

IMMINGHAM EASTERN RO-RO TERMINAL



Statement of Common Ground between Associated British Ports and Natural England

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1 Section 1 – Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared in relation to the application (the “Application”) by Associated British Ports (“ABP”), made under the provisions of Section 37 of the Planning Act 2008 (“the PA 2008”), for a Development Consent Order (“DCO”) which if approved will authorise the construction and operation of the Immingham Eastern Ro-Ro Terminal (IERRT).
- 1.2 The IERRT development proposed by ABP falls within the definition of a Nationally Significant Infrastructure Project (“NSIP”) as set out in Sections 14(1)(j), 24(2) and 24(3)(b) of the PA 2008.

The Project

- 1.3 In summary, the IERRT development comprises two principal elements:
- (a) On the marine side, the development which comprises the construction of a new three berth Roll-on/Roll-off harbour facility and related marine infrastructure; and
 - (b) On the landside, the provision of a suitably surfaced area to accommodate a terminal building and ancillary buildings together with storage and waiting space for the embarkation and disembarkation of the vessel borne wheeled cargo.
- 1.4 The landside development will also include, within the Order Limits – i.e., within the boundary of the development site, a building for the UK Border Force together with an area for disembarked traffic awaiting UK Border Force checks prior to departure from the Port.
- 1.5 ABP will also be providing an area of off-site environmental enhancement at Long Wood, which is located close to the Port of Immingham’s East Gate.

Parties to this Statement of Common Ground

- 1.6 This SoCG is submitted on behalf of:
- (a) ABP – the promoter of the IERRT development and the owner and operator of the Port of Immingham; and
 - (b) Natural England (“NE”) – the government’s advisor on the natural environment. Its purpose is to help, conserve, enhance and manage the natural environment for the benefit of present and future generations, thereby contributing to sustainable development. It was created as a Non-Departmental Public Body under the provisions of the Natural Environment and Rural Communities Act 2006 and is formally accountable to the Secretary of State for the Environment, Food and Rural Affairs. It is responsible for ensuring that England's natural

environment, including its land, flora and fauna, freshwater and marine environments, geology and soils, are protected and improved.

1.7 In this SoCG ABP and NE are collectively referred to as “the Parties”.

The Purpose and Structure of this Document

1.8 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the examination so as to assist the Examining Authority in its consideration of the Application.

1.9 In preparing this SoCG, the guidance provided in ‘Planning Act 2008: examination of application for development consent’ (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the ExA procedural decision of 26 May 2023 [and the subsequent PAD Summary Statement submitted to the examination by NE on 15 August 2023].

1.10 Section 1 of this SoCG is designed to act as a general introduction to the IERRT project and to the parties concerned.

1.11 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.

1.12 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.

1.13 The Tables in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:

- (a) Green – matter agreed;
- (b) Orange – matter ongoing;
- (c) Red – matter not agreed; and
- (d) Yellow – matter not agreed – no material impact.

2 Section 2 – Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP and NE up to the date of this SoCG in relation to the IERRT project generally and concerning the matters raised in this SoCG specifically is presented in Table 2.1 below.
- 2.2 It is agreed by the Parties to this SoCG that Table 2.1 is an accurate record of the meetings and key correspondence between the Parties.

Table 2.1 – Summary of Engagement

Date	Form of Contact	Summary with key outcomes and points of discussion
16 July 2021	Email	Introduction of the proposed development including a description of the consenting approach and presenting a timeline for the proposed development.
13 October 2021	Email	Scoping Opinion response.
19 January 2022	Email	Statutory consultation notification.
23 February 2022	Email	Response to s.42 consultation.
7 February 2022	Meeting	Update on the project and programme. Discussion of Environmental Impact Assessment ('EIA') and Habitat Regulations Assessment ('HRA') approaches, with key potential impacts and mitigation. Natural England to provide follow up advice with respect of recent case law considering the loss of habitat at screening/ assessment stage of the HRA.
16 March 2022	Meeting	Update on revised scheme including programme. Discussion of Preliminary Environmental Impact Report ('PIER') consultation response. Discussion of updates to the impact assessment outcomes and mitigation, as well as the EIA and HRA approach.
28 April 2022	Meeting	Provided scheme update. Discussions on intertidal and subtidal habitat loss and bird mitigation.
3 May 2022	Email	Natural England request for additional information.
25 May 2022	Email	Natural England provided advice on wildfowling.
27 May 2022	Email	ABP requested the SSSI consents that Natural England have issued for wildfowling activity and making arrangements for a further meeting.

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Date	Form of Contact	Summary with key outcomes and points of discussion
6 June 2022	Email	Introduction of new case officer and making arrangements for a further meeting.
17 June 2022	Email	Wildfowling SSSI consents issued and making arrangements for a further meeting.
17 June 2022	Email	ABP request for a specific licence.
1 July 2022	Email	ABP follow up to request for a specific licence.
6 July 2022	Email	Natural England advise that ABP should submit a Freedom of Information ('Fol') request for the specific licence.
28 July 2022	Virtual Meeting	Discussion of project.
28 July 2022	Letter	ABP Fol request.
26 August 2022	Letter	Fol request response.
2 September 2022	Email	ABP provided draft meeting notes and presentation for review.
6 September 2022	Email	ABP asked for clarification on wildfowl surveys.
7 September 2022	Email	Natural England confirmed that they would review the wildfowl survey question as soon as possible, and asked whether they could track changes into the draft meeting note previously provide to them. Additional queries relating to Marine Licence application.
22 September 2022	Email	Natural England update as to when they would respond with comments on the meeting notes.
26 September 2022	Email	Query on wildfowling licence.
29 September 2022	Email	Follow up regarding meeting comments.
3 October 2022	Email	Advice regarding discussions during the DAS meeting and response to meeting comments.
27 October 2022	Email	Supplementary statutory consultation notification.

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Date	Form of Contact	Summary with key outcomes and points of discussion
2 November 2022	Email	Request for a document which identifies the changes made to the application proposals.
27 November 2022	Email	Response to supplementary statutory consultation.
9 March 2023	Email	Confirmation that Natural England will focus on preparing a relevant representation but would like to have a virtual meeting with ABP to discuss a Statement of Common Ground following 19 April 2023.
9 March 2023	Email	Notice of acceptance of application by PINS.
10 March 2023	Email	ABP agreed to a virtual meeting following 19 April, and offered any necessary support in the meantime.
31 March 2023	Email	ABP offer any necessary support for preparation of a Relevant Representation and suggesting dates for a virtual meeting following 19 April 2023.
21 April 23	Email	NE request a site visit and also ask when the draft SoCG will be sent through to them for review.
21 April 23	Email	ABP confirm that a site visit is acceptable.
24 April 23	Email	ABP confirm that they are reviewing the Relevant Representations and may need to clarify a number of matters in order to prepare a draft SoCG. ABP request that NE suggest dates for a potential meeting.
2 May 23 – 15 May 23	Emails	ABP and MMO organise and finalise meeting and site visit arrangements.
18 May 23	Meeting	Site visit and follow up meeting to discuss issues raised in relevant representations.
23 May 23	Email	ABP send through presentation slides from the meeting and outline a schedule of technical appendices to be issued. A timeline for ongoing engagement is outlined. ABP also advise NE that they will be engaging with them on the SoCG.
26 May 23	Email	ABP send a follow up email to the 23.05.23 email requesting confirmation that NE agree to the meeting proposed for the 14.06.23.
6 June 23	Email	NE request rescheduling the meeting for w/c 19.06.23 because they haven't received any information to review. The NE benthic specialist has provided comments and NE will send them over by the end of the week.

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Date	Form of Contact	Summary with key outcomes and points of discussion
6 June 23	Email	ABP confirm that the information for review is due to be issued by the end of the week and agreed a meeting either on 22nd or 26th June. The focus would be to discuss the relevant representations and cross reference to the technical information provided. ABP also note the PINS procedural decision that had been issued and the implications of this for NE.
12 June 23	Email	ABP send through the documents to address the points raised in the NE relevant representations for review in advance of the meeting on the 26.06.23.
13 June 23	Email	NE confirm receipt of documents and suggest revising the date of the meeting to allow sufficient time to review as members of the project team are also working on the IGET project.
13 June 23	Email	ABP request that the initial meeting date was retained due to the procedural timetable the project is now within. ABP also confirm that they are happy to enter into a DAS but request clarification of what consultation activities form part of the DCO examination and therefore within NE's statutory duty.
19 June 23	Email	NE request that the meeting is moved to w/c 03.07.23.
21 June 23	Email	ABP agree to rearranging the meeting and request that a date is fixed as soon as possible. ABP also request that a list of issues is provided in advance of that meeting. ABP note the procedural timescales of 06.07.023 for PAD summary documents to be produced and that the first issue specific hearing, including ecology, is to be held on 27.07.23.
21 June 23	Email	NE propose a meeting on 03.07.23. NE note that they will be clearer on the topics to be discussed in the meeting when the review of the signposting documents had been completed. NE confirm they are aware of the Rule 6 letter and associated timescales. NE also confirm that benthic ecology comments are complete and will be sent to PINS as a late submission. Comments on SSSI are still pending completion.
26 June 23	Email	ABP follow up on the issuing of the meeting invitation for 03.07.23.
27 June 23	Email	NE confirm that the invitation will be sent imminently.

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Date	Form of Contact	Summary with key outcomes and points of discussion
28 June 23	Email	ABP request confirmation that the meeting will be running.
30 June 23	Email	NE issue spreadsheet identifying areas for discussion at meeting including NE position on issues.
03 July 23	Email	NE confirm that specialist ornithology comments will not be available for the meeting but will be added to the spreadsheet tomorrow.
03 July 23	Meeting	Discussion of Relevant Representations, outlining areas of agreement and where further information is required.
04 July 23	Email	NE request dates for receiving additional information discussed at the meeting and the draft SoCG.
10 July 23	Email	ABP issue signposting documents, summary of position within DCO process and request information from NE specialists which is needed to progress the draft SoCG.
11 July 23	Email	ABP issue sector A and C data and request an update on outstanding information within the table.
13 July 23	Email	NE acknowledge receipt of information and confirm they are waiting for advice from specialists.
14 July 23	Email	ABP suggest having regular meetings during examination period.
18 July 23	Email	ABP highlight draft timetable for examination and query whether NE would be sending a representative to the ISH2. ABP confirm that they are still waiting to hear from NE specialists on signposting documents that were issued on 10.07.23. ABP request technical calls with ornithology and air quality specialists. Also, ABP reiterate the offer of having regular meetings during examination period.
19 July 23	Email	NE confirm they will be responding as soon as possible.
19 July 23	Email	ABP note NE response.
02 August 23	Meeting	Meeting to provide updates on key outstanding points and Examination requirements
18 September 23	Meeting	Discussion on Written Representation, outlining areas of agreement and ABP's position on each matter

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Date	Form of Contact	Summary with key outcomes and points of discussion
6 October 23	Email	ABPmer provide further signposting document providing clarification on outstanding points in Written Representation
11 October 23	Email	ABPmer provide draft updated HRA report (APP-115) for NE comment ahead of Deadline 5
17 October 2023	Email	ABPmer provide draft SoCG for NE comment ahead of Deadline 5
20 October 2023	Meeting	Meeting to provide updates on key outstanding points, review SoCG and Examination requirements
8 November 2023	Meeting	Meeting to provide update on SoCG progress and next steps

3 Section 3 – Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that the following Chapters in the Environmental Statement (Application Document Reference Number 8.2) and the Consultation Report (Application Document Reference Number 6.1) submitted with the Application set out the consultation and engagement undertaken between the Parties in relation to the Application:
- 3.1.1 Chapter 7 – Physical Processes [APP-043];
 - 3.1.2 Chapter 8– Water and Sediment Quality [APP-044];
 - 3.1.3 Chapter 9 – Nature Conservation and Marine Ecology [APP-045];
 - 3.1.4 Chapter 13 – Air Quality [APP-049];
 - 3.1.5 Chapter 17 – Traffic and Transport [APP-053]; and
 - 3.1.6 Chapter 20 – Cumulative and In-Combination Effects [APP-0056].
- 3.2 Table 3 below contains a list of ‘matters agreed’ and a list of ‘matters outstanding’ at the date of the Examination along with a concise commentary of what the items refers to and how it came to be agreed between the Parties.

Table 3: List of Matters Agreed and Outstanding

Matter	Reference	NE's Position	ABP's Position	Status	Date
Scope of assessment					
Scope of assessment	Chapter 9 of the ES (APP-045)	Broad agreement with scope of assessment set out in PEIR. Some requests for further clarification were made on collision risk, proximity to haul out sites and underwater noise impacts to marine mammals during operation (as detailed below in this table)	Scope of assessment presented in the ES is in line with that set out in PEIR with additional clarification provided where requested	Agreed	06 March 2023
Collision risk to marine mammals	Chapter 9 of the ES (APP-045)	NE indicated broad agreement with scoping out collision risk to marine mammals from the assessment provided further quantification of impact parameters was presented	Potential collision risk including vessel speeds and the number of vessel movements is considered in more detail in Tables 9.21 and Table 9.25 of Chapter 9 of the ES. In summary, vessels involved in construction and dredging/dredge disposal, or using the berths during operation, will be mainly stationary or travelling at low speeds (2-6 knots), making the risk of collision very low. Furthermore, the region is already characterised by heavy shipping traffic. Additional movements due to construction activity (including capital dredging) or during operation will only constitute a small increase in	Agreed	06 March 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
			vessel traffic in the area. Marine mammals in the area are also considered adapted to living in an environment with high levels of vessel activity.		
Proximity to seal haul out sites	Chapter 9 of the ES (APP-045)	NE requested information to justify scoping out the potential for disturbance to seal haul out sites due to physical presence of vessels. Specifically, the ES should include information on the distance between the proposed works (including any possible vessel transits due to dredge disposal) and seal haul out sites.	The proximity to seal haul out sites is considered further in Table 9.21 and Table 9.25 of Chapter 9 of the ES. In summary, the nearest established breeding colony for grey seals is located over 25 km away at Donna Nook. Approximately 10 to 15 grey seals were also observed hauling out on the mudflat at Sunk Island (on the north bank of the Humber Estuary) which is approximately 4 km northeast from the proposed development and around 3-4 km from the dredge disposal sites (including transit routes). These haul out sites are beyond the zone of influence of any potential disturbance effects as a result of dredging, dredge disposal or construction activity.	Agreed	06 March 2023
Underwater noise disturbance to marine	Chapter 9 of the ES (APP-045)	NE requested information to justify scoping out the potential for underwater noise disturbance	Underwater noise disturbance to marine mammals during operation is assessed in Table 9.25 of the ES. In summary, the outcomes of	Agreed	06 March 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
mammals during operation		to marine mammals during operation	the assessment of underwater noise disturbance from capital dredging activities during construction will be the same for maintenance dredging activities and Ro-Ro vessel movements during operation. A worst-case source level for all types of dredgers has been applied to the underwater noise assessment and, therefore, the predicted ranges of effect are applicable to both the maintenance and Ro-Ro vessel operations. Underwater noise effects on marine mammals were assessed as insignificant during capital dredging with only short-term and mild behavioural responses predicted. The magnitude of potential impact is considered equivalent during maintenance dredging and Ro-Ro vessel operations. The potential effect is, therefore, considered to be insignificant.		
Ornithological survey methodology	Chapter 9 of the ES (APP-045)	NE requested that passage periods are surveyed as well as the usual overwintering period. Natural England welcomes the inclusion of recent surveys to	The 2021/22 survey season started in August rather than October (as per previous years) in order to incorporate the Autumn passage period. Passage surveys	Agreed	07 February 2022

Matter	Reference	NE's Position	ABP's Position	Status	Date
		cover the Autumn passage period (August – September) as well as the Spring passage period (April).	have been undertaken on a weekly basis in March and April 2022 and have also been undertaken on a weekly basis from September to November 2022 (summarised in Section 9.6 of Chapter 9 of the ES).		
Survey and baseline information					
Intertidal benthic survey methodology	Chapter 9 of the ES (APP-045)	NE recommended 30 cm core depth for intertidal benthic invertebrate surveys in its scoping opinion response.	Intertidal benthic invertebrate surveys were undertaken prior to receiving the scoping opinion response from NE and have been undertaken in accordance with industry standard sampling guidelines (15 cm core depth). (<i>Procedural Guideline No. 3-6: Quantitative sampling of intertidal sediment species using cores in the Marine Monitoring Handbook¹</i>). NE has not made further comment after the rationale for the intertidal benthic invertebrate methodology surveys was provided in the PEIR.	Agreed	23 February 2022
Baseline data and information sources	Chapter 9 of the ES (APP-045)	NE do not have any concerns on baseline information used to inform assessment	Baseline data and information sources to inform the description of the baseline environment are considered adequate and sufficient	Agreed	06 March 2023

¹ Joint Nature Conservation Committee, English Nature, Scottish Natural Heritage, Environment & Heritage Services (DoE NI), Countryside Council for Wales, Scottish Association for Marine Science (March 2001)

Matter	Reference	NE's Position	ABP's Position	Status	Date
			to inform the environmental assessment and represent best available evidence.		
Assessment					
Air quality	Chapter 13 of the ES (APP-049)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 1 provided general comments and requested further information in relation to the assessment methodology for air quality impacts from construction and operational phase traffic and/or marine vessel emissions.</p> <p>In our key issues spreadsheet, we advised that as there is a pathway of impact and the 1% screening threshold is exceeded then air quality cannot be screened out at the Likely Significant Effect stage and must be considered under the appropriate assessment.</p> <p>Following the further clarifications provided by ABP on 03/07/23, that the habitat within the zone of influence of any Air Quality impacts is either unvegetated</p>	Further clarifications in relation to NE key issue ref 1 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAr [REP5-020] also includes this information within the appropriate assessment.	Not Agreed – No Material Impact	23 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>mud only; all or partially tidally inundated; or saltmarsh which is in exceedance of 1% of the CLe (NOx) but below the relevant threshold overall, NE agrees that the AA could determine no adverse effect of the integrity of the designated site.</p> <p>We can confirm that the updated HRA AA [REP5-020] reflects the above for the following Humber Estuary Special Area of Conservation (SAC) features / pathways:</p> <ul style="list-style-type: none"> • The H1140 Mudflats and sandflats not covered by seawater at low tide feature has been screened into the appropriate assessment for construction dust impacts. As it has previously been confirmed that unvegetated mud only, and this is either all or partially tidally inundated, we can confirm agreement with no adverse effect on 			

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>integrity from this impact pathway, as concluded in HRA section 4.7.4.</p> <ul style="list-style-type: none"> The H1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) feature has been screened into the appropriate assessment due to an exceedance of 1% of the critical level for NOx. However, as HRA section 4.7.16 states that this is below relevant thresholds, we can agree with the conclusion given in 4.7.21 of no adverse effect on integrity from this impact pathway. <p>However, we advise that this has not been carried out for the following features / pathways, therefore, we are unable to move the issue to "Matters Agreed". However, due to the nature of this issue, we are able to move this to "Matters Not Agreed - No Material Impact" for key issues 1</p>			

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>to 3 issue. Please see below for further detail:</p> <ul style="list-style-type: none"> The features H1110 Sandbanks which are slightly covered by sea water all the time, and H1130 Estuaries are not taken through to appropriate assessment, despite the critical level/load being used for the most sensitive estuary feature in proximity of the development (H1330 Atlantic salt meadows). We agree with the approach of using this feature to determine the critical level/load, however, as advised previously, due to an exceedance of 1% for the H1330 feature and therefore an identified impact pathway, the H1110 and H1130 features would also need to move to appropriate assessment. However, we advise that there would 			

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>also be a conclusion of no AEOI from air quality for these features, as concluded for H1330 in 4.7.21, as the same critical level/loads are applied, the justifications provided in 4.7.16 also apply to H1110 and H1130.</p>			
Air quality	<p>Chapter 13 of the ES (APP-049)</p> <p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 2 requested further clarifications on potential air quality impacts from construction traffic and/or marine vessel emissions on Humber Estuary SAC/SPA/Ramsar designated features.</p> <p>Please refer to comment in the 'NE's Position' column of Key Issue 1.</p>	<p>Further clarifications in relation to NE key issue ref 2 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAR [REP5-020] also includes this information within the appropriate assessment.</p>	Not Agreed – No Material Impact	23 October 2023
Air quality	<p>Chapter 13 of the ES (APP-049)</p> <p>Habitats Regulations</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 3 requested further clarifications on potential air quality impacts from operational traffic and/or marine</p>	<p>Further clarifications in relation to NE key issue ref 3 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAR [REP5-020] also</p>	Not Agreed – No Material Impact	23 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
	Assessment (HRA) (APP-115)	vessel emissions to air on Humber Estuary SAC/SPA/Ramsar designated features. Please refer to comment in the 'NE's Position' column of Key Issue 1.	includes this information within the appropriate assessment.		
Air quality	Chapter 13 of the ES (APP-049) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 4 requested further clarifications on potential for air quality impacts to the Humber Estuary SPA, SAC and Ramsar from construction dust	Further clarifications in relation to NE key issue ref 4 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAR [REP5-020] also includes this information within the appropriate assessment.	Agreed	30 June 2023
Coastal waterbirds	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 5 provided general comments and requested further information in relation to SPA/ Ramsar bird species data. NE advises that the updated HRAR [REP5-020] includes the required information on bird species data.	Further clarifications in relation to NE key issue ref 5 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAR [REP5-020] includes the requested information on bird species data.	Agreed	23 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
Coastal waterbirds	<p>Chapter 9 of the ES (APP-045)</p> <p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 6 requested further clarifications on potential changes in waterbird foraging and roosting during operation (presence of infrastructure), as there is a potential risk of loss of ecological function for SPA waterbirds.</p> <p>The Applicant has addressed this in the updated HRAr [REP5-020].</p>	<p>Further clarifications in relation to NE key issue ref 6 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. Further information was also provided to Natural England on 6 October 2023. The updated HRAr [REP5-020] includes further information within the appropriate assessment and concludes that potential changes in waterbird foraging and roosting during operation would not result in an adverse effect on integrity of Humber Estuary SPA or Ramsar site.</p>	Agreed	23 October 2023
Coastal waterbirds	<p>Chapter 9 of the ES (APP-045)</p> <p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 7 requested further clarifications on potential noise and visual disturbance during construction on qualifying SPA/ Ramsar bird species.</p> <p>The HRA should provide further detail on the effects of construction noise and visual disturbance on SPA birds,</p>	<p>Further clarifications in relation to NE key issue ref 7 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. Further information was also provided to Natural England on 6 October 2023. The updated HRAr [REP5-020] includes this information, and concludes that, with the proposed mitigation measures in place, potential noise and visual disturbance during</p>	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		focussing on the construction activities with the greatest potential for disturbance (such as piling) and the periods with the highest numbers of birds (mainly the winter). The effectiveness of mitigation measures should also be assessed.	construction would not result in an adverse effect on integrity of Humber Estuary SPA or Ramsar site.		
Coastal waterbirds	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 8 requested further clarifications on potential noise and visual disturbance during operation on qualifying SPA/ Ramsar bird species. NE is satisfied with the additional information provided in the updated HRAr [REP5-020] .	Further clarifications in relation to NE key issue ref 8 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013] . The updated HRAr [REP5-020] includes this information.	Agreed	23 October 2023
General HRA comments	Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 9 noted that it would be clearer to organise the assessment in the HRA: all construction effects, then all operational effects as per PINS advice note 10 quoted in paragraph 4.1.4 of the HRA. However, NE advise that this is a note for the Examiners and/or	NE's position is noted and, on that basis, no further response is required	Not Agreed – No Material Impact	19 April 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		competent authority and does not require addressing.			
General HRA screening comments – underwater noise	Habitats Regulations Assessment (HRA) (APP-115)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 noted that underwater noise impacts from vessel operations including maintenance dredging and dredge disposal for sea lamprey, river lamprey and marine mammals are screened out of the HRA.</p> <p>NE is satisfied that underwater noise impacts on fish and marine mammals have now been screened into the assessment.</p> <p>Whilst no information on ambient underwater noise levels at the Port of Immingham has been provided, NE do not consider that this would materially affect the outcomes of the assessment.</p>	Further clarifications in relation to this point under NE key issue ref 10 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013] . The updated HRAr [REP5-020] includes this information.	Not Agreed – No Material Impact	09 November 2023
General HRA screening comments coastal waterbirds	Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 notes that is not clear why the impact of capital dredge disposal on SPA	Further clarifications in relation to these points under NE key issue ref 10 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-	Agreed	23 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>features has not been included and assessed, when it is assessed against Ramsar features in the HRA. This pathway could have the ability to impact on the supporting habitats of SPA waterbirds. Therefore, capital dredge disposal should be included and assessed against SPA features.</p> <p>NE agrees with the additional information provided in the updated HRA [REP5-020].</p>	<p>013]. The updated HRAR [REP5-020] includes this information. The impact of capital dredge disposal on SPA features is not considered to result in an adverse effect on integrity.</p>		
<p>General HRA screening comments coastal waterbirds</p>	<p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 notes that is not clear why the impact of indirect loss or change to seabed habitats and species as a result of changes to hydrodynamic and sedimentary processes on SPA features has not been included and assessed, when it is assessed against Ramsar features in the HRA. Table 4 of the draft HRA appears to cover direct loss of habitat due to piling and capital dredge, indirect</p>	<p>This pathway is separated in Table 4 of the updated HRAR [REP5-020]. It is considered separately in the AA (see Section 4.5).</p>	<p>Agreed</p>	<p>23 October 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>losses should be addressed in the updated HRA.</p> <p>The Applicant has addressed this in the updated HRAr [REP5-020].</p>			
General HRA screening comments coastal waterbirds	Habitats Regulations Assessment (HRA) (APP-115)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 suggests that the supporting habitats (both intertidal and subtidal) have been omitted from the LSE screening table for impacts to the SPA yet have been included and assessed for the potential impacts to Ramsar features. The effects on supporting habitat need to be included and assessed in the HRA.</p> <p>The Applicant has addressed this in the updated HRAr [REP5-020].</p>	<p>Further clarifications in relation to these points under NE key issue ref 10 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAr [REP5-020] includes reference to supporting habitats of qualifying features of the Humber Estuary SPA.</p>	Agreed	23 October 2023
General HRA screening comments – artificial lighting	Habitats Regulations Assessment (HRA) (APP-115)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 suggests that artificial lighting has not been considered in the assessment for impacts, during construction and operation, on designated site features. This impact pathway should be</p>	<p>Further clarifications in relation to this point under NE key issue ref 10 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAr [REP5-020] includes this information.</p>	Agreed	23 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>included and assessed for LSE in the HRA. Lighting should be specifically mentioned in the sections on noise and visual disturbance.</p> <p>The Applicant has addressed this in the updated HRAr [REP5-020].</p>			
<p>General HRA screening comments – loss of migratory fish habitat</p>	<p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 notes that Table 3 of the HRA does not include the potential for LSE for the impact pathway 'Direct loss or changes to migratory fish habitat', with regard to the project activity 'Dredge disposal' on sea and river lamprey.</p> <p>The Applicant has addressed this in the updated HRAr [REP5-020].</p>	<p>It is noted that confirmation on the potential for LSE was missing from the 'Potential for LSE' column of Table 3 of the HRA with respect to the 'Direct loss or changes to migratory fish habitat' pathway for sea lamprey and river lamprey features. However, to clarify, there is considered to be no potential for LSE on these features as a result of this pathway during dredge disposal based on the justification provided in Table 3. The updated HRAr [REP5-020] includes this information.</p>	<p>Agreed</p>	<p>23 October 2023</p>
<p>General HRA screening comments – water and sediment quality</p>	<p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 notes that in Table 4 of the HRA, the impact pathway "Changes in water and sediment quality"</p>	<p>Further clarifications in relation to this point under NE key issue ref 10 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. The updated HRAr [REP5-020] includes this information.</p>	<p>Agreed</p>	<p>23 October 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>should be included and assessed against SPA features.</p> <p>The Applicant has addressed this in the updated HRAR [REP5-020].</p>			
General HRA screening comments	Habitats Regulations Assessment (HRA) (APP-115)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 notes that Tables 3, 4 and 5 should be cross referenced in Section 3.3.2 of the HRA.</p> <p>The Applicant has addressed this in the updated HRAR [REP5-020].</p>	<p>Cross references to Table 4 and 5 were erroneously omitted – this is considered a minor typo. To confirm, the features listed are relevant to all tables and confirm what has been taken through to AA stage. Table 2 lists the designated sites and the interest features of those sites. The updated HRAR [REP5-020] includes this information.</p>	Agreed	23 October 2023
General HRA screening comments – maintenance dredging	Habitats Regulations Assessment (HRA) (APP-115)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 10 notes that the maintenance dredging activity for this project will be carried out under the existing marine licence for the disposal of dredged material from the Port of Immingham (U2014/00429/2). However, we advise that an updated Maintenance Dredging Protocol should be provided to</p>	<p>An updated Maintenance Dredging Baseline Document will be produced in due course to reflect the addition of IERRT infrastructure to the operational maintenance dredged envelope of the port. ABP's current Marine Licence for the disposal of maintenance dredged arisings expires at the end of 2025 so any renewal will reflect all operational areas of the port, including IERRT.</p>	Not Agreed – No Material Impact	23 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>ensure all information on maintenance dredging is captured and the activity across the estuary is robustly assessed.</p> <p>NE wishes to see and comment on the updated Maintenance Dredging Plan.</p>			
<p>Cumulative and in-combination / intra-project effects</p>	<p>Chapter 20 of the ES (APP-056)</p> <p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 11 provided comments and requested further clarifications on general HRA in-combination / intra-project effects / cumulative assessment.</p>	<p>As set out in the Applicant's response to Natural England's written representation [REP3-014] the Applicant maintains that Chapter 20 of the ES [APP-056] and the HRAR [APP-115] includes a comprehensive cumulative and in-combination assessment. As stated in Table 4.7 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013], this assessment was based on the information available at the time of submission of the IERRT DCO application, including in respect of the IGET project.</p> <p>Cumulative and in-combination effects will be assessed (with mitigation proposed if necessary) in respect of the IGET project in</p>	<p>Ongoing</p>	<p>13 November 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
			the IGET DCO application documentation. On this basis, the assessment of cumulative and in-combination effects is considered robust.		
Underwater noise	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 12 requested further clarification on the potential effects of underwater noise and vibration during piling on qualifying species in the HRA assessment. This is specifically in relation to lamprey species and vibro-piling effects at night.	Further clarifications in relation to these points under NE key issue ref 12 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013] . A separate dialogue with Cefas is also ongoing.	Ongoing	13 November 2023
In-combination effects – intertidal habitat loss	Chapter 20 of the ES (APP-056) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 13 requested further clarification on the potential effects of direct loss of qualifying intertidal habitat and in-combination effects with other plans or projects in the HRA assessment. Natural England accepts that at the time of submission the in-combination assessment was based on the information	As set out in the Applicant's response to Natural England's written representation [REP3-014] the Applicant maintains that Chapter 20 of the ES [APP-056] and the HRAR [APP-115] includes a comprehensive cumulative and in-combination assessment. As stated in Table 4.7 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013] , this assessment was based on the information available at the time of	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>available for other projects. However, we consider the impacts of IERRT and the IGET should be assessed in-combination within both applications. We highlight that the IGET Project has now been accepted for Examination so further details will now be available for this Project which should be considered in the ExA's HRA.</p>	<p>submission of the IERRT DCO application, including in respect of the IGET project. Cumulative and in-combination effects will be assessed (with mitigation proposed if necessary) in respect of the IGET project in the IGET DCO application documentation. On this basis, the assessment of cumulative and in-combination effects is considered robust.</p>		
<p>In-combination effects – subtidal habitat loss</p>	<p>Chapter 20 of the ES (APP-056) Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 14 requested further clarification on the potential effects of direct loss of qualifying subtidal habitat and in-combination effects with other plans or projects in the HRA assessment.</p> <p>Natural England accepts that at the time of submission the in-combination assessment was based on the information available for other projects. However, we consider the impacts of IERRT and the IGET should be assessed in-</p>	<p>As set out in the Applicant's response to Natural England's written representation [REP3-014] the Applicant maintains that Chapter 20 of the ES [APP-056] and the HRAR [APP-115] includes a comprehensive cumulative and in-combination assessment. As stated in Table 4.7 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013], this assessment was based on the information available at the time of submission of the IERRT DCO application, including in respect of the IGET project. Cumulative and in-combination effects will be</p>	<p>Ongoing</p>	<p>13 November 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>combination within both applications. We highlight that the IGET Project has now been accepted for Examination so further details will now be available for this Project which should be considered in the ExA's HRA.</p>	<p>assessed (with mitigation proposed if necessary) in respect of the IGET project in the IGET DCO application documentation. On this basis, the assessment of cumulative and in-combination effects is considered robust.</p>		
<p>In-combination effects – subtidal habitat change</p>	<p>Chapter 20 of the ES (APP-056) Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 15 requested further clarification on the potential effects of changes to qualifying habitats as result of the removal of seabed material during capital dredging and in-combination effects with other plans or projects in the HRA assessment.</p> <p>Natural England accepts that at the time of submission the in-combination assessment was based on the information available for other projects. However, we consider the impacts of IERRT and the IGET should be assessed in-combination within both applications. We highlight that the</p>	<p>As set out in the Applicant's response to Natural England's written representation [REP3-014] the Applicant maintains that Chapter 20 of the ES [APP-056] and the HRAR [APP-115] includes a comprehensive cumulative and in-combination assessment. As stated in Table 4.7 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013], this assessment was based on the information available at the time of submission of the IERRT DCO application, including in respect of the IGET project. Cumulative and in-combination effects will be assessed (with mitigation proposed if necessary) in respect of the IGET project in the IGET DCO application documentation. On this</p>	<p>Ongoing</p>	<p>13 November 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
		IGET Project has now been accepted for Examination so further details will now be available for this Project which should be considered in the ExA's HRA.	basis, the assessment of cumulative and in-combination effects is considered robust.		
Vessel movements during operation and associated shipwash	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 16 noted that NE is satisfied that vessel movements during operation and associated shipwash is unlikely to cause an adverse effect on integrity of the Humber SPA/SAC	NE's position is noted, and, on that basis, no further response is required	Agreed	19 April 2023
Sediment deposition	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 17 noted potential effects of changes to qualifying habitats as a result of sediment deposition during capital dredge disposal. NE agrees that the impacts will be small scale or short lived and is not likely to cause an adverse effect on integrity of the Humber SPA/ SAC	NE's position is noted, and, on that basis, no further response is required	Agreed	19 April 2023
Hydrodynamic and	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 18 noted	The effect is considered to be negligible, and it is concluded that there is no potential for an adverse	Agreed	19 April 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
sedimentary processes	Habitats Regulations Assessment (HRA) (APP-115)	indirect changes to qualifying habitats as a result of changes to hydrodynamic and sedimentary processes during capital dredge disposal. NE agrees that changes to bathymetry at the dredge disposal site will be small and is not likely cause an adverse effect on integrity of the Humber SPA/ SAC	effect on integrity on qualifying interest features as a result of changes to hydrodynamic and sedimentary processes during capital dredge disposal		
Benthic habitat recovery - maintenance dredging	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 19 noted that NE is satisfied that the impact of disturbance from the action of maintenance dredging on the extent and distribution of qualifying habitats is unlikely to cause an adverse effect on integrity of the Humber SPA/SAC.	NE's position is noted, and, on that basis, no further response is required	Agreed	21 June 2023
Water quality	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 20 advised that water quality impacts derived from dredging/dredge disposal activities and operational berth vessel movements on marine	Water quality impacts associated with capital dredge/dredge disposal on marine mammals have been considered in the ES in Table 9.21. In addition, the potential for LSE due to water quality impacts associated with capital dredge/dredge disposal on marine	Agreed	03 August 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>mammals should be assessed and included in the ES.</p> <p>Potential effects of elevated SSC during capital dredge disposal on qualifying habitats and species has not been addressed either in the ES or the HRA.</p>	<p>mammals was considered in Table 3 of the HRA [APP-115].</p> <p>The effect of elevated SSCs and the potential for an increase in contamination levels is considered to be insignificant, and it is concluded that there is no potential for an adverse effect on integrity on qualifying interest features. Further, with respect to operational vessel movements and water quality, accidental spillages will also be negligible during all phases through the application of standard operational practices and protocols.</p>		
Invasive non-native species	<p>Chapter 9 of the ES (APP-045)</p> <p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 21 notes that a Biosecurity plan will be prepared and implemented to minimise the risk of introducing non-native species during construction. The measures will be included within the CEMP. We would encourage that an overall biosecurity management plan including the operational facility is</p>	<p>ABP's existing biosecurity management procedures will apply to the operational facility. ABP is happy to have further discussion on this point.</p>	Agreed	19 April 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		produced and we welcome further discussion.			
Marine mammals	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 22 noted that NE is supportive in principle of the mitigation to reduce the risk of injury to marine mammals during piling. We welcome continued engagement on the mitigation protocol.	ABP welcomes continued engagement on the mitigation protocol.	Agreed	19 April 2023
Marine mammals	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 23 noted the potential effects of underwater noise and vibration during piling on qualifying species. NE agree with the justification for no AEOI to the grey seal feature of the Humber Estuary SAC from the project 'alone', considering the short-term, temporary nature of the barrier effects from this project. This is also applicable to the grey seal feature of the Humber Estuary Ramsar site.	NE's position is noted, and, on that basis, no further response is required	Agreed	19 April 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
Marine mammals	Chapter 9 of the ES (APP-045) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 24 noted the potential effects of underwater noise and vibration during capital dredge and dredge disposal on qualifying species. Whilst the likelihood of injury may be marginally higher than presented by the Applicant (see Cefas' response), we agree with the conclusion of no AEOL on the grey seal feature of the Humber Estuary SAC and Ramsar due to underwater noise during dredging. We agree that no mitigation is needed for this pathway specifically.	NE's position is noted, and, on that basis, no further response is required	Agreed	19 April 2023
In-combination effects	Chapter 20 of the ES (APP-056) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 25 requested further clarifications on the potential for an AEOL on qualifying habitats and species of the Humber Estuary SAC due to in-combination effects. Underwater noise disturbance and barrier effects to grey seal feature of the Humber Estuary	Further clarifications in relation to these points under NE key issue ref 25 are provided in Table 4.7 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013] . Injury and disturbance pathways to grey seal have also been assessed separately in the updated HRAR [REP5-020] .	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>SAC and Ramsar site have not been considered in sufficient detail.</p> <p>The Applicant's response does not address our comment. The cumulative assessment still lacks detail, and relies on mitigation, which is aimed at reducing injury, not barrier effects/disturbance.</p>	<p>Any barrier to movements caused by underwater noise during piling would be temporary with significant periods during a 24-hour period when no piling will be undertaken (the actual proportion of piling is estimated to be at worst around 14%). This of itself will allow the unconstrained movements of marine mammals through the Humber Estuary. Piling will also not take place continuously as there will be periods of downtime, pile positioning and set up. The proposed mitigation measures for underwater noise will further limit the risk of exposure and reduces the residual impact of the IERRT Project on marine mammal features to a minor adverse effect. On this basis, the predicted residual in-combination effects are not considered to result in an adverse effect on integrity of the Humber Estuary SAC.</p>		
Marine mammals	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 26 noted that NE does not agree that marine mammal sensitivity to all	Further clarifications in relation to these points under NE key issue ref 26 are provided in Table 3.1 of the Applicant's responses to Relevant Representations	Not Agreed – No Material Impact	30 June 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
	Habitats Regulations Assessment (HRA) (APP-115)	<p>levels of impact from underwater noise pathways is moderate. Specifically, we consider that sensitivity to Permanent Threshold Shift (PTS) is High.</p> <p>However, NE consider that this point would not have a material effect on the outcome of the assessment.</p>	submitted at Deadline 1 [REP1-013] . ABP agrees that this is unlikely to make a material difference to the advice or the outcome of the decision-making process.		
Conservation of Seals Act 1970	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 27 noted that the Conservation of Seals Act 1970 was amended in 2021. The killing of seals is now prohibited.	Noted.	Agreed	19 April 2023
Marine mammals – underwater noise	Chapter 9 of the ES (APP-045)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 28 requested further clarifications on underwater noise and vibration during piling, capital dredging and dredge disposal and effects on marine mammals.</p> <p>Natural England, in view of Cefas' advice, is satisfied that the 15 km distance is sufficient to capture the area over which</p>	Further clarifications in relation to NE key issue ref 28 are provided in Table 3.1 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013] . Further information was also provided to Natural England on 6 October 2023. ABP do not consider that underwater noise monitoring is necessary given the results of the underwater noise modelling, which has been validated by previous	Not Agreed – No Material Impact	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>potential behavioural responses and/or displacement effects in marine mammals may occur.</p> <p>Nevertheless, as stated in Key Issue 28 paragraph 3, we advise that monitoring is undertaken to validate underwater noise emissions from project piling.</p>	<p>underwater noise monitoring, show that elevated noise levels will not be able to propagate beyond 15km up and downstream (as noted in the signposting document).</p>		
<p>Marine mammals – underwater noise</p>	<p>Chapter 9 of the ES (APP-045)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 29 provided clarity on compliance with the JNCC Guidance. NE note that the Applicant has proposed that marine mammal observations will continue during percussive piling and that piling will cease whilst any marine mammals are within the mitigation zone. This [ceasing operations] is not a standard measure in the JNCC Guidance but provides an additional level of mitigation which we welcome. It is important that this additional commitment is relayed to those undertaking the construction activities. This could be in a project- specific Marine Mammal</p>	<p>Noted.</p>	<p>Agreed</p>	<p>19 April 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
		Mitigation Protocol (MMMP) or similar.			
Marine mammals – underwater noise and cumulative and in-combination effects	Chapter 20 of the ES (APP-056) Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 30 noted disturbance from underwater noise and cumulative and in-combination effects. Natural England, in view of Cefas' advice, is satisfied that the 15 km distance is sufficient to capture the area over which potential behavioural responses and/or displacement effects in marine mammals may occur. Nevertheless, as stated in Key Issue 28 paragraph 3, we advise that monitoring is undertaken to validate underwater noise emissions from project piling.	Further clarifications in relation to NE key issue ref 30 are provided in Table 3.1 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013] . Further information was also provided to Natural England on 6 October 2023. ABP do not consider that underwater noise monitoring is necessary given the results of the underwater noise modelling, which has been validated by previous underwater noise monitoring, show that elevated noise levels will not be able to propagate beyond 15 km up and downstream (as noted in the signposting document).	Not agreed – No Material Impact	13 November 2023
Marine mammals – underwater noise and cumulative and in-combination effects	Chapter 20 of the ES (APP-056) Habitats Regulations Assessment	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 31 requested further clarification on the cumulative and in-combination effects assessment and the review of other projects, developments and activities on	Further clarifications in relation to these points under NE key issue ref 31 are provided in Table 4.7 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013] . Injury and disturbance pathways to grey seal have also	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
	(HRA) (APP-115)	<p>the short list. Specific reference is made to possible disturbance and barrier effects to marine mammals.</p> <p>The Applicant's response does not address our comment. The cumulative assessment still lacks detail, and relies on mitigation, which is aimed at reducing injury, not barrier effects/disturbance.</p>	<p>been assessed separately in the updated HRAR [REP5-020].</p> <p>Any barrier to movements caused by underwater noise during piling would be temporary with significant periods during a 24-hour period when no piling will be undertaken (the actual proportion of piling is estimated to be at worst around 14%). This of itself will allow the unconstrained movements of marine mammals through the Humber Estuary. Piling will also not take place continuously as there will be periods of downtime, pile positioning and set up. The proposed mitigation measures for underwater noise will further limit the risk of exposure and reduces the residual impact of the IERRT Project on marine mammal features to a minor adverse effect. On this basis, the predicted residual in-combination effects are not considered to result in an adverse effect on integrity of the Humber Estuary SAC.</p>		

Matter	Reference	NE's Position	ABP's Position	Status	Date
Marine mammals – underwater noise	Appendix 9.2 of ES (APP-088)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 32 noted that NE agrees with Cefas advice on the underwater noise assessment and consider that these should be addressed by the Applicant where Cefas recommend. We may review our comments in light of any such revisions of the underwater noise modelling.	Noted. A separate dialogue with Cefas has resolved these issues.	Agreed	05 September 2023
Schedule of mitigation – marine mammals	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 33 welcomes the commitment to undertake vibro piling where possible. We note that, at present, vibro piling is only proposed to occur for up to 20 minutes in day, compared to 180 minutes of percussive piling in a day, therefore only comprising 10% of total piling time. Natural England would welcome further detail on how much of the piling could be achieved using vibro-piling, thereby understanding how much this mitigation measure	Whilst NE are satisfied that for this particular project it is unlikely to make a material difference to the advice or the outcome of the decision-making process, further clarifications in relation to NE key issue ref 33 are provided in Table 3.1 of the Applicant's responses to Relevant Representations submitted at Deadline 1 [REP1-013] . Further information was also provided to Natural England on 6 October 2023.	Agreed	06 October 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		could be applied across the piling campaign.			
HRA screening	Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 34 considers that the harbour seal feature of the Wash and North Norfolk Coast SAC should be screened in for Likely Significant Effect (LSE). The Applicant has addressed this in the updated HRAr [REP5-020] .	Further clarifications in relation to NE key issue ref 34 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013] . The updated HRAr [REP5-020] includes this information.	Agreed	23 October 2023
Greater Wash SPA	Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 35 agrees that the Greater Wash SPA can be screened out for LSE	NE's position is noted, and, on that basis, no further response is required	Agreed	19 April 2023
Humber Estuary SSSI	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 36 noted that advice regarding impacts on the Humber Estuary SSSI coincide with our advice regarding the potential impacts upon the Humber Estuary SAC/SPA/Ramsar, as detailed above.	Further clarifications in relation to NE key issue ref 36 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013] .	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
Humber Estuary SSSI	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 30 June 2023 – NE key issue ref 37 noted that following submission of the signposting documents, and further assessment of the information in relation to the invertebrate assemblage feature of the Humber Estuary SSSI, NE agree with the conclusions reached.	Further clarifications in relation to NE key issue ref 37 are provided in the signposting document on SSSIs.	Agreed	30 June 2023
Humber Estuary SSSI	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 30 June 2023 – NE key issue ref 38 noted that following submission of the signposting documents, and further assessment of the information in relation to the bird assemblage feature of the Humber Estuary SSSI, NE agree with the conclusions reached.	Further clarifications in relation to NE key issue ref 38 are provided in the signposting document on SSSIs [Appendix 11 of REP1-009].	Agreed	30 June 2023
North Killingholme Haven Pits SSSI	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 39 requested further clarification on potential impacts on the North Killingholme Haven Pits SSSI 'Aggregations of non-breeding birds - Black-tailed godwit' feature. Black-tailed godwit are a	Further clarifications in relation to NE key issue ref 39 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013].	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		non-breeding feature of this SSSI, and if the project is determined to have an overall negative impact on this species for the Humber Estuary SPA/ Ramsar, indirect impacts to this SSSI should also be considered in the assessment.			
The Lagoons SSSI	Chapter 9 of the ES (APP-045)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 40 notes that NE agree that impacts on The Lagoons SSSI can be screened out. The features of this SSSI are breeding little tern, sand dunes and saline lagoons, and none of these features are currently anticipated to be impacted by this application.	NE's position is noted, and, on that basis, no further response is required	Agreed	19 April 2023
Air quality	Chapter 13 of the ES (APP-049)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 41 considered that further assessment is required of construction and operational traffic impacts on all relevant terrestrial SSSIs. NE subsequently agreed that there is no requirement to undertake further assessment of	Further clarifications in relation to NE key issue ref 41 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013] . Further information was also provided to NE on 6 October 2023. Impacts at the SSSI were not quantified in the air quality assessment because APIS (the	Ongoing	13 November 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>construction traffic impacts as it will have minimal impact. However, impacts on the Hatfield Chase Ditches SSSI and Edlington Wood SSSI are required.</p> <p>NE notes the additional information submitted on 06/10/23. Following consideration of that information, we continue to advise that the swamp/fen critical load is used to assess nitrogen deposition impacts on Hatfield Chase Ditches SSSI. Although the priority mapping tool does not show any swamp or fen habitat at the section of the SSSI within 200m of the M180, the site was designated in-part for this type of habitat, with fen-type vegetation detailed in the SSSI citation. Therefore, we advise that the CLo for swamp/fen (as in the nearby Crowle Borrow Pits SSSI) is used (CLo of 15-25 kg N/ha/year). We advise this should be used over the priority habitat mapping resource for this site, which shows Coastal and</p>	<p>source of air quality related ecology information used to inform the assessment), did not provide any description of habitat type nor relevant Critical Loads for this SSSI, and Natural England refer to the habitat as being Standing Open Water and Canals. In the UK, standing water is generally phosphorus limited and therefore not sensitive to nitrogen.</p> <p>Priority habitat mapping on the MAGIC mapping resource has been reviewed, and it does not show any swamp or fen habitat at the location of the SSSI adjacent to the M180.</p> <p>However, the Applicant is considering the additional information provided by Natural England.</p>		

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>Floodplain Grazing Meadow, which we would advise requires assessment with a CLo of 10-20 kg N/ha/year. However, based on the designated features and discussions with colleagues and internal specialists, we continue to advise that the swamp/fen CLo is used (15-25 kg N/ha/year), and an assessment is carried out of the impacts of traffic emissions on Hatfield Chase Ditches SSSI.</p>			
Protected species	Appendix 6.2 of ES (APP-082)	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 42 notes that an Extended Phase 1 habitat survey has been undertaken as part of the Preliminary Ecological Appraisal (PEA), (Appendix 6.1 of the PEIR). It is recommended that surveys are regularly updated to ensure certainty in proceeding in the absence of a licensable solution.</p> <p>We welcome the proposed avoidance/ mitigation measures and pre-construction checks set out in Section 4 of the PEA. Mitigation measures should be</p>	Noted.	Agreed	19 April 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		agreed and implemented before construction work begins.			
Biodiversity Net Gain	Chapter 9 of the ES (APP-045)	<p>With reference to Natural England's relevant representation dated 19 April 2023 – NE key issue ref 43 and 44, in a meeting on 18 May 2023, NE recognised that Biodiversity Net Gain cannot currently be legally enforced for NSIPs. NE welcome the commitment by ABP to allocate one ha of land owned by ABP within the Skeffling managed realignment site as a marine environmental enhancement (for clarity, this will not be compensation or mitigation).</p> <p>Defra's Biodiversity Metric should not be used to assess impacts and calculate compensation for habitat damage or loss in designated sites or irreplaceable habitat.</p>	As NE notes, Biodiversity Net Gain cannot currently be legally enforced for NSIPs. However, ABP has recognised the need for meeting biodiversity enhancement obligations in local and national policies and, as explained in Chapter 2 of the ES (APP-38), will allocate the environmental benefits of one ha of intertidal habitat at the Skeffling managed realignment site to the IERRT scheme via separate legal agreement. A suite of terrestrial enhancements will also be delivered within an existing area of woodland, owned by ABP, south of Laporte Road named Long Wood,	Agreed	18 May 2023
HRA assessment – benthic habitats and species	Habitats Regulations Assessment (HRA) (APP-115)	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 45 notes that NE agrees that the disposal site is impoverished, however we disagree with the dredge site	Further clarifications in relation to NE key issue ref 45 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. ABP	Agreed	21 June 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>being classified as impoverished, however this is unlikely to make a material difference to our advice or the outcome of the decision-making process.</p>	<p>agree that this point does not affect the outcome of the assessment.</p>		
<p>HRA assessment - benthic habitats and species – sediment deposition during maintenance dredging</p>	<p>Habitats Regulations Assessment (HRA) (APP-115)</p>	<p>Natural England's relevant representation dated 19 April 2023 – NE key issue ref 46 notes that although the amount of smothering from the maintenance dredging is considered low, it is still an estimation and there is still a potential pathway for the maintenance dredging to cause changes for some species as a result of sediment deposition.</p> <p>It is advised that sedimentation tolerance levels for benthic organisms typically found in the area should be quantified through specific references to the data. NE consider that the justification referring to Key Issue Reference 17 in the additional note from 10 July is not a valid reason for concluding that there is no potential for LSE for sedimentation from maintenance dredging/dredge disposal. NE</p>	<p>Further clarifications in relation to NE key issue ref 46 are provided in Table 3.1 of the Applicant's response to relevant representations [REP1-013]. This information has been provided within the updated HRAR [REP5-020].</p>	<p>Not Agreed – No Material Impact</p>	<p>23 October 2023</p>

Matter	Reference	NE's Position	ABP's Position	Status	Date
		<p>agreed that sedimentation arising from capital dredging/dredge disposal is not likely to cause an adverse effect on integrity of the Humber SPA/SAC based on additional information provided at the Appropriate Assessment stage. NE considers that however low risk the impact is deemed to be in relation to sedimentation effects arising from capital dredging/dredge disposal, the pathway still exists for there to be a potential impact from sedimentation arising from maintenance dredging/dredge disposal.</p> <p>However, NE is of the opinion that if the impact pathway is screened in and assessed at the Appropriate Assessment stage, the other two additional points of information provided on the 10 July will likely lead to a conclusion of no adverse effect on integrity.</p>			
HRA assessment – shading	Habitats Regulations Assessment	Natural England's relevant representation dated 19 April 2023 – NE key issue ref 47 noted	Noted.	Agreed	21 June 2023

Matter	Reference	NE's Position	ABP's Position	Status	Date
beneath marine infrastructure	(HRA) (APP-115)	that NE is satisfied that due to the Humber Estuary being naturally turbid with high levels of suspended sediment, shading due to infrastructure is unlikely to cause an adverse effect on integrity of the Humber SPA/SAC.			

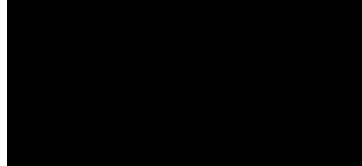
4 **Section 4 – Signatories**

This Statement of Common Ground is agreed:

On behalf of Natural England:

Name: LAUREN FORECAST

Signature:



Date: 13/11/23

On behalf of ABP:

Name: Tom Jeynes (Sustainable Development Manager)

Signature:



Date: 13 November 2023

Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
DCLG	Department of Communities and Local Government (as it then was)
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
IERRT	Immingham Eastern Ro-Ro Terminal
IOT	Immingham Oil Terminal
MMO	Marine Management Organisation
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Ro-Ro	Roll-on/roll-off
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom