



Immingham Green Energy Terminal

9.13 Draft Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

Infrastructure Planning (Examination Procedure) Rules 2010

Volume 9

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Version ~~2.0~~

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Environment Agency (Tracked)

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>



Immingham Green Energy Terminal
9.13 Draft Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

Status of the Statement of Common Ground

Associated British Ports and Air Products (BR) Limited 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	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]

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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.

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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]**,

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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 Environment Agency.
- 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 The Environment Agency (“EA”) is a prescribed consultee for the purpose of section 42(1)(a) of the PA 2008 and is named as such in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. The Consultee is an executive non-departmental public body, established under the g to ring together responsibilities for protecting and improving the environment and to contribute to sustainable development. The Environment Agency has three main roles: environmental regulator,

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environmental operator and environmental advisor. Within England it is responsible for:

- Regulating major industry and waste,
- Treatment of contaminated land,
- Water quality and resources,
- Fisheries / recreation,
- Conservation and ecology,
- Managing the risk of flooding from main rivers, reservoirs, estuaries and the sea.

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1.11 In this SoCG, ABP, Air Products and the Environment Agency 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.

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 the Environment Agency 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 of key points of discussion
Pre-Application		
10 October 2022	EIA Scoping Opinion was adopted by the Secretary of State	The EA was consulted by the Planning Inspectorate at EIA Scoping stage.
17 November 2022	MS Teams Project introduction meeting	AECOM presented an overview of the project, the consenting, permitting processes and potential impacts.
9 January to 20 February 2023	First Statutory Consultation	The EA was consulted as part of the First Statutory Consultation.
12 January 2023	MS Teams meeting: ABP, EA and AECOM	Discussions regarding: <ul style="list-style-type: none"> Flood protection Seawall strength and potential impact of bankseat structure Access under pier structure
15 February 2023	Email (letter attachment)	The EA provided their response to the First Statutory Consultation.
13 March 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs	Discussions regarding: <ul style="list-style-type: none"> Flood protection Length and height of jetty
20 April 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs	Discussions regarding: <ul style="list-style-type: none"> Interfaces at the sea defence wall with the jetty Maintenance access road along pipe rack Need for a legal agreement between EA and ABP

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Date	Form of Contact	Summary of key points of discussion
		<p>the status of the EA Criteria Sheet for the jetty. The following was discussed:</p> <ul style="list-style-type: none"> • ABP noted that RIBA 2 is largely complete, RIBA 3 is mobilising and the DCO is being finalised. • The EA queried which documents would be shared prior to submission. ABP agreed to provide this list. • ABP and EA reviewed and agreed the headings of the 'Criteria Sheet' including: <ul style="list-style-type: none"> - Continuity of Flood protection - Maintenance Access – Grass Cutting - Visual Inspection & Minor Repairs - Emergency Access - Access: 24/7 and inaccessible areas - Future Proofing: Protection Height, Demolition and construction access - Construction stage - Public Right of Way - Access Agreement for Anglers • Drawings were reviewed. • Access under pier structure now 1.99m → this was previously shown as 1.60m and the EA had been reviewing internally. The feeling was an alternative inspection procedure might be suitable to avoid 'confined spaces' requirements. This could consist of ABP carrying out the annual visual inspection and sharing a video. • Ramboll advised max 'squeeze' of current structural section may add another 250mm. Any further increase would require structural changes (e.g. introduction of a support structure at the bankseat). • Agreed that EA will review procedures and confirm definition of 'confined spaces' in case there is a design ABP can achieve which overcomes the classification. • Further issues discussed included:

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Date	Form of Contact	Summary of key points of discussion
		<ul style="list-style-type: none"> - An update on <u>Ground Investigation ("GI")</u> status → - Topographical surveys including EA confirmation of no issue with vegetation removal. - Legal agreements with a follow up meeting to be arranged. - Statutory Feedback from EA. <p>Alternative Access Route will be shared when developed further.</p>
11 August 2023	Email exchange	<p>Email correspondence to confirm landward buffer zones and that zones within the footprint of the jetty will be concreted as they cannot be easily maintained.</p> <p>ABP provided draft Flood Risk Assessment ("<u>FRA</u>") v0.2 for EA review.</p>
25 August 2023	EA letter to Ramboll	<p>Feedback on draft <u>FRA v0.2</u> provided.</p>
20 September 2023	MS Teams Meeting	<p>Meeting led by Ramboll with attendance from ABP and Jacobs. ABP provided an update on the Project. The following was discussed:</p> <ul style="list-style-type: none"> • ABP noted that RIBA 3 is being fast tracked and due to be finalised in January 2024. • The DCO application is being submitted 21 September 2023. • Flood wall design: ABP asked if there is a design document available to confirm flood levels and wave slam loads. EA will check and share and noted the level is set by the crest of the wave. ABP requested that the EA advise on requirements from ABP's design package or specific details by 29 September 2023. Note to invite the Catchment Engineer to future meeting to present the design package. • Embankment Stability: ABP asked about the position if ABP cannot demonstrate the embankment is sufficient. It would indicate a broader problem with the embankment along that full length. EA highlighted the main point is to tie in as far as practicable.

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Date	Form of Contact	Summary of key points of discussion
		<p>Legal agreement, protective provisions, etc., will be focussed on achieving 7m.</p> <ul style="list-style-type: none"> Demolition item included: ABP needs to confirm design life of new flood wall (expected to be higher than main structure). EA will check if there is a design life proposed and share. Survey Requirements: EA have issued the survey requirements, and they are to be included in the Contractor package. Clearance under structure: currently 1.99m with an action on ABP to squeeze the section dimensions in this location if practicable. EA would still like consideration of alternative approaches to inspection (e.g. ABP carry it out with video) if EA conclude it is a confined space due to height of available inspectors. Item to be discussed again once final clearance known. GI update: Marine boreholes progressing well and expected to be finalised over coming weeks. <p>Land based GI → 9 Oct earliest expected date to have them on site. Includes boreholes at embankment – ABP confirmed EA requirements have been included.</p> <ul style="list-style-type: none"> Topographic survey complete: ABP will share completed survey with EA. Legal agreement: Meeting dates to be agreed between ABP and EA. IGET EA Basis of Design: Purpose of the document is to agree the provisions being included in the design. It is separate to the legal agreements, noting that there will be overlap. Document was circulated previously to the EA. Each item was reviewed: <ul style="list-style-type: none"> Continuity of Flood Protection: wording agreed. Maintenance Access – Grass Cutting: wording agreed. Maintenance Access – Visual Inspection & Minor Repairs: EA requested a note was added

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Date	Form of Contact	Summary of key points of discussion
		<p>highlighting that repairs under the jetty will be the responsibility of the ABP. ABP confirmed this will be laid out in the legal agreements but also no objection to including in the Basis of Design.</p> <ul style="list-style-type: none"> - Emergency Access – Major Repairs: wording agreed. - Access → 24/7 Access: wording agreed. - Access → Inaccessible Areas: wording agreed. - Future Proofing – Protection Height: wording agreed. - Future Proofing – construction access: wording agreed. - Public Right of Way: wording agreed. - Access Agreements for Anglers: wording agreed.
20 September 2023	Email with attachment	Final FRA sent to EA for review.
Post DCO Submission		
3 October 2023	MS Teams Meeting	Discussions regarding the disapplication of flood risk permits and associated DCO provisions.
5 October 2023	EA letter to Air Products	Feedback provided on Final FRA submitted with ABP's application for development consent.
30 October 2023	MS Teams Meeting	<p>Meeting led by Ramboll (with attendees also from ABP, Air Products and Jacobs) to present the flood wall design to the EA and to understand any specific criteria or requirements the EA might have.</p> <p>Ramboll gave an overview of the RIBA 2 design:</p> <ul style="list-style-type: none"> • Key criteria have been agreed with EA regarding flood wall level, access, surfacing works to minimise maintenance, etc. • The current design was presented which consists of a flat seaward face L-wall sitting atop the existing embankment. The inside face of the berm is asphalted to overcome maintenance concerns. Pedestrian

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Date	Form of Contact	Summary of key points of discussion
		<p>access only under the structure for visual inspection. Vehicle access will be provided to the other side of the jetty either by a ramp off the new jetty or through the existing port.</p> <p>Existing studies available with EA: EA confirmed level will have been set based on extreme tides, sea level rise, surge allowance and some consideration of wave action, but no detailed loading or overtopping is available.</p> <p>Ramboll queried if the EA have any specific requirements regarding the structure or deliverables:</p> <ul style="list-style-type: none"> EA only specific requirement is that the structure is robustly designed, preferably to Eurocodes. Ramboll confirmed the structure will be designed to Eurocodes and relevant standards. A flat wall is acceptable as long as it is designed for the loading. EA highlighted that on some projects, rocks have been placed in front of the wall to reduce wave loading – this is not specifically required but Ramboll will design so it is not prohibited if practicable. Ramboll will proceed on this basis. EA requested to advise by 03 Nov 2023 if there are any other items that occur to them after the meeting or following internal discussion that should be considered. <p>Other items discussed:</p> <ul style="list-style-type: none"> The wall is shown as replaced in the current drawing. If this is the approach, then the Contractor will be required to secure approval from EA for temporary flood defence works. Ramboll are also exploring the option of constructing the new wall inside of the existing so that it can remain in place. This would reduce the width but is not considered a significant concern as it is pedestrian access for inspections only. No works are planned to the seaward face. Contractor will be required to make good in case of any damage or movement during the works (pre and post inspection requirements have

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Date	Form of Contact	Summary of key points of discussion
		been defined with EA in previous meetings).
7 November 2023	MS Teams Meeting	First pre application meeting with the EA to discuss the Environmental Permit application for the hydrogen production facility. Attendees from Air Products, EA and AECOM. The discussions covered the following aspects: <ul style="list-style-type: none"> • Introduction to the project • Scope of application • Best Available Techniques • Phasing
27 November 2023	MS teams meeting	Second pre application meeting with the EA to discuss the Environmental Permit application for the hydrogen production facility. Attendees from Air Products, EA, AECOM and ABP. The discussions covered the following aspects: <ul style="list-style-type: none"> • EA feedback on scope of application • Best Available Techniques • Phasing • Statement of Common Ground
17 January 2024	MS teams meeting	Third pre application meeting with the EA to discuss the Environmental Permit application for the hydrogen production facility. Attendees from Air Products, EA, AECOM and ABP. Meeting confirmed agreement on: <ul style="list-style-type: none"> • Scope of application, • Best Available Techniques, • Application phasing and agreement in using DCO Rochdale envelope approach in the Environmental Permit application, • Reviewed SoCG process,
<u>16 February 2024</u>	<u>Email Correspondence</u>	<u>ABP shared a first draft of the SoCG with the Environment Agency for review.</u>
<u>1 March 2024</u>	<u>Email Correspondence</u>	<u>The Environment Agency provided their comments on the first draft of the SoCG.</u>

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Date	Form of Contact	Summary of key points of discussion
7 March 2024	Email Correspondence	ABP sent a revised version of the SoCG to the Environment Agency addressing their comments.
8 March 2024	MS Teams Meeting	ABP and the Environment Agency had a meeting to discuss the revisions made to the SoCG.
8 March 2024	Email Correspondence	The Environment Agency confirmed their agreement with the version of the SoCG being submitted at Deadline 1.
5 April 2024	MS Teams Meeting	Meeting held with the Environment Agency to discuss Protective Provisions/ legal agreement and the SoCG.
10 April 2024	Email Correspondence	Revised Protective Provisions shared with the EA for comment along with a note on the proposed approach and a comparison of the revised Protective Provisions against the EA's standard Protective Provisions.
23 April 2024	Email Correspondence	Revised draft SoCG sent to EA for their review ahead of D/L 3 submission.
25 April 2024	Email Correspondence	EA mark-up of draft SoCG wording returned to applicant.

3 Matters Agreed and Matters Not Agreed

- 3.1 It is agreed 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 – the EA was consulted by ABP as part of their statutory obligations.
- 3.1.2 Chapter 5 – Second Statutory Consultation – the EA was consulted by ABP 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

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
General							
G1	Stakeholder Engagement	Consultation Report [APP-022]	The EA 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.	Agreed	14 February 2024
G2	Stakeholder Engagement: Statutory Consultations	Consultation Report [APP-022] Consultation Report - Appendix P - Response Tables - First Statutory Consultation [APP-040] Consultation Report - Appendix Q - Response Tables - Second Statutory Consultation [APP-041]	The feedback provided to the EA on its responses to the First and Second Statutory Consultations, as outlined in Appendix P [APP-040] and Appendix Q [APP-041] has informed the discussions undertaken to shape the application for development consent for the project.	ABP's response to the EA's 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 EA as detailed in Table 2-1 of this SoCG. ABP is seeking agreement by the EA that ABP has to the satisfaction of the EA, taken their feedback at the Statutory Consultations into account in the	As per ABP position.	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				application for development consent for the Project.		Agreed	
G3	Stakeholder Engagement: No objection to principle of proposed development.	Relevant Representation [RR-010] , para 20.1	The EA confirms that we have no objection to the principle of the proposed development, as submitted. The issues and holding objection outlined in our Relevant Representation are capable of resolution and we look forward to receiving additional information to resolve our outstanding concerns.	ABP acknowledges the EA's position and will work with the EA to resolve any outstanding concerns as detailed in the EA Relevant Representation.	As per ABP position.		1 December 2023
G4	Environment Agency Flood Defence: Maintenance access	2.1 Draft Development Consent Order [REP1-016]	The grass slope behind the wall needs to be maintained to avoid compromising the performance of the flood defence. This scheduled maintenance involves	ABP shall facilitate EA access for grass cutting of the zone (back face of the embankment) between the Immingham Green Energy Terminal Jetty and Immingham Oil Jetty.	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>grass cutting 4-6 times per year.</p> <p>The existing flood defence is inspected by walkover survey 4-6 times per year. If these surveys identify minor defects, then local repair works (e.g. concrete patch repairs) may be required.</p>	<p>ABP shall facilitate pedestrian and small vehicle access to allow the EA to undertake visual inspection surveys and minor maintenance works. Under the jetty structure access for visual inspection will be maintained. Where maintenance works are identified under the jetty structure, these will be carried out by ABP.</p> <p><u>ABP proposed in its meeting with the EA on 5 April that this measure would most appropriately be secured via a bespoke legal agreement relating to ongoing maintenance of the area of existing flood defences being replaced as part of being crossed by the jetty being authorised by the dDCO, and await EA confirmation of the principle so that a draft can be provided for the consideration of the EA.</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
G5	Environment Agency Flood Defence: Emergency access – visual inspection and minor repairs	2.1 Draft Development Consent Order [REP1-016]	If a major defect to the flood defence is identified during a walkover survey or a failure occurs during a storm event, then the EA will require emergency access to the zone. Access would be required for long reach excavators and dump trucks / tippers. The EA welcomes the Applicant's proposal to secure this measure via a bespoke legal agreement and we will continue to work with them to finalise the details of this.	ABP shall facilitate access for long reach excavators (L = 12.52m, W=3.19m, H=3.00m) and large tipper trucks (L=10.2m, W=2.50m) for emergency repair works. ABP proposed in its meeting with the EA on 5 April that this measure would most appropriately be secured via a bespoke legal agreement relating to ongoing maintenance of the area of existing flood defences being replaced as part of being crossed by the jetty being authorised by the dDCO, and await EA confirmation of the principle so that a draft can be provided for the consideration of the EA.	As per ABP position.	Discussion ongoing	
G6	Environment Agency flood defence: Changes to structure	3.1 Book of Reference [APP-008]	The EA agree with the provisions for flood defence (up and over) and continuous protection (maintaining flood resilience	ABP and the contractor will maintain continuity of flood defence throughout the construction period through the use of temporary means to		Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			through construction). See Matter PP1 for where the EA would like to see further assessment.	maintain the flood defence. The Contractor will submit the flood defence construction methodology to the EA for approval prior to commencement of the works. See Matter BoR1 of this table as to how this might be secured. <u>ABP's solicitors have provided the EA with protective provisions aligned with the EA's standard form which secure this measure, and await confirmation that the EA considers this satisfactory.</u>		Discussion Ongoing	
G7	Environment Agency flood defence: Changes to structure – crest height	<u>2.1 Draft Development Consent Order [REP1-016]</u>	The EA will be increasing the height of the sea defence along this section of coast to +10.9m C.D. / +7.0m O.D as part of a future project It will not be feasible for the EA to carry out these works under the new jetty after it is constructed and	ABP will increase the height of the flood defence wall within the footprint of the IGET jetty to +10.9m C.D. / +7.0m O.D. <u>ABP's solicitors have provided the EA with protective provisions aligned with the EA's standard form which secure this measure (EA</u>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>therefore the seawall should be increased in height during the current IGET project to mitigate future constraints to the flood defence works.</p> <p>This wall should be detailed in a way that makes allowance for the tie in with the future +7mOD EA flood wall.</p>	<p>approval of details of works), and await confirmation that the EA considers this satisfactory.</p>		Discussion Ongoing	
G8	Hard surfacing in zones that cannot be maintained.	<p>2.1 Draft Development Consent Order [REP1-016]</p>	<p>Agreement for provision of hard surfacing in zones that cannot be maintained. Integrity of bund (not overgrown).</p>	<p>ABP has agreed with the EA the use of asphalt on the rear slope within the footprint of the IGET jetty and EA access ramp.</p> <p>ABP's solicitors have provided the EA with protective provisions aligned with the EA's standard form which secure this measure (EA approval of details of works), and await confirmation that the EA considers this satisfactory.</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
G9	Construction Environmental Management Plan	<p>2.1 Draft Development Consent Order [REP1-016]</p> <p>6.5 Outline Construction Environmental Management Plan [REP2-004]</p>	<p>The EA is satisfied that the outline CEMP outlines all the relevant and necessary environmental protection measures (relevant to its remit), and the final plan is currently secured via Requirement 6 in the dDCO and Condition 8 of the Deemed Marine Licence.</p> <p>The EA is satisfied with the Applicant's proposed approach to securing final CEMP(s) and the approval process for those documents.</p>	<p>The final CEMP(s) would be secured through Schedule 2, Requirement 6 of the dDCO and Condition 8 of the Deemed Marine Licence (Schedule 3 of the dDCO). ABP and Air Products intend to progress negotiation with NELC and other relevant stakeholders of the final CEMP(s) now in order to reach a position where the content of the final CEMP(s) is advanced as far as possible and agreed with the relevant parties prior to the end of the Examination for the Project. This approach would allow for an efficient approval of the CEMP(s) for the landside works by NELC to be secured under Requirement 6 of the dDCO and for the works in the marine area by the MMO (in consultation with NELC) secured by Condition 8 of the</p>	As per ABP position.	Agreed,	5 April 2024

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				<p>Deemed Marine Licence and enable site works to commence at the earliest opportunity. This is a necessity of the programme for delivery of the Project. It is intended at present that the detailed CEMP will form at least three separate documents:</p> <ol style="list-style-type: none"> 1. CEMP relating to all works in the UK Marine area (i.e. all works below MHWS) which would be for the MMO to approve; 2. CEMP relating to that part of work No.1 which is landward of MHWS and work No. 2 which would be approved by NELC. 3. One or more CEMP relating to all other landside 			

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				works which would also be approved by NELC. It is likely that the first CEMP for other landside works would cover phase 1 of the hydrogen production facility. ABP will discuss this approach further with the EA.			
Air Quality							
AQ1	ES – Chapter 6: Air Quality	6.2 Environmental Statement – Chapter 6: Air Quality [APP-048] , Relevant Representation [RR-010] , section 5.	The EA has undertaken a high level review this chapter (for issues within its remit) and confirms it is satisfactory for planning purposes. The assessment appears to assess the risk in line with Environment Agency	ABP notes the EA has reviewed the submission version of ES Chapter 6: Air Quality and is pleased the EA agrees with the guidance and methodology used in that chapter for issues within its remit.	As per ABP position.	Agreed	1 December 2023

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			<p>guidance and relevant methodologies.</p> <p>A detailed review of the air quality modelling has not been undertaken by the EA as this will be completed when the EA determines the Environmental Permit application.</p>				
Nature Conservation (Terrestrial Ecology)							
NC1	ES Chapter 8: Nature Conservation (Terrestrial Ecology)	<p>6.2 Environmental Statement – Chapter 8: Nature Conservation (Terrestrial Ecology) [APP-050]</p> <p>6.5 Outline Construction Environmental Management Plan [REP2-004]</p> <p>6.9 Outline Landscape and Ecology</p>	<p>The EA has been unable to undertake a review of this chapter and its related appendices at this stage. We will endeavour to review this chapter during the course of the examination.</p>	<p>ABP would like to reach agreement that the EA has considered the submission version of ES Chapter 8: Nature Conservation (Terrestrial Ecology) and agrees with the methodology and assessment conclusions.</p> <p>Appropriate measures to be implemented during construction have been set out within the Outline Construction Environmental Management Plan (oCEMP) (and its</p>	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Management Plan [APP-225] Relevant Representation [RR-010] section 6		appendices) and Outline Landscape and Ecology Management Plan (oLEMP). Final versions of these management plans will be secured through requirements 6 and 10 in Schedule 2 of the dDCO.			
Nature Conservation (Marine Ecology)							
ME1	ES Chapter 9: Nature Conservation (Marine Ecology)	ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051] Relevant Representation [RR-010] section 7	As stated in our Relevant Representation, we consider assessments relating to marine ecology and fish receptors as satisfactory.	ABP notes the EA has reviewed the submission version of ES Chapter 9: Nature Conservation (Marine Ecology) and is pleased the EA agrees with the methodology and conclusions of that chapter.	As per ABP position.	Agreed	1 December 2023
ME2	ES Chapter 9: Nature Conservation (Marine Ecology) -underwater noise	ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices -	As stated in our Relevant Representation, we will defer to any views provided by the Marine Management Organisation (MMO) on aspects relating to underwater noise.	The position of the EA is noted.	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Appendix 9.B: Underwater Noise Assessment [APP-187]					
		Relevant Representation [RR-010] para 7.2					
Physical Processes							
PP1	Environmental Statement - Chapter 16: Physical Processes	6.2 Environmental Statement - Chapter 16: Physical Processes [APP-058] Relevant Representation [RR-010] section 8	The EA has reviewed this chapter and is generally satisfied with the assessment and conclusions as detailed in our Relevant Representation. The EA would however like to see an assessment of the impacts of change in flow speeds on the accretion or erosion of the toe of the flood defences. Any impacts on the existing flood defences will need to be mitigated by the	ABP notes the EA has reviewed the submission version of ES Chapter 16: Physical Processes and is pleased the EA generally agrees with the methodology and conclusions of that chapter. ABP notes the EA's comments on matters PP1, and W8 regarding the potential for changes to sediment transport impacting the existing flood defences. In particular, reference is made to paragraph 16.8.54 of Chapter 16	As per ABP position.	Agreed	24 April 2024

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			<p>undertaker, rather than during the Environment Agency maintenance programme.</p> <p>The EA wishes to discuss ABP's response to this point further as paragraph 16.8.54 states that the magnitude and extent of predicted change is 'limited'.</p> <p><u>The EA welcomes the additional clarification in respect of the assessment undertaken. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved.</u></p>	<p><u>the ES, which states that the predicted magnitude and extent of potential change is 'limited'.</u></p> <p><u>The assessment of potential impacts to physical processes, as described in Chapter 16 of the ES, includes the application of bespoke numerical modelling tools to investigate the predicted changes, as a result of the scheme, on local and regional hydrodynamics (water levels, flow speeds etc.) as well as any associated impact on local and regional sediment transport pathways (incl. changes to patterns of erosion and accretion).</u></p> <p><u>Furthermore, the assessment has considered impacts to specific groups of impact pathways and receptors, including (in paras. 16.8.69 to 16.8.72) an assessment of 'potential</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>impact on existing features, including marine infrastructure, outfalls and estuary banks and channels'</u></p> <p>Whilst not specifically <u>listed in</u> this section, the assessment <u>here also includes the existing foreshore and adjacent flood defences. The assessment findings (as informed by the local sediment transport modelling) show that the predicted changes to erosion and accretion patterns are only predicted in close proximity to the</u> marine elements of the Project. <u>More specifically, the region of a slight predicted increase in bed erosion is limited to a short section of the line of mean low water springs (MLWS) and the shallow subtidal, located approximately 90-100 m offshore of the existing defences. Landward of the area of predicted</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>erosion, the modelling actually predicts continued accretion (albeit at a slightly slower rate than that defined in the baseline) of parts of the mid- to lower-foreshore. As a result of the assessment, there is not predicted to be any impact on the sediment erosion or accretion at the toe of the existing defences. It is therefore considered that no further assessment is required.</p>			
Marine Water and Sediment Quality							
MWSQ1	ES – Chapter 17: Marine Water and Sediment Quality	6.2 Environmental Statement – Chapter 17: Marine Water and Sediment Quality [APP-059], Relevant Representation	The EA has reviewed this chapter and has no comments to make other than those relating to Appendix 17.A (see matter MWSQ 2).	ABP notes the EA has reviewed the submission version of ES Chapter 17: Marine Water and Sediment Quality and is pleased the EA agrees with the methodology and conclusions of that chapter.	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		RR-010 para 9.1					
MWSQ2	ES Appendix 17.A: Water Framework Directive Compliance Assessment	6.4 Environmental Statement Appendices - Appendix 17.A: Water Framework Directive Compliance Assessment APP-208 Relevant Representation RR-010 para 9.2	The EA has reviewed the Water Framework Directive (WFD) assessment and requests additional information/clarification in respect of Section 3.4 (Water Quality), which refers to 'intermittent' timescales over which water quality might be affected. The assessment does not explain what is meant by this term. The concerns from a WFD point of view are different if we are considering, for example, 2 days per year, versus 10 days per month. The EA welcomes the Applicant's clarification on the use of the term 'intermittent'. The EA is not yet in a position to provide its	The use of the term intermittent in section 3.4 of the WFD assessment was used to describe the risk posed by construction activities to the water quality of the Humber Lower and North Beck Drain water bodies. This term was used as the effects associated with dredging and disposal activities will be temporary, and short-term and any changes to water quality will not persist beyond a single tidal cycle. The impact assessment is set out in the WFD assessment in section 4 (for example, see paragraph 4.2.2, 4.4.23, and 4.4.29.	The construction area adjacent to North Beck Drain will be used for laydown and parking and will be in use during the phase 1 construction period but is not expected to be used for subsequent phases. The use of this area will vary during that period depending on the construction workload, hence describing the potential to affect the water quality of North Beck Drain as intermittent.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			agreement on the conclusion of the WFD assessment, and any future agreement will be on the basis that Natural England does not raise any issue in respect of the Habitat Regulations Assessment conclusions.				
Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage							
W1	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060], Relevant Representation [RR-010] section 10	The EA has considered the submission version of ES Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage and agrees with the methodology used, subject to clarification on the points the EA has raised in its Relevant Representation which are covered in matters W2 to W14.	ABP notes the position of the EA and addresses the points raised in their Relevant Representation at matters W2 and W3. Once these points have been agreed with the EA, ABP expects this matter can be changed to 'agreed'.	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
W2	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – 1m buffer for sea defence	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060], Relevant Representation [RR-010], para 10.1 <u>Deadline 1 Submission – 8.7 Table of Errata (Clean) [REP1-019]</u>	The EA has reviewed this chapter and comment that on page 18-35, Table 18-1 of ES Chapter 18, the consultation summary table states that the EA no longer requires a 1m buffer for maintenance. This is incorrect as we do not require a buffer for the sea defence, but we will still need the buffer for the fluvial defences at Stallingborough for the duration of the Bridleway diversion. <u>The EA welcomes the inclusion of entry 17 of the Table of Errata confirming correction of this matter. This matter is now agreed.</u>	ABP <u>included</u> , revised text in the errata sheet submitted at Deadline 1 to clarify that the buffer is no longer required for the sea defence. <u>See item No. 17 in the Table of Errata submitted at Deadline 1 [REP1-019].</u>	As per ABP position.	Agreed,	<u>5 April 2024</u>
W3	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal	Paragraph 18.6.50 considers the potential for fluvial flooding at the site and uses the North East Lincolnshire Preliminary Flood Risk	ABP confirms that the assessment of flood risk from fluvial sources uses the information in the North East Lincolnshire Preliminary Flood Risk Assessment to provide	As per ABP position.	Agreed,	<u>24 April 2024</u>

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
	Drainage – fluvial flood zones	Protection, Flood Risk and Drainage [APP-060] 6.4 Environmental Statement Appendices - Appendix 18.A: Flood Risk Assessment [APP-209] Relevant Representation [RR-010], para 10.4 6.5 Outline Construction Environmental Management Plan [REP2-004]	Assessment to provide some indication of fluvial flood zones, suggesting the site is located in Flood Zone 1. This is not entirely correct as there is a small area of fluvial flood risk adjacent to the Stallingborough North Beck (also referred to as the North Beck Drain), which impacts the Work No. 9 area. <u>The EA welcomes the additional clarification in respect of this issue. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved.</u>	some indication of fluvial flood zones. However, as noted in paragraph 18.6.55 of ES Chapter 18, the 0.1% AEP modelled flood water levels for Stallingborough North Beck Drain are referred to and show a small area of Work No.9 is located in Flood Zone 2. <u>For clarity, Work Area 9 is a construction laydown temporary area that will be used only during phase 1, and only for parking and some equipment laydown prior to installation.</u> <u>The Environment Agency is referred to Table 15 of the oCEMP [REP2-004] which outlines the mitigation measures that will be implemented to address potential impacts, in relation to flood risk. The text in this table states "A small area to the south east of the Temporary</u>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>Construction Area (Work Area 9), adjacent to the watercourse, is located in Flood Zone 2. During the construction phase no temporary buildings, plant or materials will be located within this area of fluvial floodplain to allow storage of flood water should high flows occur on the North Beck".</u></p> <p><u>Table 15 also states that "Temporary Construction Areas for laydown and construction compounds (Work No. 8 and Work No.9) would be suitably enclosed with fencing in order to stop construction plant etc. becoming buoyant and floating away should flooding from a breach or overtopping event occur".</u></p> <p><u>The final CEMP(s) required to be approved under Requirement 6 of the dDCO will be subject to consultation with the</u></p>			

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				<p><u>Environment Agency and submitted to NELC for approval following DCO decision.</u></p> <p>It is therefore considered that no further assessment is required.</p>		Discussion ongoing	
W4	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – water use	<p>6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]</p> <p>Relevant Representation [RR-010] para 10.6 to 10.9</p>	<p>The EA notes that ABP is working closely with Anglian Water on the issue of non-potable water supply.</p> <p>In terms of potable water, the operational project will also require a limited supply for offices, welfare facilities etc.</p> <p>If additional information is not forthcoming during the examination period to confirm how the additional water supply will be secured, we request that an appropriate Requirement is included in Schedule 2 to secure that no</p>	As per Air Products position.	<p>Air Products notes the EA’s position on this matter and continues to work with Anglian Water regarding the required water supply.</p> <p>Air Products has made good progress in these discussions on the securing of an existing supply of non-potable water for the development. It is not considered that a pre-commencement requirement is required.</p> <p>ABP will update the EA on these discussions as the examination progresses.</p>		

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			<p>development commences until a scheme to demonstrate that an adequate supply can be provided, without causing an impact on the water environment.</p> <p>The EA will work with ABP and Anglian Water Services on the wording of such a Requirement if this is needed.</p>				
W5	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – future river restoration (North Beck Drain)	<p>6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]</p> <p>6.8 Outline Woodland Compensation Strategy [APP-224]</p>	<p>As detailed in our Relevant Representation, during pre-application consultation, the EA and ABP discussed the potential for the Project to make future river restoration North Beck Drain) of the chalk stretch upstream of the development more difficult.</p> <p>The EA suggested ABP consider whether some Biodiversity Net Gain (BNG) could be</p>	<p>ABP notes the EA's view on this matter.</p> <p><u>It should be noted that Table 18-11 of Chapter 18 has been updated to acknowledge the North Beck Drains WFD status. This update was captured in the Table of Errata submitted at Deadline 1, see item no 20 [REP1-019].</u></p> <p><u>Whilst ABP is not legally required to incorporate BNG in the application, substantial effort has</u></p>	As per ABP position.	Agreed,	5 April 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		6.9 Outline Landscape and Ecology Management Plan [APP-225] Relevant Representation [RR-010] para 10.10 <u>Deadline 1 Submission – 8.7 Table of Errata (Clean) [REP1-019]</u>	provided as mitigation for the potential impact. The EA is disappointed to see that although mandatory biodiversity net gain is not required for this Project, only opportunities within the limits of the operational site boundaries have been considered. <u>The EA welcomes entry 20 in the Table of Errata, which now correctly reflects the WFD status of the North Beck Drain.</u> <u>The EA does not wish to make any further representations on this matter.</u>	<u>been made to ensure that ecological enhancement measures are included in the scheme. This includes a legal obligation to ensure that the loss of trees protected by a Tree Preservation Order is adequately compensated via the creation of woodland habitat elsewhere.</u> ABP is promoting biodiversity through the oLEMP which defines the opportunities which are available within the operational site boundaries to provide landscape and ecological measures to enhance the operational layout. The final LEMP would be approved by NELC through Requirement 10 of Schedule 2 of the dDCO. An Outline Woodland Compensation Strategy was also submitted with the application for			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				development consent for the project. This strategy sets out the approach to off-site planting of trees in the Immingham area, as well as enhancement of existing retained on-site woodland, to ensure that the tree loss from the Long Strip is appropriately compensated. The final woodland compensation plan would be approved by NELC, following consultation with Natural England, through Requirement 11 of Schedule 2 of the dDCO.			
W6	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – uncontrolled discharges to Stallingborough North Beck	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]	Paragraph 18.8.49 refers to temporary uncontrolled discharges to Stallingborough North Beck. This issue has not been previously discussed and we would need further detail on these discharges and	ABP has progressed the drainage strategy for the jetty access road, to which the reference to uncontrolled discharges related, (Work No. 1 and 2) since DCO submission. There is no longer an uncontrolled discharge into the Stallingborough North Beck. Surface	As per ABP position.	Discussion ongoing	

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		Relevant Representation IRR-010 para 10.11	volumes and method of discharge. The EA is considering ABP's response to this point and will discuss further with ABP as needed.	water runoff is being attenuated to a rate that has been agreed with North East Lindsay Drainage Board (NELDB). The final drainage strategy would be approved by NELC, following consultation with the EA and NELDB, through Requirement 12 of Schedule 2 of the dDCO.			
W7	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – land raising	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage APP-060 6.4 Environmental Statement Appendices - Appendix 18.A: Flood Risk	Paragraphs 18.8.87-8 (Changes to flow regimes and/or water levels) refer to areas of land raising falling outside of the main river extent. However, no assessment appears to have been made as to the impact on the local drainage systems from the land raising.	The Flood Risk Assessment (FRA) has assessed the impact on local drainage systems and provides diversions where required and no further impacts were identified. Topographic levels show ground levels for the areas of the site where land raising is proposed (West Site (Work No. 7) and East Site (Work No. 3 and Work No. 5)) are predominantly higher	As per ABP position.	Discussion ongoing	

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		Assessment [APP-209]		than the surrounding small drainage ditches.			
		6.4 Environmental Statement Appendices - Appendix 18.B: Drainage Strategy [APP-210]		No areas of significant flooding from NELDB systems have been identified via discussions with NELDB and as noted in paragraph 4.4.28 of ABP's FRA, the drainage system managed by NELDB is understood to be able to accommodate events with 0.1% AEP by a combination of storage and pumping, without any flooding of the surrounding area.			
		Relevant Representation [RR-010] para 10.14		As demonstrated in paragraphs 4.5.3 – 4.5.9 together with Plate 5: Risk of Flooding from Surface Water (of the FRA), there are no concerns with regards to flood risk from the local drainage system in proximity to the East and West Sites.			

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				<p>In addition, a drainage strategy has been developed for the Site in consultation with NELDB with attenuation provided up to and including the 1% AEP plus 40% climate change event. Surface water runoff will be discharged at a restricted rate from the site to the local drainage systems and will therefore provide betterment when compared to the current scenario. The drainage strategy will therefore reduce peak flows/water levels within the local drainage system comprising small drainage ditches which predominantly drain surface water runoff from these site areas. It is therefore considered that compensatory storage is not needed to mitigate flood risk due to land</p>			

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				raising and no further assessment is required. The final drainage strategy would be approved by NELC, following consultation with the EA and NELDB, through Requirement 12 of Schedule 2 of the dDCO.			
W8	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – changes in tidal regime	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060], 6.2 Environmental Statement - Chapter 16: Physical Processes [APP-058], Relevant Representation	Paragraph 18.8.97 (Changes in Tidal Regime) states that the development has the potential to change the rates of erosion and/ or accretion on the foreshore in proximity to the flood defences over the operation of the project. We would like to see further assessment of this in the Physical Processes Chapter (as mentioned in paragraph 8.1 above). Any impacts on the existing flood defences will need to be	<u>ABP notes the EA's comments on matters PP1, and W8 regarding the potential for changes to sediment transport impacting the existing flood defences. In particular, reference is made to paragraph 16.8.54 of Chapter 16 of the ES, which states that the predicted magnitude and extent of potential change is 'limited'. The assessment of potential impacts to physical processes, as described in Chapter 16 of the ES, includes the application of bespoke</u>	As per ABP position	Agreed,	24 April 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		RR-010 para 10.15	mitigated by the undertaker, rather than during the Environment Agency maintenance programme. The EA welcomes the additional clarification in respect of the assessment undertaken. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved.	numerical modelling tools to investigate the predicted changes, as a result of the scheme, on local and regional hydrodynamics (water levels, flow speeds etc.) as well as any associated impact on local and regional sediment transport pathways (incl. changes to patterns of erosion and accretion). Furthermore, the assessment has considered impacts to specific groups of impact pathways and receptors, including (in paras. 16.8.69 to 16.8.72) an assessment of 'potential impact on existing features, including marine infrastructure, outfalls and estuary banks and channels'. Whilst not specifically listed in this section, the assessment here also includes the existing foreshore and adjacent flood defences. The			

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modelling undertaken and is based on the outputs of the hydrodynamic modelling to assess potential changes to

patterns across the near- and far-field.

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>assessment findings (as informed by the local sediment transport modelling) show that the predicted changes to erosion and accretion patterns are only predicted in close proximity to the marine elements of the Project. More specifically, the region of a slight predicted increase in bed erosion is limited to a short section of the line of mean low water springs (MLWS) and the shallow subtidal, located approximately 90-100 m offshore of the existing defences. Landward of the area of predicted erosion, the modelling actually predicts continued accretion (albeit at a slightly slower rate than that defined in the baseline) of parts of the mid- to lower-foreshore. As a result of the assessment, there is not predicted to be any impact on the sediment</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<u>erosion or accretion at the toe of the existing defences. It is therefore considered that no further assessment is required.</u>			
W9	ES Appendix 18.B Flood Risk Assessment – temporary construction area (Work No. 9)	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [APP-209] <u>2.1 Draft Development Consent Order [REP1-016]</u>	The EA disagrees with the statement provided at paragraph 4.4.16 regarding the flood levels within the temporary construction area (Work No. 9) as detailed further in our Relevant Representation. The proximity of Work No. 9 to the embankments of the Stallingborough North Beck is such that there would be limited spreading of the fluvial flood water over the floodplain during any initial flooding. When the temporary work area (Work No. 9) is in use, it is recommended that this is considered. Also,	Paragraph 4.4.1 of the FRA acknowledges that should a breach of the fluvial flood defences along Stallingborough North Beck occur in the location of Work No.9, then this work area could potentially be inundated by flood water to a depth of 0.52 – 1.05m. Based on topography flood water would flow north, into Work No.9, and towards the west towards land between the watercourse and the Project. <u>The Environment Agency is referred to Table 15 of the oCEMP [REP2-004] which outlines the mitigation measures that will be implemented to address potential</u>	As per ABP position.	Agreed,	<u>24 April 2024</u>

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		<p>Relevant Representation [RR-010] para 10.21</p> <p><u>6.5 Outline Construction Environmental Management Plan [REP2-004]</u></p>	<p>this needs to be considered when drafting the emergency plan, particularly in respect of a place for the safety of the people using the area.</p> <p>The EA welcomes the additional clarification in respect of this issue. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved</p>	<p>impacts in relation to flood risk. The text in this table states "A small area to the south east of the Temporary Construction Area (Work Area 9), adjacent to the watercourse, is located in Flood Zone 2, during the construction phase no temporary buildings, plant or materials will be located within this area of fluvial floodplain to allow storage of flood water should high flows occur on the North Beck". Table 15 also states that "Temporary Construction Areas for laydown and construction compounds (Work No. 8 and Work No.9) would be suitably enclosed with fencing in order to stop construction plant etc. becoming buoyant and floating away should flooding from a breach or overtopping event occur".</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>Additional relevant measures are also included in this table in relation to the storage of construction materials, monitoring of weather forecasts and a commitment to produce an Emergency Response Plan which details the actions that would be taken in the event of a possible flood event.</u></p> <p><u>the final CEMP(s) required to be approved under Requirement 6 of the dDCO will be subject to consultation with the Environment Agency and submitted to NELC for approval following DCO decision.</u></p>			
W10	ES Appendix 18.B Flood Risk Assessment – local ordinary watercourses	6.4 Environmental Statement Appendices – Appendix 18: A:	The Flood Risk Assessment (FRA) should assess the impacts of land raising on the displacement of	The Flood Risk Assessment (FRA) has assessed the impact of land raising on the displacement of flood	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Flood Risk Assessment [APP-209]	flood water from non-main river sources and whether any floodplain compensatory storage is required.	water from non-main river sources and whether any compensatory storage is required.			
		6.4 Environmental Statement Appendices – Appendix 18.B: Drainage Strategy [APP-210]	The FRA has currently only assessed the floodplain compensation from main river flooding.	The FRA has assessed the impact on local drainage systems and provides diversions where required and no further impacts were identified. Topographic levels show ground levels for the areas of the site where land raising is proposed (the West Site (Work No. 7) and East Site (Work No. 3 and Work No. 5)) are predominantly higher than the surrounding small drainage ditches. No areas of significant flooding from NELDB systems have been identified via discussions with NELDB. As noted in paragraph 4.4.28 of the FRA, the drainage system managed by			
		Relevant Representation [RR-010] , para 10.22					

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>NELDB is understood to be able to accommodate events with 0.1% AEP by a combination of storage and pumping, without flooding the surrounding area.</p> <p>As demonstrated in paragraphs 4.5.3 – 4.5.9 together with Plate 5: Risk of Flooding from Surface Water (of the FRA) do not highlight any areas of concern with regards to flood risk from the local drainage system in proximity to the East and West Sites.</p> <p>In addition, a Drainage Strategy has been developed for the Site in consultation with the NELDB with attenuation provided up to and including the 1% AEP plus 40% climate change event. Surface water runoff will be discharged at a restricted rate from</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>the site to the local drainage systems and will therefore provide betterment when compared to the current scenario. The Drainage Strategy will therefore reduce peak flows/water levels within the local drainage system comprising small drainage ditches which predominantly drain surface water runoff from these site areas. It is therefore considered that compensatory storage is not needed to mitigate flood risk due to land raising and no further assessment is required.</p> <p>The final drainage strategy would be approved by NELC, following consultation with the EA and NELDB, through Requirement 12 of Schedule 2 of the dDCO.</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				ABP notes the NELDB did not respond to ExQ1.8.1.2 at Deadline 1 which addressed the topic of landraising. The topic of landraising will be discussed further with the NELDB.			
W11	ES Appendix 18.B Flood Risk Assessment – place of safe refuge	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [APP-209] 2.1 Draft Development Consent Order [REP1-016] Relevant Representation [RR-010] , para 10.23	The EA supports the use of areas of safe refuge and note that the number of areas being provided has been increased from the preliminary proposal. This will provide more and safer options for employees. However, it is still worth noting that the flood refuge areas would only serve the buildings themselves and the immediate vicinity. The occupants of the rest of the site could have to get through deep flood water to reach	Paragraph 6.6.2 of the FRA [APP-209] notes that the following safe refuge areas will be provided; the control room buildings within the West Site (Work No. 7) and East Site (Work No. 5), and within the Toxic Safe Haven building located within the West Site (Work No. 7), close to Queens Road. The East Site (Work No.3) is normally an un-occupied site. Specific flood emergency response procedures and contingencies will be covered in the detailed flood response plan required by Para 6.7.3 of the FRA [APP-209]	As per ABP position.	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			the areas, which could pose a risk to life.	which requires a Flood Emergency Response Plan to be prepared in consultation with the Environment Agency and LLFA.		Agreed	
W12	ES Appendix 18.B Flood Risk Assessment – flood warning and emergency plan	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [APP-209] , 2.1 Draft Development Consent Order [REP1-016] Relevant Representation [RR-010] , para 10.25	Throughout the FRA it states that the site will be shut down on receipt of a Tidal Flood Warning. We support the intention to shut down the facility during periods when there are flood warnings in place. We also welcome the fact that the site can be shut down in situ and remotely. However, paragraph 6.7.4 states that “the Site will only be evacuated when it is really necessary”, which seems to contradict the plans outlined elsewhere in the FRA. We would request that any future flood emergency	It is confirmed that the Hydrogen Production Facility would be shut down if a tidal flood warning was received. The Flood Emergency Response Plan reference Para 6.7.3 of the FRA [APP-209] , which has been prepared in consultation with the Environment Agency and LLFA, will cover what procedures will be followed and what the specific triggers and actions will be. In referring to ‘when necessary’ this means necessary to protect the safety of people.	As per ABP position.		1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			response plan makes it very clear what procedures will be followed and what the specific triggers and actions will be.				
W13	ES Appendix 18.B Flood Risk Assessment – flood warning and emergency plan	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [APP-209] 2.1 Draft Development Consent Order [REP1-016] Relevant Representation [RR-010] para 10.26	Paragraph 6.9.7 of ES Appendix 18: A states that “contingency measures will be put in place, as necessary, for the construction of the proposed the ramps and new section of flood defence to ensure the continuity of the flood defence throughout the works”. This is welcomed and we look forward to reviewing these measures in due course.	ABP notes this comment and further information regarding contingency measures for the construction of the proposed ramps and new section of flood defence will be provided to the Environment Agency for review as the design of the development progresses. ABP’s legal advisors have reviewed EA’s example template protective provisions it is seeking for any works undertaken to the flood defence and discussed their comments on this and the principle of a bespoke legal agreement also being provided with the EA at the meeting on 5 April.	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
W14	ES Appendix 18.B: Drainage Strategy	6.4 Environmental Statement Appendices – Appendix 18: B: Drainage Strategy [APP-210] Relevant Representation [RR-010] para 10.27	We request further information and consultation on the water discharge into the Stallingborough North Beck. The drainage strategy (and paragraph 18.8.49 of Chapter 18) indicates that there will be “uncontrolled discharges to North Beck Drain”. This will not be acceptable as this main river is currently up to capacity and we are unlikely to permit any increase in flow to it.	ABP has progressed the Drainage Strategy for the jetty access road, to which the reference to uncontrolled discharges related, (Work No. 1 and 2) since DCO submission. There is no longer an uncontrolled discharge into the Stallingborough North Beck. Surface water runoff is being attenuated to a rate that has been agreed with North East Lindsey Drainage Board (NELDB). The final drainage strategy will be approved through Schedule 2, Requirement 12 of the DCO.	As per ABP position.	Discussion ongoing	
Materials and Waste							
MW1	ES Chapter 20: Materials and Waste and Appendix 2.A	6.2 Environmental Statement – Chapter 20:	The EA has reviewed the submission version of these documents	ABP notes the EA response and is pleased the EA agrees with the methodology and	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
	Waste Hierarchy Assessment	Materials and Waste [APP-062] 6.4 Environmental Statement Appendices - Appendix 2.A: Waste Hierarchy Assessment [APP-172] Relevant Representation [RR-010] , para 11.1	and has no comments to make.	conclusions of that chapter.			
Ground Conditions and Land Quality							
GC1	ES Chapter 21: Ground Conditions and Land Quality	6.2 Environmental Statement – Chapter 21: Ground Conditions and Land Quality [APP-063] 6.4 Environmental Statement Appendices - Appendix 21.B: Phase II Ground	The EA has reviewed Chapter 21 and the associated Appendices 21.B Phase II Ground Investigation Interpretative Report and 21.C Outline Remediation Strategy. Based on the findings of the site investigations undertaken to date, potential controlled	ABP notes the EA has reviewed ES Chapter 21 and the associated appendices and is pleased the EA agrees with the methodology and conclusions of those documents. The final remediation strategy(ies) detailing the programme of groundwater and surface water monitoring will be approved through	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Investigation Interpretative Report [APP-216]	waters pollution risks have been identified. We agree with the recommendations of the Interpretative Report that further groundwater monitoring is recommended to fully characterise groundwater conditions below the site. Based on the findings of the additional groundwater monitoring, further risk assessment, site investigation and/or remediation may be required. We are satisfied that Requirement 15 in Schedule 2 of the draft DCO is sufficient to manage the risks from contamination at the site, in so far as it relates to controlled waters.	Schedule 2, Requirement 15 of the dDCO.			
		6.4 Environmental Statement Appendices - Appendix 21.C: Outline Remediation Strategy [APP-217]					
		Relevant Representation [RR-010] , para 12.1					

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
GC2	Materials Management Plan (MMP)	6.2 Environmental Statement – Chapter 21: Ground Conditions and Land Quality [APP-063] 6.5 Outline Construction Environmental Management Plan [REP2-004] Relevant Representation [RR-010] , para 15.2	We welcome the acknowledgement on page 55 that within Work Area 9, no temporary buildings, plant or materials will be located within the area of the fluvial floodplain or within 8m from the landward toe of the fluvial flood defence, whichever is further. A note to this effect should also be included in Section 4.2 of the Soil Management Plan to ensure floodplain storage and flood flows are not impacted. <u>The EA welcomes the amendment to paragraph 4.2.4 of the updated oSMP which includes an appropriate acknowledgement of this issue.</u>	<u>ABP notes the comment on the Soil Management Plan. An updated Outline Soil Management Plan was submitted at Deadline 2 as Appendix B to the updated oCEMP [REP2-004]. Paragraph 4.2.4 was added to section 4.2 of the Outline Soil Management Plan to address this comment,</u>	As per ABP position.	Agreed,	<u>5 April 2024</u>

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Major Accidents and Disasters

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
MAD1	Other sites that may be impacted by major accidents	6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] Relevant Representation [RR-010] para 13.1	In our Relevant Representation, the EA has identified a number of other sites in the locality which hold an Environmental Permit but do not fall under COMAH. These sites may be impacted by major accidents at the site, leading to escalated consequences.	Any site within the vicinity of the Project that has the potential to be impacted by the Project has been considered in chapter 22 Major Accident and Disasters para 22.6 including sites which hold an Environmental Permit but do not fall under COMAH.	As per ABP position.	Agreed	1 December 2023
Cumulative and In-Combination Effects							
CE1	ES Chapter 25: Cumulative and In-Combination Effects	6.2 Environmental Statement - Chapter 25: Cumulative and In-Combination Effects [APP-067] Relevant Representation [RR-010] para 14.1	The EA has reviewed Chapter 25 together with Figures 25.1 and 25.2 and we have no comments to make on these.	ABP acknowledges the EA's position and is pleased to see the EA has no comments on these documents.	As per ABP position.	Agreed	1 December 2023
Management Plans							

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
MP1	Outline Construction Environmental Management Plan	6.5 Outline Construction Environmental Management Plan [REP2-004] Relevant Representation [RR-010] section 15	<p>The EA is satisfied that this plan outlines all the relevant and necessary environmental protection measures (relevant to our remit) that will be implemented. We look forward to reviewing the final plan secured via Requirement 6 in due course.</p> <p>The EA welcomes the acknowledgement on page 55 that within Work Area 9, no temporary buildings, plant or materials will be located within the area of the fluvial floodplain or within 8m from the landward toe of the fluvial flood defence, whichever is further. A note to this effect should also be included in Section 4.2 of the Soil Management Plan to ensure floodplain storage and flood</p>	<p>ABP acknowledges the EA's position and is pleased to see the EA is satisfied the oCEMP outlines all the relevant and necessary environmental protection measures relevant to the EA.</p> <p><u>ABP notes the comment on the Soil Management Plan. An updated Outline Soil Management Plan was submitted at Deadline 2 as Appendix B to the updated oCEMP [REP2-004]. Paragraph 4.2.4 was added to section 4.2 of the Outline Soil Management Plan to address this comment.</u></p>	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			flows are not impacted.				
MP2	Outline Decommissioning Environmental Management Plan	6.6 Outline Decommissioning Environmental Management Plan [APP-222] Relevant Representation [RR-010] section 16	The EA has reviewed the contents of this plan, which are satisfactory. See also matter dDCO8.	ABP agrees that the EA should be included as a consultee on the oDEMP, noting that on site decommissioning requirements associated with the hydrogen production will be addressed in the Environmental Permit for that facility (which will require a decommissioning/site closure plan approved by the EA. Refer to matter DCO8.	As per ABP position.	Agreed	1 December 2023
MP3	Outline Landscape and Ecology Management Plan	6.9 Outline Landscape and Ecology Management Plan [APP-225] Relevant Representation [RR-010] section 17	The EA has been unable to review this document at the current time and will provide comments at a later date if possible.	ABP notes the EA's position and looks forward to receiving comments on the oLEMP in due course.	As per ABP position.	Discussion Ongoing	
Other DCO Documents							

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
O1	Schedule of Mitigation and Monitoring	7.2 Schedule of Mitigation and Monitoring [REP2-006] Relevant Representation [RR-010] section 18	The EA has reviewed the contents of this schedule and have no comments to make on it at the current time.	ABP acknowledges the EA's position.	As per ABP position.	Agreed	1 December 2023
O2	Consents and Agreements Position Statement	7.4 Consents and Agreements Position Statement [REP1-010] Relevant Representation [RR-010] section 19	The EA has reviewed this statement and concur with the identification of possible permits that will be required from the Environment Agency for the construction and operation of the development.	ABP acknowledges the EA's position.	As per ABP position.	Agreed	1 December 2023
Environmental Permitting							
EP1	Environmental Permit – scope of the application and applicable guidance		EA confirms that the environmental permitting scope is considered at this stage permissible.	As per Air Products position.	Air Products and ABP have agreed the scope of the Environmental Permit application with the Environment Agency and on the applicable BAT (application ref: EPR/VP3425SV/P001) and the pre application process is	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
					closed. Any significant updates on the Environmental Permit application will be provided to the ExA as required.		
Development Consent Order							
DCO1	Article 3: Application, disapplication and modification of legislative provisions	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060], Draft Development Consent Order [REP1-016] Relevant Representation [RR-010], para 3.1	The Environment Agency has not been consulted on text for the Protective Provisions that have been included in the draft DCO. These provisions are not in a format that is acceptable to us and therefore we do not currently agree to the disapplication of Regulation 12 (the requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(c) in respect of flood risk activities. We will work with ABP to try and agree on a form of Protective Provisions	ABP prepared a set of bespoke protective provisions in favour of the EA which reflect the particular circumstances of the proposals pursuant to the DCO for Work No. 1 to cross through existing flood management infrastructure maintained by the EA pursuant to a licence from ABP as long leaseholder in this location. These protective provisions were based on relevant wording adopted from protective provisions in favour of the EA on the face of recently made DCOs. The EA has since provided its template protective provisions to ABP. ABP's solicitors	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			that is acceptable during the examination. <u>The applicant provided a track changed version of Protective Provisions on 10th April 2024. The EA's legal adviser is continuing to engage with the applicant on the proposed changes and we remain confident these will be agreed during the examination period.</u>	<u>have reviewed these, aligned the proposed dDCO protective provisions in favour of the EA with them and provided a copy to the EA for its comment.</u>			
DCO2	Article 18: Discharge of Water	<u>Draft Development Consent Order [REP1-016]</u> Relevant Representation [RR-010], para 3.2	The Environment Agency asks for two additional clauses to be added to Article 18 in respect of the Habrough Marsh Drain and Stallingborough North Beck outfall as detailed in our Relevant Representation. These additional clauses are required to secure monitoring to ascertain if the	ABP is content with the principle of monitoring the Habrough Marsh and Stallingborough North Beck outfall channels and <u>its solicitors have revised</u> the proposed dDCO protective provisions <u>in favour of the EA to secure appropriate measures and provided a copy to the EA for its comment.</u> <u>The</u> position will be updated in a future draft of this SoCG.	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			proposed development has a negative impact on the function of these outfalls over time.				
DCO3	Remediation works	<u>Draft Development Consent Order [REP1-016]</u> Relevant Representation [RR-010], para 3.3	Linked to the EA's position at Matter dDCO02, is that the EA needs to secure an appropriate mechanism under the DCO to agree on remediation works to clear any obstruction resulting from the authorised development and the timescales within which this needs to be carried out. The EA will discuss this with ABP as part of our negotiations for the Protective Provisions but reserve the right to request an additional Requirement within the DCO regarding this, if necessary.	<u>ABP's solicitors have revised the proposed dDCO protective provisions in favour of the EA to secure an appropriate mechanism for agreeing and taken steps to remedy obstructions to the Habrough Marsh and Stallingborough North Beck outfall channels as a result of the authorised project for 10 years and provided a copy to the EA for its comment. The position will be updated in a future draft of this SoCG.</u>	As per ABP position.	Discussion ongoing	

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 9.13 Draft Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
DCO4	Schedule 2 – interpretation 1: “commence”	<p>Draft Development Consent Order [REP1-016]</p> <p>Relevant Representation [RR-010] para 3.4</p> <p>Deadline 1 Submission – 9.30 Written Summaries of the Applicant’s Oral Case at Issue Specific Hearing 2 with Appendices [REP1-065]</p>	<p>The EA requests that ‘remedial work in respect of any contamination’ be deleted from this interpretation, for the reasons detailed in our Relevant Representation.</p> <p>The EA does not agree with the applicant’s interpretation or use of the of the definition of ‘commence’ as provided in response to ExQ1s [Q1.18.2.5] [REP1-039]. The EA is also now of the opinion that Requirement 15 should be amended to delete the phrase ‘may be undertaken’ and replaced with ‘may be commenced’. This is to ensure that no below ground works take place prior to the approval of the CEMP, as this contains relevant control</p>	<p>Requirement 15 is not at odds with the definition of “commence”. Requirement 15 prohibits any below ground works comprised in any part of Work No. 1 outside of the UK marine area, Work No. 2, Work No. 3, Work No. 4, Work No. 5, Work No. 6 or Work No. 7 being “undertaken” until a written remediation strategy applicable to that part to deal with any contamination of that part which is likely to cause significant harm to persons or pollution of controlled waters or the environment has, following consultation with the Environment Agency, been submitted to and approved by the relevant planning authority. Any remediation required must be carried out in accordance with the approved remediation</p>	As per ABP position.	Discussion ongoing	

Deleted: [APP-006]

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			<p><u>measures which need to be adhered to during the remediation, handling and disposal of contaminated materials.</u></p>	<p>strategy. The Requirement therefore applies to all below ground works and remedial work in respect of any contamination cannot be carried out prior to written remediation strategies being approved and, where so approved, implemented.</p> <p><u>A note regarding the definition of “commence” was submitted by ABP at Deadline 1 as part of its written summaries of the Applicant’s oral case at Issue Specific Hearing 2, refer to Table 8.1 [REP1-065].</u></p> <p><u>The Applicant notes the EA’s further comments on Requirement 15 and the definition of “commence”. Requirement 15 provides a complete prohibition to any below ground works in any part of the</u></p>			

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				<p><u>terrestrial area until a remediation strategy for that part to deal with any contamination is approved. This Requirement operates wholly separately from Requirement 6 which secures approval of and compliance with the CEMP. The use of the term "commence" in Requirement 15 (whether or not amended as the EA proposes) is not necessary, would not have the result that the EA desires and cannot therefore be agreed. It is noted that the remediation strategies to be approved under Requirement 15 are intended to secure wholly all necessary actions relating to remedial works to address contamination, in the usual manner. The Applicant will check that there are no contamination-related measures in the outline</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>CEMP, with which each remediation strategy should generally accord but, in the interim, would welcome the EA identifying any actions in the CEMP which the EA considers should be in the outline remediation strategy. Fundamentally, if the outline remediation strategy includes all contamination-related matters of appropriate concern to the EA there is no need for its proposed amendments because Requirements should not be duplicating one another.</u></p>			
DCO5	Schedule 2 Requirement 6 – Construction Environmental Management Plan	<p><u>Draft Development Consent Order [APP-006]</u></p> <p>Procedural Deadline A Submission – 2.1 Draft Development Consent Order <u>[PDA-004]</u></p>	The EA requests that we are included as the consultee to Requirement 6(1) for Work No. 1, for the reasons detailed in our Relevant Representation.	ABP has added the EA as a consultee to this Requirement in the revised dDCO submitted at Procedural Deadline A <u>[PDA-004]</u> .	As per ABP position.	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Relevant Representation [RR-010] , para 3.5					
DCO6	Schedule 2 Requirement 13 – Flood Risk Assessment	<p>Draft Development Consent Order [APP-006]</p> <p>Relevant Representation [RR-010], para 3.6</p> <p>Procedural Deadline A Submission – 2.1 Draft Development Consent Order [PDA-004]</p>	<p>The EA request the words ‘outside of the UK marine area’, ‘general’ and ‘unless otherwise approved by the relevant planning authority’ be deleted from this requirement, for the reasons detailed in our Relevant Representation.</p> <p>The EA welcomes the amendment to Requirement 13, submitted at Deadline 1 [PDA-004], to delete the term ‘general’.</p> <p>The EA looks forward to reviewing the additional amendments proposed by the applicant in the next iteration of the dDCO and deemed marine licence.</p>	<p>ABP is content for the word ‘general’ to be deleted in this instance. An updated dDCO was submitted at Procedural Deadline 1 to remove ‘general’ from the wording of Schedule 2, Requirement 12 [PDA-004].</p> <p>“Unless otherwise approved by the relevant planning authority” provides the appropriate flexibility required by a nationally significant infrastructure project and ABP notes that such relevant planning authority approvals are limited in the usual manner, according with established case law for such wording, by Article 63(2)(b) which states ‘When any consent, agreement or approval is</p>	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>required of, or with, the relevant planning authority pursuant to a requirement set out in Schedule 2 (requirements) such consent agreement or approval must not be given if it would [...] give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 Regulations".</p> <p><u>As discussed in the meeting of 5 April with the EA, "outside of the UK marine area" is being retained in Requirement 13 but an equivalent deemed marine licence condition has been added at paragraph 14 of Schedule 3 (deemed marine licence) of the</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>dDCO being submitted at Deadline 3 as follows:</u> <u>"All licensed activities must be carried out in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the MMO."</u> This approach accommodates the EA's request but maintains an appropriate distinction between the Requirements, dealing with matters above mean high water springs, and the deemed marine licence, dealing with matters below mean high water springs.</p>			
DCO7	Schedule 2 Requirement 15 – Contaminated Land	<p><u>Draft Development Consent Order [REP1-016]</u> Relevant Representation <u>[RR-010]</u> para 3.7</p>	<p>The EA <u>requests</u> that Requirement 15 is <u>amended, to delete the phrase 'may be undertaken' and replaced with 'may be commenced' to ensure that no remediation works start before the</u></p>	<p>ABP is pleased the EA is satisfied with Requirement 15. A note regarding the definition of "commence" was submitted by ABP at Deadline 1 as part of its written summaries of the</p>	As per ABP position.	Under Discussion	

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9.13 Draft Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p><u>final CEMP and the remediation strategy have been approved. This is required, along with the deletion of the remedial work 'exception' in Requirement 1 Interpretation (see DCO4 above) to ensure risks from contamination at the site, in so far as it relates to controlled waters, are appropriately managed.</u></p>	<p><u>Applicant's oral case at Issue Specific Hearing 2, refer to Table 8.1 [REP1-065].</u></p> <p><u>Please see the Applicants comments on DCO4 above in respect of the EA's further comments on Requirement 15 and the definition of "commence".</u></p>			
DCO8	Schedule 2 Requirement 18 – Decommissioning Environmental Management Plan	<p><u>Draft Development Consent Order [APP-006]</u></p> <p>Procedural Deadline A Submission – 2.1 Draft Development Consent Order <u>[PDA-004]</u></p>	The Environment Agency requests its inclusion as a specific consultee to the discharge of the Requirement for all issues within its remit.	ABP has added the EA as a consultee to this Requirement in the revised dDCO submitted at Procedural Deadline A <u>[PDA-004]</u> ,	As per ABP position.	Agreed	1 March 2024

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9.13 Draft Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Relevant Representation [RR-010] , para 3.8				Agreed	
DCO9	Schedule 3: Deemed Marine Licence – Condition 8: Construction Environmental Management Plan	Draft Development Consent Order [REP1-016] Relevant Representation [RR-010]	The EA welcomes our inclusion as a consultee to this condition, which will allow us to comment on matters within our remit.	ABP notes the EA's agreement with Condition 8.	As per ABP position.		
DCO10	Schedule 8: Part 1: Temporary Restriction or Alteration, etc. of the Use of Streets or Public Rights of Way	Draft Development Consent Order [REP1-016] Relevant Representation [RR-010] , para 3.10 and 3.11 Deadline 2 (D2) Submission – 6.5 Outline Construction Environmental Management Plan (Clean) [REP2-004]	The EA requires appropriate mitigation measures to be in place should the temporary diversion of Bridleway Number 36 run close to the existing flood defence assets on Stallingborough North Beck, to ensure that no access can be gained to the flood defence. The EA would require a 1m buffer from the landward toe to enable maintenance to be	ABP agrees with the mitigation measures proposed by the EA. These measures were added to Table 15 of the updated oCEMP submitted at Deadline 2 [REP2-004] .	As per ABP position,	Agreed,	5 April 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>carried out on the flood defence.</p> <p>Details of these mitigation should be provided to the EA.</p> <p>The same would apply should motor vehicles need to use the bridleway.</p> <p>It was also previously stated that the temporary Public Rights of Way diversion may mean that a temporary bridge could be needed over the channel behind the sea wall. We would welcome conversations about this structure as part of our continuing engagement with ABP.</p> <p>The EA welcomes the mitigation measures added to Table 15 of the updated oCEMP submitted at Deadline 2 [REP2-004]. This</p>				

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 9.13 Draft Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<u>matter is now resolved.</u>				
DCO11	Schedule 14, Part 2: Protective Provisions for the Environment Agency	<u>Draft Development Consent Order [REP1-016]</u> Relevant Representation <u>[RR-010]</u> para 3.12	<p>The Environment Agency has not been consulted on text for the Protective Provisions that have been included in the draft DCO. These provisions are not in a format that is acceptable to us.</p> <p>We will work with ABP to try and agree on a form of Protective Provisions that is acceptable during the examination.</p> <p><u>The applicant provided a track changed version of Protective Provisions on 10th April 2024. The EA's legal adviser is continuing to engage with the applicant on the proposed changes and we remain confident these will be agreed</u></p>	This matter restates matter dDCO1 of this table. Refer to ABP's response to matter dDCO1.	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<u>during the examination period.</u>				
DCO12	Schedule 17: Procedure regarding certain approvals etc. Article 63: – Further information and consultation	<u>Draft Development Consent Order [APP-006]</u> Procedural Deadline A Submission – 2.1 Draft Development Consent Order [PDA-004] Relevant Representation [RR-010] para 3.13 to 3.16	The EA's full comments on this Article are provided in our Relevant Representation. In summary, the EA is of the view that the provisions in this article will not provide sufficient time for adequate consultation to take place for the discharge of Requirements. The EA requests that the timeframe be amended from 10 business days to 20 business days. The EA also requests that the term 'business days' is included in Condition 1 (Interpretation) for this Schedule as meaning a day other than a Saturday or Sunday, Good Friday, Christmas Day or a	Paragraph 3(3) of Schedule 17 (Procedure regarding certain approvals, etc.) of the existing dDCO mirrored the Riverside Energy Park Order 2020, which reflects the imperative of expeditious decision-making for nationally significant infrastructure projects. However, further to the EA's request, ABP is content to increase the period within which the relevant planning authority must notify the undertaker in writing specifying any additional further information requested by the requirement consultee to within 20, rather than the previous 10, business days of receipt of the application. This amendment was made in the revised	As per ABP position.	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			bank holiday in England and Wales under section 1 of the banking and Financial Dealings Act 1971	dDCO submitted at Procedural Deadline A. ABP advises there is no need to add the term 'business days' to the Schedule of Requirements. It already appears in article (2) (Interpretation) of the dDCO.			
Book of Reference							
BoR1	Reconstruction, future ownership, operation and maintenance of flood defence	<u>3.1 Book of Reference [APP-008]</u> Relevant Representation [RR-010], para 4.0 and 4.1	The EA requires ABP to enter into a bespoke legal agreement to ensure that the proposed works to the flood defence will be carried out in a way that ensures an appropriate level of flood protection is maintained both now and into the future. The EA will work with ABP to negotiate this agreement and will update its position in this SoCG as the	The EA has permissive powers to maintain flood defences at the Immingham foreshore. ABP considers it is also currently the responsibility of the EA to maintain its flood defence works at the Immingham foreshore, including within the Order limits pursuant to licences granted by ABP in 1980 and 1999. ABP is, <u>however</u> , content with the principle that the width of flood defence works <u>being replaced as part of the jetty</u> works		Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>examination progresses.</p> <p>The EA provided ABP with an example template of the type of legal agreement it is seeking under Section 30 of the Anglian Water Authority Act 1977 on 5th December 2023.</p> <p><u>The EA welcomes the applicant's agreement that the width of flood defence works being replaced as part of the jetty works crossing them overhead as part of the authorised project, should be maintained by ABP following construction.</u></p> <p><u>The EA will continue to engage with the applicant on the details (and wording) of an appropriate Legal Agreement to secure this.</u></p>	<p><u>crossing them overhead as part of</u> the authorised <u>project,</u> should be maintained by ABP following construction. ABP is content that a further legal agreement is necessary to secure this but considers that there is no necessity for the scope of such an agreement to be any wider given matters already secured by the protective provisions. ABP will continue liaising with the EA on these matters <u>and awaits its confirmation that the relevant bespoke legal agreement can be prepared, drawing on the template flood defence agreement provided by the EA as appropriate.</u></p>			

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4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
AEP	Annual Exceedance Probability
BAT	Best Available Techniques
BNG	Biodiversity Net Gain
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
FRA	Flood Risk Assessment
MMO	Marine Management Organisation
MMP	Materials Management Plan
NSIP	Nationally Significant Infrastructure Project
oCEMP	Outline Construction Environmental Management Plan
oDEMP	Outline Decommissioning Environmental Management Plan
oLEMP	Outline Landscape and Ecology Management Plan
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom
WFD	Water Framework Directive