



Immingham Green Energy Terminal

9.15 Draft Statement of Common Ground between
Associated British Ports, Air Products (BR) Limited and the
Health and Safety Executive

Infrastructure Planning (Examination Procedure) Rules 2010
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Status of the Statement of Common Ground

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

On Behalf of Associated British Ports

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

On Behalf of Air Products

| | |
|--------------|---------------------|
| Name | [REDACTED] |
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| Organisation | Air Products |
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1 Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared to accompany an application made to the Secretary of State for Transport (the Application”) under section 37 of the Planning Act 2008 (“PA 2008”) for a development consent order (“DCO”) to authorise the construction and operation of the proposed Immingham Green Energy Terminal (“the Project”).
- 1.2 The Application is submitted by Associated British Ports (ABP). ABP was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-210]** provides further information on ABP as the Applicant.
- 1.3 The Project as proposed by ABP falls within the definition of a Nationally Significant Infrastructure Project (“NSIP”) as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

- 1.4 ABP is seeking to construct, operate and maintain the Immingham Green Energy Terminal, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the “Port”).
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited (“Air Products”). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the UK’s net zero agenda by helping to decarbonise the United Kingdom’s (UK) industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Chapter 2: The Project** of the Environmental Statement (“ES”) **[APP-044]**. The hydrogen production facility will require hazardous substance consent and includes a number of major accident hazard pipelines.

Parties to this Statement of Common Ground

- 1.7 This SoCG has been prepared by (1) ABP (as the Applicant), (2) Air Products and (3) The Health and Safety Executive (HSE).
- 1.8 ABP is the promoter of the Project and the owner and operator of the Port of Immingham.
- 1.9 Air Products is to be the first user of the new terminal with the construction and operation of its green hydrogen production facility.
- 1.10 HSE is a statutory non-departmental public body with Crown status sponsored by the Department for Work & Pensions. HSE is a statutory consultee for all NSIPs in England, providing public safety advice. As set out in Planning Inspectorate’s Advice Note Eleven: Working with public bodies in the infrastructure planning process, the two main considerations for HSE in regard to NSIPs are:

- (a) Does the proposed development have the potential to cause a major accident e.g. does the development require a hazardous substances consent, will it be within scope of the Control of Major Accident Hazards (COMAH) Regulations or could the development impact on a COMAH site; and
- (b) Is the proposed development vulnerable to potential major accidents e.g. is it within a consultation zone around a major hazard site or pipeline?

1.11 In this SoCG, ABP, Air Products and HSE are collectively referred to as “the Parties”.

Purpose and Structure of this Document

- 1.12 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the examination so as to assist the Examining Authority in its consideration of the Application.
- 1.13 In preparing this SoCG, the guidance provided in ‘Planning Act 2008: examination of application for development consent’ (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority’s **Rule 6 letter [PD-005]**.
- 1.14 Section 1 of this SoCG provides a general introduction to the Project and to the Parties.
- 1.15 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the Parties to date.
- 1.16 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.17 The Tables in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:
 - (a) Green – matter agreed;
 - (b) Orange – matter ongoing; and
 - (c) Red – matter not agreed.

2 Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP, Air Products and HSE up to the date of this SoCG in relation to the Project generally and concerning the matters raised in this SoCG specifically is presented in Table 2-1 .
- 2.2 It is agreed by the Parties to this SoCG that Table 2-1 is an accurate record of the meetings and key correspondence between the Parties.

Table 2-1 – Record of Engagement

| Date | Form of Contact | Summary with key outcomes and points of discussion |
|-------------------------------|--|---|
| 15 August 2022 | MS Teams: Initial Meeting | Introduction to Project; overview of ammonia storage tank design Regarding possible hazardous substances consent (HSC), land use planning zones (LUP) impacts. |
| 10 October 2022 | An Environmental Impact Assessment (EIA) Scoping Opinion was adopted by the Secretary of State | HSE was a consultee at EIA Scoping stage. HSE did not provide a response to the Planning Inspectorate at EIA Scoping stage. |
| October 2022 | MS Teams meeting | Request HSE review tank design in the context of COMAH Presentation of Project and discussion on tank design |
| 5 December 2022 | MS Teams meeting | Project update and follow up on design review requests. (HSE CEMHD7) |
| 9 January to 20 February 2023 | First Statutory Consultation on proposed DCO application | HSE was consulted by ABP as part of the First Statutory Consultation. |
| 17 February 2023 | HSE response to First Statutory Consultation | HSE provided their response to the First Statutory Consultation. The response noted that a Hazardous Substance Consent application would be made to North East Lincolnshire Council (NELC) and it is through this process that HSE would provide its statutory advice. HSE also indicated that it expected Air Products would make a COMAH notification and provide a pre-construction safety report in due course. |
| 17 March 2023 | MS Teams meeting attendees from Air products and HSE | <ul style="list-style-type: none"> • Project Overview • Discussion on advance COMAH notification support • Discussion on Ammonia Tank design |

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| Date | Form of Contact | Summary with key outcomes and points of discussion |
|-----------------------------|---|---|
| | | <ul style="list-style-type: none"> • COMAH application timing • Requested feedback from HSE |
| 30 March 2023 | Hazardous substance consent application was submitted to NELC, validated on 5 April 2023 | NELC subsequently undertook public consultation on the Hazardous Substances Consent application and sought HSE advice. As a statutory consultee on the application NELC reference DM/0088/23/HS |
| 5 April 2023 | COMAH notification was submitted to the HSE under COMAH Regulation 6: Notifications and acknowledgment letter received 12 July 2023 | |
| 24 May 2023 to 20 July 2023 | Second Statutory Consultation on proposed DCO application | HSE was consulted by ABP as part of the Second Statutory Consultation. |
| 13 June 2023 | HSE response to Second Statutory Consultation | HSE responded to the Second Statutory Consultation confirming their advice remained as per their response to the First Statutory Consultation and that they had no further comments to make. |
| 24 July 2023 | Major hazard pipeline notification was submitted to HSE via HSE portal, acknowledged by HSE | |
| 25 Oct 2023 | MS Teams meeting | <p>Topic - hazardous substance consent application DM/0088/23/HS</p> <p>The Air Products team presented the full project and details of the hydrogen production facility scope along with key safety considerations and proposed mitigation. The HSE requested additional technical clarifications (see entry for meeting on 8 November 2023 where Air Products provided these clarifications).</p> |
| 08 Nov 2023 | Email correspondence | <p>Topic - hazardous substance consent application DM/0088/23/HS</p> <p>Technical notes and drawings addressing all points raised in the meeting on the 25 October 2023 were provided to HSE and discussed.</p> |

| Date | Form of Contact | Summary with key outcomes and points of discussion |
|------------------|---|---|
| | | No comments were received from HSE on the technical notes provided. |
| 23 Nov 2023 | MS Teams meeting | <p>To review DCO input required from HSE.</p> <p>To confirm HSE can move forward their advice on the Hazardous Substance Consent application. DM/0088/23/HS</p> <p>Key outcomes:</p> <p>Meeting arranged with all key HSE and competent authority stakeholders on 11 December 2023.</p> <p>HSE indicated they do not sign up to Statements of Common Ground in connection with DCO applications and confirmed this is their position on the Project.</p> |
| 24 November | Email from HSE Land Use Planning Team, Bootle | Informing that, for the Hazardous Substance Consent Application - DM/0088/23/HS, HSE has added the application to their queue and confirmed they would allocate an assessor no earlier than 22 February 2024. |
| 11 December 2023 | In person and MS Teams hybrid meeting | <p>Topic covered were:</p> <ul style="list-style-type: none"> • Project update. • Application of COMAH. • CA's expectations re COMAH and associated timings (the CA or Competent Authority for the purposes of COMAH being the Environment Agency and HSE jointly). • Co-ordination internally (HSE and Environment Agency) and with Air Products re COMAH, PSR, DCO, Hazardous Substance Consent application DM/0088/23/HS, net zero hub • Roles, responsibilities and points of contact. • Key issues for Air Products and ABP: <ul style="list-style-type: none"> ○ Understanding information requirements of HSE/Environment Agency to undertake their evaluations and timescales for feedback. ○ Agreement / fixing of tank design, and other key design basis for example for pipelines as capital commitments are being made. ○ As far as possible alignment on DCO application approach. • Familiarisation site visit to the proposed landside development location was conducted <p>Key outcomes</p> <ul style="list-style-type: none"> • HSE and Air Products single point of contacts established. Formal COMAH preconstruction pre receipt meeting to be held end January 2024. |

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| Date | Form of Contact | Summary with key outcomes and points of discussion |
|-----------------|------------------|--|
| 29 January 2024 | MS Teams meeting | <p>Formal Pre-Construction Safety Report - Pre-receipt Meeting: Air Products, ABP and CA.</p> <p>Objective - CA and Air Products to reach agreement upon:</p> <ol style="list-style-type: none"> 1. The scope and depth of the safety report content required. 2. Expectation of how the content and any necessary supporting information will be presented in the report. 3. Timetable for submission of the safety report. 4. Method of submission. <p>Summary of meeting:</p> <p>ABP and Air Products provided an overview of the Project, the establishment and what makes it subject to COMAH Regulations.</p> <p>Details of any neighbouring establishments – including any potential domino effects.</p> <p>The legal rationale to be provided by Air Products for proposing that the terminal be considered as a single ‘establishment’ as defined by COMAH Regulations.</p> <p>CA Assessors reviewed expectations of the safety report in terms of the required content and shared the applicable assessment criteria and guidance.</p> <p>Agree Submission Date and a rolling submission approach.</p> <p>Dealing with Requests for Information and exclusions of information set out in Regulation 19(1) of the COMAH Regulations 2015.</p> <p>Outcomes:</p> <ul style="list-style-type: none"> • Air Products to submit Pre-construction safety report at end of March or first week of April 2024. Submission date nominally set for 5 April 2024. • For this safety report, the CA aims to have communicated the conclusions from its examination of the safety report within 3 months, but this timescale may be adjusted to suit its complexity. • The CA may conclude the assessment report and provide Air Products with a ‘Revision Plan’, in doing so the CA would make arrangements to explain the basis for the revision plan and the requirements of it. |

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| Date | Form of Contact | Summary with key outcomes and points of discussion |
|-----------------|-----------------|---|
| | | <ul style="list-style-type: none"> • Air Products to send address of establishment for processing (COMAH notification includes a grid reference number) [complete]. • Air Products to formalise a request for engagement with HSE's Energy Division on pipeline design [received at time of writing]. • Ongoing dialogue between operator (Matt Evans) and CIM (John Boyle) will be facilitated in anticipation of safety report submission [Ongoing]. |
| 8 February 2024 | Email AP to HSE | Providing Air Product's rationale for treating the hydrogen production facility as one establishment under COMAH. |

3 Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that the record of engagement included in the **Consultation Report [APP-022]** submitted with the Application, accurately sets out the consultation and engagement undertaken between the Parties in relation to the Application. In particular, the following chapters are of relevance:
- 3.1.1 Chapter [4]; First Statutory Consultation - HSE was consulted as part of ABP's statutory obligations.
- 3.1.2 Chapter [5]; Second Statutory Consultation - HSE was consulted by ABP as part of their statutory obligations.
- 3.1.3 Chapter [6]; Hazardous Substance Consent - an application for Hazardous Substance Consent was submitted to North East Lincolnshire Council (NELC) on 30 March 2023, the HSE was consulted as part of this process.
- 3.2 Table 3-1 contains a list of 'matters agreed' (shaded green); a list of matters in respect of which discussion is ongoing (shaded orange) and a list of matters not agreed (shaded red) at the date of the Examination along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

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

| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|----------------|---|-------------------------------|---|---|------------------------|--------------------|------|
| General | | | | | | | |
| G1 | Stakeholder Engagement | Consultation Report [APP-022] | HSE confirms ABP's record of engagement as set out in the Consultation Report [APP-022] and Table 2-1 of this SoCG is accurate. | ABP confirms the record of engagement as set out in the Consultation Report and Table 2-1 of this SoCG is accurate. | As per ABP position. | Discussion ongoing | |
| G2 | Stakeholder Engagement: Statutory Consultations | Consultation Report [APP-022] | | ABP's response to the HSE feedback on the First and Second Statutory Consultations is presented in Appendix P of the Consultation Report. ABP's responses were informed by ongoing engagement with the HSE as detailed in Table 2-1 of this SoCG. | As per ABP position. | Discussion ongoing | |

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| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|--------------------------|--|--|--|----------------------------------|--|--------------------|------|
| G3 | Stakeholder Engagement: No objection to principle of proposed development. | Relevant Representation [RR-011] section | The HSE has no objection to the principle of the proposed development, as submitted. | ABP welcomes the HSE's position. | As per ABP position. | Agreed | |
| Land Use Planning | | | | | | | |
| L1 | Risk to Neighbouring Populations | 6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] 6.2 Environmental Statement - Chapter 3: Need and Alternatives [APP-045] Relevant Representation [RR-011] section 13 | Certain residential properties at Queens Road (1-5, 6-7 (upper floor flat), 8 (upper floor flat), 18 and 31) lie near the proposed hydrogen production facility on the West Site (the "Queens Road Properties"). HSE notes the position of Air Products as stated in the DCO application. Please see L3. | As per Air Products Position. | Air Products are seeking to acquire the Queens Road Properties through agreement and have acquired 1, 2 and 31 Queens Road at the date of this [draft] SoCG. This is because these residential properties are expected to lie within the inner zone once HSE confirm the final land use planning zones for the hydrogen production facility in association with the application for hazardous substances | Discussion ongoing | |

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| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|----|--------|-----------|--------------------------------------|--------------|---|--------|------|
| | | | | | <p>consent (see L3). Powers of compulsory acquisition are sought in the DCO. A requirement of the DCO is also proposed such that (a) prior to operation of the hydrogen production facility, Air Products will give notice to the local planning authority that it has taken possession of all the Queens Road Properties and will confirm that the residential use of the properties has ceased and (b) from the date of such notice, the properties will not be used for residential purposes for so long as any part of Work No. 7 is in operational use. Compliance with this requirement would address the non-tolerable risk to the identified neighbouring population.</p> | | |

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| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|----|---|---|--|-------------------------------|--|--------------------|------|
| L2 | Risk to Neighbouring Industrial and COMAH sites | Relevant Representation [RR-011] section 2,8 6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] | This Nationally Significant Infrastructure Project falls into the consultation zone of several Major Accident Hazard Sites ['MAH'] and these sites should be consulted | As per Air Products position. | Air Products agrees that the site boundary falls into the consultation zone of several Major Accident Hazard sites. Air Products and ABP have been in touch with neighbours and specifically operators of the identified MAH sites as part of the statutory consultation undertaken before submission of the DCO application. The existence of these sites has been taken into account in assessing the likely significant effects of the Project in relation to a possible major accident, as covered in ES Chapter 22 [APP-064]. The consultation is documented in the consultation report. Consultation with neighbours will also | Discussion ongoing | |

| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|----|-----------------------------|--|--|--------------------------------|---|---------------------------|------|
| | | | | | <p>continue as part of the COMAH process.</p> <p>Air Products and ABP have ongoing discussions with nearby COMAH sites where the potential for domino effect has been identified.</p> | Discussion ongoing | |
| L3 | Hazardous substance consent | Relevant Representation [RR-011] section 5 | <p>The HSE highlighted the need for hazardous substances consent ['HSC'] for the substances proposed to be stored.</p> <p>HSE has reviewed the Hazardous Substance consent Application DM/0088/23/HS - HSE and has added this application to their queue and HSE would allocate an assessor no earlier than 22/2/24.</p> <p>As set out in the relevant rep HSE advice will be used by NELC to take a decision on the</p> | As per Air Products' Position. | <p>The hazardous substance consent application was submitted to NELC by Air Products on 30 March 2023 and validated on 5 April 2023. Air Products received notification on 22 November 2023 that the HSE are proceeding with the public safety risk assessment.</p> | | |

| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|--------------|----------------------|--|--|-------------------------------|--|---------------------------|------|
| | | | hazardous substance consent and to subsequently update the composite COMAH land use planning zones. | | | | |
| COMAH | | | | | | | |
| C1 | COMAH establishment | 6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] | | As per Air Products position | Air Products have submitted their rationale for treating the facility as one establishment under COMAH. | Discussion ongoing | |
| C2 | Application of COMAH | 6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] 6.2 Environmental Statement - Chapter 3: Need and | HSE agrees that the development will be a higher tier COMAH site and has advised Air Products accordingly regarding the COMAH process. CA aims to have communicated the conclusions from its examination of the safety report within 3 months from receipt, | As per Air Products position. | The hydrogen production facility will be an "upper tier" facility pursuant to the COMAH Regulations. The facility will be constructed to meet "ALARP" requirements. Air Products will submit a pre-construction safety | Discussion ongoing | |

| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|--|---------------------------------|--|---|--------------------------------------|--|----------------------------------|------|
| | | <p>Alternatives [APP-045]</p> <p>Relevant Representation [RR-011] section 16, 17,18</p> <p>COMAH pre construction safety report meeting.</p> | <p>but this timescale may be adjusted to suit its complexity</p> | | <p>report AP at end of March or 1st week in April 2024.</p> <p>Submission date nominally set for 5 April 2024.</p> <p>These documents are confidential and will not be submitted to the examination of the Project.</p> | | |
| Major Accident hazard Pipelines | | | | | | | |
| P1 | Major accident hazard pipelines | <p>Relevant Representation [RR-011] sections 2,5 and 6</p> | <p>This Nationally Significant Infrastructure Project is close to consultation zones of a Major Accident Hazard Pipelines ['MAHP'].</p> | <p>As per Air Products Position.</p> | <p>Air Products have been in dialogue with Cadent Gas about the major accident hazard pipeline and possible impacts arising from the Project. The parties have agreed that the pipeline can be safely maintained within the Project area and will be addressed through appropriate Protective Provisions</p> | <p>Discussion ongoing</p> | |

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| ID | Matter | Reference | Health and Safety Executive Position | ABP Position | Air Product's Position | Status | Date |
|----|---------------------------------|-----------|--------------------------------------|--------------------------------|---|---------------------------|------|
| | | | | | in the draft DCO which are currently being negotiated. | Discussion ongoing | |
| P2 | Major accident hazard pipelines | | | As per Air Products' Position. | <p>Major hazard pipeline notification was submitted to HSE by email on 24 July 2023.</p> <p>Pipeline designed to relevant standards and meeting ALARP (As low as reasonably practicable).</p> <p>Any observations or actions that come out of the detailed review will be resolvable.</p> | | |

4 Glossary¹

| Abbreviation / Acronym | Definition |
|-------------------------------|---|
| ABP | Associated British Ports |
| ALARP | As low as reasonably practicable |
| COMAH | Control of Major Accident Hazards |
| DCO | Development Consent Order |
| EIA | Environmental Impact Assessment |
| ES | Environmental Statement |
| HSC | Hazardous Substances Consent |
| LUP | Land Use Planning zones |
| MAH | Major Accident Hazard Sites |
| MMO | Marine Management Organisation |
| NELC | North East Lincolnshire Council |
| NSIP | Nationally Significant Infrastructure Project |
| PA 2008 | Planning Act 2008 |
| PINS | Planning Inspectorate |
| SoCG | Statement of Common Ground |
| SoS | Secretary of State for Transport |
| UK | United Kingdom |

¹ To be reviewed and updated as necessary.