



**Application by Associated British Ports for the Immingham Green Energy Terminal  
The Examining Authority's written questions and requests for information (WQ3)  
Issued on Wednesday 17 July 2024**

The following table sets out the Examining Authority's (ExA's) written questions and requests for information – WQ3.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided in 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.3.1'. 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 WQ 2 in the subject line of your email.

**Responses are due by Deadline 6: Friday 2 August 2024.**



**Abbreviations used:**

<b>AEoI</b>	Adverse Effect on Integrity
<b>ABP</b>	Associated British Ports
<b>CEMP</b>	Construction Environmental Management Plan
<b>dDCO</b>	Draft Development Consent Order
<b>DML</b>	Deemed Marine Licence
<b>EA</b>	Environment Agency
<b>EIA</b>	Environmental Impact Assessment
<b>EL</b>	Examination Library
<b>ERYC</b>	East Riding of Yorkshire Council
<b>ES</b>	Environmental Statement
<b>ExA</b>	Examining Authority
<b>FRA</b>	Flood Risk Assessment
<b>GHG</b>	Greenhouse Gas
<b>HE</b>	Historic England
<b>IP</b>	Interested Party
<b>IROPI</b>	Imperative Reasons of Overriding Public Interest
<b>ISH</b>	Issue Specific Hearing
<b>LA</b>	Local Authority



<b>LLFA</b>	Lead Local Flood Authority
<b>LSE</b>	Likely Significant Effect
<b>LVIA</b>	Landscape and Visual Impact Assessment
<b>m</b>	Metre
<b>ML</b>	Monitoring Location
<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>NPPF</b>	National Planning Policy Framework
<b>NPS</b>	National Policy Statement
<b>NPSfP</b>	National Policy Statement for Ports
<b>NSIP</b>	Nationally Significant Infrastructure Project
<b>NSR</b>	Noise Sensitive Receptor
<b>OCEMP</b>	Outline Construction Environmental Management Plan
<b>PA2008</b>	The Planning Act 2008
<b>R</b>	Requirement in the dDCO
<b>RR</b>	Relevant Representation



<b>s</b>	Section of Parliamentary Legislation
<b>SoCG</b>	Statement of Common Ground
<b>SoS</b>	Secretary of State
<b>UU</b>	Unilateral Undertaking

### **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 \(planninginspectorate.gov.uk\)](https://www.planninginspectorate.gov.uk/tr030008-000385-immingham-green-examination-library.pdf)

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 WQ3 GEN 3.1 – refers to question 1 in this table.



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ExQ3	Question to:	Question:
<b>1. General and Cross-topic Questions</b>		
GEN 3.1	The Applicant Interested Parties	<p><b>Hyperlinked Documents</b></p> <p>As identified in Annex H of the ExAs Rule 6 letter [PD-005], submissions must not include hyperlinks to documents/evidence hosted on a third-party website (technical reports, media articles). See <a href="#">AN8.4 The Examination</a> for more information.</p> <p>With this in mind, ensure that any documents/evidence that has been provided via a hyperlink which you wish the ExA/SOS to consider in determining the DCO, are submitted by the end of the Examination. The submission of relevant extracts, as opposed to whole documents, is acceptable.</p>
GEN 3.2	NELC	<p><b>Sound Monitoring Location ML4</b></p> <p>The Applicant has responded to Action Point 2 from ISH8 [REP5-050] with an explanation of why Monitoring Location (ML) 4 was chosen to represent Noise Sensitivity Receptor (NSR) 4, which comprises seven separate points along the eastern residential edge of Immingham.</p> <p>Confirm whether you agree with the Applicant's explanation of why ML4 was chosen as representative and whether you agree with the Applicant's view that it represents the worst-case scenario for the assessment of operational noise.</p>
<b>2. Principle of Development</b>		
		No specific questions at this time.
<b>3. Climate Change</b>		
CC 3.1	The Applicant	<p><b>Case Law Update</b></p> <p>Please submit the Judgement in R (on the application of Finch on behalf of the Weald Action Group) (Appellant) v Surrey County Council and others (Respondents) [2024] UKSC 20, as it was not attached to D5 submission [REP5-052]. Furthermore, comment on whether:</p> <ul style="list-style-type: none"> <li>The Judgement has any bearing on the Applicant's existing submissions regarding the beneficial indirect effects from the downstream emission savings of the Proposed Development?</li> </ul>

ExQ3	Question to:	Question:
		<ul style="list-style-type: none"> <li>• The way in which the Judgement deals with upstream emissions in “Kilkenny Cheese” is relevant to the Proposed Development?</li> <li>• There are geographical limits to indirect effects from upstream emissions?</li> <li>• Increased demand for something downstream could result in indirect effects from upstream emissions provided they are capable of meaningful assessment?</li> <li>• The Proposed Development would increase demand for a proportion of the upstream ammonia production?</li> <li>• A commercial agreement securing a proportion of the ammonia being produced points to a causal connection between the Proposed Development and the upstream emissions associated with the production of that particular proportion of ammonia?</li> <li>• These upstream emissions could be measured (even if only by way of a general estimate in accordance with any relevant guidance) to the extent they were capable of meaningful assessment as an indirect effect of the Proposed Development?</li> </ul> <p>If, in your view, submissions on these matters have already been provided, signpost the ExA to the relevant submissions.</p> <p>If the Applicant maintains that upstream emissions do not need to be assessed as an indirect effect of the Proposed Development, whether such an assessment could be made on a without prejudice basis, in the event the ExA disagrees with the Applicant’s position when considering the totality of evidence during reporting.</p>
CC 3.2	The Applicant	<p><b>Carbon Budget Delivery Plan</b></p> <p>Please submit the Carbon Budget Delivery Plan (notwithstanding the hyperlink already provided in the ES) along with the Judgement in Friends of the Earth v Secretary of State for Energy Security and Net Zero [2024] EWHC 995 (Admin) and comment on uncertainties in achieving net zero.</p> <p>Planning Practice Guidance [Paragraph: 001 Reference ID: 21a-001-20140306] is clear that planning conditions, and by extension requirements, can be used to enhance development. It follows that the outcome of the necessity test is not purely a function of whether a requirement mitigates harm to make a development acceptable.</p>

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<b>ExQ3</b>	<b>Question to:</b>	<b>Question:</b>
		In this context, would a requirement that secures low carbon hydrogen certification help address net zero policy delivery uncertainty and thereby enhance the Proposed Development's contribution to achieving net zero?
<b>4.</b>	<b>Design</b>	
		No specific questions at this time.
<b>5.</b>	<b>Biodiversity</b>	
		No specific questions at this time.
<b>6.</b>	<b>Habitats Regulations Assessment</b>	
HRA 3.1	MMO	<p><b>Sediment Sampling</b></p> <p>In your Relevant Representation [RR-016, Paragraph 3.3.2] you noted that you had comments surrounding Condition 9, Sediment Sampling, and Condition 20(1), Disposal at Sea, and that you were reviewing these in line with other developments and would provide further comments at a later stage.</p> <p>If these further comments have been provided, signpost the ExA to the submission document, alternatively provide these at Deadline 6.</p>
HRA 3.2	The Applicant NELC EYRC	<p><b>Section 106 Unilateral Undertaking relating to Habitat Compensation Scheme</b></p> <p>A second Revision of this UU was received at Deadline 4 [REP4-041]. Can the Applicant and other signatories (NELC and ERYC) confirm whether this UU will be agreed and signed off prior to the end of the Examination?</p>
HRA 3.3	NE	<p><b>Items marked Yellow</b></p> <p>The Applicant has responded to Action Point 4 from ISH8 [REP5-050] with an update on all issues marked Yellow.</p> <p>Update your representation in relation to the information provided and confirm whether any issues have now turned Green.</p>



ExQ3	Question to:	Question:
<b>7. Landscape and Visual Effects</b>		
LV 3.1	The Applicant	<p><b>North Lincolnshire Landscape Character Assessment</b></p> <p>The North Lincolnshire Landscape Character Assessment was referred to in the Landscape and Visual Assessment [APP-055, Paragraph 13.6.23], although it was noted that this document was under review at the time of writing.</p> <p>Has the review been completed and, if so, do the conclusions in the ES remain valid?</p>
LV 3.2	NELC	<p><b>Long Sections</b></p> <p>The Applicant has responded to Action Point 6 from ISH8 [REP5-050] to provide clarity on the purpose and limitations of the Long Sections and has included new Long Sections, now referred to as Elevations, within the Appendices of this document. The response also includes further consideration of North Beck Energy.</p> <p>Confirm whether you are in agreement with the explanation of the purpose and methodology of the Elevations and whether you require any other information in this regard.</p>
<b>8. Flood Risk and Coastal Change</b>		
FR 3.1	The Applicant	<p><b>Marine Policy Statement</b></p> <p>Appendix B of the Planning Statement [APP-228] assesses compliance with the East Inshore Marine Plan. Should a similar compliance assessment be prepared for the Marine Policy Statement, in order to ensure the ExA can give regard to it in accordance with s104(2)(aa) of the PA2008?</p>
FR 3.2	The Applicant	<p><b>Flood Emergency Response Plan</b></p> <p>Is the Flood Emergency Response Plan mentioned in the ES [APP-209] adequately secured in the dDCO? NPPF states there must be safe access and escape routes included where appropriate, as part of an agreed emergency plan. As such, would submission of these details need to be secured by requirement for the approval of NELC (as the LLFA) in consultation with other relevant statutory authorities?</p>
<b>9. Water Quality and Resources</b>		
		No specific questions at this time.

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<b>ExQ3</b>	<b>Question to:</b>	<b>Question:</b>
<b>10.</b>	<b>Traffic and Transport</b>	
		No specific questions at this time.
<b>11.</b>	<b>Marine Movement and Operational Safety</b>	
		No specific questions at this time.
<b>12.</b>	<b>Major Accidents and Hazardous Substances</b>	
		No specific questions at this time.
<b>13.</b>	<b>Construction Effects</b>	
		No specific questions at this time.
<b>14.</b>	<b>Socio-economic</b>	
		No specific questions at this time.
<b>15.</b>	<b>Decommissioning</b>	
		No specific questions at this time.
<b>16.</b>	<b>Cumulative Effects and In-combination effects</b>	
		No specific questions at this time.
<b>17.</b>	<b>Compulsory Acquisition and Temporary Possession</b>	
CATP 3.1	The Applicant	<b>Book of Reference and Land Rights Tracker</b> Please provide a written summary of all outstanding matters relating to compulsory acquisition and temporary possession.
<b>18.</b>	<b>Development Consent Order</b>	
DCO 3.1	The Applicant	<b>Article 21 – Human Remains</b> Whilst the matter was discussed at ISH5 and was the subject of submissions by the Applicant, since then, similar Articles have been removed by the SoS in a number of subsequently Made

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ExQ3	Question to:	Question:
		<p>Orders (Sunnica, Mallard Pass and Gate Burton Energy Park). In Sunnica, the SoS felt the matter should be included in the site-specific Written Scheme of Investigation (WSI). The IGET WSI [APP-199] contains a section specifically dealing with Human Remains. Given the matter appears to be addressed through the WSI, notwithstanding the submissions already made to the Examination, explain and justify why the matter needs to be duplicated within the DCO?</p>
DCO 3.2	MMO	<p><b>Schedule 3 – Deemed Marine Licence</b></p> <p>Throughout the Examination the Applicant has made a number of changes to Schedule 3 (Deemed Marine Licence). Excluding the issues that ExA are aware of in relation to paragraphs 24 - 27 of the DML, confirm whether these changes have addressed the matters raised in your Relevant Representations. If not, please explain what changes you are seeking to Schedule 3 and explain and justify these.</p>
<p><b>19. Heritage</b></p>		
HER 3.1	HE	<p><b>Change 8 – Ground Protection Methodology in Work No 9</b></p> <p>In the Statement of Common Ground [REP3-054] you have agreed with the proposed embedded mitigation measures for ground protection. However, these have been updated through Change Request 8 [AS-144] which seeks a change from ground matting to geotextile and 150mm of compacted fill. Confirm whether this change is acceptable and whether it alters your position on this matter.</p>
HER 3.2	HE	<p><b>Change 9 – Piling Methodology in Work No 7</b></p> <p>In the Statement of Common Ground [REP3-054] you have agreed with the assessment of potential impact on peat deposits during construction in relation to the type of piling proposed. However, this has now been changed through Change Request 9 [AS-144] which seeks a change from bored to driven piles. Confirm whether this change is acceptable and whether it alters your position on this matter.</p>