



Immingham Green Energy Terminal

9.21 Draft Agreed Statement of Common Ground between
Associated British Ports, Air Products (BR) Limited and
Historic England (Tracked)

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Version History

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



Status of the Statement of Common Ground

Associated British Ports, Air Products (BR) Limited and Historic England agree 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	Sustainable Development Manager
Organisation	Associated British Ports
Signature	[REDACTED]

On Behalf of Air Products (BR) Limited

Name	[REDACTED]
Position	Commercial Director
Organisation	Air Products
Signature	[REDACTED]

On Behalf of HISTORIC ENGLAND (HBMCE)

<u>Name</u>	[REDACTED]
<u>Position</u>	<u>Team Leader (Development Advice)</u>
<u>Organisation</u>	<u>Historic England (HBMCE)</u>
<u>Signature</u>	[REDACTED]
<u>Date</u>	<u>29th April 2024</u>

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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-010]** 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 Project, 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 United Kingdom’s (“UK’s”) net zero agenda by helping to decarbonise the UK’s industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in Environmental Statement (“ES”) Chapter 2: The Project [APP-044].

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) Historic England.
- 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 of its green hydrogen production facility.
- 1.10 Historic England was established under the National Heritage Act 1983 and is the lead body for the heritage sector and the Government’s principal adviser on the historic environment. It is a statutory consultee on all NSIPs. Historic England administers the consent system for Scheduled Monument Consent on behalf of its sponsoring department the Department for Digital, Culture, Media and Sport (“DCMS”), and also advises DCMS who acts on behalf of Government as State Party on meeting and complying with the requirements of the 1972 Convention Concerning the Protection of the World Cultural and National Heritage.

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1.11 In this SoCG, ABP, Air Products and Historic England 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]**.

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1.14 Section 1 of this SoCG is designed to act as a general introduction to the Project and to the parties concerned.

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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.
- (c) Red – matter not agreed.

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2. Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP, Air Products and Historic England, 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
Pre-application		
August 2022	Scoping Report	<p>Historic England were consulted in respect of a request made by ABP for an EIA Scoping Report for the Project.</p> <p>The response by Historic England on 13 September 2022 outlined that Historic England were in general agreement regarding the content of the Scoping Report. Historic England stated that it was important to make sure that the area of the terrestrial and maritime heritage assessments abut or overlap so that no assets are missed and the setting of assets can be assessed as a whole.</p> <p>Historic England stated that the development could, potentially, have an impact upon a number of designated and non-designated terrestrial and maritime heritage assets and their settings in the area around the site. In line with the advice in the National Planning Policy Framework (NPPF), Historic England would expect the Environmental Statement to contain a thorough assessment of the likely effects which the proposed development might have upon those elements which contribute to the significance of these assets.</p> <p>Historic England outlined that they would expect the assessment to clearly demonstrate that the extent of the proposed study area is of the appropriate size to ensure that all heritage assets likely to be affected by this development have been included and can be properly assessed.</p> <p>Historic England highlighted that section drawings and photomontages would be a useful part of the assessment. The likelihood of alterations to drainage patterns should also be considered as this may lead to in situ decomposition or destruction of below ground archaeological remains and deposits, and the subsidence of buildings and monuments. Historic England strongly recommended that the Historic Environment Officers at North and North East</p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
		Lincolnshire Councils were involved in the development of the assessment.
December 2022 – February 2023	Statutory Consultation (PEIR)	<p>Historic England outlined that they considered it premature to conclude environmental impacts in respect of marine and/or terrestrial archaeology.</p> <p>Historic England noted the submitted Written Scheme of Investigation for terrestrial works but stated that this did not present the investigations proposed within a coherent staged strategy that would allow investigations and survey to effectively inform deposit modelling and mitigation through further intrusive investigations, supervision and recording, etc.</p> <p>Historic England also stated that the strategy presented appeared to unduly compress this [fieldwork] process thereby potentially undermining the management of archaeological and project risks.</p> <p>Historic England stated that the Written Scheme of Investigation was not written by the actual contractors and therefore it would be regarded as an archaeological strategy.</p> <p>Historic England reiterated the point made during scoping that it was important to regard the divide between marine and terrestrial.</p> <p>Historic England stated that it appeared premature to cap the potential impact of capital dredging before marine surveys were complete, since only with a sound understanding of the resource potential can mitigation through exclusion areas, depth limits and excavation be modelled.</p>
May – July 2023	Second Statutory Consultation	<p>Historic England noted that additional information provided gave a greater degree of certainty regarding potentially sensitive peat deposits.</p> <p>The response stated that with regards to the Ground Investigations (“GI”) in the marine environment Historic England were uncertain about the impact on any unknown wrecks. However, if the applicant was confident that—based on the data they had gathered through marine geophysical surveys—it can undertake this work whilst avoiding impacts on historic environment assets, then Historic England had no objection to the approach set out.</p>
Post- DCO Submission		
1 December 2023	Email exchange	AECOM contacted Historic England asking for a meeting to discuss the SoCG process.

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Date	Form of Contact	Summary with key outcomes and points of discussion
12 December 2023	Email exchange	Follow up email from AECOM to Historic England asking for a meeting to discuss the SoCG process.
12 January 2024	Email exchange	Aecom contacted Historic England asking to progress discussions on the draft SoCG.
12 January 2024	Email exchange	Historic England responded and confirmed a simple approach should be taken to the SoCG and that they were happy to receive a draft SoCG to review.
20 February 2024	Email exchange	Aecom shared a first draft of the SoCG with Historic England and asked Historic England to review and provide comments.
28 February 2024	Email exchange	Historic England provided their comments to Aecom on the draft SoCG.
5 March 2024	Email exchange	Aecom provided an <u>second</u> draft SoCG to Historic England and asked if Historic England would sign the draft SoCG.
<u>23 April 2024</u>	<u>Email exchange</u>	<u>Aecom shared a third draft of the SoCG with Historic England and asked Historic England to review and provide comments.</u>
<u>29 April 2024</u>	<u>Email exchange</u>	<u>Historic England agreed with the third draft of the SoCG and returned a signed copy.</u>

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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 sets out the consultation and engagement undertaken between the Parties in relation to the Application. In particular, the following ES chapters are relevant:

- Chapter 14: Historic Environment (Terrestrial) **[APP-056]**
- Chapter 15: Historic Environment (Marine) **[APP-057]**

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).

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

ID	Matter	Reference	ABP Position	Air Products Position	Historic England Position	Status	Date
1	Stakeholder engagement	<u>Consultation Report [APP-022]</u> Relevant Representation <u>[RR-012]</u>	ABP confirms the record of engagement as set out in the Consultation Report <u>[APP-022]</u> and Table 2 of this SoCG is accurate.	As per ABP position.	Historic England confirms ABP's record of engagement as set out in the Consultation Report <u>[APP-022]</u> and Table 2 of this SoCG is an accurate reflection of ongoing dialogue. We have had constructive engagement with ABP to date as noted in our Relevant Representation.	Agreed	29 April 2024
2	Methodology for EIA Data Collection Methods Baseline Data Assumptions Assessment of Alternatives Design Development Identification and Sensitivity of Relevant Features and Receptors	<u>Examining Authority's Rule 6 Letter [PD-005]</u>	ABP confirms that there are no issues with regards to these matters, excepting those highlighted in the rows below, which have been raised by Historic England.	As per ABP position.	Historic England confirms that they have only identified issues with regards to the matters highlighted in the rows below.	Agreed	28 February 2024

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Deleted: PINS Rule 6 Letter [PD-005]

ID	Matter	Reference	ABP Position	Air Products Position	Historic England Position	Status	Date
	Assessment of potential impact during construction and operation Proposed embedded and additional mitigation measures Cumulative effect and any additional mitigation						
3	The assessment of impacts upon potentially sensitive peat deposits which may span the shoreline.	Relevant Representation [RR-012] 6.2 Environmental Statement - Chapter 15: Historical Environment (Marine) [APP-057] 6.4 Environmental Statement Appendices - Appendix 15.B: Outline Marine	ABP confirm that, With regards to marine geoarchaeology (i.e. appropriate consideration of peat deposits and palaeolandscape features below Mean High Water Springs (and those which may span the shoreline) , appropriate mitigation strategies have been proposed by the Applicant, in line with the proposals as set out in the Outline Marine Written Scheme of Investigation (“Marine WSI”)	As per ABP position	Historic England 28/02/24 - Scientific dating and preservation assessment of peat deposits will provide a baseline against which impacts can be assessed, minimised and mitigated. The earlier this work is thoroughly completed the more effectively it can be used to manage archaeological and project delivery risks going forwards. See:-	Agreed,	29 April 2024

Deleted: ABP confirm that with regards to the terrestrial geoarchaeology ‘impacts upon potentially sensitive peat deposits and similar (which may span the current shore line)’, the Applicant has agreed with the North East Lincolnshire Council that no further archaeological fieldwork is required on these deposits. Further (laboratory) analysis of the peat and organic alluvium collected by the recent geoarchaeological evaluation will, however, be undertaken to mitigate against direct impact of the Project on these underlying deposits (as outlined within the Outline Construction Environmental Management Plan [APP-221] as secured by a requirement of the draft Development Consent Order.¶

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ID	Matter	Reference	ABP Position	Air Products Position	Historic England Position	Status	Date
		Archaeological Written Scheme of Investigation [APP-204] 6.5 Outline Construction Environmental Management Plan [REP2-004] 2.1 Draft Development Consent Order [REP1-016]	[APP-204] . The Marine WSI would include the general provision for geoarchaeological assessment on any future boreholes (to be extracted using a methodology that allows intact samples to be extracted). Agreement with Historic England on the final form of the Marine WSI will be obtained prior to construction phase commencement, in accordance with Condition 13 of the Deemed Marine Licence set out in Schedule 3 of the draft Development Consent Order [REP1-016] .		https://historicengland.org.uk/imag-ages-books/publications/preserving-archaeological-remains/ and https://historicengland.org.uk/imag-ages-books/publications/radiocarbon-dating-chronological-modelling/		
4	The assessment of unknown wrecks in the marine environment	Relevant Representation [RR-012] 6.4 Environmental Statement Appendices - Appendix 15.B: Outline Marine Archaeological Written Scheme of	ABP confirm that with regards to 'interaction with unknown wrecks etc in the marine environment', appropriate mitigation strategies have been proposed by the Applicant, in line with the proposals as set out in the Outline Marine Written Scheme of Investigation ("Marine WSI") [APP-204] , Agreement with Historic	As per ABP position	Noted.	Agreed,	29 April 2024

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ID	Matter	Reference	ABP Position	Air Products Position	Historic England Position	Status	Date
		Investigation [APP-204] <u>2.1 Draft Development Consent Order [REP1-016]</u>	England on the final form of the Marine WSI will be obtained prior to construction phase commencement, in accordance with Condition 13 of the Deemed Marine Licence set out in Schedule 3 of the draft Development Consent Order [REP1-016] .				
5	Reporting, archiving and the dissemination of results with regards to matters 3 and 4 (marine environment).	Relevant Representation [RR-012] 6.4 Environmental Statement Appendices - Appendix 15.B: Outline Marine Archaeological Written Scheme of Investigation [APP-204] <u>2.1 Draft Development Consent Order [REP1-016]</u>	ABP confirm that with regards to reporting, archiving and the dissemination of results, for matters 3 and 4 above (marine environment), proposals are set out in the Outline Marine Written Scheme of Investigation ("Marine WSI") [APP-204] , Agreement with Historic England on the final form of the Marine WSI will be obtained prior to construction phase commencement, in accordance with Condition 13 of the Deemed Marine Licence set out in Schedule 3 of the draft Development Consent Order [REP1-016] . The final form of the Marine WSI will include methods agreed with Historic England	As per ABP position	Noted.	<u>Agreed</u>	<u>29 April 2024</u>

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ID	Matter	Reference	ABP Position	Air Products Position	Historic England Position	Status	Date
			including; reporting, archive and dissemination, which will inform subsequent phases of work, if these are deemed necessary in consultation with Historic England.				
6	Draft Development Consent Order	2.1 Draft Development Consent Order [REP1-016]	ABP acknowledges that Historic England have no amendments to the draft DCO [REP1-016] .	As per ABP position.	No changes are sought by Historic England in relation to the draft DCO.	Agreed	29 April 2024

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~~Deleted: 2.1 Draft Development Consent Order [APP-006]~~

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4. Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
CEMP	Construction Environmental Management Plan
DCMS	Department for Digital, Culture, Media and Sport
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
GI	Ground Investigation
LPA	Local Planning Authority
NPPF	National Planning Policy Framework
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PAD	Protocol for Archaeological Discoveries
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
UK	United Kingdom
WSI	Written Scheme of Investigation