



Immingham Green Energy Terminal

TR030008

Volume 9

9.4.2 Land Rights Tracker: Statutory Undertakers compulsory acquisition schedule

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009 (as
amended)

August 2024

Infrastructure Planning

Planning Act 2008

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

Immingham Green Energy Terminal

Development Consent Order 2023

9.4.2 Land Rights Tracker: Statutory Undertakers Compulsory Acquisition Schedule

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Application Document Reference	TR030008/EXAM/9.4.2
Author	Associated British Ports Air Products BR

Version	Date	Status of Version
Version 1	13 March 2024	Deadline 1
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Version 3	4 June 2024	Deadline 4
Version 4	11 July 2024	Deadline 5
Version 5	15 August 2024	Deadline 7

Immingham Green Energy Terminal

Schedule and status of all **STATUTORY UNDERTAKERS'** agreements, negotiations, and objections to the grant of Compulsory Acquisition or Temporary Possession powers

Name [A]	IP/ AP Ref No. [B]	Agent or Representative [C]	Description of Land and Rights Requested relating to specified plot(s) [D]				Interests [I]	EL Ref Nos. for AP's Representations [J]	EL Ref Nos. for Applicant's Response Refs. [K]	Engagement of s127 and s138 [L]	Protective Provision Status [M]	Side Agreements [N]	Heads of Terms [O]	Complete [P]	Status of Objection [Q]	Last Updated [R]
			Type of Rights [E]	Plots [F]	Plan Ref No. [G]	Duration of Temporary Rights [H]										
Anglian Water Services Limited	72	N/A	Permanent rights and temporary possession and use	5/11, 5/12, 5/13, 5/14, 5/18, 5/22, 6/18	Sheets 5 and 6 (APP-015)	Approximately 3 years	Part 1 (Category 1 – Lessee and Category 2 – Third Party Interest)	RR-001, AS-145	REP1-021 (Chapter 2, Page 2), REP6-023	Section 127 – Yes (in respect of the acquisition of rights only under section 127(5)) Section 138 - Yes	Agreed	Not required	Subject to negotiations	No	<p>In August 2022 the Applicant wrote to the Affected Party to introduce the Project, provide timelines and explain the consenting process. This letter also outlined the potential land interest status of the Affected Party and provided contact details for further information and next steps.</p> <p>Between November 2022 and May 2023 Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In February 2023, in response to Statutory Consultation, the Affected Party confirmed to the Applicant that they have significant assets within the Project boundary. They therefore highlighted the need for Protective Provisions to be agreed and attached a template for this. The Applicant responded with confirmation that draft Protective Provisions have been prepared and are included within the draft DCO.</p> <p>In February 2023 the Affected Party recommended further discussions around the impact of the Project on their assets. In April 2023, a meeting was held with the Affected Party. Within this meeting, new connections, diversions and the protection of assets was discussed.</p> <p>Discussions were had with the Affected Party regarding diversions.</p> <p>In October 2023 Gateley Hamer sent a Section 56 notification of acceptance to the Affected Party.</p> <p>In January 2024 the Applicant advised the Affected Party of the Protective Provisions included in the draft DCO [TR030008/APP/2.1] and proposed changes to the Protective Provisions. The Affected Party responded by providing their standard Protective Provisions and requesting confirmation of any site specific reasons to deviate from their standard position.</p> <p>Comments were received from the Affected Party's solicitor in respect of the Protective Provisions on 29 April 2024 and the Applicant's solicitor responded on 30 April 2024. Various correspondence between the solicitors through May on provisions of the Protective Provisions.</p> <p>Protective Provisions in favour of the Affected Party were agreed on 24 June 2024. Heads of Terms remain as 'Subject to Negotiations' as this relates specifically to the leasehold interest the Affected Party have in relation to DCO Plot 5/14. For the avoidance of doubt, 'Subject to Negotiations' does not relate to Protective Provisions or any asset protection arrangements but instead to the property matters which may follow the making of the Order.</p>	12/08/2024
			Suspend or interfere with private easements or rights only	5/19, 5/21, 5/40, 5/41, 5/42	Sheet 5 (APP-015)	N/A	Part 1 (Category 2 – Third Party Interest)									

BT Limited	73	N/A	Permanent acquisition	4/7, 4/16, 4/19, 5/39, 7/23	Sheets 4, 5 and 7 (APP-015)	N/A	Part 1 (Category 2 – Third Party Interest)	N/A	N/A	Section 138 - Yes	No comments received on draft Protective Provisions – considered settled	Not required	Not required	<p>Between November 2022 and May 2023 the Applicant's Land Agent Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In October 2023 Gateley Hamer sent a Section 56 notification of acceptance to the Affected Party.</p> <p>Protective Provisions, set out in the draft DCO [TR030008/APP/2.1] will be used to protect assets set out in the Utilities Statement [TR030008/APP/7.7]. The Affected Party has not commented on the Protective Provisions to date. The Protective Provisions incorporate Part 10 of the Electronic Code (Undertaker's Works Affecting Electronic Communications Apparatus) and therefore any required works would be notified and undertaken in accordance with those provisions.</p>	13/08/2024	
			Permanent rights and temporary possession and use	5/7, 5/8, 5/11, 5/12, 5/13, 5/22, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/38, 6/16	Sheets 5 and 6 (APP-015)	Approximately 3 years	Part 1 (Category 2 – Third Party Interest)									
			Permanent rights in and temporary possession and use of subsoil	4/23, 7/12	Sheets 4 and 7 (APP-015)	Approximately 3 years	Part 1 (Category 2 – Third Party Interest)									
			Temporary possession and use	4/32, 7/4, 7/6, 7/11	Sheets 4 and 7 (APP-015)	Up to 11 years	Part 1 (Category 2 – Third Party Interest)									
			Suspend or interfere with private easements or rights only	4/1, 4/13, 4/15, 5/6, 5/21, 5/31, 7/13	Sheets 4, 5 and 7 (APP-015)	N/A	Part 1 (Category 2 – Third Party Interest)									
Cadent Gas	74	N/A	Permanent rights and temporary possession and use	5/10, 5/11, 5/12, 5/18, 5/20, 5/22, 6/6	Sheets 5 and 6 (APP-015)	Approximately 3 years	Part 1 (Category 2 – Third Party Interest)	RR-002, REP1-088	REP1-021 (Chapter 2, Page 5), REP2-010	N/A	Subject to negotiations	Subject to negotiations	Not required	No	<p>In August 2022 the Applicant wrote to the Affected Party to introduce the Project, provide timelines and explain the consenting process. This letter also outlined the potential land interest status of the Affected Party and provided contact details for further information and next steps.</p> <p>Between November 2022 and May 2023 the Applicant's Land Agent Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In February 2023 in response to Statutory Consultation, the Affected Party confirmed their assets within the Project boundary to the Applicant. They highlighted the need for Protective Provisions to be agreed for retained assets and the provision of adequate notice / discussions around any necessary diversions. The Applicant responded with confirmation that they are in contact with the appropriate teams regarding existing easements, diversions and the protection of assets. As well as this, the Applicant confirmed that Protective Provisions would be developed alongside the Affected Party and submitted to the examination at the appropriate time.</p> <p>Discussion around Protective Provisions are ongoing and draft provisions are set out in the draft DCO [TR030008/APP/2.1]. Protective Provisions will be used to protect the assets set out in the Utilities Statement [TR030008/APP/7.7]. The detail of this protection is to be agreed with the Affected Party and will be shared at the appropriate time.</p> <p>In October 2023 Gateley Hamer sent a Section 56 notification of acceptance to the Affected Party.</p> <p>In October 2023 the Applicant met with the Affected Party to present the proposed design with respect to the protection of the Affected Party's high pressure gas pipeline that runs through the West Site.</p> <p>In February 2024 the Applicant met with the Affected Party for a technical review of the Project. The proposal was deemed acceptable by the Affected Party.</p> <p>In March 2024 the Applicant provided revised Protective Provisions to the Affected Party's solicitors and comments back were received on 24 April 2024. The Applicant responded with revised Protective Provisions on 13 May 2024. The Affected Party's solicitors returned comments to the Applicant at the start of June and the Applicant is to respond shortly. An all parties call was held on 8 August and negotiations are ongoing. The Applicant does not anticipate there will be an impediment to agreeing the documents prior to the close of the Examination.</p>	13/08/2024
			Permanent rights in and temporary possession and use of subsoil	7/12	Sheet 7 (APP-015)	Approximately 3 years	Part 1 (Category 2 – Third Party Interest)									
			Suspend or interfere with private easements or rights only	6/2, 6/5, 6/8, 6/10, 6/17, 7/13	Sheets 6 and 7 (APP-015)	N/A	Part 1 (Category 2 – Third Party Interest)									

Network Rail Infrastructure Limited	75	Addleshaw Goddard	Permanent rights and temporary possession and use	5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/34	Sheet 5 (APP-015)	Approximately 3 years	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	RR-020, REP1-101, REP1-102	REP1-021 (Chapter 2, Page 180), REP2-018, REP5-053	Section 127 – Yes (in respect of the acquisition of rights only under section 127(5))	Subject to negotiations	Subject to negotiations	Subject to negotiations	No	<p>Between November 2022 and May 2023 Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In February 2023 in response to Statutory Consultation, the Affected Party outlined the requirement for Protective Provisions as well as easements / licencing agreements to install the proposed pipeline. The Affected Party also set out their position on the inclusion of their land within the DCO, indicating that they are prepared to discuss this if there is no impact on the operational railway. The Applicant then engaged in discussions with the Affected Party regarding asset protection and stated that a Statement of Common Ground, including details of Protective Provisions, would be developed alongside the Affected Party and submitted to the examination at the appropriate time.</p> <p>In August 2023 the Affected Party appointed a firm to act on their behalf to agree the Protective Provisions. They have issued a standard copy of their Protective Provisions and specific construction traffic requirements to the Applicant. The firm are also acting on behalf of the Affected Party to secure the necessary easements / licencing agreements for the pipeline. Discussion around Protective Provisions are ongoing and draft provisions are set out in the draft DCO [TR030008/APP/2.1].</p> <p>In August 2023 the Applicant provided a comparison between the Protective Provisions included in the draft DCO and the Affected Party's full form Protective Provisions. EMI provisions and the use of level crossings by construction traffic were also discussed in August 2023.</p> <p>In October 2023 Gateley Hamer sent a Section 56 notification of acceptance to the Affected Party and the Applicant confirmed the form of Protective Provisions submitted with the DCO.</p> <p>In November 2023 the Affected Party provided draft Protective Provisions and a 'framework agreement'. The Affected Party subsequently provided a draft asset protection agreement.</p> <p>In November 2023 the Applicant shared their FEED (Front End Engineering Design) report for the underground pipelines with the Asset Protection Team for review and to give the Affected Party the opportunity to comment ahead of the official application.</p> <p>In January 2024 a meeting was held for the Affected Party to present and discuss any comments or feedback arising from the FEED report. No concerns were raised on the construction scope of works. The only issue outstanding was the type of closure required for the rail line. This can only be determined once a specialist Civil Engineering company has been appointed by the Applicant and made an estimate of the duration.</p> <p>In January 2024 the Applicant confirmed that it is taking instructions on whether it is appropriate to proceed to negotiate documentation on the basis of the Affected Party's desired approach.</p> <p>In February 2024 a meeting was held with the Affected Party to discuss the proposed HDD (Horizontal Directional Drilling) under the railway line.</p> <p>In April 2024 a draft deed of easement in respect of the pipeline was provided by the Affected Party's solicitor to the Applicant's solicitor for review. The deed of easement contains the ability for the Affected Party to terminate the deed and also to require that the Applicants installed equipment to be removed or moved ("lift & shift" provisions). If these rights were invoked it would render the Applicant's hydrogen production facility inoperable. Accordingly, while Network Rail has confirmed there are no in principle objections to the Project, discussions are ongoing in respect of the form of ancillary documents, including the request for "lift & shift" provisions in the draft easement (see Applicant's response to ExQ2.1 GEN 2.2 [TR030008/EXAM/9.77])</p> <p>The parties have reached an impasse in respect of the form of easement as requested by Network Rail in respect of the pipelines to be installed as Work No. 6. Network Rail requires any such easement to include provisions enabling the pipeline to be relocated at Network Rail request and for the easement potentially to be terminated. If those rights were invoked and the pipeline could not be relocated, it would render the hydrogen production facility inoperable (the pipeline connects the ammonia storage tank with facilities necessary to produce and distribute hydrogen and the absence of the pipeline connection would undermine both the viability and the functionality of the Project). 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. If NRL raise concerns regarding safety, their judgement on such issues is at their absolute discretion. The Applicant is therefore submitting at Deadline 5, a further iteration of the Network Rail protection provisions which have been revised to ensure Network Rail cannot simply override the use of compulsory acquisition powers. The Applicant is also providing at Deadline 5 a note to the Examination which further explains its position in this regard.</p>	19/07/2024
			Suspend or interfere with private easements or rights only	5/26, 5/31	Sheet 5 (APP-015)	N/A	Part 1 (Category 2 – Third Party Interest)									

Environment Agency	78	N/A	Temporary possession and use	3/2, 4/29, 4/30, 4/32	Sheets 3 and 4 (APP-015)	Approximately 3 years	Part 1 (Category 2 – Third Party Interest)	RR-010, REP1-072, REP1-073, REP3-105, REP4-050, REP4-051, REP5-055	REP1-021 (Chapter 2, Page 21), REP4-045 (Chapter 2, Page 2), REP5-049 (Chapter 2, Page 2)	N/A	Subject to negotiations	Subject to negotiations	Not required	No	<p>Between November 2022 and May 2023 Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>Since January 2023 several meetings have been held to discuss the technical design of the proposed jetty. This has enabled the project team to refine the design in order to address concerns raised by the EA. This includes the development of an access ramp as part of the jetty design to enable ongoing maintenance of the sea wall.</p> <p>Technical discussions have been ongoing with the Affected Party. Protective Provisions, set out in the draft DCO [TR030008/APP/2.1], will be used to protect their infrastructure. The detail of this protection and the protective provisions is to be agreed with the Affected Party.</p> <p>In October 2023 Gateley Hamer sent a Section 56 notification of acceptance to the Affected Party.</p> <p>In October 2023 the Applicant led a meeting to present the flood wall design and to understand if the Affected Party has any specific criteria or requirements. The Affected Party noted that the only specific requirement they have is that the structure is robustly designed, preferably to Eurocodes. The Applicant confirmed that the structure will be designed to Eurocodes and relevant standards.</p> <p>Between April and August 2024 the Applicant has held a number of meetings with the Affected Party to discuss Protective Provisions and an appropriate Flood Defence Agreement. The Affected Party confirmed the principle that the Applicant should be responsible only for ongoing maintenance of that part of the existing flood defences to be crossed by the approach jetty comprised in the DCO's authorised development, and that this should be addressed by way of a Flood Defence Agreement. The Applicant's solicitors have since provided two successive drafts of the proposed Flood Defence Agreement and revised draft Protective Provisions for consideration by the Affected Party, following receipt of preliminary comments from the Affected Party. The Affected Party has informed the Applicant that it is still considering these documents but the parties are seeking to agree these in advance of close of the Examination and do not currently envisage any particular impediment to doing so.</p>	13/08/2024
National Gas Transmission Plc	79	N/A	Suspend or interfere with private easements or rights only	5/16, 5/17	Sheet 5 (APP-015)	N/A	Part 1 (Category 2 – Third Party Interest)	N/A	N/A	N/A	Not required	Not required	Not required	Yes	<p>The Affected Party have a right for a pipeline, in respect of an Agreement dated 17th July 2001. The Applicant intends to acquire new permanent rights for their own pipeline.</p> <p>The Affected Party's pipeline will run perpendicular to the Project pipeline. The depth that the Project's pipeline in this location is to be buried at means there will not be interference with the Affected Party's pipeline and therefore direct discussions are not required.</p> <p>In May 2023 Gateley Hamer engaged with the Affected Party regarding Statutory Consultation.</p> <p>In October 2023 Gateley Hamer sent a Section 56 notification of acceptance to the Affected Party.</p>	13/08/2024

Notes	
1.	All interests which are not already acquired at the point of submission should be entered in this tracker and marked complete when agreement with known interests is reached.
2.	Any non-agreement is also counted as an objection by an Affected Person(s) (AP) for the purpose of this tracker.
3.	An entry should also be made where the interest (or potential interest) holder is not known, to allow the relevant information to be added following diligent inquiry, negotiation etc.

Key	
[A]	Name of AP
[B]	Reference number assigned to each Interested Party (IP) and AP.
[C]	Person or organisation representing the interests of the AP(s). Enter N/A if the AP(s) are representing
[D]	Description of land and rights requested from the BoR including restrictive covenants.
[E]	Indicates whether the Applicant is seeking compulsory acquisition or temporary possession of land/rights, or temporary possession with permanent rights. The Applicant may edit these categories, if required.
[F]	Identify plot numbers from the BoR against each type of right sought.
[G]	Provide the Land Plan sheet number and Examination Library (EL) reference number.
[H]	Likely duration of any temporary rights such as Temporary Possession [TP].
[I]	Identify the persons in the BoR relating to the entry, and if the IP or AP is Category 1 or 2. - A person is within Category 1 if the Applicant, after making diligent inquiry, knows that the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land, see section 57 (1) of the 2008 Act. - A person is within Category 2 if the Applicant, after making diligent inquiry knows that the person: interested in the land or has the power to sell or convey the land or to release the land, see Section 57(20) of the 2008 Act. tenant (whatever the tenancy period) or occupier of the land, see section 57 (1) of the 2008 Act.
[J]	List the EL reference numbers for all representations made by the party to the Examination, including Relevant Representation, Written Representation, other written submissions, oral submissions at Hearings, and appearance at Accompanied Site Inspection(s). Update this list with each subsequent revision.
[K]	List the EL reference numbers for all of the Applicant's responses in the EL including specific reference to relevant sections within documents. Update this list with each subsequent revision.
[L]	If s127 and s138 of PA2008 is engaged
[M]	If Protective Provisions are proposed in the dDCO, what is the status?
[N]	Identify if the AP is negotiating a side agreement with the Applicant, and the status of it.
[O]	Identify if the status of the Heads of Terms between the AP and the Applicant.
[P]	Has an agreement been signed.
[Q]	Narrative on negotiations to date
[R]	Date of last update