

**Application by Associated British Ports for an Order Granting Development Consent for the Immingham Green Energy Terminal.**

**The Examining Authority's Schedule of Proposed Changes to the draft Development Consent Order (dDCO).**

**Issued on Wednesday 17 July 2024.**

This document sets out the Examining Authority's (ExA) proposed changes to the latest version of the Applicant's dDCO submitted at Deadline 5 of the Examination [REP5-004]. Column 1 of the table sets out the unique reference number for each proposed change. Column 2 sets out the provision in the dDCO to which the proposed change relates. Column 3 describes the recommended change, with proposed deletions shown as ~~strikethrough~~ and with proposed additions shown in **red text**. Column 4 provides the ExA's reasoning as to the recommended change and any further commentary.

There may be further changes to the dDCO which the ExA recommends to the Secretary of State to take account of other matters that have been and continue to be examined. This is particularly likely in the event that it is clear that there are fundamental differences between parties on a number of issues. These will need to be reported to the Secretary of State along with the ExA's conclusions when all the evidence has been submitted.

Should the Applicant or any other party wish to make any comments on this schedule of proposed changes then these should be submitted at **Deadline 6 (Friday 2 August 2024)**.

**Abbreviations used:**

<b>Art</b>	Article	<b>NELC</b>	North East Lincolnshire Council
<b>dDCO</b>	Draft DCO	<b>NPSfP</b>	National Policy Statement for Ports
<b>EMP</b>	Environmental Management Plan	<b>R</b>	Requirement
<b>ExA</b>	Examining Authority	<b>Sch</b>	Schedule
<b>MMO</b>	Marine Management Organisation	<b>SI</b>	Statutory Instrument
<b>NE</b>	Natural England	<b>SoS</b>	Secretary of State



Ref No.	Provision	Proposed change	ExA Reasoning
DCO-PC 01	Whole dDCO	<ol style="list-style-type: none"><li>1. Please check internal references, statutory citations and references and legal footnotes and update as required.</li><li>2. Please review additions to the dDCO ensuring that the titles and numbering of all provisions remains consistent throughout and with the Table of Contents. Also please undertake a check to ensure spelling and punctuations are correct throughout.</li><li>3. Ensure dDCO follows best practice in Advice Notes 13 and 15, Guidance on the content of a DCO required for NSIPs (April 2024) and (as relevant) guidance on SI drafting from the Office of the Parliamentary Counsel.</li></ol>	To ensure accuracy of the final dDCO.
DCO-PC 02	Art 46, Benefit of Order		<p>The ExA is aware that this Article is the subject of on-going discussions between the Applicant and MMO. Therefore, the ExA does not propose any changes at this stage in advance of the conclusion of those discussions.</p> <p>From submissions by the parties, the ExA is also aware that these discussions may not resolve the matter and it may therefore fall to the</p>



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			ExA to make a recommendation to SoS on the final wording, should the DCO be made.
DCO-PC 03	Schedule 2 – New Requirement 20 Low Carbon Hydrogen Certification	<p>Include a new requirement securing low carbon hydrogen certification, as follows:</p> <p><b>20 – (1) Any hydrogen produced by the authorised development must receive low carbon hydrogen certification as soon as practicable following its production.</b></p> <p><b>(2) The certification must align with the low carbon hydrogen standard or other such standard that is consistent with the low carbon hydrogen objectives within the carbon budget delivery plan or its successor document.</b></p> <p><b>(3) The certification must be readily available for inspection by the relevant local planning authority.</b></p>	<p>NELC confirmed they would be unlikely to have the expertise to monitor the nature of hydrogen being produced [REP4-049].</p> <p>Consequently, the requirement is necessary to ensure NELC has a simplified non-technical mechanism to monitor the nature of hydrogen being produced, enabling them to assess whether any future changes would unacceptably alter the environmental effects assessed as part of the application.</p> <p>Furthermore, there is uncertainty about net zero policy delivery as established within the Carbon Budget Delivery Plan and associated High Court Judgement [WQ3 CC3.2].</p> <p>Consequently, the requirement is necessary to enhance the Proposed Development and improve its</p>



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			contribution to addressing net zero uncertainty.
DCO-PC 04	Schedule 2 – New Requirement 21 Flood Emergency Response Plan	<p>Include a new requirement securing a Flood Emergency Response Plan, as follows:</p> <p><b>21 – (1) No part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 5 or Work No. 7 may be commenced until a flood emergency response plan for that part has been submitted to and approved by the relevant planning authority, following consultation with the lead local flood authority and the Environment Agency.</b></p> <p><b>(2) Any a flood emergency response plan submitted and approved under sub paragraph (1) must (so far as applicable) be in general accordance with the flood risk assessment contained in appendix 18.A of the environmental statement.</b></p>	The ExA consider it necessary to attach an additional requirement to ensure the details of any Flood Emergency Response Plan are to the satisfaction of the relevant planning authority and statutory bodies.
DCO-PC 05	Sch. 3, Paragraphs 24 - 27 Deemed Marine Licence		The ExA is aware that this Article is the subject of on-going discussions between the Applicant and MMO.



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			<p>Therefore, the ExA does not propose any changes at this stage in advance of the conclusion of those discussions.</p> <p>From submissions by the parties, the ExA is also aware that these discussions may not resolve the matter and it may therefore fall to the ExA to make a recommendation to SoS on the final wording, should the DCO be made.</p>
DCO-PC 06	Sch. 15, Documents and Plans to be certified	<p>List should be reviewed to ensure that documents are given the correct reference, revision number and submission date.</p> <p>To aid visual presentation and improve legibility, the ExA considers that the Schedule would be best presented as a table or with horizontal dividing lines inserted to make it easier to identify the individual documents and their associated references.</p>	To aid legibility.