied that the notification period is after the emergency work has begun?

c) Applicant may also provide justification.

**Applicant's Comment**

As set out in response to NELC's response on Q1.18.1.2 (above), the Applicant will revise the notification period for **Requirement 9(3)** in accordance with NELC's request.