



Immingham Green Energy Terminal

9.16 Draft Statement of Common Ground between
Associated British Ports and the Marine Management
Organisation (Tracked)

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Version History

Version	Date	Submitted
1.0	13 March 2024	Deadline 1
2.0	3 May 2024	Deadline 3
<u>3.0</u>	<u>11 July 2024</u>	<u>Deadline 5</u>



Status of the Statement of Common Ground

Associated British Ports considers that this draft Statement of Common Ground (SoCG) is an accurate description of the matters raised and the current status of each matter.

On Behalf of Associated British Ports

Name	[REDACTED]
Position	Project Development Manager
Organisation	Associated British Ports
Signature	[REDACTED]

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- 1.12 In preparing this SoCG, the guidance provided in Planning Act 2008: examination of application for development consent (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority's **Rule 6 letter [PD-005]**.
- 1.13 Section 1 of this SoCG is designed to act as a general introduction to the Project and to the parties concerned.
- 1.14 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.15 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.
- 1.16 The Tables in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:
- (a) Green – matter agreed
 - (b) Orange – matter ongoing
 - (c) Red – matter not agreed
 - (d) Grey – point of note
 - (e) Yellow – matter not agreed, no material effect

2. Summary of Engagement

- 2.1 A summary of the consultation and engagement between the Parties up to the date of this SoCG in relation to the Project generally and concerning the matters raised in this SoCG specifically is presented in Table 2-1.
- 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: Record of Engagement

Date	Form of Contact	Summary with key outcomes and points of discussion
20 th April 2023	MS Teams Meeting	The meeting provided an update on the Project and focused on discussing comments received from the MMO and Cefas on the Preliminary Environmental Information Report ("PEIR") with respect to physical processes and water and sediment quality.
28 th April 2023	MS Teams Meeting	The meeting provided an update on the Project and focused on discussing comments received from the MMO and Cefas on the PEIR with respect to potential effects on migratory fish species.
18 th October 2023	Email	Provision of draft DCO documents ahead of upload onto the Planning Inspectorate website.
13 th December 2023	Email	Confirmation of case officer for the Project and sharing availability for meetings.
18 th December	MS Teams Meeting	Meeting to discuss the Project and provide introductions for the case team. Discussions included: <ul style="list-style-type: none"> - The approach to statement of common ground - A review of the topics of concern - The approach to the Draft Marine Licence ("DML") and Construction Environmental Management Plan ("CEMP") - Future meeting cadence
20 th December 2023	Email	ABP Provision of draft minutes from 18 th December for comment.
4 th January 2024	Email	MMO acceptance of minutes from 18 th December.
23 rd February	MS Teams	Meeting with MMO and Cefas to provide outline of the SoCG and draft relevant representation response. ABP provided an

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Date	Form of Contact	Summary with key outcomes and points of discussion
		update on the amendments to mitigation being proposed for the scheme which will be updated in the DML.
11 th March 2024	Email	ABP provision of draft SoCG, and draft minutes from meeting on 23 rd February.
13 th March 2024	Email	MMO acceptance of receipt of draft SoCG and confirmation that it will remain unsigned until final version.
4 th April 2024	Email	ABP provided MMO with a summary of the amber issues and view on status. Awaiting comment from MMO.
23 rd April 2024	Email	ABP provided MMO with updated draft SoCG. Awaiting comment from MMO.
1 st May 2024	Email	MMO confirmation of acceptance of changes made to draft SoCG.
<u>21st June 2024</u>	<u>Email</u>	<u>ABP provided MMO with updates on SoCG.</u>
<u>3rd July 2024</u>	<u>Email</u>	<u>MMO responded with one minor amendment to SoCG.</u>

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3. Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that Chapters 9, 10, 12, 15, 16, 17 and 25 of the **Environmental Statement** submitted with the Application set out the consultation and engagement undertaken between the Parties in relation to the Application:
 - 3.1.1 Chapter 9: Nature Conservation (Marine Ecology) [APP-051];
 - 3.1.2 Chapter 10: Ornithology [APP-052];
 - 3.1.3 Chapter 12: Marine Transport and Navigation [APP-054];
 - 3.1.4 Chapter 15 : Historical Environment (Marine) [APP-057];
 - 3.1.5 Chapter 16: Physical Processes [APP-058];
 - 3.1.6 Chapter 17: Marine Water and Sediment Quality [APP-059]; and
 - 3.1.7 Chapter 25: Cumulative and In-Combination Effects [APP-067].
- 3.2 Table 3-1 contains a list of 'matters agreed' (shaded green); a list of matters in respect of which discussion is ongoing (shaded orange) and a list of matters not agreed (shaded red) at the date of the Examination along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

Table 3-1: List of Matters Agreed, Matters Outstanding and Matters Not Agreed

(Note: ID references have been supplemented with the relevant paragraph reference from the MMO Relevant Representation [RR-016]).

ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
General						
G1	dDCO and DML	2.1 Draft Development Consent Order [REP4-004] MMO Relevant Representations [RR-016] Procedural Deadline A Submission – 2.1 Draft Development Consent Order (Clean) [PDA-004]	The MMO request various amendments to provisions and wording to be made within the dDCO and DML. <u>The MMO's final and full position regarding concerns with the drafting of the dDCO and DML has been presented at Deadline 4 [REP4-042].</u>	<u>ABP have continued engagement with the MMO on matters within the dDCO (including the DML which is a part of it) through the examination and all are agreed except that both have presented their position with respect to Articles 46(12) – (16), Article 63(5)(b), paragraphs 24-27 of the DML and paragraph 3(1) of Schedule 17 of the dDCO submitted at Deadline 5 which are not agreed. ABP's views on these provisions have been presented in the following documents:</u> <ul style="list-style-type: none"> • <u>ABP's response to relevant representations [REP1-021];</u> • <u>ABP's comments on the MMO's response to Q1.18.3.16 of the ExA's First Written Questions [REP2-012] (see page 6);</u> 	Matter not agreed - no material effect,	TBC

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
				<ul style="list-style-type: none"> • ABP's responses to second written questions submitted at Deadline 4 [REP4-047]; and • ABP's responses to Section 2 of the MMO's Deadline 4 Submission [REP[•]]. <p>Despite this further communication no agreement has been made on these outstanding matters. The Applicant and the MMO therefore recognise that it will be for the Secretary of State to determine which of the aforementioned provisions are to be included in the dDCO.</p>		
G2	Approach to CEMP	6.5 Outline Construction Environmental Management [REP4-008] 2.1 Draft Development Consent Order [REP4-004]		<p>The DCO application includes an Outline CEMP [REP4-008] at this stage. The Final CEMP(s) will be developed and consulted on as soon as practicable to enable site works to commence at the earliest opportunity, which is a necessity of the programme for delivery of the Project. The approval of the Final CEMP(s) in respect of the landside works (by</p>	Agreed	1 May 2024

Deleted: ABP will work with the MMO to amend the wording of the draft DCO [\[APP-006\]](#) and DML as appropriate. Full details of the proposed changes and amendments are provided in ABPs response to Relevant Representations [\[REP1-021\]](#). Proposed changes have been made to the updated draft DCO [\[PDA-004\]](#).[¶] ABP continue to engage with the MMO on matters relating to the draft DCO and DML and respond as appropriate [\[REP1-016, REP2-012\]](#).

Deleted: [REP2-004](#) at this stage. ABP and Air Products intend to progress negotiations with MMO and other relevant stakeholders of the Final CEMP(s) now in order to reach a position where the content of the Final CEMP(s) is advanced as far as possible and agreed with the relevant parties prior to the end of the Examination for the Project. This approach would allow for an efficient approval of the CEMP(s) for the landside works by North East Lincolnshire Council ("NELC") (in consultation with the MMO in relation to Work No. 1) secured under Requirement 6 of the draft DCO [\[PDA-004\]](#) and for the works in the marine area by the MMO (in consultation with NELC) secured by Condition 8 of the deemed marine licence and...

Deleted: 6.5 Outline Construction Environmental Management [\[REP2-004\]](#)[¶] Procedural Deadline A Submission – 2.1 Draft Development Consent Order (Clean) [\[PDA-004\]](#)

ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
				<p><u>North East Lincolnshire Council ("NELC"), in consultation with the MMO in relation to Work No. 1) is secured by Requirement 6 of the draft DCO [REP4-004].</u></p> <p><u>and in respect of the works in the marine area (by the MMO in consultation with NELC) is secured by Condition 8 of the deemed marine licence.</u> It is intended at present that the Final CEMPs will form at least three separate documents:</p> <p>CEMP relating to all works in the UK marine area (i.e. all works below Mean High Water Spring "MHWS") which would be for the MMO to approve.</p> <p>CEMP relating to that part of Work No. 1 which is landward of MHWS and Work No. 2 which would be approved by NELC.</p> <p>CEMPs relating to the other landside works which would be phased and would also be approved by NELC.</p>		

Physical Processes

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
PP1 (4.1.5)	Approach and conclusions	6.2 Environmental Statement – Chapter 16: Physical Processes [APP-058] MMO Relevant Representations [RR-016]	The MMO agrees with the approach to and conclusions presented in the physical processes chapter. Some minor points have been identified but are not considered significant.	ABP acknowledge the position of the MMO with respect to the physical processes chapter [APP-058] .	Agreed	4 December 2023
PP2 (4.1.8)	Modelling approach	6.2 Environmental Statement – Chapter 16: Physical Processes [APP-058] 6.4 Environmental Statement Appendices – Appendix 16.A: Numerical Model Calibration [APP-205] MMO Relevant Representations [RR-016]	The MMO, whilst noting some points with respect to the scenarios and assumptions, agrees that the modelling undertaken is appropriate and that results are within acceptable limits of accuracy.	The MMO's response is noted, accepting that advisory comments made on the PEIR with respect to physical processes have been addressed. More detailed responses to the points raised by the MMO are provided in ABPs response to the Relevant Representations [REP1-021] .	Agreed	4 December 2023
PP3 (4.1.10)	Cumulative assessment	6.2 Environmental Statement – Chapter 16: Physical Processes [APP-058] 6.2 Environmental Statement – Chapter	The MMO agree that the approach to the cumulative assessment [APP-067] is reasonable.	ABP note the MMO's position in relation to the cumulative assessment.	Agreed	4 December 2023

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		25: Cumulative and In-Combination Effects [APP-067] MMO Relevant Representations [RR-016]			Agreed	
PP4 (4.1.13)	Mitigation	6.2 Environmental Statement - Chapter 16: Physical Processes [APP-058] MMO Relevant Representations [RR-016]	The MMO agree that no mitigation is required for coastal processes, based on the assessments provided.	ABP note the MMO's position, in that no mitigation is required for coastal processes.		4 December 2023
Dredge Disposal						
DD1 (4.2.2 and 4.2.3)	Effects to dissolved oxygen concentrations	6.2 Environmental Statement - Chapter 17: Marine Water and Sediment Quality [APP-059] MMO Relevant Representations [RR-016]	The MMO agrees with the assessment relating to effects on water quality.	ABP notes the MMO's position with respect to effects on water quality.	Agreed	4 December 2023
DD2 (4.2.9)	Sediment contamination	6.2 Environmental Statement – Chapter	The MMO, in consultation with Cefas, do not consider	As acknowledged by the MMO the levels of contaminants		

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		17: Marine Water and Sediment Quality [APP-059] MMO Relevant Representations [RR-016]	the concentration of contaminants to preclude the material from disposal at sea.	observed within the sediment sampling for the Project are broadly consistent with those observed in other sediment sampling in the area. The points raised by the MMO in their Relevant Representations [RR-016] do not change the conclusion of the assessment in that the impact significance is assessed as minor adverse and not significant.	Agreed	
DD3 (4.2.10)	Sediment sampling	6.2 Environmental Statement - Chapter 17: Marine Water and Sediment Quality [APP-059] MMO Relevant Representations [RR-016]	The evidence to support this application comprises bespoke marine sediment sampling which the Applicant states is in line with pre-application sampling advice under SAM/2022/00106. This appears to be a typo, as according to MMO records – verified by consulting MCMS/the Public Register – SAM/2022/00106 refers to an application for Fawley Power Station, whereas the sample plan advice for the	The correct case reference is SAM/2022/00110. The correct data has been used within the assessments and as such this does not change any of the respective conclusions.		23 February 2024

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
			present application appears to be SAM/2022/00110		Agreed	
DD4 (4.2.12)	Sediment sampling	6.2 Environmental Statement - Chapter 17: Marine Water and Sediment Quality [APP-059] 7.9 Sediment Contamination Data (Part 1) [APP-241] 7.9 Sediment Contamination Data (Part 2) [APP-242] MMO Relevant Representations [RR-016]	The sampling conducted adheres to that recommended under SAM/2022/00110, however, we have not been able to determine from the documents reviewed which laboratory conducted the analyses. This should be clarified before a determination is made as it could impact the confidence which should be ascribed to the data. A completed MMO contaminant analysis template should be provided indicating the laboratory that undertook each analyses. Especially given that the application involves disposal at sea, for which xls submission of sediment data is essential to facilitate reporting.	The analysis was conducted by Socotec, an MMO accredited laboratory. Reference to this is made within [APP-241] and [APP-242]. A completed MMO contaminant analysis template has been provided to the MMO.		1 May 2024
DD5 (4.2.13)	Cumulative assessment	6.2 Environmental Statement - Chapter	The MMO agree with the cumulative assessment	ABP note the MMO's position with respect to cumulative	Agreed	4 December 2023

ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		17: Marine Water and Sediment Quality [APP-059] MMO Relevant Representations [RR-016] 6.2 Environmental Statement - Chapter 25: Cumulative and In-Combination Effects [APP-067]	relating to dredging in Chapter 25.	assessments [APP-067] being appropriate.	Agreed	23 February 2024
DD6 (4.2.14)	Mitigation	6.2 Environmental Statement - Chapter 17: Marine Water and Sediment Quality [APP-059] MMO Relevant Representations [RR-016]	The MMO does not consider any mitigation to be necessary at this time in regard to dredge and disposal, however this is not final until the contracting laboratory has been confirmed.	ABP note the MMO's position with respect to mitigation. The contracting laboratory has been confirmed in matter DD5 above.		
Benthic Ecology						
BE1 (4.3.9)	Assessment and mitigation	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051]	The MMO agrees with the ES assessment in relation to benthic ecology. It contains relevant information regarding benthic ecology receptors,	ABP note the MMO's position with respect to benthic ecology [APP-051] .	Agreed	4 December 2023

ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		MMO Relevant Representations [RR-016]	and the assessment and mitigation outlined are agreed with.			
Fish Ecology						
FE1 (4.4.3)	Scoping	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	The MMO agree that a precautionary approach has been taken to assessments and all relevant receptors have been scoped in.	ABP note the MMO's position with respect to scoping of fish ecology receptors [APP-051].	Agreed	4 December 2023
FE2 (4.4.6)	Baseline	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	The MMO agree that the baseline data with which the assessment is based, is appropriate and that appropriate guidance documents have been used for specialist analysis (Popper <i>et al</i> 2014, noise thresholds).	ABP note the MMO's position with respect to baseline assessment and guidance documents.	Agreed	4 December 2023
FE3 (4.4.10 to 4.4.11)	Mitigation	6.2 Environmental Statement - Chapter 9: Nature Conservation	The MMO seeks clarification regarding the Applicant's proposed	The statement in Section 9.8.153 of Chapter 9 [APP-051] was related to the general working hours that are proposed to be	Agreed	1 May 2024

ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		(Marine Ecology) [APP-051] MMO Relevant Representations [RR-016] 2.1 Draft Development Consent Order (includes Draft DML) [REP4-004]	restrictions on nighttime piling (Paragraph 4.4.7 iii). The MMO recommends that no marine piling of any kind be permitted at night throughout the year, particularly considering the proposed extended duration of construction and dredging activities proposed. While a nighttime piling restriction would be most beneficial to nocturnal receptors, it would also provide a continuous period of respite for all marine receptors affected by the IGET works and other developments currently in the planning stages. Therefore, the MMO proposes that the Applicant's commitment to prohibit nighttime piling be incorporated into the DML as follows: Condition: No marine piling of any kind is to be carried out between the hours of 07:00 and 19:00 during	employed in the winter months (07:00 to 19:00) and the working hours that are proposed in the summer months (sunrise to sunset). Winter months are defined as March, September and October and summer months are defined as June and August. ABP has provided a summary overview of the fish restrictions in their response to MMO's Relevant Representations at Deadline 1 [REP1-021] . The draft DML [REP4-004] at Schedule 3 Part 2 15. (9) has been updated to remove reference to 'percussive' so that it refers to any marine piling.		

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
			winter months* and from sunrise to sunset during summer months*. The MMO requests that these timeframes be defined by the Applicant.		Agreed	
FE4 (4.4.13)	Mitigation	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	The MMO supports the proposed percussive piling restriction between April 1 and May 31 (inclusive) and concurs that this measure will minimise potential impacts on the largest number of migratory fish species in the Humber Estuary, including those in early life stages. However, it is important to acknowledge that this restriction only covers a portion of the salmon smolt downstream migration, which typically occurs from April to June (inclusive). Please refer to paragraph 4.4.14 i for further comments regarding smolts.	ABP notes the MMO's position with respect to piling restrictions and point them to matter FE5 for further comment on concerns.		4 December 2023

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FE5 (4.4.14)	Mitigation	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	The MMO objects to the Applicant's proposal to limit piling duration to 140 hours (single rig) or 196 hours (two rigs) from June 1 to June 30 and August 1 to October 31.	Further clarification with respect to piling restrictions has been provided in ABP's response to MMO's relevant representations [REP1-021] . wording for a piling reporting protocol has been added into the DML at condition 15, along with a commitment to restrict percussive piling durations to 270 minutes with a contingency period of 60 minutes. The previous condition of 196 hours will be a joint restriction with IERRT and <u>has been secured within an update to the CEMP [REP4-008]</u> .	Agreed	1 May 2024
FE6 (4.4.15)	Mitigation	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	The MMO concurs that piling restrictions are not necessary for piling activities conducted outside the waterbody during periods of low water (i.e., in the dry).	ABP notes the MMO's position with respect to no restriction for piling activities during periods of low water.	Agreed	4 December 2023
FE7 (4.4.16 to 4.4.19)	Mitigation	6.2 Environmental Statement - Chapter 9: Nature Conservation	In light of the probable cumulative impacts of UWN from piling, as outlined in	ABP has set out why they do not believe bubble curtains will be effective in this location within	Agreed	1 May 2024

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		(Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	paragraph 4.4.17, the MMO strongly recommends that the Applicant investigate the implementation of noise abatement measures, such as bubble curtains, for this project (as well as IERRT, which is also an ABP project).	their response to MMO's relevant representations [REP1-021] . ABP has provided further detail at Deadline 2 [REP2-012] in response to the MMO's comments submitted at Deadline 1 [REP1-079] .		
Shellfish Ecology						
SE1 (4.5)	General	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016]	The MMO finds the information provided is detailed, all relevant, and extensive, both in respect of the baseline and the impact assessments conducted. No significant gaps in respect to shellfish receptors have been identified. Therefore, no further information is required to assess the impacts on shellfish receptors.	ABP notes the MMO's position with respect to shellfish ecology.	Agreed	4 December 2023
Commercial Fisheries						

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CF1 (4.6)	General	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] MMO Relevant Representations [RR-016] 6.4 Environmental Statement Appendices -Appendix 1.A: Scoping Report [APP-167]	Given that disturbance of the seabed can significantly alter nursery and spawning grounds, it would be ideal for works to commence at a time that would be least detrimental to the least number of species. River lamprey spawning periods are usually between April / May, works should try to avoid that period. The MMO defers to the Inshore Fisheries Conservation Authority (IFCA) as the principle contact on matters related to commercial fishing operation. The MMO will continue to be part of the discussions relating to securing any mitigation related to this field.	Further clarification with respect the timing of the works has been provided in ABP's response to MMO's relevant representations [REP1-021] which states that no percussive piling is proposed in April and May, therefore effects to lamprey spawning would be avoided. ABP notes the MMO's position with respect to the IFCA.	Agreed	1 May 2024
Underwater Noise						
UN1 (4.7.4)	Assessment	6.2 Environmental Statement - Chapter 9: Nature Conservation	The MMO believes that an appropriate evidence base has largely been proposed,	ABP notes the MMO's position with respect to underwater noise assessment.	Agreed	4 December 2023

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		(Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]	and effort has been undertaken to produce an informative and transparent assessment.			
UN2 (4.7.8)	Modelling	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]	While the MMO has no major concerns/objections with the source levels presented as such, it would be helpful if the Applicant could please provide more context on how these levels are relevant to the IGET development. For instance, it is not just the pile size (diameter) which is a factor. Other important considerations are the hammer energy, strike rate (piling profile) and water depth.	Further clarification with respect the source levels used within the assessment has been provided in ABP's response to MMO's relevant representations [REP1-021] . ABP acknowledge that there are multiple factors that influence underwater noise and elements such as water depth, strike rate etc are used in the assessments [APP-187] .	Agreed	1 May 2024

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
UN3 (4.7.9)	Concurrent piling	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]	For the concurrent piling scenarios, it would be helpful if the Applicant could please provide more detail e.g., in the form of a figure, showing the locations of the piling at both the jetty approach and jetty head platform, taking into consideration the minimum and maximum separation distances between the piling vessels. This would help illustrate that the chosen scenarios / modelling strategy, and the inherent idealisations / simplifications are indeed appropriate and precautionary.	ABP has provided illustrative figures in their response to MMO's relevant representations [REP1-021] .	Agreed	1 May 2024
UN4 (4.7.11)	Modelling	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise	Para 1.6.9 and para 1.6.10 – The MMO previously queried why the Root Mean Square (RMS) source level is 10 dB higher than the Sound Exposure Level (SEL) source level. The Applicant has responded (see Table 1) with: "The	The relevant SELcum and SPLpeak metrics have been used to assess the impacts of percussive piling noise in the underwater noise assessment appendix [APP-187] . ABP has provided a response at Deadline 2 [REP2-012] with respect to the technical elements	Agreed	1 May 2024

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		Assessment [APP-187] MMO Relevant Representations [RR-016]	peak, SEL and RMS levels are those that were measured directly in the field and published in the literature that is referenced in Section 1.6. The SEL that is reported is effectively the SELss. The RMS metric has not been used in the modelling of impacts of impact piling on fish but is included as a specific variable in the National Oceanic and Atmospheric Administration (NOAA) user spreadsheet tool that has been used to assess the effects of impact piling on marine mammals (Section 1.9)". Nevertheless, the MMO reiterates that the relevant metrics for assessing the impacts of impulsive activities are the SELcum (calculated by the aggregation of SELss) and SPLpeak.	raised by MMO and Cefas. It is ABPs position that the detail being requested would not change the conclusion of any of the assessments made and appropriate mitigation has been outlined.		
UN5 (4.7.12)	Modelling	6.2 Environmental Statement - Chapter 9: Nature Conservation	As advised for the PEIR consultation, it is not entirely appropriate to	ABP has provided further clarification on this point in their response to MMO's relevant	Agreed	1 May 2024

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		(Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]	convert the peak-to-peak threshold to a zero-to-peak threshold (of 157 dB by subtracting 6 dB) as the Applicant has done here. The MMO recommends that future assessments also adopt the threshold of 135 dB SELss.	representations [REP1-021] . ABP consider the use of an intermediate behavioural threshold (139dB SELss) commensurate with the lower hearing ability of salmon to be more appropriate and results in a very similar range of effects as the peak behavioural threshold that was used in the Underwater Noise Assessment [APP-187] . ABP has provided a response at Deadline 2 [REP2-012] with respect to the technical elements raised by MMO and Cefas. It is ABPs position that the detail being requested would not change the conclusion of any of the assessments made and appropriate mitigation has been outlined.	Agreed	
UN6 (4.7.14)	Marine mammals	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B:	The MMO has no major concerns with the predictions for marine mammals for percussive (and vibro) piling. In general, the ranges appear to be relatively conservative in most cases.	ABP notes MMO's position with respect to piling for marine mammals.		4 December 2023

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]			Agreed	
UN7 (4.7.22)	Marine mammals	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]	The Permanent Threshold Shift (PTS) range is very unlikely to be <1m. However, the MMO acknowledges that marine mammals are not expected to remain stationary for extended periods of time in close vicinity to the source.	Marine mammals are not expected to remain stationary for extended periods of time in close vicinity to the source of dredging and therefore there is not considered to be any risk of injury or significant disturbance to marine mammals from the proposed capital and maintenance dredge activities.		1 May 2024
UN8 (4.7.23)	Assessment	6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051]	The MMO note concerns and questions around background noise levels used in the assessment.	ABP has provided further clarification on background noise levels in their response to MMO's relevant representations [REP1-021].		1 May 2024

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
		6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]		ABP has provided a response at Deadline 2 [REP2-012] with respect to the technical elements raised by MMO and Cefas. It is ABPs position that the detail being requested would not change the conclusion of any of the assessments made and appropriate mitigation has been outlined.	Agreed	
UN9 (4.7.27)		6.2 Environmental Statement - Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] MMO Relevant Representations [RR-016]	The MMO note that it may be wise to have a tracker of some sort for the Humber estuary (if there is not one already). This tracker could show when and where the various developments will be taking place, and what mitigation will be in place, to try and help manage cumulative effects.	A piling reporting protocol is being developed with the MMO. Further clarification with respect to piling restrictions has been provided in ABP's response to MMO's relevant representations [REP1-021]. This includes suggested wording for a shared mitigation for both the project alone and in-combination with IERRT. wording for a piling reporting protocol has been added into the DML at condition 15, along with a commitment to restrict percussive piling durations to 270 minutes with a contingency period of 60 minutes. The previous condition of 196 hours will be a joint		1 May 2024

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ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
				restriction with IERRT and <u>has been secured within an update to the CEMP [REP4-008]</u> ,		
Shipping and Navigation						
SN1 (4.8)	Shipping and Navigation	6.2 Environmental Statement - Chapter 12: Marine Transport and Navigation [APP-054] MMO Relevant Representations [RR-016]	The MMO defers to the Maritime and Coastguard Agency and Trinity House on matters of shipping and navigation. The MMO will continue to be part of the discussions relating to securing any mitigation, monitoring or other conditions.	ABP acknowledge the MMO's position.	Point of note	
Marine Archaeology						
MA1 (4.9)	Marine Archaeology	6.2 Environmental Statement - Chapter 15: Historical Environment (Marine) [APP-057] MMO Relevant Representations [RR-016]	The MMO defers to Historic England on matters of shipping and navigation. The MMO will continue to be part of the discussions relating to securing any mitigation monitoring or other conditions	ABP acknowledge the MMO's position.	Point of note	

Deleted: will be secured within an update to the CEMP at Deadline 3.

ID	Matter	Reference	The MMO Position	ABP Position	Status	Date
Seascape and Landscape						
SL1 (4.10)	Seascape, Landscape and Visual Resources	6.2 Environmental Statement - Chapter 13: Landscape and Visual Impact [APP-055] MMO Relevant Representations [RR-016]	The MMO defers to Natural England as the Statutory Nature Conservation Body (SNCB) on matters of Seascape, Landscape and Visual Resources. The MMO will continue to be part of the discussions relating to securing any mitigation and monitoring or development of any plans/conditions on this matter. The MMO would also remind the Applicant that the National Association for Areas of Outstanding Natural Beauty should be included in conversations regarding potential impacts to Areas of Outstanding Natural Beauty as they are the Non-Governmental Organisation responsible for them.	ABP acknowledge the MMO's position.	Point of note	

4. Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order
DML	Draft Marine Licence
EIA	Environmental Impact Assessment
ES	Environmental Statement
IFCA	Inshore Fisheries Conservation Authority
MHWS	Mean High Water Springs
MMO	Marine Management Organisation
NELC	North East Lincolnshire Council
NOAA	National Oceanic and Atmospheric Administration
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PEIR	Preliminary Environmental Information Report
PINS	Planning Inspectorate
PTS	Permanent Threshold Shift
RMS	Root Mean Square
SEL	Sound Exposure Level
SNCB	Statutory Nature Conservation Body
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom