



Immingham Green Energy Terminal

9.37 Applicant's Comments on D1 Submissions from the
IOT Operators

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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 contains the Applicant's response to the Written Representation of the IOT Operators **[REP1-109]** submitted at Deadline 1 and the Applicant's Comments on the IOT Operators' Responses to the Examining Authority's First Round of Written Questions **[REP1-108]**. The Applicant's "Response to Key Transport Consultants Comments" is provided as **Annex 1**.

2. Applicant's Comments on the Written Representation from the IOT Operators

REP1-109

Section 2 Need for the IGET and IOT

Applicant's Response

Within Section 2 of its Written Representation ("WR") [REP1-109], the IOT Operators seek to demonstrate the importance and ongoing need for the Immingham Oil Terminal ("IOT") and the associated refineries by reference to legislation and policy. The Applicant does not dispute the analysis undertaken by the IOT Operators in this regard but would simply highlight that a number of the points and matters raised by the IOT Operators also provide support for the development of the Project.

Although the IOT Operators make it clear that they do not directly challenge the need case for the Project, they claim that the need for the Project should be considered in light of the need for the IOT and the associated refineries (Paragraph 2.3 of the WR). For the avoidance of doubt, and as explained in the Applicant's answer to Q1.2.1.14 [REP1-023] in respect of the correct application of section 104 of the Planning Act 2008 ("PA 2008"), it is not the case that the need for the Project has to be considered in light of the need for the IOT. The need for the Project is established in the National Policy Statement for Ports ("NPSfP") and the presumption in favour set out within the NPSfP applies. The need for the Project is therefore not affected by the existence or otherwise of potential impacts on the IOT facility. In the first instance any such impacts fall to be considered as part of the assessment of the Project against the policy in the NPSfP pursuant to section 104(2) and (3). If the Project is found to accord with the NPSfP any adverse impacts would then be considered as part of the analysis required under section 104(7) of the PA 2008 to determine whether the adverse impact of the Project would outweigh its benefits. Therefore, in terms of the necessary analysis, section 104 does not require it to be shown that 'no adverse impact' on the IOT facilities occurs, as appears to be implied by the IOT WR (see Paragraph 7.1 of the WR) [REP1-109]. That being said, and as made clear both within the IOT WR and within the **draft Statement of Common Ground ("SoCG")** [REP1-055], the Applicant is engaged in ongoing positive discussions with the IOT Operators about any necessary and appropriate measures that may be required to mitigate potential impacts to an acceptable level and thereby address the concerns of the IOT Operators.

Section 3 Primary Concerns with the Proposed Development

Applicant's Response

As made clear within the **draft SoCG [REP1-055]**, the IOT Operators' concerns here are noted and understood by the Applicant and Air Products.

The IOT Operators, the Applicant and Air Products have agreed the principle and outline details of the mitigation measures that are necessary to address the IOT Operators' concerns as presented by them in their Written Representations ("WR") (notably as detailed at paragraph 3.6 of the WR). It should be noted that at the current time the precise details of the mitigation measures described in paragraph 3.6 of the WR remain to be determined and agreed by the parties. In that respect the parties are working together to agree a mechanism to confirm and agree the specific details of the mitigation measures to be provided including an appropriate legally binding securing mechanism for delivery of the detailed mitigation measures once agreed and prior to the need for them arising from the operation of the Project (outside of the terms of the DCO).

Section 4 Marine Environment Assessments

Applicant's Response

The Applicant notes that IOT Operators have engaged a marine consultant to consider the effects on navigational safety from construction and operation of the Project. The Applicant will consider and respond to any concerns identified when that information is shared with the Applicant by the IOT Operators. In addition, the Applicant notes the IOT Operators' response to written question Q1.11.2.8 **[REP1-108]** regarding the Project's proposed mitigation measures for the operation of the jetty where the IOT Operators conclude in respect of the operation of the jetty at Paragraph 3.3 that, "*Increasing the region of this exclusion area would have no effect on operations at the IOT as the vessels arriving or departing from the IOT are already operating at low manoeuvring speeds during this phase of their passage*".

Section 5 – Traffic Assessments

Applicant's Response

Section 5 of the IOT Operators' Written Representation **[REP1-109]** refers to Paragraph 5.1 to Appendix 1 of the Written Representation, which consists of a review of the traffic and transport aspects of the Applicant's DCO Application submission, prepared by Key Transport Consultants.

All of the issues raised are responded to in turn at **Annex 1** of this document. In summary, none of points raised by Key Transport Consultants require any update or amendment to the assessments undertaken and the overall conclusions of the submitted assessments remain robust.

The Key Transport Consultants submissions were written without the benefit of the authors having seen the Applicant's Deadline 1 submissions and in particular responses to the Examining Authority's First Written Questions. Where appropriate, within **Annex 1** the Applicant's Deadline 1 submissions are cross-referenced to avoid repetition.

3. Applicant's Comments on the IOT Operators' Responses to the Examining Authority's First Round of Written Questions

Q1.12 Major Accidents and Hazardous Substances	
Q1.12.3.3	
Question	Interested Party's Response
<p>Completion of Safety Studies and Compliance with COMAH Regulations</p> <p>Following submission of the necessary safety studies as required under the duties for upper-tier COMAH operators and satisfactory assessment by the competent authority (HSE and the EA), would IOT [RR-14] be content with the Applicants overall proposal; if not, explain your reasons?</p>	<p>Safety Studies and COMAH Regulations</p> <p>The Examining Authority has asked the IOT Operators whether, following submission of the necessary safety studies as required under the duties for upper-tier COMAH operators and satisfactory assessment by the competent authority (HSE and the EA), the IOT Operators would be content with the Applicant's overall proposal (Q1.12.3.3).</p> <p>The Applicant's assessment of safety concerns in the Environment Statement refers to certain safety studies which needed to be concluded, and which may recommend additional mitigation measures which do not currently form part of the Applicant's DCO application.</p> <p>The final results of all of these studies have not yet been made available and the IOT Operators have already identified specific concerns with the development as proposed which have not yet been adequately addressed by the Applicant. The Applicant and Air Products have acknowledged that those mitigation measures are necessary and appropriate. Any additional mitigation measures recommended in the safety studies will also need to be considered by the IOT Operators.</p>

Applicant's Comment


As set out in the **draft SoCG [REP1-055]** between the parties, the Applicant and Air Products, in agreement with IOT Operators, have commissioned process safety consultants (namely DNV and BakerRisk) to provide initial assessments of the impact of certain scenarios on IOT as a result of the Project. The initial results have been shared by the Applicant and Air Products with IOT Operators. Based on these results, the parties are working together to mutually agree the mitigation measures required to protect the IOT facility from any toxic or blast risks due to the Project and to agree in which phase of the development the mitigation measures are required. Further safety studies may be required to provide this definition. Final versions of the above assessments will be issued to IOT operators when available, but this does not affect the ongoing works to define and agree the mitigation measures.

The aforementioned assessments are not disclosed to the public (and will not be submitted to the Examination) due to the sensitive nature of the material they contain in terms of public safety, which is often also commercially sensitive.

As explained earlier in this document and in the **draft SoCG**, the IOT Operators' concerns have been noted. The parties have agreed the outline of measures to address IOT Operators' concerns as presented by them, and the parties are working together to agree the details and an appropriate legally binding securing mechanism for delivery of the detailed mitigation measures once agreed and prior to the need for them arising from the operation of the Project (outside of the terms of the DCO).

4. Annex 1: Response to Key Transport Consultants Comments

Key Transport Consultants Limited Comments as Set Out in Appendix 1 of <u>[REP1-109]</u>			Applicant Response
Reference	Issue as Set Out in Appendix 1 to the IOT Operators' WR <u>[REP1-109]</u>	Concern as Set Out in Appendix 1 to the IOT Operators' WR <u>[REP1-109]</u>	
6.2 ES Chapter 11	Table 11.2 refers to 1993 Institute of Environmental Management and Assessment (IEMA) Guidelines for Environmental Assessment of Traffic and Movement.	These guidelines were superseded in July 2023 and so the latest guidelines have not been used in the assessment dated September 2023. The ES chapter should therefore be reviewed against the latest guidelines and additional assessments undertaken as necessary.	<p>It is correct that the Guidelines referred to in Table 11.2 have been superseded. The Applicant has already covered the implications of this in response to Q1.10.2.1 <u>[REP1-031]</u>.</p> <p>The updated Institute of Environmental Management and Assessment ("IEMA") Guidelines: Environmental Assessment of Traffic and Movement (July 2023) do not materially affect or alter the assessment methodology adopted in the ES which remains robust and appropriate.</p> <p>In particular, the thresholds against which the scope of the environmental assessment should be considered, remain unchanged (30% increase for all vehicles and a 10% increase for Heavy Goods Vehicles ("HGVs") in sensitive areas).</p>

			<p>The approach taken in ES Chapter 11 is wholly consistent with the new IEMA Guidance.</p>
	<p>Section 11.4 Assessment Methodology, reviews estimated construction traffic flows against existing flows to establish an impact. National Highways has requested that the impact at their junction onto the strategic road network be assessed</p>	<p>During a site visit in March 2022, KTC noted significant congestion occurring at the East Dock Gate and its interaction with the Queens Road/Laporte Road junction (See Image 2.1 below). The ES does not refer to existing traffic flow conditions and has made no attempt to assess the cumulative impact in this location. APT needs to be satisfied that significant delays will not occur at this junction which would affect its emergency response times.</p> <p>Image 2.1</p>  <p>Note: site observations indicate that some vehicles can be stationary at the East Gate for in excess of 50 seconds resulting in a significant queue forming on both Queens Road and Laporte Road. This can result in the Queens Road/Laporte Road junction becoming blocked as shown above.</p>	<p>The issue identified in the photo relates to queuing which occurs as a result of the operation of the security gates at the entrance to the Port (East Gate).</p> <p>This is a necessary and important function of port security and the occasional queuing as a result of security checks is acknowledged. This queuing has been observed by the Applicant but is generally infrequent. It is not related to the capacity of the Laporte Road/Queens Road junction and the queues dissipate quickly once security checks are complete.</p> <p>In relation to the potential impact at the Laporte Road junction and indeed at East Gate, there will be no material change in flows during operation of the Project.</p> <p>The Outline Construction Traffic Management Plan (“OCTMP”) [REP1-006] confirms at Table 6 that only 59 HGVs per day (which equates to less than six per hour) are forecast to use this junction. In addition, 477 construction worker movements per day (Table A-2 of the OCTMP [REP1-006]) are forecast to use the junction. Peak hour flows will be</p>

			<p>less than 70 vehicles. These will predominantly be movements from Queens Road (S) to Laporte Road (W) or vice versa and will therefore have no impact on queuing inbound to port.</p> <p>Furthermore, the quoted figures are for the peak construction period and likely to be for a period of less than two years as shown by the profile of workers at Plate A-1 of the OCTMP [REP1-006].</p> <p>The impacts generated by this level of traffic are clearly and demonstrably not material in the context of the tests and requirements of Section 5.4 of the NPSfP.</p> <p>The Project will have no material impact on the ability for IOT traffic to enter or leave that facility.</p>
	<p>Paragraph 11.4.1 refers to construction commencing in early 2025 with peak flows in late 2026.</p>	<p>How realistic is this timescale and what would be the cumulative impact with IERRT should the construction commencement be delayed?</p>	<p>The timescales as set out, with a start on site in early 2025, are considered to be appropriate, with the DCO Examination period finishing in August 2024. The cumulative impact with Immingham Eastern Ro-Ro Terminal (“IERRT”) is considered in ES Appendix 11.B [APP-190]. As discussed below, IERRT is likely to open in 2026 at the earliest, and would take some time to reach full operational traffic levels as assessed in that application. A reasonable worst case</p>

			assumption for cumulative assessment has therefore been considered.
	Paragraph 11.6.21 explains how traffic flows from the IERRT Transport Assessment have been used in the assessment. These flows are from surveys in 2021	In 2021 the Covid-19 pandemic was resulting in many people working from home, and therefore significantly lower traffic levels than normal were common. The ES has not undertaken any surveys to see if the 2021 flows were suppressed and hence unrepresentative baseline conditions have been assessed. This should be reviewed.	<p>This query has also been raised in Q1.10.1.1 and has been responded to in the Applicant's answer to that question [REP1-031].</p> <p>The 2021 traffic counts have been reviewed to understand any impact that the COVID-19 pandemic had on traffic volumes in the study area. This review considered updated 2023 traffic counts (and Department for Transport ("DfT") analysis (National Road Traffic Projections 2022)) which considered the national impact of the COVID-19 pandemic on traffic volumes.</p> <p>This review confirms that the 2021 data adopted in the assessment of the application provides a worst case scenario in terms of baseline traffic.</p>
6.4 ES Appendix 11B	Table 6 of the cumulative assessment refers to IERRT construction traffic.	What if IERRT operational traffic coincides with peak IGET construction traffic? This should be assessed.	<p>IERRT is likely to open in 2026 at the earliest, and would take some time to reach full operational traffic levels as assessed in that application.</p> <p>Mitigation at the East Gate is to be secured by IERRT to enhance capacity at the East Gate. That will be in place prior to operation of the IERRT facility and,</p>

			<p>therefore, the approach taken is robust in terms of worst case impacts at the East Gate.</p> <p>Therefore, the cumulative impact during the construction phase is still considered to represent the most robust assessment.</p>
	<p>In other tables in the cumulative assessment, flows on particular links have been entered as zero due to “insufficient information”.</p>	<p>If the links of concern to APT, i.e Queens Road/Kings Road/Laporte Road are subject to significant additional cumulative traffic then this should be assessed to establish the impact of the I-GET project.</p>	<p>Where links are entered as zero for committed development, that is because the assessments of those developments scoped out assessment of those links. This is because it was assessed they would have no identifiable impact on those links.</p> <p>It is therefore appropriate that there is no additional cumulative traffic that will need to be considered and the assessment undertaken remains valid.</p>
<p>6.7 Outline Construction Traffic Management Plan</p>	<p>Work No 4 includes a culvert to be constructed under Laporte Road.</p>	<p>The ES fails to explain if this will require the closure of Laporte Road during the construction of the culvert, and what would be the resulting impact on diverted traffic and delays.</p>	<p>This has been covered in response to Q1.13.4.1 [REP1-034].</p> <p>In order to construct the culvert, there would be a temporary closure of up to four weeks. Diversion routes during this time would require the use of the A1173/Kiln Lane as confirmed in more detail in the response to PD Ports [REP1-021].</p> <p>As set out in Section 6 at Paragraph 6.1.4 of the OCTMP [REP1-006], the</p>

			contractor would provide at least one months' notice of any such works to all affected parties.
	Works No 9 includes a construction layover, storage, offices and workforce parking.	The impact of the traffic associated with these movements on the Queens Road/Laporte Road junction has not been assessed and, as mentioned earlier, this junction is already subject to congestion associated with the East Dock Gate.	As discussed above, this <i>has</i> been appropriately assessed in the ES . Traffic movements to and from this temporary access will be limited. As confirmed in Table 6 of the OCTMP [REP1-006] construction activity at the East Site is expected to generate a peak of 59 HGVs per day, of which only a portion will use this access. This is less than six HGVs per hour. These will be travelling to/from Queens Road south and will have no material impact on safety or operation of the Laporte Road junction or indeed on the operation of the East Gate security arrangements.
	At paragraph 1.7.1 it states that the appointed contractor will prepare a Construction Traffic Management Plan and a Construction Workers Travel Plan	The appointed contractor should consult APT and also give APT the opportunity to review and comment on the CTMP and CWTP. The appointed contractor needs to properly understand the critical nature of APTs operation.	As set out in Section 6 at Paragraph 6.1.4 of the OCTMP [REP1-006] . <i>"Some other parties may need to be consulted from time to time. Where required (depending on the works and location) a copy of the CTMP approved pursuant to this OCTMP, along with information on working hours and proposals for traffic management or works on the highways network (including any road closures, diversions or alternative</i>

			<p><i>access arrangements) that have potential to affect these parties will be provided at least one month before the relevant works are anticipated to commence.”</i></p> <p>IOT Operators (APT) would have the opportunity through the OCTMP to liaise with the contractor regarding any concerns it may have, and the Applicant is willing to consult IOT Operators on any works that have the potential to affect the IOT in accordance with Paragraph 6.1.4 of the OCTMP [REP1-006].</p>
	<p>Large construction components will be transported, presumably from the West Dock Gate, and some will be Abnormal Intervisible Loads (AIL) – Section 4 refers.</p>	<p>The movement of AILs is likely to result in traffic delays and possibly temporary road closures. APT must be consulted on and agree to the detailed traffic management plan prior to any road closures.</p>	<p>As set out in the Applicant’s response to Q1.13.4.1 [REP1-034], the movement of AILs will generally be at night time (23:00–06:00). Whilst the DCO allows for temporary road closures, in practice many of these are likely to be accompanied movements which will only require temporary holding back of traffic.</p> <p>The details of the notification requirements for such movements is confirmed at Q1.13.1.5 [REP1-034].</p> <p>As set out in Section 6 at Paragraph 6.1.4 of the OCTMP [REP1-006], the contractor would provide at least one months’ notice of any works to all affected parties.</p>

	<p>The construction of the plant immediately to the south of the APT site (I-GET East) is set to take place in Phase 3 – Years 6 & 7, Phase 4 – Years 9 & 10, and Phase 6 – Years 10 & 11.</p>	<p>No information has been provided on the construction movements associated with these works which could coincide with the IERRT operation.</p> <p>It is unclear if IGET will be constructed using the access road to be provided to the east or via the East Dock Gate. This should be clarified and, if the latter, the impact should be assessed.</p>	<p>Allowance has been made for construction traffic to and from the East Site in the ES – as confirmed in the OCTMP [REP1-006] (Table 6 for HGVs and Table A-1 for employees).</p> <p>This is based on Phase 1 as it is the worst case scenario in terms of overall movements. This is confirmed in Paragraph 11.6.25 of ES Chapter 11 [APP-053].</p> <p>For the purposes of the assessment, a development scenario was defined based on a six-phase construction timeline through to full completion of all phases over an indicative 11-year period.</p> <p>This programme duration is considered to be a worst case in Environmental Impact Assessment terms. This is because although market demand could accelerate the programme for Phases 2–6, Phase 1 would always represent the peak of construction, irrespective of the subsequent programme for Phases 2 onwards.</p>
	<p>Table 3 suggests that an HGV could carry 40m3 of gravel, and also a similar</p>	<p>40m3 of gravel will weigh about 67 tonnes which is too heavy for a lorry. As the HGV movements have been calculated from these figures there would appear to be an error which leads to a significant</p>	<p>The figures in Table 3 of the OCTMP [REP1-006] are being checked and reviewed and will be updated as necessary.</p>

	volume of cut and fill materials	underestimate of HGV movements. This needs to be explained and if necessary, a revised assessment produced.	
	At paragraph 3.1.9 temporary signals are proposed on Laporte Road to control the site accesses crossroads.	The impact of these temporary signals, which presumably could be in place for much of the overall 11-year construction period, has not been assessed.	<p>This has been assessed. Clarification on the controls are provided in response to Q1.13.4.1 [REP1-034]. Other than the potential full closure discussed above, all other traffic management measures applicable to Laporte Road relate to partial road closures (to construct site accesses, for example) or if materials or large equipment needed to be moved from temporary facilities in Work No. 5 or 9 across Laporte Road.</p> <p>The temporary controls would be in place for not more than two weeks at a time and infrequently throughout the construction phase. These measures will have no material impact on road users.</p>
4.8 Traffic Regulation Measures Plan A	This document refers to Temporary Traffic Regulation Orders (TTRO) for stopping up and restricting the use of streets.	APT need to be consulted on any proposed TTRO that will restrict access and have potential to affect its emergency response times.	As set out in the OCTMP [REP1-006] , the contractor would provide at least one months' notice of any works to all affected parties. As noted above, the Applicant is willing to consult IOT Operators on any works that have the potential to affect IOT in accordance with Paragraph 6.1.4 of the OCTMP [REP1-006] .