



Immingham Green Energy Terminal

9.17 Draft Statement of Common Ground between
Associated British Ports, Air Products (BR) Limited and
Natural England (Clean)

Infrastructure Planning (Examination Procedure) Rules 2010
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Version History

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1.0	13 March 2024	Deadline 1
2.0	3 May 2024	Deadline 3

Status of the Statement of Common Ground

A Draft Agreed SoCG with Natural England was submitted at Deadline 1 [REP1-052]. A meeting with Natural England was held on 15 April 2024 to discuss the remaining matters under discussion in the SoCG. An updated SoCG was subsequently shared with Natural England on 26 April 2024. Natural England returned their comments on 1 May 2024. ABP has not had time prior to Deadline 3 to review and respond to Natural England's comments. However, the Draft SoCG being submitted at Deadline 3 includes Natural England's changes so that the most up to date situation is presented to the ExA which accurately reflects the views of the stakeholder. ABP will review and respond to Natural England's comments post Deadline 3 and if considered necessary, will submit an updated Draft SoCG at Deadline 4.

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1 Introduction

Overview

- 1.1 This Statement of Common Ground (“SoCG”) has been prepared to accompany an application made to the Secretary of State for Transport (the “Application”) under Section 37 of the Planning Act 2008 (“PA 2008”) for a Development Consent Order (“DCO”) to authorise the construction and operation of the proposed Immingham Green Energy Terminal (“the Project”).
- 1.2 The Application is submitted by Associated British Ports (“ABP”). ABP was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-010]** provides further information on ABP as the Applicant.
- 1.3 The Project as proposed by ABP falls within the definition of a Nationally Significant Infrastructure Project (“NSIP”) as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

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

Parties to this Statement of Common Ground

- 1.7 This SoCG has been prepared by (1) ABP (as the Applicant), (2) Air Products and (3) Natural England (“NE”).
- 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 Natural England is the Government’s advisor on the natural environment. Its purpose is to help, conserve, enhance and manage the natural environment for the benefit of present and future generations, thereby contributing to sustainable development. It was created as a Non-Departmental Public Body under the provisions of the Natural Environment and Rural Communities Act 2006 and is formally accountable to the Secretary of State for the Environment, Food and Rural Affairs. It is responsible for ensuring that England’s natural environment,

including its land, flora and fauna, freshwater and marine environments, geology and soils, are protected and improved.

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

Purpose and Structure of this Document

- 1.12 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the Examination so as to assist the Examining Authority (“ExA”) in its consideration of the Application.
- 1.13 In preparing this SoCG, the guidance provided in Planning Act 2008: examination of application for development consent (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority’s **Rule 6 letter [PD-005]**.
- 1.14 Section 1 of this SoCG 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
 - (d) Yellow – matter not agreed – no material impact

2 Summary of Engagement

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

Table 2-1: Record of Engagement

Date	Form of Contact	Summary with key outcomes and points of discussion
Pre-Application		
10 October 2022	EIA Scoping Opinion was adopted by the Secretary of State	Natural England was consulted at EIA Scoping stage.
21 November 2022	In person meeting	Introduction to the Project including the Project programme and the potential for effects in the marine and terrestrial environment.
9 January to 20 February 2023	First Statutory Consultation	Natural England was consulted by ABP as part of the First Statutory Consultation.
11 January 2023	MS Teams	Technical discussions around tree loss, collision risk for marine mammals, the temporary construction area and the Habitats Regulations Assessment (“HRA”).
16 March 2023	Letter attached to email	Natural England provided their response to the First Statutory Consultation. In summary their main comments related to: <ol style="list-style-type: none"> 1. Internationally and nationally designated sites – potential impacts on the Humber Estuary Special Area of Conservation (“SAC”), Special Protection Area (“SPA”), Ramsar and Site of Special Scientific Interest (“SSSI”). 2. Habitats Regulation Assessment screening – Natural England indicated their broad agreement with the high-level impact pathways identified but advised that future iterations would need to provide further detail. 3. ES Chapter 6: Air Quality – comments around ammonia emissions from road traffic, potential air quality impacts from marine vessels and potential dust emissions during the construction phase, potential air quality impacts from marine vessel

Date	Form of Contact	Summary with key outcomes and points of discussion
		<p>emissions and landside plant emissions during the operation phase.</p> <ol style="list-style-type: none"> 4. ES Chapter 8: Nature Conservation (Terrestrial Ecology) – Natural England did not review this section in detail and advised they would provide detailed comments in their relevant representation. 5. ES Chapter 9: Nature Conservation (Marine Ecology) – comments on potential effects from permanent direct loss of intertidal and subtidal habitat during construction and operation, potential effects from capital and maintenance dredging and disposal of dredged material to sea during construction and operation, assessment of impacts on Sea and River Lamprey (migratory fish) during construction and assessment of impacts on marine mammals during construction and operation. 6. ES Chapter 10: Ornithology – Natural England confirmed they agreed that potential impacts on the Greater Wash SPA could be scoped out. Natural England provided comments in relation to Humber Estuary SPA/ Ramsar birds. 7. ES Chapters 16 and 17: Physical Processes and Marine Water and Sediment Quality – Natural England indicated their broad agreement with the scope of these assessments, however noted that they may provide additional comments when further sediment sampling and physical processes modelling is complete. 8. ES Chapter 25: In-Combination Screening Assessment – Natural England asserted that the HRA will need to consider in-combination impacts from other relevant projects and plans and provided further guidance on what this assessment should include. 9. Provision of other advice in relation to local sites and priority habitats and species, environmental and biodiversity enhancement, rights of way, access land, coastal access and National Trails.
24 May 2023 to 20 July 2023	Second Statutory Consultation	Natural England was consulted as part of the Second Statutory Consultation.
28 June 2023	Email	Natural England provided their response to the Second Statutory Consultation. In summary their comments related to:

Date	Form of Contact	Summary with key outcomes and points of discussion
		<ol style="list-style-type: none"> 1. Request for better consultation methods to be used in approach to statutory consultation and moving forward, a request for ABP to work collaboratively with Natural England moving forward. 2. Internationally and nationally designated sites – consideration of potential impacts on the Humber Estuary EAC, SPA, Ramsar and SSSI and the North Killingholme Haven Pits SSSI. 3. Proposed design changes and re-design of the jetty structure. 4. Long Strip TPO woodland – supports the commitment from ABP to submit a Woodland Compensation Strategy.
2 August 2023	MS Teams	Technical discussions around tree loss, collision risk for marine mammals, the temporary construction area and the HRA.
Post-DCO Submission		
18 October 2023	Email Exchange	Sharing of DCO application documents in advance of upload for early sight.
3 November 2023	Email Exchange	Provision of Terms of Reference (“ToR”) for review.
8 December 2023	Email Exchange	Share of revised ToR and discussions for meeting to discuss engagement plan.
20 December 2023	Email Exchange	Discussion of availability for dates.
8 January 2024	Email Exchange	Proposed amendments to ToR.
9 January 2024	MS Teams	<p>Meeting to reintroduce Project to the team. An update on the proposed Project was provided with information shared on what has changed since the Preliminary Environmental Information Report (“PEIR”).</p> <p>An overview of ABP’s interpretation of the Relevant Representation was provided to ensure that Natural England were in agreement on the pertinent topics for discussion.</p> <p>ABP also outlined their approach to the Construction Environmental Management Plan (“CEMP”) and</p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<p>explained that it would be split into a landside and marine component.</p> <p>It was agreed that an engagement plan would be agreed and followed with an agenda of meetings to discuss concerns raised.</p>
19 February 2024	Email Exchange	Submission of minutes from meeting of 9 January, proposed engagement plan and Terms of Reference.
22 February 2024	Email Exchange	Draft SoCG and draft responses to relevant representations provided.
5 March 2024	MS Teams	<p>Meeting to discuss the draft SoCG and draft responses to Natural England's relevant representations.</p> <p>Comments around the soils and land quality elements were covered to provide clarity on the applicability of methods used.</p> <p>The topic of air quality was discussed with specialists to provide further explanation of the approaches taken. It was agreed that some areas could be signed off but continued discussions were required on some matters.</p> <p>Concerns around habitats were discussed and additional information provided. The Shadow Habitats Regulations Assessment has been updated in response to concerns and will be submitted at Deadline 1 so Natural England are able to comment in context.</p> <p>Concerns around bird features were discussed and sources of baseline data shared. Some elements of concern were captured for further discussion and elements will be provided in the updated Shadow Habitats Regulations Assessment submitted at Deadline 1.</p> <p>Concerns relating to marine mammals and fish were discussed at high level with general agreement on the approaches taken.</p> <p>Natural England confirmed that some additional comments would be provided at Deadline 1 and Deadline 2 but conversations would continue.</p>
15 April 2024	MS Teams	<p>Meeting to discuss the remaining amber items in the SoCG and additional information provided at Deadlines 1 and 2.</p> <p>The meeting covered the topics of air quality and birds, and a number of matters were amended to green (agreed). Some items require further discussion but it</p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<p>was felt that most will be finalised within the next two deadlines.</p> <p>The use of Skeffling as a compensation site was agreed, acknowledging the timing issues with the breach of the compensation site and provision of habitat.</p>

3 Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that the record of engagement included in the **Consultation Report [APP-022]** submitted with the Application, accurately sets out the consultation and engagement undertaken between the Parties in relation to the Application. In particular, the following chapters:
- 3.1.1 **ES Chapter 6: Air Quality [APP-048]**
 - 3.1.2 **ES Chapter 8: Nature Conservation (Terrestrial Ecology) [APP-050]**
 - 3.1.3 **ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051]**
 - 3.1.4 **ES Chapter 10: Ornithology [APP-052]**
 - 3.1.5 **ES Chapter 11: Traffic & Transport [APP-053]**
 - 3.1.6 **ES Chapter 16: Physical Processes [APP-058]**
 - 3.1.7 **ES Chapter 17: Marine Water and Sediment Quality [APP-059]**
 - 3.1.8 **ES Chapter 25: Cumulative and In-Combination Effects [APP-067]**
 - 3.1.9 **Without Prejudice Report to Inform Habitats Regulations Assessment Derogation [REP1-008]**
 - 3.1.10 **Shadow Habitats Regulations Assessment [REP1-012]**
- 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); a list of matters not agreed (shaded red); and a list of matters not agreed not of no impact (shaded yellow) at the date of the Examination along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

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

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
General							
G1	Stakeholder Engagement	Consultation Report [APP-022]	Natural England confirms the Applicant'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 [APP-022] and Table 2-1 of this SoCG is accurate.	As per ABPs position.	Agreed	4 December 2023
G2	Stakeholder Engagement	Consultation Report [APP-022] Natural England Relevant Representation [RR-019]	Natural England consider that ABP is engaging with Natural England's statutory consultation response. We welcome that additional information has been provided in ABP's response to Natural England's Relevant Representations [RR-019] . Discussions are ongoing regarding outstanding issues.	ABP understands that Natural England gave their opinion and comments regarding the Project in their statutory consultation response and seeks agreement from Natural England that ABP has listened to their response.	As per ABPs position.	Discussion ongoing	
G3	Construction Environmental Management Plan	2.1 Draft Development Consent Order [REP1-016] 6.5 Outline Construction Environmental Management Plan [REP2-004]	Natural England welcomes ongoing discussions with ABP and Air Products regarding the CEMP. Natural England agrees with the proposed approach to progressing negotiations on the Final CEMP in order to reach a position where the content of the final CEMP(s) is advanced as far as possible and agreed with relevant parties prior to the end of the Examination for the Project. Discussions are ongoing regarding mitigation measures that should be secured in the CEMP.	ABP and Air Products intend to progress negotiations with Natural England 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 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 for North East Lincolnshire Council ("NELC") (in consultation with the Marine Management Organisation (MMO) in relation to Work No. 1) secured under Requirement 6 of the draft DCO [REP1-016] and for the works in the marine area by the MMO (in consultation with NELC) secured by Condition 8 of the deemed marine licence and enable site works to commence at the earliest opportunity, which is a necessity of the programme for delivery of the Project. It is intended at present that the Final CEMP will form at least three separate documents:	As per ABPs position.	Discussion ongoing	

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
				<p>1. CEMP relating to all works in the UK marine area (i.e. all works below Mean High Water Spring "MHWS") which would be for the MMO to approve;</p> <p>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.</p> <p>3. CEMPs relating to the other landside works which would also be phased and would also be approved by NELC.</p> <p>ABP and Natural England agree with this approach.</p>			
G5	Scope of assessment	ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051] and Chapter 10: Ornithology [APP-052]	Natural England agrees that the scope of assessment presented in Chapters 9 and 10 of the Environmental Statement (ES) is appropriate, with additional clarification provided where requested.	The scope of assessment presented in Chapters 9 and 10 of the Environmental Statement (ES) [APP-051, APP-052] is in line with that set out in PEIR with additional clarification provided where requested.	As per ABPs position.	Agreed	4 December 2023
G6	Methodology	ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051] and Chapter 10: Ornithology [APP-052]	Overall, the assessment methodology applied in Chapters 9 and 10 of the ES is considered robust; however, discussions are ongoing regarding some aspects where we have outstanding comments.	The assessment methodology applied in Chapters 9 and 10 of the ES [APP-051, APP-052] is robust and consistent with relevant guidance.	As per ABPs position.	Discussion ongoing	
G7	Baseline data and information sources	ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051] and Chapter 10: Ornithology [APP-052]	Natural England agrees that the baseline data and information sources to inform the description of the baseline environment are considered adequate and sufficient to inform the environmental assessment.	Baseline data and information sources to inform the description of the baseline environment are considered adequate and sufficient to inform the environmental assessment and represent best available evidence.	As per ABPs position.	Agreed	15 April 2024
Shadow HRA							
NE1	Shadow HRA	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England agrees with the information provided in Table 2 of the shadow HRA regarding the qualifying features relevant to the screening assessment. They broadly agree with the conclusions in Tables 3 – 5 regarding the potential for likely significant	ABP acknowledge Natural England's position regarding the qualifying features.	As per ABPs position.	Agreed	4 December 2023

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			effects on the relevant designated sites, except where detailed comments are provided below (key issue ref NE2 and NE3). Natural England confirm that this matter is agreed, based on the information provided.				
NE2	Shadow HRA	Shadow HRA [REP1-012] ES Chapter 10: Ornithology [APP-052] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Lighting effects Natural England welcomes the additional information provided in ABP's response to relevant representations [REP1-021]. Natural England agrees that this point, in relation to lighting effects on coastal waterbirds, has been addressed. Potential effects of flare stacks Natural England welcomes the additional information provided in ABP's response to relevant representations [REP1-021]. Natural England agrees that this point, in relation to the potential impact of flare stack on SPA birds has been addressed, on the basis that <i>'the flare stacks proposed as part of the Project will be much smaller, with the flame largely enclosed as a result of shrouding'</i> , as stated in the shadow HRA [REP1-012].	Further clarifications in relation to lighting effects and flare stacks, during construction and operation has been provided in the ABP's response to relevant representations [REP1-021]. The updated Shadow HRA [REP1-012] also includes this information.	As per ABPs position.	Agreed	15 April 2024
NE3	HRA screening comments – In- combination assessment at screening stage	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England highlights that the shadow HRA does not appear to include an in-combination assessment following the screening stage of the HRA. Natural England welcomes the commitment to update the Shadow HRA and will review the information when submitted. Further detailed advice is provided in our Deadline 3 response (03 May 2024).	ABP has updated Tables 3 to 5 of the Shadow HRA [REP1-012] to make it clear how projects have been considered alone and in-combination. Additional information has also been included in the updated Shadow HRA submitted at Deadline 3.	As per ABPs position.	Discussion ongoing	
NE4	HRA - The potential for an AEoI due to the direct loss	Shadow HRA [REP1-012]	Natural England advise that further information is required to determine whether a conclusion of	ABP consider that Table 7 of the Shadow HRA [REP1-012] already addresses this requirement.	As per ABPs position.	Discussion ongoing	

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
	of qualifying intertidal habitat	Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	no adverse effect on integrity (AEol) from direct loss of intertidal habitat can be reached (Table 7 in the shadow HRA). The appropriate assessment should be set in the context of the Supplementary Advice for the Humber Estuary SAC. Natural England welcomes that further information has been provided regarding this issue and we will review the updated assessment. However, discussions are ongoing at this stage. Further detailed advice is provided in our Deadline 3 response (03 May 2024).	However, for completeness further clarity is provided in ABP's response to relevant representations [REP1-021] . This contains further assessment detailing potential effects in the context of both the site's conservation objectives and relevant attributes/ targets for the Humber Estuary SAC. The updated Shadow HRA [REP1-012] also includes this information.			
NE5	HRA - The potential for an AEol due to the direct loss of supporting intertidal habitat on qualifying species	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Table 8 of the shadow HRA identifies that there will be no AEol on bird species which are SPA/ Ramsar site features. Natural England agrees with this conclusion, based on the information provided. Natural England confirm that this matter is agreed, based on the information provided.	ABP acknowledge Natural England's position regarding no AEol on bird species.	As per ABPs position.	Agreed	4 December 2023
NE6	HRA - The potential effects of the direct loss of qualifying subtidal habitat	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England advise that it is not possible to agree with the conclusion of no AEol for this impact pathway on subtidal habitat (Table 9 in the shadow HRA). Natural England welcomes the additional information provided in ABP's response to Natural England's relevant representations [REP1-021] . We consider that this matter can be agreed, based on the information in the shadow HRA (Table 9) and the additional provided.	ABP consider that Table 9 of the Shadow HRA [REP1-012] already addresses this requirement. However, for completeness further clarity is provided in ABP's response to relevant representations [REP1-021] . This contains further assessment detailing potential effects in the context of both the site's conservation objectives and relevant attributes/ targets for the Humber Estuary SAC. The updated Shadow HRA [REP1-012] also includes this information.	As per ABPs position.	Agreed	8 March 2024
NE7	HRA – SPA qualifying features	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England advises that the most recent list of component species of the Humber Estuary SPA waterbird assemblage should be referred to in determining the	Screening of SPA assemblage species The rationale for screening in both qualifying and assemblage SPA	As per ABPs position.	Agreed	8 March 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
		Applicant's Responses to Relevant Representations [REP1-021]	<p>relevant features, with justification provided where impacts on a more limited list of species are assessed.</p> <p>Natural England highlight that consideration may also need to be given to Sector B bird survey data as this is approximately 280m from the terminal construction zone. Therefore, the assessment should be refined once the exact location of the new jetty is known.</p> <p>Natural England recommends that the relevant bird survey results are collated and presented by month to demonstrate the pattern of usage across the year.</p> <p>Natural England welcomes the additional information provided in ABP's response to Natural England's Relevant Representations [REP1-021], and agrees that these points in relation to bird data have been addressed.</p> <p>Natural England welcomes the commitment to update the shadow HRA with this information.</p>	<p>species is provided in Table 2 of the Shadow HRA [REP1-012].</p> <p>Further information on the screening process is provided in ABPs response to Natural England's Relevant Representations [REP1-021].</p> <p>A table listing all the assemblage species listed in Appendix A of the Natural England relevant representation and the screening rationale for each of these species is provided as an appendix to the updated Shadow HRA [REP1-012].</p> <p>Consideration of Sector B data</p> <p>Sector B is located over 400 m from the jetty and associated construction zone, and therefore birds in this area are considered to be out of the zone of influence of potential effects associated with the proposed development. However, in order to provide wider contextual data, Annex A.2 of Appendix A of the Shadow HRA [REP1-012] provides bird data for Sector B.</p> <p>Presentation of monthly bird data</p> <p>Relevant bird survey results for Sector C have been collated and presented by month to demonstrate the pattern of usage across the year. This is presented in Table 1 of Annex A.1 of the Shadow HRA [REP1-012].</p> <p>Further detail regarding this data is provided in ABPs draft response to Natural England's Relevant Representations [REP1-021].</p>			
NE8	HRA – The potential effects due to changes to waterbird foraging and roosting habitat as a result of the presence of marine infrastructure during operation on qualifying species.	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England previously advised that further information was needed, particularly on the locations of tumstone and black tailed godwit roosts and whether the function of these areas as roost sites will be affected by the development. Consideration should be given to potential changes to the foraging and	Further clarification with respect to these roost sites and changes to the foraging and roosting habitat within and outside the red line boundary has been provided in ABP's response to relevant representations [REP1-021].	As per ABPs position.	Agreed	8 March 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>roosting habitat within and outside the red line boundary.</p> <p>Natural England welcomes the additional information provided in ABP's response to Natural England's Relevant Representations [REP1-021], and agrees this point in relation to roosting and foraging habitat for SPA waterbirds have been addressed.</p>				
NE9	HRA - The potential effects of changes to qualifying habitats as a result of the removal of seabed material during capital dredging	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	<p>Natural England advises that although we agree with the conclusions reached in Table 11 within the shadow HRA of no AEol for this impact pathway, the dredging and subsequent deposition should be timed with the tide and circulation timings following the guidelines of safe disposal in the site.</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>	ABP acknowledge Natural England's position regarding impacts of dredging on benthic habitats. Further rationale as to why the suggested mitigation is not appropriate in the context of the Humber Estuary is provided in ABP's response to relevant representations [REP1-021] .	As per ABPs position.	Agreed	4 December 2023
NE10	HRA – The potential effects of changes to qualifying habitats as a result of sediment deposition during capital dredging	Shadow HRA [REP1-012] Relevant Representation [RR-019]	<p>Natural England agrees with the conclusion detailed in Table 12 the shadow HRA of no AEol for this impact pathway.</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>	ABP acknowledge Natural England's position regarding no AEol from dredging on benthic habitats.	As per ABPs position.	Agreed	4 December 2023
NE11	HRA - Changes to qualifying habitats as a result of sediment deposition during capital dredge disposal	Shadow HRA [REP1-012] Relevant Representation [RR-019]	<p>Natural England agree that with the assessment provided in Table 13 of the shadow HRA that the impacts will be small scale or short lived and is not likely to cause an adverse effect on integrity of the Humber SAC/Ramsar.</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>	ABP acknowledge Natural England's position regarding no adverse effect from dredging on habitats.	As per ABPs position.	Agreed	4 December 2023
NE12	HRA – comment on benthic assessment	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England agrees that the disposal site is impoverished, however they disagree with the	With respect to subtidal benthic communities, use of the term 'impoverished' is considered appropriate for describing benthic communities within the dredge	As per ABPs position.	Agreed	8 March 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
		Applicant's Responses to Relevant Representations [REP1-021]	dredge site being classified as impoverished. Natural England is now satisfied that this issue has been resolved with the additional information provided in ABP's response to Natural England's Relevant Representations [REP1-021] .	footprint. Detail on this provided in ABPs response to Natural England's Relevant Representations [REP1-021] .			
NE13	HRA - The potential effects of changes to qualifying habitats as a result of the removal of seabed material during maintenance dredging	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England requires further information to determine whether the maintenance dredging operation has the potential to result in an AEoI. Furthermore, Natural England do not agree with the statement that the seabed in the project area is of limited ecological value. The seabed at the Port of Immingham is part of a designated feature of the Humber Estuary SAC (Subtidal muddy sand), which primarily constitutes the project area and is a sub-type of the Annex I notified feature "H1110 Sandbanks which are slightly covered by sea water all the time" and is part of the Humber Estuary SAC. Natural England is now satisfied that this issue has been resolved with the additional information provided in ABP's response to Natural England's Relevant Representations [REP1-021] .	Maintenance dredging frequency and footprint Further clarification with respect to maintenance dredging has been provided in the ABP's response to relevant representations [REP1-021] . Maintenance dredge habitat characterisation The subtidal seabed habitat within and near the maintenance dredging area is not considered characteristic of the standard JNCC description of 'H1110 Sandbanks which are slightly covered by sea water all the time'. Further clarification has been provided in the ABP's response to Natural England's relevant representations [REP1-021] .	As per ABPs position.	Agreed	8 March 2024
NE14	HRA - Indirect loss or change to qualifying habitats and species as a result of changes to hydrodynamic and sedimentary processes as a result of the marine works	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England is satisfied that the effects of the project works on the hydrodynamic and sedimentary processes will be small in scale and are not likely to cause an adverse effect on integrity of the Humber SAC (Table 15 of the shadow HRA). Natural England confirm that this matter is agreed, based on the information provided.	ABP acknowledge Natural England's position regarding no adverse effect from changes to hydrodynamic and sedimentary processes.	As per ABPs position.	Agreed	4 December 2023
NE15	HRA - Indirect changes to qualifying habitats of changes to hydrodynamic	Shadow HRA [REP1-012]	Natural England agrees that changes to bathymetry at the dredge disposal site will be small	ABP acknowledge Natural England's position regarding no adverse effect from dredge disposal.	As per ABPs position.	Agreed	4 December 2023

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
	and sedimentary processes during capital dredge disposal	Relevant Representation [RR-019]	and is not likely cause an adverse effect on integrity of the Humber SPA/ SAC (Table 16 of the shadow HRA). Natural England confirm that this matter is agreed, based on the information provided.				
NE16	HRA - Direct changes to qualifying habitats beneath marine infrastructure due to shading	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England is satisfied that shading will not cause any direct changes to qualifying habitats beneath the marine infrastructure and is not likely to cause an adverse effect on integrity of the Humber SAC (Table 15 of the shadow HRA). Natural England confirm that this matter is agreed, based on the information provided.	ABP acknowledge Natural England's position regarding no adverse effect from shading.	As per ABPs position.	Agreed	4 December 2023
NE17	HRA – The potential effects of elevated SSC during capital dredging and capital dredging disposal on qualifying habitats and species	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England agree with the Applicant's conclusion of no AEol for this impact pathway (Table 21 and 22 of the shadow HRA). Natural England confirm that this matter is agreed, based on the information provided.	ABP acknowledge Natural England's position regarding no adverse effect from elevated suspended sediments.	As per ABPs position.	Agreed	4 December 2023
NE18	HRA – The potential effects of the release of contaminants during capital dredging and capital dredging disposal on qualifying habitats and species	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England notes the results of the sediment contaminant analysis at the project site and agrees with the conclusions of no AEol for these impact pathways (Table 23 and 24 of the shadow HRA). Natural England confirm that this matter is agreed, based on the information provided.	ABP acknowledge Natural England's position regarding no adverse effect from contaminated sediments.	As per ABPs position.	Agreed	4 December 2023
NE19	Airborne Noise and Visual Disturbance to birds during construction	Shadow HRA [REP1-012] Relevant Representation [RR-019]	NE19A –Natural England previously recommended that the relevant bird survey results are collated and presented by month	ABP has provided a detailed response to each of these points in their response to Natural England's Relevant Representations [REP1-021].	As per ABPs position.	NE19A - Agreed	15 April 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
		ES Chapter 10: Ornithology [APP-052] Applicant's Responses to Relevant Representations [REP1-021]	<p>to demonstrate the pattern of usage across the year.</p> <p>Natural England welcomes the additional information provided in ABP's response to Relevant Representations [REP1-021], and agrees that these points in relation to bird data have been addressed.</p> <p>NE19B – Natural England welcomes the additional information provided in ABP's response to Relevant Representations [REP1-021], and agrees that this point, in relation to the location of roosting areas for black tailed godwit and turnstone, has been addressed.</p> <p>Please refer to NE19 C-E, NE20, NE21 A-F, NE39 and NE42 of our Deadline 3 response (03 May 2024) for our outstanding comment on other aspects of the assessment of impacts and proposed mitigation measures.</p> <p>NE19C - Natural England advises that noise measurements are monitored at an additional location in closer proximity to the proposed works.</p> <p>Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.</p> <p>NE19D - Natural England notes that a 200m potential disturbance distance is relied upon in the assessment of noise and visual disturbance impacts. Natural England acknowledges that 200m is generally considered an acceptable disturbance distance</p>	<p>The updated Shadow HRA [REP1-012] also includes this information where appropriate.</p> <p>NE19B – ABP is awaiting Natural England's position with respect to the additional information provided.</p> <p>NE19C – ABP has provided additional background noise monitoring local to the Project which has confirmed the levels used in the assessment. This information has been shared with Natural England via email and will be provided in the updated Shadow HRA at Deadline 3.</p> <p>NE19D – ABP has provided additional information regarding how the 200m disturbance buffer would work in practice via email and updated the respective text within the Shadow HRA at Deadline 3.</p>		<p>NE19B – Agreed</p> <p>NE19C – Discussion ongoing</p> <p>NE19D – Discussion ongoing</p> <p>NE19E – Matter not agreed – no material impact</p> <p>NE19F - Agreed</p>	<p>03 May 2024</p> <p>15 April 2024</p>

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>for most construction activities within a port environment where birds will show some habituation to human activity. However, Natural England advise that a precautionary approach is taken to noise disturbance distances for piling.</p> <p>Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.</p> <p>Further detailed advice is provided in our Deadline 3 response (03 May 2024).</p> <p>NE19E - Natural England advises it is important note that preventing disturbance is not just about avoiding starvation for individuals, it is also about ensuring that a bird is fit enough to migrate to breeding grounds and reproduce and maintain the population.</p> <p>Further detailed advice is provided in our Deadline 3 response (03 May 2024).</p> <p>NE19F - Natural England welcomes the additional information provided in ABP's response to Relevant Representations [REP1-021] regarding alternative feeding locations. Based on the information provided, including details of the limited numbers of birds identified using the intertidal area between the IOT jetty and the mudflat fronting North Beck Drain, and the fact that the EA Stallingborough 3 scheme will not take place during winter months, we agree that this point is resolved.</p> <p>NE19G - Natural England welcomes the additional</p>			NE19G - Agreed	15 April 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			information provided in ABP's response to Relevant Representations [REP1-021] and agrees that this point, in relation to potential for combined noise effects from terrestrial and marine noise, has been addressed.				
NE20	Airborne Noise and Visual Disturbance to birds during construction – Programming of works	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England advise that programming of the marine construction works should be considered so that the most disturbing works (including approach jetty) are carried out in the summer and early autumn, with works that are less disturbing to the SPA birds taking place during the coldest months (December to February inclusive). Further detailed advice is provided in our Deadline 3 response (03 May 2024).	ABP has already addressed Natural England's concerns through the mitigation measures proposed for IGET. This is detailed in the Shadow HRA [REP1-012] . Further clarification is provided in ABP's response to Natural England's //relevant representations [REP1-021] .	As per ABPs position.	Matter not agreed – no material impact	
NE21	Airborne Noise and Visual Disturbance to birds during construction – Proposed mitigation	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England has a number of concerns with respect to the proposed mitigation measures for impacts of noise on non-breeding birds (Table 27 of the shadow HRA). NE21A/B/D/E – Further detailed advice is provided in our Deadline 3 response (03 May 2024). NE21C - Natural England notes that ABP have provided additional information in an email dated 26 April 2024, and that this information will be provided in the updated Shadow HRA at Deadline 3. NE welcomes this commitment and will comment further once the updated HRA has been provided.	NE21A - ABPs assessment of noise effects and potential mitigation relating to noise disturbance was specifically developed based on guidance previously provided by Natural England. This has been supplemented by the additional noise monitoring undertaken close to the Project. NE21B/D/E - It remains ABPs view that the proposed mitigation will mitigate impacts of noise and visual disturbance from construction to a level that would not be considered an AEol (acknowledging even if some disturbance may occur, it would only be of limited consequence and not constitute an AEol) when considered against the site's conservation objectives.	As per ABPs position.	NE21A – Discussion ongoing	
						NE21B - Matter not agreed – no material impact	
						NE21C – Discussion ongoing	

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>Further detailed advice is provided in our Deadline 3 response (03 May 2024).</p> <p>NE21F – Natural England welcomes ABPs commitment that a suitably qualified Ecological Clerk of Works (ECoW) will be present on site during the construction period to ensure that agreed mitigation measures are adhered to and therefore avoid disturbance to large flocks of SPA birds.</p> <p>We recommend that further details should be provided regarding the role of the ECoW, such as how they will monitor and implement any required measures. Natural England advise that this is an important aspect of the suite of mitigation measures proposed and to increase the certainty that mitigation measures will be effective.</p>	<p>NE21C – ABP welcomes Natural England’s suggestion of the use of GPS and markers on the mudflats as a potential option that could be used to improve certainty about distances. The feasibility of this option will be explored further in consultation with Natural England.</p> <p>NE21F – ABP agree to provide an Ecological Clerk of Works (ECoW) during the over wintering period (October to March inclusive) to ensure the agreed mitigation measures for the SPA birds are adhered to and the appropriate guidance can be provided throughout the construction works.</p> <p>Further clarification is provided in ABP’s response to Natural England’s relevant representations [REP1-021]. The updated Shadow HRA [REP1-012] also includes this information where appropriate.</p> <p>Additional information has also been included in the updated Shadow HRA a and Deemed Marine Licence at Deadline 3.</p>		<p>NE21D – Discussion ongoing</p>	
						<p>NE21E – Discussion ongoing</p>	
						<p>NE21F – Discussion ongoing</p>	
NE22	Effects of airborne noise and visual disturbance to birds during operation	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant’s Responses to Relevant Representations [REP1-021]	<p>Natural England advises that further assessment is required regarding operational noise and visual disturbance impacts on SPA birds during operation, including turnstone and black tailed godwit (Table 28 in shadow HRA).</p> <p>Natural England welcomes the additional information provided in ABP’s response to Natural England’s Relevant Representations [REP1-021] and agrees that this point has been addressed.</p> <p>Natural England welcomes the commitment to update the shadow HRA with this information.</p>	<p>ABP has provided a detailed response to this in their response to Natural England’s Relevant Representations [REP1-021]. The updated Shadow HRA [REP1-012] also includes this information where appropriate.</p> <p>It remains ABPs view that the operational phase of the project will not result in disturbance to a level that would be considered an AEol (acknowledging even if some disturbance may occur, it would only be of limited consequence and not constitute an AEol) when considered against the site’s conservation objectives.</p>	As per ABPs position.	Agreed	8 March 2024
NE23	HRA - Underwater noise and vibration during marine	Shadow HRA [REP1-012] Relevant Representation [RR-019]	It would be Natural England’s preference for the underwater noise pathways (injury and	Within the Shadow HRA [REP1-012] (paras 4.1.6 to 4.11.13, 4.11.29 to 4.11.42), underwater noise effects on marine mammals are considered	As per ABPs position.	Matter not agreed – no material impact	

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	piling on qualifying species of marine mammals	Draft Development Consent Order [REP1-016]	<p>behavioural disturbance) to be assessed separately.</p> <p>Natural England is supportive in principle of the mitigation outlined to reduce the risk of injury to marine mammals during piling (Table 29 of the shadow HRA).</p> <p>Natural England suggest that a project-specific Marine Mammal Mitigation Plan is created, to capture the proposed mitigation measures in a standalone document.</p> <p>Natural England is of the opinion that the production of an MMMP would be useful as the project includes non-standard mitigation i.e. cease piling if marine mammals are observed in the mitigation zone.</p> <p>However, this was intended to be a suggestion rather than a condition and would not result in a material difference to the assessment outcome. Therefore, we have re-categorised this as a yellow issue.</p>	<p>under one impact pathway. However, the ranges at which injury effects are predicted, as well as the ranges at which behavioural responses are anticipated are clearly presented. Both of these outcomes are considered in the assessment, along with the potential significance of effects or the level of mitigation that is required.</p> <p>The mitigation for marine mammals is specified in the assessments and captured in both the outline CEMP and draft DML [REP1-016]. Therefore ABP do not consider that a further plan is required.</p>			
NE24	HRA – underwater noise effects on marine mammals	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England agree with the Applicant's conclusions (Table 29 of the shadow HRA) that adverse effect on integrity can be ruled out for The Wash and Norfolk Coast SAC from the project alone, based on the information provided.	ABP acknowledge Natural England's position regarding no adverse effect from underwater noise on The Wash and Norfolk Coast SAC.	As per ABPs position.	Agreed	4 December 2023
NE25	HRA - Underwater noise and vibration during marine piling on qualifying species of fish	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England notes that vibro-piling may occur overnight and therefore may have an impact on migrating lamprey (Table 29 of shadow HRA). As a result, we advise that the night-time restrictions that have been applied to percussive piling should be extended to include vibro-piling to mitigate impacts to migratory lamprey. If this is not committed to, impacts from night-time vibro-piling on lamprey will need to be	<p>Vibro-piling and potential impacts on migratory lamprey species are considered in detail within the Shadow HRA [REP1-012]. The partial and temporary barrier from vibro-piling alone (including overnight) is not considered to have the potential to result in an AEOL on lamprey.</p> <p>Despite this conclusion ABP is committed to extending the night-time restrictions that have been applied to percussive piling to include vibro-</p>	As per ABPs position.	Agreed	8 March 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>assessed and included in the HRA.</p> <p>Natural England welcomes the additional information provided and the commitment to extending the night-time restrictions to include vibro-piling. We consider that this matter can be agreed, subject to relevant updates to the shadow HRA, draft DML and associated documents.</p>	piling. The draft DML will be updated at Deadline 1 to secure this change.			
NE26	HRA – Effects of underwater noise and vibration during capital dredge and dredge disposal on qualifying fish	Shadow HRA [REP1-012] Relevant Representation [RR-019]	<p>Natural England agrees with the conclusion of no AEoI for these impact pathways on lamprey (Table 30 of shadow HRA).</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>	ABP acknowledge Natural England's position regarding no adverse effect from dredging on lamprey.	As per ABPs position.	Agreed	4 December 2023
NE27	HRA – Effects of underwater noise and vibration during capital dredge and dredge disposal on qualifying marine mammals	Shadow HRA [REP1-012] Relevant Representation [RR-019]	<p>Natural England agrees with the conclusion of no AEoI for these impact pathways on marine mammals.</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>	ABP acknowledge Natural England's position regarding no adverse effect from dredging on marine mammals.	As per ABPs position.	Agreed	4 December 2023
NE28	HRA – Introduction of non-native species during construction	Shadow HRA [REP1-012] Relevant Representation [RR-019] Outline Construction Environmental Management Plan [REP2-004]	<p>Natural England agree with the Applicant's conclusions that there will be no adverse effect on integrity from the potential introduction and spread of non-native species during construction, subject to securing and implementation of the biosecurity measures included in 6.5 Outline Construction Environmental Management Plan (Table 31 of the shadow HRA).</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>	ABP acknowledge Natural England's position regarding no adverse effect from introduction and spread of non-native species during construction. ABP's existing biosecurity management procedures will apply to the construction of the facility.	As per ABPs position.	Agreed	4 December 2023
NE29	HRA – introduction of non-native species during operation	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England agree with the Applicant's conclusions that there will be no adverse effect on integrity from the potential introduction and spread of non-native species during operation,	ABP's existing biosecurity management procedures will apply to the operational facility.	As per ABPs position.	Matter not agreed – no material impact	

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			<p>subject to securing and implementation of ABP's existing biosecurity management procedures (Table 32 of the shadow HRA).</p> <p>However, we would encourage that an overall biosecurity management plan including the operational facility is produced and we welcome further discussion.</p> <p>Natural England welcomes further discussion on this matter.</p>				
NE30	HRA - Air quality impacts from traffic	<p>Shadow HRA [REP1-012]</p> <p>Relevant Representation [RR-019]</p> <p>Applicant's Responses to Relevant Representations [REP1-021]</p>	<p>Natural England welcomes the additional information provided in the Applicant's Comments on D1 Submissions from Natural England [REP1-013]. Natural England accepts that there are no European sites within 200m of any road used by project related traffic so the impact of traffic-derived air pollution (alone or in combination with other projects) does not need to be considered in the HRA. Natural England welcomes the commitment to update the shadow HRA with this information at Deadline 3, and considers that this point has been addressed.</p>	<p>Details of this assessment are confirmed in Table 1 of the Shadow HRA [REP1-012].</p> <p>Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021].</p>	As per ABPs position.	Agreed	15 April 2024
NE31	Air quality impacts from marine vessels	<p>Shadow HRA [REP1-012]</p> <p>Relevant Representation [RR-019]</p> <p>Applicant's Responses to Relevant Representations [REP1-021]</p>	<p>Natural England welcomes the further justification around the use of the 3km marine vessel screening distance, provided in the Applicant's Comments on D1 Submissions from Natural England [REP1-013]. We note that the maximum 1km distance from 'berths and main areas of manoeuvring' required to be considered for the purpose of Local Air Quality Management (in LAQM TG 22) is cited. Although this does not consider emissions from ships in transit, it is accepted that emissions from comparatively low stack heights, as proposed in this project, would be more similar to the berthed/manoeuvring ships in the LAQM guidance than the</p>	<p>ABP's position remains that the assessment methodology that has been applied is robust and consistent with relevant guidance.</p> <p>Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021].</p>	As per ABPs position.	Agreed	15 April 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			Environment Agency 10km screening distance for permitted installations. Based on the information provided, the 3km screening distance is therefore considered suitable for the assessment in this case, and this issue is resolved.				
NE32	Air quality impacts – saltmarsh critical load	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	<p>Natural England recommends that the assessment refers to further sources of information, such as aerial photography; the Environment Agency's mapping project of saltmarsh types; and/or vegetation records on NBN Atlas, to determine the extent of vegetation of these areas and determine whether the appropriate Critical Loads has been applied.</p> <p>Natural England welcomes that further clarification has been provided in ABP's draft response to Natural England's relevant representations [REP1-021]. However, we advise that further information is required to determine whether the appropriate Critical Load has been applied.</p> <p>Natural England welcomes the commitment that ABP will provide information on inundation to Natural England.</p> <p>Further detailed advice is provided in our Deadline 3 response (03 May 2024).</p>	<p>Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021]. The updated Shadow HRA [REP1-012] also includes this information.</p> <p>Based on the Natural England saltmarsh survey referenced in [REP1-021] the two communities are a stand of SM24 (sea couch grass) and an area of SM6 (common cord grass). JNCC guidance identifies SM24 as a drift line community (as it is relatively ubiquitous in various estuarine habitats and is of low nitrogen sensitivity) and SM6 as pioneer saltmarsh (i.e. lower saltmarsh). As such both communities are considered appropriate for using the upper critical load of 20 kgN/ha/yr.</p> <p>It is also noted that even using the lower critical load of 10 kgN/ha/yr a conclusion of no AEol is reached for the reasons set out in the updated Shadow HRA at Deadline 1 [REP1-012]. Moreover, it is noted that the modelled worst-case scenario is precautionary and an overestimate of actual nitrogen deposition as it assumes all vessels will be only MARPOL II compliant, whereas in practice there will be a mixture of MARPOL II and MARPOL III vessels.</p> <p>ABP will provide information on inundation to Natural England.</p>	As per ABPs position.	Discussion ongoing	

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NE33	Air quality impacts– marine vessels	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	<p>NE33A - Natural England welcomes the further information provided in the Applicant's Comments on D1 Submissions from Natural England [REP1-013]. However, we advise that further information is still required regarding how the assessment was undertaken in order to determine whether the maximum of 292 vessels is the most appropriate figure and it can be concluded that there is no reasonable scientific doubt as to the absence of adverse effects on the integrity of the Humber Estuary designated sites.</p> <p>Natural England notes that further information has been provided in the Statement of Common Ground (May 2023). Due to the limited time to review this information prior to Deadline 3, Natural England will aim to comment further at Deadline 4.</p>	<p>Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021]. It was agreed a meeting between both parties that this point actually covered two issues.</p> <p>NE33A Natural England has identified that of importance to the HRA is the matter of whether ABP can be confident that the figure of 292 vessels used in the modelling is a maximum. It was confirmed to Natural England that this number has been assumed as a realistic worst case assessment for the application and is a robust assumption on which assessments have been made in the HRA. ABP has provided further detail in their response at Deadline 2 [REP2-013] regarding factors affecting the number of vessel calls. It is not anticipated that the conservative assumption of 292 vessel calls will be exceeded for import and export of liquid bulks across the jetty but in any event further consents will be required for the necessary landside works for the import/export of other liquid bulks (i.e. other than ammonia) across the jetty and will be subject to further environmental assessment at that stage when the additional necessary consents are sought.</p> <p>NE33B The second point was whether this worst case assumption of 292 vessel calls should be secured in the DCO. ABP's position is that it is not necessary to impose such a restriction. Requirements should only be imposed on a DCO which are "precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects". The need for future consents to facilitate the import/export of other liquid bulks (than ammonia) means that any such requirement would be – by definition – be unnecessary. Furthermore it was agreed that whether or not the</p>	As per ABPs position.	<p>NE33A – Discussion ongoing</p>	
			<p>NE33B – Natural England reiterate that it should be determined whether the maximum number of vessel movements is adequately secured, as these values are relied upon in the HRA conclusions.</p> <p>Natural England would welcome a Vessel Management and Monitoring Plan, to ensure that vessel movements remain within the assessed limits. Discussion is ongoing regarding this issue.</p> <p>Natural England notes that further information has been provided in the Statement of Common Ground (May 2023). Due to the limited time to review this information prior to Deadline 3, Natural England will aim to comment further at Deadline 4.</p>			<p>NE33B Matter not agreed – no material impact</p>	

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				assumed maximum number of vessel calls was secured was not germane to whether the HRA was robust, which assessed the worst case assumption of vessel calls to the jetty (average of 0.8 vessels per day), which is very small when considered in context with the baseline vessel movements within the Humber Estuary and in respect of which the assessment concludes no adverse effect on integrity from the operational emissions of marine vessels on the protected sites and therefore no mitigation is required.			
NE34	Air quality impacts – overall comments	Shadow HRA [REP1-012] Chapter 6: Air Quality [APP-048] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England welcomes the commitment in the Applicant's Comments on D1 Submissions from Natural England [REP1-013], to provide the source apportionment of site and vessel emissions to Project pollutant contributions, as reported in the Environmental Statement, in a Technical Note. We will review the information when submitted. It is noted that information on flare stack modelling will be included in the shadow HRA at Deadline 3.	As per Air Products position.	Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021]. The typographical error in the updated Shadow HRA [REP1-012] has been corrected replacing 'north west' with 'north east'. The typographical error in the updated Shadow HRA [REP1-012] has been corrected, the text should say intertidal rather than marine.	Matter not agreed – no material impact	
NE35	HRA – consideration of combined effects	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England welcomes the updated information provided in 4.13.7 of the shadow HRA [REP1-012] and agrees that this point regarding the potential for combined effects from terrestrial and marine construction noise to increase levels of disturbance to SPA birds has been addressed.	Section 4.13 of the Shadow HRA [REP1-012] on intra-project effects has been updated to provide further detail on potential intra-project effects relating to terrestrial and marine construction noise and piling.	As per ABPs position.	Agreed	15 April 2024
NE36	HRA - In- combination assessment at appropriate assessment stage general comments	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England notes that Tables 34, 35 and 36 consider the 'in combination' effects at the Appropriate Assessment stage. However, the current shadow HRA	The final row in Tables 34, 35 and 36 of the Shadow HRA [REP1-012] provides an in-combination assessment of all potential projects screened into the assessment taking	As per ABPs position.	Discussion ongoing	

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>does not provide a sufficient in-combination assessment, which requires further details to address the outstanding issues.</p> <p>Natural England welcomes the commitment to update the Shadow HRA and we will review the information when submitted. We agree with the statement in ABP's response to Natural England's Relevant Representations [REP1-021]. that '<i>marine based mitigation... including those identified for relevant projects screened into the in-combination assessment, typically reduce potential residual effects to an acceptable level rather than completely avoiding/removing a potential impact on a receptor.</i>' However, we highlight that if there is a residual effect after an appropriate assessment has been carried out of the project alone, then there is a need for that appropriate assessment to further consider the impact of this residual effect in-combination with other plans and projects. We highlight that the in-combination assessment should therefore assess whether these residual effects may combine/interact with those associated with other relevant plans/projects to produce an effect that is greater than the effect of the project alone. Therefore, the assessment should determine whether there is an adverse effect on site integrity in-combination for the relevant impact pathways.</p> <p>Further detailed advice is provided in our Deadline 3 response (03 May 2024).</p>	<p>into account relevant proposed mitigation or compensation proposed for each of the projects to derive a judgment on the potential for AEOI based on residual effects.</p> <p>The updated Shadow HRA [REP1-012] also provides an updated in-combination assessment.</p> <p>Additional detail has been provided in the updated Shadow HRA at Deadline 3.</p>			
NE37	HRA – In- combination assessment - Underwater noise and vibration during marine piling on qualifying species of marine mammals	Shadow HRA [REP1-012] Relevant Representation [RR-019]	The screening distance used for the in-combination assessment is smaller than we would normally advise for marine mammals (see Natural England 's Best Practice Advice for Offshore Wind Marine	The same screening distance was applied as for the IERRT assessment which was considered suitable by Natural England (following consultation with Cefas). However, further clarification is provided in	As per ABPs position.	Agreed	8 March 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
		Applicant's Responses to Relevant Representations [REP1-021]	Environmental Assessment Phase III report). As Natural England defers to CEFAS for underwater noise issues, we are satisfied with the screening distance used.	ABP's response to Natural England's relevant representations [REP1-021] .			
NE38	HRA – Cumulative underwater noise disturbance and barrier effects to grey seals	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Cumulative underwater noise disturbance and barrier effects to grey seal feature of the Humber Estuary SAC and Ramsar site have not been considered in sufficient detail. Further detailed advice is provided in our Deadline 3 response (03 May 2024).	A detailed overview of the cumulative underwater noise effect is provided in ABP's response to Natural England's Relevant Reps [REP1-021] . The updated Shadow HRA [REP1-012] also includes this information.	As per ABPs position.	Discussion ongoing	
NE39	HRA – In- combination assessment – Visual and noise disturbance to SPA birds	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England advises that the in-combination assessment should provide a detailed assessment of disturbance impacts on Humber Estuary SPA birds during construction. Natural England welcomes the commitment to update the Shadow HRA and will review the information when submitted.	Further assessment of whether piling (and other construction activity) associated with relevant projects including IERRT could overlap temporally with IGET is included in the updated Shadow HRA [REP1-012] . This includes consideration of potential disturbance and displacement effects with the proposed mitigation in place for each of the relevant projects.	As per ABPs position.	Discussion ongoing	
NE40	Air quality – in combination assessment	Shadow HRA [REP1-012] Relevant Representation [RR-019] Chapter 25: Cumulative and In-Combination Effects [APP-067] Applicant's Responses to Relevant Representations [REP1-021]	Natural England welcomes the additional information provided in the Applicant's Comments on D1 Submissions from Natural England [REP1-013] . Natural England accepts that there are no European sites within 200m of any road used by project related traffic so the impact of traffic-derived air pollution (alone or in combination with other projects) does not need to be considered in the HRA. Natural England welcomes the commitment to update the shadow HRA with this information at Deadline 3, and considers that this point has been addressed.	As per Air Products position.	Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021] .	Agreed	15 April 2024
NE41	HRA – conclusions	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England previously requested that a summary of each	The conclusions section (Section 5) of the Shadow HRA [REP1-012] will be updated to include a summary of mitigation, and whether they will	As per ABPs position.	Agreed	03 May 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>European site affected was provided, alongside a summary of mitigation measures, whether they will completely avoid or reduce impacts to an acceptable level, the certainty of this mitigation and a schedule of mitigation measures. Natural England welcomes the updates to Section 5 of the shadow HRA [REP1-012], including the provision of Table 38 which summarises the mitigation measures proposed, detailing their effectiveness, target features of the European sites effected and the confidence in the mitigation effectiveness. Natural England also welcomes the provision of the Mitigation Effectiveness Document (Appendix E), which provides further information regarding the schedule of proposed seasonal restrictions on construction activity. Therefore we consider that this point is resolved.</p> <p>However, Natural England highlights that discussions are ongoing regarding the remaining individual outstanding issues associated with the shadow HRA and its conclusions.</p>	completely avoid or reduce the impact to an acceptable level along with a judgement on the confidence in mitigation effectiveness.			
NE42	Chapter 10 Ornithology – Assessed sensitivity of ornithology receptors	Shadow HRA [REP1-012] Relevant Representation [RR-019] ES Chapter 10: Ornithology [APP-052]	<p>Natural England would welcome clarity on how the sensitivity levels for coastal waterbirds have been determined. Natural England recommends that consideration should be given to the most sensitive species.</p> <p>Further detailed advice is provided in our Deadline 3 response (03 May 2024).</p>	Sensitivity levels for ornithology receptors in Chapter 10 [APP-052] have been based on a range in sensitivity for individual species sensitivity levels (such as highlighted in Table 10:19 for disturbance) or taking into account what the worst-case sensitivity is likely to be for relevant species on a precautionary basis. Consideration has been given to the most sensitive species within assessments.	As per ABPs position.	Matter not agreed – no material impact	
NE44	Air Quality impacts from traffic – construction phase	Shadow HRA [REP1-012] Relevant Representation [RR-019] ES Chapter 11: Traffic and Transport [APP-053]	Natural England welcomes the justification provided in the Statement of Common Ground (May 2024), and agrees that this point has been addressed	As per Air Products position.	Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021] . This references the conclusion agreed for the IERRT project.	Agreed	15 April 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
		Applicant's Responses to Relevant Representations [REP1-021]			For the purposes of IGET the traffic modellers have identified the operational flows expected on the M180 at the SSSI. This has been confirmed to be low single figures of Annual Average Daily Traffic (AADT). As such the impact would not be visible in any modelling and therefore there would be no contribution to any retardation of improvement in nitrogen deposition rates.		
NE45	SSSI assessment – The Lagoons SSSI little tern	Shadow HRA [REP1-012] Relevant Representation [RR-019]	Natural England agrees that impacts of the proposal on little tern associated with the Lagoons SSSI can be scoped out, based on the information provided. Natural England confirm that this matter is agreed, based on the information provided.	ABP acknowledge Natural England's position regarding scoping out impacts on little tern.	As per ABPs position.	Agreed	4 December 2023
NE46	Soils and Best and Most Versatile Agricultural Land - ALC survey coverage	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England highlight that the ALC survey should be carried out across the full extent of agricultural land within application site boundary. Natural England welcomes the additional information provided in ABP's response to Natural England's relevant representations [REP1-021] . We consider that this matter can be agreed, based on the information provided.	As per Air Products position.	The methodology described by Natural England has been applied to the area sampled, albeit that the full extent of the site could not be sampled. Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021] .	Agreed	8 March 2024
NE47	Soils and Best and Most Versatile Agricultural Land - ALC Survey	Shadow HRA [REP1-012] Relevant Representation [RR-019] Applicant's Responses to Relevant Representations [REP1-021]	Natural England highlights that ALC surveys require an ALC surveyor with suitable experience and qualification level, with these credentials provided as part of the ALC report. Amounts of surveyed ALC land should be noted in hectares. Natural England recommend that a map of the project boundary be provided alongside the ALC map to allow for identification of the areas of the application site not surveyed. Further details	As per Air Products position.	The agricultural land survey has been undertaken by Reading Agricultural Consultants (RAC). RAC has more than 50-years' experience of providing advice on agricultural, environmental and countryside issues. The requested maps and further assessment details have been provided in the response to Natural England's Relevant Representations [REP1-021] .	Agreed	8 March 2024

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>regarding the survey are also requested.</p> <p>Natural England welcomes the additional information provided in ABP's response to Natural England's relevant representations [REP1-021]. We consider that this matter can be agreed, based on the information provided.</p>				
NE48	Soils and Best and Most Versatile Agricultural Land - Sustainable soil management	<p>Shadow HRA [REP1-012]</p> <p>Relevant Representation [RR-019]</p> <p>Outline Construction Environmental Management Plan ("oCEMP") [REP2-004]</p> <p>Applicant's Responses to Relevant Representations [REP1-021]</p>	<p>Natural England advises that additional information is required regarding soil handling methods.</p> <p>Natural England welcomes the additional information provided in ABP's response to Natural England's relevant representations [REP1-021]. We consider that this matter can be agreed, based on the information provided.</p>	As per Air Products position.	<p>An outline Soil Management Plan (OSMP) is provided within Appendix B of the Outline Construction Environmental Management Plan (oCEMP) [REP2-004]. The OSMP is based on guidance documents that include the Defra Construction Code of Practice suggested by Natural England.</p> <p>The OSMP covers the scope outlined by Natural England and a requirement is in place to develop detailed Construction Environmental Management Plans, which would include detailed Soil Management Plans.</p> <p>Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021].</p>	Agreed	8 March 2024
NE49	Protected Species	Relevant Representation [RR-019]	<p>Natural England has adopted standing advice for protected species, which includes guidance on survey and mitigation measures. This guidance should be followed.</p> <p>Natural England is not providing bespoke advice on the protected species information provided in the ES for this project. The requirement for mitigation has not been assessed by Natural England.</p>	Noted. This is a general reference to Natural England's standing advice on protected species rather than a specific comment on this project.	As per ABPs position.	Requirement for mitigation not assessed by Natural England.	4 December 2023
NE50	HRA – Potential effects of maintenance dredging on water quality	<p>Shadow HRA [REP1-012]</p> <p>Relevant Representation [RR-019]</p>	Natural England agrees with the Applicant's conclusion that maintenance dredging will not impact water quality at the project	ABP acknowledge Natural England's position regarding no AEol for maintenance dredging on water quality.	As per ABPs position.	Agreed	4 December 2023

ID	Matter	Reference	Natural England Position	ABP Position	Air Products Position	Status	Date
			<p>site and will result in no AEoI for this impact pathway.</p> <p>Natural England confirm that this matter is agreed, based on the information provided.</p>				
NE52	HRA - Cumulative assessment	<p>Shadow HRA [REP1-012]</p> <p>Relevant Representation [RR-019]</p> <p>Applicant's Responses to Relevant Representations [REP1-021]</p>	<p>Natural England welcomes the additional information provided in ABP's response to Relevant Representations [REP1-021] and agrees that this point has been addressed, notwithstanding the outstanding individual issues (as detailed above).</p>	<p>Further clarification is provided in ABP's response to Natural England's relevant representations [REP1-021]. The updated Shadow HRA [REP1-012] also includes this information where appropriate.</p>	As per ABPs position.	Agreed	03 May 2024
NE54	HRA – Air Quality	Shadow HRA [REP1-012]	<p>Natural England advises that the potential for accidental releases of ammonia needs to be assessed from an ecological perspective. It needs to be clear that this has been captured in the assessments with the inclusion of mitigation as required.</p> <p>Natural England welcomes the commitment to provide additional detail in the updated Shadow HRA at Deadline 3.</p>	<p>Additional detail has been provided in the updated Shadow HRA at Deadline 3.</p>	As per ABPs position.	Discussion ongoing	
NE55	Without Prejudice Derogation - Outstrays to Skeffling Managed Realignment Scheme	<p>Without Prejudice Report to inform Habitats Regulations Assessment (HRA) Derogation [REP1-008]</p>	<p>Natural England has not reviewed the Without Prejudice Report to inform Habitats Regulations Assessment (HRA) Derogation [REP1-008] in detail at this stage, as discussions on the Appropriate Assessment are still ongoing.</p> <p>Natural England understands that the underlying objectives of the Skeffling scheme, from an ABP perspective, is to create new intertidal habitat to compensate for future anticipated habitat losses at their port complexes.</p> <p>Overall, we consider that the Outstrays to Skeffling Managed Realignment Scheme (Skeffling) would provide a suitable approach to delivering compensatory habitat should this be required.</p>	<p>ABPs position is clearly set out in the Without Prejudice Report to inform Habitats Regulations Assessment (HRA) Derogation [REP1-008].</p>	As per ABPs position.	Discussion ongoing	

4 Glossary

Abbreviation / Acronym	Definition
AADT	Annual Average Daily Traffic
ABP	Associated British Ports
AEoI	Adverse Effect on Integrity
AP	Air Products
CEMP	Construction Environmental Management Plan
DCO	Development Consent Order
DML	Deemed Marine License
ECoW	Ecological Clerk of Works
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority
HRA	Habitats Regulations Assessment
MHWS	Mean High Water Spring
MMO	Marine Management Organisation
NE	Natural England
NELC	North East Lincolnshire Council
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PEIR	Preliminary Environmental Information Report
OSMP	Outline Soil Management Plan
PINS	Planning Inspectorate
RAC	Reading Agricultural Consultants
SAC	Special Area of Conservation
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
ToR	Terms of Reference
UK	United Kingdom