



Immingham Green Energy Terminal

TR030008

Volume 3

3.2 Statement of Reasons

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Regulation 5(2)(h)

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Forms and Procedure) Regulations 2009 (as
amended)

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The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended)

Immingham Green Energy Terminal

Development Consent Order 2023

3.2 Statement of Reasons

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STATEMENT OF REASONS

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1 INTRODUCTION

- 1.1 This Statement of Reasons (“**Statement**”) relates to the application by Associated British Ports Limited (“**ABP**” or “**the Applicant**”) (Company number: ZC000195 and registered office: 25 Bedford Street, London, WC2E 9ES), for development consent for the Immingham Green Energy Terminal and associated development (the “**Project**”).
- 1.2 ABP is the applicant for development consent for the construction, operation and maintenance of a multi-user liquid bulk terminal (the “**Application**”) located on the eastern side of the Port of Immingham (“**the Port**”) within the area shown edged red on the Land Plans (document reference TR030008/APP/4.5) submitted with the Application (the “**Site**”).
- 1.3 The Application seeks authorisation for the alteration to an existing harbour facility (i.e. the Port) for the construction of a new terminal for the import and export of liquid bulks together with associated development which includes the construction and operation of a green hydrogen production facility for the production of green hydrogen from imported ammonia on the Site. The green hydrogen production facility would be owned and operated by Air Products (BR) Limited (“**Air Products**”).
- 1.4 ABP and Air Products entered into an agreement on 13 September 2022 relating to matters including the obtaining of necessary consents for the Project, the construction of the terminal by ABP and the grant of a lease and appropriate rights by ABP to Air Products to enable Air Products to construct and operate the green hydrogen production facility.
- 1.5 Whilst Air Products will be the first customer to use the new terminal, other proposed uses for and users of the terminal will come forward in due course and separate consents will be obtained as required for associated landside works. It is anticipated that future users are likely to include customers in the carbon capture sector (see Chapter 3 (Need & Alternatives) of the Environmental Statement (“**ES**”) (document reference TR030008/APP/6.2) and the Planning Statement (document reference **TR030008/APP/7.1**) for further discussion on future users and the location of the Project to enable it to support the development of carbon capture and storage (“**CCS**”) technology).
- 1.6 The proposed alteration of the existing harbour facility constitutes a Nationally Significant Infrastructure Project (“**NSIP**”) as identified in section 14(1)(j) and under Part 3, section 24(2) and section 24(3)(c) of the Planning Act 2008 (the “**Act**”). The Applicant is therefore submitting the Application to the Secretary of State for Transport (the “**Secretary of State**”) for development consent pursuant to section 37 of the Act.
- 1.7 The new jetty, topside infrastructure (including the associated pipework on the jetty) and related landside infrastructure (including jetty access ramp) would comprise the nationally significant infrastructure project (i.e. the principal development). The jetty access road and landside development for the transfer and storage of the ammonia and the hydrogen production, storage and distribution would comprise “associated

development” for the purpose of section 115 of the Act. The elements of the Project being applied for are explained in more detail in Section 2 of this Statement.

- 1.8 The definition of the “undertaker” in the draft development consent order (“**DCO**” or “**Order**”) includes ABP (defined as the “Company”). It also includes Air Products in respect of certain powers set out in the definition which relate to temporary use of land, authority to survey and investigate land and protective works (which are discussed below at paragraphs 4.7 to 4.19).
- 1.9 The definition of “undertaker” also includes “any person who has the benefit of the Order in accordance with section 156 (benefit of order granting development consent)” of the Act. Section 156 of the Act provides that a development consent order has effect for the benefit of the land and all persons for the time being interested in the land, subject to any contrary provision in the Order. Air Products will have the benefit of the DCO as a person interested in the Site by virtue of the lease and other rights it will be granted by ABP for those parts of the Site on which the hydrogen production facility is to be located and associated works are to be undertaken. The definition of “undertaker” is subject to the provisions of Article 46 (Benefit of Order) which further sets out who may exercise powers under the DCO including how the benefit of the Order in relation to certain provisions may be transferred (with or without Secretary of State consent, as may be the case). As noted above, Article 46 confers on Air Products the benefit of certain powers in relation to specified plots. This is discussed further below in section 4.
- 1.10 There are also provisions for the transfer of the benefit of the DCO to a third party under Article 46 (Benefit of Order). The powers relating to acquisition of land and rights are reserved for ABP only under Article 46(2) of the draft DCO (document reference **TR030008/APP/2.1**) and are expressly excluded from transferring to a third party without the consent of the Secretary of State.
- 1.11 This Statement has been prepared to meet the requirements of section 37(3)(d) of the Act and regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 and in accordance with the former Department for Communities and Local Government guidance:
 - 1.11.1 “Planning Act 2008: guidance related to procedures for compulsory acquisition” (“**CA Guidance**”);
 - 1.11.2 “Planning Act 2008: associated development applications for major infrastructure projects”; and
 - 1.11.3 “Planning Act 2008: Nationally significant infrastructure projects – Application form guidance”.
- 1.12 Section 122(1) of the Act provides that a DCO may include provisions authorising compulsory acquisition of land only if the Secretary of State is satisfied that the conditions in section 122(2) and (3) are met. The section 122(2) condition is that the land:

- 1.12.1 is required for the development to which the development consent relates;
 - 1.12.2 is required to facilitate or is incidental to that development; or
 - 1.12.3 is replacement land which is to be given in exchange for the order land under sections 131 or 132 of the Act.
- 1.13 The section 122(3) condition is that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 1.14 If the DCO is made, it will include powers to acquire land compulsorily; create and acquire compulsorily new rights over or under land and in some cases impose restrictive covenants; extinguish or override existing rights over land; and use and possess land temporarily for the purposes of the Project.
- 1.15 This Statement explains why the powers of compulsory acquisition sought in the draft DCO (document reference TR030008/APP/2.1) are required to enable the Project to proceed and why there is a compelling case in the public interest to grant those powers.
- 1.16 This Statement is structured as follows:
- 1.16.1 **Section 2** explains why the Project is being promoted as an NSIP and describes the location of the Site and the key elements of the development proposals which form the Project.
 - 1.16.2 **Section 3** describes how the land to which the Project relates is identified on the Land Plans (document reference **TR030008/APP/4.5**) and is intended to be used in connection with the Project.
 - 1.16.3 **Section 4** describes the enabling powers under the Act and the scope of the powers sought in the draft DCO (document reference **TR030008/APP/2.1**).
 - 1.16.4 **Section 5** outlines the need for the Project, in particular in relation to the need for port infrastructure to serve the energy sector, and the policy support for the Project.
 - 1.16.5 **Section 6** sets out ABP's justification for seeking powers of compulsory acquisition and temporary possession in accordance with section 122 of the Act and CA Guidance and, in particular, the requirement for the land and the compelling case in the public interest.
 - 1.16.6 **Section 7** describes the engagement and negotiations with parties with an interest in or rights over land.
 - 1.16.7 **Section 8** considers the request for compulsory acquisition powers in the context of human rights legislation.
 - 1.16.8 **Section 9** identifies other consents that ABP needs to obtain in order to implement the proposals for the use and development of the Project and the status of those consents.

- 1.16.9 **Appendix 1 (Schedule of Negotiations)** explains the status of negotiations with landowners with regard to private agreements for acquisition of the relevant interests. It also sets out the land parcels and rights to be acquired (as shown on the Land Plans (document reference **TR030008/APP/4.5**)), as well as specifying the Works No for which each plot is required and the reason for the acquisition or possession being sought.
- 1.17 Throughout this Statement, where further relevant information is to be found in other documents, those documents are identified with cross-references provided. The documents that provide further information most relevant to this Statement and the land included within the DCO are:
- 1.17.1 Land Plans (including Crown Land) (document reference **TR030008/APP/4.5**)
 - 1.17.2 Book of Reference (document reference **TR030008/APP/3.1**)
 - 1.17.3 Works Plans (document reference **TR030008/APP/4.2**)
 - 1.17.4 Draft DCO (document reference **TR030008/APP/2.1**)
 - 1.17.5 Explanatory Memorandum (document reference **TR030008/APP/2.2**)
 - 1.17.6 Funding Statement (document reference **TR030008/APP/3.3**)
 - 1.17.7 Planning Statement (document reference **TR030008/APP/7.1**)
 - 1.17.8 Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**)
 - 1.17.9 Consents & Agreements Position Statement (document reference **TR030008/APP/7.4**)
 - 1.17.10 Street Works and Accesses Plan (document reference **TR030008/APP/4.6**)
 - 1.17.11 Stopping Up and Restriction of Use of Streets and Public Rights of Way Plan (document reference **TR030008/APP/4.7**)
 - 1.17.12 Traffic Regulations Measures Plan (document reference **TR030008/APP/4.8**)
 - 1.17.13 Without Prejudice Shadow HRA Derogation Report (document reference **TR030008/APP/7.3**)
- 1.18 Reference to a Plot in this Statement is to a plot numbered as such on the Land Plans (document reference **TR030008/APP/4.5**). The Book of Reference (document reference **TR030008/APP/3.1**) explains the compulsory acquisition or other powers applied for on a plot by plot basis. The Schedule of Negotiations (Appendix 1 to this Statement) also sets out the Plots and describes the land interest or rights sought (alongside the category of the interest, where relevant), as well as specifying the Works No for which each plot is required and the reason for the acquisition or possession

being sought. It also sets out the land parcels and rights to be acquired (as shown on the Land Plans (document reference **TR030008/APP/4.5**)).

2 DESCRIPTION OF THE PROJECT

- 2.1 This section of the Statement sets out why the Project is being promoted as an NSIP and provides a brief summary of the Project location (including the relevant wider context) and the elements of the Project.

Legislative framework and promotion of the Project as an NSIP

- 2.2 The proposed alteration of the existing harbour facility constitutes a Nationally Significant Infrastructure Project (“**NSIP**”) as identified in section 14(1)(j) and under Part 3, section 24(2) and section 24(3)(c) of the Act as:
- 2.2.1 it comprises “the alteration of harbour facilities” (i.e. the existing Port) – section 24(2);
 - 2.2.2 “the harbour facilities are in England” – section 24(2)(a); and
 - 2.2.3 “the effect of the alteration is expected to be to increase by at least the relevant quantity per year the quantity of material the embarkation or disembarkation of which the facilities are capable of handling” – section 24(2)(b);
 - 2.2.4 where “the relevant quantity is... in the case of facilities for cargo ships, 5 million tonnes” – section 24(3)(c).

The Project location and surroundings

- 2.3 The Site is located in North East Lincolnshire on the south bank of the Humber Estuary to the east of the Port. ES Figure 1.1 (Application Site Boundary) (document reference **TR030008/APP/6.3**) illustrates the Project’s location, which is approximately centred on National Grid Reference E520783 N415271. The landside works fall within the administrative boundary of North East Lincolnshire Council (**NELC**). The marine-side works, that extend seaward and fall beyond the local authority’s boundary, will take place on the bed of the Humber Estuary, which is owned by the Crown Estate and over which the Applicant has the benefit of a long lease (999 years from 1 January 1869). The necessary approvals from the Crown Estate required for the construction of the marine infrastructure are being sought by ABP. The Project in its entirety covers an area of approximately 121ha.
- 2.4 Part of the Site is within the operational area of the Port. The area immediately around the Port is largely industrial in nature, being dominated by chemical manufacturing, oil processing and power generation facilities. Residential and commercial properties are present to the south of the Port on Queens Road and lie within, and adjacent to, the Site boundary. Beyond the industrial facilities, the wider area is largely agricultural. Beyond Queens Road, the nearest residential area is the town of Immingham, which at its closest point is approximately 460m from the western edge of the West Site (see paragraph 2.7 below for a description of the Project components).

- 2.5 The Port lies immediately adjacent to the main deep-water shipping channel which serves the Humber Estuary, thereby enabling access to the Port by some of the largest vessels afloat today. The Port is also well located for onward/inward transport of goods by road throughout the UK. It has good access for road haulage to the M180 motorway and from there to the M1 motorway or the A1, via the M18 motorway. In addition, the Port has its own rail terminal, with some 25% of all rail freight in the UK originating from the Port. This primarily connects to local power stations and steel works moving circa 10 million tonnes of cargo per annum.
- 2.6 Further detail on the Site and surroundings are set out in Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.3**) and section 2 of the Planning Statement (document reference **TR030008/APP/7.1**).

Project description

- 2.7 For the purposes of this Statement, the proposed works fall into two main parts:
- 2.7.1 the construction of marine and associated landside development comprising a terminal (“**Terminal**”) consisting of a jetty and associated landing ramps, topside loading / unloading infrastructure, pipelines and metering systems for the import and export of bulk liquids associated with the energy sector (the NSIP); and
- 2.7.2 the construction and development of the landside elements comprising a jetty access road and hydrogen production facility (including ammonia handling equipment, storage and processing units) and which are “associated development” for the purposes of section 115 of the Act.
- 2.8 The land to which the DCO relates (the Order limits, as shown by a red line on the Works Plans (document reference **TR030008/APP/4.2**) and on ES Figure 1.1 (Application Site Boundary) (document reference **TR30008/APP/6.3**)) comprises the following broad areas (illustratively shown on ES Figure 2.3 (Indicative Site Layout) (document reference **TR30008/APP/6.3**)). The Work Nos referred to are more fully described in Schedule 1 to the draft DCO (document reference **TR030008/APP/2.1**) and the Works Plans (document reference **TR030008/APP/4.2**) show the maximum extent of each Work No. The key elements are described below by reference to Work No. where applicable:
- 2.8.1 A multi-user terminal for the import and export of liquid bulks comprising a jetty (defined by Work No. 1a) including a loading platform, associated dolphins, fenders and walkways, topside infrastructure (including but not limited to control rooms, marine loading arms, pipe-racks, pipelines and other infrastructure); a single berth, with a berthing pocket with a depth of up to 14.5m below chart datum; and related landside infrastructure including, but not limited to, a jetty access ramp, a flood defence access ramp and works to raise the seawall locally under the jetty access ramp (Work No.1);
- 2.8.2 A corridor between the Terminal and Laporte Road which would support a private road (the “jetty access road”), pipe-racks, pipelines to enable the

- ammonia import to the West Site, as well as security gates, a security building, a power distribution buildings and associated utilities (Work No. 2);
- 2.8.3 East Site - Ammonia Storage (Work No. 3) on which an ammonia storage tank and related plant including an ammonia tank flare stack would be constructed (Work No. 3a) as well as additional buildings (including welfare building, power distribution building and a process instrumentation building), pipe-racks, pipelines, pipes, cable-racks, utilities and other infrastructure;
- 2.8.4 A culvert under Laporte Road for pipelines, pipes, and cables and other conducting media linking the two parts of the East Site (Work No. 4);
- 2.8.5 East Site – Hydrogen Production (Work No. 5) on which up to three hydrogen production units and associated plant including flue gas stacks and flare stacks would be constructed (Work No. 5a) together with additional buildings (including process control building, power distribution buildings, process instrumentation buildings, analyser shelters), pipe-racks, pipelines, pipes, utilities and other infrastructure;
- 2.8.6 Underground pipelines, pipes, cables and other conducting media between the East Site and West Site for the transfer of ammonia, hydrogen, nitrogen and utilities, with cathodic protection against saline corrosion (Work No. 6) (“**Pipeline Corridor**”);
- 2.8.7 West Site (Work No. 7) involving the construction of up to three hydrogen production units with associated flue gas stacks and flare stacks and up to four liquefier units (Work No. 7a and Work No. 7b); hydrogen storage tanks and hydrogen trailer filling stations, a hydrogen vent stack and associated process equipment (Work No. 7c) and a hydrogen vehicle and trailer filling stations, hydrogen compressors and associated process equipment (Work No. 7d), together with additional buildings (including but not limited to control room and workshop building, security and visitor building, contractor building, warehouse, driver administration building, safe haven building, electrical substation and metering station, power distribution buildings, process instrumentation buildings, analyser buildings and additional temporary buildings during construction), process and utility plant including cooling towers and pumps, fire water tank, instrument air equipment, pipe-racks, pipelines, pipes, cable-racks, utilities and other infrastructure;
- 2.8.8 Formation of temporary construction and laydown areas on Queens Road (Work No. 8) and off Laporte Road (Work No. 9);
- 2.8.9 Temporary removal of street furniture and modification of overhead cables on Kings Road (Work No. 10) associated with the transport of large construction components from the Port to the Site;
- 2.8.10 Residential and part residential properties at Queens Road in respect of which compulsory acquisition powers and powers to extinguish a restrictive covenant are sought (as explained further in paragraphs 3.37 to 3.39); and

- 2.8.11 Other land within the Order limits comprising public and private highways in respect of which highways works and access, and other measures affecting the use of the highways are proposed; together with an area in relation to which drainage and associated rights are sought.
- 2.9 A comprehensive description of the Project is provided in Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.2**) and Section 4 of the Planning Statement (document reference **TR030008/APP/7.1**). In order to ensure sufficient flexibility for the final design of the Project to come forward, a 'Rochdale Envelope' approach is used and paragraph 2.4.12 of Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.2**) sets out the parameters which, alongside Schedule 1 of the draft DCO (document reference **TR030008/APP/2.1**) and the Work Plans (document reference **TR030008/APP/4.2**), form the basis of the technical assessments undertaken in the EIA. Lateral parameters for each element of the development comprise the boundary for each of the defined work areas as set out in the Work Plans. Work No. 1a is further defined by additional parameters set out in Table 2-1 (Parameters for Work No. 1a) of Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.2**). Vertical parameters for each work number are defined in Table 2-2 (Vertical Parameters for landside elements) of Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.2**). However, considerable work has been undertaken on the options for the layout of the Project so as to ascertain the land required to deliver the Project and the proposed use of that land. Illustrative drawings of the Project are shown on the Layout Plans (document reference **TR030008/APP/4.3**) which are submitted for illustrative purposes and which are not intended to be certified documents.
- 2.10 As set out in Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.2**), there would be a phased approach to the construction of the Project as illustrated in Figure 2.6 of that chapter (document reference **TR030008/APP/6.3**). The phasing scenario anticipates that the construction of the Terminal and first phase of the green hydrogen production facility (including works on both the East Site and West Site) would comprise the first phase of development, which, subject to securing the relevant consents, is likely to start in early 2025 and last for between two and a half and three years. Following completion of the first phase of the construction, a further five phases of the hydrogen production facility would be constructed incrementally to increase the processing capacity as the market for green hydrogen increases. There would be six phases of development in total (please see Table 2-9 of Chapter 2 (The Project) of the ES (document reference **TR030008/APP/6.2**)).

3 THE LAND WITHIN THE ORDER LIMITS AND ITS PROPOSED USE

- 3.1 This section of the Statement describes how the land to which the Project relates is identified the Land Plans (document reference **TR030008/APP/4.5**) and is intended to be used in connection with the Project.

- 3.2 The powers of compulsory acquisition sought in the draft DCO (document reference **TR030008/APP/2.1**) would only be exercised if it is not possible to agree terms with the affected parties. The current status of discussions with the affected holders of interests within the Site is summarised in Appendix 1 of this Statement.

Land Plans

- 3.3 The Order limits are shown by a red line on the Land Plans (document reference **TR030008/APP/4.5**). The Land Plans (there are 11 in total including key plan and insets) include a legend. Certain powers within the DCO apply only to the Order land, which is defined in the draft DCO (document reference **TR030008/APP/2.1**) as the land shown on the Land Plans (document reference **TR030008/APP/4.5**) shaded pink, blue, green and purple and shaded and hatched blue and described in the Book of Reference (document reference **TR030008/APP/3.1**).
- 3.4 In respect of the land shown on the Land Plans (document reference **TR030008/APP/4.5**) and associated powers in the draft DCO (document reference **TR030008/APP/2.1**):
- 3.4.1 Land shaded pink and referred to on the Land Plans as “permanent acquisition”: ABP may acquire any interests in this land, or as an alternative acquire only rights over the land and/or impose restrictive covenants affecting it or take possession of and use the land temporarily. ABP and/or Air Products may interfere with existing rights over this land.
 - 3.4.2 Land shaded blue and referred to on the Land Plans as “permanent rights and temporary possession and use”: ABP may acquire rights over the land (at surface and sub-surface levels) and/or impose restrictive covenants affecting it or take possession of and use the land temporarily. ABP and/or Air Products may interfere with existing rights over this land.
 - 3.4.3 Land hatched blue and referred to on the Land Plans as “permanent rights in and temporary possession and use of subsoil”: ABP may acquire rights over the sub-surface (but not the surface) and/or or take possession of and use the land temporarily. ABP and/or Air Products may interfere with existing rights over this land.
 - 3.4.4 Land shaded green and referred to on the Land Plans as “temporary possession and use”: ABP and/or Air Products may take temporary possession of and use the land. ABP and/or Air Products may interfere with existing rights over this land.
 - 3.4.5 Land shaded purple and referred to on the Land Plans as “suspend or interfere with private easements or rights”: ABP and/or Air Products may interfere with existing rights over this land.
 - 3.4.6 Land shaded yellow and referred to on the Land Plans as “land owned by Associated British Ports not included in the book of reference and not part of the Order land”: This relates to land in ABP’s ownership over which no

powers to acquire interests in land, create rights or impose restrictive covenants or interfere with existing rights are sought.

- 3.4.7 Land shaded brown and referred to on the Land Plans as “adopted highway not included in the book of reference and not part of the order land”: This relates to public or private highways. No powers to acquire interests in land, create rights or impose restrictive covenants or interfere with existing rights are sought.
- 3.4.8 Crown land is shown on the Land Plans shaded orange. ABP has a leasehold interest over such land. No powers to acquire interests in land, create rights or impose restrictive covenants or interfere with existing rights are sought.
- 3.5 The Order limits are shown as a red line boundary on the Land Plans.
- 3.6 Descriptions and ownership information for each plot shown on the Land Plans (document reference **TR030008/APP/4.5**) are set out in the Book of Reference (document reference **TR030008/APP/3.1**). Columns 2, 4, 6 and 7 of the Schedule of Negotiations at Appendix 1 to this Statement summarise the plots over which compulsory acquisition powers are sought, including the type of power sought and the purpose for that power.

Location overview

- 3.7 The works areas included within the Order Limits are described in paragraph 2.8 of this Statement. Further detail is provided below on each of Work Nos described in Schedule 1 of the draft DCO (document reference **TR030008/APP/2.1**) and the relationship to the Land Plans (document reference **TR030008/APP/4.5**) and plots described in the Book of Reference (document reference **TR030008/APP/3.1**). While the owners of the relevant plots are set out below alongside how the land is identified on the Land Plans, a full list of all interests in each plot is not given. This section should therefore be read alongside the Book of Reference (document reference **TR030008/APP/3.1**). All of the land above the mean low water mark lies within the administrative area of NELC and all of the land below mean high water springs is under the jurisdiction of the Marine Management Organisation (“MMO”); as a result, there is an overlapping of jurisdictions between NELC and the MMO between the mean high water and mean low water mark. Whether or not a part of the Site falls within the Port refers to whether it falls within the operational port boundary as shown on the NELC Policies Map which forms part of the NELC Local Plan.

Work No. 1: Terminal

- 3.8 The Terminal would comprise an open piled approach trestle up to 1.2km in length leading to a single berth, with a loading platform, breasting and mooring dolphins, associated fenders, jetty head building and a separate refuge shelter with attached office, WC and external safety shower, a jetty operations building, and walkways. The jetty would provide access for vehicles and pipework to and from the shore to the berth. The walkways would facilitate operational and maintenance access. Appropriate

topside infrastructure would be installed on the jetty to load and unload vessels including marine loading arms, pipelines and supporting infrastructure and utilities for handling liquid bulk shipments. The jetty access ramp forms part of Work No. 1 and provides operational access to the Terminal from the jetty access road (forming part of Work No. 2). Pipework and utilities would run along the jetty, over the existing seawall, to a connection point with the landside pipework. As such, some of the activities permitted under Work No. 1 relate to landside development (and such development is within the Port).

- 3.9 The bed of the Humber Estuary is owned by the Crown Estate and ABP has the benefit of a long lease (999 years from 1 January 1869). Accordingly, the owner of Plots 1/1, 2/1, 3/3 and 4/31 is the King's Most Excellent Majesty in the right of his Crown, managed by the Crown Estate Commissioners. This land is shown shaded orange on the Land Plans.
- 3.10 In accordance with section 135(1) of the Act, a DCO may include provision authorising the compulsory acquisition of an interest in Crown land only if it is an interest which is for the time being held otherwise than by or on behalf of the Crown and the appropriate Crown authority consents to the acquisition. No compulsory acquisition of an interest in Crown land is sought in the draft DCO (document reference **TR030008/APP/2.1**) and it is not included in the Order land.
- 3.11 In accordance with section 135(2) of the Act, a DCO may include any other provision applying in relation to Crown land or rights benefitting the Crown, only if the appropriate Crown authority consents. The consent of the appropriate Crown authority to inclusion of the land within the Order limits has been sought.
- 3.12 Article 60 (Crown Rights) of the draft DCO confirms that the estates, rights etc of the Crown are not affected by the DCO and that the undertaker is not authorised to take, use etc any land or rights forming part of the Crown estate without the necessary consent specified in that Article.
- 3.13 The remainder of the land within Work No. 1 is comprised of land owned by ABP (Plots 3/1 and 4/27) which is shaded purple on the Land Plans (document reference **TR030008/APP/4.5**) as interference with rights may be required and unregistered land (Plots 3/2 and 4/29) which is shaded green on the Land Plans (document reference **TR030008/APP/4.5**) for temporary possession and use.

Work No. 2: Jetty Access Road and pipe-rack

- 3.14 This area will be used for the construction of a private road (the jetty access road) connecting to the jetty access ramp to the Terminal with the public highway at Laporte Road and providing maintenance access to the pipelines. An above-ground pipe-rack structure would support pipelines and utilities, linking the pipelines and other utilities on the topside of the jetty to the East Site. There will also be associated buildings, plant and infrastructure, including a gated access control point with security access gates, security building (gate house) and electrical control building to supply power to the jetty facilities. The land is within the Port. See also section 3.9 of Chapter 3 (Need &

Alternatives) of the ES (document reference **TR030008/APP/6.2**) for discussion relating to design refinement which resulted in the minimisation of land take in this area.

- 3.15 This part of the Order Land is comprised of land owned by ABP and public highway. Plot 4/25 is owned by ABP and is shaded purple on the Land Plans (document reference **TR030008/APP/4.5**) as interference with the third party rights identified in the Book of Reference (document reference **TR030008/APP/3.1**) may be required. ABP owns the land shaded yellow.
- 3.16 Plots 4/21-4/23 fall within the public highway (proposed stopping up and creation of permanent access as shown on the Street Works and Accesses Plan (document reference **TR030008/APP/4.6**) and the Stopping Up and Restriction of Use of Streets and Public Rights of Way Plan (document reference **TR030008/APP/4.7**)). Plot 4/21 is shaded pink as permanent acquisition is required - it forms part of the jetty access road and is part of the public highway proposed to be stopped up. Plots 4/22 and 4/23 are hatched blue on the Land Plans as rights over the subsoil to install utilities connections are required.

Work Nos. 3 - 5: East Site

- 3.17 This part of the Project comprises two areas separated by Laporte Road: (a) an ammonia storage facility (including a storage tank with a maximum height of up to 65 metres above finished ground levels) (Work No. 3); and (b) up to three hydrogen production units for the production of hydrogen from ammonia (Work No. 5), together in each case with associated buildings, plant and infrastructure. These two parts of the East Site would be linked by pipelines through a culvert under Laporte Road (Work No. 4) which is public highway. Ancillary buildings would include a control building, power distribution centre buildings, process instrumentation buildings and other process and utilities packages, some of which may be within enclosed shelters. Above and below ground utilities would include pipes and pipe-racks, cables and cable racks and other utilities. Permanent road accesses would be provided from the public highway to the Site and to connect to the jetty access road (Work No. 2) and internal site roads and parking areas. The extent of work areas and land requirements for Work Nos 3 and 5 (and 7) accommodates the ability to set back the security fence to ensure a 2 metre strip around the secure part of the Site which will be under the Applicant's control for security purposes.
- 3.18 The East Site falls within the existing operational Port boundary.
- 3.19 This part of the Order Land is largely owned by ABP. Third parties have the benefit of a leasehold interest in Plots 4/6 and 4/10 and therefore those plots are shown shaded pink on the Land Plans (document reference **TR030008/APP/4.5**) as vacant possession is required for construction of Work No 5 (vacant possession is expected to be obtained under the terms of the lease). A number of third parties have the benefit of existing rights over that land as identified in the Book of Reference (document reference **TR030008/APP/3.1**) and therefore Plots 4/2, 4/3, 4/4, 4/11, 4/12, 4/13, 4/14, 4/15, 5/35, 5/40-5/41 and 5/43-5/44 are shown shaded purple on the Land Plans

(document reference **TR030008/APP/4.5**) as interference with those rights may be required.

- 3.20 Plots 4/5, 4/7, 4/9, 4/16, 4/18-4/20, 5/36 and 5/39 comprise public highway land which is proposed to be stopped up and to form part of the East Site. These areas are therefore shown shaded pink on the Land Plans (document reference **TR030008/APP/4.5**) as compulsory acquisition of this land is proposed.
- 3.21 Plot 4/17 relates to the culvert to be constructed under Laporte Road (Work No. 4) and comprises highway land. Permanent rights are sought over the road (Plot 4/17) to install and retain utilities and protection for those utilities, and therefore the land is shaded blue. A restrictive covenant is sought in order to protect the pipeline by limiting development above the pipeline should the land be stopped up (and cease to become public highway) in the future.
- 3.22 Plots 4/8, 4/23 and 5/37 run the length of Laporte Road where permanent rights to install and retain utilities (subsoil only) are sought and therefore the land is hatched blue.

Work No. 7: West Site

- 3.23 This part of the Project will be used for the construction of up to three hydrogen production units and up to three liquefier units (Work No. 7a and Work No. 7b); hydrogen storage tanks and Heavy Goods Vehicle (“**HGV**”) loading bays (Work No. 7c) and a hydrogen refuelling station and bulk hydrogen trailer filling station (Work No. 7d), together with a control room and workshop building and other associated buildings, plant and infrastructure. The West Site would also include road access from the public highway.
- 3.24 The West Site falls outside the existing operational Port boundary.
- 3.25 This part of the Order Land is largely owned by ABP. A number of third parties have the benefit of existing rights over that land as identified in the Book of Reference (document reference **TR030008/APP/3.1**) and therefore Plots 5/2, 5/5, 5/9, 6/1-6/5, 6/7-6/13, 6/17, and 7/13-7/14 are shown shaded purple on the Land Plans (document reference **TR030008/APP/4.5**) as interference with those rights may be required.
- 3.26 Although ABP is the registered owner of Plots 5/1 and 7/19, it appears that the land is being used by a neighbouring owner, and therefore these plots are shown shaded pink on the Land Plans (document reference **TR030008/APP/4.5**) to ensure vacant possession can be obtained if required.

Work No. 6: Pipeline Corridor

- 3.27 This part of the Project comprises a series of pipelines (expected to be parallel pipelines) and associated utilities linking the East Site and West Site and largely to be installed underground by way of Horizontal Directional Drilling (“**HDD**”) or micro tunnelling techniques which minimise surface disturbance. The works would include a

hydrogen pipeline, an ammonia pipeline, a nitrogen pipeline, a cathodic protection system, a cooling water make up supply line and utility connections.

- 3.28 The pipeline corridor is partially within the Port (in relation to the stretch of land between the East and West Sites).
- 3.29 This part of the Order Land is in part owned by ABP. A number of third parties have the benefit of existing rights over that land as identified in the Book of Reference (document reference **TR030008/APP/3.1**) and therefore Plots 4/4, 5/5, 5/6, 5/16-5/17, 5/19, 5/21, 5/26, 5/31, 5/42-5/43 and 6/11-6/13 are shown shaded purple on the Land Plans (document reference **TR030008/APP/4.5**) as interference with those rights may be required.
- 3.30 Parts are also owned by third parties (Plots 5/7-5/8, 5/10, 5/23-5/25, 5/27-5/30, and 5/32-5/33), are highway land (Plots 5/11, 5/20, 5/22, 5/38, and 6/14-6/15), or are unregistered (Plots 5/13-5/15). Permanent rights to install and retain utilities and protection for those utilities are sought over those plots and therefore the land is shaded blue. Plot 5/34 is owned by ABP but is subject to a lease to Hargreaves Industrial Services Limited and is therefore shaded blue as permanent rights are sought over that plot to enable to construction of the pipeline corridor. A restrictive covenant is sought to prevent development above the pipeline. The proposed terms of the restrictive covenant are set out in Schedule 12 of the DCO (document reference **TR030008/APP/2.1**).

Work No. 8 & Work No. 9: Temporary Construction Areas

- 3.31 Two areas for temporary construction uses are proposed:
- 3.31.1 Work No. 8 is a temporary construction area to accommodate temporary offices, welfare facilities, car parking, storage buildings and the formation of a temporary road access to Queens Road.
- 3.31.2 Work No. 9 is a temporary laydown area for the storage of equipment and materials, a temporary warehouse, temporary offices and the formation of a temporary road access to Laporte Road.
- 3.32 Work No. 8 falls within the Port. This part of the Order Land is owned by ABP, however, a number of third parties have the benefit of existing rights over that land as identified in the Book of Reference (document reference **TR030008/APP/3.1**) and therefore Plot 5/19 is shown shaded purple on the Land Plans (document reference **TR030008/APP/4.5**). The remainder of Work No 8 is shown shaded yellow.
- 3.33 Work No. 9 falls outside the existing operational Port boundary. This part of the Order Land is owned by third parties and is subject to an agricultural tenancy. Plots 4/26 and 4/28 are shown shaded green on the Land Plans (document reference **TR030008/APP/4.5**) as temporary possession is required.

Work No. 10: Kings Road

- 3.34 The Project anticipates utilising modularisation to reduce onsite works. This would require the transport of abnormal loads from the Port to the relevant parts of the Site. To facilitate this, four areas have been identified on Kings Road where temporary access or works will be required. This part of the Order Land falls outside the existing operational Port boundary.
- 3.35 Works for the temporary removal of street furniture to facilitate such traffic movements will be undertaken pursuant to the highways works powers in the DCO and the relevant highway land within Kings Road is shaded brown on the Land Plans (document reference **TR030008/APP/4.5**).
- 3.36 In addition, access to private gardens (Plots 7/1-7/3 and 7/8), car parks (Plots 7/5-7/6), property boundary walls (Plot 7/7), driveways (Plots 7/8-7/10), verges (Plot 7/4 and 7/11), and hedges (Plot 7/11) will be required to facilitate the temporary adjustment of overhead lines (which will then be reinstated). These plots are all shaded green on the Land Plans (document reference **TR030008/APP/4.5**). Rights to access the associated properties are not sought.

Queens Road

- 3.37 A number of properties (containing ten individual residential units) located on the west side of Queens Road have been included in the Order Land (Plots 5/3-5/4, 7/15-7/18, and 7/20-7/23) and are shaded pink on the Land Plans (document reference **TR030008/APP/4.5**). Through the Applicant's land agent's diligent inquiry process, these 10 properties have been identified as having a lawful residential use of all or part as follows (these properties are together referred to as the Queens Road Residential Properties):
- 3.37.1 1, 2, 3, 4, 5 and 31 Queens Road comprise residential dwellings (Plots 7/15-7/18, 7/20 and 5/4, respectively). 31 Queens Road was acquired by Air Products on 5 May 2023 following negotiations for acquisition by agreement.
- 3.37.2 6 Queens Road (Plot 7/21) comprises a lower and upper residential flat.
- 3.37.3 7-8 Queens Road (Plots 7/22-7/23) comprises an upper residential flat above a vacant ground floor commercial premises.
- 3.37.4 18 Queens Road (Plot 5/3) comprises an upper residential flat above a ground floor understood to be used as storage by the owner.
- 3.38 Compulsory acquisition powers are proposed for these properties due to operational safety requirements. In brief, the continued use of these properties for residential purposes is assessed to be an impediment to Air Products in obtaining the Hazardous Substances Consent required for operation of the hydrogen production facility on the West Site. This is explained further in paragraphs 4.23 to 4.30. Acquisition of the entirety of 7-8 and 18 Queens Road is sought so as not to cause material detriment to the retained interests of the owners of those premises.

- 3.39 Whilst the Project does not include any specific proposals for use of the Queens Road Residential Properties, in the short term, Air Products would maintain the buildings to avoid them falling into disrepair and may seek planning permission from NELC for alternative beneficial short or medium uses. For example, Air Products has applied for permission to use 31 Queens Road temporarily in connection with the Project (for example as a site office and storage). Any long term proposals would depend in part on the intentions and requirements of the owners of the neighbouring properties and in part on the local planning authority. To that end, Air Products will consider acquiring properties at 9 to 30 (excluding 18) Queens Road that become available for sale and have at the date of this Statement acquired 20 and 21 Queens Road.
- 3.40 31 Queens Road is subject to a restrictive covenant requiring that the property is not used other than as a “single private dwellinghouse with the usual outbuildings”. If left in place, that covenant would prevent the beneficial use of the property for other purposes. It is therefore proposed to extinguish the restrictive covenant over this property.

Order Limits

- 3.41 In respect of the remaining parts of the Order Limits:
- 3.41.1 The land shown shaded brown on the Land Plans (document reference **TR030008/APP/4.5**) forms part of, and is to be retained, as public highway. Permanent rights to install and retain utilities under the public highway (excluding the Pipeline Corridor) are proposed to be acquired in respect of Plots 7/12, 5/37, 4/23 and 4/27 (shown hatched blue) and 4/17 (shaded blue) in order to facilitate utilities connections within the public highway.
- 3.41.2 Plots 6/6 (in third party ownership) and 6/16 (unregistered) are both shown shaded blue on the Land Plans (document reference **TR030008/APP/4.5**) as they form part of a drain and associated land and permanent rights to drain into and maintain that drain are sought to facilitate drainage of the West Site.
- 3.41.3 Plots 5/18 and 6/18 (both in the same third party ownership) form part of a private access road off Queens Road to the waste disposal facility to the east of the West Site. These plots are shown shaded blue on the Land Plans (document reference **TR030008/APP/4.5**) as permanent rights to pass and repass over these plots are sought in order to facilitate access to the above drain.
- 3.41.4 Plot 4/1 is owned by ABP and forms part of a private road off Laporte Road providing access to the Immingham Oil Terminal. The land is shaded purple on the Land Plans (document reference **TR030008/APP/4.5**) due to proposed works to alter the road layout to create a permanent access to the East Site.
- 3.41.5 Plot 4/24 lies between Work No. 2 and Work No. 9; it is owned by ABP and is therefore shaded purple over which access during construction will be required.

4 POWERS SOUGHT

- 4.1 This section describe the enabling powers under the Act and the scope of the powers sought in the draft DCO (document reference **TR030008/APP/2.1**).
- 4.2 Whilst acquisition by agreement will be sought wherever reasonably possible (where permanent acquisition is proposed), the power of compulsory acquisition is required to ensure that the Project can be delivered.

Enabling powers under the Act

- 4.3 Section 120(3) of the Act provides that a DCO may make provision relating to, or to matters ancillary to, the development for which consent is granted. Schedule 5 to the Act lists relevant matters ancillary to the development. These include (amongst others):
- 4.3.1 the acquisition of land, compulsorily or by agreement (paragraph 1);
 - 4.3.2 the creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement (paragraph 2);
 - 4.3.3 the abrogation or modification of agreements relating to land (paragraph 3);
 - 4.3.4 the protection of property or interests of any person (paragraph 10); and
 - 4.3.5 the payment of compensation (paragraph 36).
- 4.4 As noted in section 1 of this Statement, section 122(1) of the Act provides that a DCO may only include provision authorising the compulsory acquisition of land if the Secretary of State is satisfied that the land (section 122(2)):
- 4.4.1 is required for the development to which the DCO relates;
 - 4.4.2 is required to facilitate or is incidental to that development; or
 - 4.4.3 is replacement land for commons, open spaces, etc.
- 4.5 Further, section 122(3) of the Act requires the Secretary of State to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 4.6 This section of this Statement explains in respect of each of the powers sought in the DCO, how they would affect land within the Order limits, the reasons why such powers are necessary and how their exercise would be justified. Where the context requires, the expression “compulsory acquisition powers” is used in this Statement to refer to all the powers described below, notwithstanding the fact that not all of those powers amount to a power to acquire land compulsorily, and notwithstanding the fact that the temporary possession of land is not a form of compulsory acquisition.

Scope and description of powers sought

- 4.7 This section sets out the compulsory acquisition powers being sought in the DCO. The nature of the proposals are such that it will be necessary for ABP and / or Air Products to:
- 4.7.1 acquire compulsorily land and rights over and under land;
 - 4.7.2 override or extinguish existing rights and interests in or over land;
 - 4.7.3 create new rights in or over land;
 - 4.7.4 impose restrictive covenants over land; and
 - 4.7.5 take possession of and use land temporarily,
- to enable the construction and delivery of the Project, as specified in the draft DCO (document reference **TR030008/APP/2.1**) and related documentation. The exercise of these compulsory acquisition powers would only be possible within the Order Limits and in relation to the relevant plots relating to the powers shown on the Land Plans (document reference **TR030008/APP/4.5**) and identified in the Book of Reference (document reference **TR030008/APP/3.1**).
- 4.8 In addition, the DCO would confer other rights and powers on the undertaker, which would allow interference with property rights and private interests in land (including land not within Order Limits - see paragraph 4.57 below).
- 4.9 These powers are necessary to enable the construction of the works authorised by the DCO (referred to in the draft DCO as the “**authorised project**”) and for the subsequent operation and maintenance of the authorised project. In addition to the works comprised in the Work Nos described above, paragraph 11 of Part 1 Schedule 1 of the draft DCO defines further associated development within Order limits which is permitted in connection with Work Nos 1 to 10 (and to the extent such development does not otherwise form part Work Nos 1 to 10), comprising such other works as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project which do not give rise to any materially new or materially different significant effects from those assessed in the ES. This includes any landscaping and other works to mitigate any adverse effects of the construction, maintenance or operation of the authorised project (paragraph 11(d)) and works for the benefit or protection of land affected by the authorised project (paragraph 11(e)).
- 4.10 Where powers of compulsory acquisition are exercised, owners of the relevant land or rights in land will be entitled to compensation, where a valid claim is made out. Any dispute in respect of the compensation payable would be referred to and determined by the Lands Chamber of the Upper Tribunal.
- 4.11 The Schedule of Negotiations at Appendix 1 sets out the requirement for each Plot including:

- 4.11.1 the powers that the undertaker is seeking over it (columns 4 and 5 of Table 1); and
 - 4.11.2 what the undertaker intends to use it for (column 6 of Table 1, by reference to Work No as set out in Schedule 1 of the Order).
- 4.12 Appendix 1 should be read in conjunction with and by reference to the Land Plans (document reference **TR030008/APP/4.5**) and Book of Reference (document reference **TR030008/APP/3.1**).

Benefit of DCO powers

- 4.13 By way of context and as demonstrated in section 3, a large portion of the land required for the Project is already in the ownership of ABP. As noted in paragraph 1.4, ABP and Air Products entered into an agreement on 13 September 2022 relating to the Project.
- 4.14 The agreement enables the grant of a lease to Air Products of the “main premises”, being the land in ABP’s ownership comprised in the East Site and West Site.
- 4.15 The agreement also provides for a “supplemental lease” to be granted to Air Products. It is envisaged that this would cover the unregistered land and land to be stopped up as referred to in paragraphs 3.16 and 3.20-3.21 of this Statement, where such land is acquired by ABP under powers of compulsory acquisition contained in the DCO. Alongside the supplemental lease, it is envisaged that Air Products would be granted necessary rights for construction and operation of the hydrogen production facility as set out in paragraph 4.17.2 of this Statement.
- 4.16 It is relevant in this context to set out how the compulsory acquisition powers can be exercised under the draft DCO (document reference **TR030008/APP/2.1**). The definition of the “undertaker” is explained in paragraphs 1.8 and 1.9. Article 46(1) (Benefit of the Order) explains that the provisions of the Order have effect solely for the benefit of the undertaker, subject to specified provisions of that Article, including the ability for the benefit to be transferred on specified terms.
- 4.17 Article 46(2) of the draft DCO (document reference **TR030008/APP/2.1**) provides that ABP has the “sole benefit” of Articles 22, 24, 25, 33(1)(a) and (b) and 35 (unless the Secretary of State consents to a transfer of such benefits) such that the benefit of those Articles does not apply to other parties with an interest in land (unless the Secretary of State consents to a transfer of such benefits to that party). This is explained further below.
- 4.17.1 Articles 22 (Compulsory acquisition of land), 25 (Acquisition of subsoil or airspace only) & 35 (Acquisition of part of certain properties): The power to permanently acquire land or interests in land (under Article 22), which applies to the land shaded pink on the Land Plans (document reference **TR030008/APP/4.5**), is proposed to vest in ABP alone. Where acquisition by agreement cannot be reached, it is envisaged that ABP would vest any necessary interests in the land shaded pink such that the main lease and supplemental lease can be granted to Air Products as explained above.

Article 22 is subject to various articles including Article 25, which would permit ABP to acquire parts of the subsoil of or airspace over land only. Article 35 allows owners of land, where only part of that land or property is required, to seek to require the undertaker to acquire the whole in certain circumstances.

- 4.17.2 Articles 24 (Compulsory acquisition of rights) & 25 (Acquisition of subsoil or airspace only): The power to compulsorily acquire rights (under Article 24), which applies to the land shaded blue and hatched blue on the Land Plans (document reference **TR030008/APP/4.5**), is proposed to vest in ABP alone. The power encompasses: (a) acquiring existing or new rights over the Order land and (b) imposing restrictive covenants. Where such rights are acquired by a General Vesting Declaration, the benefit of these can be leased for a time to another person. It is anticipated that ABP would acquire any necessary rights for the construction or operation of the Project (which have not been acquired by agreement) by General Vesting Declaration and lease such rights to Air Products in connection with the supplemental lease. The benefit of restrictive covenants cannot be transferred; it is proposed that ABP would agree in the lease to enforce such restrictive covenants in Air Products' favour. Article 24 is subject to various articles including Article 25, which would permit ABP to acquire rights over the subsoil of or airspace over land only.
- 4.17.3 Article 33(1)(a) and (b) (Statutory undertakers): The power to acquire compulsorily or acquire new rights or impose restrictive covenants over any Order land belonging to, or extinguish the rights over or within the Order limits of, statutory undertakers or the operators of any electronic communications code network is proposed to vest in ABP alone. This power is subject to the protective provisions of the draft DCO and other articles.
- 4.18 In respect of other powers affecting land, Article 46(3) of the DCO provides that only ABP and, to the extent specified in Article 46(4), Air Products has the benefit of Articles 19 (Authority to survey and investigate land), 20 (Protective works), 31 (Temporary use of land for constructing the authorised project), and 32 (Temporary use of land for maintaining the authorised project) (unless the Secretary of State consents to the transfer of such benefits) such that the benefit of those Articles does not apply to other parties with an interest in land (unless the Secretary of State consents to a transfer of such benefits to that party). This is explained further below:
- 4.18.1 Both ABP and Air Products can exercise the powers under Article 19 (Authority to survey and investigate the land), Article 20 (Protective works), Article 31 (temporary use of land for constructing the authorised project) and Article 32 (temporary use of land for maintaining the authorised project).
- 4.18.2 However, Air Products' ability to exercise the above powers applies only in respect of certain plots (as specified in Article 46(4)).

4.19 Articles 26 (Private rights) and 27 (Power to override easements and other rights) contain the right to interfere with certain private rights etc. Under Article 26(8) and Article 27(7), the right to interfere is subject to any notice given by the undertaker that the power to interfere does not apply to specified interests, rights or restrictions specified in a notice or contained in an agreement. Article 46(5) states that only ABP has the power to give such notices or make agreements to which those articles refer, unless the Secretary of State consents to the transfer of the benefit of those powers. Accordingly, ABP has the power to ensure that third party rights are not interfered with by notice or agreement.

Article 22: Power to acquire land compulsorily

4.20 The main power authorising the acquisition of land is contained in Article 22 (compulsory acquisition of land) of the Order. The power is reserved to ABP as explained above at paragraph 4.17.1. Article 22 permits ABP to acquire compulsorily so much of the Order land as is shaded pink or, as an alternative, acquire only rights over the land and/or impose restrictive covenants affecting it or take possession of and use the land temporarily, as is required for the authorised project, or to facilitate it or which is incidental to it.

4.21 In summary:

4.21.1 The land proposed to be subject to compulsory acquisition includes the unregistered land and subsoil to highway which is to be stopped up as referred in paragraphs 3.19-3.22 to form part of Work Nos 3, 4 and 5.

4.21.2 It also includes the Queens Road Residential Properties referred to in paragraphs 3.37-3.39 and explained further below at paragraphs 4.23-4.36.

4.21.3 It is not proposed that ABP's land be included in this category, save where:

- (a) there is an existing leasehold interest (see paragraph 3.19 in respect of Plots 4/6 and 4/10) in case vacant possession cannot be obtained pursuant to the terms of the existing lease; and
- (b) diligent inquiry has revealed that, although ABP is the registered owner of land, it is being used by a neighbouring owner and therefore compulsory acquisition is sought to ensure vacant possession can be obtained (see paragraph 3.26 in respect of Plots 5/1 and 7/19 relating to the West Site).

4.22 The following articles of the DCO are also relevant:

4.22.1 **Article 25 (Acquisition of subsoil or airspace only)** – gives ABP the power to acquire compulsorily the subsoil or airspace only of Order land already subject to compulsory acquisition powers only without having to acquire the whole of the land.

4.22.2 **Article 26 (Private rights)** – this extinguishes or suspends private rights and restrictive covenants over land subject to compulsory acquisition under the

Order from the date of acquisition of land by compulsion or agreement or, if earlier, the date on which entry is taken. This Article is explained further at paragraphs 4.49 to 4.53 below.

- 4.22.3 **Article 27 (Power to override easements and other rights)** – this confirms that any activity authorised by the DCO may be carried out on land within the Order limits by the undertaker or any person deriving title from the undertaker or any servants or agents of the undertaker, despite any such activity interfering with a defined interest or right or breach of a restriction as to user of land arising under a contract. This Article is explained further at paragraphs 4.54 to 4.56 below.

Queens Road Residential Properties

- 4.23 Part of the land permanently required for the purposes of the Project includes the Queens Road Residential Properties as set out at paragraph 3.37 above. The need to acquire these properties is driven by health and safety requirements. In order to operate the hydrogen production facility, Air Products must obtain hazardous substances consent for the storage and industrial process of hydrogen, anhydrous (ammonia) and aqueous ammonia and the storage of liquefied petroleum gas, acetylene, petroleum products, aqueous ammonia, P2 flammable gases and P4 oxidising gases on the Site. An application for the necessary consent has been made to the Hazardous Substances Authority (being NELC) (submitted in March 2023).
- 4.24 As set out more particularly in Chapter 22 (Major Accidents & Disasters) of the ES (document reference **TR030008/APP/6.2**), the Health & Safety Executive (**HSE**) is a statutory consultee for the hazardous substances consent application process. As part of this, it will advise NELC whether it considers that the risks associated with the Project are at an acceptable level for the hazardous substances consent to be granted. In doing so, the HSE will establish land use planning zones (categorised as inner, middle, or outer zones) around the major accident hazard sites (and pipelines) for planning control. The HSE will consider the type of development existing within the zone, the vulnerability of those likely to be present and the societal tolerance of the associated risk. The inner zone is closest to the major hazard where risks and hazards are greatest and restrictions on development are the strictest.
- 4.25 As explained in Chapter 22 (Major Accidents & Disasters) of the ES (document reference **TR030008/APP/6.2**), the HSE does not make publicly available the methodology that it uses for undertaking its own assessment or the details of its assessment. Air Products has retained DNV, a specialised risk and process safety consultancy, to carry out risk modelling using a methodology that its experts consider likely to reflect that used by the HSE to establish the likely inner, middle and outer zones in relation to the hydrogen production facility. This study has informed the layout and design of the landside development (see also paragraph 6.25 further below). The details of the study are confidential in light of the scenarios that are modelled (as above, the HSE does not make publicly available the details of its own assessment). The results of the study undertaken by DNV show that the Queens Road Residential

Properties are expected to fall within or close to the inner zone associated with the operational Project.

- 4.26 During preliminary discussions with the HSE prior to submission of the hazardous substances consent application and following review of the DNV study, the HSE indicated that it would likely “advise against” grant of hazardous substances consent with such residential uses remaining in place. HSE indicated that it would not likely “advise against” hazardous substances consent if such residential uses were not in place.
- 4.27 As such, the continued residential use of the Queens Road Residential Properties is considered to be an impediment to Air Products being granted the necessary hazardous substances consent required for the operation of the hydrogen production facility. Without the hazardous substances consent the hydrogen production facility cannot be brought into operation.
- 4.28 While the HSE is a statutory consultee to the process and NELC is the ultimate decision maker, its views are clearly of considerable importance and it is not reasonable to expect that NELC would grant consent contrary to the HSE recommendation.
- 4.29 The submitted hazardous substances consent application is being considered and determined in parallel to the Application. Air Products is providing responses to queries from the HSE on the application. Once those have been adequately addressed, the standard practice is for the HSE to “screen” the application and issue initial advice in the form of a letter. It is expected that this will be confirmation of the “advise against” position with a view to securing discussions between the applicant for the consent (Air Products), NELC and the HSE as to what could be done to address the HSE’s concerns. The only practicable solution to the HSE’s concerns which would enable the Project to proceed is considered to be the securing of the permanent (and enforceable) cessation of residential use at the Queens Road Residential Properties.
- 4.30 The permanent acquisition of the Queens Road Residential Properties and the permanent cessation of their residential use is therefore required to facilitate the operation of the Project and particularly the hydrogen production facility.
- 4.31 Once the Queens Road Residential Properties have been acquired, Air Products or ABP as applicable landowner will ensure that the properties are no longer put to residential use. This would be secured by requirement of the DCO (document reference **TR030008/APP/2.1**). That certainty would allow HSE to withdraw its advice “against” the hazardous substances consent application and allow NELC to grant that consent to facilitate operation of the hydrogen production facility.
- 4.32 Section 7 below and Appendix 1 provides an update in relation to negotiations with landowners. At the point of submission, one residential property (31 Queens Road) has been acquired by agreement and a number of further acquisitions have been agreed in principle and are in the hands of solicitors.
- 4.33 It is not envisaged that the introduction of hazardous substances on Site to the threshold levels requiring hazardous substances consent would be required until the

hydrogen production facility is close to becoming operational (the first phase of development is anticipated to commence in 2025 and take between two and a half and three years). In the event that the Queens Road Residential Properties are not acquired by agreement, ABP (in co-operation with Air Products) intend to exercise its powers to acquire those properties by compulsion early on in the construction programme in order to minimise delay in obtaining the necessary hazardous substances consent and to provide certainty to residents. The exercise of the power of compulsory acquisition would take a minimum of 3 to 4 months. However, should particular occupiers of the Queens Road Residential Properties need further time to obtain alternative occupation, ABP and Air Products would work with the occupiers to allow them to remain in the relevant property for a longer period if appropriate. As noted above, the construction programme for the Project provides adequate time for the Applicant and Air Products to work with affected parties to find appropriate alternative accommodation ahead of the Project becoming operational.

- 4.34 Whilst it is not envisaged that businesses at Queens Road will be materially adversely affected by the operation of the hydrogen production facility, acquisition of the entirety of 7-8 (vacant at ground floor) and 18 Queens Road (understood to be used as storage by the owner at ground floor) is sought so as not to cause material detriment to the retained interests of the owners of those premises by only acquiring that part of the property in residential use.
- 4.35 Whilst the Project does not include any specific proposals for use of the Queens Road Residential Properties, in the short term, Air Products would maintain the buildings to avoid them falling into disrepair and may seek planning permission from NELC for alternative beneficial short or medium uses. For example, Air Products has applied for permission to use 31 Queens Road temporarily in connection with the Project (for example as a site office and storage). Any long term proposals would depend in part on the intentions and requirements of the owners of the neighbouring properties and in part on the local planning authority. To that end, Air Products will consider acquiring properties at 9 to 30 (excluding 18) Queens Road that become available for sale and have at the date of this Statement acquired 20 and 21 Queens Road.
- 4.36 The property at 31 Queens Road is subject to a restrictive covenant restricting the use of the property to residential. The draft DCO (document reference **TR030008/APP/2.1**) includes at Article 26(5) provision to extinguish the restrictive covenant such that an alternative beneficial use of 31 Queens Road to residential cannot be prevented.

Power to acquire permanent rights over or under land

- 4.37 The main power authorising the acquisition of interests in and/or rights over land is contained in Article 24 (Compulsory acquisition of rights) of the DCO. The power is reserved to ABP as explained above at paragraphs 4.17.1. Save as referred to below, the power to acquire rights relates to the Order land, and therefore ABP could, if necessary, acquire a right over land shaded pink rather than acquiring the land outright (and may take temporary possession of that land under Articles 31 and 32).

- 4.38 However, there are parts of the Order land over which the undertaker may only acquire new rights and impose restrictive covenants (and may take temporary possession of that land under Articles 31 (in relation to construction) and 32 (in relation to maintenance)). Those parts are shown shaded blue (or hatched blue in relation to subsoil rights only) on the Land Plans (document reference **TR030008/APP/4.5**). Schedule 12 describes for each relevant Plot, the rights which are proposed to be acquired or the restrictive covenant to be imposed and the Work Nos to which the rights relate.
- 4.39 In each case, the aim of the restrictive covenant is to protect apparatus. It will require the owner of the land not to damage or interfere with the apparatus or the support for it, alter levels or cover the land in a way which renders the access to the apparatus more difficult or which may cause damage, or construct any building or structure or plant any trees over the land without the consent of the undertaker. While the power to impose such a restrictive covenant is being sought over the plots shaded blue on the Land Plans (document reference **TR030008/APP/4.5**) and specified in Schedule 12 of the draft DCO, the precise plots and land within each plot over which such power is ultimately exercised and the restrictive covenant imposed will be identified following the installation of the pipeline (under powers of temporary possession and use) to ensure that the restrictive covenant applies to the specific location of the pipeline and does not cover any excess land.
- 4.40 It is therefore envisaged that possession of land within the Pipeline Corridor will first be taken on a temporary basis to install below ground utilities and pipelines so as to minimise the area over which permanent rights and restrictive covenants are imposed.
- 4.41 In relation to the need for these rights and restrictive covenants (and associated temporary possession):
- 4.41.1 Plot 4/17 – Rights are required to enter the land and install and maintain utilities. This relates to Work No. 4 and the installation of a culvert and utilities under Laporte Road connecting the two parts of the East Site, the surface of which will need to be broken in order to install the works and then reinstated. Laporte Road will remain a public highway and the powers and duties of the highway authority will apply to that land. A restrictive covenant is proposed to be imposed in case the land is stopped up in the future.
- 4.41.2 Plots 5/7-5/8, 5/10-5/11, 5/20, 5/22-5/25, 5/27-5/30, and 5/32-5/34, 5/38, 6/14-6/15 – Rights are required to enter the land and install and maintain pipelines and utilities. This relates to Work No. 6 and the installation of pipelines and utilities connecting the East Site and West Site. It is intended to construct the main pipeline corridor using HDD or micro tunnelling and therefore above ground access for these works will not be required. A restrictive covenant is proposed to be imposed. Whilst the proposed route will be carefully planned within the corridor over which rights may be acquired, it is possible that impediments are met once the works commence which require an alternative route to be adopted. The extent of the rights

sought reflect that possibility. In order to minimise the area over which permanent rights and restrictive covenants are imposed, the undertaker intends to issue a General Vesting Declaration vesting the necessary permanent rights and imposing restrictive covenants once the works are completed under temporary possession powers. In the draft DCO (document reference **TR030008/APP/2.1**), the undertaker therefore has the power to take temporary possession of the land in order to undertake the works and prevent any works being done at surface level which are incompatible with the installation of the pipeline and utilities ahead of imposition of the restrictive covenant. In addition, as explained in Chapter 2 (the Project) of the ES (document reference **TR30008/APP/6.4**), it is possible that the utility connections could be installed from the surface using standard techniques for utilities works (trench excavation and backfill).

- 4.41.3 Plots 6/6 and 6/18 – this contains a drain and, as a result of the Outline Drainage Strategy at Appendix 2.3 of the ES (document reference **TR30008/APP/6.4**), it is envisaged that the West Site will partly drain into this drain. This has been agreed in principle with the North East Lindsey Drainage Board and reflects existing drainage of the West Site. Accordingly permanent rights to drain and to enter the land and maintain the drain are required. The approximate locations of the diversions are shown in green on plan 9 at Appendix B of the Utilities Statement (document reference **TR030008/APP/7.7**) and further details are provided in the Drainage Strategy at Appendix 2.3 of the ES (document reference **TR30008/APP/6.4**).
- 4.41.4 Plots 5/18 and 6/18 – Rights of way are required to use the access road in order to access the drain identified above for maintenance purposes.
- 4.42 The following DCO articles are relevant:
 - 4.42.1 **Article 26 (Private rights)** – Article 26(3) provides that private rights and restrictive covenants over land subject to compulsory acquisition of rights or the imposition of restrictions under the Order will cease to have effect in so far as they are inconsistent with the exercise of such rights or compliance with the restrictive covenant, from the earliest of the date of acquisition of the right or imposition of the restrictive covenant (by compulsion or agreement), the date on which entry is taken and the beginning of any activity authorised the Order which interferes with or breaches those rights. This Article is explained further at paragraphs 4.49 to 4.53 below.
 - 4.42.2 **Article 27 (Power to override easements and other rights)** – this confirms that any activity authorised by the DCO may be carried out on land within the Order limits by the undertaker or any person deriving title from the undertaker or any servants or agents of the undertaker, despite any such activity interfering with a defined interest or right or breach of a restriction as to user of land arising under a contract. This Article is explained further at paragraphs 4.54 to 4.56 below.

Powers to use and possess land temporarily

- 4.43 The main powers authorising the temporary use of land during construction and for maintenance are found in Articles 31 and 32 respectively. ABP has the benefit of these powers. Air Products also has the benefit of them in relation to Plots 3/2, 4/5, 4/7-4/9, 4/16-4/23, 4/26, 4/28-4/30, 4/32, 5/3-5/4, 5/7-5/8, 5/10-5/15, 5/18, 5/20, 5/22-5/25, 5/27-5/30, 5/32-5/33, 5/36-5/39, 6/6, 6/14-6/16, 6/18, 7/1-7/12, 7/15-7/18, and 7/20-7/23.
- 4.44 The power to take temporary possession of land also applies to any of the Order land in respect of which no notice of entry or vesting declaration has been made. Therefore ABP and/or Air Products could, if necessary, take temporary possession over land shaded pink or blue, rather than acquiring the land or a right or ahead of acquiring that land or a right. As noted at paragraph 4.40 above, it is envisaged in particular that possession of land will be taken on a temporary basis to install below ground utilities and pipelines so as to minimise the area over which permanent rights and restrictive covenants are imposed.
- 4.45 There are parts of the Order land over which the undertaker may only take temporary possession of the land under Articles 31 and 32. Those parts are shown shaded green on the Land Plans (document reference **TR030008/APP/4.5**). Schedule 13 describes for each relevant Plot, the purpose for which temporary possession may be taken and the relevant Work Nos.
- 4.46 In relation to the need for powers of temporary possession over these Plots:
- 4.46.1 Plots 4/26 and 4/28: These form the laydown and temporary construction area comprised in Work No. 9. Temporary powers are also sought over land adjacent to but outside Work No. 9 (Plot 4/32) and land within Work No. 1 (Plots 4/29 and 4/30) to facilitate construction. The need for temporary possession of this land arises given its proximity to both the jetty and the East Site.
- 4.46.2 Plots 7/1-7/11: Temporary access to private gardens / driveways / carpark / verges and boundary walls within these plots (as specified in the Book of Reference (document reference **TR030008/APP/4.5**)) may be required in order to undertake works to adjust cables, so as to allow abnormal loads to pass from the Port to Kings Road. Where possible the undertaker will seek to carry out these temporary works on public land working alongside the utility provider.
- 4.47 The main powers for temporary use of land are Article 31 (relating to construction) and Article 32 (relating to maintenance):
- 4.47.1 **Article 31 (Temporary use of land for constructing the authorised development)** – this gives the undertaker the power to enter upon and take possession of land temporarily for the construction of the authorised project.

- 4.47.2 Whilst in possession, the undertaker may take the steps identified at Articles 31((1)(b) to (g) including removing, repositioning and installing apparatus, removing buildings and other matters, installing temporary works, using the land as a working site, constructing any works mentioned in Schedule 1 and carrying out mitigation works.
- 4.47.3 Article 31(2) prevents temporary possession of any houses or gardens or occupied buildings, except that the right to enter gardens or parts of a garden within Plots 7/1-7/11 at Kings Road is permitted (as explained at paragraph 3.36 above). The time limit for exercising this power is extended under Article 23(2)(a) to be 10 years from the date of the Order to reflect the likely construction period for the later phases of the hydrogen production facility which necessitates the abnormal loads being brought in.
- 4.47.4 At least 14 days' notice of possession must be served on the owners and occupiers and explaining the purpose for which entry is taken in relation to the land specified in Schedule 13.
- 4.47.5 Under Article 31(4), the undertaker may not (unless the owners agree) remain in possession:
- (a) of land specified in Schedule 13 to the DCO, for more than a year beginning with the date of completion of the part of the authorised works specified in relation to that land in column 3 of Schedule 13; or
 - (b) for more than a year after completing the work, use or any other purpose for which temporary possession was taken, unless before the end of that period the undertaker has made a general vesting declaration or served notice of entry.
- 4.47.6 Before giving up possession of any land used temporarily, the undertaker must remove all temporary works and restore the land to the owner's reasonable satisfaction (Article 31(5)). This restoration obligation would not, however, require the replacement of a building or structure removed under this article, nor would it require the restoration of land on which permanent works had been constructed or the removal of any ground strengthening, mitigation or drainage works, or the removal or repositioning of statutory undertakers' apparatus or measures installed over or around statutory undertakers' apparatus for the protection of that apparatus.
- 4.47.7 Article 31(12) provides that the undertaker may take temporary possession more than once in respect of land identified in the DCO and under the relevant schedules.
- 4.47.8 **Article 32 (Temporary use of land for maintaining the authorised development)** – this Article would enable the undertaker to take temporary possession of any land within the Order limits, which is reasonably required for the purpose of maintaining the authorised project or for access or construction of temporary works as reasonably required for such

maintenance. The right applies during the “maintenance period” (i.e. a period of five years from the date on which that part of the authorised development was brought into operational use).

4.47.9 The right to temporarily use land for purposes of maintenance does not extend to houses or gardens or occupied buildings or the land shaded yellow on the Land Plans (Article 32(2)). The undertaker must give at least 28 days’ notice of taking temporary possession to owners and occupiers specifying the period for which possession will be taken and the purpose for taking possession. However, where the undertaker has identified a potential risk to safety of the authorised project, the public or the environment, the requirement to serve such notice does not apply and the undertaker must give such notice as is reasonably practicable (Article 32(11)).

4.47.10 The undertaker is only authorised to remain in possession of land for so long as is reasonably necessary to carry out the maintenance of the part of the authorised works for which temporary possession of land was taken (Article 32(4)). Before surrendering possession of the land and returning it to its owner, the undertaker must remove all temporary works on the land and restore the land to the owner’s reasonable satisfaction (Article 32(5)).

4.48 DCO Articles 26 (Private rights) and 27 (Power to override easements and other rights) are also relevant and are explained further at paragraphs 4.49 to 4.56 below.

Powers to interfere etc with private rights

4.49 Article 26 (Private rights) permits the extinguishment, suspension or cessation of private rights and restrictive covenants as applicable in the case of compulsory acquisition of land (paragraph 4.22.2– Article 26(1)), compulsory acquisition of rights (paragraph 4.42.1– Article 26(3)), and temporary use of land (paragraph 4.48 – Article 26(4)).

4.50 In addition, under Article 26(2), all private rights or restrictive covenants over land owned by the undertaker which is within (a) within the Order limits and (b) is required for the purposes of the Order cease to have effect in so far as their continuance would be inconsistent with any activity authorised by the Order being begun which interferes with or breaches such rights of restrictive covenants. This does not apply to the land shaded yellow on the Land Plans (document reference **TR030008/APP/4.5**) which is land within ABP’s ownership where no existing rights are to be interfered with.

4.51 Article 26(5) permits the permanent extinguishment of a restrictive covenant preventing the use of 31 Queens Road for uses other than residential.

4.52 Under Article 26(8), the undertaker may give notice (before acquiring land or rights or imposing restrictive covenants, appropriating, entering or taking temporary possession of land) that the extinguishment, suspension or cessation does not apply to a particular right specified in the notice. It may also make agreements with the person with the benefit of the right or restrictive covenant preserving the right or restrictive covenant.

As noted in paragraph 4.19 above, only ABP may give such notices or enter into such agreements.

- 4.53 Article 26(10) lists the types of private rights and restrictive covenants to which Article 27 applies, which includes rights of way, wayleaves, easements, rights to support and other identified matters.
- 4.54 Article 27 (Power to override easements and other rights) provides that any activity authorised by the DCO may be carried out on land within the Order limits by the undertaker or any person deriving title from the undertaker or any servants or agents of the undertaker, despite any such activity interfering with an interest or right or breach of a restriction as to user of land arising under a contract.
- 4.55 “Authorised activity” for the purposes of Article 27 means the erection, construction or maintenance of the authorised project, the exercise of any power authorised by the DCO and the use of any land including temporary use. The interests and rights to which Article 27 applies include any easement, right or advantage annex to land and other matters defined in Article 27(3), including restrictions as to the user of land arising by virtue of a contract.
- 4.56 Again, under Article 27(7), the undertaker may give notice (before the authorised activity interfering with the right or breaching the restriction is begun) that Article 27 does not apply to the specified interest, right or restriction specified in the notice. It may also make agreements with the person with the benefit of the interest, right or restriction preserving it. As noted in paragraph 4.19 above, only ABP may give such notices or enter into such agreements.

Other rights and powers

- 4.57 The draft DCO (document reference **TR030008/APP/2.1**) includes other rights and powers the exercise of which may interfere with existing property rights and private interests in land:
- 4.57.1 There are powers to undertake street works (Article 7), alter the layout of or carry out works in streets (Article 9), construct and maintain new, altered or diverted streets (Article 10), form permanent and temporary means access (Article 15) and enter into agreements with street authorities (Article 16).
- 4.57.2 **Article 11 (Permanent stopping up of streets)** – allows for streets or parts of streets listed in Schedule 6 to the DCO to be permanently stopped up. As noted above, this relates to land adjacent to Laporte Road which will be incorporated into the works sites (Work Nos 3 and 5).
- 4.57.3 **Article 12 (Permanent stopping up of public rights of way)** – allows for the public rights of way listed in Schedule 7 to the DCO to be permanently stopped up. This relates to land along the sea wall over which informal access has previously been obtained. Such informal access will be prevented in order that the Terminal can be constructed and operated safely.

- 4.57.4 **Article 13 (Temporary stopping up and prohibition of restriction of use of streets and public rights of way)** – under Article 13(4), the undertaker may temporarily prohibit the use of streets / rights of way listed in Schedule 8 following consultation with the street authority (for not less than 28 days). This will allow temporary closure of Bridleway Number 36 and its diversion through Work No. 9 during construction works (Article 13(6)). It will also allow temporary closure of other areas of highway in order to enable street works and other works to highways to be undertaken. In addition, Article 13(1) allows the temporary stopping up, alteration, diversion or prohibition or restriction of use of streets or public rights of way with the consent of the street authority.
- 4.57.5 **Article 14 (Use of private roads for construction)** – the undertaker may use any private road within the Order limits for the passage of persons or vehicles (with or without materials, plant and machinery) for the purposes of construction of the authorised project.
- 4.57.6 **Article 17 (Apparatus and rights of statutory undertakers in stopped up streets)** – provides protection for statutory undertakers whereby where a street is temporarily stopped up or access is restricted under the DCO, the statutory undertaker will continue to have the same powers and rights in respect of that apparatus as if the DCO had not been made.
- 4.57.7 **Article 18 (Discharge of water)** – this provides rights to the undertaker to use any watercourse or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project, and to lay etc pipes and make openings into drains for that purpose.
- 4.57.8 **Article 19 (Authority to survey and investigate the land)** – this permits the undertaker to enter land within the Order Limits (save the land shaded yellow on the Land Plans) and where reasonably necessary, any land adjacent to but outside the Order Limits or which may be affected by the authorised project. ABP has the benefit of this power. Air Products also has the benefit of it in relation to Plots 3/2, 4/5, 4/7-4/9, 4/16-4/23, 4/26, 4/28-4/30, 4/32, 5/3-5/4, 5/7-5/8, 5/10-5/15, 5/18, 5/20, 5/22-5/25, 5/27-5/30, 5/32-5/33, 5/36-5/39, 6/6, 6/14-6/16, 6/18, 7/1-7/12, 7/15-7/18, and 7/20-7/23 and land outside the Order limits as provided for in the Article. It permits a range of activities, including surveying, monitoring and investigations, the making of trial holes, boreholes or other samples, ecological and/or archaeological investigations and the placing, leaving and removing of apparatus. At least 14 days' notice must be served on owners and occupiers.
- 4.57.9 **Article 20 (Protective works)** – this permits the undertaker to carry out protective works to any land, building, structure, apparatus or equipment within the Order limits or which may be affected by the construction or operation of the authorised project. Such protective works could be carried out during construction or within 5 years from the bringing into operational

use of the relevant part of the authorised project. Protective works include underpinning, strengthening and other works to prevent or remedy damage or to secure the safe operation of the authorised project or prevent or minimise the risk of operation being disrupted. There is an associated right of entry to survey relevant land. At least 14 days' notice must be given to owners and occupiers save in the case of emergency. The owner or occupier may serve a counter-notice requiring the question of whether the works or entry is necessary or expedient to be referred to arbitration. ABP has the benefit of this power. Air Products also has the benefit of it in relation to Plots 3/2, 4/5, 4/7-4/9, 4/16-4/23, 4/26, 4/28-4/30, 4/32, 5/3-5/4, 5/7-5/8, 5/10-5/15, 5/18, 5/20, 5/22-5/25, 5/27-5/30, 5/32-5/33, 5/36-5/39, 6/6, 6/14-6/16, 6/18, 7/1-7/12, 7/15-7/18, and 7/20-7/23 and land outside the Order limits as provided for in the Article (i.e. where the undertaker considers necessary or expedient).

- 4.57.10 **Article 28 (Rights over or under streets)** – allows the undertaker to enter onto and appropriate and use so much of the subsoil of, or airspace over any street within the Order limits as may be required for the purposes of the authorised project without having to acquire any part of the street or any easement or right in it, unless there are subways, underground buildings or underground parts of above-ground buildings.
 - 4.57.11 **Article 33 (Statutory undertakers)** – allows for the compulsory acquisition of land or rights or imposition of restrictive covenants over land belonging to statutory undertakers and the operators of any electronic communications code network. It also allows the extinguishment of their rights, the removal or repositioning of their apparatus and the crossing underneath or over of their equipment over or within the Order land. The Article is subject to other provisions, including protective provisions made for the benefit of the relevant undertakers or operators and contained in Schedule 14 of the DCO.
 - 4.57.12 **Article 53 (Felling or lopping of trees and removal of hedgerows) and Article 54 (Trees subject to tree preservation orders)** – allow for works to trees and hedgerows within and which overhang the Order limits.
- 4.58 The draft DCO (document reference **TR030008/APP/2.1**) also contains the following additional powers which supplement the compulsory acquisition powers and general rules for the payment of compensation:
- 4.58.1 **Article 23 (Time limit for exercise of powers of compulsory acquisition)** – this gives the undertaker five years from the date the DCO (if granted) comes into force within which to issue notices to treat or to execute a general vesting declaration in relation to the Order land. However, as noted in paragraphs 4.47.3 above, the power to enter Plots 7/1-7/11 is proposed to be extended to ten years from the date on which the Order is made. This is to reflect the likely construction period for the later phases of the hydrogen production facility which necessitates the abnormal loads being brought in.

The impact on owners and occupiers of the affected properties is also anticipated to be small, given it extends only to temporary modification of utility connections.

- 4.58.2 **Article 29 (Application of the 1981 Act)** – applies the provisions of the Acquisition of Land Act 1981 (“ALA 1981”) to compulsory acquisition under the DCO, this facilitates ABP acquiring the necessary Order land by general vesting declaration.
 - 4.58.3 **Article 30 (Modification of Part 1 of the 1965 Act)** – modifies the Compulsory Purchase Act 1965 (“CPA 1965”) so as to ensure consistency between the DCO and the CPA 1965.
 - 4.58.4 **Article 34 (Recovery of costs of new connection)** – provides for compensation where apparatus of a public utility undertaker or of a public communications provider is removed;
 - 4.58.5 **Article 35 (Acquisition of part of certain properties)** – replaces section 8(1) of 1965 Act in order to provide that after receiving a notice to treat in respect of a part of a property, the owner can serve a counter notice that they wish to sell the whole. This ensures that the undertaker is not required to acquire a greater interest in the land than that set out in the Book of Reference (document reference **TR030008/APP/3.1**) and Land Plans (document reference **TR030008/APP/4.5**) unless counter notices are served and as set out in the Article.
 - 4.58.6 **Article 37 (Disregard of certain interests and improvements)** – certain interests in and enhancements of the value of any interest in land may be disregarded for the purposes of calculating compensation, if that increase or enhancement is owing to the carrying out of development/works with a view to obtaining compensation or increased compensation as a result of the authorised development;
 - 4.58.7 **Article 38 (Set-off for enhancement in value of retained land)** – in assessing the compensation payable to any person, there should be set off against the value of any rights acquired any increase in the value of the land which would result from the carrying out of the development.
 - 4.58.8 **Article 39 (No double recovery)** – supplements the general rules for the payment of compensation.
- 4.59 An explanation as to the effect and purpose of these Articles is provided in the Explanatory Memorandum (document reference **TR030008/APP/2.2**).

5 NEED FOR THE PROJECT AND POLICY SUPPORT

- 5.1 This section of this Statement considers the need and policy support for the Project. The need for the Project is further explained within Chapter 3 (Need and Alternatives)

of the ES (document reference **TR030008/APP/6.2**) and the Planning Statement (document reference **TR030008/APP/7.1**).

- 5.2 The compelling need for the Project arises from the need for new port infrastructure for the import and export of liquid bulk energy products in the Humber to support the transition to net zero and the decarbonisation of the Humber industrial cluster. The National Policy Statement for Ports (**NPSfP**) recognises the national need for port capacity and, in particular, the compelling need for additional port capacity over the next 20 to 30 years.

Need for additional port capacity

- 5.3 The need for the Project arises out of the established national need for port operators and developers (such as the Applicant) to bring forward new port infrastructure in locations where it is required and in response to market demand, to provide additional capacity, create competition and resilience in the port sector and deliver wider economic benefits in the public interest.
- 5.4 The NPSfP establishes a need to provide port capacity and recognises the essential role that ports play in the growth of the UK economy and the compelling need for substantial additional port capacity over the next 20–30 years (i.e. to 2032 - 2042), to be met by a combination of consented and new development (NPSfP at 3.4.16). The NPSfP (at 3.4.12-3.4.13) states that the port industry and port developers are best placed to assess their ability to obtain new business and the level of any new capacity that will be commercially viable, subject to developers satisfying decision-makers that the likely impacts of any proposed development have been assessed and addressed.
- 5.5 To contribute to meeting the national need for port capacity, ABP has taken a commercial decision to bring forward the Project, in response to market demand, which will provide additional capacity for the import and export of liquid bulks at the Port of Immingham.

Need for port capacity to serve the energy sector in the Humber

- 5.6 There is an imperative need for port infrastructure to provide capacity to serve the energy sector, for the import and export of liquid bulks relating to hydrogen and carbon dioxide, to help achieve the 2050 legally binding net zero target.
- 5.7 There is a particular need for port infrastructure on the Humber, (one of the major industrial areas in the country, an important contributor to the national and regional economy and a major emitter of carbon dioxide) to support decarbonisation in the region and elsewhere, to support the provision of alternative sources of clean energy locally (and to contribute to the national need) and to contribute to the regional and local economy. As shipping provides the most effective way to move hydrogen in the form of refrigerated ammonia in and out of the UK, sufficient port and landside infrastructure is required for ammonia storage and processing. Shipping of carbon dioxide also helps maximise the use of carbon capture and storage infrastructure.

- 5.8 Ports have a “vital role in the import and export of energy supplies” (NPSfP at 3.1.5). The Government wishes to see port developments supporting sustainable development by providing additional capacity for the development of renewable energy (NPSfP at 3.3.5).

Need to achieve energy security through a diversity of technologies, fuels and supply routes

- 5.9 There is an urgent need to achieve energy security through a diversity of technologies, fuels and supply routes. The UK is vulnerable to international energy prices and dependent on imported oil and gas. Government policy including that set out in the NPSfP, the energy NPSs including the draft energy NPSs (March 2023) and Powering Up Britain ‘Energy Security Plan’ (March 2023) demonstrates the need for new energy infrastructure including necessary import and export facilities at ports, responding to market demand and new technologies, in order to develop competition and diversity of supplies to help in the net zero transition. The need for energy security means that energy from a range of reliable renewable sources is required. The Government’s 2050 net zero target underpins the urgency of bringing forward necessary infrastructure to facilitate the availability of clean energy as soon as possible in order to tackle climate change. In line with national policy, a range of technologies is required to be developed on the Humber to facilitate the production of low carbon hydrogen and maximise the use of carbon capture and storage to help decarbonise and preserve the future use of existing energy supplies, including new port infrastructure to facilitate necessary imports and exports.
- 5.10 The NPSfP recognises the importance of ensuring security of energy supplies through ports and provides that ports will need to be responsive to changes in the different types of energy supplies needed (paragraph 3.1.5) and further at paragraph 3.3.3 the NPSfP reiterates the need to ensure that new port infrastructure should ensure security of supply.

Need to scale up hydrogen production capability

- 5.11 As part of the need to deliver energy security and decarbonisation, there is an urgent national need to scale up low carbon hydrogen production capability as an established alternative “clean” source of energy. Low-carbon hydrogen includes “green hydrogen” (hydrogen from renewable electricity) and “blue hydrogen” (hydrogen from fossil fuels with carbon dioxide emissions reduced by the use of carbon CCS).
- 5.12 The UK Hydrogen Strategy (August 2021) recognises the scale of the challenge to increase green hydrogen production, stating in Chapter 1 “*With virtually no low carbon hydrogen produced or used currently, particularly to supply energy, this will require rapid and significant scale up from where we are today*”. Paragraph 1.2 of the Hydrogen Strategy emphasises the need for hydrogen infrastructure recognising that hydrogen can only be considered as a decarbonisation option if it is readily available. Paragraph 1.3 builds on this, stating “*as a result of its geography, geology, infrastructure and capabilities, the UK has an important opportunity to demonstrate global leadership in low carbon hydrogen*”. Section 2.2 of the Hydrogen Strategy outlines how hydrogen

development can be delivered and scaled up, and states “*Investors, developers and companies across the length and breadth of the UK are ready to build if the policy environment is in place*”, further stating at 2.4.2 that “*developing and scaling hydrogen power during the 2020s can reduce the burden on other technologies such as renewables, CCUS and nuclear*”.

- 5.13 The British Energy Security Strategy (April 2022) notes that the UK is well-placed to exploit all forms of low carbon hydrogen production and commits to 10GW of hydrogen production by 2030. The Energy Security Strategy seeks up to 1GW of electrolytic ‘green’ hydrogen and up to 1GW of CCS-enabled ‘blue’ hydrogen to be operational or in construction by 2025. It recognises that to accelerate our supply of low carbon hydrogen, it requires “*designing, by 2025, new business models for hydrogen transport and storage infrastructure, which will be essential to grow the hydrogen economy*”.
- 5.14 Once fully constructed and operational, the Project could deliver 3% of the Government’s 2030 10GW target for green hydrogen (300MW) and help meet the need for decarbonisation of industry including the heavy transportation sector.

Need for carbon capture and storage technologies

- 5.15 There is an urgent national need for CCS technologies to support decarbonisation and therefore a need for CCS infrastructure, particularly in industrial areas such as the Humber where the need for decarbonisation is the greatest. CCS technology captures carbon dioxide from power generation, low carbon hydrogen production and industrial processes, storing it underground where it cannot enter the atmosphere. The Project would help maximise the potential of emerging CCS infrastructure in the Humber, particularly in relation to the Viking CCS project.
- 5.16 The Government’s Net Zero Strategy Build Back Greener (October 2021) sets out the Government’s ambition to capture 20-30 Mt of carbon dioxide per year by 2030 and at least 50Mt by the mid 2030’s. The Project can facilitate the import of up to nearly 10 Mt of carbon dioxide, or one third of this objective.
- 5.17 Draft EN-1 Overarching National Policy Statement for Energy (March 2023) addresses the urgent need for new nationally significant CCS infrastructure for the transition to a net zero economy (paragraph 3.5.1). In paragraph 3.5.2, Draft EN-1 notes the advice of the Government’s Climate Change Committee that new CCS infrastructure is a “necessity not an option” and that “CCS infrastructure will also be needed to capture and store carbon dioxide from hydrogen production from natural gas, industrial processes, the use of bioenergy and from the air”.
- 5.18 Draft EN-1 recognises the importance of ports to enable the transfer of carbon dioxide from onshore infrastructure onto ships and that the need for CCS infrastructure set out in Draft EN-1 is likely to be a relevant consideration.
- 5.19 The Project provides an opportunity to facilitate the wider use and thereby amplify the benefits of CCS technologies, such as the Viking CCS Project and the wider opportunities, such as inward investment related to the location of hydrogen and CCS

infrastructure that may emerge from decarbonisation measures associated with the East Coast Cluster and elsewhere.

Project Objectives

- 5.20 As part of the exercise to find an appropriate solution to meet the identified need, a series of objectives have been identified, which arise out of the considered need and the background context to that need and the requirements to manage impacts and maximise the benefits of the Project. Section 3.4 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**) provides an explanation as to how the Project meets the objectives:
- 5.20.1 **Objective (a): To provide essential port infrastructure, capacity and resilience to support the growth and changing strategic needs of the energy sector to support decarbonisation within the Humber Industrial Cluster and the Humber Enterprise Zone.**
- 5.20.2 The Project will provide additional capacity at the Port of Immingham to serve the energy sector on the Humber, close to existing industries seeking to decarbonise and customers within the energy sector.
- 5.20.3 **Objective (b): To provide capacity to support the import and export of a range of liquid bulk energy products including (i) ammonia (NH₃) (to produce green hydrogen) to help the decarbonisation of industrial activities and in particular the heavy transport sector and (ii) carbon dioxide (CO₂), to facilitate carbon capture and storage, both of which will assist the UK's transition towards net zero.**
- 5.20.4 Air Products would be the first user of the Terminal, importing ammonia for processing to hydrogen at a new hydrogen production facility forming part of the Project. Immingham is a deep-water port and therefore suitable for the very large gas carriers used to import ammonia. The Project also allows the construction of the ammonia storage tank in close proximity to the Terminal, minimising the length of pipeline being used to transport the ammonia and a suitable distance from non-industrial and residential land uses.
- 5.20.5 Air Products initially intend to produce the ammonia in the Middle East where wind and solar energy is abundant. The production plant is under construction and is anticipated to be operational in 2027, such that ammonia imports from the Middle East are anticipated to be received in northern Europe in 2027. Other import terminals in Europe are also under development in Rotterdam and Hamburg and those terminals are planning to be operational by this time. Air Products is also considering additional locations for the production of ammonia including Oman.
- 5.20.6 The Project is anticipated to produce up to 300 MW of hydrogen per annum once fully built out and operational. Depending on market demand, this could meet up to 3% of the Government's hydrogen production target. In addition to use by the heavy transportation sector, the hydrogen produced could be

used for general industrial uses on the Humber, helping to decarbonise heavy industry in one of the UK's main industrial clusters and carbon dioxide emitters. Neighbouring sites could take the hydrogen directly via new pipelines which could be separately consented.

- 5.20.7 It is only anticipated that around 12 of the vessel calls would be associated with the hydrogen production facility; the remaining jetty capacity provides substantial flexibility for import/export of other liquid bulk energy products, including in connection with the carbon capture sector or for expansion by Air Products.
- 5.20.8 The location of the Project would enable it to support the delivery of CCS. The developer of the Viking CCS project (Harbour Energy) and ABP are collaborating around the potential to develop a facility for the discharge of liquefied carbon dioxide cargoes from vessels at the Terminal into the Viking CCS project infrastructure for storage. The Project could facilitate the transfer of liquified carbon dioxide, from dispersed industrial and power industries along the coast which do not have direct access to the Project Viking pipeline. The facilities for landside connection of the Terminal to the Viking pipeline would require separate future consents as necessary. However, the Project reserves a pipeline corridor from the Terminal to the public highway in order to facilitate future connections.
- 5.20.9 Future energy cargoes that would contribute to the transition to net zero would also be accommodated and enable the port developer to have available port infrastructure and capacity in place to respond speedily to new technologies and requirements.
- 5.20.10 **Objective (c): To deliver and operate new port infrastructure in a safe, efficient and sustainable manner by making effective use of available land, water, transport and utility connections which exist in and around the Port of Immingham.**
- 5.20.11 ABP and Air Products have sought to minimise land take, using no more land than is necessary to deliver the Project. Part of the Project is also located on land allocated for development within the North East Lincolnshire Local Plan (ELR001 is a strategic proposed employment allocation for the ports and logistics sector on Kings Road and ELR025a is a site reserved for long term business expansion). The Site is also well served by the strategic and local road network.
- 5.20.12 **Objective (d): To minimise adverse impacts on the environment and safeguard the health, safety and amenity of the surrounding community.**
- 5.20.13 The Applicant has minimised the impacts of the Project to appropriate levels through the process of scheme design and environmental assessment. The likely significant environmental effects of the Project, including noise, air

quality, landscape and visual, socio-economics and health, have been assessed and reported in the ES.

5.20.14 Chapter 26 (Summary of Significant Effects) of the ES (document reference **TR030008/APP/6.2**) summarises the outcomes of the Environmental Impact Assessment. The number of residual significant adverse effects is relatively limited in scale and local in nature, relating to:

- (a) Landscape character to the Site and its immediate setting during construction;
- (b) The views of recreational users of Bridleway 36 and the proposed England Coast Path at two viewpoints during construction and operation, and residential receptors at Queens Road at one viewpoint during construction.
- (c) The loss of residential properties on Queens Road;
- (d) The loss of part of the Long Strip woodland during construction;
- (e) Cumulative effects relating to landscape effects to the site and surrounds during construction, visual effects on three viewpoints at construction and two viewpoints at operation.

5.20.15 Importantly, the assessment also identifies significant beneficial effects which are considered further at paragraph 6.42 below.

5.20.16 A number of temporary, short-term significant effects are reported during the construction stage in relation to noise and vibration, terrestrial ecology, traffic and transport and landscape and visual. These effects will be managed through controls set out in the DCO including the Construction Environmental Management Plan that will be based on the Outline Construction Environmental Management Plan (document reference: **TR030008/APP/6.5**) which accompanies the Application.

5.20.17 The Project also requires a Hazardous Substance Consent from NELC and will be regulated in accordance with the Control of Major Accident Hazard (COMAH) Regulations 2015.

5.20.18 In terms of health and safety, Chapter 22 (Major Accidents and Disasters) of the ES (document reference: **TR030008/APP/6.2**) concludes that, although it is not possible to eliminate risks entirely, risks can be appropriately managed by a comprehensive safety and environmental protection programme implemented via engineering design, operational measures and management to achieve a level as low as reasonably practicable, as required by the COMAH Regulations. Therefore, the Project would comply with all relevant safety and environmental legislation for the management of risks on industrial facilities, from the design and construction phase, through operation and eventual decommissioning.

- 5.20.19 Control during operation will be via an Environmental Permit, which would only be granted by the Environment Agency when they are confident that the Project has been designed in accordance with Best Available Technology.
- 5.20.20 **Objective (e): To enhance both the local and regional economy through direct investment in and around the Port of Immingham and by partnering with the supply chain, provide opportunities for training, upskilling, apprenticeships and local employment.**
- 5.20.21 The Project is anticipated to provide an average of 645 net jobs during the construction period, with the likely peak workforce anticipated to be 1,012 jobs during Phase 1 (792 landside jobs and 220 marine jobs). During operation, the total net employment is anticipated to be 189 jobs.
- 5.20.22 The gross value added (growth added through employment opportunities) during the construction period is £35.9m.
- 5.20.23 Support for the generation of local employment opportunities has been evidenced during pre-application consultation and is considered further in the Consultation Report (document reference: **TR030008/APP/5.1**).
- 5.20.24 Post consent, opportunities to partner with the supply chain, provide training and recruitment opportunities working with local organisations such as CATCH will be considered further to provide opportunities for skills and training in the local area.

6 JUSTIFICATION FOR THE USE OF COMPULSORY ACQUISITION POWERS

- 6.1 This section sets out the conditions which must be met for compulsory acquisition powers to be granted under the Act and explains how the proposals meet these conditions.

Statutory conditions

- 6.2 Powers of compulsory acquisition can only be included in a DCO if the Secretary of State is satisfied that the conditions for the inclusion of compulsory acquisition powers in a DCO, as provided in sections 122 and 123 of the Act, are met.

Test 1: requirement for the land (section 122(2) of the Act)

- 6.3 If a DCO is to authorise powers of compulsory acquisition, it is a condition that the land in question:
 - 6.3.1 is required for the development to which the development consent relates (section 122(2)(a)); or
 - 6.3.2 is required to facilitate or is incidental to that proposed development (section 122(2)(b)); or
 - 6.3.3 is replacement land which is to be given in exchange for the Order land to be acquired compulsorily (section 122(2)(c)).

- 6.4 The Secretary of State as the decision maker, must be satisfied that the land in question is "required" for the proposed development if the DCO is to be made including powers of compulsory acquisition. The meaning of "required" in the context of compulsory acquisition was considered by the Court of Appeal in the case of *Sharkey and Another v Secretary of State for the Environment and South Buckinghamshire District Council* [1991] 10 WLUK 169 where Lord Justice McCowan stated that, in this context, the word "required" means "necessary in the circumstances of the case".
- 6.5 Therefore, when assessing whether the land is "required" for the purpose of compliance with section 122(2) of the PA 2008, the land must be necessary in the circumstance of that particular proposed development.
- 6.6 Further guidance is provided in the CA Guidance - paragraph 11 clarifies that the land:
- 6.6.1 must be needed for the proposed development; and
- 6.6.2 must be no more than is "reasonably required".
- 6.7 In respect of the section 122(2)(a) test, the CA Guidance states that in order for this to be met, the applicant "*should be able to demonstrate to the satisfaction of the Secretary of State that the land in question is needed for the development for which consent is sought. The Secretary of State will need to be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development*" (CA Guidance, paragraph 11(i)).
- 6.8 In respect of the s122(2)(b) test (land "required to facilitate or is incidental to..."), the CA Guidance (paragraph 11(ii)) states that an example might be "*the acquisition of land for the purposes of landscaping the project. In such a case the Secretary of State will need to be satisfied that the development could only be landscaped to a satisfactory standard if the land in question were to be compulsorily acquired, and that the land to be taken is no more than is reasonably necessary for that purpose, and that is proportionate*".
- 6.9 Thus, the applicant must demonstrate that no more land is taken that is "reasonably required" and that it is "proportionate".

Test 2: compelling case in the public interest (s122(3) of the Act)

- 6.10 There must be a compelling case in the public interest for the land to be acquired compulsorily. The Secretary of State will need to be persuaded that there is compelling evidence that the public benefits which would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by the owners of the land. This is reiterated in the CA Guidance at paragraph 13:
- "Parliament has always taken the view that land should only be taken compulsorily where there is clear evidence that the public benefit will outweigh the private loss."*
- 6.11 The Secretary of State, therefore, has to undertake a balancing exercise, and in determining where the balance of public interest lies the Secretary of State will weigh

up the public benefits that the proposed scheme will bring against any private loss which would be suffered by the landowners whose land will be acquired.

6.12 The CA Guidance gives an explanation of the factors to which the decision-maker must have regard when determining whether the inclusion of compulsory acquisition powers in a DCO are justified. These are as follows:

6.12.1 all reasonable alternatives to compulsory acquisition (including modifications to the proposed development) have been explored (CA Guidance, paragraph 8);

6.12.2 the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate (CA Guidance, paragraph 8);

6.12.3 the applicant must have a clear idea of how it intends to use the land to be acquired (CA Guidance, paragraph 9);

6.12.4 there is a reasonable prospect of the requisite funds becoming available (CA Guidance, paragraph 9);

6.12.5 the purposes for which the DCO authorises the compulsory acquisition of land are legitimate and sufficiently justify interfering with the human rights of those with an interest in the land affected (CA Guidance, paragraph 10);

6.12.6 the land to be acquired is no more than is reasonably required for the purposes of the proposed development (CA Guidance, paragraph 11); and

6.12.7 there is compelling evidence that the public benefits derived from the compulsory acquisition will outweigh the private loss suffered by those whose land is to be acquired (CA Guidance, paragraph 13).

6.13 The CA Guidance (paragraph 15) acknowledges that there will often be an overlap between the factors to which the Secretary of State must have regard in deciding whether to make the DCO and those factors to be taken into account in considering whether to authorise any compulsory acquisition powers.

Test 3: procedural requirements under s123 of the Act

6.14 This third test addresses the procedural requirements which must be met before a DCO can grant powers of compulsory acquisition. It provides that the DCO can only authorise the compulsory acquisition of land if one of the three following pre-conditions is met, namely in summary, that:

6.14.1 the application for the DCO included a request for compulsory acquisition of the land (section 123(2)); or

6.14.2 all persons with an interest in the land consent to the inclusion of the provision (section 123(3)); or

- 6.14.3 the prescribed procedure required has been followed in relation to the land (i.e., the procedure set out in the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (section 123(4)).
- 6.15 This third test requires ongoing steps to be taken throughout the application process. At the point of submission of the Application, to satisfy part of this test, ABP must provide as part of the Application (in accordance with regulations 4 and 5 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010) the Book of Reference (document reference **TR030008/APP/3.1**) accompanied by the Land Plans (document reference **TR030008/APP/4.5**), the Funding Statement (document reference **TR030008/APP/3.3**), and this Statement. The remainder of the prescribed procedure relates to requirements for notification, Acceptance and Examination.
- 6.16 The applications of tests 1 and 2 to the Project is explained in detail below.

Test 1: the land is required for the development of the Project

- 6.17 The land over which powers of compulsory acquisition are sought is required for the development of the Project or is required to facilitate or is incidental to it.
- 6.18 Section 3 of this Statement sets out the Plots required for the various elements of the Project with reference to the Book of Reference (document reference **TR030008/APP/3.1**) and Land Plans (document reference **TR030008/APP/4.5**) and explains why each of the Plots is required by reference to the relevant Work No. or otherwise in connection with the construction and/or operation of the proposed development. Section 4 of this Statement confirms the scope and extent of powers and sets out the rationale for their inclusion in the DCO. In relation to the Queens Road Residential Properties, paragraphs 3.38 and 4.27 explain that such residential uses will be an impediment to the grant of the hazardous substances consent which is necessary for the operation of the hydrogen production facility on the West Site and therefore the acquisition of those properties is required. Columns 6-8 of Table 1 (Summary of rights sought and status of negotiations/objection), columns 4 and 5 of Table 2 (Plots within the highway boundary over which rights are sought), and columns 3 and 4 of Table 3 (Status of negotiations with Statutory Undertakers) of the Schedule of Negotiations at Appendix 1 to this Statement set out the justification for the exercise of compulsory acquisition powers for each Plot.
- 6.19 The Applicant has included no more land within the Order limits than is reasonably required for the construction, operation and maintenance of the Project. Section 3 of this Statement sets out how the Applicant has established that the land reasonably required for the Project. Without all the land identified within the Order limits the Project cannot be constructed and operated. Without compulsory powers of acquisition, the land and rights required in the Order land may not be assembled, uncertainty as to construction could arise and the need for and objectives and benefits of the Project would not be achieved.
- 6.20 The Applicant's use of compulsory acquisition powers would be proportionate. On the marine side, the land required for the NSIP is either already part of the existing

operational Port or is in ABP ownership as either freeholder or leaseholder by way of long lease from the Crown Estate (and Crown Estate consent is being obtained).

- 6.21 In relation to the landside development, the Applicant has sought limited powers for compulsory acquisition of all interests in land. The Queens Road Residential Properties are required for the reasons set out at paragraphs 4.23 - 4.32 above. One residential property has already been acquired and negotiations are progressing where possible with regard to the acquisition of the remaining land. The other land to be acquired relates to unregistered land or public highway to be stopped up or is included in respect of a leasehold interest in case vacant possession cannot be obtained in accordance with the terms of the lease.
- 6.22 Elsewhere, the Applicant is seeking lesser powers of acquisition of rights to construct the pipeline corridor with the imposition of restrictive covenants where necessary, rather than outright acquisition of land. As noted in paragraph 4.40 above, the acquisition of permanent rights and imposition of restrictive covenants will be minimised by the taking of temporary possession to undertake the works and ascertain the land required before the vesting of the permanent rights.

Test 2: there is a compelling case in the public interest for the Project

- 6.23 Paragraph 6.12 above sets out the factors which are generally likely to be important and relevant when determining whether the inclusion of compulsory purchase powers is justified. Each of these factors is considered below.
- 6.24 **Reasonable alternatives:** Paragraph 8 of the CA Guidance requires the applicant to demonstrate to the Secretary of State that “*all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored*”.
- 6.25 By way of context, the ES (document reference **TR030008/APP/6.2**) includes factual information about the main alternatives considered by the Applicant, taking account of the Project objectives (as set out in paragraphs 5.20 above). A full description of the alternatives is set out in section 3.5 of Chapter 3 (Need and Alternatives) of the ES (document reference **TR030008/APP/6.2**). The NPSfP also notes that, in some circumstances, there are specific legislative requirements, notably under the Habitats Directive, for the applicant and decision-maker to consider alternatives and states that these should also be identified in the ES by the applicant. In the case of this Project, as set out in the Shadow Habitats Regulation Assessment (document reference: **TR030008/APP/7.7**), it has been concluded that the Project has no adverse effect on the integrity of protected sites and therefore there is no reason to consider alternatives. However, a Without Prejudice Shadow Habitats Regulations Assessment (HRA) Derogation Report (document reference: **TR030008/APP/7.3**) has been submitted to address the possibility that the Secretary of State’s Appropriate Assessment reaches a different conclusion.
- 6.26 A brief summary of the alternatives assessment as set out in the Environmental Statement is provided below.

- 6.26.1 Step 1: The broad options for the Project were considered. These included three options: do nothing, development outside the Humber; and alternative technologies for hydrogen production. Section 3.6 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**) concludes that if the Project were not constructed, the need for the project and Project objectives would not be met. Further, locating the facility outside the Humber would mean that the need for port infrastructure to serve the energy sector on the Humber and the objectives of the Project would not be met. In terms of alternative technologies, the green hydrogen production facility aligns with the Government's ambition to scale up low carbon hydrogen production and responds appropriately to a policy need for a range of hydrogen production facilities to come forward encompassing different technologies and for energy security. Alternatives to the production of low carbon hydrogen from ammonia were not therefore considered further.
- 6.26.2 Step 2: Other port locations were considered around the Humber Estuary (see section 3.7 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**)). The Port of Immingham is an appropriate location within the Humber in light of the principal requirements of the Project relating to suitable marine access (dictated by design vessel draught and the tidal range of the estuary), suitable berth location and capability (i.e. space to accommodate the final design vessel); available and suitable land for storage and processing capability (including the consideration of proximity to residential properties) to support the liquid bulk berth capacity and to transfer the liquid bulks from the vessels; and suitable transport connections facilitate the onward transport and distribution of green hydrogen to customers in the UK. Other port locations considered were the Ports of Hull, Grimsby and Killingholme. Chapter 3 (Need & Alternatives) of the ES confirms that on the analysis carried out, the conclusion reached by ABP is that the only potential solution to meeting the Project need and objectives is the provision of a new multi-user green energy terminal at the Port of Immingham.
- 6.26.3 Step 3: The appropriate location for the Project within the Port of Immingham was then considered (see section 3.8 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**)). This concludes that the proposed jetty location, immediately to the east of the existing boundary of the Port, is the most suitable for the Project, given the need to reach the deep-water channel and minimise interfaces with other infrastructure and vessels. In relation to the hydrogen production facility (being the first user of the Terminal), the proposed location provides suitable land taking into account available space proximate to the jetty, the Port's existing development plans, ground conditions, presence of existing structures and services including access to existing transport corridors and proximity to residential conurbations. The East Site and the West Site were selected as suitable for the following reasons:

- (a) they are predominantly brownfield sites suitable and available for the hydrogen production facility including land for terrestrial pipelines to connect to the pipelines on the jetty trestle;
- (b) the West Site is allocated for employment use in the North East Lincolnshire Local Plan;
- (c) they are close to the jetty to minimise onshore transport distances for ammonia, for safety reasons and to minimise heat leak;
- (d) there is a limited residential population in the vicinity;
- (e) ground conditions are suitable for installation of process plant; and
- (f) there is local access to existing gas and grid connections and HGV access to the strategic road network.

6.26.4 Step 4: design refinement was then considered (see section 3.9 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**)). The design of the Project has evolved in response to feedback from statutory consultation and the environmental assessment including considering alternative jetty layouts; layout of the hydrogen production facility; and alternative locations for the jetty access road, pipe-rack, and electrical control building.

6.26.5 Consideration of the sequential test is set out in the Planning Statement (document reference: **TR030008/APP/7.1**) and summarised in section 3.10 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**) which concludes that the appropriate area of search can only be the Humber in order to meet the Project objectives. The appropriate location for the Project within the Humber has been ascertained to be the Port of Immingham.

6.27 The proposed Site is an appropriate location for the Project, taking account of the need for and objectives of the Project, and the impacts of the Project as explained further below.

6.28 The need for compulsory acquisition arises in connection with the landside development and specifically the hydrogen production facility. The reasonable alternatives to compulsory acquisition explored by the Applicant are addressed below.

6.28.1 In light of the need for hazardous substances consent, one of the key considerations in respect of the hydrogen production facility is the proximity of sensitive uses, including residential uses. In terms of broad location, the Site was considered suitable for a hydrogen production facility in light of its distance from residential conurbations. Additionally, the Site is in close proximity to the jetty.

6.28.2 The relationship of the proposed layout of the hydrogen production facility and surrounding land uses and buildings and the storage and use of

hazardous substances within the facility has been carefully considered and modelled in determining that a suitable layout can be provided within the proposed design parameters.

- 6.28.3 The proposed layout of the West Site and East Site is minimised as far as possible to limit effects on the Queens Road Residential Properties through:
- (a) locating the hazardous substance inventories on the West Site as far away from Queens Road as possible;
 - (b) not locating any substantial ammonia inventories on the West Site; and
 - (c) locating the ammonia tank at the furthest point from residential receptors on the East Site.
- 6.28.4 Notwithstanding the above, it has been demonstrated (as set out in paragraphs 4.23 to 4.30) that the continued residential use of the Queens Road Residential Properties is not compatible with the operation of the hydrogen production facility and will be an impediment to obtaining the hazardous substances consent.
- 6.28.5 The boundaries of the Order limits have been refined during statutory consultation in order to exclude other land owned and occupied by other businesses, so as to limit the impacts of the Project. The proposed Order limits originally included businesses at 9-17 and 19-30 Queens Road. As explained in Chapter 22 (Major Accidents and Disasters) of the ES (document reference **TR030008/APP/6.2**), the safety planning associated with the hydrogen production facility is addressed through the regime governed by the COMAH Regulations 2015. It is not expected that the operation of the hydrogen production facility will have any materially adverse impacts on the continued operations of those businesses and they have been removed from the Order limits.
- 6.28.6 As noted above, there has been and continues to be ongoing engagement directly with all affected parties (through formal consultation and ongoing informal engagement) since the launch of the Project in order to seek to acquire the Queens Road Residential Properties by negotiation and to avoid the need for compulsory acquisition.
- 6.28.7 A primary consideration for the layout of the facility is the construction of the ammonia storage tank as close as possible to the jetty (and so as to facilitate as direct a pipeline connection as possible) and an appropriate distance from non-industrial, including in particular residential, land uses.
- 6.28.8 Consideration was given to whether the hydrogen production facility could be located on alternative land in the area:

- (a) There were potential sites available for acquisition located west of the A1173. These were discounted due to unsuitability: the pipeline cannot run under the A1173 due to safety requirements and development in this location would be closer to more residential properties;
- (b) Land to the south west of the West Site is unsuitable for a hydrogen production facility due to its previous uses and was therefore discounted;
- (c) As more particularly considered in section 3.10 of Chapter 3 (Need & Alternatives) of the ES (document reference **TR030008/APP/6.2**) in the context of the sequential test, two sites of a suitable size were identified: the Immingham landfill site and land at the operational Port of Immingham. However these were discounted as they are in use and not available. The land within the Port is already developed and in active employment/port-related uses. The development of the Immingham landfill site for a hydrogen production plant would prevent the restoration of the waste site following cessation of its use contrary to the approved planning permission. Furthermore, it would not be possible to redevelop this site for a hydrogen production plant for several reasons:
 - (i) The landfill generates ground gas and is therefore incompatible with piling, foundations and excavations.
 - (ii) The ground is not level, is uncompacted and unsuitable for civil foundations.
 - (iii) The landfill site is likely contaminated.
 - (iv) Taking any material offsite defeats the original purpose of the landfill.

6.29 Air Products and ABP have sought and will continue to seek to acquire the land and rights it requires by agreement through negotiation. Notwithstanding this, compulsory acquisition powers are sought so that, if the DCO is confirmed, it can ensure delivery of the Project in the event that agreements with the relevant parties are not reached.

6.30 **Interference is for a legitimate purpose, necessary and proportionate:** The proposed interference with the rights of those with an interest in the land is for a legitimate purpose because the Applicant requires the land for the construction and operation of the authorised project and can satisfy the conditions set out in section 122(2) of the Act. As paragraphs 6.16 to 6.18 explain, the land is required for the development to which the DCO relates or is required to facilitate or is incidental to the development.

6.31 All the land included within the Order limits is needed to achieve the identified purpose of delivering the Project and the scope of the powers of compulsory acquisition

proposed in respect of the land within the Order limits goes no further than is needed. Appendix 1 of this Statement sets out the powers being applied for each Plot and demonstrates why each and every Plot is necessary for the construction, operation or maintenance of the Project.

- 6.32 The Applicant has and continues to make reasonable attempts to acquire necessary land and rights by agreement, however it is not likely that this will be achieved without the use of compulsory acquisition powers. Appendix 1 shows the current status of negotiations.
- 6.33 As set out in paragraph 6.20, the Applicant's proposed use of compulsory acquisition powers is proportionate. Steps have been taken to mitigate the impact on the occupiers of those properties proposed to be acquired. To this end, during engagement with affected persons, a number of occupiers who potentially have protected characteristics were identified. The Equality Impact Assessment (document reference **TR030008/APP/7.8**) sets out these matters in greater detail.
- 6.34 The potential impacts of acquiring residential properties occupied by individuals with protected characteristics have been identified as:
- 6.34.1 There may be a requirement for the occupier to relocate within the area to remain close to care and support networks;
- 6.34.2 There may need to be adaptation of a relocation property to suit any specialist needs; and
- 6.34.3 Potential additional vulnerability due to uncertainty created by the acquisition.
- 6.35 The Applicant and/or Air Products, as appropriate, have taken the following steps to mitigate these potential impacts:
- 6.35.1 The Applicant and Air Products have sought to ensure all residents are represented by a qualified agent to help guide them through the acquisition process and negotiate on their behalf. The land agent for the Applicant (Gateley Hamer) has worked with residents to recommend and help instruct surveyors and either the Applicant or Air Products has provided an undertaking to fund the reasonable professional fees of the agent appointed. All residents (save for one who has agreed Heads of Terms directly with Air Products) with protected characteristics have appointed an agent and the land agent for the Applicant continues to negotiate through the appointed agent(s).
- 6.35.2 The Applicant's land agent has been liaising with the agents acting for the impacted residents to review the local market in recognition of the need for those with protected characteristics to remain in the local area. In order to assist in variations in property value, a compensation premium has been agreed that allows those with protected characteristics to remain in the local area. Where the current properties have been adapted to make them

suitable for their occupier's needs, consideration has been given to suitability and cost of adapting a relocation property. Offers made to those with protected characteristics include a payment for the adaptation of a property based on an anticipated cost. Where heads of terms have been agreed for those with protected characteristics that require property adaptation, this includes agreement of a payment to account for the adaptation costs.

- 6.35.3 The land agent for the Applicant has enquired directly with relevant residents as to whether they would like the Applicant to facilitate additional support from the NELC housing team for assisted living needs, should it not be possible to find a suitable privately owned relocation property. Should any residents confirm that they would like such assistance, the Applicant's land agent will liaise directly with NELC's housing team.
- 6.36 The other powers sought, and their proportionality, are demonstrated in Section 4.
- 6.37 Compensation is payable for the compulsory acquisition of land or rights and for loss or damage caused by the exercise of any power of temporary use of land.
- 6.38 **The use of the land:** ABP has clear and defined proposals for the land to be acquired. Section 2 of this statement identifies the various components of the Project and use of the Order Land by reference to Works areas. Appendix 1 to this Statement sets out the particular use for each plot of land that is proposed to be compulsorily acquired (including the acquisition of rights or temporary possession). Although as explained above there is no specific alternative use proposed at this stage for the future use of the Queens Road Residential Properties, the functional need to acquire those properties and bring the residential use to an end is explained in paragraphs 4.23-4.36 above. Air Products would maintain the buildings to avoid them falling into disrepair and may seek planning permission from NELC for alternative beneficial short or medium uses. Any long term proposals would depend in part on the intentions and requirements of the owners of the neighbouring properties and in part on the local planning authority.
- 6.39 **Funding:** The Funding Statement (document reference **TR030008/APP/3.3**) which accompanies the DCO application, sets out how the Project will be funded and demonstrates that the requisite funds will be available to pay any compensation arising from the exercise of the compulsory purchase powers. The Applicant therefore considers that the Secretary of State can be satisfied that there is a reasonable prospect of the requisite funds for the acquisition becoming available, in accordance with the CA Guidance.
- 6.40 **Human rights:** The purposes for which the DCO authorises compulsory acquisition of land are legitimate, and the proposed use of those powers is proportionate and sufficiently justify interfering with the human rights of those with an interest in the land affected as set out in further detail in Section 8 of this Statement.

- 6.41 **The land is not more than is reasonably required:** The Applicant has carefully considered the design and layout of the Project, as explained in paragraph 6.28. No more land than is reasonably required is included as Order land.
- 6.42 **Compelling evidence that the public benefits will outweigh the private loss:** In terms of the benefits of the Project, the Project will deliver substantial public interest benefits in meeting a compelling need for additional port capacity to serve the energy sector. The Planning Statement (document reference **TR030008/APP/7.1**) confirms that the Project will deliver substantial national, regional and local benefits. The key expected benefits include the following (section 5.3 of the Planning Statement (document reference **TR030008/APP/7.1**) explains where the information contained throughout the section below can be found in the Application).
- 6.42.1 **Substantial new port capacity on the Humber designed and located to support the energy sector:** The Terminal would create a substantial amount of additional capacity to meet the demands of current, expected and emerging users and markets in the energy sector. In doing so, it will help meet the national need for port capacity and help provide resilience and promote competition in the ports sector. Furthermore, other benefits, such as job creation and economic growth, as set out below, would be realised as well as the inherent benefits as stated in the NPSfP, particularly those related to the wider economy at paragraph 3.1.7. The Terminal would have a liquid bulk handling capacity of approximately 11 million tonnes per annum and so be able to accommodate up to 292 vessel calls per year, operating 24-7, meeting the national and regional need for capacity and enabling the Port to compete with other ports for suitable customers. With a deep-water berth and space for manoeuvring large vessels, the Terminal would be able to accommodate very large gas carriers, used for transporting ammonia, with the flexibility to accommodate a range of other vessel sizes. Up to 12 vessel calls would be associated with the hydrogen production facility. The construction of the Terminal would therefore result in substantial additional available capacity. Whilst a second use of the Terminal may be the transport of liquified CO₂ (see below), there could also be capacity and flexibility to support other energy projects or technologies, including new liquid bulk energy product markets that may emerge.
- 6.42.2 **A significant contribution to achieving net zero by 2050:** The Project would provide bespoke infrastructure to support decarbonisation of the Humber industrial cluster, one of the heaviest emitters of carbon dioxide in the country, as well as other locations. This is of national and regional importance given the need for urgent action to tackle climate change. Meeting the net zero targets identified in Government policy is extremely challenging as all infrastructure projects have a considerable lead in time and face uncertainty of delivery, until consents are in place and there is sufficient certainty of market user to make them viable. In that context, there is a need to take urgent steps now to facilitate delivery of the infrastructure that the country needs to support the net zero transition. The Project is at sufficient

maturity to seek consent for construction and operation. therefore the Project is well-positioned to make a significant contribution to net zero by 2027 while other projects and infrastructure are still being planned. Furthermore, agreements are in place between the first user of the Project (Air Products) and ABP, the port owner, operator and developer who has taken the view that the Project is commercially viable. The NPSfP makes clear at paragraphs 3.4.7, 3.4.9 and 3.4.12 that the Government expects developers to bring forward applications for port developments where they consider them to be commercially viable. If development consent is granted for the Project in 2024/2025, the Terminal could be operational in 2027. Having the certainty of development consent in 2024/25 would also be likely to act as a catalyst, enabling other users to come forward and projects to be developed, which could include other carbon capture projects if they have a route to storage by ship via the Project. This could also assist in meeting the 2050 net zero target.

- 6.42.3 **A reliable supply of green hydrogen providing access nationally and locally to a low carbon fuel and contributing to national energy security:** the Project is anticipated to produce up to 300 MW of hydrogen per annum once fully constructed and operating at full capacity, the equivalent of up to 9.5 billion MJ per annum. This could meet up to 3% of Government's 2030 hydrogen production capacity target. The opportunity arises to commence green hydrogen production from 2027. This is when hydrogen produced using renewable energy in the Middle East is anticipated to be available in Europe. The facility that will produce that ammonia, which is partly funded by Air Products, is currently under construction. There is therefore an urgency in obtaining consents for and constructing the Project, in order that the benefits presented by green hydrogen can be realised on the Humber and nationally as soon as possible. Similar facilities are being planned in other ports in Europe, to accept and benefit from the green hydrogen imports. For example, Air Products is also developing two similar import terminals, one in the port of Rotterdam and the other one in Hamburg to receive the ammonia carrying the green hydrogen produced in the Middle East. The Terminal and associated development will help enable the Port to compete effectively with other ports in Europe and, in doing so, contribute to the UK economy. Producing green hydrogen in the Middle East, where there is a reliable source of solar energy, means that there can be a reliable supply of green ammonia for processing in Immingham. In addition, Air Products is exploring other opportunities for production of green hydrogen in locations where renewable energy is readily and reliably available. The availability of green hydrogen from imported ammonia would complement other types of green hydrogen reliant upon locally produced renewable energy, providing diversity of energy sources and supply routes. Wind and solar energy in the UK is weather dependant and therefore intermittent. The need for renewable energy to create green hydrogen in the UK also increases renewable energy demand in the UK (about 40 times more than that needed to produce an

equivalent amount of green hydrogen from green ammonia), and also creates a higher demand for water. Producing hydrogen from ammonia requires smaller non-potable water whereas local electrolysis requires 11,000 to 30,000 tonnes of higher quality, potable water per day. The land required is also greater; the hydrogen production facility would be twice the size of the Project, aside from the land required for the dedicated renewable power generating capacity. The ammonia and hydrogen storage facilities forming part of the Project would enable a reliable supply of hydrogen to be maintained both locally through supply to local industries and future hydrogen refuelling stations, as well as nationally.

6.42.4 **Benefits from fuel switching:** The hydrogen produced by the Project is intended to be used in the decarbonisation of industry in the UK, including in the heavy transport sector. The use of diesel in road transport results in the emission of approximately 94g carbon dioxide per MJ. By way of example, if all of the green hydrogen produced by the Project (once fully built out and operational) was to be used in road transport, it could facilitate a reduction in annual emissions of CO₂ from road traffic emissions by up to 704,634 tonnes per annum as a result of fuel switching from diesel to hydrogen. This is equivalent to 22,000 diesel lorries, or 5% of the CO₂ emitted by the industries in the Humber. The Project includes hydrogen loading facilities to facilitate the filling of road tankers for onward distribution. It is located to enable easy access to the strategic road network for national distribution. Plate 1-1 in the Planning Statement (document reference **TR030008/APP/7.1**) shows the distance of major cities from the Port of Immingham via the strategic road network. An additional benefit of this switch in fuel would be a reduction in emissions of other atmospheric pollutants. Based on the example above, fuel switching to hydrogen could cut emissions of particulate (PM10) (26 tonnes/year) and NO_x emissions (1,050 tonnes/year), based on replacement vehicles complying with the latest Euro VI standards. In practice the actual savings could be substantially greater as cleaner engine technologies are developed. Alternative uses of hydrogen by local industry are likely to have similar or better savings in carbon dioxide emissions. The main opportunity is to substitute hydrogen for natural gas in combustion processes which then emits no carbon dioxide. Reduction processes using hydrogen or ammonia instead of natural gas or coal in the steel manufacturing sector also has a potential to reduce or eliminate carbon dioxide emissions.

6.42.5 **Contribution to the regional and local economy:** The Project is anticipated to provide an average of 627 net jobs during the construction period, with the likely peak workforce anticipated to be 1,012 jobs during Phase 1 (792 landside jobs and 220 marine jobs). During operation, the total net employment is anticipated to be 207 jobs. The gross value added (growth added through employment opportunities) during the construction period is £35m, of which over £24m is projected to remain in North East Lincolnshire. The construction and operation of the Terminal will therefore

result in a substantial number of new roles and associated opportunities for those living locally to receive training and develop their skills. Post consent, ABP and Air Products will identify opportunities to partner with the supply chain and provide training and recruitment opportunities working with local organisations such as CATCH, an industry led partnership who develop and deliver skills and qualifications programmes in support of the process, energy, engineering and renewable industries in the Humber region. Jobcentre Plus has also offered to support with employability and skills training to maximise the local community benefits of the Project. The capacity available in the Terminal (taking account of the land allocated for development in the local area) could be a catalyst for further projects, creating further jobs and economic benefits.

- 6.43 These benefits can only be realised if acquisition of the land required for the Project can be guaranteed in a timely manner, through the use of compulsory acquisition powers (where acquisition by agreement cannot be achieved). The scale of the benefits is very substantial and would clearly outweigh the private loss suffered by parties whose interests in land will be interfered with, as explained further below.
- 6.44 In terms of the private loss suffered by individuals within the Queens Road Residential Properties, paragraph 6.34 above identifies the potential impacts on residents of the acquisition of their properties. Paragraph 6.35 sets out how such potential impacts have been taken into account by the Applicant. All reasonable assistance has been and will continue to be provided to the occupiers of the Queens Road Residential Properties in order to find alternative and suitable accommodation. The Applicant has ensured that due regard has been given to individuals with protected characteristics including considering specific rehousing requirements (e.g. special adaptations) and will engage with NELC Housing team in relation to assisted living options should residents consent to that engagement.
- 6.45 At all times, the Applicant has sought to acquire the required land or interests privately where reasonably possible and negotiations are ongoing. Appendix 1 of this Statement sets out the status of these negotiations. In addition, should it be required (bearing in mind ABP's ongoing negotiations with the affected parties), appropriate compensation would be available to those entitled to claim it under the relevant provisions of the compensation code.
- 6.46 The impacts on other businesses are set out in paragraphs 4.34, 6.28.4, and 6.36 above.
- 6.47 In terms of additional impacts of the Project, all relevant environmental, social and economic benefits and adverse impacts have been assessed and are reported on in the Application documents, most notably the ES (document reference **TR030008/APP/6.2**). Mitigation for effects has been identified where required and is presented comprehensively in the Schedule of Mitigation (document reference **TR030008/APP/7.2**) along with the relevant securing mechanism.

6.48 Whilst the Project as a whole would, in common with any national infrastructure project, result in some adverse effects to the environment and local community, these impacts (considered individually or collectively) would clearly be far outweighed by the important nationally significant benefits of the provision of new port capacity to support the energy sector, contributions to achieving net zero by 2050, a reliable supply of green hydrogen providing access nationally and locally to a low carbon fuel and contributing to national energy security and the associated benefits set out in paragraph 6.42 above, including regional and local benefits through job creation, investment in the local economy and the provision of skills for the local workforce.

6.49 Accordingly, the very substantial national, regional and local public benefits that would arise from the Project demonstrably and overwhelmingly outweigh the private loss that would be suffered by those whose land or interests in land is to be acquired to enable that to occur. Compulsory acquisition powers are required for the Project and for those benefits described to be realised.

7 ENGAGEMENT AND COMMUNICATION WITH PARTIES WITH AN INTEREST IN OR RIGHTS OVER LAND

7.1 As set out in the Consultation Report (document reference **TR030008/APP/5.1**), all parties with an interest in land consulted pursuant to section 42 of the Act were identified through diligent inquiry, as detailed below. They included all owners, occupiers and other persons with an interest in any land affected by the Project.

Diligent inquiry / land referencing

7.2 Section 42 requires the applicant to consult each person who is within one or more of the categories set out in Section 44 of the Act ahead of submission of an application for development consent order. Section 56 of the Act requires notice of submission of the application to be given to each person who is within one or more of the categories set out in Section 57 of the Act. Sections 44 and 57 of the Act requires the applicant to undertake “diligent inquiry” to ascertain parties falling within defined categories:

7.2.1 Category 1 comprises owners, lessees, tenants (whatever the tenancy period) and occupiers of the land within the Order limits.

7.2.2 Category 2 comprises parties that are interested in the land or have the power to sell, convey or release the land within the Order limits.

7.2.3 Category 3 comprises parties whom the applicant thinks would or might, if the Order sought by the application were made and fully implemented, be entitled to make a relevant claim for compensation under section 10 of the Compulsory Purchase Act 1965 and/or Part 1 of the Land Compensation Act 1973 and/or section 152(3) of the Act.

7.3 Whilst the marine-side elements and parts of the land-side elements of the Project are in the known ownership of the Crown or ABP, other interests in land were identified by undertaking a diligent inquiry process. Those persons and organisations who were

identified through diligent inquiry undertaken for the land referencing are listed in the Book of Reference (document reference 4.1).

7.4 The diligent inquiry process was undertaken by Gateley Hamer, land agents for ABP and Air Products, and included the following methods:

7.4.1 **Setting the land referencing limits:** the land referencing limits were set to:

- (a) include all land within the Order limits required for the proposals;
- (b) include all persons who may have a claim for compensation as a category 3 interest outside the Order limits due to construction or operational effects such as noise, vibration, smell, fumes, smoke, light pollution and/or discharge of any solid or liquid substances – these effects were taken into consideration and the impacts assessed against properties and businesses; and
- (c) adopt a precautionary approach – in relation to the possibility of a claim arising in connection with the HSE's land use planning zones (as explained in Chapter 22 (Major Accidents and Disasters of the ES (document reference **TR030008/APP/6.2**), commercial properties that are expected to fall within the Project's inner zone were identified as category 3 parties.

7.4.2 **Obtaining the GIS and process HM Land Registry Spatial Data for the land referencing limits:** Land Registry data was retrieved in the form of a digital shape file (a GIS layer) or through a search of the Index Map. Digital copies of the Official Copy Registers and Title Plans which provide all relevant landownership and third-party interest information was saved onto a secure server. From the HMLR spatial data, land ownership parcels were created representing each title within the Order limits and the wider category 3 areas and stored on GIS software. Where land is unregistered, additional parcels were created to seek to identify these gaps using OS mapping, site data and further desktop referencing. Land features such as roads, rivers, and properties were parcelled separately. Each parcel was given a unique reference number to aid identification.

7.4.3 **Desktop referencing:** A search of the Index Map held by the Land Registry was undertaken and relevant title documents (Official Copy Registers and Title Plans) were obtained and reviewed (including supporting documents which were available for purchase from the Land Registry). Documents and records held by ABP (digital copies of leases, licence or other agreements) affecting land within the Order limits were also reviewed. In addition, internet-based research of the Land Registry's Free Map Search was undertaken to verify details or identify interests where land was unregistered or it was not possible to identify land interests from other sources. Periodic HMLR updates have been lodged with Land Registry to ensure that any changes that occur to titles have been captured, including at key deadlines such as

section 42 consultation and finalisation of the Book of Reference (document reference **TR030008/APP/3.1**) ready for submission.

- 7.4.4 **Unregistered land:** Parcels which have been created over unregistered land and properties have been allocated as 'Unknown' in terms of the owner of the freehold interest. A total of 7 unregistered parcels were created within the Order Limits comprising one unregistered highways parcels and six unregistered land/properties parcels. An assessment has been made on a parcel-by-parcel basis as to whether the adjacent landowner may have an interest in the land, such as cases like unregistered shared driveways. Contact referencing was then undertaken to ascertain the true owners and land interests. All unregistered parcels were investigated through notices, speaking to adjacent landowners and site visits.
- 7.4.5 **Utilities:** Statutory utility companies and their apparatus were identified through information provided by the Project's design engineers and desktop research through sources such as Line Search before you dig. Contact land referencing was undertaken to validate these sources of information.
- 7.4.6 **Highways:** In some instances, local authorities have interactive definitive maps showing their public rights of way, adopted highways and private roads. Where these are available all local authority interests have been added to the relevant parcels of land to ensure their inclusion in the Book of Reference (document reference **TR030008/APP/3.1**). Where no desktop referencing source is available, contact referencing is conducted; in this case, in the absence of interactive maps, NELC was contacted to obtain the adopted highways plans which were reviewed and the adopted highway interests and subsoil interests were added.
- 7.4.7 **Special Category Land:** As defined by sections 130 to 132 of the Act, DCOs are required to identify all land that is classified as special category land. This identification is conducted through desktop sources such as DEFRA Magic maps, identifying restrictions in HM Land Registry registers, Ordnance Survey features, Common or Open lands registers held by local authorities and aerial photography. Contact land referencing was undertaken contemporaneously to acquire and confirm information (in this case, that there was no special category land within Order limits).
- 7.4.8 **Contact land referencing:** Land Interest Questionnaires (**LIQs**) were sent to persons and organisations identified through the process of reviewing the land interests (titles/other documents described at paragraph 7.4.3 above) requesting confirmation of known land interests and for other relevant information to be provided. Email addresses and phone numbers were provided in order to enable the parties to respond, as well as enclosed freepost addressed envelopes for the parties to return hard copy responses by post if they preferred.

- 7.4.9 **Non-contact site visits (where there is no communication with landowners unless approached):** Non-contact site visits were carried out in order to gain an understanding of the physical features on the ground such as occupancy, land use and possible ownership, as well as familiarising the Land Referencing team further with the land and to identify possibly complicated sites (i.e. sites that may have a larger number of residents, possible rights of access issues, and identify special category land).
- 7.4.10 **Contact site visits:** Contact site visits were carried out to identify the occupancy details for properties (i.e. who owns, leases, tenants or occupies property). Where LIQs were not returned from a property, site teams attempted to complete the questionnaires during a contact site visit. Where there has been no response at a property, further visits at different times were conducted to ensure diligence. All land interests have been contacted through the LIQ and S42 processes.
- 7.4.11 **Unknown Owner Site Notices:** Where unregistered land ownership was not able to be determined through desktop or site referencing methods, unknown site notices requesting information as to ownership were erected on the parcels of land and maintained for the 6 week LIQ period and then again for the duration of both periods of statutory consultation. The notices showed the boundary of the parcel in question and provided details of how to contact the land referencing team with the relevant information. Any necessary updates were recorded on Metis and GIS software (though this is not made public).
- 7.4.12 **Other land referencing activities:** The land affected by the Project was cross referenced through further sources of information relating to existing planning permissions and any known future public and privately funded developments. The identification of potentially affected parties was an ongoing process, above and beyond the searches explained above. This included checking the status and addresses of persons affected against TraceSmart and Royal Mail address finder to ensure they were correct, current and identify any missing information, whilst companies were compared against the Companies House database to verify status and to ensure the correct address was being used. The registered address was used unless advised differently by the affected party. Where requested, landowners have been given bespoke plans or interest schedules to assist in identifying and confirming their interests.
- 7.5 The combined outcome of the above land referencing activities undertaken for the diligent inquiry process formed the data used for the section 42 consultation (pre-application). The first statutory consultation took place between 9 January and 20 February 2023. A second statutory consultation took place between 24 May and 20 July 2023. For both rounds of statutory consultation, the persons and organisations were sent a letter providing (a) an overview of the Project, (b) an explanation that it was an Environmental Impact Assessment development and (c) information as to how

consultees could respond to the consultation. The response period was at least 30 days in both cases. Please refer to the Consultation Report (document reference **TR030008/APP/5.1**) for further detail as to information provided at both rounds of statutory consultation and how feedback was received.

- 7.6 The land referencing information has informed the Book of Reference (document reference **TR030008/APP/3.1**) and associated Land Plans (document reference **TR030008/APP/4.5**).
- 7.7 It will also be used to populate and issue notices under section 56 of the Act if and when the Application is accepted by the Planning Inspectorate and section 134 of the Act if the DCO is made and includes compulsory acquisition provisions.

Utility Providers

- 7.8 Utility providers and other similar bodies having or possibly having a right to keep equipment on, in or over the land within the Order limits, were identified through utility searches. Such parties that were believed to have a possible interest in the Order limits were consulted and contacted, as appropriate, in order to identify their interests and any necessary raise further enquiries to address any changes, anomalies or gaps. The interest held by each utility provider and other similar bodies whose services may be affected by the Project are identified in the Book of Reference (document reference **TR030008/APP/3.1**). Article 46(7)-46(9) allows the benefit of certain provisions of the Order to be transferred to a statutory undertaker from the undertaker (for the purposes of the Order) – transfers to certain categories of undertakers may be undertaken without the consent of the Secretary of State.
- 7.9 Relevantly, Plots 5/23-5/25, 5/27-5/30, 5/32-5/33 are owned by Network Rail Infrastructure Limited. Additionally, various other statutory undertakers and owners of apparatus have a right to keep and/or do keep equipment (in connection with their undertaking) on, in or over the Order Land (as set out more particularly in the Book of Reference (document reference **TR030008/APP/3.1**) and the Land Plans (document reference **TR030008/APP/4.5**)). ABP and Air Products have engaged with these statutory undertakers and had regard to any feedback received and the location of any assets or equipment in the development of designs and proposals.
- 7.10 Section 127(2) of the Act states that a DCO may only include provisions authorising the compulsory acquisition of statutory undertakers' land to the extent that the Secretary of State being satisfied that (a) the land can be purchased and not replaced without serious detriment to the carrying on of the undertaking; or (b) if purchased, it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the carrying on of the undertaking.
- 7.11 Section 127(5) of the Act states that a DCO may only include provision authorising the compulsory acquisition of a right over statutory undertakers' land by the creation of a new right over land to the extent that the Secretary of State is satisfied that (a) the right can be purchased without serious detriment to the carrying on of the undertaking; or (b) any detriment to the carrying on of the undertaking, in consequence of the

acquisition of the right, can be made good by the undertakers by the use of other land belonging to or available for acquisition by them.

- 7.12 Section 138(4) of the Act provides that where there subsists over a relevant right (being a right of way, a right of laying down, erecting, continuing or maintaining apparatus on, under or over the land, which (a) is vested in or belongs to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) is conferred by or in accordance with the electronic communications code on the operator of an electronic communications code network), or there is on, under or over the land relevant apparatus (being either (a) apparatus vested in or belonging to statutory undertakers for the purpose of the carrying on of their undertaking, or (b) electronic communications apparatus kept installed for the purposes of an electronic communications code network), a DCO may include provision for the extinguishment of the relevant right, or the removal of the relevant apparatus, only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates.
- 7.13 No permanent acquisition of land owned by statutory undertakers is proposed by the draft DCO (document reference **TR030008/APP/2.1**). Article 33 (Statutory undertakers) of draft DCO does provide for the extinguishment of relevant rights, or the removal of relevant apparatus belonging to statutory undertakers, in connection with the delivery of the Project. The powers in Article 33(1)(a) and (b) (relating to the compulsory acquisition of rights over land owned by a statutory undertaker and the extinguishment of statutory undertaker rights) may only be exercised by ABP.
- 7.14 With regard to extinguishment of rights or removal of apparatus, the Utilities Statement and associated plans (document reference **TR030008/APP/7.7**) identifies the following:
- 7.14.1 Diversion of 33kV low level transmission cable running on poles across the centre of the West Site to be re-routed around the perimeter of the West Site, the precise route of diversion is being agreed with Northern Power Grid.
 - 7.14.2 Diversion of 33kV underground cables which run beneath Laporte Road near the East Site and a section of disused highway off Laporte Road within the East Site to be diverted where they run beneath stopped up highway and elsewhere in Laporte Road, the precise route of diversion is being agreed with Northern Power Grid.
 - 7.14.3 Potential stopping up / removal of a small stub/loop of 11kV underground cable which connects into the 11kV cable in Laporte Road within the East Site to be agreed with Northern Power Grid.
 - 7.14.4 Diversion of two existing watercourses running across the West Site, as discussed above at paragraphs 3.41.2 and 4.41.3-4.41.4 above.
 - 7.14.5 Diversion of part of the potable water main running beneath the section of disused highway off Laporte Road near the East Site. Discussions are ongoing with Anglian Water regarding the route of the diversion or removal of this section of line.

- 7.14.6 Diversion of telephone cables and telecommunications lines running into the East Site. The details of the diversion are to be discussed with the relevant utility supplier.
- 7.15 A full summary of negotiations and discussions with statutory undertakers is set out in Table 3 of Appendix 1 to this Statement.
- 7.16 The exercise of such powers will be carried out only in compliance with the protective provisions contained in Schedule 14 of the draft DCO (document reference **TR030008/APP/2.1**). Protective provisions have been provided in respect of a number of parties including of relevance to this section:
- 7.16.1 Northern Power Grid;
- 7.16.2 Anglian Water;
- 7.16.3 Cadent Gas Limited as gas undertaker;
- 7.16.4 Network Rail;
- 7.16.5 North East Lincolnshire Council as lead local flood authority; and
- 7.16.6 operators of electronic communications code networks.
- 7.17 The draft protective provisions have been provided to the statutory undertakers for their consideration and endeavours will be made to agree the provisions with such parties. The protective provisions will set out constraints on the exercise of the powers in the draft DCO (document reference **TR030008/APP/2.1**) in order to safeguard the statutory undertakers' and other similar bodies' interests, whilst enabling the Project to proceed.
- 7.18 The statutory undertakers will therefore not suffer serious detriment to the carrying on of the undertaking as a result of the compulsory acquisition (including of rights over land or powers of temporary possession). Further, the proposed extinguishment of specified relevant rights or removal of specified apparatus is necessary for the purpose of carrying out the development for the Project.

Special Category Land

- 7.19 The compulsory acquisition powers do not relate to any special category land within the meaning of:
- 7.19.1 section 130 of the Act – land belonging to the National Trust;
- 7.19.2 sections 131 and 132 of the Act – land forming part of a common, open space or fuel or field garden allotment.

Summary of status of negotiations

- 7.20 The land agent, ABP and Air Products have sought to engage proactively with each of the affected landowners and occupiers in relation to which compulsory acquisition powers are sought. The outcome of those discussions is positive, with the completion

of acquisition of 31 Queens Road. The sale of three further properties is in the hands of solicitors. Finally, heads of terms are under discussion with three businesses for a lease for temporary possession or an easement for installation of the pipeline or other utilities.

- 7.21 ABP and Air Products are aware of the requirement to seek to acquire land by negotiation wherever practicable, and recognise that as a general rule, authority to acquire land compulsorily, should only be sought if reasonable attempts to acquire the land by agreement fail (as noted in CA Guidance at paragraph 25). Air Products or its land agent has informed all those with an interest in the land of its willingness to negotiate to acquire the land by agreement, and to invite dialogue accordingly.
- 7.22 The current position in relation to ongoing engagement and negotiations with each of the persons and organisations with interests in land affected by the Project is described in the Schedule of Negotiations set out in Appendix 1 to this Statement. Negotiations will be continuing throughout the DCO examination process and updates to the Schedule of Negotiations will be provided to the Examination.
- 7.23 The CA Guidance (paragraph 25) recognises that in some cases, it may be necessary to acquire land compulsorily rather than by agreement. Powers of compulsory acquisition are required to ensure that the Scheme can be delivered in the event that it does not prove possible to acquire the necessary land interests by agreement.
- 7.24 Throughout the land referencing process, a number of individuals were identified as having protected characteristics as defined by section 4 of the Equality Act 2010, requiring certain adjustments to be made to engagement with these individuals. Paragraph 8.13 below explains how duties under the Equality Act 2010 and should be read alongside the Equality Impact Assessment (document reference **TR030008/APP/7.8**).

8 COMPULSORY ACQUISITION IN THE CONTEXT OF HUMAN RIGHTS

- 8.1 The CA Guidance (paragraph 10) states that the Secretary of State must be persuaded that the purposes for which an order authorises the compulsory acquisition of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.
- 8.2 The European Convention on Human Rights (**ECHR**) (transposed into UK law by the Human Rights Act 1998 (**HRA**)) sets out articles aimed at protecting the rights of the individual (known as Convention Rights). The HRA enables individuals to invoke certain Convention Rights. Of particular relevance are:
- 8.2.1 Article 1 of the First Protocol of the ECHR – protection of peaceful enjoyment of possessions. The ECHR states:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not,

however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

8.2.2 Article 6 of the ECHR – right to a fair trial. The ECHR states:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

8.2.3 Article 8 of the ECHR – right to respect for private and family life. The ECHR states:

Everyone has the right to respect for his private and family life, his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

8.3 In making the Application, ABP and Air Products have carefully considered the balance to be struck between individual rights and the wider public interest. To the extent that the DCO would affect individuals' rights, for the reasons summarised in this section and section 6 above, the proposed interference with those rights would be in accordance with law, proportionate and justified in the public interest. The considerations and conclusions in relation to each of these articles are set out below.

8.4 **Article 1, First Protocol ECHR - right to peaceful enjoyment of possessions:** The DCO would affect the Article 1 rights of those whose property is to be compulsorily acquired or temporarily possessed, and whose peaceful enjoyment of their property is proposed to be interfered with. However, there is no violation of those rights where it has been demonstrated that the proposed interference is "in the public interest" and is lawful. The compelling need for and the public benefits of the Project are described in this Statement and also considered at paragraph 8.11.3 below. The proposed interference is therefore in the public interest.

8.5 The right to compensation is an important factor in considering the balance between the public interest and the protection of an individual's fundamental rights. Appropriate compensation will be available to those entitled to claim it under the relevant provisions

of the compensation code, including the residents of the Queens Road Residential Properties which are proposed to be acquired. ABP and Air Products have the resources to provide such compensation as demonstrated in the Funding Statement (document reference **TR030008/APP/3.3**).

- 8.6 **Article 6 ECHR - right to a fair trial:** Those whose Convention Rights would be affected by the DCO will have an opportunity to object to the grant of compulsory acquisition powers in the DCO, and to have their objection considered at a fair and public hearing.
- 8.7 There was opportunity to make representations regarding the Application for the DCO prior to its submission (and as more particularly set out in the Consultation Report (document reference **TR030008/APP/5.1**)). In accordance with Part 5 of the Act and as explained in Section 7 above, persons set out in the categories contained in section 44 have been consulted on the proposed Application, which include owners of the Order land and those who may be able to make claims either under section 10 of the Compulsory Purchase Act 1965 or Part 1 of the Land Compensation Act 1973. All those with identified interests are able to make representations to the Examining Authority on submission of the Application and therefore the requirements of Article 6 are met. Representations can be made in response to any notice given under section 56 of the Act (notifying persons of accepted application).
- 8.8 If a compulsory acquisition hearing request is made by owners of land in the Order, then the Order will not be made without a hearing before the Secretary of State being held. The requirements of Article 6 are therefore satisfied by the decision-making process.
- 8.9 Should the Order be made, a person aggrieved may also challenge the Order in the High Court on a point of law pursuant to section 118 of the Act. Affected persons have the right to apply to the Upper Tribunal (Lands Chamber) if compensation is disputed.
- 8.10 **Article 8 ECHR - right to protection of private and family life, home & correspondence:** The proposed acquisition of the Queens Road Residential Properties engages Article 8. Article 8 is, however, a qualified right and can be justified in appropriate circumstances with reference to Article 8(2) which provides for interference by a public authority where such interference is (a) in accordance with the law; (b) for a legitimate aim (i.e. in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others); and (c) is necessary in a democratic society.
- 8.11 Taking each limb of Article 8(2) in turn:
- 8.11.1 There is a legal basis for the inclusion of powers of compulsory acquisition in the DCO under the Act, as set out in this Statement (and, as set out in relation to Article 1 of the First Protocol, compensation will be paid as appropriate).

- 8.11.2 The justification for the DCO is that it seeks to achieve a particular purpose in the public interest, namely, the delivery of the Project, as explained further in Section 5 of this Statement (and more particularly in the Planning Statement (document reference **TR030008/APP/7.1**) and the ES (document reference **TR030008/APP/6.2**).
- 8.11.3 Whether the interference is necessary requires a judgement balancing the public interest (in this case, the compelling need to deliver more port infrastructure for the import and export of liquid bulk energy products from the Humber to support the transition to net zero and the decarbonisation of the Humber industrial cluster – see paragraph 5.2 above) and the rights of the individual. ABP has therefore considered the potential infringement of Convention Rights in consequence of the inclusion of compulsory acquisition powers within the draft DCO against the significant public benefits if the DCO is made. Critically, those benefits are only likely to be realised if the DCO includes powers of compulsory acquisition. The significant public benefits outweigh the effects upon persons who own property and rights within the Order Land. The making of the DCO with compulsory acquisition powers which would lead to an interference with the individuals' rights is justified, necessary and proportionate.
- 8.12 For the above reasons, the inclusion of powers of compulsory acquisition in the DCO would not constitute an unlawful interference with Convention Rights and related provisions of UK law. It is therefore appropriate and proportionate to make the DCO, including the grant of powers of compulsory acquisition.

Equality Act 2010

- 8.13 The Secretary of State is subject to the PSED in considering the Application. As such, ABP has undertaken an Equality Impact Assessment (document reference **TR030008/APP/7.8**) which explains the impacts of the proposals on those with protected characteristics to assist the Secretary of State's decision-making process by demonstrating that due regard has been paid to the needs of protected characteristic groups in line with the Equality Act 2010 and the PSED.

9 OTHER CONSENTS AND ORDERS

- 9.1 The other consents and licences required to construct and operate the Project and an explanation of how ABP proposes to deal with each is set out in the Consents & Agreements Position Statement (document reference **TR030008/APP/7.4**).
- 9.2 The potential impediment to the Project arising from the need for hazardous substances consent is addressed in paragraphs 4.23 to 4.31 of this Statement. ABP considers that none of the other consents or licences represent an impediment to the delivery of the Project.

10 CONCLUSIONS

10.1 The Project is in accordance with the NPSfP which establishes that there is a compelling national need to deliver new port infrastructure to provide capacity, create competition and resilience in the port sector and deliver wider economic benefits in the public interest. There is a particular need for the import and export of liquid bulk energy products from the Humber to support the transition to net zero and the decarbonisation of the Humber industrial cluster. The NPSfP confirms that the starting point is a presumption in favour of granting consent to applications for port development unless any more specific and relevant policies set out in the NPS or another NPS clearly indicate that consent should be refused and subject to the provisions of the Act. No such other policies exist in this case. The need for specific infrastructure (including port infrastructure) to support the production of low carbon hydrogen and CCS (or other future low carbon renewable energy technology) is clearly demonstrated, as is the urgency of that need.

10.2 The Project:

10.2.1 would provide new port capacity on the Humber to handle approximately 11 million tonnes of liquid bulks per annum. This includes considerable capacity for other future users beyond Air Products and therefore flexibility to serve the CCS market (bringing in liquified carbon dioxide) and other future liquid bulk energy product customers and markets which may emerge;

10.2.2 would make a significant contribution to achieving net zero through the provision of bespoke infrastructure to support the decarbonisation of the Humber industrial cluster, one of the heaviest emitters of carbon dioxide in the country, and other locations;

10.2.3 would produce up to 300 MW of hydrogen per annum once the hydrogen production facility is fully operational at full capacity, the equivalent of up to 9.5 billion MJ per annum. Depending on market demand, it is estimated that this would meet up to 3% of Government's hydrogen production capacity target;

10.2.4 could facilitate a reduction in annual road traffic emissions of carbon dioxide by up to 704,634 tonnes as a result of fuel switching from diesel to hydrogen if all the green hydrogen produced by the Project once fully operational was used in road transport applications (equivalent to 22,000 diesel lorries, or 5% of the carbon dioxide emitted by the industries in the Humber). Other types of fuel switching are anticipated to have similar greenhouse gas savings;

10.2.5 will deliver substantial economic benefits through the creation of jobs and gross value-added during construction. It is anticipated there will be an average of 645 net jobs during the construction period, with the likely peak workforce anticipated to be 1,012 jobs during Phase 1 (792 landside jobs and 220 marine jobs). During operation, the total net employment is anticipated to be 189 jobs. Opportunities to partner within the supply chain,

provide training and other recruitment opportunities will be explored by ABP and Air Products. The gross value added during the construction period is £35.9m.

- 10.3 This Statement has demonstrated that the land over which ABP is seeking compulsory acquisition powers is required for the construction, operation and maintenance of the Project or is required to facilitate or is incidental to the Project.
- 10.4 There is a compelling case in the public interest for the land to be acquired compulsorily. It has been demonstrated that reasonable alternatives to compulsory acquisition (including modifications to the Project) have been explored and that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate.
- 10.5 The description of the proposed development together with Appendix 1 of this Statement show that the undertaker has a clear idea of how it intends to use the land which it is proposed to acquire. There is a reasonable prospect of the requisite funds for the acquisition becoming available. The purposes for which compulsory acquisition of land powers are included in the DCO are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected.
- 10.6 ABP and Air Products have actively engaged with landowners and others with an interest in land through the formal consultation process and through informal engagement (including via a land agent in relation to the Queens Road Residential Properties). The proposals have been modified during design evolution to minimise the private loss that would be suffered where possible. ABP and Air Products have actively sought (and continue to seek) to acquire land by private agreement rather than needing to rely on compulsory acquisition powers as demonstrated by Appendix 1 of this Statement. Appropriate compensation would be available to those entitled to claim it under the relevant provisions of the compensation code.
- 10.7 The public benefits of the scheme, particularly the delivery of new port infrastructure to provide capacity, competition and resilience in the port sector and specifically for the import and export of liquid bulk energy products from the Humber to support the transition to net zero and the decarbonisation of the Humber industrial cluster could only be realised with the use of compulsory acquisition powers as described in this Statement. These public benefits clearly and decisively outweigh the private loss that would be suffered by those whose land is to be acquired, and there is a compelling case in the public interest for the land to be acquired compulsorily.

APPENDIX 1

Schedule of Negotiations

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1.1 Introduction

- 1.1.1 This Schedule of Negotiations and Powers Sought prepared by Gateley Hamer is an appendix to the Statement of Reasons and, alongside that Statement, demonstrates that Associated British Ports as the applicant for development consent (“the Applicant”) has complied with the statutory requirements and the former Department for Communities and Local Government guidance “Planning Act 2008: guidance related to procedures for compulsory acquisition” dated September 2013 (“CA Guidance”).
- 1.1.2 The Applicant and Air Products have been seeking and continue to seek to acquire the relevant freehold interests, new rights and temporary use of land by private treaty, in order to ensure the Project can be constructed and maintained. Whilst seeking compulsory acquisition powers in the Development Consent Order (“DCO”), the Applicant and Air Products will continue to seek to acquire interests by agreement wherever possible. This approach of seeking powers of compulsory acquisition in the DCO, in parallel with conducting negotiations to acquire land rights by agreement, accords with paragraph 26 of the CA Guidance. Table 1 below sets out the latest position in relation to these voluntary agreements.
- 1.1.3 The CA Guidance states that there must be a clear idea how the land to be acquired is to be used, and table 1 below provides for each plot a summary of the reason that acquisition of land/rights and/or temporary possession (as relevant) is required to accommodate the Project. In addition to the details set out in table 1 there are a number of plots, shown purple on the Land Plans Land Plans [TR030008/APP/4.5], which are in the ownership of the Applicant and as such no land acquisition is required.
- 1.1.4 Table 2 below lists plots within the Order land which comprise part of the public highway network and whilst an explanation is provided on why the land is required to accommodate the Project, a summary of negotiations is not provided as there are no voluntary rights being sought in relation to the highway – there will be ongoing engagement with the relevant highways authority as part of the DCO process.
- 1.1.5 Table 3 below sets out the position in relation to Statutory Undertakers who have been identified as having apparatus in the Order land.
- 1.1.6 This Schedule of Negotiations and Powers Sought is one of a number of documents accompanying the application for DCO. It should be read in conjunction with the following documents:
- Land Plans [TR030008/APP/4.5];
 - Works Plans [TR030008/APP/4.2];
 - Draft DCO [TR030008/APP/2.1]; and
 - Book of Reference [TR030008/APP/3.1].
- 1.1.7 It is envisaged that this Schedule of Negotiations and Powers Sought will be updated at regular intervals throughout Examination, the latest updates will be included in this document in red text at the relevant deadline.

1.2 Table 1: Summary of rights sought and status of negotiations

Affected Person - Contact Name/ Organisation	Plot Number(s)	Category of Interest (where relevant)	Description of land interest/rights sought	CA	Works Number(s)	Reason of Acquisition or Possession	Status of negotiations/objection (where relevant)
Francis George Windham Brooke Baronet (as Trustee of the Yarborough 1961 Settlement General Fund) Kenneth Peter Lyle Mackay, Earle of Inchape (as Trustee of the Yarborough 1961 Settlement General Fund) Land forming the western site boarded by Queens Road, Kings Road and the A1173	5/1, 7/19	Part 1 (Category 2 – Third Party Interest)	Permanent acquisition including rights and covenants over the land	Y	7	Land forming part of Works No. 7	Between November 2022 and May 2023, the Applicant's Land Agent Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.
	5/2, 5/5, 5/6, 5/9, 6/1, 6/2, 6/3, 6/4, 6/5, 6/7, 6/8, 6/9, 6/10, 6/11, 6/12, 6/13, 6/17, 7/13, 7/14	Part 1 (Category 2 – Third Party Interest)	Suspend or interfere with private easements or rights only	Y	6, 7, 7a, 7b, 7c, 7d	Land forming part of Works No. 6, 7	In April 2023 Gateley Hamer contacted the Affected Person to discuss the project proposals and DCO timescales. The Affected Person outlined that they had appointed an agent. In May 2023 Gateley Hamer held an initial meeting the Affected Persons' agent to discuss land requirements to construct and operate the Project. Subsequent discussions have taken place with the Affected Parties agent with property negotiations undertaken.
Dorothy Kirk 1 Queens Road Immingham	5/3, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22, 7/23	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor. The parties then engaged regarding potential advisors. In November 2022 Gateley Hamer engaged with the Affected Person with regard to the Land Interest Questionnaire (LIQ).

							<p>In January 2023 further engagement took place between Gateley Hamer and the Affected Person regarding the appointment of an agent. Following this an agent was appointed in March 2023. Subsequent discussions took place with the appointed agent with property negotiations undertaken.</p> <p>Gateley Hamer issued detailed Heads of Terms in July 2023 to secure the permanent acquisition of land required to construct and operate the Project.</p> <p>Heads of Terms were agreed on 26th July 2023, and the purchase is now with solicitors for completion.</p>
Martin and Ruth Kirk 2 Queens Road Immingham	5/3, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22, 7/23	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	<p>In January 2023 the Affected Person attended the consultation event in which introductions were made on the project proposals and DCO timescales. The Affected Person outlined they had appointed an agent and advised Gateley Hamer contact the agent.</p> <p>In March 2023 Gateley Hamer had a meeting with the agent and estate agent. Between the months of March and July Gateley Hamer and the Affected Person's agent have been in regular contact.</p> <p>Gateley Hamer issued detailed Heads of Terms in July 2023 to secure the permanent acquisition of land required to construct and operate the Project.</p> <p>Heads of Terms were agreed on 26th July 2023, and the purchase is now with solicitors for completion.</p>
Michael Francis Duffy 3 Queens Road, Immingham	5/3, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22, 7/23	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	<p>In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor. The parties then engaged regarding potential advisors.</p> <p>In November 2022 Gateley Hamer engaged with the Affected Person with regard to the LIQ.</p> <p>In January 2023 further engagement took place between Gateley Hamer and the Affected Person regarding the appointment of an agent. Following this an agent was appointed in March 2023. Subsequent discussions took</p>

							place with the appointed agent with property negotiations undertaken. Negotiations are ongoing regarding the commercial terms of an agreement to purchase the property.
John Hunter and Lesley Ann Hunter 4 Queens Road, Immingham	5/3, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22, 7/23	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	In April 2023 Gateley Hamer attempted to contact the landowners with a view to organising a meeting. A subsequent letter was sent indicating that the Applicant's Agent wished to contact the occupiers. In May 2023 a further attempt to make contact was made during a site visit. In June 2023 the Gateley Hamer met with the Affected Person. The Affected Person appointed an agent in August 2023. Negotiations continue with the Affected Person's agent regarding the commercial terms of an acquisition.
Kevin Buckle 5 Queens Road, Immingham	5/3, 7/15, 7/16, 7/17, 7/18, 7/20, 7/21, 7/22, 7/23	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	In April 2023 Gateley Hamer met with the Affected Person to discuss the project proposals and DCO timescales. The landowner stated that they had appointed an agent and asked for the applicant's agent to liaise with them. In June 2023 the Applicant's Agents spoke with the Affected Parties agent with regular contact throughout the month. Gateley Hamer issued detailed Heads of Terms in July 2023 to secure the permanent required to construct and operate the Scheme. Heads of Terms were agreed on 26th July 2023, and the acquisition is currently being formalised by solicitors.
Sealius Price 6 Queens Road, Immingham	5/1, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20, 7/21	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor. In November 2022 Gateley Hamer engaged with the Affected Person with regard to the LIQ. In January 2023 the Affected Person attended the consultation event in which introductions were made on the project proposals and DCO timescales. In April and

							<p>May 2023 Gateley Hamer held meetings with the Affected Person to discuss the acquisition of property.</p> <p>The Affected Person owns a number of properties both adjacent to, and within the Project boundary and has expressed a desire to dispose of all property interests.</p> <p>Negotiations between Gateley Hamer and the Affected Person regarding commercial terms continues with a view to agreeing an acquisition.</p>
Sealius Price 7 Queens Road, Immingham	5/1, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20, 7/22	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	<p>In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor.</p> <p>In November 2022 Gateley Hamer engaged with the Affected Person with regard to the LIQ.</p> <p>In January 2023 the Affected Person attended the consultation event in which introductions were made on the project proposals and DCO timescales. In April and May 2023 Gateley Hamer held meetings with the Affected Person to discuss the acquisition of property.</p> <p>The Affected Person owns a number of properties both adjacent to, and within the Project boundary and has expressed a desire to dispose of all property interests.</p> <p>Negotiations between Gateley Hamer and the Affected Person regarding commercial terms continues with a view to agreeing an acquisition.</p>
Sealius Price 8 Queens Road, Immingham	5/1, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20, 7/23	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	<p>In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor.</p> <p>In November 2022 Gateley Hamer engaged with the Affected Person with regard to the LIQ.</p> <p>In January 2023 the Affected Person attended the consultation event in which introductions were made on the project proposals and DCO timescales. In April and May 2023 Gateley Hamer held meetings with the Affected Person to discuss the acquisition of property.</p>

							<p>The Affected Person owns a number of properties both adjacent to, and within the Project boundary and has expressed a desire to dispose of all property interests.</p> <p>Negotiations between Gateley Hamer and the Affected Person regarding commercial terms continues with a view to agreeing an acquisition.</p>
Sealius Price 18 Queens Road, Immingham	5/3, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	<p>In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor.</p> <p>In November 2022 Gateley Hamer engaged with the Affected Person with regard to the LIQ.</p> <p>In January 2023 the Affected Person attended the consultation event in which introductions were made on the project proposals and DCO timescales. In April and May 2023 Gateley Hamer held meetings with the Affected Person to discuss the acquisition of property.</p> <p>The Affected Person owns a number of properties both adjacent to, and within the Project boundary and has expressed a desire to dispose of all property interests.</p> <p>Negotiations between Gateley Hamer and the Affected Person regarding commercial terms continues with a view to agreeing an acquisition.</p>
Anong Mason 31 Queens Road Immingham	5/4	Part 1 (Category 1 – Owner)	Permanent acquisition	Y	N/A	Residential property within or near to expected inner zone which will be an impediment to obtaining hazardous substance consent in respect of Works No. 7	<p>In September 2022 Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor.</p> <p>In October 2022 Gateley Hamer provided the Affected Party with further information and the RICS Compulsory Purchase Hotline number to assist in appointing an agent.</p> <p>In November 2022 Gateley Hamer engaged with the Affected Party with regard to the LIQ. The Affected Party confirmed the appointment of a solicitor to represent them.</p> <p>In February 2023 the Affected Party attended the consultation event and the first draft of the Heads of Terms</p>

							<p>were issued to the Affected Party. Negotiations between Gateley Hamer and the Affected Parties solicitor continued until agreement of the Heads of Terms in April 2023.</p> <p>The acquisition of the property was completed in May 2023.</p>
<p>Global Shipping Services Limited Timber Terminal Normandy Way Goole DN14 5SP</p>	<p>4/6, 4/10</p>	<p>Part 1 (Category 1 – Occupier)</p>	<p>Permanent acquisition</p>	<p>Y</p>	<p>5, 5a</p>	<p>Land forming part of Works No. 5</p>	<p>Global Shipping Services Limited occupy the property by way of a lease dated 28 April 2023 for a term ending on 31 December 2023. In negotiating the lease, the Applicant has ensured the lease does not include provisions for lease renewal (contracted out of the Landlord & Tenant Act 1954) and the lease will expire before vacant possession of the land is required for the Project. Furthermore, the lease contains provisions that allow the Applicant to terminate the lease and take possession on 1 month's prior written notice without the need to implement compulsory acquisition powers. The Applicant will ensure that any new lease will include similar break provisions to enable the Applicant to take possession without the need to exercise compulsory acquisition powers. The land is included in the Order land to ensure that vacant possession can be obtained.</p>
	<p>4/1, 4/13, 4/15, 4/24</p>	<p>Part 1 (Category 2 – Third Party Interest)</p>	<p>Suspend or interfere with private easements or rights only</p>	<p>Y</p>	<p>5, 5a</p>	<p>Land forming part of Works No. 5 and Land outside Works areas but within Order limits and required for the scheme</p>	
<p>Polynt Composites UK Limited Laporte Road Stallingborough Grimsby DN41 8DR</p>	<p>4/23</p>	<p>Part 1 (Category 1 – Owner)</p>	<p>Permanent rights in and temporary possession and use of subsoil</p>	<p>Y</p>	<p>N/A</p>	<p>Land outside Works areas but within Order limits and required for the scheme</p>	<p>In July 2022 the Applicant met with the Affected Party to introduce the Project and discuss the possible use of their land.</p> <p>In October 2022 the Applicant engaged with the Affected Party in relation to survey access.</p> <p>Between November 2022 and May 2023, the Applicant's Land Agent Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>The Applicant issued draft Heads of Terms in July 2023 to secure temporary use of the Affected Party's land. The Affected Party reviewed the draft Heads of Terms and requested a meeting. This meeting is scheduled for September 2023.</p>
	<p>4/28, 4/30, 4/32</p>	<p>Part 1 (Category 1 – Owner)</p>	<p>Temporary possession and use</p>	<p>Y</p>	<p>1, 9</p>	<p>Land forming part of Works No. 1 and 9 Land outside Works areas but within Order limits and required for the scheme</p>	

Tronox Pigment UK Limited Laporte Road Stallingborough Grimsby DN40 2PR	4/23	Part 1 (Category 1 – Owner)	Permanent rights in and temporary possession and use of subsoil	Y	N/A	Land outside Works areas but within Order limits and required for the scheme	<p>In July 2022 the Applicant met with the Affected Party to introduce the Project.</p> <p>The Affected Party confirmed in July 2022 that they had agreed to Ecology Surveys taking place on their land.</p> <p>In October 2022 the Applicant engaged with the Affected Party in relation to further surveys. Access was agreed in January 2023.</p> <p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p>
	4/26, 4/28, 4/30, 4/32	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Temporary possession and use	Y	1, 9	Land forming part of Works No. 1 and 9 Land outside Works areas but within Order limits and required for the scheme	<p>Between November 2022 and March 2023, meetings were held between the Affected Party and the Applicant. Within these meetings, Project updates were given and the Applicant's land requirements were discussed.</p> <p>The Applicant issued Heads of Terms in May 2023 to secure temporary use of the Affected Party's land. The Affected Party agreed to the Heads of Terms in June 2023 and initiated the legal process in August 2023. The Applicant's and Affected Party's legal teams have been in contact and are progressing the drafting of a lease / option.</p>
Roger Hoyes Town Gate Farm 130 Station Road Stallingborough Grimsby DN41 8AW	4/26, 4/28, 4/32	Part 1 (Category 1 – Lessee and Occupier)	Temporary possession and use	Y	9	Land forming part of Works No. 9 Land outside Works areas but within Order limits and required for the scheme	<p>The Affected Person is an occupier of both Tronox and Polynt land under farm business tenancies. The tenancies are proposed to be dealt with through agreements with the freeholders. The proposed agreements with Tronox and Polynt specify that the land will be delivered with vacant possession and as such there has been no direct negotiations with the Affected Person at this stage.</p>
Organon Pension Trustees Limited 8th Floor Regent House Heaton Lane Stockport SK4 1BS	5/7, 5/8, 5/10, 5/11	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent rights and temporary possession and use	Y	6	Land forming part of Works No. 6	<p>In October 2022 the Applicant arranged a meeting with the Affected Party to introduce the Project and explain their land requirements.</p> <p>In January 2023 Gateley Hamer engaged with the Affected Party in relation to survey access. A licence was signed in February 2023.</p>

(as Trustee of the Graypen Group SIPP) Simon John Coghlan Firbank House 36 Glasllwch View Newport NP20 3RJ (as Trustee of the Graypen Group SIPP)							<p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>Meetings were held in May and June 2023 so that the Applicant could provide the Affected Party with updates on the Project.</p> <p>In September 2023 the Applicant begun discussing Heads of Terms with the Affected Party to secure the rights required to construct and operate the Project.</p>
Elba Securities Limited Ogier House 44 The Esplanade St. Helier JE4 9WG	5/11, 5/12, 5/18, 5/20, 5/22, 6/6, 6/18	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent rights and temporary possession and use	Y	6	Land forming part of Works No. 6 Land outside Works areas but within Order limits and required for the scheme	<p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation. The Affected Party did not respond to any of the material.</p> <p>The Affected Party was sent follow up letters and calls were made regarding the above material. Although the Affected Party is registered in Jersey, correspondence has also been attempted to its UK division. Gateley Hamer have not received any response from the Affected Party or its UK division. Gateley Hamer continue to attempt to make contact in order to progress negotiations.</p>
Integrated Waste Management Limited 3 Sidings Court White Rose Way Doncaster DN4 5NU	5/18, 6/6, 6/18	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Permanent rights and temporary possession and use	Y	N/A	Land outside Works areas but within Order limits and required for the scheme	<p>Gateley Hamer called the Affected Person to discuss the project proposals, DCO timescales and how to appoint a surveyor.</p> <p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 the Applicant engaged with the Affected Party's Land Agent in relation to survey access.</p> <p>Negotiations between Gateley Hamer and the Affected Party are ongoing as regards access and any necessary rights to use and maintain the ditch adjoining the Affected Party's land</p>

Infinis Limited First Floor West 500 Pavillion Drive Northampton Business Park Northampton NN4 7YJ	5/18, 6/6, 6/16, 6/18	Part 1 (Category 1 – Lessee and Category 2 – Third Party Interest)	Permanent rights and temporary possession and use	Y	N/A	Land outside Works areas but within Order limits and required for the scheme	<p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In August 2023 Gateley Hamer notified the Affected Party's Land Agent that the Applicant wishes to acquire new permanent rights of access and drainage over plots that the Affected Party has an unregistered lease and rights over. It was confirmed to the Affected Party that there is no intention to interfere with their unregistered lease or rights and Gateley Hamer continue to pursue negotiations.</p>
Jackie Cook and Mark Cook 60 Kings Road Immingham DN40 1AN	7/1, 7/2	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.</p>
Alan James Cook and Sarah Jayne Cook 62 Kings Road Immingham DN40 1AN	7/1, 7/2, 7/3	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full</p>

							construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.
Amy Louise Everett 64 Kings Road Immingham DN40 1AN	7/1, 7/2, 7/3	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.</p>
DWH Estates Limited Northgate House Northgate Sleaford NG34 7BZ	7/5, 7/6, 7/11	Part 1 (Category 1 – Owner and Category 2 – Third Party Interest)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.</p>
Davis Wagon Services Limited Langwith Road Langwith Junction Mansfield NG20 9SA	7/5, 7/6	Part 1 (Category 1 – Lessee and Occupier and Category 2 – Third Party Interest)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p>

(in respect of leasehold HS400106)		Party Interest)					A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.
Fast-Herco Investments Limited The Chapel House Kings Road Immingham DN40 1QS	7/6, 7/7, 7/11	Part 1 (Category 1 – Owner)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.</p>
Colin Fredrick & Helen Marie Doy 94 Kings Road Immingham	7/7, 7/8, 7/11	Part 1 (Category 1 – Owner)	Temporary possession and use	Y	10	Land forming part of Works No. 10	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.</p>

<p>Girolama & Michael John Constable 96 Kings Road Immingham DN40 1QS</p>	<p>7/9, 7/10, 7/11</p>	<p>Part 1 (Category 1 – Owner)</p>	<p>Temporary possession and use</p>		<p>10</p>	<p>Land forming part of Works No. 10</p>	<p>In May 2023, Gateley Hamer engaged with the Affected Persons regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In May 2023 Gateley Hamer also explained details as to the requirement for temporary possession during limited periods of the Project construction.</p> <p>A letter was issued to the Affected Persons in September 2023 which outlined the proposed works to telecommunication lines in more detail. Due to the nature of the works and temporary possession Gateley Hamer have informed the Affected Persons that full details of the works and timescales cannot be provided until full construction plans are known but have undertaken to ensure they are kept informed as the Project progresses.</p>
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1.3 Table 2: Plots within the highway boundary over which rights are sought

Plot Number(s)	Description of rights sought	CA	Works Number(s)	Reason of Acquisition or Possession
4/17	Permanent rights and temporary possession and use	Y	4	Works to facilitate an underground culvert (Work No. 4) and utility tie-ins beneath Laporte Road.
5/11, 5/12, 5/20, 5/22, 5/30, 5/38, 6/14, 6/15	Permanent rights and temporary possession and use	Y	6	Works to facilitate an underground pipeline corridor beneath Kings Road (Work No. 6).
4/8, 4/22, 4/23, 5/37	Permanent rights in and temporary possession and use of subsoil	Y	2	Works to facilitate a jetty access road (Works No. 2) and utility tie-ins beneath Laporte Road.
7/12	Permanent rights in and temporary possession and use of subsoil	Y	N/A	Works to facilitate utility tie-ins beneath Kings Road.
3/2, 4/29, 4/30, 4/32	Temporary possession and use	Y	1	To facilitate construction works.
3/1, 4/24, 4/27	Suspend or interfere with private easements or rights only	Y	1	To facilitate construction works.

1.4 Table 3: Status of negotiations with Statutory Undertakers

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
Anglian Water Services Limited	5/11, 5/12, 5/13, 5/14, 5/18, 5/22, 6/18	Permanent rights and temporary possession and use	<p>In August 2022 the Applicant wrote to the Affected Party to introduce the Project, provide timelines and explain the consenting process. This letter also outlined the potential land interest status of the Affected Party and provided contact details for further information and next steps.</p> <p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p>
	5/19, 5/21, 5/40, 5/41, 5/42	Suspend or interfere with private easements or rights only	<p>In February 2023, in response to Statutory Consultation, the Affected Party confirmed to the Applicant that they have significant assets within the scheme boundary. They therefore highlighted the need for Protective Provisions to be agreed and attached a template for this. The applicant responded with confirmation that draft Protective Provisions have been prepared and are included within the draft DCO.</p> <p>In February 2023 the Affected Party recommended further discussions around the impact of the Project on their assets. In April 2023, a meeting was held with the Affected Party. Within this meeting, new connections, diversions and the protection of assets was discussed.</p> <p>Discussions are ongoing with the Affected Party regarding diversions. Protective Provisions, set out in the draft DCO [TR030008/APP/2.1] and the details of which are to be discussed further, will be used to protect all other assets set out in the Utilities Statement [TR030008/APP/7.7]. The detail of this protection has progressed and is to be agreed with the Affected Party.</p>
BT Limited	4/7, 4/16, 4/19, 5/39, 7/23	Permanent acquisition	<p>Between November 2022 and May 2023, the Applicant's Land Agent Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>Discussions are ongoing with the Affected Party regarding diversions. Protective Provisions, set out in the draft DCO [TR030008/APP/2.1] and the details of which are to be discussed further, will be used to protect all other assets set out in the Utilities Statement [TR030008/APP/7.7]. The detail of this protection is to be agreed with the Affected Party and will be shared at the appropriate time.</p>
	5/7, 5/8, 5/11, 5/12, 5/13, 5/22,	Permanent rights and temporary possession and use	

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
	5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/38, 6/16		
	4/23, 7/12	Permanent rights in and temporary possession and use of subsoil	
	4/32, 7/4, 7/6, 7/11	Temporary possession and use	
	4/1, 4/13, 4/15, 5/6, 5/21, 5/31, 7/13	Suspend or interfere with private easements or rights only	
Cadent Gas	5/10, 5/11, 5/12, 5/18, 5/20, 5/22, 6/6	Permanent rights and temporary possession and use	<p>In August 2022 the Applicant wrote to the Affected Party to introduce the Project, provide timelines and explain the consenting process. This letter also outlined the potential land interest status of the Affected Party and provided contact details for further information and next steps.</p> <p>Between November 2022 and May 2023, the Applicant's Land Agent Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p>

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
	7/12	Permanent rights in and temporary possession and use of subsoil	In February 2023, in response to Statutory Consultation, the Affected Party confirmed their assets within the scheme boundary to the Applicant. They highlighted the need for Protective Provisions to be agreed for retained assets and the provision of adequate notice / discussions around any necessary diversions. The Applicant responded with confirmation that they are in contact with the appropriate teams regarding existing easements, diversions and the protection of assets. As well as this, the Applicant confirmed that Protective Provisions will be developed alongside the Affected Party and submitted to the examination at the appropriate time.
	6/2, 6/5, 6/8, 6/10, 6/17, 7/13	Suspend or interfere with private easements or rights only	Discussion around Protective Provisions are ongoing and draft provisions are set out in the draft DCO [TR030008/APP/2.1] . Protective Provisions will be used to protect the assets set out in the Utilities Statement [TR030008/APP/7.7] . The detail of this protection is to be agreed with the Affected Party and will be shared at the appropriate time.
Network Rail	5/23, 5/24, 5/25, 5/27, 5/28, 5/29, 5/30, 5/32, 5/33, 5/34	Permanent rights and temporary possession and use	<p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In February 2023, in response to Statutory Consultation, the Affected Party outlined the requirement for Protective Provisions as well as easements / licencing agreements to install the proposed pipeline. The Affected Party also set out their position on the inclusion of their land within the DCO, indicating that they are prepared to discuss this if there is no impact on the operational railway. The Applicant then engaged in discussions with the Affected Party regarding asset protection and stated that a Statement of Common Ground, including details of Protective Provisions, will be developed alongside the Affected Party and submitted to the examination at the appropriate time.</p>
	5/26, 5/26, 5/31, 5/31	Suspend or interfere with private easements or rights only	<p>In August 2023 the Affected Party appointed a firm to act on their behalf to agree the Protective Provisions. They have issued a standard copy of their Protective Provisions and specific construction traffic requirements to the Applicant. The firm are also acting on behalf of the Affected Party to secure the necessary easements / licencing agreements for the pipeline. Discussion around Protective Provisions are ongoing and draft provisions are set out in the draft DCO [TR030008/APP/2.1].</p>

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
Northern Powergrid Limited	4/5 4/7, 4/16, 4/18, 4/19, 4/20, 4/21, 5/1, 5/3, 5/4, 5/36, 5/39, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20, 7/21, 7/22, 7/23	Permanent acquisition	<p>In August 2022 the Applicant wrote to the Affected Party to introduce the Project, provide timelines and explain the consenting process. This letter also outlined the potential land interest status of the Affected Party and provided contact details for further information and next steps.</p> <p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>The Applicant confirmed in January 2022 that a Statement of Common Ground will be developed with the Affected Party and submitted to the examination at the appropriate time.</p> <p>In May 2023 a meeting was held with the Affected Party. Within this meeting, new connections, diversions and the stopping up / removal of assets were discussed.</p> <p>Technical discussions are ongoing with the Affected Party regarding diversions and the stopping up / removal of assets. Protective Provisions, set out in the draft DCO [TR030008/APP/2.1], will be used to protect all other assets set out in the Utilities Statement [TR030008/APP/7.7] and will be the subject of discussions. The detail of this protection is to be agreed with the Affected Party and will be shared at the appropriate time.</p>
	4/17, 5/7, 5/8, 5/11, 5/12, 5/13, 5/18, 5/20, 5/22, 5/38, 6/6, 6/14, 6/15,	Permanent rights and temporary possession and use	

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
	6/16, 6/18		
	4/8, 4/22, 4/23, 5/37, 7/12	Permanent rights in and temporary possession and use of subsoil	
	4/1, 4/12, 4/13, 5/2, 5/5, 5/6, 5/9, 5/41, 5/42, 5/43, 5/44, 6/1, 6/2, 6/3, 6/4, 6/5, 6/7, 6/8, 6/10, 6/11, 6/12, 6/13, 6/17, 7/13, 7/14	Suspend or interfere with private easements or rights only	

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
Virgin Media	4/5, 5/39	Permanent acquisition	<p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>In June 2023 the Affected Party contacted the Applicant to highlight it was the Applicants duty to ensure that no equipment is damaged as a result of the proposed works. The Affected Party also noted that apparatus may contain Fibre Optic, Coaxial and/or 240v Power Cables and as such, special care must be taken when excavating.</p>
	5/7, 5/8, 5/11, 5/12, 5/38, 6/14, 6/15	Permanent rights in subsoil and temporary possession and use of surface	<p>Protective Provisions, set out in the draft DCO [TR030008/APP/2.1], will be used to protect the assets set out in the Utilities Statement [TR030008/APP/7.7] and will be subject to discussions. The detail of this protection is to be agreed with the Affected Party and will be shared at the appropriate time.</p>
	4/8, 5/37, 7/12	Permanent rights in and temporary possession and use of subsoil	
	7/4, 7/5, 7/7, 7/8, 7/9	Temporary possession and use	
	7/13	Suspend or interfere with private easements or rights only	

Affected Person - Contact Name/ Organisation	Plot Number(s)	Description of rights sought	Status of negotiations/objection (where relevant)
Environment Agency	3/2 4/29 4/30 4/32	Temporary possession and use	<p>Between November 2022 and May 2023, Gateley Hamer engaged with the Affected Party regarding Land Interest Questionnaires and Statutory Consultation.</p> <p>Since January 2023 several meetings have been held to discuss the technical design of the proposed jetty. This has enabled the project team to refine the design in order to address concerns raised by the EA. This includes the development of an access ramp as part of the jetty design to enable ongoing maintenance of the sea wall.</p> <p>Technical discussions are ongoing with the Affected Party. Protective Provisions, set out in the draft DCO [TR030008/APP/2.1], will be used to protect their infrastructure. The detail of this protection and the protective provisions is to be agreed with the Affected Party.</p>
	3/1	Suspend or interfere with private easements or rights only	

