

IMMINGHAM EASTERN RO-RO TERMINAL



Draft Statement of Common Ground between Associated British Ports and Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited

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Contents

1	Section 1 – Introduction	4
2	Section 2 – Summary of Engagement	6
3	Section 3 – Matters Agreed and Matters Not Agreed	15
4	Section 4 – Signatories	22
	Glossary	25

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1 Section 1 – Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared in connection with 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”). If approved, the DCO will authorise the construction and operation of the Immingham Eastern Ro-Ro Terminal (“IERRT”) within the existing Port of Immingham.
- 1.2 The IERRT development as 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 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 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 has been prepared by:
- (a) ABP – the promoter of the IERRT development and the owner and operator of the Port of Immingham; and
 - (b) Associated Petroleum Terminals (Immingham) Limited (“APT”) and Humber Oil Terminals Trustee Limited (“HOTT”) and together the “IOT Operators”. HOTT is the licensee of the Immingham Oil Terminal Jetty and lessee of the associated oil terminal and tank farm. APT Operates the Immingham Oil Terminal and the associated oil depot on behalf of HOTT.

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

The Purpose and Structure of this Document

- 1.8 The purpose of this SoCG 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 the SoCG, full account has been taken of 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). In addition, due regard to the ExA procedural decision of 26 May 2023 and the subsequent PAD Summary Statement submitted to the examination by IOT Operators on 6 July 2023.
- 1.10 Section 1 of the SoCG is designed to act as a general introduction to the IERRT project and to the parties concerned.
- 1.11 Section 2 of the SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.12 Section 3 of the 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 table in Section 3 uses a colour coding system to indicate the status of the matters between the Parties as follows:
- (a) Green – matter agreed;
 - (b) Orange – matter ongoing; and
 - (c) Red – matter not yet agreed.

2 Section 2 – Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP and the IOT Operators 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. Table 2.1 does not, however, record without prejudice meetings and correspondence.
- 2.2 It is agreed by the Parties to this SoCG that Table 2.1 is an accurate record of the correspondence between the Parties, save for where engagement (in the form of correspondence and meetings) took place on a without prejudice basis.

Table 2.1 – Summary of Engagement

Date	Form of Correspondence	Summary with key outcomes and points of discussion
20.07.21	Email	ABP advised APT of project.
06.08.21	Email	ABP provided briefing note and indicative plan proposal sent across.
10.08.21	Email	APT requested a drawing of the IOT finger pier.
11.08.21	Email	ABP confirmed they would provide the drawing.
13.09.21	Email	APT followed up on request for drawing of finger pier and timescale for consultation process.
13.09.21	Email	ABP noted requests and confirmed that they would like to discuss APT's pipeline/water main.
14.09.21 & 15.09.21	Email	ABP and APT discussed arrangements for meeting on 21.09.21.
21.09.21	Meeting	ABP provided APT with project update.
22.09.21	Email	ABP provided notification of proposal being with the Planning Inspectorate.
28.09.21	Email	APT confirmed they still required finger pier drawing.
19.01.22	Email	ABP issued APT notification of the start of the Statutory Consultation.
19.01.22	Email	ABP issued HOTT notification of the start of the Statutory Consultation.

22.02.22	Email	APT issued S.42 Consultation Response.
17.03.22	Email	ABP advised APT that the EA are undertaking works to Harborough Marsh Pointing Doors.
17.03.22 - 25.04.22	Email	APT and ABP discussed works to Harborough Marsh Pointing Doors.
24.03.22	Email	ABP issued invitation to Hazid Workshop on 07.04.22.
24.03.22	Email	APT confirmed they would like to attend.
28.03.22	Meeting	APT and ABP discussed use and location of sinker buoy.
29.03.22	Email	ABP outlined discussions from meeting regarding sinker buoy.
04.04.22	Email	APT requested clarification on the purpose of the workshop and identified specific pre-read material be issued in advance.
04.04.22	Email	ABP clarified the purpose of the workshop provided pre-read material.
04.04.22	Email	ABP issued invitation to Hazid Workshop and discussed sinker buoy.
05.04.22	Email	APT agreed to relocation if new location doesn't detrimentally affect APT and that ABP agree to pay associated costs.
05.04.22	Email	ABP confirmed the buoy to be relocated and agreed to revert with responses on costs.
07.04.22	Email	ABP confirmed agreement and asked if APT would like to propose a new location for buoy.
07.04.22 & 08.04.22	Email	APT provided new location for buoy.
14.04.22	Email	ABP provided a drawing showing new location and requested confirmation from APT that this was acceptable.

14.04.22	Email	APT confirmed location is ok and for ABP to proceed with paperwork.
14.04.22	Email	ABP agreed to progress matters.
19.04.22	Email	ABP issued updated NRA for comment.
25.04.22	Email	APT confirmed legal contact and that they will send draft licence to them.
26.04.22	Email	ABP proposed a meeting to discuss outstanding issues.
26.04.22	Email	APT requested further information on the purpose of the meeting and suggested w/c 9th or 16th.
28.04.22 & 29.04.22	Email	ABP confirmed the meeting would cover project update, Nav Sims, HSE response, construction programme, marine GI timescales, East Dock Road utilisation and protective provisions.
29.04.22	Email	APT provided further comments following S.42 Consultation Response and feedback on Hazld workshop.
06.05.22	Email	ABP and APT arranged meeting for 16.05.22.
13.05.22	Email	ABP responded to APT letter regarding NRA, simulations and traffic comments.
13.05.22	Email	APT outlined further issues to discuss at upcoming meeting on 16.05.22 including NRA methodology, scheme design, scoring and supporting data.
16.05.22	Meeting	ABP and APT discussed project update and issues raised during consultation and ongoing engagement including NRA methodology, mitigation and protection of finger pier, landside and marine congestion.
19.05.22 - 24.05.22	Email	ABP and APT arranged meeting and discussed agenda.
20.05.22	Email	ABP issued invitation to Hazid Workshop on 7th & 8th June.

25.05.22	Meeting	ABP and APT discussed NRA methodology, scheme design, navigational concerns and mitigation, Hazid workshop III and ongoing engagement.
27.05.22	Email	APT (and Nash Maritime) issued notes from meeting on 25.05.22.
27.05.22	Email	ABP advised of the postponement of Hazid Workshop on 7th & 8th June.
30.05.22	Email	ABP responded to meeting notes.
01.06.22	Email	ABP provided notes from meeting on 16.05.22 and the Draft Protective Provisions.
06.06.22	Email	APT confirmed receipt of meeting notes and Draft Protective Provisions.
10.06.22	Email	APT requested a call to discuss ABP comments on meeting notes.
13.06.22	Email	ABP agreed to a call and confirmed they were unclear on terminology.
17.06.22	Email	APT sent through revised meeting notes and requested comments on 'Post Meeting Note'.
29.06.22	Email	ABP sent a new draft licence for relocation of the sinker buoy.
29.06.22	Email	APT followed up on email sent on 17.06.22 regarding meeting notes.
30.06.22	Email	ABP provided comments on meeting notes.
30.06.22	Email	APT legal adviser confirmed receipt of draft licence and advised they would take instructions and revert.
06.07.22	Email	APT queried the proposed changes to meeting notes and revised draft provided.
13.07.22	Email	ABP requested any comments on the draft protective provisions that were sent through.
22.07.22	Email	APT confirmed they would come back on the protective provisions

25.07.22	Email	APT confirmed outstanding queries relating to mitigation measures, information from Hazid workshop III, data provision and simulation.
02.08.22	Email	ABP responded to issues raised in APT letter dated 25.07.22 including relocation of finger pier, vessel impact protection, marine liaison plan, alternative access of LaPorte road, Hazid workshops, data provision and simulation.
02.08.22, 03.08.22 & 05.08.22	Emails	ABP issued Pre-read material for Hazid workshop (multiple emails).
11.08.22	Email	APT sent checklist of information requested to support risk assessment workshop.
15.08.22	Email	ABP issued invitations to Hazid Workshop III.
18.08.22	Email	ABP issued Draft HazLog for comment.
19.08.22	Email	APT requested confirmation of timescale for comments.
19.08.22	Email	ABP confirmed timescale.
22.08.22	Email	APT requested additional information in order to comment on Haz Log.
22.08.22	Email	ABP responded to additional information request.
23.08.22	Email	APT confirmed receipt of information.
24.08.22	Email	APT queried responses relating to construction - operation phase hazards and construction likelihood scores.
24.08.22 & 25.08.22	Email	ABP responded to queries and provided presentation of construction process.
26.08.22	Email	APT provide further clarification and updates on queries regarding Hazid Workshop.
26.08.22	Email	ABP responded to query regarding look up table.

26.08.22	Email	APT provided comments on the HAZID Workshop relating to NRA methodology, additional mitigation measures, supporting studies, concern for operations of finger pier.
30.08.22	Email	APT confirmed they would provide comments on workshop by 31.08.22.
31.08.22	Email	APT provided comments on Haz Log.
02.09.22	Email	ABP issued Final Haz Log for review.
09.09.22	Meeting	ABP and APT discussed outstanding concerns, consultation with HSE and relocation of finger pier.
16.09.22	Email	APT sent through comments on Hazard Logs relating to methodological concerns, application of risk controls, scoring and recent meeting on 09.09.22.
24.10.22	Email	ABP responded to APT letter of 26.08.22 regarding NRA approach and methodology, Mitigation, Duty holder and methodological shortfalls. ABP also advised of forthcoming additional statutory consultation.
24.10.22	Email	APT confirmed receipt of letter and noted the SSC.
27.10.22	Email	ABP issued notification of Supplementary Statutory Consultation.
27.10.22	Email	ABP issued notification of Supplementary Statutory Consultation.
31.10.22	Email	ABP providing further explanation on the purpose of the SSC and confirming that additional navigational simulations will take place in November/December.
08.11.22	Email	ABP followed up on whether APT have any comments on the draft protective provisions
10.11.22	Phone Call	ABP and APT discussed additional simulations that are to be run in November
14.11.22	Email	APT suggested additional simulations that should form part of the workshop.

16.11.22	Email	APT confirmed they would respond on Protective Provisions once legal team have considered them.
18.11.22	Email	APT requested clarification on arrangements for navigational simulations.
22.11.22	Email	ABP confirmed arrangements for simulations.
23.11.22	Phone Call	ABP and APT discussed final arrangements for simulations.
25.11.22	Email	APT provided Second Statutory Consultation response.
15.12.22	Email	ABP followed up on email sent on 29.06.22 regarding draft licence for relocated buoy.
16.12.22	Email	APT Legal advisor confirmed that they are instructed and requested a copy the current licence.
19.12.22	Email	ABP sent through licence and queried whether the new licence will be complete by 2nd January.
19.12.22	Email	APT Legal advisor confirmed the licence will be the 2 or 3rd week in January.
20.12.22	Email	ABP provided a response to APT comment regarding vehicle access to Robinson Road.
21.12.22	Email	ABP issued notification advising of the inclusion Compulsory Purchase Powers regarding mooring buoy.
22.12.22	Email	ABP outlined the current position relating to discussion on the relocation of buoy and explained the reason a letter was sent regarding CPO powers relating to mooring buoy.
22.12.22	Email	APT confirmed that discussions had not progressed that far and still waiting to hear back from ABP property contact.
22.12.22	Email	ABP replied and asked who should be contacted to progress legal matters.

22.12.22	Email	APT confirmed receipt of letter regarding CPO Powers.
29.12.22	Email	ABP issued Draft Protective Provisions.
30.12.22	Email	ABP confirmed additions to the new licence.
11.01.23	Email	ABP followed up on draft licence for relocated buoy.
11.01.23	Email	APT legal advisor to contact client to confirm instructions.
17.01.23	Email	APT response to draft protective provisions confirmed that they are not sufficient to address concerns raised in consultation responses or in recent correspondence.
07.02.23	Email	APT acknowledge that application has been withdrawn and request to have early sight of various DCO documents in order to progress discussions on the protective provisions.
13.02.23	Email	ABP responded to APT letter 07.02.23.
28.02.23	Email	ABP followed on from emails on 22.12.22 asking who should be contacted to progress the agreement.
06.03.23	Email	APT requested a legal undertaking related to the costs to review and negotiate PP.
09.03.23	Email	APT highlighted areas that had previously been agreed but still need to be dealt with in the draft agreements, including the implications of IGET.
09.03.23	Email	ABP issued to HOTT notice of acceptance of application.
21.03.23	Email	APT requested for Traffic Analysis as they don't seem available on PINS website.
19.04.23	Email	APT Submitted relevant representations.
24.03.23	Email	ABP sent through requested traffic information.

25.04.23	Email	ABP sent a letter confirming the provision of a costs undertaking in favour of HOTT to review and negotiate Protective provisions.
19.05.23	Email	APT requested additional shipping and navigation data in order to review the submitted information and to undertake a separate NRA.
26.06.23	Email	ABP stated why the additional shipping and navigation data requested by APT could not be provided.
28.09.23	Letter to Examining Authority	ABP and APT agreed a joint letter regarding impact protection measures which was submitted into the Examination.

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3 Section 3 – Matters Agreed and Matters Not Agreed

- 3.1 Table 3.1 below contains a list of ‘matters agreed’ and a list of matters outstanding at the date of this version of the SoCG together with a concise commentary as to the items referenced.

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Table 3.1: List of Matters Agreed and Outstanding

Matter	Document Reference	ABP's Position	IOT Operators' Position	Status
Relevant Policy		<p>The National Policy Statement for Ports (NPSfP) (DfT, 2012) is the key relevant national policy statement in considering the IERRT Application. The role of the NPSfP in the IERRT application determination process is set out in section 104 of the Planning Act 2008.</p> <p>The UK Marine Policy Statement (MPS) (2011) and The East Marine Plans (2014) are appropriate marine policy documents to which regard must be had in the IERRT determination process.</p> <p>Key local policy of relevance to the IERRT project is provided within the North East Lincolnshire Local Plan 2013 to 2032 (April 2018).</p>		
The Government's policy for ports		The Government's policy for ports is set out within section		

		3.3 of the NPSfP, the fundamental policy element is provided in NPSfP paragraph 3.3.1.		
<p>Navigational safety to and from the IOT</p>	<p>APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003) Navigation Risk Assessment (NRA) (APP-089) Navigation Simulation Study – Part 1 (APP-090) Navigation Simulation Study – Part 2 (APP-091) Navigational Simulations – Stakeholder demonstrations (APP-092)</p>	<p>ABP, as the Applicant and as SHA for the Port of Immingham is confident that the conclusions of the comprehensive Navigation Risk Assessment (NRA) (APP-089) undertaken to assist its consideration of the Proposed Development are both correct and appropriate. ABP is satisfied that, that in light of the comprehensive NRA exercise undertaken, supported by the navigational risk workshops and supplemented by the navigational simulations, the navigational risks have been comprehensively and properly assessed.</p>		
<p>Inadequate NRA methodology</p>	<p>APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003)</p>	<p>Preparation of the NRA was undertaken in full compliance with the PMSC and the associated GtGP.</p>		

Navigation Baseline and Future Baseline	APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003)	The NRA has taken into account the current navigation baseline and has then used DfT statistics to anticipate future potential changes.		
NRA Tidal Modelling	APT Principal Areas of Disagreement (PDA – 003)	The simulations used a representative tidal model based on accurate, verified, and reliable AWAC buoy data, from the area immediately adjacent to the IERRT terminal to inform the simulations.		
Tolerability	APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003)	The tolerability levels have been reviewed and agreed entirely in line with correct practice and verified by the Duty Holder following the outcomes of the NRA and advice of specialists.		
NRA baseline data	APT Principal Areas of Disagreement (PDA – 003)	Quality written assessment of vessel traffic by vessel category was undertaken through the assessment of AIS data collected as described in APP-089. The study area is described with		

		sufficient detail for a reader to understand the context of shipping movements within the area.		
HAZID to identify risk controls/mitigation	APT and HOTT Relevant Representation (RR-003) ES - Volume 3 - Appendix 10.1 - Navigation Risk Assessment (APP-089) APT Principal Areas of Disagreement (PDA – 003)	HAZID workshops were held and are documented in APP-089. The IOT Operators attended the second and third iterations of these and their suggested mitigations (further applicable control suggestions) were recorded and fully taken into account.		
Relocation of the Finger Pier	APT and HOTT Relevant Representation (RR-003) ES - Volume 3 - Appendix 10.1 - Navigation Risk Assessment (APP-089) APT Principal Areas of Disagreement (PDA – 003)	The suggested control from the IOT Operators to move the Finger Pier was considered at the HAZID workshop and subsequently as part of the NRA exercise and has been concluded that, in light of the assessments undertaken, relocation of the finger pier is not required to satisfy the SHA. In their letter to the ExA dated 28 September 2023 [AS-020], the Parties agreed		

		<p>on a list of matters which would form the basis of further negotiations for the provision of enhanced impact protection measures. This agreement did not include the relocation of the IOT Finger Pier.</p>		
<p>IOT impact protection (in submission but not confirmed)</p>	<p>APT and HOTT Relevant Representation (RR-003)</p>	<p>Whilst ABP, as per the NRA submitted with the Application, does not consider that such measures are required, IOT impact protection has been identified as a potential control and may form part of the operational 'adaptive procedures' (as it appears in the Hazard Logs) which will be determined by the Navigation Authority.</p> <p>The Applicant has, by letter dated 19 October 2023 [AS-026] and the accompanying Proposed Changes Notification Report [AS_027], notified the ExA of its intention to submit a Request to Make Changes to the submitted DCO</p>		

		<p>application. It is anticipated that this request will include Enhanced Operational Controls in terms of directions by HES and the potential Provision of Additional Impact Protection Measures. The Request to Make Changes, and any Additional Impact Protection Measures, will be without prejudice to ABP's position that impact protection measures are not required.</p> <p>As detailed in ABP's Proposed Changes Notification Report [AS_027], negotiations between the Parties in relation to additional impact protection measures have culminated in the emergence of specific requirements from the IOT Operators which ABP considers go beyond those which were the subject of the agreed letter to the ExA dated 28 September 2023 [AS-020]. ABP and its experts do not consider the scheme now required by IOT</p>		
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		Operators to be feasible due to navigational, engineering, environmental and scheme viability reasons.		
Marine Liaison Plan	APT and HOTT Relevant Representation (RR-003)	The SHA will review the need for any required addition to the Local Port Services and Vessel Traffic Services. The Construction Environmental Management Plan, at table 3.4, includes a Liaison Officer to act as co-ordinator between the port and contractors in order to ensure the safety of Port users, construction staff and the environment.		
Protective provisions	APT and HOTT Relevant Representation (RR-003)	The proposed protective provisions are subject to ongoing negotiation between the Parties. Negotiations aim to ensure that ABP will only be able to exercise powers under the DCO subject to sufficient protection and safeguards for IOT Operators' assets and interests..		
Agreed letter to the ExA dated 28		Following receipt (from IOT Operators and their consultants, Beckett		

<p>September 2023 [AS-020]</p>		<p>Rankine) of a “<i>high level design review for a potential impact protection system that could be installed at IOT</i>”, the Parties agreed to work together with a view to developing a scheme of marine infrastructure protection for the IOT based on the Beckett Rankine high level proposals and in accordance with a list of agreed principals set out in the 28 September letter. Without prejudice to its stated position on impact protection and subject to further refinement of the design, ABP (in the same letter) committed to submit a changes application amending the Application in order to deliver the revised measures.</p>		
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4 Section 4 – Signatories

This Statement of Common Ground is agreed:

On behalf of IOT Operators:

Name

Signature

Date:

On behalf of ABP:

Name:

Signature:

Date:

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Glossary

Abbreviation/ Acronym	Definition
ABP	Associated British Ports
APT	Associated Petroleum Terminals (Immingham) Limited
CPO	Compulsory Purchase Order
DCLG	Department of Communities and Local Government (as it then was)
DCO	Development Consent Order
DfT	Department for Transport
EIA	Environmental Impact Assessment
ES	Environmental Statement
GI	Ground Investigations
Hazid Workshop	Hazard Identification Workshop
HazLog	Hazard Log
HES	Humber Estuary Services
HOTT	Humber Oil Terminals Trustees Limited
HSE	Health and Safety Executive
IERRT	Immingham Eastern Ro-Ro Terminal
IOT	Immingham Oil Terminal
IOT Operators	APT and HOTT
Nav Sims	Navigational Simulations
NRA	Navigational Risk Assessment
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
PMSC	Port Marine Safety Code
Ro-Ro	Roll-on/roll-off
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom