

IMMINGHAM EASTERN RO-RO TERMINAL



Applicant's Response to the ExA's
Fourth Written Questions

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Schedule 1 Purpose of this document

- 1.1. The Examining Authority (ExA) issued its Fourth Written Questions to the Applicant and other Interested Parties on 22 December 2023 **[PD-022]** (“ExQ4”).
- 1.2. A glossary of terms and a list of acronyms can be found in Section 12 of this document.
- 1.3. Th ExA’s questions are set out using an issued-based framework derived from the Initial Assessment of Principal Issues provided as Annex C to the Rule 6 letter of 20 June 2023 **[PD-006]**.
- 1.4. Each question has a unique topic prefix identifier (capital letters), a reference number which starts with 4 (indicating that it is from ExQ4) and then a question number.
- 1.5. Column 4 of the Tables below provides the Applicant’s response to each question addressed to the Applicant.
- 1.6. Where a question has been addressed through the making of a Deadline 8 submission, a cross-reference to the relevant DL8 submission is provided in the appropriate Table.

Schedule 2 Broad, General and Cross-Topic

ExQ2	Question to:	Question	Applicant's Response
BGC.4.01	Harbour Master Humber	<p>Submission of legislation etc</p> <p>Submit copies of:</p> <p>a) The British Transport Docks Act 1972 (the 1972 Act); and</p> <p>b) Immingham Dock Bye-laws 1929.</p>	
BGC.4.02	IOT Operators	<p>Part 12 of the Energy Act 2023</p> <p>Submit a copy of Part 12 of the Energy Act 2023, as referred to by you in [REP7-069].</p>	
BGC.4.03	Applicant	<p>Part 12 of the Energy Act 2023</p> <p>Comment on IOT Operators' submissions in [REP7-069] with respect to the provisions of Part 12 of the Energy Act 2023, notwithstanding that part of the Act is not currently in force.</p>	<p>The Applicant is well aware of the relevant provisions of the Energy Act 2023 and fully recognises the part played by the IOT facility in ensuring sufficient continuity of fuel supplies to support economic activity.</p> <p>This Part of the Act, when brought into effect, will give the Secretary of State further powers in respect of ensuring economic activity in the UK is not adversely affected by disruptions to core fuel sector activities and reducing the risk of emergencies affecting fuel supplies. None of this, however, affects the case for the Proposed Development. The Applicant has always recognised the importance of the IOT Terminal in bringing forward the Proposed Development and in its NRA and the design and operation of the Proposed Development has always been promoted with the continued safety and security of the IOT Terminal in mind. Indeed it has always and remains in the Applicant's interests that the IOT continues to play such an intensive role in the supply of fuel as this service forms part of ABP's overall commercial offering to the market</p> <p>What the IOT Operators have failed throughout the examination to recognise and acknowledge is that the Applicant's Navigational Risk Assessment, the HAZID Workshops, the numerous navigational simulations have all been designed to ensure that the operation of the Proposed Development is ALARP – and as the ExA is fully aware, with the inclusion of enhanced operational navigational controls, that is the view of the Applicant in its capacity as Port of Immingham SHA.</p> <p>The Applicant has previously set out how its Navigational Risk Assessment has been conducted, and the legislative context for such work. The IOT operators are conflating this work with their ongoing duty of care in ensuring the supply of fuel to the UK economy where the Applicant has already produced an NRA and revisited it in light of all the evidence produced to ensure the continued safe operation of the IOT Facility. The NRA includes a very specific risk assessment which clearly and specifically addresses the issues of navigational concern that have been raised and, as the Statutory Harbour Authority, it will continue to ensure the safe operation of the IOT Terminal and the Port of Immingham as a whole. The Applicant has demonstrated that marine activity will not disrupt IOT's core function, nor will the presence and operation of IERRT affect the overall risk profile of IOT as a COMAH site. It will also not impose any additional obligations or restrictions upon IOT in their pursuance of COMAH Safety Report approval.</p> <p>The Applicant reiterates in summary form its position on what is alleged to be the additional risk burden that the IOT operators contend IERRT will place upon that facility in that the</p>

			<p>concern is not well-founded and indeed the scrutiny that has been applied to navigational risk in respect of the IOT facility confirms the Applicant's continued interest in the safe operation of the IOT facility. Amongst other things:</p> <ul style="list-style-type: none"> • The standard approach for any risk assessment process normally comprises variations on the same formula: Risk rating = likelihood X severity • For the purposes of a risk assessment, the severity of an incident if a vessel were to impact on the IOT remains the same irrespective whether the vessel has been manoeuvring in/around IERRT or some other part of the Immingham port complex. • In the context of IOT's own operational status, the Operators would be most concerned about vessel impact/allision/collision - and resultant damage to their infrastructure – causing disruption to UK energy supply as well as the same cause giving rise to an oil spill. So whilst the receptors are different the impact pathway is the same. • The construction and operation of IERRT involves vessels in an area which is proximate to IOT. For the purposes of risk assessment, the severity of vessel allision/collision as a risk is the same, the question is whether the likelihood of such an event increases and what mitigation applies to address any such increase in likelihood to make the risk tolerable and ALARP. • The Applicant's NRA and associated highly precautionary approach in terms of measures demonstrates the likelihood of an allision/collision will not increase when IERRT is built. Indeed, with the measures that are being proposed the IERRT vessels will be under greater restrictive controls than existing vessels that operate in the area and have operated in the area for many years. <p>There is already a risk which is both tolerable and ALARP that vessels manoeuvring in and around Immingham could lose power and drift on to the IOT on an ebb tide at the moment, particularly when exiting the lock. This was accepted by IOT operators as an acceptable risk in their 2019 COMAH Safety Report. The dock has been in existence since 1912 and IOT was built in 1969 so the risk was presumably recognised and accepted when IOT was originally built and has been carried forward ever since.</p> <p>As the ExA is aware, the type of vessels that would operate at IERRT in terms of manoeuvrability, control and redundancy (such as having twin engines) are inevitably even less susceptible to such risks than other vessels already operating in the area.</p> <p>Construction vessels will be managed to ensure that the risks associated with these are both tolerable and ALARP and, of course, vessels already operate around this area (for example in respect of dredging) in a manageable way.</p> <p>Whilst IERRT will introduce a limited number of extra vessel visits per day to the Port area and the IERRT facility, they will all be safely managed by the two SHAs as has been the case in relation to the Port for many years.</p> <p>As to the number of vessel visits overall increasing, the increase is small per day and, of course, can be seen alongside vessel visit numbers having been on a decreasing trend.</p>
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			<p>As to proximity issue, whilst IERRT vessels will be closer to the IOT, the measures that have been introduced ensure that all risks are appropriately controlled. Moreover, the very presence of the IERRT facility is a barrier in its own right and therefore will protect a significant proportion of the IOT trunkway, which is notionally vulnerable to vessel allision at the moment from vessels using the Port of Immingham.</p> <p>As to the remaining stretch of the trunkway and the finger pier and existing risks, the IERRT will only increase the vessel movement profile at the port by 6 movements in every 24 hour period – which will not materially affect the ongoing downward trend in vessel visits at the port as a whole where the likelihood of vessel allision/collision will continue to decrease by reason of that trend.</p> <p>Any notional increase in risk from additional IERRT vessels manoeuvring in closer proximity to IOT is more than mitigated by the nature of the IERRT vessels and measures proposed. The IERRT will be used by Ro-Ro vessels which are equipped with twin independent engines. The likelihood of an engine failure robbing the ship of any manoeuvring ability is significantly lower than any risk from single engine vessels that use the Port of Immingham already and have done so for many years. Moreover, even in the absence of tugs, simulations have proven that a Ro-Ro vessel will be able to drop its anchors and come to a halt well ahead of any potential allision/collision incident. Notwithstanding all of that, additional measures in terms of the use of tugs are proposed in any event to reduce any notional risk even further.</p> <p>The risk assessment of the severity of the impact pathway of vessel allision/collision in relation to the IOT finger pier and the remaining part of the IOT trunkway is not altered in itself, although the ability for an impact on the IOT Trunkway to occur generally is reduced by the presence of the IERRT facility. Comprehensive simulation has demonstrated the safe operation of the IERRT facility and additional navigational control measures have been proposed to enhance the safety of operations and to reduce the risk below what would be tolerable and ALARP.</p> <p>In summary, therefore, there is already a notional risk of vessel allision/collision with IOT infrastructure at the moment. That risk has existed for many years and is one which is already considered to be ALARP/tolerable in IOT's 2019 COMAH Safety Report.</p> <p>Any increase in vessel movements to be attributed to IERRT will not change the overall downward trend seen over the last few years to vessel visits overall at the port. Whilst the IERRT vessels will be manoeuvring in closer proximity to IOT infrastructure, the physical presence of IERRT removes all risk to around 50% of the trunkway for all vessels. As to the notional risk vessel allision/collision with the remaining exposed section of trunkway and finger pier, this is more than mitigated by the nature of the vessels themselves and the measures proposed. Indeed, the likelihood of vessel impact upon the remaining exposed section of trunkway is also reduced simply because it is unlikely a vessel will drift 'cleanly' between IERRT and the finger pier without first being inhibited by either structure.</p> <p>The risk of allision/collision with either the Trunkway or the finger pier has been thoroughly assessed and is both tolerable and ALARP in light of that comprehensive assessment and additional measures have been proposed in any event to enhance the safety of operations further.</p>
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<p>BGC.4.04</p>	<p>Applicant and Stena Line</p>	<p>Meaning of 80% efficient throughput for the Proposed Development Explain what 80% efficient throughput, as referred to by the Applicant in for example in [REP2-009] and [REP2-010], would mean in practical terms by reference to the number of daily sailings and the number of units conveyed per sailing. (The Applicant and Stena Line should answer this question independently of one another)</p>	<p>The Applicant’s 80% throughput level references are to the IERRT facility operating at 80% of its considered maximum level of activity.</p> <p>It is the maximum level of activity for the proposed development, which equates to 1800 Ro-Ro units per day through the port gates (which equates to 660,000 units per year). This has been identified to ensure that the various environmental and related assessments required as part of the DCO application considered the reasonable worst case position in terms of potential adverse effects (i.e. operating at its maximum capacity). For completeness, it is reiterated that the Applicant has demonstrated – for example through REP5-032 and the Terminal Capacity Statement submitted at Deadline 8 – the ability of the IERRT facility to handle this maximum level of activity in an appropriate and acceptable way.</p> <p>An 80% level of activity equates to 1440 Ro-Ro units per day (which equates to 525,000 units per year). Neither this level of activity, nor the maximum level of activity specified above, however, is a target that has to be achieved – even though the Applicant has both demonstrated that the need for the capacity to be provided by the IERRT exists and considers that the facility will indeed attract a significant level of activity for the various reasons which are summarised in its application and submissions to the examination.</p> <p>As has also been explained by the Applicant in various of its submissions to the examination, the throughput capacity of a Ro-Ro terminal is determined by a number of different factors, including berth capacity and capability and land side storage capacity and capability. The overall capacity of a particular terminal at any time may be governed by different factors affecting overall capacity (ie landside storage capacity or berth capacity) depending on the circumstances. This is commonplace for such facilities.</p> <p>For the IERRT facility, it is the landside storage capacity which is considered to be the controlling factor in respect of the overall capacity of the facility. Whilst the maximum level of available berth capacity is in isolation theoretically greater than the landside storage capacity this will not impact the overall capacity potential of the facility because, in addition to the physical capacity controls imposed through the available landside storage capacity, the overall throughput of the IERRT facility will also be legally controlled through the daily cap to be imposed through the DCO.</p> <p>The IERRT berths theoretically have a greater level of ultimate capacity than the landside storage capacity, they have been designed in the way they have to provide flexibility and resilience for the operations of the terminal – matters which are of themselves important considerations in the overall need for the proposed development.</p> <p>In practice the 80% level of activity identified is easily delivered by three sailings from the facility per day (consisting of three vessel arrivals and three vessel departures per day) with the vessels used on those sailings not exceeding the largest vessel parameters identified by the Applicant in its application.</p>

			<p>The IERRT is intended to be a facility that will be in place and serve the needs of the Ro-Ro sector for the long term. It is impossible at this stage to define precisely all potential permutations of vessel types and size within the maximum range, with the corresponding number of units handled by those vessels at any particular time in the lifetime of the facility, but the reasonable worst case scenario from all necessary environmental perspectives have been assessed. Flexibility in this regard is, however, ultimately controlled – from an environmental impact assessment perspective - by the daily cap and the relevant environmental assessment parameters, such as the maximum vessel parameters, that have been used.</p>
<p>BGC.4.05</p>	<p>Applicant and Stena Line</p>	<p>Daily unit handling capacity for the proposed berths</p> <p>Further to the submission of Stena Line’s response to Action Point 8 arising from Issue Specific Hearing (ISH) 5, as included in Appendix 1 to the Applicant’s post ISH5 submissions [REP7-020], clarify what the daily unit handling capacity would be for the proposed berths. The clarification(s) provided by the Applicant and/or Stena Line should include any worked calculations, as necessary, and identify how the 80% efficient throughput factor, referred to by the Applicant for example in [REP2-009 and REP2-010] has been applied.</p> <p>In seeking clarification about this matter, the ExA notes that Stena Line in responding to ISH5 Action Point 8 has advised that the Stena T Class vessel has a lane length of 3,700 metres and a maximum unit capacity of 237 units (based on a unit occupying 15.6 metres), while a Design Vessel accommodating 6,000 lane metres would have a maximum capacity of 428 units (based on a unit occupying 14 metres). It appears that with three daily arrivals and departures if Design Vessels were used exclusively the daily number of units handled by the Proposed Development could significantly exceed a daily limit of 1,800 units, with or without the application of an 80% efficient throughput factor.</p>	<p>This response is submitted jointly on behalf of the Applicant and Stena.</p> <p>The daily cap on the throughput of the terminal as a whole is proposed to be set at 1800 units through the port gates per day as determined by units processed entering or exiting the terminal gates.</p> <p>As indicated in the response provided above to question BGC.4.04, the theoretical ultimate capacity of the berths in isolation would be greater than the daily cap level, but the daily cap level takes account of the physical capacity controls imposed through the available landside storage capacity and the overall throughput of the IERRT facility will also be legally controlled through the daily cap to be imposed through the DCO.</p> <p>As identified in the question, the facility can achieve the daily cap level by three sailings from the facility per day (consisting of three vessel arrivals and three vessel departures per day) with the vessels used on those sailing not exceeding the largest vessel parameters which have been defined by the Applicant in its application.</p> <p>In theory, each berth would be able to handle the maximum number of units potentially able to be accommodated by the largest vessel parameters that have been defined. As Stena indicate in REP7-020 this equates to something in the order of 428 units per vessel. On this basis, therefore, notionally three such vessels combined at 100% utilisation would generate 2568 units across the three berths. However, leaving aside the prospects of such a level of activity occurring, as explained above, both the physical landside capacity restrictions and the daily cap will mean that this level of activity could not be achieved in any event. Rather the 1800 level of activity would be the maximum level of activity occurring at the facility.</p> <p>As already indicated in the Applicant’s answer to BGC.4.04 above, whilst the IERRT berths theoretically have a greater level of ultimate capacity than the landside storage capacity, they have been designed in the way they have to provide flexibility and resilience for the operations of the terminal – matters which are of themselves important considerations in the overall need for the proposed development.</p> <p>The IERRT is intended to be a facility that will be in place and serve the needs of the Ro-Ro sector for the long term. It is impossible at this stage to define precisely all potential permutations of vessel types and size within the maximum range, with the corresponding number of units handled by those vessels at any particular time in the lifetime of the facility. The reasonable worst case scenario from all necessary environmental perspectives, however, have been assessed. Nevertheless, flexibility in this regard is ultimately controlled – from an environmental impact assessment perspective - by the daily cap and the relevant environmental assessment parameters, such as the maximum vessel envelope parameters, that have been used.</p>

<p>BGC.4.06</p>	<p>Applicant</p>	<p>Risk assessment related to potential impact for adjacent Control of Major Accident Hazards (COMAH) site</p> <p>Justify the answer given to BGC.3.01 [REP7-022] “Could the development impact on a COMAH site?” in which the Applicant states: Answer: No. This is confirmed in paragraphs 18.1.18 and Table 18.1 ... of Chapter 18 of the ES [APP-054]”, having regard to evidence presented to the Examination that operation of the Proposed Development could impact on the safety of marine operations of an adjacent COMAH site, and that it appears to the ExA that paragraph 18.18 of [APP-054] does not assess the impact to a COMAH site and while Table 18.1 asserts “There is no requirement to undertake risk assessments based on Advice Note Eleven, Annex G ...”, that Annex G refers to the “...Health and Safety at Work Regulations requirement to prepare a suitable and sufficient risk assessment for proposed activities”.</p>	<p>The Applicant is satisfied and entirely confident that the proposed IERRT will not impact upon the operations of IOT as a COMAH site, both in terrestrial or in marine terms. The Applicant has thoroughly assessed the navigational risks of the IERRT facility and is satisfied (for all the reasons previously identified) that any risks are both tolerable and ALARP. With all such risks managed in this way, the Applicant does not consider there will be any impact on the IOT’s continued operations of the IOT as a COMAH site in circumstances where it already operates as such with the existing marine environment in and around the IOT facility.</p> <p>All employers have a legal duty of care to their employees (section 2, Health and Safety at Work etc. Act 1974), visitors and people/property in their workplace. Where a workplace falls within the remit of COMAH, the employer also has a duty to ensure that the additional risks of operating such a site are reflected in its everyday operations and are reflected in their COMAH Safety Report so as to demonstrate that the necessary and relevant practices and procedures have been implemented.</p> <p>In the case of the facility within the port operated by the IOT Operators, both the marine infrastructure and the landside element constitute, a single COMAH site as has been fully recognised by the Applicant. The relevant requirements under the COMAH regime and the Health and Safety legislation clearly overlap but the principal responsibility for adapting to any additional risk – whether it comes from changes to its terrestrial surroundings or its marine environs - will sit with the COMAH operator itself. The Applicant has, however, already set out its position as regards its management of any risks from the IERRT facility in terms of allision or collision with the IOT facility and the highly precautionary measures that are proposed.</p> <p>The Applicant notes that the extract provided from the IOT Operator’s 2019 COMAH report does in fact refer to a relatively high frequency for significant spills as noted at Table 9.20 (page 91). It is also understood that the fuel loading and unloading arms themselves are not protected fail-safe cut-off mechanisms.</p> <p>This is a matter for IOT operators in their current operations but such activity is presumably considered to be a tolerable risk at the moment, even though existing marine traffic passes in proximity to the IOT facility, including ebb tide lock arrivals and departures which could notionally be swept on to IOT infrastructure in the event of engine failure of existing vessels operating in the area. There is a general downward trend in terms of vessel visits at the port, and the IERRT infrastructure will effectively shield a considerable length of the trunkway. It must logically follow, therefore, that the overall risk profile of vessel allision even with IERRT in place will be lower than in 2019 when the last COMAH report was produced.</p> <p>In their COMAH Safety report, IOT operators note ‘The main credible threat to the pipelines in this area would be a ship collision, such as a large errant/ rogue vessel colliding with the jetty. This could cause major damage and is likely to lead to some pipeline spillage. The likelihood of ship impacts has been considered in RP1. This indicates an impact frequency of approximately 0.1 per year, however most of these would be associated with “heavy” landings during berthing and manoeuvring operations at the berths. Direct ship collisions involving the jetty structure would be much less likely.’ (page 102.) On page 103, IOT operators note that: ‘Major leaks and fires from the pipelines on site and along the jetty should be detected quickly, especially as these would affect the transfer rates. In an incident all the pipeline transfers would be stopped by calling the ship/refinery control room. This would quickly depressure the</p>

			<p>lines and limit the extent of any leak and fire. All pipelines have remote operated isolation valves at the IOT site boundary and these could also be shut if needed.’ The next sentence has been struck through – presumably as an update to the report – ‘All other pipelines have manual block valves at the same location, allowing the onsite pipeline sections to be isolated from the inventories in the cross country sections to the refineries.’ IOT operators also indicate that ‘In a major leak, the pipeline should be shut down quickly. Given pumping rates of between 400 and 1300 kg/s, these could equate to a spill of 120-390 tonnes over a 5 minute period (typical time to detect the leak and stop the pumps).’</p> <p>The IOT Operators will in due course have to update their COMAH report to reflect changes in the vicinity such as IERRT, and address any risks that those activities pose to IOT, and any risks that IOT poses to all those in the vicinity. The Applicant has already set out its position on the highly precautionary approach it has taken to assessing and managing any such risks. The extent to which the IERRT results in an increase, or more probably a decrease in risk (given the fact that the IERRT facility will now shield a substantial part of the IOT trunkway) compared with the 2019 report will be a matter for IOT operators. HSE and the EA will then review the COMAH report and form a view as to whether an adequate demonstration has been made that the risks are as low as reasonably practicable. Given the Applicant’s assessment of the navigational risks and the measures that are being introduced and bearing in mind all other existing risks which have already been accepted in the COMAH report as acceptable, the Applicant does not consider there would be any further impact on the COMAH report assessment when it is updated.</p> <p>In their letter of 13 November, responding to a Rule 17 enquiry from the ExA, the HSE reiterate their assertion that their regulatory remit does not extend to vessels in the marine environment. They further add that a COMAH site should ‘consider the potential impact on their operation of external events caused by the IERRT Proposed Development. Further, they should liaise with IERRT to address any issues and implement any necessary risk reduction control measures such that their site has all measures necessary to reduce the risk to as low as reasonably practicable. This also extends to emergency planning where the legislation expects COMAH sites to review their emergency planning arrangements and liaise with the emergency service and the local authority. COMAH sites would be expected to look at the impact on their operations and activities should a vessel hit part of their site and whether that can lead to a major accident.’ The applicant would contend that – on the basis of the submitted COMAH safety report – IOT operators are well aware of the potential for vessel allision to cause an incident and have well-established control measures in place. Taking in to account the trunkway’s existing vulnerability, the ongoing reduction in vessel visits, the shielding properties of IERRT once built and the operational marine controls being suggested for IERRT, it is difficult to see how IOT operators would have to substantially adapt their Safety Report to remain compliant with COMAH Regulations. It is also worth reiterating that the HSE (and EA) do regulate COMAH sites and regularly review safety reports. They can also take enforcement action if they feel that aspects of site management are not managed appropriately. COMAH is not, however, a permitting regime in and of itself.</p> <p>COMAH Safety reports are required to be updated (or at least reviewed and confirmed as still being correct) and re-submitted to the HSE/EA every 5 years (or more often if there is a significant change – such as a major new plant on the site). The applicant therefore presumes that IOT are currently working on the 5-year update for submission in 2024.</p>
BGC.4.07	Applicant	Technical Authority Marine role title	The Applicant confirms that the role of Designated Person is fulfilled by the ‘Group Technical Authority Marine’ role.

		<p>The Supplementary Navigation Information Report [REP7-030] references “Group Technical Marine Advisor” whereas [REP1-014 para 10.30] and [REP3-017 section 1.5] both reference “Group Technical Authority Marine”. Confirm if this is the same role and if so, what is the office holder title that the ExA should use in its recommendation report.</p>	<p>As described in [REP1-014], para 10.24, the HASB membership includes ABP’s Director of Safety, Engineering and Marine who acts as a ‘Marine Advisor’ to the Board. The responsibilities of the Marine Advisor are described further in the Marine Safety Plan at Appendix 4 of REP1-014.</p> <p>During the course of the IERRT examination and pending the appointment of a Designated person following the previous post holder moving employment, Captain McCartain – ABP’s Director of Safety, Engineering and Marine (the ‘Marine Advisor’) has been temporarily fulfilling the role of the Designated Person.</p> <p>The reference in section 2.3 Supplementary Navigation Information Report should be to the Technical Authority Marine (being also the Designated Person under the PMSC). The Marine Advisor is a standing member of the HASB.</p>
<p>BGC.4.08</p>	<p>Applicant</p>	<p>Tug availability</p> <p>In responding to ExQ3 BGC.3.02 [REP7-022] you have commented in the context of reducing vessel movements on the Humber that you refute “... the suggestion that the use of tugs will result in less tug availability for other users”. If the trend towards reducing vessels movements was to continue what certainty can be provided that the tug operators would not reduce their fleets to reflect a falling level of demand for their services?</p>	<p>The overall trend towards fewer annual commercial vessel movements in the Humber does not equate to a falling level of demand for towage. For example, a shipping line can maintain volumes through the Port of Immingham by scheduling a larger vessel. Whilst over the course of a year, that shipping line may make fewer calls the towage requirements will be based on the size of the vessel and the berth it has to use.</p> <p>The Harbour Master Humber has already made reference to the Humber Estuary Services website which provides information on routine ship towage and non-routine ship towage. It provides as follows:</p> <p>ROUTINE SHIP TOWAGE</p> <p><i>Minimum towage guidelines apply to all passage plan vessels (as defined in the Humber Passage Plan) and to certain larger vessels arriving at or sailing from docks and jetties on the lower river.</i></p> <p><i>These guidelines have been agreed by all interested parties following consultation and a risk-assessment process.</i></p> <p><i>The docks and jetties at which guidelines apply are listed below. At any location not listed, a master and pilot may still decide that tug assistance is required and should order accordingly.</i></p> <p>GENERAL COMMENTS</p> <p><i>The vessel’s size, type and draught may dictate the minimum tugs that are required but the following points should always be taken into consideration:</i></p> <ul style="list-style-type: none"> • <i>Ships Master/Pilot requirements, based upon experience.</i> • <i>Size of vessel</i> • <i>Windage</i> • <i>Vessels draught.</i> • <i>Vessels own mechanical propulsion</i> • <i>Including number of Engines, Propellers,</i> • <i>Rudder configuration and type,</i> • <i>Any bow thrusters and/or stern thrusters,</i> • <i>Any special equipment such as Dynamic Positioning capability,</i> • <i>Operational status of above and mooring equipment suitability</i> • <i>Vessels handling characteristics.</i>

			<ul style="list-style-type: none"> • <i>Prevailing and forecast tide, weather and sea state</i> • <i>Amenability and requirements of berth (i.e. condition of use).</i> • <i>Availability and ability of crew to respond adequately to requirements.</i> • <i>Exceptional conditions.</i> <p>The ExA will be aware that in addition, the Applicant has submitted evidence to the examination provided directly by the tug operators at D7 [REP7-020, Appendix 2] which confirms that the towage providers are continuing to invest in their equipment and fleet despite the trend towards fewer vessel calls. In the view of the Applicant, those submissions of themselves provide necessary certainty required bearing in mind in addition that SMS Towage is the UK's largest independent towage company and Svitzer is a recognised international industry leader, servicing over 142 ports globally.</p> <p>As a final point, however, the ExA should note that regardless of or in addition to the above points, the Applicant, as the owner and operator of the Port of Immingham, is managing the port under a commercial imperative to service the needs of the users of the Port. To fail to ensure that there is adequate towage would simply encourage operators where practicable to relocate to ports with a greater towage offering whilst discouraging potential new operators.</p> <p>Owing to the Humber's status as one of the busiest trading estuaries in the UK, the Applicant is confident that there will be sufficient market demand and interest for the multiple towage providers based on the Humber to continue to provide safe and efficient towage as directed by the CHA. Further, the Applicant is not aware of any evidence to the contrary.</p>
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Schedule 3 Compulsory Acquisition, Temporary Possession and Other Land Rights Considerations

ExQ2	Question to:	Question	Applicant's Response
CA.4.01	Applicant	<p>Updates with respect to any outstanding CA etc negotiations</p> <p>The Applicant must provide updates at Deadline 8 relating to any outstanding compulsory acquisition etc negotiations. In providing those updates the Applicant must confirm when any heads of terms and/or letters of comfort from affected persons will be submitted as Examination documents given that the Examination will close no later than 25 January 2024.</p>	<p>Outstanding compulsory acquisition negotiations are ongoing with the parties set out below:</p> <p><u>Volkswagen Group United Kingdom Limited (VW)</u></p> <p>The Applicant can confirm that it is progressing the commercial negotiations with VW and the parties are making progress towards agreeing alternative arrangements for Volkswagen to take a lease at the Port of Grimsby with a view to vacating their site at the Port of Immingham and thereby facilitating the delivery of IERRT. Heads of Terms are in circulation in respect of the proposals which are subject to review by VW's board, at its Head Office in Germany.</p> <p>Whilst the Applicant is confident that these negotiations will be concluded positively, there is a risk that the negotiations will not have been concluded prior to the close of the examination. On that basis, the Applicant would wish to retain its powers of compulsory acquisition.</p> <p><u>Mr Drury. Drury Engineering Services Limited, P.K. Construction (Lincs) Limited, and Malcolm West Fork Lifts Limited</u></p> <p>Negotiations with these parties are progressing well. Heads of Terms have been circulated, as well as drafts of the related proposed agreements for review. The parties have agreed in principle to provide letters of comfort to the ExA confirming the position. Letters have been provided from Drury Engineering Services at document reference 10.2.95 and Malcolm West at 10.2.94, and will follow shortly from PK Construction.</p> <p>Notwithstanding the ongoing positive negotiations noted above the Applicant does not consider that these negotiations will be settled prior to close of the Examination on 25 January 2024. Accordingly, the Applicant considers compulsory acquisition powers will need to be retained in the dDCO, noting that it will continue engaging with the parties noted above to reach agreement in respect of the affected interests.</p>
CA.4.02	Applicant	<p>Update with respect to the negotiations with the Crown Estate</p> <p>Further the Applicant's response to ExQ CA.3.03 [REP7-022] the Applicant must provide an update at Deadline 8 as to when the Crown Estate Commissioner's written consent pursuant to section 135(2) of the PA2008 is expected to be issued. The Applicant is reminded that for the ExA to be in the position to take account of any written consent that may be issued by the Crown Estate Commissioners that notification must be submitted prior to the close of the Examination, which will be no later than 25 January 2024.</p>	<p>The Applicant understands that the Crown Estate is content to issue its Section 135 consent for the IERRT and that this will be submitted to the ExA shortly and, in any event, prior to the close of the Examination.</p>

Schedule 4 Climate Change

ExQ2	Question to:	Question	Applicant's Response
		No questions at this time	

Schedule 5 Draft Development Consent Order (dDCO)

ExQ2	Question to:	Question	Applicant's Response
DCO.4.01	Applicant	<p>Article 33, Requirement 15(a) and Schedule 3 Paragraph 11 Outline Offshore Construction Environment Management Plan (CEMP)</p> <p>Why is an Archaeological Written Scheme of Investigation (WSI) not included in Table 1.1 of the Outline Offshore CEMP [AS-077] as a plan to be developed and discharged? Why is the draft WSI not Appended to the outline Offshore CEMP and why is there no reference to overlapping responsibilities for the intertidal zone between the Marine Management Organisation and the Council, for example in [paragraph 1.1.3 of AS-077]?</p>	<p>The Applicant can confirm that Revision 2 of the Outline Offshore CEMP [AS-077] which has been submitted to the Examination at Deadline 8, includes reference to an Archaeological Written Scheme of Investigation (WSI) within Table 1.1, to which the MMO is a consultee. The draft WSI has also been appended to the Outline Offshore CEMP as Appendix D.</p> <p>The WSI covers the area over which potential direct and indirect effects of the IERRT project have been predicted to occur on marine heritage receptors during the construction and operational periods.</p> <p>The marine study area, therefore, comprises the area of the Proposed Development below Mean High Water Springs (MHWS). This encompasses all direct impacts from construction and dredging.</p> <p>A further 500m buffer zone beyond the area of the proposed development has been included in order to capture relevant proximate heritage receptors in the assessment that could be affected indirectly. This area is known as the Archaeological Study Area (ASA)</p> <p>With regard to NELC's jurisdiction on historic environment/archaeology matters, whilst technically NELC's remit extends to low water NELC's Conservation Officer has confirmed that - <i>'with heritage there is a tendency to allow the national bodies to take the lead on discussions when work is proposed in the marine environment. However, we are the still the main repository of archaeological information, and we do record things in the intertidal zone as that information directly affects terrestrial archaeology and the management of it. Understanding proposed works and impacts is vital to this so even so we are unlikely to have meaningful input into non terrestrial works we would still request to be kept fully apprised of any works here and receive the results of any survey/recording work undertaken.'</i></p>
DCO.4.02	Applicant	<p>Requirement 10 noise insulation</p> <p>With respect to the intended operation of Requirement 10, the ExA notes the Applicant's response to the ExA's enquiry [PD-019] about this requirement provided in [REP7-029], most notably that noise insulation measures have already been offered to residents of Queens Road.</p> <p>To assist the ExA's understanding of the intended operation of Requirement 10, the Applicant should confirm what noise levels the insulation measures have been designed to attain within the interiors of the affected residential properties during the daytime and night-time periods.</p>	<p>By way of general update regarding the residential properties on Queens Road, the draft Immingham Green Energy Terminal ("IGET") DCO contains powers of compulsory acquisition for all of those residential properties and several Queens Road properties have already been acquired by Air Products by negotiation in relation to the IGET project.</p> <p>The properties acquired to date are numbers 1, 2, 20, 21 & 31. Negotiations are on-going for the remaining residential properties, namely numbers 3, 4, 5 & 6 alongside the properties at numbers 7/8 and 18 which are residential at first floor). It is understood that it is the intention, as part of the IGET proposed development, to acquire these properties by agreement prior to the IGET Development Consent Order being made. If acquisition by agreement is not achieved, the promoter of IGET will exercise these compulsory purchase powers (assuming the DCO is</p>

			<p>granted). The properties will not, therefore, continue in residential occupation in the circumstances of IGET being consented and implemented.</p> <p>Irrespective, as far as the IERRT project is concerned, the Applicant has to proceed on the basis that the IGET development will not be approved and, therefore, for properties still classified as residential and occupied, the noise insulation offered to those properties on Queens Road will be designed to reduce the noise level by at least the maximum predicted increase in road traffic noise due to the operation of IERRT, taking into consideration the performance of the existing glazing and ventilation. As stated in ES Chapter 14 (APP-050) the worst-case hourly increase in road traffic noise was 7.4 dB.</p> <p>An equivalent improvement in sound insulation is achievable using secondary glazing in addition to the existing single or double glazing, giving an overall reduction against external noise levels of 45-50 dB.</p> <p>Requirement 10 has been amended accordingly.</p>
DCO.4.03	Applicant	<p>Requirement 12 (East Gate Improvements)</p> <p>In responding to the ExA's schedule of proposed changes to the dDCO [REP7-029] the Applicant has queried the ExA's deletion of "... to the satisfaction of the Council" in sub-paragraph (b). The ExA considers that phrase to be imprecise and unnecessary given that the design and implementation of the works affecting the public highway would be subject to the approval mechanism appertaining to section 278 of the Highways Act 1980. The ExA remains of the view that the above-mentioned phrase should be deleted from sub-paragraph (b). Should the Applicant not agree to making that deletion it should provide its reasoning.</p>	<p>The Applicant thanks the ExA for explaining its rationale for deleting the wording "<i>to the satisfaction of the Council</i>" from limb (b) of Requirement 12. The Applicant is in agreement and confirms that the wording has been deleted in the updated version of the dDCO submitted at Deadline 8.</p>
DCO.4.04	Applicant and the Harbour Master Humber (HMH)	<p>ExA's suggested Requirement 18A or incorporation of the Revised Navigational Risk Assessment (NRA) and NRA Addendum into the dDCO</p> <p>The ExA is mindful of the HMH's 'in principle' objection stated in [REP7-061] to the suggested Grampian Requirement 18A and notes HMH's alternative wording for Requirement 18A should the Secretary of State conclude such a requirement should be included in any made DCO. The ExA also notes the Applicant's support for HMH's position, as expressed in [REP7-029].</p> <p>Notwithstanding the submissions made by the HMH and the Applicant, the ExA remains of the view that in the interests of navigational safety any made DCO for the Proposed Development should secure initial operational limits for the proposed berths and that need not be incompatible with the exercising of the HMH's statutory duties. That said, the ExA recognises that a requirement based on the HMH's alternative wording may be more appropriate, albeit whichever form of wording might be used would engage the provisions of section 145 (Harbours) of the Planning Act 2008 (PA2008). The ExA considers that the only appropriate alternative to the inclusion of a requirement along the lines of R18A would be the incorporation of the updated NRA [REP7-011] and Supplementary Navigation Information Report [REP7-030], as a means of setting a baseline for the operation of the proposed berths, via a specific requirement within any made DCO. Such an incorporation of the NRA via a specific requirement would be something which the Applicant appeared to support when it originally submitted its application, and for</p>	<p>The Applicant notes the ExA's view that - "<i>in the interests of navigational safety any made DCO for the Proposed Development should secure initial operational limits for the proposed berths and that need not be incompatible with the exercising of the HMH's statutory duties</i>" and provides its comments on the ExA's proposals below as requested (without prejudice to its previous submissions and position).</p> <p>Generally - The Applicant considers that if the ExA is seeking to secure initial operational limits through the DCO, an appropriately worded Requirement 18A would be preferable to the alternative of Requirement 18B namely - "<i>the incorporation of the updated NRA [REP7-011] and Supplementary Navigation Information Report, (SNIR) [REP7-030], as a means of setting a baseline for the operation of the proposed berths, via a specific requirement within any made DCO</i>".</p> <p>The Applicant is of the view that it would be preferable and consistent with the statutory scheme and delineation of responsibilities that the safety of navigation in the Port of Immingham and the Humber generally continues to be addressed by those with statutory responsibility for safety in the ways that have been described in more detail at the Examination where the assessment where there will be a continuing process of assessment and control of navigational risk.</p> <p>Thus, as the ExA is aware, before the Proposed Development can become commercially operative, the SCNA and the Port of Immingham SHA will require the</p>

	<p>which there is precedent, for example Requirement 11 of each of the made Tilbury 2 DCO [AS-039] and Lake Lothing DCO [AS-040].</p> <p>The Applicant and the HMH are therefore requested to:</p> <p>a) Comment on the following revised wording for recommended additional Requirement 18A:</p> <p><i>(1) The undertaker may must not commence marine commercial operations until the Statutory Conservancy and Navigation Authority has published guidance setting out a written statement of safe operating procedures for arrival at and departure from the authorised development for particular vessels and/or classes of vessels.</i></p> <p><i>(2) The Statutory Conservancy and Harbour Authority must not publish the guidance written statement referred to in sub-paragraph (1) unless it has first consulted with the dockmaster dock master for the Port of Immingham and the IOT Operators, as defined in Part 4 of Schedule 4, and has had due regard to their representations.</i></p> <p><i>(3) The undertaker must operate the authorised development only in accordance with the guidance written statement referred to in sub-paragraph (1) as may be amended and re-published from time to time.</i></p> <p>b) Clarify whether publication of “safe operating procedures” as referenced in the wording above would be by the Statutory Conservancy and Navigation Authority (SCNA) alone or by SCNA <u>and</u> the Statutory Harbour Authority (SHA) for the Port of Immingham.</p> <p>c) Advise whether the SHA Humber and/or SHA Port of Immingham would be prepared to give written consent to Requirement 18A being included in any made DCO for the Proposed Development.</p> <p>d) Comment, as an alternative to Requirement 18A being included in any made DCO for the Proposed Development, on the incorporation of the updated NRA and Supplementary Navigation Information Report into any made DCO, via the following recommended wording for an additional requirement (named by the ExA at this stage as 18B simply for identification purposes), as follows:</p> <p>Requirement 18B</p> <p>The authorised development must be constructed and operated in accordance with the “applied controls” described in the Updated Navigation Risk Assessment and the Supplementary Navigation Information Report listed in Schedule</p>	<p>operation of the three berths to be further tested in terms of additional navigational simulations (if considered appropriate), assessment and the imposition of a “slow start” procedure.</p> <p>In the paragraphs that follow, the Applicant first responds to the ExA’s comments regarding a Requirement 18A and then considers the need for a Requirement 18B.</p> <p>Requirement 18A – (which it should be noted for DCO statutory drafting purposes will have to numbered Requirement 19)</p> <p>In terms of Requirement generally and fully recognising the ExA’s wish to strike a balance between the concerns expressed by the Interested Parties and the need to enable the Applicant, as SHA for the Port of Immingham and the SCNA to perform, unimpeded, their respective obligations and duties, the Applicant would comment as follows:</p> <p>The ExA’s proposals for Requirement 18A -</p> <p>a) The ExA is proposing that the Applicant should publish a “written statement” regarding safe operating procedures for arrival/departure to or from IERRT. The Applicant would prefer to introduce a more formal process requiring the undertaker to incorporate the enhanced navigational controls as a formal amendment to the Port of Immingham Operations Manual – that amendment then being published as noted below.</p> <p>b) The Operations Manual is published by the dock master, not the HMH in that it is the dock master who manages the deployment/need for tugs whilst the HMH manages the use of pilots. That said, as the ExA is aware, the functions of both the dock master and the HMH do inevitably overlap and certainly in amending the Operations Manual the dock master will be discussing any proposed changes with the HMH.</p> <p>c) The Applicant, as the SHA Port of Immingham, is proposing a slightly amended Requirement 19 (formerly 18A) as set out below.</p> <p>d) The Applicant’s comments with regard to a possible Requirement 18B are set out below – but in brief, the Applicant does not believe such a provision to be necessary.</p> <p>The Applicant’s proposals for Requirement 18A -</p> <p>a) Requirement 18, which is discussed in more detail below, will in summary, maintain the ability for either the Humber Harbour Master and/or the Port of Immingham Dock Master to “recommend” to ABP that it should consider the construction of one or both of the impact protection measures as identified as Work No. 3 in the draft DCO.</p> <p>b) In addition, a provision will be included requiring the dock master, in consultation with the SCNA, to amend the Port of Immingham Marine Operations Manual so as to mandate the use of a tug to assist vessels arriving or departing from Berth 1 of IERRT – which will be referenced in the draft DCO as “Enhanced Operational Measures”; and</p> <p>c) The dock master will -</p>
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			<ul style="list-style-type: none"> - Inform the IOT Operators of the amendment to the Port of Immingham Marine Operations Manual no later than 28 days before the commencement of commercial operations at the authorised development; and - Publish the relevant controls in the Marine Information and Compliance section of the Port of Immingham Web-page <p>As far as Requirement 18A (to be renumbered 19) is concerned, as the imposition of the Enhanced Operational Measures would be determined by the dock master/Port of Immingham SHA and not the SCNA as it is the former that determines the deployment and management of tugs whilst the remit of the SCNA as CHA is for the use of pilots, it is proposed that the ExA's suggested Requirement 18A (19) should be amended as follows –</p> <p><i>(1) The undertaker may must not commence marine commercial operations until the dock master Statutory Conservancy and Navigation Authority has amended the Port of Immingham Marine Operations Manual (the "Manual") to incorporate the Enhanced Operational Measures published guidance setting prescribing out a written statement of safe operating procedures for arrival at and departure from the authorised development. for particular vessels and/or classes of vessels.</i></p> <p><i>(2) The dock master will:</i></p> <ul style="list-style-type: none"> - <i>notify the IOT Operators of its amendments to the Manual in terms of the operation of the authorised development;</i> - <i>will publish the amended navigational controls on the Port of Immingham webpage.</i> <p><i>with the amendments t Statutory Conservancy and Harbour Authority must not publish the guidance written statement referred to in sub-paragraph (1) unless it has first consulted with the dock master dock master for the Port of Immingham and the IOT Operators, as defined in Part 4 of Schedule 4, and has had due regard to their representations.</i></p> <p><i>(3) The undertaker will must operate the authorised development only in accordance with the Manual guidance written statement referred to in sub-paragraph (1) as may be amended and re-published from time to time.</i></p> <p>NOTE – The currently proposed Enhanced Operational Measures are attached at Appendix 1.</p> <p>Requirement 18B –</p> <p>The NRA, the SNIR, and indeed the assessments and navigational simulations undertaken to date are intended to be forerunners to the further tests and requirements that will be undertaken for the future operation of the IERRT. This is normal practice as both DFDS and the IOT Operators are fully aware in that they too have had to undergo similar procedures for their respective berthing facilities</p>
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			<p>before the two SHAs were satisfied that their respective marine facilities could be safely operated.</p> <p>As such, the Applicant is of the view that it is neither necessary nor would it be helpful for the NRA or the SNIR to be specifically incorporated in the DCO as suggested by Requirement 18B. Although it is the case that reference to the NRA was incorporated in the draft DCO in the Tilbury 2 DCO [AS-039] and Lake Lothing DCO [AS-040], following the question raised by the ExA about this and the way navigational safety will continue to be addressed, the Applicant's view remains that as far as the IERRT development is concerned, it is not necessary for the NRA or the SNIR to be formally referenced in the DCO.</p>
DCO.4.05	Applicant and HMH	<p>Requirement 18 Impact Protection Measures (IPM) and right of appeal under paragraphs 19 and 22</p> <p>In relation to the concerns about the ExA's recommended changes to Requirement 18 voiced by the HMH and the Applicant, the parties are reminded that one of the purposes of the Nationally Significant Infrastructure Projects' regime is to reduce the need to obtain several separate consents prior to an infrastructure project's delivery.</p> <p>a) For the Applicant - The ExA is mindful of the HMH's in-principle objection to the inclusion of a power of direction, as opposed to recommendation, within Requirement 18 [REP7-061], a position that the Applicant has expressed support for in [REP7-029], but in the event of the ExA being minded to recommend to the Secretary of State that a power of direction be included in Requirement 18, would the Applicant be content if no right of appeal to the Secretary of State were made available to the undertaker?</p> <p>b) For the Applicant and HMH – In the event of a power of direction being included in Requirement 18 without right of appeal, would the inclusion of a power of direction engage section 145 of the PA2008?</p> <p>c) For the Applicant – Justify the inclusion of the dock master in Requirement 18 in the version of the dDCO that accompanied the Applicant's Change Request [AS-053].</p>	<p>The Applicant notes the ExA's request for comments in the event of a power of direction being recommended. It provides these comments without prejudice to its in principle position as identified and acknowledged by the ExA</p> <p>Dealing with the ExA's questions in turn –</p> <p>a) On a without prejudice basis, and the ExA's attention is drawn specifically to the Applicant's proposals with regard to Requirement 18 and 18A (which will have to be numbered 19), which maintains the position that both the HMH and the dock master will have the ability to "recommend" to ABP, either separately or jointly, that impact protection measures should be provided. the Applicant does not believe a right of appeal to be necessary.</p> <p>b) Again without prejudice to the Applicant's in-principle position, the Applicant does not foresee any insuperable difficulty as it currently understands the position with regard to the engagement of section 145 of the PA 2008.</p> <p>c) The rationale for the inclusion of the dock master in Requirement 18 is simply because, as has been explained [REP7-066] as the dock master exercises his powers and obligations separately for the powers and obligations of the HMH, although as explained, subject to an inevitable overlap, and as the imposition of the enhanced navigational controls will involve the dock master, not the HMH, the inclusion of a power to "recommend" for the dock master within Requirement 18 is logical.</p>
DCO.4.06	Applicant, HMH and IOT	<p>Requirement 18: potential amendment to construct Finger Pier IPM prior to commencement of construction of the proposed berths</p> <p>As a prerequisite to minimising impedance to IOT operations and/or safety risks related to construction activity, if a DCO were to be made, should Requirement 18 be amended to require IPM for the Immingham Oil Terminal Finger Pier be constructed prior to the capital dredge and commencement of construction of the proposed IERRT berths?</p>	<p>The view of the Applicant as owner and operator of the Port of Immingham and SHA – and it is understood, the view of the SCNA - is that the provision of IPM prior to the capital dredge is definitely not required.</p> <p>As has been explained the nature of the construction and use of vessels for construction (such as barges with tugs) mean that the range of controls over construction activity are more than sufficient to ensure that all risks are addressed and tolerable and ALARP. It is already the case that dredging activity can occur around the IOT Terminal .</p> <p>The Applicant has an obligation to act reasonably and responsibly in the management and operation of its port – as is the case for every SHA in the United Kingdom. Those responsibilities have been imposed by statute. The Applicant has successfully fulfilled its obligations for the past 40 years and no evidence has</p>

			been produced by any parties – including the IOT Operators and DFDS to the contrary.
DCO.4.07	Applicant and HMH	<p>Need for Protective Protections (PPs) in favour of the Statutory Conservancy and Navigation Authority (SCNA)</p> <p>Paragraph 32 of the “Joint Note – Separation of functions” (the functions note) [REP7-066], states: “Historically, Harbour Orders do not treat an applicant’s harbour masters as separate bodies requiring protective provisions in legislation authorising further port infrastructure, and there is no reason for this DCO to do so. On the other hand, the protective provisions in the DCO provide a streamlined approvals process for works in the Humber that would – but for the disapplication of Section 9 of the 1899 Act - be subject to licensing by the SCNA.”</p> <p>Explain the rationale for the inclusion of PPs in favour of the SCNA in the dDCO [REP6-003]. In the light of what has been stated at paragraph 32 of the joint note [REP7-066] and the HMH’s view that a made DCO should not include powers routinely available to the HMH (in the capacity of the SCNA), is there an inconsistency of approach with Part 1 of Schedule 4 of the dDCO having been included as a means of disapplying/streamlining the licensing of works by the SCNA?</p>	<p>The HMH’s powers to approve works in his area of jurisdiction under s.9 of the 1899 Act already exist. The draft DCO does not therefore seek to extinguish those powers and are there to ensure that HMH continues to have the statutory ability to control infrastructure and vessels within his area of jurisdiction.</p> <p>Accepting that IERRT will be built within the Port of Immingham’s SHA area, it is still considered appropriate to carry the HMH’s specific powers through to the draft DCO via the disapplication and reinstatement process simply to ensure that the HMH retains his ultimate level of control within the estuary. Whilst the IERRT sits squarely within the SHA area of Immingham it could still be conceivable that actions related to the construction and operation of IERRT may have an interface with HMH’s role.</p>
DCO.4.08	Applicant	<p>Protective Provisions (PPs) in favour of the Humber Oil Terminals Trustees Limited (HOTT)</p> <p>a) Would IOT vessels be prioritised over Proposed Development traffic, and if not, why not?</p> <p>b) Would a protective provision requiring impact protection measures for either or both of the IOT Finger Pier and the Trunkway be compatible with Requirement 18?</p>	<p>a) As stated in Chapter 16 of the ES [APP-052] the construction, and indeed the operation, of the IERRT project is not anticipated to result in any significant adverse effects in terms of vessel movements or congestion. The increase in vessel movements during construction will be managed by existing well proven processes and procedures which are already in place and have been successfully implemented in the past.</p> <p>As stated in Chapter 16 of the ES [APP-052], during construction of the IERRT project, priority will be given to commercial vessels over construction vessels in terms of vessel scheduling movements by Vessel Traffic Services in conjunction with the Harbour Master Humber and the Dock Master Immingham. It would not be appropriate, however, for the protective provision to attempt to contradict these statutory jurisdictions, or for the Applicant to be required to provide a protective provision which it has no power to undertake – that power falling to the aforementioned statutory authorities. Both the HMH and Dockmaster Immingham need to have free reign to exercise their powers of direction to ensure that all vessels move in a controlled, safe manner.</p> <p>In practice, the tidally restricted vessels and tankers transiting to and from the IOT would continue to be given priority by Humber Estuary Services, as has been made clear by the Humber Harbour Master’s submissions [REP4-032, REP7-064].</p> <p>b) A protective provision requiring impact protection measures for either or both of the IOT Finger Pier and the Trunkway would be <u>incompatible</u> and in direct contradiction with Requirement 18 (see page 14 of [REP7-029]) and would conflict with the Harbour Master’s statutory responsibility for ensuring navigational safety.</p>

DCO.4.09	Applicant and DFDS	<p>PPs in favour of DFDS</p> <p>In light of the submissions made by the Applicant about PPs in favour of DFDS, as included in [REP7-029]:</p> <p>a) For the Applicant – In summary form, identify the existing licence/lease arrangements that you consider would safeguard DFDS’ interests when any of the proposed berths became operational, in the event of a DCO being made.</p> <p>b) For DFDS – Explain why it is considered PPs relating to the operational phase for the Proposed Development would be necessary rather than relying on the provisions of any existing licence/lease arrangements.</p>	<p>The development of new berths elsewhere on the port does not affect the existing commercial, licence and lease arrangements between DFDS and the Applicant. DFDS will, therefore, continue to enjoy use of the berths at the Immingham Outer Harbour and the exclusive use of its landside areas in the same manner as it has been content to do so in the past. Typically, ABP would not offer prioritised access to one customer over another as part of a legally binding commercial commitment.</p> <p>As the SHA operating the Port of Immingham, ABP has statutory duties under the ‘open port’ policy contained within the Harbours Docks and Piers Clauses Act 1847. This essentially means that the port operator has a duty to serve all legitimately trading vessels at the port, assuming that all relevant fees and charges have been agreed. Whilst ports will enter into exclusivity arrangements for certain berths or terminal areas or perhaps on occasion allocate certain berths as ‘priority’ quaysides for certain vessels moving cargo for certain customers, it would be highly unusual to give a specific customer or shipping line priority status for their vessel movements. This is simply because, in exercising its rights and responsibilities as a SHA in accordance with its MSMS, a SHA needs to have the flexibility to manage and control all vessel movements without having to contend with legally binding commercial commitments which could fetter that ability. Ro-Ro vessels are built with shallow drafts so that they can trade on ‘short-sea’ routes and can, therefore, transit the Humber just as easily at low water as they can at high water.</p> <p>Both the HMH and Dockmaster Immingham need to have free reign to exercise their powers of direction to ensure that all vessels move in a controlled, safe manner and that certain vessels – which are tidally restricted simply due to their size – do not miss any restrictive ‘windows’ within which they have much reduced navigational flexibility. It would, therefore, be inappropriate for a particular shipping line to be given priority in terms of vessel movements and indeed this would be contrary to a SHA’s MSMS.</p> <p>Where customers’ vessels are known to be ‘WOA’ (work on arrival) the HMH and Dockmaster Immingham collaborate on ensuring that these vessels are afforded the opportunity to dock as soon as possible bearing in mind the operational exigencies of a busy waterway and safety responsibilities of a SHA.</p>
DCO.4.10	Applicant and CLdN	<p>PPs in favour of CLdN</p> <p>The ExA notes that the Applicant considers that the PPs sought by CLdN, most particularly paragraph 127 “Application” should not apply to the operational phase of the Proposed Development, with the movement of vessels being under the control of the Humber Vessel Traffic Service (VTS) [AS-078]. It appears to the ExA that what CLdN is seeking to achieve via the inclusion of the Proposed Development’s operational phase within paragraph 127 would be the maintenance of the status quo for (non-interference with) the movement of shipping to and from the Port of Killingholme rather than seek to gain a competitive advantage over operations at the Port of Immingham.</p>	<p>CLdN are seemingly seeking to ensure the non-interference by IERRT vessels with their vessels transiting the Port of Killingholme. The Applicant agrees with the ExA that this is simply an attempt to secure the <i>status quo</i>. What CLdN are refusing to acknowledge, however, is that responsibility for the management of vessels transiting the Humber does not fall to the Applicant – indeed, the Applicant has no ability to control movement across/along the Humber waterway. The legal responsibility for the safe and efficient management of navigation through the Humber rests solely with the HMH/SCNA – a statutory duty that they are required to perform reasonably – as is the case.</p> <p>The Applicant would add, however, that in its opinion, it would not be appropriate for the HMH to prioritise the movements of one commercial use of the Humber to the exclusion of all other users from the Ports of Hull, Goole and such other commercial users. To do so would be to distort and erode the HMH’s overall powers of direction</p>

		<p>a) For CLdN – Is the ExA correctly characterising your representation that the operational phase for the Proposed Development should be included in the PPs? If not, explain why not.</p> <p>b) For the Applicant – if the proposition is correct that VTS would be able to manage the passage of vessels so that there would be no interference with the movement of shipping to and from the Port of Killingholme, what disadvantage to the undertaker would there be if the PPs sought by CLdN were to apply to the operational phase (ie the use of any of the Proposed Development’s berths)?</p>	<p>– which are necessary to ensure the overall safety of navigation. And would act as a limitation of the SCNA’s statutory duties.</p>
DCO.4.11	Applicant	<p>Other Protective Provisions</p> <p>The Applicant at Deadline should provide an update on the position with respect to negotiations concerning any other Protective Provisions not subject to questions above.</p>	<p>The Applicant is providing an update in respect of the Protective Provisions in its updated Protective Provisions Tracker.</p>

Schedule 6 Historic Environment including Marine Archaeology

ExQ2	Question to:	Question	Applicant's Response
		No questions at this time; see question in DCO section regarding the WSI and the Offshore CEMP.	

Schedule 7 Biodiversity, Ecology and Natural Environment

ExQ2	Question to:	Question	Applicant's Response
BNE.4.01	Natural England (NE)	<p>In-combination assessment in the Applicant's updated Habitats Regulation Assessment (HRA) report</p> <p>Following the changes to Tables 3, 4 and 5 in the HRA Report [REP7-014] to incorporate an in-combination assessment, does NE consider that sufficient information has been provided by the Applicant to conclude no likely significant effects in-combination? If NE considers insufficient information has been provided explain why that is the case.</p>	
BNE.4.02	Marine Management Organisation (MMO)	<p>Responding to the Report on the Implications for European sites (RIES)</p> <p>The MMO must respond to questions 4, 14, 20 and 27 of the RIES [PD-018]. The ExA note that the MMO has addressed issues relating to the vibro piling campaign in REP7-037, however confirmation is required in relation to whether the information and mitigation set out in the HRA Report is sufficiently robust to support the Applicant's conclusion that there will be no adverse effects on integrity (AEoI).</p>	
BNE.4.03	Applicant	<p>Mitigation outlined under key issue 7 of NE's written representation</p> <p>The Applicant is requested to consider the mitigation outlined in the points under key issue 7 of NE's submission [REP6-048] and advise if it intends to deliver the mitigation. If not, explain why that is the case.</p>	<p>In its Deadline 6 submission [REP6-048], Natural England outlined possible mitigation at points 3, 4 and 5 under the points relating to key issue 7.</p> <p>Disturbance distance - At point 3, Natural England suggest that restrictions for work on the outer pier would need to be reviewed should the disturbance distance be increased. As noted in the Applicant's Deadline 7 submission [REP7-027] (paragraphs 3.19 and 3.20), an assessment of the potential effects of the construction of the outer pier is provided in paragraphs 4.10.28 and 4.10.29 of the HRA [REP5-020 / REP7-014]. Based on that assessment, and the extensive evidence to support that assessment, mitigation was not considered to be required for the outer pier. No evidence has been provided to support this suggestion and it is as a consequence, not clear to the Applicant what, if any, evidence there is to suggest mitigation is required for the outer finger pier with respect to bird disturbance during construction in contradiction to the conclusions reached by the Applicant. Bearing in mind in addition that the works of construction would be undertaken in an industrial port environment already frequented by birds, the Applicant also does not understand what evidence exists to justify the application of an increased disturbance distance.</p> <p>Use of markers - As noted in the Applicant's Deadline 7 submission [REP7-027], the mitigation suggested by Natural England in REP6-048 at point 4 [REP6-048] relating to the use of markers is acceptable to the Applicant. Ecological Clerk of Works - The Applicant also agrees with the suggested use of an Ecological Clerk of Works as suggested by Natural England. The Applicant intends to implement this during the overwintering period (October to March inclusive) to ensure the agreed mitigation measures for the SPA birds are adhered to and that the appropriate guidance can be provided throughout the construction works.</p> <p>Programming of works - At point 5, Natural England advise that programming of the marine construction works should be considered so that the most disturbing works (approach jetty and inner pier) are carried out in the summer and early autumn,</p>

			<p>with works that are less disturbing to the SPA birds taking place during the coldest months (December to February inclusive).</p> <p>The Applicant has provided a response to the mitigation suggested by Natural England at point 5 at [REP7-027] (at paragraphs 3.23 to 3.25) which explains that this matter has already been fully addressed by the Applicant already.</p> <p>The ExA should be aware that the IERRT construction programme is in fact based around and led by the mitigation measures. As stated in paragraph 4.10.38 of the HRA [REP5-020 / REP7-014], the winter marine construction restriction from 1 October to 31 March (for the approach jetty and the inner finger pier) will ensure that any disturbing activities including piling as well as all other construction activity on or near the foreshore (within 200 m of exposed intertidal) will not take place during the winter months including from December to February.</p> <p>Instead, less disturbing works, such as construction activity behind the acoustic barrier/visual screens installed on the semi-completed approach jetty structure, will potentially be undertaken in these months.</p> <p>This information has already been given in the programmes provided by the Applicant at Deadline 1 following Issue Specific Hearing 2 (see Appendix 9 of [REP1-009]). These programmes show works on the approach jetty and inner pier, close to the intertidal area, scheduled outside the winter months.</p> <p>The Applicant and the Contractor will schedule the works so as to adhere fully to the stated mitigation measures, which address the point raised by Natural England. The programming will also seek to maximise the productivity of the works and to avoid standing down plant and equipment unnecessarily which could lead to an undesirable increase in the overall construction duration.</p>
<p>BNE.4.04</p>	<p>Applicant</p>	<p>Information to assess potential derogations under the Habitats Regulations</p> <p>In the event that the Competent Authority does not agree with the Applicant's conclusions that the Proposed Development would have no AEoI on the Humber Estuary Special Area for Conservation (SAC), Special Protection Area (SPA) and Ramsar site, arising from:</p> <ul style="list-style-type: none"> a) the loss of intertidal habitat, in combination with other plans and projects; b) the loss of subtidal habitat, in combination with other plans and projects; and c) changes to qualifying habitats as result of the removal of seabed material during capital dredging, in combination with other plans and projects, <p>the Applicant is requested to provide (on a without prejudice basis) such information as may reasonably be required to assess potential derogations under the Habitats Regulations.</p>	<p>The Derogation Report - A Derogation Report, on a without prejudice basis, has been provided at the request of the ExA. This contains information as may reasonably be required to assess potential derogations under the Habitats Regulations. It should be stressed, however, that the Applicant and its technical advisors consider that there is no potential for an AEoI on the Humber Estuary Special Area for Conservation (SAC), Special Protection Area (SPA) and Ramsar site from any impact pathway associated with the IERRT project, both alone and in combination, as set out in the HRA Report [REP7-014].</p> <p>The Derogation Report includes the provision of compensation, if required, for :</p> <ul style="list-style-type: none"> a) the loss of intertidal habitat, in combination with other plans and projects; and b) the loss of subtidal habitat, in combination with other plans and projects. <p>It does not include compensation for:</p> <ul style="list-style-type: none"> c) changes to qualifying habitats as result of the removal of seabed material during capital dredging, in combination with other plans and projects. The reason for this is summarised below. The full and detailed assessment is provided in Section 4.4, Table 37 and Table 39 of the HRA Report [REP7-014]. <p>Capital dredge - It is estimated that a maximum of 190,000 m³ of material in total will be removed as a result of the capital dredge over a maximum area estimated at</p>

			<p>being in the order of 70,000 m². The dredging will lead to changes to 6.8 ha of subtidal habitat as a direct result of the physical removal of subtidal sediment.</p> <p>Following the capital dredge, the dredge pockets will provide a similar habitat to that occurring under pre-dredge conditions as a result of sediment deposition. The baseline benthic surveys predominantly recorded surface sediment within and near to the dredge footprints with a high silt content (i.e., mud and sandy mud). Modelling predicts that accretion of silt in the order of 10-15 cm would be expected to occur within a matter of months within the dredge footprint. This would provide a suitable depth for colonisation and return the surface layer of the seabed in the dredge footprint to its existing sediment character (i.e., fine sediment with a high silt content) which would then be expected to be recolonised by a similar assemblage to baseline conditions.</p> <p>The project-specific subtidal survey recorded a generally impoverished benthic community which is likely to reflect the existing high levels of physical disturbance in the area due to strong tidal currents and sediment movement. The faunal assemblage recorded is considered characteristic of subtidal habitats found more widely in this section of the Humber Estuary. Subtidal habitats in the area around the Port of Immingham are considered to be typically of limited ecological value.</p> <p>The speed of recolonisation is expected to occur over a relatively short period of time based on an understanding of the benthic community present in the area and the life history strategies of the species. The species present are typically fast growing and/or have rapid reproductive rates which allow populations to fully re-establish in typically less than 1-2 years and for some species within a few months. The benthic communities would, therefore, be expected to recolonise the dredge footprint relatively quickly.</p> <p>Intertidal habitat - The capital dredge will also lead to a change to 0.003 ha of intertidal which will become steepened and lower in elevation (but remain intertidal) due to the dredging of the slope of the dredge pocket (please note: dredging of the side slope may not be required at all but is assessed as a worst case – see paragraph 4.4.12 of the HRA Report [REP7-014]).</p> <p>This amount of habitat change is negligible and ecologically inconsequential and is in the range of local natural variability. The change is expected to be immeasurable in real terms when taking account of the variation in water levels, wave climate and accuracy of the modelled bathymetry.</p> <p>Subtidal habitat - As for subtidal habitats, the intertidal benthic communities present are commonly occurring and typically fast growing and/or have rapid reproductive rates. It is, therefore, expected that the benthic species will recolonise this area of intertidal change relatively rapidly. The key commonly recorded species recorded on the foreshore in the project-specific surveys are found at a range of shore heights from the sublittoral fringe to the upper shore and are considered relatively tolerant to changes in emergence which do not alter the extent of the intertidal. On this basis, there is no reason to suggest that this lower elevation mudflat will be ecologically poorer or provide a lower functionality.</p> <p>Conclusion - Based on the evidence provided above and the rationale provided in Table 11 and Table 37 to 39 in the HRA Report, the predicted effects are not</p>
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			considered to compromise any of the conservation objectives, and it is concluded that there is no potential for AEoI on qualifying interest features as a result of this pathway, both alone and in-combination with other plans or projects.
BNE.4.05	NE	<p>Updated in-combination assessment in the Applicant’s HRA report</p> <p>Following the updates to the in-combination assessment (Tables 37, 38, 39) of the HRA Report [REP7-014] is NE content with the Applicant’s conclusions of no AEoI for the following impact pathways in combination with other plans and projects:</p> <ul style="list-style-type: none"> a) direct intertidal habitat loss b) direct subtidal habitat loss c) subtidal habitat change as result of the removal of seabed material during capital dredging? <p>Should NE not be content with any of the Applications conclusions of no AEoI for the above listed pathways, it should explain why that is the case.</p>	
BNE.4.06	Applicant	<p>Quantifying the in-combination noise levels from the Proposed Development and the proposed Immingham Green Energy Terminal (IGET)</p> <p>Quantify the in-combination noise levels for the Proposed Development and the proposed IGET to justify your conclusions in Tables 37 and 39 of the HRA Report [REP7-014].</p>	<p>The marine construction activities for IERRT and Immingham Green Energy Terminal have the potential to overlap. Underwater noise from dredging for both projects is only expected to cause behavioural reactions in a relatively localised area in the vicinity of the dredger for both lamprey and grey seals.</p> <p>Underwater noise generated during piling required as part of the IERRT project along with the Immingham Green Energy Terminal works has the potential to result in cumulative effects on lamprey and grey seal features of the Humber Estuary SAC. The maximum potential spatial extent of instantaneous peak and cumulative Sound Exposure Level (SEL) effects on lamprey and grey seal if the construction activity for both projects were to overlap and occur at the same time are shown in Figure 1 to Figure 4. The predicted zones of effects are based on the highest underwater noise levels generated during the proposed works for each project (i.e. impact piling) and maximum worst case assumptions presented in the respective underwater noise assessments for IERRT and Immingham Green Energy Terminal.</p> <p>Figure 1 and Figure 2 illustrate that impact piling noise has the potential to cause injury effects in lamprey within close proximity to the piling activity and behavioural responses over a wider area of the Humber Estuary for both projects. Lamprey form part of the least sensitive noise hearing fish group according to the Popper <i>et al.</i> (2014) guidelines and the predicted zone of behavioural effects are based on the sound levels to which schools of sprat, which are in the highest sensitive noise hearing fish group, responded on 50% of observations (Hawkins <i>et al.</i>, 2014). The predicted behavioural zone shown in Figure 1 is therefore considered overly precautionary and conservative and is likely to be a more localised area for lamprey.</p> <p>Instantaneous peak Permanent Threshold Shift (PTS) and Temporary Threshold Shift (TTS) effects in grey seal are predicted to occur within close proximity to the impact piling activity and cumulative SEL PTS and TTS effects are predicted over a wider area (Figure 3 and Figure 4). Assuming seals evade the injury effects zone, they are not considered to be at risk of any instantaneous or cumulative injury effects during impact piling. Strong behavioural responses may occur over a wider</p>

			<p>area although the existing constraints of the estuary are such that elevated underwater noise levels generated during piling for IERRT and Immingham Green Energy Terminal are physically constrained to within the outer section of the Humber Estuary and are unable to directly reach the grey seal breeding site at Donna Nook. The Spurn on the Outer Humber Estuary and promontory of Grimsby Docks means that much of the underwater noise will be limited by these hard constraints and will not propagate to the outer part of the estuary and beyond. In addition, the upstream bend in the estuary at Salt End will mean that elevated underwater noise levels will not be able to propagate beyond this point. In other words, potential behavioural responses and/or displacement effects are primarily limited to the section of the estuary between around Salt End (upstream) and Grimsby to Spurn Bight (downstream).</p> <p>The maximum impact piling scenario for both projects should the piling works overlap is for up to 7 tubular piles to be installed each day (4 piles for IERRT and 3 piles for Immingham Green Energy Terminal) using up to 6 piling rigs driving at any one time (4 piling rigs for IERRT and 2 piling rigs for Immingham Green Energy Terminal). If none of the pile driving activity for both projects were to occur at the exact same time and temporally overlap over a 24-hour period, the maximum impact pile driving scenario would involve approximately 80 minutes of vibro piling per day (20 minutes for IERRT and 60 minutes for Immingham Green Energy Terminal) and 450 minutes of impact piling per day (180 minutes for IERRT and 270 minutes for Immingham Green Energy Terminal).</p> <p>Any disturbance and barrier to lamprey and grey seal movements caused by the noise during piling for IERRT and Immingham Green Energy Terminal would be temporary with periods during a 24-hour period when no piling will be undertaken. The proportion of impact piling is estimated to be at worst around 31 % over a 24-hour period (based on 450 minutes of impact piling per day). In other words, any lamprey and grey seals that remain within the predicted behavioural effects zone at the time of impact piling will be exposed a maximum of up to 31 % over the period of a day. The proportion of vibro piling is estimated to be at worst around 6 % over a 24-hour period (based on 80 minutes of vibro piling per day). In other words, any lamprey and grey seals that remain within the predicted behavioural effects zone at the time of piling will be exposed a total maximum of up to 37 % over the period of a day. In reality, less than 7 piles are likely to be driven per day and also there is likely to be some temporal overlap in the pile driving activity, therefore, the assumptions on maximum pile driving periods and daily exposures are considered to represent a worst case. Piling will also not take place continuously as there will be periods of downtime, pile positioning and set up.</p> <p>The same mitigation measures are proposed for both IERRT and Immingham Green Energy Terminal Projects to help minimise potential adverse effects (i.e., soft start procedures, timing restrictions to avoid sensitive periods for migratory fish and the use of marine mammal observers). In order to take account of any potential in-combination effects should the piling programmes for both projects overlap, it is proposed that the maximum duration of percussive piling permitted within any 4-week period must not exceed a total of 196 hours where any percussive pile drivers for either one or both projects are in operation. Where percussive piling is occurring simultaneously across the two projects these respective time periods will not be double counted as the temporal exposure to this effect is not increased. This</p>
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			<p>restriction applies from 1 June to 30 June and 1 August to 31 October inclusive in any year to minimise the impacts on fish (including lamprey) migrating through Humber Estuary during this period. The measurement of time during each 196-hour work-block must begin at the start of each timeframe, roll throughout it, then cease at the end, where measurement will begin again at the start of the next timeframe, such process to be repeated until the end of piling works. This restriction does not apply to percussive piling that can be undertaken outside the waterbody at periods of low water.</p> <p>In addition, a piling reporting protocol is being developed in consultation with the MMO with associated actions to be taken in the event of an abnormal occurrence (e.g. equipment breakdown or if a marine mammal enters the mitigation zone). Reports are to be submitted to the MMO (reporting frequency to be agreed) and the applicant will hold fortnightly meetings with the MMO. See the Applicant’s response to BNE.4.10 below.</p> <p>The proposed mitigation measures for underwater noise will limit the risk of exposure and reduce the residual impact of the IERRT Project on lamprey and marine mammal features to a minor adverse effect. Therefore, assuming the proposed mitigation measures for the IERRT and Immingham Green Energy Terminal project are implemented, the predicted in-combination effects are not considered to compromise any of the conservation objectives, and it is concluded that there is no potential for AEOI on qualifying interest features.</p> <p>References:</p> <p>Hawkins, A.D., Roberts, L. and Cheesman, S. (2014). Responses of free-living coastal pelagic fish to impulsive sounds. <i>The Journal of the Acoustical Society of America</i>, 135, pp.3101-3116.</p> <p>Popper A.N., Hawkins A.D., Fay R.R., Mann D.A., Bartol S., Carlson T.J., Coombs S., Ellison W.T., Gentry R.L., Halvorsen M.B., Løkkeborg S., Rogers P.H., Southall B.L., Zeddies D.G. and Tavolga W.N. (2014). Sound exposure guidelines for fishes and sea turtles: a technical report prepared by ANSI-Accredited Standards Committee S3/SC1 and registered with ANSI. ASA S3/SC1.4 TR-2014. Springer and ASA Press, Cham, Switzerland.</p>
BNE.4.07	Applicant	<p>In-combination assessment for all relevant pathways on The Wash and North Norfolk Coast SAC</p> <p>The HRA Report [REP7-014] does not include an in-combination assessment for all relevant pathways on the qualifying feature of The Wash and North Norfolk Coast SAC. The applicant should provide this.</p>	<p>Table 37 of the HRA Report [REP7-014] has been updated to include an assessment for all relevant pathways on the relevant qualifying feature of The Wash and North Norfolk Coast SAC (i.e., S1365: Harbour seal <i>Phoca vitulina</i>).</p>
BNE.4.08	NE	<p>Justification for proposed 300 metre disturbance distance in relation to SPA and Ramsar birds</p> <p>At paragraph 1 of key issue 7 in REP7-038, it is stated that NE is not content with the assessment of noise and visual disturbance effects on SPA and Ramsar birds during construction and it has been suggested that a 200 metre disturbance distance would not sufficient. Instead a precautionary distance of 300 metres from</p>	

		the noise source has be recommended. Given the justification of 200 metres provided by the Applicant in section 4.10 and Table 28 of the HRA Report [REP7-014], NE should provide a rationale as to why 300 metres has specifically been recommended?	
BNE.4.09	NE	<p>Construction-related airborne noise and visual disturbance for birds roosting on structures in the intertidal zone</p> <p>NE should confirm whether the HRA Report [REP7-014] adequately considers airborne noise and visual disturbance impacts from construction on birds roosting on structures in the intertidal zone? If not, NE should identify any further mitigation measures that would be required to safeguard roosting birds during the construction phase.</p>	
BNE.4.10	Applicant	<p>Agreement for a piling reporting protocol</p> <p>Paragraph 5.1.13 of the MMOs response [REP7-037] requests the identification of what action would be taken following any instances where the Undertaker had carried out prolonged periods of piling over multiple days during the restricted time periods. The Applicant should identify what action the Undertaker would take following prolonged periods of piling during the restricted time period.</p>	<p>The underwater noise assessment was based on a realistic worst-case scenario of four piles a day (equating to approximately 180 minutes of percussive piling and 20 minutes of vibro-piling). There is high confidence that this will be the case, and, in all cases, the works will be planned on this basis. There is a potential, however, for abnormal or exceptional circumstances to occur which may result in a short-term and temporary need to pile beyond 180 minutes. This is largely driven by the 20 minute 'soft start' period as stated in Condition 12 of the DML.</p> <p>Examples of this may include:</p> <ul style="list-style-type: none"> • Presence of marine mammals and the requirement to restart soft-start procedures; • Weather conditions necessitating a temporary pause for safety reasons; • Unexpected ground conditions causing the driving of piles to take longer than expected; and • Breakdown of piling equipment. <p>A piling reporting protocol is proposed with associated actions to be taken in the event of an exceedance of the 180-minute percussive piling duration. Reports detailing the total duration of piling each day are to be submitted to the MMO on a weekly basis and the Applicant will hold fortnightly meetings with the MMO.</p> <p>It is proposed that an 80-minute contingency period is allowed as well as the 180 minutes per day maximum percussive pile driving scenario – this reflects 20 minutes of additional soft start procedures required for up to four piles and rigs (this reflects a situation, where piling needs to pause and restart with soft start measures across all four rigs). In other words, if an abnormal situation arises , up to 260 minutes of percussive piling is permitted (80-minute contingency period and 180 minute of percussive piling per day).</p> <p>In the event of an abnormal situation arising which triggers the contingency period, an environmental representative for the works will be notified who will agree a plan with the contractor to limit the duration of percussive piling to 260 minutes for that day, as well as measures to prevent a future recurrence.</p> <p>In all cases, works that trigger the contingency period will be recorded and explained in the weekly reporting to the MMO. The Applicant proposes to use the</p>

			<p>fortnightly meeting to discuss and agree further corrective action with the MMO should it be required.</p> <p>It should be reiterated that the contingency period applies only to abnormal situations and the works will be planned in accordance with the underwater noise assessment. The proposed reporting protocol will be in addition to the already proposed mitigation measures for underwater noise, which, in summary, include:</p> <ul style="list-style-type: none"> • Soft starts for percussive piling; • Vibro-piling to be used as much as possible; • Seasonal piling restrictions: <ul style="list-style-type: none"> ○ No percussive piling between 1 April and 31 May inclusive (aside from percussive piling that can be undertaken outside the waterbody at periods of low water); ○ Duration of percussive piling is to be restricted within the waterbody from 1 June to 30 June and 1 August to 31 October inclusive (limited to 140 hours for single piling rig and 196 hours for two or more rigs in any 4-week period – aside from percussive piling that can be undertaken outside the waterbody at periods of low water); • Night-time piling restriction – no percussive piling within the waterbody between 1 March to 31 March, 1 June to 30 June and 1 August to 31 October inclusive after sunset and before sunrise on any day (aside from percussive piling that can be undertaken outside the waterbody at periods of low water); and • Marine Mammal Observer. <p>The Applicant has included the percussive piling reporting protocol in the DML in the updated dDCO (Document Reference 3.1) submitted at Deadline 8 and is meeting the MMO on 10 January 2024 with a view to settling this matter. The final position will be confirmed at D9.</p>
<p>BNE.4.11</p>	<p>Applicant</p>	<p>Quantitative assessment of operational effects for air quality in combination with all other projects</p> <p>The HRA Report [REP7-014] should be revised to provide a quantitative assessment of operational effects for air quality in combination with all other projects. That would provide evidence to support the Table 37 conclusions in the HRA Report.</p>	<p>The conclusions of the HRA are informed by the quantitative air quality assessment reported in Air Quality Chapter 13 [APP-049] of the ES and the semi-quantitative in-combination assessment of air quality effects reported in the Cumulative and In-combination assessment within Chapter 20 [APP-074], Table 20.5 of the ES.</p> <p>Chapter 13 [APP-049] Table 13.15 of the ES confirms that the impact of the IERRT Project is more than 1% of the Critical Level for annual mean NO_x at the SAC saltmarsh habitat represented by receptors SAC3 and SAC4 only (with a maximum impact of 1.7% of the Critical Level). It should be noted, however, that at these locations, total concentrations of annual mean NO_x account for 49% and 54% of the Critical Level respectively. This leaves a minimum headroom of 46% of the Critical Level before there is an exceedance.</p> <p>Chapter 13 [APP-049], Table 13.15 and Table 13.16 of the ES confirm that the impact of the IERRT Project is less than 1% of the Critical Load for nitrogen</p>

			<p>deposition at the saltmarsh habitat represented by receptors SAC1 to SAC5 (with a maximum impact of 0.3% of the Critical Load).</p> <p>Chapter 13 [APP-049] Table 13.16 of the ES also confirms that the impact of the IERRT Project is less than 1% of the Critical Level for ammonia at the saltmarsh habitat represented by receptors SAC1 to SAC5 (with a maximum impact of 0.05% of the Critical Level).</p> <p>Chapter 20 [APP-074], Table 20.5 discusses the IERRT Project impacts quantified in the wider context of in-combination effects with other developments in the area. This assessment considers the location of the other developments relative to the IERRT Project and the impacts they have on the SAC and the sensitive habitats impacted by the IERRT Project. For most other developments, the nature of their emissions sources and/ or their location relative to the IERRT Project (i.e. the other development air quality impacts occur at other areas of the SAC where IERRT impacts are negligible), meant that in-combination effects would not be significant. The exceptions to this being other developments ID35, ID51 and ID57, but noting that no detailed emissions or air quality impact information was available for ID57 [IGET] at the time of the IERRT ES submission.</p> <p>Other development ID51 has been through the planning system and the air quality assessment that accompanied that planning application did not include the consideration of impacts at the SAC within its scope. However, it is clear from the annual mean NO₂ impacts that are reported in that air quality assessment, that impacts from that other development occur very close to source and would not impact perceptibly within the SAC and certainly not within the saltmarsh habitat impacted by the IERRT Project.</p> <p>Other development ID31 has also been through the planning system and the air quality assessment that accompanied that planning application did consider the impact of that development on habitat within the SAC. It determined that the impact of the other development would account for around 1% (<1.5%) of the lower Critical Load for nitrogen deposition and the Critical Level for annual mean NH₃ concentrations at areas of saltmarsh habitat most affected by the IERRT Project. The impact of the other development accounts for around 2.3% of the Critical Level for NO_x impacts assuming IED emission limits and 1.4% of the Critical Level assuming BAT-AEL emission limits at those same locations.</p> <p>The headroom that remains available before there is an exceedance of the Critical Level for NO_x and the negligible impact the IERRT Project has on nitrogen deposition rates and ammonia concentrations, suggest to the applicant that further quantitative assessment would be neither proportionate nor required to demonstrate no significant in-combination effect.</p> <p>Should the ExA request that additional in-combination modelling is required, this would be a considerable task that would almost certainly require compliance the applicants of other development proposals to confirm emissions data before further modelling could be undertaken (whilst the air quality assessments in the environmental statements for the other developments will provide emissions data, this is unlikely to be as comprehensive as required and is often not representative of a final design).</p>
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			<p>Furthermore, BNE.4.11 is similar in context to the written representation submitted by Natural England during the DCO examination process. Natural England's comment was:</p> <p><i>"...It is also unclear if non-road in-combination developments have been included (agricultural developments, stack emissions from energy or industrial developments for example). Such developments can generate air pollution from non-vehicle sources which could impact on the protected sites in combination with the proposed development. The methodology used to identify these should be outlined in the assessment"</i>.</p> <p>The Applicant's response to this comment is summarised in the bullets below:</p> <ul style="list-style-type: none"> • NE guidance [Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations (NEA001)] suggests a "sequential approach can be taken to quickly filter out those proposals posing no credible risk". Application of the Natural England guidance is technically screened out at Step 2 - "Are the qualifying features of sites within 200m of a road sensitive to air pollution"? For IERRT, the answer to this step being "no". • The impact of the IERRT project on N deposition rates at sensitive locations in the SAC was <0.3% of the relevant lower-CL at the time of the assessment. • The impact of the IERRT project on NH3 concentrations at sensitive locations in the SAC was <0.1% of the 3 ug/m3 CL. • The impact of the IERRT project on NOx concentrations at sensitive locations in the SAC was >1% of the relevant CL at a limited section of saltmarsh habitat. Where this occurred, total concentrations with the project were <54% of the CL (receptor SAC4). • Given the limited impact of the IERRT project on nature conservation receptors within the SAC, it was considered that in-combination effects would not alter the conclusion of the assessment. <p>Natural England agreed with the position as summarised above during the drafting of the Statement of Common Ground [REP6-010].</p>
BNE.4.12	NE	<p>In-combination air quality effects</p> <p>NE should confirm whether it agrees to there being no AEoI arising from in-combination air quality effects presented in section 4.14 of the HRA Report [REP7-014]? If NE does not agree to there being no AEoI it should explain why that would be the case.</p>	

Schedule 8 Navigation and Shipping

ExQ2	Question to:	Question	Applicant's Response
NS.4.01	Applicant	<p>Design standards for the impact protection measures (IPM) for the Immingham Oil Terminal</p> <p>Confirm the maximum impact speed and forces the IPM for the Trunkway (for piles with a diameter of 1,422 millimetres (mm) as originally proposed and piles with a diameter of 1,520mm) and the Finger Pier respectively have been designed to withstand. In responding to this question, the Applicant should identify any variations in the performance of the IPM relative to vessels of different dimensions (length, beam and displacement etc), ie the Stena T Class, the "Design Vessel" and any other pre-existing vessel type that Stena Line might utilise at the Proposed Development prior to a vessel, sharing the characteristics of the Design Vessel, becoming available for operation.</p>	<p>There has been no change in the impact speeds and forces accommodated by the IPM measures. The finger pier impact protection design (Change 4 of the Applicant's change application accepted for examination on 6 December 2023 [PD-021]), resulted in 1520mm piles being required to optimise the footprint of the VIP measures.</p> <p>For consistency and efficiency in the pile fabrication and construction execution and to allow for a worst-case envelope for the Environmental Statement Addendum, the Applicant has proceeded with consistent pile sizes for both impact protection structures.</p> <p>Please refer to section 8 of the Vessel Impact Protection Structure – Concept Design 4021009-JAC-ZZ-01-TN-C-00003 P01, which can be found at application document 10.2.92.</p>
NS.4.02	Applicant	<p>Displacement of the "Design Vessel"</p> <p>In the context of IOT Operators' submissions with respect to the "Rochdale Envelope" in paragraphs 51 to 62 of [REP7-069] and paragraph 1.6 of Appendix 7 in [REP7-070], advise on (or signpost amongst the application documents or Examination submissions) what the approximate displacement for the "Design Vessel" would be compared with the "Jinling" and the Stena "T-class" vessels.</p>	<p>The Applicant has calculated the displacement in accordance with BS 6349-1-1 2013 Annex D, Table D.2 (Maritime Works Code of practice for planning and design for operations - Key dimensions of ships for preliminary design purposes). This calculation uses a block coefficient which represents the relationship between the displacement and the overall dimensions. The vessel geometry for the design vessel represents an envelope of vessel parameters (i.e. a draught of 8m, beam of 35m, and LOA of 240m). Using BS 6349-1-1 2013, the estimated mass displacement (MD) is 48,400t.</p> <p>The Jinling vessel has a MD of= 35,000t. The Stena T-class vessels have a MD of 23,400t, again as the draft/beam/LOA are all smaller compared to the Design Vessel envelope and the Jinling.</p> <p>The 'Design Vessel' does not represent a physical vessel and is a set of envelope parameters used to inform the design of the IERRT infrastructure. As a consequence, the typical block coefficient values in BS 6349-1-1 2013 Annex D, Table D.2 are assumed to derive mass displacement. The Jinling and T-Class vessels are actual vessels which comparatively have much lower block coefficients than assumed for the Design Vessel and lower than presented in the current BS 6349-1-1 2013 Annex D, Table D.2. The previous version of BS 6349 (BS 6349-4 1994 Code of practice for design of fendering and mooring systems, Table 3) for RoRo vessels presented smaller block coefficients of 0.65-0.70 (contemporary to the time of the Jinling/T-Class vessel construction/operation) than in the current version of BS 6349 (0.70 to 0.80). As a consequence, by taking the current version the Applicant is designing to current standards which will cater for both existing (long in-service vessels) and future vessels (anticipated by the industry to have higher block coefficients and therefore mass displacement).</p> <p>For the simulations run by HR Wallingford, more detailed calculations were used if additional information could be derived from vessel General Arrangements (GA) to produce the models. The Jinling model used assumed a displacement of 35,000t and the Stena T class assumed a displacement of 21,600t. For additional simulations</p>

			<p>run in December 2023 an inert model of the CLDN G9 was produced with a displacement of 50,600t, this displacement was deliberately exaggerated at the request of the Interested Parties.</p>
<p>NS.4.03</p>	<p>Applicant</p>	<p>Vessel Displacement</p> <p>With regard to Rochdale Envelope considerations, comment on how differences in displacement can affect the windage and handling characteristics for vessels of similar length, beam and draught.</p>	<p>Vessels with similar length, beam and draught will tend to have similar displacements.</p> <p>Windage will tend to be a more or less fixed variable when considering Ro-Ro type vessels, although there will be minor variations dependent on load and the specific vessel. The greater the load, the greater the draught and, therefore, the greater displacement, however, the windage will also be reduced. With Ro-Ro type vessels, the variation in windage and draught tends to be low in normal operations (compared with other vessel types, such as bulk carriers and tankers). It might be appropriate to consider this level of detail if contemplating a one-off, highly technical manoeuvre, but at this stage in planning, the variation should be managed by ensuring the feasibility assessment is conservative.</p> <p>The consideration of ship handling characteristics is more complex as they are more dependent on the specific design of the vessel. Factors including the hull shape, propulsion machinery, control surfaces and the shape and distribution of superstructure need to be considered. That said, generally, modern RoRo type vessels have similar levels of control, independent of their size, as the effect of their displacement will be compensated by more powerful machinery and more efficient control surfaces. As a consequence, larger displacement RoRo vessels tend to have similar operating limits to smaller ones.</p> <p>The ship handling characteristics between ships in the same class, which are superficially similar, can also be subtly different, albeit sometimes with a significant effect. These differences would normally be due to a differences that are not readily apparent, such as rudder or propellor type, combinator or engine limitations. It would be inappropriate to rely too much on any assessment at this stage in a navigation project, and detailed, ship-specific assessments should be carried out prior to specific vessels using the berth operationally. Indeed, the HMM has identified that this is standard practice and will be carried out before the introduction of new operational vessels at the IERRT.</p> <p>The Applicant has made the case that a RoRo vessel with dimensions of 237m x 33m x 7.4m can be demonstrated, using the simulation studies, to be able to operate at the proposed berths safely in a suitable range of environmental conditions. This process ensures a significant level of conservatism in the assessment. Based on this feasibility assessment, the Applicant is confident that operations with vessels of at least up to this size and displacement will be safe and commercially viable at the berths. Also, larger vessels with an increased displacement, but with similar dimensions, will also be able to operate at the berth, albeit with different operating windows depending on their handling characteristics.</p> <p>The safety case and procedures for any future vessel will need to be developed and demonstrated to a similar level to that for operations of the Stena T class, that have now been considered. After that, the vessels will need to be brought into service in</p>

			<p>a gradual manner, and subject to various controls and checks including simulator based training, moderate initial operating limits and precautionary use of tugs.</p> <p>It would be normal for an operator to select a vessel for charter or commission, based on its power to displacement ratio and ability to manoeuvre at the ports where it is expected to operate. The specific effects of length, beam, draught, windage and ship handling characteristics will need to be considered as part of a dynamic risk assessment conducted for every ship arrival and departure by the ship's master and/or the pilot.</p>
<p>NS.4.04</p>	<p>Applicant and IOT</p>	<p>Likely extent of “impedance” to IOT Operations</p> <p>Provide detail of any assessment that has been carried out for the “degree of impedance” to operations at the IOT Finger Pier [paragraph 1.10 in REP7-070] that could be caused by the presence of the Proposed Development across a range of met-ocean conditions, signposting relevant parts of the application from which assumptions are drawn, and what implications any impedance might have for the shipping of oil products having regard to the Energy Act 2023 and any relevant policy or guidance. This matter should be incorporated into a final and signed Statement of Common Ground (SoCG) between the parties.</p>	<p>Paragraph 1.10 of [REP7-070] relates to the swept path analysis of historical vessels using the IOT. The Applicant considers the historical plots to be largely irrelevant and immaterial because the vessels approaching IOT will clearly be using the full space available to manoeuvre.</p> <p>The Applicant has been concerned with ensuring that, with the IERRT infrastructure in place, there will still be sufficient space to complete the operations safely. The key point is that the vessels using IOT berths 8 and 9 will still be able to operate safely once the IERRT infrastructure has been built. This will necessarily require minor changes in navigational tactics during approach and departure but this does not constitute ‘impedance’ as explained below.</p> <p>The Applicant’s NRA considers potential impacts to all vessels that operate within the study area and the Port of Immingham. The baseline environment for the commercial shipping and recreational navigation has been described through a desk-based compilation of datasets and included AIS data, tidal data, considerations from the vessel simulation study and data collected from the HAZID workshops.</p> <p>The HAZID workshops have identified hazard scenarios associated with the proposed development. Through a set of defined stages, drawn from the PMSC, a risk assessment process has evaluated the outcome risk to be both tolerable and in an ALARP state. This has shown that the risks associated with the proposed development will be suitably mitigated by the controls either currently in place or by controls that will be established as considered appropriate. This includes navigation operations to and from the IOT Finger Pier and the entre exercise has been supported by undertaking extensive and comprehensive simulation runs.</p> <p>As a result of the Applicant’s extensive simulations (June 2022, November 2022, November 2023 [AS-071] and December 2023) it has been demonstrated that an entirely safe and sound navigational approach can be used to approach and depart from IOT berth 8 and 9.</p> <p>The facts are:</p> <ul style="list-style-type: none"> • In over 80 simulations runs, 57 of which were witnessed by IOT representatives, not once has the IERRT infrastructure, a moored vessel on the IERRT berth or the flows around IERRT created a situation resulting in a significant failure of safe navigation. This is despite the context that the simulations focussed on conditions that exceeded the current IOT advisory wind limit for safe operations which is 26 knots (30mph). In other words, the IOT currently have advice in place which restricts vessels berthing or departing in the conditions which have been simulated, and demonstrated to be safe, by the Applicant.

			<ul style="list-style-type: none"> The marginal runs which have been noted are due to strong winds setting the vessel onto the IOT jetty hard. It is the Applicant's position that this is due to the nature of the types of vessels operating at IOT and the exposed nature of the jetty, it is an existing hazard which is not exacerbated by the new infrastructure and is currently mitigated by IOT's own sensible and appropriate navigational guidance. There is no evidence that this guidance would need to be changed or that the IERRT infrastructure will reduce the window of opportunity for operations at IOT. Therefore, there is no change required to the IOT's existing operating protocols. <p>The simulations indicate that controlling a small (circa 100m length) product tanker at IOT berth 8 is challenging as the 10m AMSL wind increases above 26 knots (30 mph) and is setting onto the berth, which is the current advisory wind limit at the berth. It has been demonstrated in simulations, with IOT staff reviewing the runs, that approaches and departures can be made to IOT8 in winds 25 – 30 knots setting onto the berth and 30-35 knots setting off the berth. These runs were completed with the IOT infrastructure in place and with a large RoRo at IERRT berth 1.</p> <p>The winds set during the November 2023 simulations [AS-071] were based on IOT operators assessment of the maximum operating wind at their berths, noting their own guidance. The simulations also included the modified flow model which takes into account the additional blockage associated with the modified pontoons and no additional detriment was noted. Consideration was also included for wind sheltering and, again, no additional detriment was noted.</p> <p>The Applicant (and incidentally the SCNA and SHA) is confident that both the IOT and the IERRT can be operated safely and the Applicant has assessed this extensively. As identified in the Applicant's NRA, a programme of training for pilots and PEC holders will be introduced to ensure that the refined procedures are understood and properly applied.</p> <p>In summary, during the 80x runs conducted there has been no evidence that the location of the IERRT infrastructure might impede IOT operations in a manner that would affect their ability to operate or the safety of their operations - albeit noting that additional training and guidance will be required. The Applicant refers the ExA to its Deadline 8 submission (document reference 10.2.90). This report includes a comprehensive summary from the December 2023 simulations of the operations at IOT Berth 8 – with full consideration of the VIP and the updated flow model.</p>
NS.4.05	IOT	<p>Relevance of closure of an oil products facility in Scotland</p> <p>At the November hearings reference was made to the closure of an oil products facility in Scotland. Please provide further information of the closure of that facility and comment on any relevance that closure would have with respect to the need for and the operation of the IOT.</p>	
NS.4.06	IOT	<p>Outline Offshore CEMP tanker berthing protocols and liaison</p> <p>Are you content with the drafting of the Outline Offshore CEMP pages 29 and 31 with regard to liaison and tanker berthing protocols respectively; and if not, why not?</p>	

NS.4.07	Applicant	<p>Possible adverse effects to tanker operations at IOT Berth 8</p> <p>How might the IOT Operators' concerns in [paragraphs 51 to 60 and paragraphs 65 to 76 in REP7-069] relating to the reasonably likely worst-case magnitude of adverse effects for tanker operations to and from the IOT Finger Pier arising from the proximity to the Proposed Development and wind shadowing be addressed.</p>	<p>The simulations do not indicate that the operations at IOT will be adversely affected. There is sufficient space to safely control a product tanker (circa 100m length) to and from IOT 8. Please refer to the additional detail in NS.4.04 above, the Applicant's detailed responses to IOT and the Applicant's submission at D8 comprising HR Wallingford's report of the simulations held in December 2023.</p>
NS.4.08	Applicant	<p>Consultees for the development of the Offshore CEMP</p> <p>Would you accept DFDS Seaways being included in the list of consultees for finalising the offshore CEMP, and if not, why not?</p>	<p>The Applicant is bound to query the rationale for the inclusion of DFDS as a specific consultee on the detailed offshore CEMP. As far as the Applicant is aware, DFDS does not have a statutory duty in this respect nor for that matter directly relevant expertise related to the environmental management of the marine construction works. Certainly, the Applicant has not received any specific constructive feedback from DFDS on the contents of the outline offshore CEMP.</p> <p>Whilst the Applicant recognises that DFDS is a key stakeholder for the Port of Immingham, it is not standard practice for a named customer to be consulted directly by the Applicant on an environmental management document such as a CEMP. The promulgation of information, however, is an important consideration as well as communication channels for stakeholders to access information and raise concerns. Communication and promulgation of information with stakeholders is already recognised within the outline offshore CEMP within Section 2.7.</p> <p>The Applicant understands that DFDS' primary concerns are in relation to navigational matters. The SCNA and the SHA for the Port of Immingham are the appropriate statutory bodies in this respect and the Applicant's position remains that the Tidal Works Approval (required under the Protective Provisions for the SCNA and explained in 3.1.5 to 3.1.10 and Table 3.4 of AS-077) is the appropriate mechanism for the development of the detailed CEMP measures. The SCNA and SHA will ensure that navigational risks are appropriately addressed within the detailed CEMP and that information is promulgated to navigational stakeholders and river users.</p> <p>The Applicant does not accept that DFDS should be a consultee on the offshore CEMP for the reasons explained above and sees no justification for so doing. If, however, DFDS would like to make specific suggestions that could be meaningfully incorporated into the CEMP – which have not been forthcoming to date - the Applicant would be happy to consider these during the remainder of the examination.</p> <p>The Applicant must, however, stress that it cannot agree to any measures that have the potential to conflict with the functions of a statutory body such as the SHA or the MMO.</p>
NS.4.09	HMH	<p>Monitoring of the application of risk controls including adaptive procedures</p> <p>In what ways and with what frequency would the SCNA monitor the application of the 'applied controls' as listed in replacement Appendix 10.1 of the ES Chapter 10 [Table 32, Annexes A, B and C and Annex G, Table 2 in REP7-011], particularly those listed as 'project specific adaptive procedures' (having regard to HMH's representation at Deadline 7A that any imposition of enhanced controls, such as obligatory additional tug assistance, would be imposed by the Dock Master following consultation with the SCNA)?</p>	

Schedule 9 Socio-Economic

ExQ2	Question to:	Question	Applicant's Response
		No questions at this time	

Schedule 10 Terrestrial Transport and Traffic

ExQ2	Question to:	Question	Applicant's Response
TT.4.01	North East Lincolnshire Council (NELC), National Highways (NH) and North Lincolnshire Council (NLC)	<p>Operational Freight Management Plan proposed control measures</p> <p>a) For NELC - Are you content with the monitoring and control measures proposed by the Applicant in the Operational Freight Management Plan (FMP) [REP7-036]? If not explain why that is the case.</p> <p>b) For NELC - Would you be content to receive as proposed by the Applicant at paragraph 6.12 of the FMP an annual report which monitors the progress of the FMP and discuss with the Applicant and the Undertaker any remedial actions which might be necessary during the first five years of the FMP's operation?</p> <p>c) For NH and NLC - do you have any comments to make about the submitted FMP?</p>	<p>The FMP has been discussed with all three highway authorities.</p>
TT.4.02	Applicant	<p>Securing the Operational Freight Management Plan</p> <p>Confirm that the FMP [REP7-036] will be a document added to Schedule 6 of the dDCO.</p>	<p>The Applicant confirms that the Operational Freight Management Plan (FMP) will be a document added to Schedule 6 of the dDCO. The updated dDCO submitted by the Applicant at Deadline 8 also includes a requirement for a final version of the FMP to be submitted to, and approved by, NELC prior to operation.</p> <p>An updated version of the FMP is submitted by the Applicant at Deadline 8, at application document 10.2.76.</p>
TT.4.03	NH, NELC, NLC and any other Interested Parties (IPs)	<p>Physical mitigation works in respect of junctions in the A160 corridor</p> <p>The Applicant has submitted a Transport Assessment Addendum (TAA) [REP7-013] in which it has undertaken a range of sensitivity tests, as agreed in the Transport SoCG [REP6-011], and maintains the previous conclusion from the Transport Assessment (TA) [AS-008] that no mitigation measures are necessary at any junctions as a result of the Proposed Development.</p> <p>DFDS has submitted evidence to the Examination [REP7-057] which concludes that certain junctions would exceed their practical capacity and has identified suggested physical mitigation works to increase the capacity of the junctions.</p> <p>In respect of the A160 corridor (A160/Humber Road/Manby Road Roundabout, A160/Habrough Road Roundabout, and A160/A180 Roundabout), in light of the difference of views between the Applicant and DFDS, comment on whether you consider the Proposed Development would create a need for the implementation of any mitigation measures at the A160 corridor junctions. If you consider that mitigation would be required, advise on what form that mitigation should take.</p>	<p>For the assistance of the ExA, the Applicant would also wish to contribute to this question as follows -</p> <p>The Applicant's position in terms of the technical and Policy basis for considering mitigation as a result of the application is clearly set out in Section 20 of the response to DFDS's Deadline 7 submission.</p> <p>The appropriate policy tests are set out Section 2.2 of REP7-013, with more detail provided at Annex A of REP7-013). The tests of that policy are clear that mitigation should only be considered if the development in question leads to 'substantial' impacts (in the context of NPSfP) or 'severe' impacts (in the context of the NPPF). Based on the assessments provided such impacts would clearly not be generated by the IERRT Development. There is, therefore, no need, or justification, for consideration of highway capacity or safety mitigation.</p> <p>The test in respect of the A160 / A180 junctions which are part of the Strategic Road Network should also take into account the requirements of DfT Circular 01/22. That sets the need for mitigation to be required (at Para 51 when "a transport assessment indicates that a development would have an unacceptable safety impact or the residual cumulative impacts on the SRN would be severe [...]". There is clearly no unacceptable safety impact nor severe impact arising from the IERRT Development.</p> <p>In contrast to that clear policy requirement, the approach taken by DFDS in Para 56-64 is flawed and irrelevant to the decision maker. Their references to adopting RFC</p>

			<p>as a measure for testing impact of a development is (by their own admission at Para 57) withdrawn advice.</p> <p>As required by the policy, consideration of capacity, safety and delay is necessary. All these metrics (including RFC) are provided as an output of the assessment and considered in the Transport Assessment and Addendum TA. They collectively form the basis of assessment of any development. In this case, there are no discernible changes in RFC, delay or queuing (which might lead to highway safety issues) on any junction tested.</p> <p>Mitigation as suggested by DFDS is therefore unnecessary.</p>
TT.4.04	NELC (and any other Ips)	<p>Physical mitigation works in respect of any other junctions</p> <p>The Applicant has submitted a Transport Assessment Addendum (TAA) [REP7-013] in which it has undertaken a range of sensitivity tests, as agreed in the Transport SoCG [REP6-011], and maintains the previous conclusion from the Transport Assessment (TA) [AS-008] that no mitigation measures are necessary at any junctions as a result of the Proposed Development.</p> <p>DFDS has submitted evidence to the Examination [REP7-057] which concludes that certain junctions would exceed their practical capacity and has identified suggested physical mitigation works to increase the capacity of the junctions.</p> <p>In respect of the A1173/Kiln Lane Roundabout and A1173/SHIIP Roundabout junctions, in light of the difference of views between the Applicant and DFDS, comment on whether you consider the Proposed Development would create a need for the implementation of any mitigation measures at the aforementioned junctions. If you consider that mitigation would be required, advise on what form that mitigation should take.</p>	<p>In terms of the Applicant's contribution, to avoid repetition please, the ExA is referred to the Applicant's answer to TT.4.03, as the same points refer.</p>
TT.4.05	Applicant	<p>Royal Mail Group requests in respect of the Construction Traffic Management Plan</p> <p>Royal Mail Group has requested in [REP7-071] wording be included in the Construction Traffic Management Plan (CTMP) when it is produced to secure mitigation with particular regard to the operation of its Delivery Office at Immingham. The ExA notes that you intend to engage with Royal Mail in preparing the CTMP (Table 1.1 of the CEMP [AS-067]) but could you confirm in principle your broad agreement to their suggested input to the CTMP?</p>	<p>The Applicant confirms that Royal Mail's requests in respect of the CTMP are agreed in principle.</p> <p>The Onshore CEMP (AS-076) has been updated to include the text requested by Royal Mail in [REP7-071]. The text has been modified slightly to refer to the wider context of the document but directly provides the commitment they seek.</p>

Schedule 11 Water Environment, Flood Risk and Drainage

ExQ2	Question to:	Question	Applicant's Response
		No questions at this time	

Schedule 12 Glossary and List of Acronyms

ABP	Associated British Ports
ADM	Assistant Dock Master
AEoI	Adverse Effect on Integrity
ALARP	As Low As Reasonably Practicable
AOD	Above Ordnance Datum
BoR	Book of Reference
CA	Compulsory Acquisition
CEMP	Construction Environmental Management Plan
CLdN	CLdN Ports Killingholme Limited
COMAH	Control of Major Accident Hazard
CoPA1974	Control of Pollution Act 1974
CTMP	Construction Traffic Management Plan
dDCO	Draft Development Consent Order
DFDS	DFDS Seaways Limited
DML	Deemed Marine Licence
DP	Designated Person
EIA	Environmental Impact Assessment
EM	Explanatory Memorandum
ES	Environmental Statement
ExA	Examining Authority
FRA	Flood Risk Assessment
FSA	Formal Safety Assessment
GtGP	Guide to Good Practice on Port Marine Operations (MCA)
HASB	Harbour and Safety Board
HE	Historic England
HESMEP	Humber Estuary Serious Marine Emergency Plan
HOTT	Humber Oil Terminals Trustee Ltd
HRA	Habitats Regulations Assessment
HRAr	Applicant's Habitats Regulation Assessment report
IERRT	Immingham Eastern Ro-Ro Terminal (the Proposed Development)
IMO	International Maritime Organisation
IOT	Immingham Oil Terminal
IOT Operators	Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited
IP	Interested Party
ISH	Issue Specific Hearing
LHA	Local highway authorities (North East Lincolnshire Council and North Lincolnshire Council)
LIR	Local Impact Report
LPA	Local Planning Authority
MAIB	Marine Accident Investigation Branch
MarNIS/MARNIS	ABP Mer's Port Assessment Toolkit for operational risk management, accident/incident reporting and data management
MCA	Maritime and Coastguard Agency
MGN	Marine Guidance Note
MHW	Mean High Water
MLW	Mean Low Water
MLWS	Mean Low Water Springs
MMO	Marine Management Organisation
MPS	Marine Policy Statement

(M)SMS	(Marine Safety) Management System
NavSim	Navigational (and Pilotage) Simulation
NH	National Highways
NE	Natural England
NELC	North East Lincolnshire Council
NLC	North Lincolnshire Council
NPPF	The National Planning Policy Framework
NPSfP	National Policy Statement for Ports
NR	Network Rail
NRA	Navigation Risk Assessment
NSIP	Nationally Significant Infrastructure Project
OREI	Offshore Renewable Energy Installation(s)
PA2008	The Planning Act 2008
PEC	Pilotage Exemption Certificate
PINS	Planning Inspectorate
PMSC	Port Marine Safety Code
PP	Protective Provision
PTS	Permanent Threshold Shift
Ro-Ro	Roll on Roll off
RR	Relevant Representation
SAC	Humber Estuary Special Area of Conservation
SFAIRP	So Far As Is Reasonably Practicable
SHA	Statutory Harbour Authority
SLBV	Stena Line BV
SoCG	Statement of Common Ground
SoST	Secretary of State for Transport
SPA	Humber Estuary Special Protection Area
SSSI	Site of Special Scientific Interest
TP	Temporary Possession
TH	Corporation of Trinity House of Deptford Strond
WR	Written Representation

Schedule 13 Figures

Figure 1. Maximum predicted zone of instantaneous peak injury and behavioural effects on lamprey during impact piling



Figure 2. Maximum predicted zone of cumulative SEL injury and TTS effects on lamprey during impact piling



Figure 3. Maximum predicted zone of instantaneous peak PTS and TTS on grey seal during impact piling

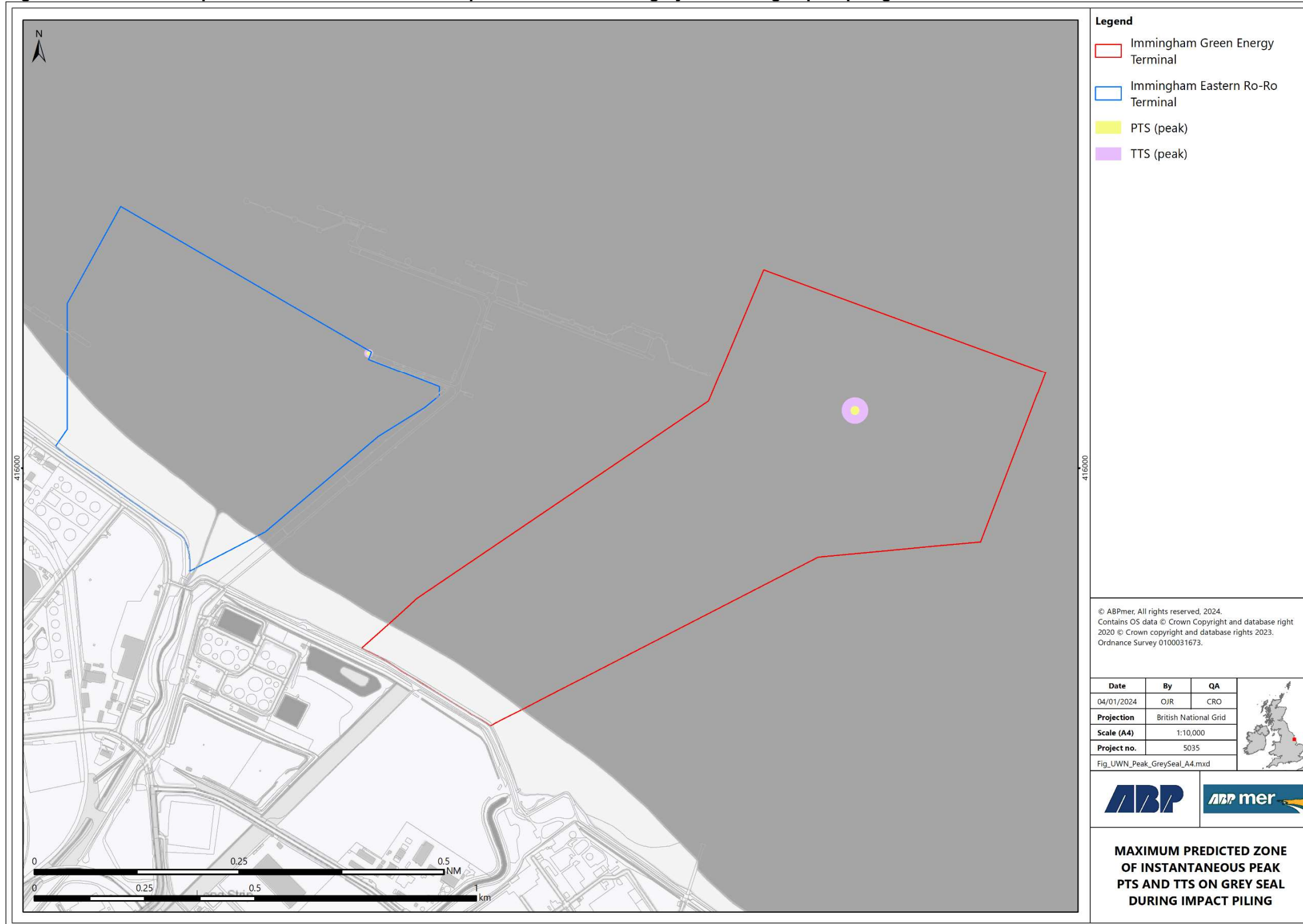
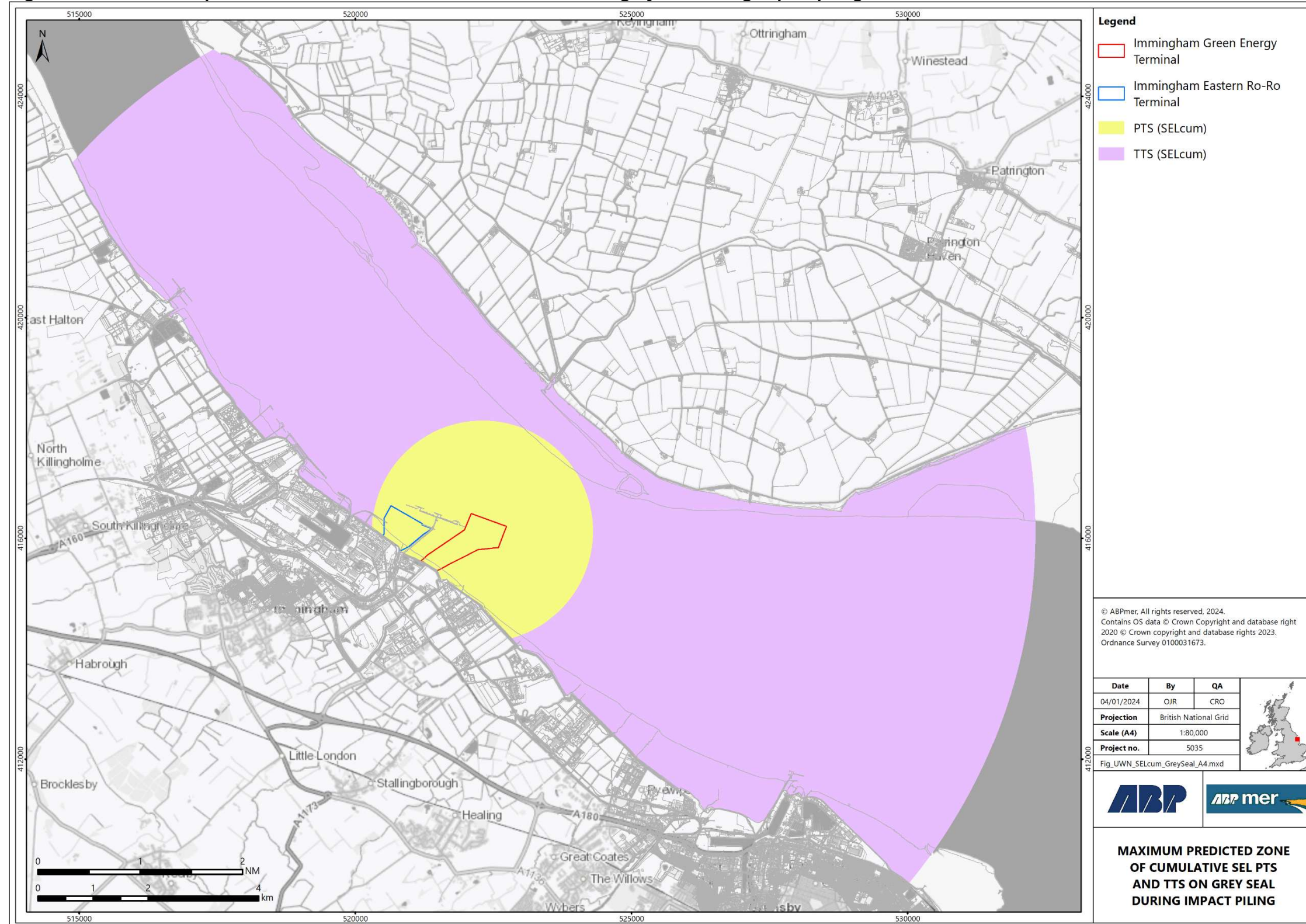


Figure 4. Maximum predicted zone of cumulative SEL PTS and TTS on grey seal during impact piling



Appendix 1

IMMINGHAM EASTERN RO-RO TERMINAL

ENHANCED OPERATION CONTROLS

Arrival/Sailing Parameters

The movement of shipping to and from the lock, Immingham Outer Harbour, Immingham West Jetty, Immingham Bulk Terminal, Immingham Oil Terminal, Humber International Terminal and other river berths require careful coordination to preserve the safety of navigation, the environment and people using the river. Accordingly, in conjunction with the Harbour Master (Humber) and the VTS Humber Manager, the following procedures must be followed by shipping arriving at or sailing from the IERRT.

Procedure for Ferries Entering the Immingham Eastern Ro-Ro Terminal

- Vessels should proceed in the same manner as they currently do for entering Immingham Dock.
- Vessels may be held on berth if large inbound vessels, moving as through traffic, are passing IOT. Small inbound traffic will be informed by VTS of the sailing and instructed to keep to the north.
- Vessels will be held on berth to give priority to PPV's. Clearance to sail will be given having due consideration to the relative position of passing ships to the IERRT entrance and the time it will take ferries to leave the berth in IERRT and manoeuvre to the entrance of IERRT. Most Ro-Ro traffic are not restricted in their arrival or sailing parameters.

Procedure for Ferries Sailing from the Immingham Eastern Ro-Ro Terminal

- Vessel will advise ADM of expected readiness, **one hour** before ordered sailing time.
- Vessel will give ADM **30 minutes** notice for mooring staff.
- ADM will then advise AHM of state of all current movements within Immingham Port area and discuss expected the river traffic movements that are expected to be passing Immingham.

- Pilot / PEC will advise VTS when ready to single up.
- VTS will advise vessel of expected / planned traffic movements.
- Pilot / PEC will advise VTS when singled up and request permission to sail.
- VTS will give clearance to sail when traffic movements make it safe to do so.
- Pilot / PEC will confirm to Berthing Master / ADM when clearance to proceed has been given by VTS.
- Pilot / PEC will advise VTS when the vessel is leaving IERRT entrance.

Tug Requirements

Tug Requirements Tug provision for the Port of Immingham is by several private companies. Tugs assisting vessels greater than 60m LOA must be a minimum of a class C tug. The master would normally order tugs through the ship's agent. The Duty ADM or pilots will assist with the ordering if required. The master must state which towage company is preferred. Details of towage companies and tugs can be found on the following link – Humber.com - Towage Providers or in the General Notice to Pilots/PEC's No 2 of each year. There are no tug requirements for regular Ro-Ro vessels. However, Ro-Ro vessels Masters should be aware of the manoeuvrability limitation of their vessels.

The table below shows the tug requirements for the Immingham Eastern RoRo Terminal.

IERRT berth Number	Tide and wind conditions	Tug requirement - arrival	Tug requirement - departures
Berth 1	Ebb tide < 2.5 knots	1 tug forward	-
	Ebb tide > 2.5 knots	1 tug forward and 1 tug aft	1 tug forward
	Flood tide < 2.5 knots	-	-
	Flood tide > 2.5 knots	1 tug forward and 1 tug aft	1 tug forward
Berth 2 and 3	Ebb tide < 2.5 knots	-	-
	Ebb tide > 2.5 knots	1 tug forward and 1 tug aft	1 tug forward
	Flood tide < 2.5 knots	-	-
	Flood tide > 2.5 knots	1 tug forward and 1 tug aft	1 tug forward
All Berths	Mean 'Beam' wind Wind speeds > 20 knots	1 tug forward and 1 tug aft	1 tug forward

