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Immingham Green Energy Terminal

9.22 Draft Agreed Statement of Common Ground between
Associated British Ports and the Corporation of Trinity
House (Tracked)

Infrastructure Planning (Examination Procedure) Rules 2010
Volume 9

May 2024

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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>



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Status of the Statement of Common Ground

ABP and the Corporation of Trinity House 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 the Corporation of Trinity House

Name	[REDACTED]
Position	Senior Advisor (Legal & Data Protection)
Organisation	Trinity House
Signature	[REDACTED]

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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) and (2) the Corporation of Trinity House.
- 1.8 ABP is the promoter of the Project and the owner and operator of the Port of Immingham.
- 1.9 The Corporation of Trinity House of Deptford Strond (“Trinity House”) is a charity dedicated to safeguarding shipping and seafarers, providing education, support and welfare to the seafaring community with a statutory duty as a General Lighthouse Authority to deliver a reliable, efficient and cost-effective aids to navigation service for the benefit and safety of all mariners.
- 1.10 In this SoCG, ABP and Trinity House are collectively referred to as “the Parties”.

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Purpose and Structure of this Document

- 1.11 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.
- 1.12 In preparing this SoCG, the guidance provided in Planning Act 2008: examination of application for development **consent** (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority’s Rule 6 letter **[PD-005]**.
- 1.13 Section 1 of this SoCG is designed to act as a general introduction to the Project and to the parties concerned.
- 1.14 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.15 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.
- 1.16 The Tables in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:
 - (a) Green – matter agreed
 - (b) Orange – matter ongoing
 - (c) Red – matter not agreed

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2 Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP and Trinity House 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		
10 October 2022	EIA Scoping Opinion was adopted by the Secretary of State	Trinity House was consulted at the EIA Scoping stage by the Planning Inspectorate.
9 January to 20 February 2023	First Statutory Consultation	Trinity House was consulted by ABP as part of the First Statutory Consultation.
24 May 2023 to 20 July 2023	Second Statutory Consultation	Trinity House was consulted by ABP as part of the Second Statutory Consultation.
Post-Submission		
22 December 2023	Email Correspondence	ABP shared a first draft of the SoCG with Trinity House for their review.
25 January 2024	Email Correspondence	Email exchange between ABP legal team and Trinity House legal team providing comments from Trinity House on the draft DCO ("dDCO") .
12 February 2024	Email Correspondence	Updated text in SoCG provided by Trinity House legal team to ABP legal team.
19 March 2024	Email Correspondence	ABP provided links to the revised dDCO submitted at Deadline 1 to Trinity House, seeking their agreement of the revisions made.
20 to 21 March 2024	Email Correspondence	Trinity House responded to ABP's email confirming they were broadly happy with the revised dDCO submitted at Deadline 1. Trinity House identified an additional matter regarding article 4 regarding the incorporation of provisions of the Harbours, Docks and Piers Clauses Act 1847. ABP responded to this email on 20 March 2024 confirming it would make an amendment to article 4 of

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<p><u>the dDCO as requested, a copy of which would be submitted into Examination at Deadline 3.</u></p> <p><u>Trinity House responded by email on 21 March 2024 to acknowledge this.</u></p>
<p><u>17 April 2024</u></p>	<p><u>Email Correspondence</u></p>	<p><u>ABP shared an updated SoCG with Trinity House for review.</u></p>
<p><u>23 April 2024</u></p>	<p><u>Email Correspondence</u></p>	<p><u>Trinity House confirmed their agreement with the draft SoCG and requested that it be submitted as Draft Agreed.</u></p>

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:
- 3.1.1 Chapter 4 – First Statutory Consultation – Trinity House was consulted by the Applicant as part of their statutory obligations.
- 3.1.2 Chapter 5 – Second Statutory Consultation – Trinity House was consulted by the Applicant as part of their statutory obligations.
- 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	Trinity House Position	ABP Position	Status	Date
1	Any implications of the proposed IGET development on matters of navigation coming within Trinity House's area of responsibility.	<u>2.1 Draft Development Consent Order [APP-006]</u> <u>Deadline 1 Submission – Draft Development Consent Order [REP1-016]</u>	Trinity House has discussed with ABP the provisions of the dDCO submitted with the application (insofar as those provisions are relevant to Trinity House's functions). In particular, Trinity House has provided comments and suggested drafting amendments to articles 49, 50 and 51 of the dDCO, as a result of which Trinity House understands that changes to those provisions will be made by ABP at the next available opportunity in the examination, along with further minor drafting amendments. Provided these changes are duly made, Trinity House is content that the dDCO provides appropriate provision for matters relating to navigation within its area of responsibility.	ABP agrees with this position. ABP has made the updates to the dDCO referred to and <u>submitted</u> an updated version <u>of the dDCO at Deadline 1</u> . <u>ABP shared links to this dDCO with Trinity House via email on 20 March 2024.</u>	<u>Agreed</u>	<u>20 March 2024</u>
2	<u>Article 4 Incorporation of the 1847 Act</u>	<u>2.1 Draft Development Consent Order [APP-006]</u> <u>Deadline 1 Submission – Draft Development</u>	<u>Following a review of the revised draft Order submitted at Deadline 1, Trinity House noted that, at article 4, the draft Order contains a provision dealing with the incorporation of provisions of the Harbours, Docks and Piers Clauses Act 1847. In the usual way, paragraph (1) confirms that the 1847 Act is incorporated by</u>	<u>Section 78 of the 1847 Act was not incorporated because of initial concerns about overlap with existing protections in favour of Trinity House on the face of the draft Order but, on further consideration, there should not be any issues and there is no harm in incorporating that section as well.</u>	<u>Agreed</u>	<u>21 March 2024</u>

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ID	Matter	Reference	Trinity House Position	ABP Position	Status	Date
		<u>Consent Order – [REP1-016] Deadline 3 Submission – Draft Development Consent Order [TR030008/APP/2.1(4)]</u>	<u>the draft Order, subject to a number of exceptions. Amongst the provisions which are not proposed to be incorporated is section 78 of the 1847 Act, which provides that lights, beacons or sea-marks are not to be exhibited or altered without the sanction of Trinity House. Trinity House asked for clarification of the rationale for excluding section 78 from the provisions of the 1847 Act incorporated by the draft Order.</u>	<u>In response to the comment from Trinity House, ABP has therefore amended this article to remove section 78 of the 1847 Act from the list of exceptions. A copy of this revised draft Order will be submitted into Examination at Deadline 3.</u>		

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4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
IERRT	Immingham Easter Ro-Ro Terminal
MMO	Marine Management Organisation
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