

# IMMINGHAM EASTERN RO-RO TERMINAL



Statement Of Common Ground Between Associated British Ports and Health and Safety Executive (HSE)

Document 7.15

APFP Regulations 2009 – Regulation 5(2)(q)

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# Document Information

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# Contents

<b>1</b>	<b>Section 1 – Introduction</b> .....	<b>4</b>
<b>2</b>	<b>Section 2 – Summary of Engagement</b> .....	<b>6</b>
<b>3</b>	<b>Section 3 – Matters Agreed and Matters Not Agreed</b> .....	<b>9</b>
<b>4</b>	<b>Section 4 – Signatories</b> .....	<b>13</b>
	<b>Glossary</b> .....	<b>14</b>

# 1 Section 1 – Introduction

## Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared in relation to the application (the “Application”) by Associated British Ports (“ABP”), made under the provisions of Section 37 of the Planning Act 2008 (“the PA 2008”), for a Development Consent Order (“DCO”) which if approved will authorise the construction and operation of the Immingham Eastern Ro-Ro Terminal (IERRT).
- 1.2 The IERRT development 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 also be providing an area of off-site environmental enhancement at Long Wood, which is located close to the Port’s East Gate.

## Parties to this Statement of Common Ground

- 1.6 This SoCG is submitted on behalf of:
- (a) ABP – the promoter of the IERRT development and the owner and operator of the Port of Immingham; and
  - (b) HSE– the health and safety regulator responsible for providing public safety advice to the planning system on the acceptability of proposed developments, such as IERRT, in the vicinity of major accident hazard sites and pipelines.
- 1.7 In this SoCG ABP and HSE are collectively referred to as “the Parties”.

## The Purpose and Structure of this Document

- 1.8 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties (specifically, the

onshore chemical hazard aspects only) on matters relevant to the examination so as to assist the Examining Authority in its consideration of the Application.

- 1.9 In preparing this SoCG, the guidance provided in 'Planning Act 2008: examination of application for development consent' (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account.
- 1.10 Section 1 of this SoCG is designed to act as a general introduction to the IERRT project and to the parties concerned.
- 1.11 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.12 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.13 The 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 HSE up to the date of this SoCG in relation to the IERRT project generally and concerning the matters raised in this SoCG specifically is presented in Table 2.1 below.
- 2.2 It is agreed by the Parties to this SoCG that Table 2.1 is an accurate record of the meetings and key correspondence between the Parties.

**Table 2.1 – Summary of Engagement**

<b>Date</b>	<b>Form of Correspondence</b>	<b>Summary with key outcomes and points of discussion</b>
20.07.21	Email	ABP introduced the proposed development; described the consenting approach and presented timelines for proposed development.
21.09.21 - 29.09.21	Email	ABP introduced the proposed development and requested to engage with the HSE's paid advice service
29.09.21	Email	HSE submitted Scoping Opinion Response
04.10.21- 19.10.21	Email	Various emails between ABP and HSE to arrange a meeting.
20.10.21	Meeting	HSE's discussed pre-application advice and Scoping Report comments. Land use planning, major hazard installations and major hazard pipelines at the port were also discussed.
21.10.21	Email	HSE sent through combined zones for the port area.
01.11.21	Email	ABP acknowledged receipt of the combined zones plan and followed up regarding the preparation of meeting notes.
02.11.21	Email	HSE responded and confirmed that meeting notes will be issued imminently. HSE also advised on the queries regarding the revocation of the HSC for the Edward Nicholson Site and the decommissioning of the Acrylonitrile pipeline.
04.11.21	Email	HSE issued notes from meeting 20.10.21, a copy of the combined CZ map and consultation response.
05.11.21	Email	ABP raised follow up questions regarding the 100 passengers limit allowed in the MZ part of the terminal. ABP also queried whether vessels fall with the TCPA as they are below the low water mark.
11.11.21	Email	HSE confirmed that passengers do not include lorry drivers. HSE would revert regarding whether ships are included in the scope of the TCPA.

12.11.21	Email	ABP responded and referred to the outstanding regulatory responsibility issue.
24.11.21	Email	ABP raised a query regarding the acceptability of passengers driving through the APT DPZ.
03.12.21	Meeting	HSE requested details of 'quick exit' lane for the proposed terminal.
06.12.21	Email	ABP requested copy of the advice received from MCA on the jurisdiction and applicability of land use planning legislation for merchant ships.
06.12.21	Email	HSE responded regarding the extent of the planning jurisdiction for merchant ships.
08.12.21	Email	HSE clarified the position regarding the extent of the planning jurisdiction for merchant ships and confirmed that TCPA powers do not normally extend to ships in port.
09.12.21	Email	Exolum sent to ABP emails between themselves and the HSE regarding the removal of pipelines.
15.12.21	Email	ABP confirmed a revised route was proposed which avoids passengers being routed through the DPZ.
16.12.21	Email	HSE confirmed that all outstanding queries have been addressed.
18.01.22	Email	ABP advised of Notification of Statutory consultation
19.01.22	Email	ABP issued notification of the start of the Statutory Consultation.
21.01.22	Email	HSE requested more information relating to the denotification of the Acrylonitrile Pipeline.
21.01.22	Email	ABP confirmed the contact from Exolum who had dealt with the Acrylonitrile Pipeline matter.
10.02.22	Email	HSE submitted their S42 Consultation Response.
27.10.22	Email	ABP issued notification of Supplementary Statutory Consultation.
27.10.22	Email	HSE acknowledged receipt of notification of SSC.
28.11.22	Email	HSE submitted their SSC response.
09.03.23	Email	ABP issued the Notice of acceptance of application
10.03.23	Email	HSE confirmed that they would respond by the statutory deadline.
05.04.23	Email	HSE submitted their Section 56 response.
17.04.23	Email	ABP advised that the responses should be sent directly to PINS. It was highlighted that matters that were raised had been resolved at the PEIR stage and previous consultation responses were sent through.

18.04.23	Phone Call	HSE queried why they needed to send the S56 to PINS when it was issued from the IERRT project inbox. ABP advised the caller that the response needs to be made to PINs directly.
19.04.23	Email	HSE submitted revised S56 response to PINS and cc ABP
20.04.23	Email	HSE clarified with ABP the response submitted to PINS and confirmed that HSE's previous advice needs to be explicitly included in the formal application.
14.06.23	Email	ABP provided a response to the issues raised in the HSE relevant representations and suggested this formed the basis of a SoCG.
28.06.23	Email	HSE confirmed that they would not be advising against but needed to understand how information that they required to make a decision would be included in the application.
11.09.23	Email & Letter	ABP confirmed that the layout of the proposed new terminal has been submitted as part of the application and on approval would become part of the statutory consent. Deviation from this information is a legally enforceable offence. ABP confirmed that the HSE would retain control over unauthorised development through their advisory role in the planning process, the Planning (Hazardous Substances) Act 1990 and the Control of Major Accident Hazards Regulations 2015.
09.10.23	Email & Letter	ABP advised HSE of amendments to submitted scheme and EXA second round of written questions.
08.11.23	Email & Letter	ABP advise HSE of the ExA's Rule 17 Letter dated 27 October 2023 and provide a draft SoCG.
13.11.23	Email & Letter	HSE copied its letter to the ExA to ABP responding to the Rule 17 Letter and request to enter into an SoCG.
10.01.24	Email	ABP advise HSE that the ExA still requires a SoCG between ABP and HSE.
12.01.24	Email	ABP advises HSE of the ExA's Rule8/9 letter regarding SoCGs.
12.01.24	Email	HSE provides a revised SoCG
12.01.24	Email	ABP agrees the SoCG.



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

- 3.1 Table 3.1 below contains a list of materially significant ‘matters agreed’ and a list of matters outstanding at the date of the Examination along with a concise commentary of what the items refers to and how it came to be agreed between the Parties.

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

Matter	HSE's Position	ABP's Position	Status
<p><b>Implications of the site's marine operations on surrounding COMAH sites</b></p>	<p>The geographical extent of the Town and Country Planning Act 1990 extends to the low tide mark and not to vessels in the marine environment. In essence, a ship in motion, even if it is due to dock at or has just sailed from a port facility, does not form an active part of that marine infrastructure.</p> <p>Any operational safety issues that may arise in the marine environment fall to the regulatory responsibility of the appropriate marine body, as dictated by maritime legislation.</p> <p>Any potential impact from the site's marine operations should be identified by surrounding COMAH operators under the COMAH Regulations 2015.</p>	<p>Agreed.</p>	<p>Agreed.</p>

<p><b>The application of HSE’s land-use planning methodology from the impact of adjacent sites with hazardous substance consent on the IERRT terrestrial operations, including population distribution</b></p>	<p>The Northern Storage Area is situated partly inside a HSE Development Proximity Zone (“DPZ”). As per the General Arrangement Plans accepted as part of the Change Request [AS-049], its use will be for the storage of cargo in transit whereby the drivers leave their cargo and leave the area; this area is then unoccupied. The DPZ around the Immingham Oil Terminal’s tank farm, seen to the southeast, does not overlap the IERRT boundary in any meaningful way [AS-049]. The drivers are considered to be at work.</p> <p>The Terminal through road has been deliberately routed through the gap between two DPZs (being situated instead in the combined inner zones), meaning that there are no land use planning concerns.</p> <p>The passenger waiting area has been located in the far south-eastern corner of the proposed new terminal area, within a Middle Zone. This area will accommodate separately, lorry drivers who are</p>	<p>The applicant understands that the HSE has no land use planning concerns with respect to the onshore elements of the proposed development and is satisfied that the population distribution within the IERRT is in line with their published land use planning advice methodology.</p>	<p>Agreed.</p>
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	<p>accompanying their cargo and a maximum number (as prescribed in the draft DCO) of 100 passengers in cars or recreational vehicles – as when there is available capacity. Passengers will drive through inner zones, stopping briefly to check-in, before waiting in a fenced off area in HSE’s middle zone.</p>		
<p><b>Limits on variations to the terminal layout.</b></p>	<p>The General Arrangement plans will become ‘certified documents’ when the DCO comes into effect, meaning that ABP cannot materially deviate from the layout as certified without securing the approval of the Secretary of State.</p>	<p>Agreed.</p>	<p>Agreed.</p>

## 4 Section 4 – Signatories

This Statement of Common Ground is agreed:

On behalf of HSE:

Name: Max Walker – Acting Director Chemicals, Explosives & Microbiological Hazards Division

Signature



Date: 18.01.24

On behalf of ABP:

Name: Tom Jeynes – Sustainable Development Manager

Signature:



Date: 15.01.24

## Glossary

<b>Abbreviation / Acronym</b>	<b>Definition</b>
ABP	Associated British Ports
DCO	Development Consent Order
DPZ	HSE Development Proximity Zone - see paragraph 15 <a href="https://www.hse.gov.uk/landuseplanning/methodology.htm">https://www.hse.gov.uk/landuseplanning/methodology.htm</a>
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority
HSE	Health and Safety Executive
IERRT	Immingham Eastern Ro-Ro Terminal
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Ro-Ro	Roll-on/roll-off
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom