

# IMMINGHAM EASTERN RO-RO TERMINAL



Statement Of Common Ground Between Associated British Ports and Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustee Limited

Document 7.12

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# Document Information

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# 1 Section 1 – Introduction

## Overview

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

## The Project

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

## Parties to this Statement of Common Ground

- 1.6 This SoCG has been prepared by:
- (a) ABP – the promoter of the IERRT development and the owner and operator of the Port of Immingham; and
  - (b) Associated Petroleum Terminals (Immingham) Limited (“APT”) and Humber Oil Terminals Trustee Limited (“HOTT”) and together the “IOT Operators”. HOTT is the licensee of the Immingham Oil Terminal Jetty and lessee of the associated oil terminal and tank farm. APT Operates the Immingham Oil Terminal and the associated oil depot on behalf of HOTT.

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

### **The Purpose and Structure of this Document**

- 1.8 The purpose of this SoCG is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the examination so as to assist the Examining Authority in its consideration of the Application.
- 1.9 In preparing the SoCG, full account has been taken of the guidance provided in ‘Planning Act 2008: examination of application for development consent’ (Department for Communities and Local Government (as it then was), March 2015). In addition, due regard to the ExA procedural decision of 26 May 2023 and the subsequent PAD Summary Statement submitted to the examination by IOT Operators on 6 July 2023.
- 1.10 Section 1 of the SoCG is designed to act as a general introduction to the IERRT project and to the parties concerned.
- 1.11 Section 2 of the SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.12 Section 3 of the SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.13 The table in Section 3 uses a colour coding system to indicate the status of the matters between the Parties as follows:
- (a) Green – matter agreed;
  - (b) Orange – matter ongoing; and
  - (c) Red – matter not yet agreed.

## 2 Section 2 – Summary of Engagement

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

**Table 2.1 – Summary of Engagement**

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

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

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



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

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

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

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

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

25.04.23	Email	ABP sent a letter confirming the provision of a costs undertaking in favour of HOTT to review and negotiate Protective provisions.
19.05.23	Email	APT requested additional shipping and navigation data in order to review the submitted information and to undertake a separate NRA.
26.06.23	Email	ABP stated why the additional shipping and navigation data requested by APT could not be provided.
28.09.23	Letter to Examining Authority	ABP and APT agreed a joint letter regarding impact protection measures which was submitted into the Examination.
16.10.23	Email	APT sent a letter regarding concerns on risk control measures.
20.10.23	Email	ABP sent a letter in relation to ExA Action Point 17 and proposed simulations
23.10.23	Email	APT sent a letter regarding initial concerns on the proposed simulations
23.10.23	Email	ABP sent a letter regarding APT concerns on proposed simulations
31.10.23	Email	APT sent a letter maintaining concerns with simulations
4.11.23	Email	ABP shared the pre-read for the call to discuss Humber control measures and potential IERRT control measures. <sup>1</sup>
7.11.23	Email	APT sent a letter as an interim response to ABP's proposed change request raising initial concerns
10.11.23	Email	APT requested additional information regarding the potential procedural controls offered. <sup>1</sup>
13.11.23	Email	APT sent a letter responding to the consultation on the proposed change request

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<sup>1</sup> These communications were made without prejudice. However, the parties agreed to waive this privilege during Issue Specific Hearing 5.

14.11.23	Email	APT confirmed that there was not enough time to be able to attend the simulations on 15 and 17 November after receiving notification via voicemail on the afternoon of Friday 10 November. APT also sought information of what the “Impact protection” simulations were intended to cover. <sup>1</sup>
15.11.23	Email	ABP provided an update on the simulations, enhanced procedural controls and the design basis, including sharing the Design Basis Document. <sup>1</sup>
22.11.23	Email	APT clarified that various aspects of evidence are still required from ABP, including regarding the simulations, so that APT can take advice from its professional team. <sup>1</sup>
01.12.23	Email	APT request the Applicant’s proposals for continuing to negotiate the protective provisions.
04.12.23	Letter	APT requested ABP provide an adequate response to various outstanding requests for information
05.12.23	Email	ABP requests a copy of the ‘Design Basis Review’ referenced in APT’s 04.12.23 letter.
05.12.23	Email	APT provide the ‘Design Basis Review’ referenced in APT’s 04.12.23 letter.
20.12.23	Letter	APT provide a further request for information.
05.01.24	Letter	ABP responds to APT’s letters of 5 and 20 December 2023.

### **3 Section 3 – Matters Agreed and Matters Not Agreed**

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

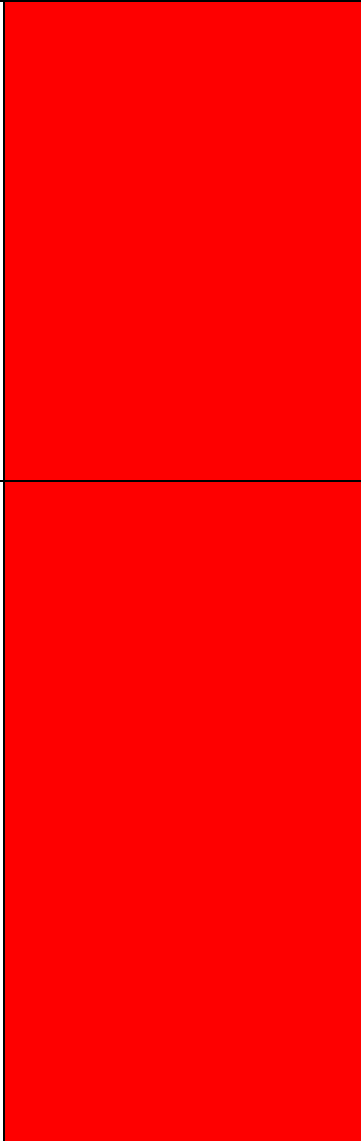


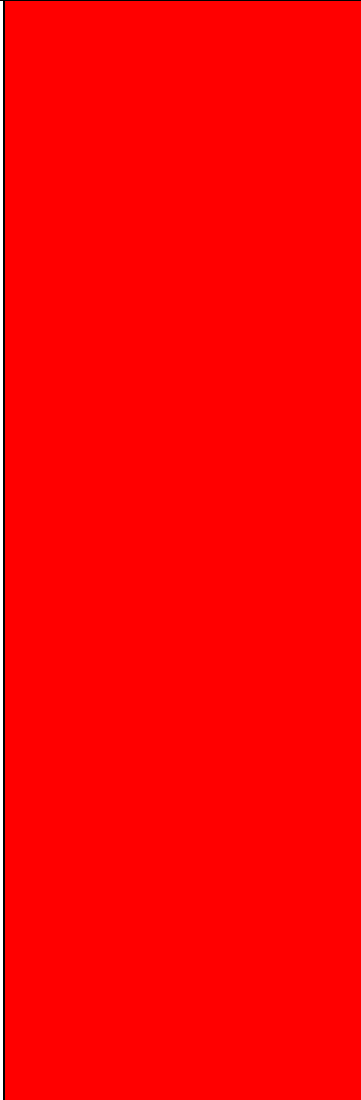
**Table 3.1: List of Matters Agreed and Outstanding**

Matter	Document Reference	ABP's Position	IOT Operators' Position	Status
Relevant Policy		<p>The National Policy Statement for Ports (NPSfP) (DfT, 2012) is the key relevant national policy statement in considering the IERRT Application. The role of the NPSfP in the IERRT application determination process is set out in section 104 of the Planning Act 2008.</p> <p>The UK Marine Policy Statement (MPS) (2011) and The East Marine Plans (2014) are appropriate marine policy documents to which regard must be had in the IERRT determination process.</p> <p>Key local policy of relevance to the IERRT project is provided within the North East Lincolnshire Local Plan 2013 to 2032 (April 2018).</p>	<p>Subsections 104(3) and 104(7) of the Planning Act 2008 provide:</p> <p>(3)The Secretary of State must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies.</p> <p>(7) This subsection applies if the Secretary of State is satisfied that the adverse impact of the proposed development would outweigh its benefits.</p>	
The Government's policy for ports		The Government's policy for ports is set out within section		

		<p>3.3 of the NPSfP, the fundamental policy element is provided in NPSfP paragraph 3.3.1.</p>		
<p>Navigational safety to and from the IOT</p>	<p>APT and HOTT Relevant Representation (RR-003)                      APT Principal Areas of Disagreement (PDA – 003)                      Navigation Risk Assessment (NRA) (APP-089)                      Navigation Simulation Study – Part 1 (APP-090)                      Navigation Simulation Study – Part 2 (APP-091)                      Navigational Simulations – Stakeholder demonstrations (APP-092)</p>	<p>ABP, as the Applicant and as SHA for the Port of Immingham is confident that the conclusions of the comprehensive Navigation Risk Assessment (NRA) (<b>APP-089</b> and <b>REP7-011</b>) undertaken to assist its consideration of the Proposed Development are both correct and appropriate. ABP is satisfied that, that in light of the comprehensive NRA exercise undertaken, supported by the navigational risk workshops and supplemented by the navigational simulations, the navigational risks have been comprehensively and properly assessed.</p> <p>The Applicant has commented on IOT Operator’s criticisms of the navigational simulations most recently in its Deadline 9 Submissions [<b>REP9-011</b>],</p>	<p>The IOT Operators disagree with the conclusions of the IERRT NRA, and with the suggestion that those conclusions are supported by the workshops and simulations. The IOT Operators’ position is that the navigational risks have not been properly assessed in the Applicant’s IERRT NRA.</p> <p>The IOT Operators raised these concerns in their own sNRA in response to the Applicant’s proposals [<b>REP2-064</b>].</p> <p>In its letter of 27 September 2023 [<b>AS-020</b>] the Applicant indicated it would make a change to its scheme to accommodate impact protection capable of mitigating (to an acceptable level) the risks</p>	

		<p>and has commented on IOT Operators' sNRA at <b>[REP6-031]</b>.</p>	<p>identified by the IOT Operators' sNRA <b>[REP2-064]</b>.</p> <p>The IOT Operators' response to the change notification <b>[REP6-046]</b> explains why the Applicant's intended changes will not adequately address navigational safety impacts.</p> <p>The IOT Operators have commented on the deficiency of the navigational simulations in their Deadline 8 Submissions <b>[REP8-057]</b> and in their Deadline 9 Submissions <b>[REP9-028]</b>.</p>	
<p>Inadequate NRA methodology</p>	<p>APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003)</p>	<p>Preparation of the NRA was undertaken in full compliance with the PMSC and the associated GtGP.</p>	<p>There are significant concerns with the adequacy of the IERRT NRA which are addressed in the IOT Operators' sNRA <b>[REP2-064]</b>. The IOT Operators' position is therefore that the IERRT NRA methodology was inadequate.</p>	

<p>Navigation Baseline and Future Baseline</p>	<p>APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003)</p>	<p>The NRA has taken into account the current navigation baseline and has then used DfT statistics to anticipate future potential changes.</p>	<p>The IOT Operators disagree that the IERRT NRA has taken into account the necessary information regarding the navigation baseline and future baseline.</p> <p>These issues are highlighted in the IOT Operators' sNRA [REP2-064] and summarised at paragraph 34.</p>	
<p>NRA Tidal Modelling</p>	<p>APT Principal Areas of Disagreement (PDA – 003)</p>	<p>The simulations used a representative tidal model based on accurate, verified, and reliable AWAC buoy data, from the area immediately adjacent to the IERRT terminal to inform the simulations.</p> <p>The Applicant has commented on IOT Operator's criticisms of the navigational simulations most recently in its Deadline 9 Submissions [REP9-011].</p>	<p>The IOT Operators' concerns regarding the accuracy of the NRA tidal modelling were raised in the IOT Operators' sNRA [REP2-064] from paragraph 98.</p> <p>These issues were raised again in the IOT Operators' comments on the deficiency of the navigational simulations in their Deadline 8 Submissions [REP8-057] and in their Deadline 9 Submissions [REP9-028].</p>	

<p>Tolerability</p>	<p>APT and HOTT Relevant Representation (RR-003) APT Principal Areas of Disagreement (PDA – 003)</p>	<p>The tolerability levels have been reviewed and agreed entirely in line with correct practice and verified by the Duty Holder following the outcomes of the NRA and advice of specialists. The Applicant has commented on IOT Operator’s comments on tolerability most recently in its Deadline 9 Submissions <b>[REP9-011]</b>.</p>	<p>The tolerability issues are discussed in the IOT Operators’ sNRA <b>[REP2-064]</b> from paragraph 50 which concludes that standards and limits of acceptability/ tolerability were not well defined and do not align with HSE/ COMAH standards. As such the IOT Operators’ position is that the tolerability levels used in the IERRT NRA are not acceptable.</p> <p>The hazard workshops did not facilitate the input of all stakeholders and no attempt was made to reach a consensus on tolerability.</p> <p>The IOT Operators also commented on the issues regarding tolerability in their Deadline 8 Submissions <b>[REP8-057]</b> and in their Deadline 9 Submissions <b>[REP9-028]</b>.</p>	
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<p>NRA baseline data</p>	<p>APT Principal Areas of Disagreement (PDA – 003)</p>	<p>Quality written assessment of vessel traffic by vessel category was undertaken through the assessment of AIS data collected as described in <b>APP-089</b> and <b>REP7-011</b>. The study area is described with sufficient detail for a reader to understand the context of shipping movements within the area.</p>	<p>Paragraph 34 of the IOT Operators' sNRA [<b>REP2-064</b>] summarises these issues with the IERRT NRA, concluding that there are inaccuracies, overlooked key information and insufficient analysis within the description of the navigation baseline information. This was also referenced in the IOT Operators' Deadline 9 Submissions [<b>REP9-028</b>]</p> <p>The IOT Operators' position is therefore that the IERRT NRA baseline data is not sufficient or acceptable.</p>	
<p>HAZID to identify risk controls/ mitigation</p>	<p>APT and HOTT Relevant Representation (RR-003) ES - Volume 3 - Appendix 10.1 - Navigation Risk Assessment (APP-089) APT Principal Areas of Disagreement (PDA – 003)</p>	<p>HAZID workshops were held and are documented in <b>APP-089</b> and <b>REP7-011</b>. The IOT Operators attended the second and third iterations of these and their suggested mitigations (further applicable control suggestions) were recorded and fully taken into account.</p>	<p>The IOT Operators' suggested mitigations have not been taken into account. The IOT Operators' position is set out in their Deadline 9 Submissions [<b>REP9-028</b>]</p>	

<p>Relocation of the Finger Pier</p>	<p>APT and HOTT Relevant Representation (RR-003)                      ES - Volume 3 - Appendix 10.1 - Navigation Risk Assessment (APP-089)                      APT Principal Areas of Disagreement (PDA – 003)</p>	<p>The suggested control from the IOT Operators to move the Finger Pier was considered at the HAZID workshop and subsequently as part of the NRA exercise and has been concluded that, in light of the assessments undertaken, relocation of the finger pier is not required to satisfy the SHA.                      In their letter to the ExA dated 28 September 2023 [AS-020], the Parties agreed on a list of matters which would form the basis of further negotiations for the provision of enhanced impact protection measures. This agreement did not include the relocation of the IOT Finger Pier.</p>	<p>Section 11.2.1 of the IOT Operators’ sNRA [REP2-064] identifies that relocation of the IOT Finger Pier is provided as a risk control measure. Section 12.4 provides a cost benefit analysis justifying the requirement for that risk control measure.</p> <p>The IOT Operators’ have explored options which would avoid the need to relocate the IOT Finger Pier in the design workshops attended with ABP in early October 2023.</p> <p>Those options included an extension to the Finger Pier to allow the relocation of a coaster berth from the southern side of the IOT Finger Pier to its northern, as expressly identified in the letter of 28 September [AS-020]. The IOT</p>	

			<p>Operators' captured the outputs of those design workshops in their letter of 16 October [REP5-036].</p> <p>It is for the Applicant to advance adequate mitigation for its proposals. To date it has failed to do so – relocating the IOT Finger Pier would remain a means of doing so. The inadequacy of the Applicant's mitigation proposals are captured in the IOT Operators' response to the change notification [REP6-046].</p>	
IOT impact protection (in submission but not confirmed)	APT and HOTT Relevant Representation (RR-003)	Whilst ABP, as per the NRA submitted with the Application, does not consider that such measures are required, IOT impact protection has been identified as a potential control and may form part of the operational 'adaptive procedures' (as it appears in the Hazard Logs) which will be determined by the Navigation Authority.	In its letter of 27 September 2023 [AS-020] the Applicant indicated it would make a change to accommodate impact protection capable of mitigating (to an acceptable level) the risks identified by the IOT Operators' sNRA. It should be noted that vessel impact protection would be a physical barrier and would not be an	



		<p>The Applicant has, by letter dated 19 October 2023 [AS-026] and the accompanying Proposed Changes Notification Report [AS-027], notified the ExA of its intention to submit a Request to Make Changes to the submitted DCO application. It is anticipated that this request will include Enhanced Operational Controls in terms of directions by HES and the potential Provision of Additional Impact Protection Measures. The Request to Make Changes, and any Additional Impact Protection Measures, will be without prejudice to ABP's position that impact protection measures are not required.</p> <p>As detailed in ABP's Proposed Changes Notification Report [AS-027], negotiations between the Parties in relation to additional impact protection measures have culminated in the emergence of specific</p>	<p>“operational adaptive procedure”,</p> <p>The IOT Operators' have explored options to deliver the necessary impact protection in the design workshops attended with ABP in early October 2023.</p> <p>The IOT Opeartors' captured the outputs of those design workshops in their letter of 16 October [REP5-036]. Those requirements follow and are in accordance with the indicative design appended ot the Applicant's letter of 28 September [AS-020]. No new “specific requirements” were identified. The use of sacrificial impact proection proposed by ABP significantly extends the Finger Pier extension required.</p> <p>The IOT Operators explain why the reasons advanced by the Applicant for not</p>	
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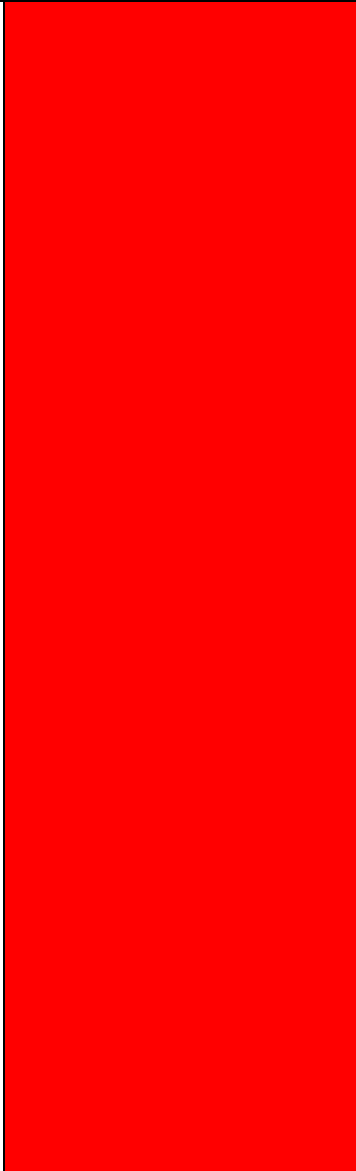
		<p>requirements from the IOT Operators which ABP considers go beyond those which were the subject of the agreed letter to the ExA dated 28 September 2023 [AS-020]. ABP and its experts do not consider the scheme now required by IOT Operators to be feasible due to navigational, engineering, environmental and scheme viability reasons.</p> <p>The Applicant has commented on IOT Operator's comments on impact protection most recently in its Deadline 9 Submissions [REP9-011].</p>	<p>providing the necessary impact protection in their change notification consultation response are insufficient at [REP6-046], see para 1.8 in particular.</p> <p>The Applicant indicates viability is a reason for not delivering the necessary mitigation. If that case is being advanced, full details of the viability information relied on should be provided to the ExA. To date, the only cost benefit assessment before the ExA is that shown at 12.4 of the IOT Operators' sNRA [REP2-064]. That assessment clearly demonstrates the justification for providing the impact protection sought by the IOT Operators.</p> <p>The IOT Operators therefore disagree that the impact protection sought by the IOT Operators is new or unfeasible.</p>	
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			<p>The IOT Operators also commented on the issues regarding impact protection in their Deadline 8 Submissions <b>[REP8-057]</b> and in their Deadline 9 Submissions <b>[REP9-028]</b>.</p>	
<p>Marine Liaison Plan</p>	<p>APT and HOTT Relevant Representation (RR-003)</p>	<p>The SHA will review the need for any required addition to the Local Port Services and Vessel Traffic Services.</p> <p>The Outline Offshore Construction Environmental Management Plan <b>[REP8-012]</b>, at table 3.4, includes a Liaison Officer to act as co-ordinator between the port and contractors in order to ensure the safety of Port users, construction staff and the environment.</p>	<p>The IOT Operators had understood that the Applicant has agreed to the inclusion of this measure as draft protective provision 4 of its preferred protective provisions.</p> <p>The relevant provision is provided as part of <b>[REP1-039]</b> to which the Applicant's agreement appears in its letter of 28 September <b>[AS-020]</b>. The IOT Operators have made minor adjustments to this drafting in their <b>[REP6-046]</b>.</p> <p>However, the Applicant has since resiled from that agreement in its protetive</p>	

			<p>provisions submitted following ISH6. It is noted that the ExA has requested the Applicant provide detailed reasons for doing so <b>{PD-019}</b>.</p> <p>In the absence of the protective provision requiring a Marine and Liaison Plan <b>[PRE1-039]</b> there is no mechanism by which the IOT Operators can ensure the priority berthing which has been committed to by the Applicant and Harbour Master Humber is provided.</p>	
Protective provisions	APT and HOTT Relevant Representation (RR-003)	The proposed protective provisions are subject to ongoing negotiation between the Parties. Negotiations aim to ensure that ABP will only be able to exercise powers under the DCO subject to sufficient protection and safeguards for IOT Operators' assets and interests.	<p>The Applicant has provided its preferred protective provisions on 29 November following ISH5. They remain in the form provided by the Applicant at D6 <b>[REP6-003]</b> and are therefore not acceptable to the IOT Operators.</p> <p>They are an order of magnitude away from the</p>	

		<p>The Applicant has commented on IOT Operators' proposed Protective Provisions at [REP9-011] and [REP7-029].</p>	<p>previous commitment of the Applicant [AS-020] to enter into protective provisions substantially in the form of REP1-039. The IOT Operators are disappointed that ABP has resiled from the position detailed in its letter of 28 September to the Examining Authority, without any notice to or prior engagement with the IOT Operators.</p> <p>It is noted that the ExA has requested the Applicant provide detailed reasons for doing so [PD-019].</p> <p>The IOT Operators set out their position on this matter in their Deadline 9 Submissions [REP9-028]</p>	
<p>Agreed letter to the ExA dated 28 September 2023 [AS-020]</p>		<p>Following receipt (from IOT Operators and their consultants, Beckett Rankine) of a <i>“high level design review for a potential impact protection system that could be installed at IOT”</i>, the Parties agreed to</p>	<p>The IOT Operators' position on the Applicant's commitments in its letter of 28 September [AS-020] are outlined in previous rows of this table. The Applicant appears to be resiling from all concessions made in</p>	

		<p>work together with a view to developing a scheme of marine infrastructure protection for the IOT based on the Beckett Rankine high level proposals and in accordance with a list of agreed principals set out in the 28 September letter. Without prejudice to its stated position on impact protection and subject to further refinement of the design, ABP (in the same letter) committed to submit a changes application amending the Application in order to deliver the revised measures.</p> <p>The Applicant has commented on IOT Operators' proposed Protective Provisions at [REP9-011] and [REP7-029].</p>	<p>that letter, some two months after it was sent and without a material change in circumstances or evidence base in the intervening period.</p> <p>The IOT Operators provided detailed explanations for their positions in the draft protective provisions in their Deadline 8 Submissions [REP8-057] and commented further in their Deadline 9 Submissions [REP9-028].</p>	
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<p>Degree of impedence to IOT Operations</p>	<p>IOT Operators Oral Summary of Submissions at ISH5 and ISH6 (REP7-070), NS4.04 in ExQ4 [PD-022].</p>	<p>The Applicant does not consider that there is likely to be any impedence to IOT Operations arising out of the IERRT Development.</p> <p>As discussed in the Applicant's NRA [<b>APP-089</b> and <b>REP7-011</b>], the Applicant is satisfied that the vessels using IOT berths 8 and 9 will still be able to operate safely once the IERRT infrastructure has been built. There has been no evidence from any of the 80 navigational simulation runs that there is any risk of impedence to IOT Operations, and the Applicant (and incidentally the SCNA and SHA) is confident after extensive assessment that both the IOT and the IERRT can be operated safely.</p> <p>The Applicant's response to NS.4.04 in ExQ4 (<b>REP8-020</b>).</p>	<p>The Applicant has not approached the IOT Operators to engage in any assessment of operational impacts on the IOT and the IOT Operators have not been able to undertake that assessment themselves.</p> <p>The simulations conducted in December 2023 evidenced that even if IOT Finger Pier vessel priority is facilitated over the movement of IERRT vessels (and means provided to secure this), the physical constraints imposed by IERRT infrastructure means there will be a significant impact on the shipping of oil products at IOT.</p> <p>The IOT Operators have sought reasonable protections and operational controls to supplement the extent of physical impact protection and other accommodation works since February 2022.</p>	
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		<p>The simulations conducted in December [<b>REP7-033</b> and <b>REP7-034</b>] in no way provided any evidence to priority being required by vessels operating at IOT finger pier.</p> <p>Assessing the priority for vessels was not an aim of the simulations.</p> <p>It is clear from all the simulations undertaken considering IOT finger pier that vessels can operate to and from IOT finger pier with a vessel berthed on IERRT 1 ,2 and 3 berths. Simultaneous operations have not been considered.</p> <p>At the very most the December simulations demonstrated that when and if IOT operators allow vessels to operate beyond the normal wind limits for IOT finger pier (30mph/26knots onto the berth) it is possible that an approaching vessel may suffer a 'hard' landing. This outcome would be expected</p>	<p>The IOT Operators reiterated the extreme importance of the IOT and the Refineries in their Deadline 9 Submissions [<b>REP9-028</b>] which further demonstrates the high sensitivity to any impedance to IOT Operations.</p>	
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		<p>with or without the IERRT infrastructure and is a factor of existing operations it is assumed why IOT have established these wind limits.</p> <p>The Applicant has addressed IOT Operators' comments on the December simulations at Deadline 9 <b>[REP9-011]</b>.</p>		
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## 4 Section 4 – Signatories

This Statement of Common Ground is agreed:

On behalf of IOT Operators:

Name: Matt Dearnley

Signature:



Date: 18 January 2024

On behalf of ABP:

Name: Tom Jeynes (Sustainable Development Manager)

Signature:



Date: 18 January 2024

## Glossary

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