



Immingham Green Energy Terminal

9.18 Draft Agreed Statement of Common Ground between
Associated British Ports, Air Products (BR) Limited and
North East Lindsey Drainage Board (Tracked)

Infrastructure Planning (Examination Procedure) Rules 2010
Volume 9

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Version History

<u>Version</u>	<u>Date</u>	<u>Submitted</u>
<u>1.0</u>	<u>13 March 2024</u>	<u>Deadline 1</u>
<u>2.0</u>	<u>4 June 2024</u>	<u>Deadline 4</u>



Status of the Statement of Common Ground

ABP, Air Products (BR) Limited and North East Lindsey Drainage Board agree that this draft Statement of Common Ground (SoCG) is an accurate description of the matters raised and the current status of each matter.

On Behalf of Associated British Ports

Name	[REDACTED]
Position	Sustainable Development Manager
Organisation	Associated British Ports
Signature	[REDACTED]

On Behalf of Air Products (BR) Limited

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

On Behalf of North East Lindsey Drainage Board

Name	[REDACTED]
Position	Engineering Services Manager
Organisation	North East Lindsey Drainage Board
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 [REP3-022]**,

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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) North East Lindsey Drainage Board (“NELDB”).
- 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 NELDB is the relevant internal drainage board for the area in which the Project is located and is a prescribed body for the purposes of Statutory Consultation, in accordance with Section 42(1)(a) of the PA 2008, Regulations 3, 8(1) and Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, and Regulation 3(1) and 11(1)(c) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017. NELDB’s activities and responsibilities are principally governed by the Land



Drainage Act 1991 (as amended), and its primary role is to manage water levels and reduce the risk of flooding within their district.

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

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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 Table in Section 3 use a colour coding system to indicate the status of the matters between the Parties as follows:

(a) Green – matter agreed.

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(b) Orange – matter ongoing.

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(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 NELDB 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 below.

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	NELDB was consulted at the EIA Scoping stage.
9 January to 20 February 2023	First Statutory Consultation	NELDB was consulted as part of the First Statutory Consultation and responded on 23 January 2023. The issues raised by NELDB in its response include: <ul style="list-style-type: none">• Highlighting the need for consent from the Board prior to any proposed works in, or within the byelaw 9m distance of the top of the bank of a Board maintained watercourse (Habrough Marsh Drain).• Stating the need for consultation on the drainage design for the site to ensure an agreed rate of water attenuation.• Expressed concern of impeded offshore discharge via the gravity outfall of the Habrough Marsh Drain.
16 February 2023	MS Teams meeting	Discussions were held around land interests.
21 March 2023	MS Teams meeting	Meeting between representatives of ABP and NELDB to discuss: <ul style="list-style-type: none">• Real current discharge from the East Site.• How flow from the East Site uses an existing ditch to flow north east before running parallel with the Humber and joining North Beck Drain. It was established that there was no monitoring of the flow in this area. NELDB suggested that in high rainfall events the ditch network could back up, caused by a 300mm dia. pipe at the outlet.

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<p>NELDB stated that a discharge rate of 70% of the real current discharge would be acceptable.</p> <ul style="list-style-type: none"> It was agreed that for the eastern half of the East Site the discharge from a single culvert should be used as an estimate of the real discharge. 70% of this discharge (i.e. a 30% betterment) is 19.6 l/s, so a slight increase over the greenfield rate. <p>Discharge Rate from the West Site:</p> <ul style="list-style-type: none"> The West Site is currently undeveloped and therefore the greenfield rate would apply here. This gives a discharge rate of 49 l/s. <p>Introducing a culvert in the East Site:</p> <ul style="list-style-type: none"> NELDB stated that it was generally against the culverting of any watercourse due to the separation from the wider drainage system during times of flood and the general reduction in available storage volume that often results from the use of a culvert. ABP ran through AECOM's understanding of the contributing catchments for the ditch which is limited to only the development sites in question. NELDB was willing to consider proposals that could demonstrate no loss in the volume available for flood water. ABP agreed to consider suitable proposals for further discussion, accepting that the current design did not achieve this requirement.
24 May 2023 to 20 July 2023	Second Statutory Consultation	<p>NELDB was consulted as part of the Second Statutory Consultation and provided a formal consultation response on 14 June 2023.</p> <p>The issues raised in its consultation response are summarised below:</p> <ul style="list-style-type: none"> Retaining maintenance access adjacent to all watercourses within or close to the site. The impact of raising the level of the site on flood risk. Re-emphasising issues raised in its first Statutory Consultation response.
4 July 2023	Site meeting	<p>Onsite meeting with NELDB, Air Products and representatives of ABP to discuss a range of issues including:</p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<ul style="list-style-type: none"> • Catchments outside the Site Boundary. • Site drainage discharge rates. • Proposed concrete lined channels. • Jetty access road over ditch and culvert. <p>West Site:</p> <ul style="list-style-type: none"> • NELDB expressed concern over catchments outside of the Order Limits. Strategy needs to show the impact on surrounding land drains (i.e. that the proposal does not create a barrier to surface flow). • NELDB suggested the opening up of a ditch – this could improve ecological value to offset work in the East Site. <p>East Site:</p> <ul style="list-style-type: none"> • Air Products described plans to open up the overgrown channel and return to previous state with concrete/brick lining. • NELDB not supportive of concrete lined channels due to lack of any ecological benefit. • Jetty access road over the ditch. <p>NELDB raised topics including:</p> <ul style="list-style-type: none"> • Flow capacity. • Maintenance access. • Flow collection. • Grate on top of culverts is acceptable to NELDB if available flow area is retained and maintenance carried out. <p>NELDB asked for information about the potential presence of a culvert under Laporte Road. This should be confirmed, if possible, through topographic survey. While this does not change the proposed works, it is beneficial for Air Products to know the discharge route of the proposed works area off site, to allow future issues to be diagnosed and overcome.</p> <p>Air Products offered to meet NELDB on site to discuss further as required.</p>
July 2023	Email	Email correspondence between Aecom and NELDB regarding:

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<ul style="list-style-type: none"> Land drainage consent – confirmation that land drainage consent would be required for all the drainage works. Disapplication of consenting in favour of protective provisions. Protective provisions text – NELDB provided advice on what they would expect to see included.
23 August 2023	MS Teams meeting	<p>Ongoing discussions with NELDB about drainage design with the approach to the West Site agreed in principle.</p> <p>Further discussions ongoing regarding Jetty Access Road.</p>
Post DCO Submission		
6 November 2023	MS Teams meeting	Protective provisions discussion.
29 November 2023	MS Teams meeting	<p>Discussion regarding drainage strategy:</p> <ul style="list-style-type: none"> A topographic survey of the site has now been carried out and the drainage outfall used as the basis of the capacity calculations is 600mm diameter instead of the 300mm diameter assumed at the previous stage. NELDB noted the change in pipe size vs what was assumed at the previous stage and the need to revisit the drainage calculations. NELDB indicated any increased runoff volume should not exceed brownfield runoff for the East Site. IGET team to check brownfield runoff from the East Site – Hydrogen Production Facility and use the lesser of that figure and the 600mm outfall flow figure. 30% betterment (as discussed in meeting of 21 March 2023) to be applied to the selected figure as per previous discussions. This revised runoff figure should be shared between the jetty access road site and the East Site – hydrogen production facility.
29 November – 6 December 2023	Email Correspondence	<p>Following the meeting of 29 November 2023, email correspondence took place between NELDB and Ramboll regarding acceptable runoff rates for the jetty access road (Work Nos. 1 and 2) and East Site.</p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
		<p>Ramboll provided updated calculations for the increased pipe diameter of 600mm and a check against the brownfield runoff rates for the East Site to the NELDB via email on 29 November 2023.</p> <p>NELDB reviewed these figures and concluded via email on 4 December 2023 it would not consent to an increase in discharge rate from the East Site at this stage, but that the 19.6l/s could be considered separately to the Access Road discharge allowance.</p> <p>Ramboll sent a follow up email on 6 December 2023 setting out proposed runoff rates for the jetty access road considering the greenfield (4.8 l/s) and brownfield (5 l/s) sections of the site.</p> <p>NELDB replied on 6 December 2023 confirming they were happy with the discharge rates and highlighting they would like to see downstream modelling of the North Beck connection to confirm no impact from these flow rates.</p>
19 December 2023	MS Teams meeting	<p>Drain diversion discussion.</p> <ul style="list-style-type: none"> NELDB noted requirements and reasons for diversions of existing drains on East Site – hydrogen production facility. NELDB confirmed it had no objection in principle to the works, but would require drawings and calculations for any major diversions of watercourses to evidence that the proposed routes have the same capacity/discharge rates of those to be filled in. All alterations to watercourses would require land drainage consent from NELDB. Grouped applications can be made. NELDB has 60 days to process an application.
3 January 2024	Email	<p>Email detailing the proposed runoff vs the existing as a basis for explaining why downstream modelling is not required in the Consultant's (Ramboll's) view.</p> <p>NELDB replied 8 January 2024 advising it is, not comfortable confirming that the downstream modelling is not required at this stage.</p> <p>Follow on meeting to be arranged to discuss rationale and requirements in more detail.</p>
22 January 2024	Email Correspondence	<p>ABP shared a first draft of the SoCG with NELDB for its review.</p>

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Date	Form of Contact	Summary with key outcomes and points of discussion
1 February 2024	Email Correspondence	NELDB provided its comments to ABP on the first draft of the SoCG.
4 April 2024	Site meeting	Site walkover to establish parameters for a survey to review flow conditions downstream of the Long Strip ditch where it discharges into the Soke Dyke, and then on to the North Beck Drain.
23 April 2024	Meeting	A meeting was held with NELDB, Air Products, AECOM and North East Lincolnshire Council ("NELC") (Lead Local Flood Authority) to discuss the Flood Risk Assessment ("FRA") and proposals for land raising. All parties confirmed the flood risk assessment adequately addresses the potential risks from local watercourses and any impacts from the Project. The Project proposals for land raising are acceptable provided there is commitment to adequate ditch maintenance through the lifetime of the Project to maintain existing drainage routes. The Applicant agreed to ensure adequate ditch maintenance through the lifetime of the Project in all locations where the Applicant has riparian responsibilities for maintenance or has the rights of access to carry out maintenance.
15 May 2024	Email correspondence	After reviewing the draft Protective Provisions, NELDB's solicitor returned a marked-up draft for the Applicant's consideration.
23 May 2024	Email correspondence	Solicitors for Air Products sent a further mark up of the Protective Provisions to NELDB's solicitor.

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3 Matters Agreed and Matters Not Agreed

- 3.1 It is agreed that the record of engagement included in the **Consultation Report [APP-022]** submitted with the Application, 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 – NELDB was consulted by the Local Authorities as part of their statutory obligations.
 - 3.1.2 Chapter 5 – Second Statutory Consultation – NELDB was consulted by the Local Authorities as part of their statutory obligations.
 - 3.1.3 Chapter 6 – ongoing engagement – engagement between the Parties has taken place on a regular basis outside of the First and Second Statutory Consultations as detailed in Chapter 6 of the Consultation Report and as reflected in Table 2-1 of this SoCG.
- 3.2 Table 3-1 contains a list of 'matters agreed' (shaded green); a list of matters in respect of which discussion is ongoing (shaded orange) and a list of matters not agreed (shaded red) at the date of the Examination along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

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

ID	Matter	Reference	NELDB Position	ABP Position	Air Products Position	Status	Date
1	Stakeholder Engagement	5.1 Consultation Report [APP-022]	NELDB 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 [APP-022] and Table 2-1 of this SoCG is accurate.	As per ABP position.	Agreed	1 February 2024
2	Post development discharge rates from eastern areas of development	6.4 Environmental Statement Appendices - Appendix 18.B: Drainage Strategy [APP-210]	The discharge from a single culvert from the field immediately east of Laporte Road and north of the existing ditch through the site should be used as an estimate of the real discharge from the East Site. The culvert was estimated to be a 300mm diameter pipe and 70% of this value is 19.6 l/s, so a slight increase over the greenfield rate.	The estimation of discharge was agreed at a meeting with NELDB on 21 March 2023. The application of this discharge rate of 19.6 l/s to the East Site was also agreed.	As per ABP position.	Agreed	21 March 2023
3	Post development discharge rates from western areas of development	6.4 Environmental Statement Appendices - Appendix 18.B: Drainage Strategy [APP-210]	The West Site is currently undeveloped and therefore the greenfield rate would apply. This gives a discharge rate of 49 l/s.	The maximum discharge rate was agreed at a meeting with NELDB on 21 March 2023.	As per ABP position.	Agreed	21 March 2023

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ID	Matter	Reference	NELDB Position	ABP Position	Air Products Position	Status	Date
4	Protective Provisions	2.1 Draft Development Consent Order [REP3-004]	NELDB's solicitors provided a mark up of the Protective Provisions included within the dDCO as submitted on Deadline 3 on 15 May. NELDB's solicitors will provide an update on the draft returned to them on 23 May, in due course.	As per Air Products' position.	Air Products' solicitors returned a mark up of the Protective Provisions (provided by NELDB's solicitors on 15 May) to NELDB's solicitors on 23 May.	Discussion ongoing	
5	Discharge rate and modifications to drainage ditch in Long Strip woodland	6.4 Environmental Statement Appendices - Appendix 18.B: Drainage Strategy [APP-210]	NELDB agrees to the proposed discharge rates specified by ABP in their position as confirmed in our email correspondence dated 6 December 2023.	ABP is seeking NELDB's agreement to an update in the discharge rates for the East Site and Jetty Access Road. This is to take account of the development of the jetty access road which had not been considered for attenuation previously. The updated rate maintains the previously agreed discharge rate for the East Site and adds a further allowance for the access road. The proposed rates are as follows: <ul style="list-style-type: none"> East Site 19.6 l/s and Jetty Access Road 9.8 l/s The final drainage strategy(ies) will be submitted and approved through Requirement 12 of Schedule 2 of the dDCO.	As per ABP position.	Agreed	6 December 2023

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ID	Matter	Reference	NELDB Position	ABP Position	Air Products Position	Status	Date
6	Amending onsite drainage	6.4 Environmental Statement Appendices - Appendix 18.B: Drainage Strategy [APP-210], 2.1 Draft Development Consent Order [REP3-004]	<p>NELDB provided its feedback to ABP on the proposed drainage ditch diversions at the meeting on 19 December 2023. For the NELDB to agree to the drainage ditch diversions:</p> <ul style="list-style-type: none"> NELDB will require sight of drawings and calculations for any major diversions of watercourses to evidence that they have the same capacity/discharge rates of those to be filled in. Sufficient widths of undeveloped land need to be left next to the newly cut watercourses to allow maintenance access. Under riparian responsibility, ABP and/or Air Products will be responsible for the maintenance of these watercourses (vegetation cutting and desilting). Responsibility of the maintenance of these watercourses needs to be addressed in the DCO/Drainage strategy. If these are not maintained, then third parties may be at risk of flooding. 	<p>ABP is seeking NELDB's agreement to the:</p> <ul style="list-style-type: none"> diversion of two existing drainage ditches which run across the West Site. temporary diversion of two drainage ditches in the East Site – Hydrogen Production Facility until the site is fully developed in later project phases and the full drainage system is installed. <p>ABP acknowledges the position of NELDB with regards to the proposed diversion of the drainage ditches. A final drainage strategy(ies) will be submitted to and approved by NELC following consultation with NELDB and Environment Agency, under Schedule 2, Requirement 12 of the dDCO. ABP and Air Products will continue to work with NELDB to address the points raised by NELDB on this matter.</p>	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	NELDB Position	ABP Position	Air Products Position	Status	Date
			<ul style="list-style-type: none"> ABP and/or Air Products AP/ABP will have riparian responsibility for the existing watercourses on site. Any new watercourse must be constructed before the existing ones are filled in so that the sites, they serve have drainage at all times. All alterations to watercourses will require land drainage consent from the Board. 				
7	Disapplication of land drainage consent	7.4 Consents and Agreements Position Statement [REP1-010], 2.1 Draft Development Consent Order [REP3-004]	<p><u>The position on the Protective Provisions is set out at row 4 above.</u></p> <p><u>NELDB do not object to the principle of disapplication subject to the Protective Provisions being agreed.</u></p>	<p><u>ABP considers that the Protective Provisions contain a consenting mechanism which is an appropriate alternative to land drainage consent and therefore that the requirement for land drainage consent can be appropriately disapplied via Article 3 of the dDCO in the usual manner.</u></p>	As per ABP position.	Agreed	May 2024

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ID	Matter	Reference	NELDB Position	ABP Position	Air Products Position	Status	Date
8	Other consents	NELDB Relevant Representation [RR-021]	ABP is aware that prior consent from NELDB is required for any proposed temporary or permanent works or structures within any watercourse within the district including infilling or a diversion. ABP is also aware that prior written consent of NELDB is required for the introduction of any water into the district whether directly or indirectly.	ABP agrees with the position of NELDB on the <u>potential need for other consents and considers that the Protective Provisions contain a consenting mechanism which is an appropriate alternative to the obtaining of those separate consents from</u> NELDB.	As per ABP position.	Agreed	May 2024
9	<u>Adequacy of FRA and implications of land raising</u>	<u>Flood Risk Assessment [REP3-024]</u>	<u>NELDB agree that the flood risk assessment adequately addresses the potential risks from local watercourses and any impacts from the Project. The proposals for land raising are acceptable provided there is commitment to adequate ditch maintenance through the lifetime of the Project, to maintain existing drainage routes.</u>	<u>ABP will ensure adequate ditch maintenance through the lifetime of the Project in all locations where ABP has riparian responsibilities for maintenance or has the necessary rights to carry out such maintenance.</u>	<u>As per ABP position</u>	Agreed	

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4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
dDCO	draft Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
MMO	Marine Management Organisation
NELC	North East Lincolnshire Council
NELDB	North East Lindsey Drainage Board
NSIP	Nationally Significant Infrastructure Project
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom