



**Application by Associated British Ports for the Immingham Green Energy Terminal  
The Examining Authority's written questions and requests for information (WQ2)  
Issued on Friday 17 May 2024**

The following table sets out the Examining Authority's (ExA's) written questions and requests for information - WQ2. If necessary, the examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as WQ3.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annex C to the Rule 6 letter [PD-005]. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with an alphabetical code and then has an issue number and a question number. For example, the first question on general matters is identified as 'GEN.2.1'. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact [imminghamget@planninginspectorate.gov.uk](mailto:imminghamget@planninginspectorate.gov.uk) and include IGET WQ2 in the subject line of your email.

**Responses are due by Deadline 4: Tuesday 4 June 2024.**



**Abbreviations used:**

<b>ABP</b>	Associated British Ports
<b>AP</b>	Affected Persons
<b>ASI</b>	Accompanied Site Inspection
<b>CA</b>	Compulsory Acquisition
<b>CAH</b>	Compulsory Acquisition Hearing
<b>CEMP</b>	Construction Environmental Management Plan
<b>COMAH</b>	Control of Major Accidents and Hazards
<b>D</b>	Deadline
<b>dDCO</b>	Draft Development Consent Order
<b>DML</b>	Deemed Marine Licence
<b>EA</b>	Environment Agency
<b>EL</b>	Examination Library
<b>ES</b>	Environmental Statement
<b>ExA</b>	Examining Authority
<b>FRA</b>	Flood Risk Assessment
<b>Ha</b>	Hectares
<b>HSE</b>	Health and Safety Executive
<b>IERRT</b>	Immingham Eastern Ro-Ro Terminal



<b>IGET</b>	Immingham Green Energy Terminal
<b>IP</b>	Interested Party
<b>ISH</b>	Issue Specific Hearing
<b>LA</b>	Local Authority
<b>LHA</b>	Local Highway Authority
<b>LSE</b>	Likely Significant Effect
<b>m</b>	Metre
<b>MMO</b>	Marine Management Organisation
<b>NE</b>	Natural England
<b>NELC</b>	North East Lincolnshire Council
<b>NELDB</b>	North East Lindsey Drainage Board
<b>No.</b>	Number
<b>Nos.</b>	Numbers
<b>NPS</b>	National Policy Statement
<b>NPSfP</b>	National Policy Statement for Ports
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>oCEMP</b>	Outline Construction Environmental Management Plan
<b>oLEMP</b>	Outline Landscape and Ecology Management Plan
<b>OtsMRS</b>	Outstrays to Skeffling Managed Realignment Scheme
<b>PA2008</b>	The Planning Act 2008



<b>PPG</b>	Planning Practice Guidance
<b>R</b>	Requirement in the dDCO
<b>RR</b>	Relevant Representation
<b>s</b>	Section of Parliamentary Legislation
<b>sHRA</b>	Shadow Habitats Regulations Assessment
<b>SoCG</b>	Statement of Common Ground
<b>SAC</b>	Special Area of Conservation
<b>SoR</b>	Statement of Reasons
<b>SoS</b>	Secretary of State
<b>SPA</b>	Special Protection Area
<b>TCPA1990</b>	Town and Country Planning Act 1990 (as amended)
<b>USI</b>	Unaccompanied Site Inspection
<b>WQ1</b>	Written Questions 1

### **The Examination Library**

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

[TR030008-000385-Immingham Green Examination Library.pdf \(planninginspectorate.gov.uk\)](#)

It will be updated as the examination progresses.

### **Citation of Questions**

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg WQ2 GEN 2.1 – refers to question 1 in this table.



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WQ2	Question to:	Question:
<b>1. General and Cross-topic Questions</b>		
GEN 2.1	The Applicant	<p><b>Hyperlinked Documents</b></p> <p>The ExA cannot fully rely on hyperlinked documents because web addresses might change and become unavailable in the future. Please can the documents themselves be submitted so that they can be added to the EL.</p>
GEN 2.2	The Applicant	<p><b>Statements of Common Ground</b></p> <p>It may be that not all matters will be agreed before the close of the Examination. Depending on the evidence made available during the Examination, the ExA may wish to probe any matters that cannot be agreed in more detail.</p> <p>In order to do this effectively, at D4 the Applicant should submit a note identifying any outstanding matters being discussed where it is anticipated these may not be agreed in an SoCG before the close of the Examination.</p> <p>The Applicant should also include in the note an amplification of the reasons why it is anticipated any outstanding matters cannot be agreed. This will aid the ExA in determining whether such matters need to be probed further.</p>
GEN 2.3	The Applicant	<p><b>Proposed England Coast Path</b></p> <p>Figure 13.6 (Designations) [REP3-093] shows part of the Proposed England Coast Path running through the Order Limits. What provision has been made within the application to accommodate this?</p> <p>Should this be a drafting error and the Path is not proposed to cross the application site, provide a corrected plan, along with a written description of the route of the proposed Path in relation to the Order Limits.</p>
<b>2. Principle of Development</b>		
POD 2.1	The Applicant	<p><b>Tilbury 2</b></p> <p>The Applicant references Tilbury 2 and the division of the NSIP and the Associated Development in that case. For clarity, does the ExA Recommendation Report or the SoS Decision for Tilbury 2 analyse the relevance of the wording <i>'capable of handling the</i></p>

WQ2	Question to:	Question:
		<i>embarkation or disembarkation of cargo</i> when determining the extent of the NSIP? Please provide extracts as appropriate.
POD 2.2	The Applicant	<p><b>NSIP Thresholds</b></p> <p>In relation to the relevant quantity as set out in s24 (3)(d) of PA2008, provide a breakdown, by type, volume and source, of the anticipated cargos that the Proposed Development would support. Except for the import of ammonia, provide evidence to demonstrate that these levels would be achieved once the jetty is operational.</p> <p>Alternatively, should this information already have been supplied as part of the application, provide us with a note that signposts us to the relevant details.</p>
<b>3. Climate Change</b>		
CC 2.1	North East Lincolnshire Council	<p><b>Requirement to Secure Low Carbon Hydrogen Standard Certification</b></p> <p>Is it necessary to include a Requirement in the dDCO to secure low carbon hydrogen certification? For example, to ensure that the Proposed Development’s hydrogen could be effectively monitored for compliance with the low carbon hydrogen assumptions contained in the ES, which among other things underpin the conclusions of the Greenhouse Gas Assessment.</p> <p>Without a Requirement of this nature, how would NELC effectively monitor each stage of the supply chain, including the complexities of the hydrogen production process itself, to ensure the Proposed Development once constructed would remain compliant with the assessments upon which any future decision would be based?</p>
<b>4. Design</b>		
DAS 2.1	The Applicant	<p><b>Design Detail</b></p> <p>The Applicant has provided details of the design process and has reiterated that the final design would be approved by NELC as secured in the dDCO through a Requirement. It is acknowledged that the design of the operational elements of the development would be limited in terms of safety, however there is still insufficient information on the peripheral support buildings, which would be the “public facing” elements of the proposal.</p>

WQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Produce a “Design Code” document that identifies the non-operational structures across the site and provides examples of the types of finishes that will be proposed, explaining why these have been chosen and how they will integrate into the local environment.</li> <li>• Secure compliance with this document in the “Detailed Design” Requirement of the dDCO (currently Requirement 4 in the dDCO [REP3-004]).</li> </ul>
<b>5. Biodiversity</b>		
BIO 2.1	The Applicant Marine Management Organisation	<p><b>Piling Restrictions</b></p> <p>The piling times submitted [REP3-064, Action Points 2 and 3] provide some clarity. However further clarifications are required, or explanations as to why these are not possible to provide.</p> <ul style="list-style-type: none"> <li>• Yellow sections of the Table provided under Action Point 2 - this still states <i>“percussive piling”</i> and whilst there is a catchall comment that vibro piling will not occur in isolation of percussive piling, other definitions include both vibro and percussive piling. For consistency, label the yellow sections as <i>“no piling of any kind”</i>.</li> <li>• Red sections of the Table provided under Action Point 2 – these refer to construction activity within 200m of the Mean Low Water and relates to overwintering birds. Include the restriction noted in the oCEMP regarding freezing conditions (REP3 - 026, p .47) on the table or explain why this is not relevant to this section.</li> <li>• Action Point 3 - There is still ambiguity in relation to the in-combination timings and why these have been provided in hours over a 4 week period, whereas the project-specific limits are stated in minutes per day (taken as a 24 hour period) The in-combination times should be stated in minutes per day to correlate with the controlled times on IERRT and IGET. If this cannot be provided, provide an explanation as to why not.</li> <li>• MMO: Confirm that you agree with the piling restrictions noted in response to Action Points 2 and 3.</li> </ul>
BIO 2.2	The Applicant	<p><b>Consistency between oCEMP and DML</b></p> <p>The oCEMP [REP3-026] and DML within the dDCO [REP3-004, Schedule 3] use the words <i>“percussive”</i> <i>“vibro”</i> and <i>“any”</i> in relation to piling activity.</p>



WQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• For clarity, ensure consistency of wording and meaning between the DML and oCEMP and ensure that when no piling will occur, both documents refer to this rather than just percussive piling.</li> <li>• Confirm within both of these documents that the sunrise and sunset times will be in accordance with HM Nautical Almanac Office Data.</li> </ul>
BIO 2.3	The Applicant North East Lincolnshire Council	<p><b>S.106 Agreement - Compensatory Woodland</b></p> <p>A draft s.106 Agreement was received at Deadline 3 [REP3-077] to secure the Applicant’s contribution towards off-site woodland compensation.</p> <ul style="list-style-type: none"> <li>• Applicant and NELC: Will the details of this Agreement be finalised prior to the end of the Examination?</li> <li>• Applicant: Commit to providing updates at every Deadline when changes have been made.</li> </ul>
BIO 2.4	North East Lincolnshire Council	<p><b>Ornithology</b></p> <p>Are you satisfied that the compensatory woodland proposed will sufficiently mitigate for the Moderate Adverse Significant Effect on Breeding Birds (non-SPA/RAMSAR) that has been identified in the ES Chapter 10 [APP-052, Table 10-21].</p>
BIO 2.5	The Applicant North East Lincolnshire Council	<p><b>South Humber Gateway Mitigation Zone</b></p> <p>Natural England’s submission [REP3-112] has stated Policy 9 of the NELC Local Plan; <i>“Development proposals on greenfield land within the Mitigation Zone will be required to make contributions towards the provision and management of the mitigation sites identified on the Policies Map”</i>. NE suggest that the South Humber Mitigation Strategy is intended to apply to all relevant developments within this zone to address the adverse impacts of development at a strategic level, irrespective of whether the individual development site is determined to be functionally linked land in further bird surveys.</p> <ul style="list-style-type: none"> <li>• Applicant and NELC: Explain whether this is your understanding of the LP Policy and if so, how the Proposed Development meets the requirements of this Policy.</li> <li>• NELC: What compensatory measures would you expect to be put in place and how would these be secured within the dDCO.</li> </ul>

WQ2 6.	Question to:	Question:
HRA 2.1	The Applicant	<p><b>Compensatory Habitat</b></p> <p>In order to properly understand the status of the Outstrays to Skeffling Managed Realignment Scheme application (OtSMRA) (East Riding of Yorkshire ref. 19/00786/STPLFE)</p> <ul style="list-style-type: none"> <li>• Provide a copy of the Decision Notice.</li> <li>• Explain how the conditions attached to the decision notice have been/will be met.</li> </ul>
HRA 2.2	The Applicant	<p><b>S106 Securing Compensatory Habitat/Enhancement</b></p> <p>The draft Unilateral Undertaking (UU) [REP3-078] provides the definition of “Compensation” as being the creation of [0.132Ha] of habitat. The Without Prejudice Report to Inform HRA Derogations [REP3-030 Paragraph 4.3.8] states that, if required, Compensation shall be provided at a 3:1 ratio, equalling 0.1623Ha of OtSMRS. However, it also states that this is in-combination with IERRT.</p> <ul style="list-style-type: none"> <li>• Clarify the figures for each project, providing the amount of compensatory habitat for each, if required.</li> <li>• Confirm that both IERRT and IGET have been allocated separate 1Ha plots within OtSMRS, or if not, confirm how the allocated amounts meet the requirements for each project.</li> </ul>
HRA 2.3	The Applicant	<p><b>Lighting Mitigation</b></p> <p>The Shadow HRA [REP3-026, Table 4] screens out lighting effects on coastal waterbirds during construction. It states that “<i>temporary lighting during construction will be arranged so that glare is minimised outside the construction areas with a Lighting Management Plan (LMP) incorporated into the final CEMP that addresses the use of lighting around potentially sensitive areas including the Humber Estuary</i>”. How is the use of mitigation in the form of a LMP to justify no LSE to coastal waterbirds consistent with the People Over Wind and Sweetman v Coillte Teoranta (Case C-323/17) judgement?</p>
HRA 2.4	The Applicant	<p><b>Securing Decommissioning Restrictions in DML</b></p> <p>The Applicant's response to WQ1.6.2.4 [REP1-027] states that a commitment has been made to undertake any required decommissioning within Work No.1 and 2 outside of the overwintering period (October to March inclusive) where the works are located within 200m of</p>

WQ2	Question to:	Question:
		exposed intertidal foreshore, and that this commitment will be secured in the DML. Where is this commitment secured within the dDCO?
HRA 2.5	Natural England	<p><b>Clarification of in-combination concerns</b></p> <p>The Applicant updated the screening Tables in the sHRA at DL1 [REP1-012] providing additional text in the ‘justification’ column to consider in-combination effects. NE’s response at DL3 [REP3-112, issue NE3] requests further clarification and preference for a separate column to address these effects. The ExA acknowledges that the Applicant’s approach is high level and does not distinguish between small effects and no pathway for effect, lacking detailed justification for why in-combination effects are considered negligible.</p> <p>Despite this methodological deficiency, NE is requested to highlight any specific impact pathways where it is concerned that the absence of this information is likely to make a material difference in the screening conclusion.</p>
<b>7.</b>	<b>Landscape and Visual Effects</b>	
LV 2.1	The Applicant	<p><b>Scale of Buildings on the West Site</b></p> <p>The Applicants Response to ISH5 Action Points [REP3-065, Appendix 2, Appendix 3] provides useful long sections that indicate the scale and massing of the Proposed Development (West Site) in the context of other existing or consented developments.</p> <ul style="list-style-type: none"> <li>• Indicate on the key map the direction of view for each section.</li> <li>• An additional section is required. Looking north east, on a north west – south east axis along a line or relevant length drawn from where Manby Road enters the Key Map (top left hand edge) to where the A180 leaves the Key Map (right of centre, bottom edge).</li> </ul>
LV 2.2	The Applicant North East Lincolnshire Council	<p><b>Queens Road Properties</b></p> <p>The Applicant has provided a response to Questions and Action Points regarding the future of the Queens Road properties [REP3-065]. It is submitted that the buildings in terraces 1 – 6 and 7 - 18 will be demolished and the area shall be left with a general hardcore surface awaiting future development, either by Air Products or a third party.</p> <p>In accordance with paragraph 5.1.16 of the NPSfP, and in order to achieve the objectives of Good Design, the ExA would expect to see some softening of this area, rather than simply a</p>

WQ2	Question to:	Question:
		<p>hardcore surface, to deliver an enhancement to the area once the properties have been demolished.</p> <p>This enhancement could be in the form of a low-level planting scheme that would not interfere with future development proposals and that would be in accordance with the restrictions set out in the oLEMP regarding planting adjacent to boundary fences etc.</p> <ul style="list-style-type: none"> <li>• Applicant: Identify how this area could be visually improved through a soft landscaping scheme and how such a scheme would be secured in the dDCO.</li> <li>• Applicant: Clarify whether the area would be fenced off from the adjacent public highway post-demolition, and if so, how would this be achieved.</li> <li>• Applicant: Regarding No. 31 Queens Road, you have indicated that, in the medium term, it is to be used as an office building by Air Products in association with the Project. Explain what the long-term proposals are for this building.</li> <li>• NELC: Are you in agreement with the approach set out by the Applicant [REP3-065]? Do you have any further comments on the contents of this Note and do you foresee any land use planning issues with the Applicant’s approach? Do you have any comments on the questions asked of the Applicant?</li> </ul>
LV 2.3	The Applicant	<p><b>Outline Landscape and Ecological Management Plan</b></p> <p>On sheet 2 of the Indicative Landscape and Biodiversity Plan [APP-225], there is an uncoloured area directly south west of the rear of the Queens Road properties. During the ASI [REP2-023] the ExA were able to view this area and it appeared to be an integral part of the West Site, with no restrictions on inclusion into the Biodiversity Improvement Zone.</p> <ul style="list-style-type: none"> <li>• Indicate the proposed Biodiversity Zoning for this area.</li> <li>• If this is not proposed to be “green” (un-restricted, other than the 2m security zone either side of the fence), explain why.</li> </ul>
LV 2.4	The Applicant North East Lincolnshire Council	<p><b>Land directly to the northwest of 1 Queens Road</b></p> <p>During the ASI [REP2-023] the ExA were able to view this area from the West Site. It is noted that this area is outside the Order Limits, but due to the mature tree cover, it makes a positive contribution to the appearance of the area that helps to screen existing development and would also be beneficial in screening proposed development.</p>

WQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Applicant: Is this land within the ownership of the Applicants and if so, would the existing trees prevent either the development of the West Site or the proposals for the Queens Road properties should the dDCO be confirmed?</li> <li>• NELC: Confirm the status of this tree group and whether it is protected?</li> </ul>
LV 2.5	The Applicant	<p><b>Additional Viewpoints</b></p> <p>The Supplemental Analysis of the Assessment of Impacts on the Lincolnshire Wolds document [REP3-068] provides information requested by NELC and it states that an additional viewpoint has been agreed with NELC, located along the section of the Wanderlust Way Long Distance Path (Public Right of Way) between the A18 and Trunkass Lane, to the north of Beelsby.</p> <ul style="list-style-type: none"> <li>• Is Plate 1 in Supplemental Analysis of the Assessment of Impacts on the Lincolnshire Wolds [REP3-068] the new view agreed with NELC from Wanderlust Way path, or is it the same as the point marked NV on Figure 13.7 – Viewpoint Locations [REP3-094]?</li> <li>• If Plate 1 is not the point marked NV on Figure 13.7 – Viewpoint Locations [REP3-094], explain what this point marker denotes and signpost the information relating to it.</li> <li>• What will be submitted in relation to the additional viewpoint agreed with NELC and at which Deadline?</li> </ul>
<b>8. Flood Risk and Coastal Change</b>		
FR 2.1	The Applicant	<p><b>Adequacy of Flood Risk Assessment in relation to Ordinary Watercourses</b></p> <p>The ExA notes the Applicant’s D3 submissions in relation to the meeting held between NELDB and NELC. In addition to any potential update to the FRA forthcoming at D4, please can the Applicant also submit an updated SoCG at D4 to reflect any agreements made.</p>
FR 2.2	The Applicant, Environment Agency North East Lincolnshire Council.	<p><b>Coherence of Flood Risk and COMAH Emergency Measures</b></p> <p>Do Flood Risk and COMAH emergency measures need to be reviewed for coherence? For example, in a Flood Risk emergency, people might need to take safe refuge in a building due to flood water impeding safe evacuation. However, if COMAH emergency measures require complete evacuation of the site it is unclear whether this might create a conflict in the event both emergencies occur at the same time.</p>

WQ2	Question to:	Question:
FR 2.3	The Environment Agency	<p><b>Temporal Scope</b></p> <p>Based on the exchanges between the ExA and the Applicant in WQ1, D1 and relevant ISH's, can the EA confirm whether it is content with the temporal scope of the ES as it pertains to Flood Risk and Coastal Change, including Climate Change Resilience and Physical Processes? Please explain with detailed reasoning and give regard to the Operating Life Technical Note in the Applicant's Response to the WQ1 Q1.15 [Appendix 1 of REP1-036] and cross reference with the relevant chapters of the ES as appropriate.</p>
<b>9. Water Quality and Resources</b>		
		<b>No specific questions at this time</b>
<b>10. Traffic and Transport</b>		
		<b>No specific questions at this time</b>
<b>11. Marine Movement and Operational Safety</b>		
		<b>No specific questions at this time</b>
<b>12. Major Accidents and Hazardous Substances</b>		
MAH 2.1	The Applicant	<p><b>Hazardous Zone Areas</b></p> <p>Following discussions at ISH7, it is understood the HSE is unlikely to complete their assessment on the hazardous zone areas before close of the Examination. However, can the Applicant submit their estimation on what the extent of these hazardous zones could be, including indicating where residential, business and community facilities lie within these areas.</p>
MAH 2.2	North East Lincolnshire Council	<p><b>Current Hazardous Zone Classifications</b></p> <p>Using the location of the proposed jetty as the centre point, please can you provide a map of the current hazardous zone areas within 3 km of the Proposed Development, clearly marking the different classifications.</p>
<b>13. Construction Effects</b>		
		<b>No specific questions at this time</b>

WQ2	Question to:	Question:
14.	<b>Socio-economic</b>	
		<b>No specific questions at this time</b>
15.	<b>Decommissioning</b>	
DEC 2.1	North East Lincolnshire Council	<p><b>Temporal Scope</b></p> <p>Based on the exchanges between the ExA and the Applicant in WQ1, D1 and relevant ISH's, can NELC confirm whether it is content with the temporal scope of the ES as it pertains to future land use planning. For example, if the hydrogen facility was not decommissioned and remained in perpetuity beyond 25 years, would the COMAH zone restrict land use planning opportunities for a longer period than what has been assessed in the ES? In other words, does the ES account for the reasonable worst-case scenario in this respect? Please explain with detailed reasoning and give regard to the Operating Life Technical Note in the Applicant's Response to the ExA's Q1.15 [Appendix 1 of REP1-036] and cross reference with the relevant chapters of the ES as appropriate.</p>
16.	<b>Cumulative Effects and In-combination effects</b>	
		<b>No specific questions at this time</b>
17.	<b>Compulsory Acquisition and Temporary Possession</b>	
CATP 2.1	The Applicant	<p><b>Queens Road map</b></p> <p>At CAH1 the ExA asked the Applicant to submit an inset map, at a larger scale, of the Queens Road properties (Action Point 3). At D3 two inset maps were submitted covering the area. The Applicant is requested to combine these to create one map, showing all the Queen's Road properties (Nos. 1 to 31) and immediate surrounds.</p>
18.	<b>Development Consent Order</b>	
DCO 2.1	The Applicant	<p><b>Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project</b></p> <p>On 30 April 2024, the Government published Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project. Please review the</p>

WQ2	Question to:	Question:
		dDCO and confirm whether it accords with all aspects of this Guidance. If it does not, please explain and justify why you consider any departure to be appropriate in this case.
DCO 2.2	The Applicant	<p><b>Requirement 13 – Flood Risk Assessment</b></p> <p>The wording of this Requirement, with the inclusion of the tailpiece <i>‘unless otherwise approved by the local planning authority’</i> implies that post-consent changes would be able to be made to the Flood Risk Assessment. Given that the FRA has been submitted in detail and forms part of the ES against which matters of significance have been assessed, the use of such a tailpiece in this instance, is considered to be inappropriate and should be deleted. Please review and provide a justification for its retention should you consider it to be required.</p> <p>Please review all Requirements that contain similar tail pieces and amend or justify as necessary.</p>
DCO 2.3	Environment Agency NELC	<p><b>Definition of commence</b></p> <p>On 30 April 2024, the Government published Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project, which contained guidance on the definition of commencement.</p> <p>In light of the guidance and the Applicant’s changes made to the dDCO at D1, provide your comments on the current definition and whether, in your view, the proposed wording satisfies the Guidance. If not, please provide and justify the alternative wording you are seeking.</p>
DCO 2.4	Environment Agency	<p><b>Article 18 – Discharge of water</b></p> <p>The ExA has noted the EA’s request for two additional clauses to be added to Article 18 in respect of the Habrough Marsh Drain and Stallingborough North Beck outfall as detailed in your Relevant Representation. The matter was also discussed at ISH5. In response, the Applicant has indicated that they are content with the principle but have suggested their inclusion within the Protective Provisions in Schedule 17. Are you happy with this approach? If not, please explain and justify.</p>
DCO 2.5	The Applicant	<p><b>dDCO Composite Version</b></p> <p>The ExA have identified a number of changes that have been made in Version 3 which have not been replicated in the composite version of the dDCO submitted at D3 [REP3-006]. These include:</p>



WQ2	Question to:	Question:
		<ul style="list-style-type: none"> <li>• Article 46 Paragraphs (5) and (6) where the relevant reference paragraph numbers are not provided; and</li> <li>• Requirement 9 (construction hours) paragraph 3 still refers to 72 hours.</li> </ul> <p>Please review and ensure that all D3 changes are accurately replicated in the next iteration of the composite version.</p>
DCO 2.6	Marine Management Organisation	<p><b>Article 46 – Benefit of Order</b></p> <p>The ExA note the MMO’s submissions at DL3 [REP3-108] and welcome the confirmation that the MMO will provide their response at DL4.</p> <p>As part of these submissions, to aid the ExA and the SoS, should you disagree with the wording proposed by the Applicant, please justify why and provide the revised wording, including any deletions, that you wish to see.</p>
DCO 2.7	The Applicant	<p><b>Condition 14 DML – Flood risk assessment</b></p> <p>As with DCO 2.2 above, the current drafting of this condition would imply that, subject to the approval of the MMO, the Applicant would be able to deviate from the matters agreed and approved within the FRA. Please explain and justify why the words <i>‘unless otherwise approved by the MMO’</i> are considered to be necessary.</p>
DCO 2.8	The Applicant	<p><b>Schedule 17 – Procedure regarding certain approvals etc</b></p> <p>In response to the discussions at ISH4 with regards to the relationship between the DML conditions and the DCO Requirements, the Applicant identified that, should the ExA and SoS agree that the discharge of the DML conditions should fall within the process set out in Schedule 17, then Part 3 of Schedule 3 of the dDCO would need to be deleted. To rectify this the Applicant undertook to provide an updated dDCO at D3 showing clearly labelled alternative drafting in square brackets for the ExA to include or delete depending on how it, and SoS, determine that the issue of timescales and appeals is to be resolved.</p> <p>Whilst the ExA note that these are shown in dDCO V3, there are also a number of instances where square brackets are used in reference to the change application. Therefore, for ease of reference, please provide a list that signposts these consequential changes.</p>

**WQ2: 17 May 2024**

**Responses due by Deadline 4: Tuesday 4 June 2024**

<b>WQ2</b>	<b>Question to:</b>	<b>Question:</b>
DCO 2.9	The Applicant North East Lincolnshire Council	<b>Discharge of Requirements Cost Recovery</b> Would NELC be eligible to recover the costs associated with the discharge of Requirements and would this extend to the recovery of costs associated with subcontracting specialist consultants, if these were deemed necessary due to potential NELC resource constraints?