



Immingham Green Energy Terminal

9.48 Applicant's Comments on D1 Submissions from
Maritime and Coastguard Agency

Infrastructure Planning (Examination Procedure) Rules 2010
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1. 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 Project, 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 United Kingdom’s (“UK’s”) net zero agenda by helping to decarbonise the UK’s 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 comments on the Maritime and Coastguard Agency’s responses to the Examining Authority’s First Written Questions, submitted at Deadline 1 **[REP1-076]**.

2. Applicant's Comments on Maritime and Coastguard Agency's Responses to the Examining Authority's First Round of Written Questions

Q1.11. Marine Movement and Operational Safety	
Q1.11.1.6	
Question	Interested Party's Response
<p>Applicant's Overall Approach</p> <p>Are you content with the Applicant's NRA [APP-191]? Are you satisfied the correct methodology and approach has been used and that the proposed mitigation is adequately secured in the dDCO. If not, explain what additional information is required.</p>	<p>The MCA is content with the Applicant's Navigation Risk Assessment (NRA), including the methodology and approach applied.</p> <p>The MCA agrees that the proposals are being carried out in accordance with the Port Marine Safety Code and its Guide to Good Practice to date. It would however be useful for the applicant to confirm where in the DCO it secures the powers for the 5-knot speed limit.</p> <p>It appears to be only referenced in the outline Construction Environmental Management Plan (CEMP) at this stage.</p> <p>Many of the risk mitigation measures are part of the ports' internal policies and procedures and do not necessarily all need to be secured through the DCO. These are required as part of the Marine Safety Management System under the Port Marine Safety Code (PMSC).</p> <p>The requirement to implement the majority of the risk mitigation measures highlighted in the NRA appear to be secured in the DCO through Table 9: Marine Transport and Navigation of the CEMP.</p>

	<p>We note however there are some risk controls, such as the Shoreside Maintenance Programme, Mooring study and plans which are not defined in the CEMP, and therefore do not feature in the DCO.</p>
<p>Applicant's Comment</p>	
<p>The Applicant notes that the MCA has reviewed the NRA [APP-191] and confirmed that it is content with it and that it “<i>agrees that the proposals are being carried out in accordance with the Port Marine Safety Code and its Guide to Good Practice to date</i>”. With regard to the MCA’s specific question of where in the DCO the 5-knot speed limit is secured, the Applicant can confirm that it is not included in the draft DCO and nor should it be. The 5-knot speed limit is imposed on all movements around jetties on the Humber via byelaw 14(3) (Navigation and Speed of Vessels) of the Humber Navigation Byelaws by Harbour Master, Humber. It is therefore not necessary for the DCO to contain a specific instruction to control the speed of vessels within a Statutory Harbour Area which is governed by a separate statutory process. Commitments to update and promote any specific operational considerations as part of the iterative Marine Safety Management System review process are however appropriately contained in the Construction Environmental Management Plan (“CEMP”) [APP-221] as the MCA has noted. The MCA is correct that the Shoreside Maintenance Programme and Mooring study and plans are not referred to in the CEMP as these relate to the operation of the Project. These are however referred to in the Schedule of Mitigation and Monitoring submitted with the DCO application [APP-234] and in respect of which an updated version has been submitted to the Examination at Deadline 2 [TR030008/EXAM/7.2(2)].</p>	
<p>Q1.11.2.4</p>	
<p>Question</p>	<p>Interested Party's Response</p>
<p>Altered Speed Limits</p> <p>Considering the Applicant’s proposed extension of the 5-knot limit when ships are berthed, along with the 150m exclusion zone, does this have any implications for wider passing traffic.</p>	<p>The MCA has studied the Navigation Simulation Study and has no concern to raise with regards to the proposed extension of the 5-knot speed limit when vessels are mooring, moored or unmooring approaching the new berth. We believe that the figures given for between 1.5 minutes and 3 minutes extra passage time for vessels passing the proposed new berth to/from Immingham Docks appear reasonable and do not appear to pose any significant commercial or safety implications. The 5-knot limit is already in place for the IOT for safety purposes.</p>

	<p>As above, we are however not clear how this is secured through the DCO at this time.</p> <p>We would also like to add that we note dredging operations were not considered within the simulations, as the basis of this work was to determine the operational impact of undergoing vessel manoeuvres once the project is complete. However, it is recommended that dredging operations associated with the construction phase of the project are risk assessed to ensure that the effects on current vessel movements and hydrodynamic interactions are identified (if applicable) and appropriate control measures put in place.</p>
<p>Applicant's Comment</p>	
<p>The concern raised by the MCA that the 5-knot speed limit is not secured via the DCO has been responded to in response to Q1.11.1.6 above.</p>	
<p>In response to the MCA's comments on the simulations and consideration of dredging operations the Applicant would note the purpose of the simulation process is to test the viable operational parameters of the proposed berth, not to confirm what is already known – that under normal, benign conditions, everyday harbour activity (such as dredging) can be managed as part of 'business as usual' operation of the harbour. It is also important to note that the simulations do not provide an assessment of navigational risk. The input of the simulations may feed into the NRA [APP-191] as part of the data and information contributing to the intended marine function and navigation, but do not form a part of the functional navigational risk analysis or assessment. The dredging operations have nevertheless been assessed as part of the application. In any event it is for the SHA for the harbour area of the Port of Immingham to determine what factors it considers relevant for the NRA and to seek consensus from other marine users in so doing.</p>	
<p>Q1.11.3.3</p>	
<p>Question</p>	<p>Interested Party's Response</p>
<p>Risk Reduction</p>	<p>ABP is responsible for the management plans and assessment of the level of risk mitigation proposed as the SHA. To that end ABP has engaged with</p>

<p>Are you satisfied that the Proposed Development, subject to implementation of management plans and the level of mitigation proposed by the Applicant, reduces navigational risks and safety hazards to 'as low as reasonably possible' (ALARP)? If not, what more needs to be done to give you in reassurance?</p>	<p>other interested parties (IPs) and local stakeholders through the HazID workshop in May 2023.</p> <p>The MCA understands that the risks assessed as part of this workshop (including incidents and near misses in the port and covered the worst-case scenario for the proposed development) were discussed and agreed with IPs.</p> <p>The MCA would welcome the applicant seeking consensus on the acceptability of the navigational risk to shipping with other IPs.</p> <p>The applicant has confirmed that the port's marine safety management system will be fully updated and the extent to which supporting documentation is shared with local users should be clarified.</p> <p>The MCA is content that ABP has followed the appropriate methodology for assessing risk with the aim to ensure risks are ALARP.</p>
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Applicant's Comment

The MCA have noted that risks assessed at the HazID workshop "*were discussed and agreed with other IPs*". The Applicant notes that the MCA "*would welcome the applicant seeking consensus*" with other IPs regarding the acceptability of navigational risk and the Applicant is pleased to confirm that this was indeed – and remains – its intention. The need to strive for consensus is enshrined within the PMSC. The Applicant would, however, reiterate that risks can be viewed as being tolerable as long as the mitigations, controls, and assessment considers them as being As Low As Reasonably Practicable ("ALARP"). Whilst consensus is the ultimate ambition, the PMSC falls short of specifically requiring consensus from all parties as there could always be individual circumstances which could preclude consensus being reached. It is noted that the MCA has requested clarification on the extent to which supporting documentation to the MSMS will be shared with local users. The Applicant is pleased to confirm that local information – to the extent where it is pertinent to the ongoing operations of operational users – is regularly shared, both as part of an ongoing dialogue and also as part of regular port/harbour user briefings. The MCA will have previously reviewed this engagement process as part of its PMSC 'health-check' process.

The Applicant is pleased the MCA acknowledges that the NRA [APP-191] “has followed the appropriate methodology for assessing risk with the aim to ensure risks are ALARP”.

Q1.13 Construction Effects

Q1.13.4.6

Question	Interested Party's Response
<p>Marine Construction Works</p> <p>In respect of the marine construction works do you have any comments in relation to the Applicant's proposed approach to construction and the mitigation measures as set out in the oCEMP [APP-221].</p>	<p>The MCA has considered the document TR030008 “6.5 Outline Construction Environmental Management Plan” from September 2023 and are content with the approach to construction and mitigation measures, as secured through Table 9: Marine Transport and Navigation. We note however there are some risk controls such as the Shoreside Maintenance Programme, Mooring study and plans which are not defined in the CEMP, and therefore do not feature in the DCO.</p>

Applicant's Comment

The Applicant notes that the MCA is “content with the approach to construction and mitigation measures”. However, the Applicant is of the opinion that this mitigation does not need to be set out in the CEMP [APP-221] for the principal reason that this mitigation – primarily – does not relate to construction. The **Schedule of Mitigation and Monitoring [APP-234]** states that the Shoreside Maintenance Programme is a standard operating procedure undertaken by the port, exercising its legal duties as a Statutory Harbour Authority (“SHA”). Completion of a Mooring Study – to determine the locations and numbers of ropes to be used to securely moor the vessel alongside – is simply part and parcel of the port's legal duties as a SHA and is therefore a key element of the Marine Safety Management System.