

Date: 11 July 2024
Our ref: GOOD/3004864.3
Your ref: TR030008
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Adrian Hunter
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Dear Sir,

**Planning Act 2008 (as amended) ("PA 2008"), the Infrastructure Planning (Examination Procedure) Rules 2010
Application by Associated British Ports ("the Applicant") for an Order Granting Development Consent for the Immingham Green Energy Terminal ("IGET")
Deadline 5 Cover Letter
Application Reference: TR030008**

As you know we act on behalf of the Applicant in relation to the application for a development consent order (the "**Application**") for the construction, operation and maintenance of the IGET and its Associated Development (the "**Project**"). The Application was originally submitted on 21 September 2023 and accepted for Examination on 19 October 2023, which has since commenced on 20 February 2024.

This letter has been prepared to accompany the Applicant's submissions to the Examining Authority ("**ExA**") at Deadline 5 (11 July 2024) of the Examination. These submissions are made in accordance with the Examination Timetable set out at Annex A of the Rule 8 Letter dated 28 February 2024 [**PD-007**].

1 Overview of Deadline 5 Submissions

- 1.1 Submissions made at Deadline 5 comprise the documents requested in the Rule 8 Letter, as well as other information, documents or updated documents either requested by the ExA or which the Applicant wishes to be submitted as part of the Examination.
- 1.2 Any updated documents supersede the documents previously submitted by the Applicant. The Guide to the Application submitted at Deadline 4 has been updated to reflect all of the submissions and updates at Deadline 5.
- 1.1 The table below lists the documents submitted by the Applicant at Deadline 5.

Document Title	Doc Ref	Version
Guide to the DCO Application (Clean)	1.3	9
Guide to the DCO Application (Tracked)	1.3	9
Draft Development Consent Order (Clean)	2.1	7
Draft Development Consent Order (Tracked)	2.1	7
Draft Development Consent Order (Composite)	2.1	3

To: Adrian Hunter
Date: 11 July 2024
Page: 2

Tracked)		
Explanatory Memorandum (Clean)	2.2	7
Explanatory Memorandum (Tracked)	2.2	7
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects (Clean)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects (Tracked)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects Appendix A (Clean)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects Appendix A (Tracked)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects Appendix B (Clean)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects Appendix B (Tracked)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects Appendix C (Clean)	6.2	2
Environmental Statement – Chapter 25: Cumulative and In-Combination Effects Appendix C (Tracked)	6.2	2
Outline Construction Environmental Management Plan (Clean)	6.5	6
Outline Construction Environmental Management Plan (Tracked)	6.5	6
Outline Decommissioning Environmental Management Plan (Clean)	6.6	6
Outline Decommissioning Environmental Management Plan (Tracked)	6.6	6
Shadow Habitats Regulations Assessment (Clean)	7.6	5
Shadow Habitats Regulations Assessment (Tracked)	7.6	5
Schedule of changes to the draft Development Consent Order	8.6	5
Land Rights Tracker: Individual Landowners Compulsory Acquisition Schedule (Composite)	9.4.1	4
Land Rights Tracker: Statutory Undertakers Acquisition Schedule (Composite)	9.4.2	4
Land Rights Tracker: Crown Land Schedule (Composite)	9.4.3	4
Table of Credentials (Clean)	9.10	3
Table of Credentials (Tracked)	9.10	3
Applicant’s Statement of Commonality (Clean)	9.11	4
Applicant’s Statement of Commonality (Tracked)	9.11	4
Draft Statement of Common Ground (“SoCG”) between the Applicant, Air Products and the North East Lincolnshire Council (Clean)	9.12	4
Draft SoCG between the Applicant, Air Products and	9.12	4

To: Adrian Hunter
 Date: 11 July 2024
 Page: 3

the North East Lincolnshire Council (Tracked)		
Draft SoCG between the Applicant, Air Products and the Environment Agency (Clean)	9.13	3
Draft SoCG between the Applicant, Air Products and the Environment Agency (Tracked)	9.13	3
Draft SoCG between the Applicant, Air Products and the National Highways (Clean)	9.14	3
Draft SoCG between the Applicant, Air Products and the National Highways (Tracked)	9.14	3
Draft SoCG between the Applicant, Air Products and the Health and Safety Executive (Clean)	9.15	2
Draft SoCG between the Applicant, Air Products and the Health and Safety Executive (Tracked)	9.15	2
Draft SoCG between the Applicant and the Marine Management Organisation (Clean)	9.16	3
Draft SoCG between the Applicant and the Marine Management Organisation (Tracked)	9.16	3
Draft SoCG between the Applicant, Air Products and Natural England (Clean)	9.17	3
Draft SoCG between the Applicant, Air Products and Natural England (Tracked)	9.17	3
Draft SoCG between the Applicant, Air Products and North East Lindsey Drainage Board (Clean)	9.18	3
Draft SoCG between the Applicant, Air Products and North East Lindsey Drainage Board (Tracked)	9.18	3
Draft SoCG between the Applicant, Air Products and Network Rail Infrastructure Limited (Clean)	9.24	2
Draft SoCG between the Applicant, Air Products and Network Rail Infrastructure Limited (Tracked)	9.24	2
Draft SoCG between the Applicant, Air Products and Anglian Water Services Limited (Clean)	9.25	3
Draft SoCG between the Applicant, Air Products and Anglian Water Services Limited (Tracked)	9.25	3
Applicant's Responses to Documentation Received at Deadline 4	9.80	1
Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 8 (ISH8)	9.81	1
Written Summaries of Applicant's Oral Case at ISH8	9.82	1
Applicant's note on Supreme Court ruling in Finch	9.83	1
Applicant's representation on Network Rail protective provisions	9.84	1
Updated Peat Analysis Information	9.85	1
Cover Letter to Deadline 5 Submissions	9.86	1

To: Adrian Hunter
Date: 11 July 2024
Page: 4

2 Draft Section 106 Agreement with North East Lincolnshire Council ("NELC") on Woodland Compensation

2.1 The draft section 106 agreement submitted at deadline 4 [REP4-039] is currently with NELC for review and approval. The Applicant is continuing to engage with NELC on the draft agreement and will provide an update on progress of negotiations on the draft s106 agreement at Deadline 6.

3 Draft Unilateral Undertaking for Skeffling Compensation works

3.1 Natural England have now confirmed in their correspondence to the Planning Inspectorate dated 28 June, that they agree with the assessment and conclusion of no adverse effect on integrity of the Humber Estuary SAC/Ramsar from habitat loss in-combination. The Report on Implications for European Sites ("RIES report") is due to be published by the ExA on 17 July. The RIES report will be considered when available alongside the submissions of Natural England at Deadline 5 and the Unilateral Undertaking will be updated accordingly to reflect the need or otherwise for habitat compensation based on the conclusions reached. An update will be provided at Deadline 6.

4 Update on Applicant's agreement with IOT Operators

4.1 On 11 July 2024, an agreement was completed between Humber Oil Terminals Trustees Limited and Associated Petroleum Terminals (Immingham) Limited (together the "IOT Operators"), the Applicant and Air Products to address the matters raised through engagement with the IOT Operators. The Applicant understands that completion of this agreement resolves all outstanding matters with the IOT Operators, who will confirm the same to the Examining Authority and ask that their representations are treated as withdrawn.

5 Applicant's note on Supreme Court ruling in *Finch*

5.1 On 20 June 2024 the Supreme Court handed down its judgment on the appeal (*Finch v Surrey County Council* [2024] UKSC 20). In its responses to the Examining Authority's First Round of Written Questions (Q1.3.1.2 and Q1.3.2.5(a)) [REP1-024] the Applicant addressed the implications of the judgment of the Court of Appeal in *Finch v Surrey County Council* [2022] EWCA Civ 187. Accordingly, the Applicant has prepared a note which explains the implications of the Supreme Court's judgment for the Applicant's responses to those specified questions. The Supreme Court decision is appended to this note. As set out in the note, the Supreme Court judgment does not affect any of the conclusions drawn by the Applicant in its responses to Q1.3.1.2 and Q1.3.2.5(a) [REP1-024].

6 Discharge of Requirements

6.1 North East Lincolnshire Council commented in their submission at Deadline 4 [REP4-049] that the process for the discharge of Requirements and cost recovery of NELC's fees for the discharging of Requirements was under discussion with the Applicant. The Applicant is pleased to confirm that, in consultation with NELC, the discharge process (including costs and timings) for the DCO Requirements has been agreed and these amendments have been incorporated within the latest dDCO which is being submitted at Deadline 5.

To: Adrian Hunter
Date: 11 July 2024
Page: 5

7 Applicant's representation on Network Rail protective provisions

- 7.1 As indicated at ISH8, the Applicant and Network Rail have reached an impasse on the form of easement as requested by Network Rail in respect of the pipelines to be installed as Work No. 6 and, in particular, Network Rail's requirement that any such easement must include provisions enabling the pipeline to be relocated at Network Rail's request and for the easement potentially to be terminated. If those rights were invoked and the pipeline could not be relocated, it would mean that the hydrogen production facility could not operate (the pipeline connects the ammonia storage tank with hydrogen production facilities and with facilities necessary to distribute the hydrogen).
- 7.2 In light of Network Rail's position, it is anticipated that Network Rail would withhold its consent under paragraph 55(6) of its protective provisions to the exercise of compulsory acquisition powers to acquire such a right or seek to impose equivalent conditions.
- 7.3 The draft Development Consent Order submitted by the Applicant at Deadline 5 therefore includes a further iteration of the Network Rail protection provisions which have been revised to ensure that the provisions do not amount to a negation of the compulsory purchase powers in the dDCO.
- 7.4 The Applicant is also submitting at Deadline 5 a note which explains the Applicant's position as regards the Network Rail land, the powers sought over it and the reasons for those together with consideration of the relevant statutory tests under sections 127 and 138 of the Planning Act 2008. We are advised that Network Rail's solicitors will submit an explanation of its position (and its preferred protective provisions) to the Examining Authority in due course.

The Applicant would be pleased to answer any queries which you may have on this letter.

We are copying this letter to Charles Russell Speechlys LLP, who act for Air Products (BR) Limited.

Yours sincerely



Bryan Cave Leighton Paisner

Enclosure

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