



# Immingham Green Energy Terminal

## 9.11 Applicant's Statement of Commonality (Clean)

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| 3.0     | 4 June 2024   | Deadline 4 |
| 4.0     | 11 July 2024  | Deadline 5 |

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# 1. Introduction

## Purpose of this Document

- 1.1 On 21 September 2023, Associated British Ports ("ABP") submitted an application under section 37 of the Planning Act 2008 (the "Application") to the Secretary of State for Transport for an order to grant development consent (a "DCO") for the Immingham Green Energy Terminal ("IGET") and its associated development. On 19 October 2023 the Planning Inspectorate accepted the Application for Examination.
- 1.2 This Statement of Commonality is provided to assist the Examining Authority ("ExA") in understanding areas of commonality across the Statements of Common Ground ("SoCGs") which have been prepared between a range of stakeholders, ABP and Air Products (BR) Limited ("Air Products").
- 1.3 The document sets out ABP's and Air Products' understanding of the stakeholders' positions, as set out in the SoCGs submitted by ABP to the ExA at Deadline 5, and summarises agreement, disagreement and matters outstanding between ABP, Air Products and the stakeholders.
- 1.4 This document is a "live" document and will be updated throughout the Examination process to reflect changes made within the SoCGs through ongoing discussions with stakeholders. The Statement of Commonality has been prepared in accordance with the ExA's letter issued in accordance with Rule 8 of Infrastructure Planning (Examination Procedure) Rules 2010 dated 28 February 2024 **[PD-007]** ("Rule 8 Letter"), which requires ABP to submit a Statement of Commonality, and updates thereto, alongside updated SoCGs at Deadlines 1, 3, 4, 5 and 7 of the Examination Timetable set out in the Rule 8 Letter. Three previous iterations of this Statement of Commonality were submitted to the ExA, at Deadlines 1 **[REP1-046]**, 3 **[REP3-042]** and 4 **[REP4-019]**.
- 1.5 This Statement of Commonality is part of a suite of documents which accompanies the Application. A full description of all the Application Documents is provided in the **Introduction to the Application [APP-003]** which also accompanies the Application.
- 1.6 For more detailed information of the respective stakeholders' positions, in relation to the topics covered in this Statement of Commonality, please refer to the SoCGs.

## The Project

- 1.7 ABP is seeking to construct, operate and maintain the IGET, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham ("the Port"). The Associated Development in the Application comprises the construction and operation of a green hydrogen production facility (the Associated Development and the IGET are collectively termed "the Project").
- 1.8 The green hydrogen production facility would be delivered and operated by 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, in particular, the heavy transport sector.

1.9 A detailed description of the Project is included in **Environmental Statement ("ES") Chapter 2: The Project [REP3-022]**.

**Structure of this Document**

1.10 This Statement of Commonality comprises five chapters as follows:

- a. Chapter 1 (this chapter) introduces the document and its purpose.
- b. Chapter 2 provides an introduction to the drafting of the SoCGs along with a summary of their structure.
- c. Chapter 3 provides an up-to-date list of the SoCGs and their status and details the progress to date in agreeing the SoCGs.
- d. Chapter 4 provides a summary table which indicates the commonality on topics across the suite of SoCGs (and indicates the principal matters outstanding).
- e. Chapter 5 provides a summarising commentary for the Deadline 5 submission on topic areas where matters are identified as broadly having been 'agreed' or 'subject to ongoing discussion'.

## 2. Statements of Common Ground

- 2.1 ABP and Air Products have sought to agree SoCGs with stakeholders to capture their respective positions on material matters relating to the Application. The SoCGs include material matters raised through the statutory consultations carried out in the lead up to the submission of the Application, the stakeholders' Relevant Representations and Written Representations, and through ongoing engagement with the stakeholders before and after submission of the Application.
- 2.2 A full list of the SoCGs and their status is provided in Chapter 3 of this Statement of Commonality.
- 2.3 To ensure consistency across the SoCGs, a uniform approach has been taken to drafting. Each is generally structured as follows:
- An introduction, setting out the purpose and structure of the document and the parties which the SoCG is prepared in respect of
  - A summary of engagement undertaken and information shared in order to draft the position and reach an agreed status of Matters within the SoCG
  - A table setting out the characterisation of the positions of ABP, Air Products (where relevant) and of the stakeholder on each Matter, and the status of agreement of the Matter (i.e., whether the Matter has been agreed or it is outstanding as discussion is ongoing or where the Matter is not agreed)
- 2.4 A uniform approach has been taken across the suite of SoCGs to documenting the position on each matter. The position on each Matter can be one of the following:
- Matter agreed.
  - Matter not agreed.
  - Matter under discussion.
- 2.5 The exception to this approach are the Natural England and the Marine Management Organisation ("MMO") SoCGs where an additional category has been added to these SoCGs as follows:
- Matter not agreed – no material impact.

### 3. List of SoCGs and Status

- 3.1 This Chapter provides a list of the SoCGs and a summary of the current status of each.
- 3.2 ABP and, where relevant, Air Products, have prepared SoCGs with a number of statutory consultees, including statutory undertakers, and other parties who have registered as interested parties. ABP has taken account of the list of SoCGs requested by the ExA in Procedural Decision 8 set out at Annex F of the **Rule 6 letter [PD-005]** dated 8 January 2024 and has either prepared a draft SoCG with the stakeholder listed or made contact with that stakeholder to agree whether an SoCG is required.
- 3.3 Table 3-1 summarises the status of each SoCG as follows:
- Final Agreed – the final version of the SoCG has been signed by all parties, and there are no matters outstanding.
  - Draft Agreed – a draft SoCG with matters outstanding which has been signed by the stakeholder to confirm it is an accurate description of the matters raised and the current status of each matter but there remain matters outstanding which are yet to be agreed, and engagement continues on these.
  - Draft – a draft SoCG with matters outstanding and is unsigned. The draft SoCG has been drafted by ABP (and/or Air Products) and shared with the stakeholder but the stakeholder has either not yet been able to complete their review in line with their governance process or is unable to sign a draft SoCG. ABP considers that these SoCGs present an accurate description of the matters raised and the status of each matter, based on the engagement that has taken place to date.
- 3.4 Following Table 3-1, this Chapter provides a more detailed overview of the progress of discussing and agreeing the SoCG with each stakeholder.
- 3.5 Table 3-1, and the more detailed status updates at Paragraphs 3.6 to 3.23, will be updated for each version of the Statement of Commonality to provide an update on the progress made in finalising each SoCG.

**Table 3-1: List of SoCGs and Status**

| Stakeholder                            | ABP Document Reference | Version | DL1 | DL2 | DL3 | DL4 | DL5 | DL7 | Status |
|--|------------------------|---------|-----|-----|-----|-----|-----|-----|--------|
| Anglian Water Services Limited         | TR030008/EXAM/9.25     | 3.0     | ✓   | X   | ✓   | X   | ✓   |     | Draft  |
| Cadent Gas Limited                     | TR030008/EXAM/9.26     | 3.0     | ✓   | X   | ✓   | ✓   | X   |     | Draft  |
| CLdN Ports Killingholme Limited (CLdN) | TR030008/EXAM/9.23     | 1.0     | ✓   | X   | X   | X   | X   |     | Draft  |

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| Stakeholder  | ABP Document Reference | Version | DL1 | DL2 | DL3 | DL4 | DL5 | DL7 | Status       |
|--|------------------------|---------|-----|-----|-----|-----|-----|-----|--------------|
| Corporation of Trinity House of Deptford Strond (Trinity House)  | TR030008/EXAM/9.22     | 2.0     | ✓   | X   | ✓   | X   | X   |     | Draft Agreed |
| Environment Agency   | TR030008/EXAM/9.13     | 3.0     | ✓   | X   | ✓   | X   | ✓   |     | Draft        |
| Harbour Master, Humber (HMH)   | TR030008/EXAM/9.19     | 2.0     | ✓   | ✓   | X   | ✓   | X   |     | Draft        |
| Health and Safety Executive (HSE)  | TR030008/EXAM/9.15     | 2.0     | ✓   | X   | X   | X   | ✓   |     | Draft Agreed |
| Historic England   | TR030008/EXAM/9.21     | 2.0     | ✓   | X   | ✓   | X   | X   |     | Draft Agreed |
| Immingham Oil Terminal (IOT) Operators (Associated Petroleum Terminals (Immingham) Limited (APT) and Humber Oil Terminals Trustees Limited (HOTT)) | TR030008/EXAM/9.20     | 1.0     | ✓   | X   | X   | X   | X   |     | Draft        |
| Marine Management Organisation (MMO)   | TR030008/EXAM/9.16     | 3.0     | ✓   | X   | ✓   | X   | ✓   |     | Draft        |
| Maritime and Coastguard Agency (MCA)   | TR030008/EXAM/9.36     | 2.0     | ✓   | X   | X   | ✓   | X   |     | Draft Agreed |
| National Highways  | TR030008/EXAM/9.14     | 3.0     | ✓   | X   | ✓   | X   | ✓   |     | Draft Agreed |
| Natural England  | TR030008/EXAM/9.17     | 3.0     | ✓   | X   | ✓   | X   | ✓   |     | Draft        |
| Network Rail Infrastructure Limited  | TR030008/EXAM/9.24     | 2.0     | ✓   | X   | X   | X   | ✓   |     | Draft        |
| Northern Powergrid   | TR030008/EXAM/9.27     | 2.0     | ✓   | X   | ✓   | X   | X   |     | Draft Agreed |



| Stakeholder                               | ABP Document Reference | Version | DL1 | DL2 | DL3 | DL4 | DL5 | DL7 | Status       |
|---|------------------------|---------|-----|-----|-----|-----|-----|-----|--------------|
| North East Lincolnshire Council (NELC)    | TR030008/EXAM/9.12     | 4.0     | ✓   | X   | ✓   | ✓   | ✓   |     | Draft        |
| North East Lindsey Drainage Board (NELDB) | TR030008/EXAM/9.18     | 3.0     | ✓   | X   | X   | ✓   | ✓   |     | Draft Agreed |

### **SoCGs requested by ExA in Rule 6 letter and submitted at Deadline 5**

#### **Anglian Water Services Limited**

- 3.6 A Draft SoCG with Anglian Water was submitted at Deadline 1 [REP1-060] and an updated Draft SoCG at Deadline 3 [REP3-058]. An update to this SoCG was shared with Anglian Water on 5 July 2024 and their comments provided to ABP and Air Products on 10 July 2024. Whilst Anglian Water will only sign the Final SoCG, the content of the Draft SoCG being submitted at Deadline 5 is agreed by the Parties.

#### **Cadent Gas Limited**

- 3.7 A Draft SoCG with Cadent Gas was submitted at Deadline 1 [REP1-061] and Deadline 3 [REP3-060]. A Draft Agreed SoCG was then submitted at Deadline 4 [REP4-027]. All connection requirements and technical aspects of protections and working in proximity to Cadent assets are well understood and aligned. The remaining matter still under discussion in the SoCG relates to the protective provisions, where discussions remain ongoing. ABP and Air Products anticipate that these will be successfully concluded prior to Deadline 7. It is therefore expected that a Final Agreed SoCG between the parties will be submitted at Deadline 7.

#### **CLdN Ports Killingholme Limited ("CLdN")**

- 3.8 A Draft SoCG with CLdN was submitted at Deadline 1 [REP1-058]. Following productive discussions, CLdN and ABP have agreed a form of protective provisions which provide for notice of relevant works and vessel movements, appropriately limiting undue interference with the Port of Killingholme and an indemnity for losses, etc., caused by ABP in specified circumstances. The protective provisions have been included at **Part 10 of Schedule 14** of the **draft DCO** submitted by ABP at Deadline 5 of the Examination in square brackets. Once both parties have completed a number of internal administration steps in relation to the protective provisions the square brackets will be removed and CLdN will withdraw its representations on the matters set out in this Statement of Common Ground. It is therefore anticipated that an SoCG will not be required. ABP will keep the ExA updated on this point.

#### **Corporation of Trinity House of Deptford Strond ("Trinity House")**

- 3.9 A Draft Agreed SoCG with Trinity House was submitted at Deadline 1 [REP1-057] and an update at Deadline 3 [REP3-056]. All matters in this SoCG are agreed and a Final Agreed SoCG will be submitted to the ExA at Deadline 7.

#### **Environment Agency**

- 3.10 A Draft SoCG with the Environment Agency was submitted at Deadline 1 [REP1-048] and an update at Deadline 3 [REP3-046]. An updated SoCG was shared with the Environment Agency on 28 June 2024 and their comments returned on 4 July 2024. Substantial progress has been made in working to resolve outstanding matters with the Environment Agency, as is reflected in the Draft SoCG being submitted at Deadline 5.

#### **Harbour Master, Humber (“HMH”)**

- 3.11 Following submission of a Draft SoCG with HMH at Deadline 1 [REP1-054], HMH noted some errors in this version of the SoCG and so the Draft SoCG was corrected and resubmitted at Deadline 2 [REP2-008]. A subsequent Draft SoCG was submitted at Deadline 4 [REP4-025]. All but one matter in this SoCG are agreed and a Final Agreed SoCG will be submitted to the ExA at Deadline 7.

#### **Health and Safety Executive (“HSE”)**

- 3.12 A Draft SoCG with the HSE was submitted at Deadline 1 [REP1-050]. Updated draft SoCGs were sent to the HSE for review in April and May 2024. Due to staff availability, it was not possible for the HSE to review the updated draft in time for submission at Deadline 4. A clean copy of the Deadline 5 SoCG was provided to the HSE on 4 July 2024. The HSE returned a signed SoCG on 9 July 2024. A Draft Agreed SoCG with the HSE is now being submitted to the ExA at Deadline 5.

#### **Historic England**

- 3.13 A Draft SoCG with Historic England was submitted at Deadline 1 [REP1-056] and a Draft Agreed version at Deadline 3 [REP3-054]. As there are no matters still under discussion with Historic England, a Final Agreed SoCG will be submitted at Deadline 7.

#### **Immingham Oil Terminal (“IOT”) Operators**

- 3.14 A Draft SoCG with the IOT Operators was submitted at Deadline 1 [REP1-055]. ABP and Air Products have been in active discussions with the IOT Operators throughout the Examination to address their outstanding concerns. On 11 July 2024, an agreement was completed between ABP, Air Products and the IOT Operators to address matters raised through engagement with the IOT Operators. The Applicant understands that completion of this agreement will resolve all outstanding matters with the IOT Operators, who will confirm the same to the Examining Authority and ask that their representations are treated as withdrawn. An updated Draft SoCG reflecting the progress that has been made since Deadline 1 in resolving the remaining matters which have been under discussion will be shared with the IOT Operators imminently. ABP will ask the IOT Operators to review the updated SoCG and provide their comments. As an updated draft SoCG is not being submitted at Deadline 5, for consistency reasons, Table 4-2 and the commentary provided in Section 5 of this Statement of Commonality reflect the content of the Deadline 1 draft SoCG with the IOT

Operators. ABP and Air Products want to emphasise however that this does not present an accurate reflection of the progress made in working with the IOT Operators to resolve their concerns. It is the intention of ABP and Air Products to submit an updated SoCG with the IOT Operators to the ExA at Deadline 6 which will present an up to date position on the SoCG matters.

#### **Marine Management Organisation (“MMO”)**

- 3.15 A Draft SoCG with the MMO was submitted at Deadline 1 [REP1-051] and Deadline 3 [REP3-050]. An update to this Draft SoCG is now being submitted at Deadline 5, the content of which has been agreed with the MMO albeit they are not able to sign until the SoCG is Final. A Final Agreed SoCG will be submitted at Deadline 7.

#### **Maritime and Coastguard Agency (“MCA”)**

- 3.16 A Draft SoCG with the MCA was submitted at Deadline 1 [REP1-069] and a Draft Agreed SoCG submitted at Deadline 4 [REP4-033]. All matters in the SoCG are Agreed. A Final Agreed SoCG will be submitted at Deadline 7.

#### **National Highways**

- 3.17 A Draft SoCG with National Highways was submitted at Deadline 1 [REP1-049] and an updated Draft SoCG at Deadline 3 [REP3-048]. A Draft Agreed version of this SoCG is being submitted at Deadline 5. All matters in the SoCG have now been agreed with National Highways. A Final Agreed SoCG will be submitted at Deadline 7.

#### **Natural England**

- 3.18 A Draft Agreed SoCG with Natural England was submitted at Deadline 1 [REP1-052] and an updated Draft SoCG at Deadline 3 [REP3-052]. An update to this Draft SoCG is now being submitted at Deadline 5, the content of which has been agreed with Natural England albeit Natural England are only able to sign a Final SoCG. A Final Agreed SoCG will be submitted at Deadline 7.

#### **Network Rail Infrastructure Limited (“Network Rail”)**

- 3.19 A Draft Agreed SoCG with Network Rail was submitted at Deadline 1 [REP1-059]. Discussions have continued between the parties since Deadline 3 regarding protective provisions. The parties have also been discussing the terms of a voluntary easement (in order to avoid the need to rely on compulsory acquisition powers) and specifically the ‘lift and shift’ requirements sought by Network Rail. Currently there is no alignment between the parties on these requirements, as was discussed at Issue Specific Hearing 8 (“ISH8”). An updated Draft SoCG was shared with Network Rail on 2 July 2024 which reflects ABP’s and Air Products’ understanding of the current position. Network Rail has not yet responded therefore the SoCG being submitted at Deadline 5 is a Draft SoCG.

#### **Northern Powergrid**

- 3.20 A Draft SoCG with Northern Powergrid was submitted at Deadline 1 [REP1-062] and an updated Draft Agreed SoCG at Deadline 3 [REP3-062]. Discussions are progressing regarding the one remaining matter under discussion in relation to protective provisions. An update to this SoCG is not being submitted at Deadline

5 but it is anticipated that a Final Agreed SoCG will be submitted to the ExA at Deadline 7.

**North East Lincolnshire Council (“NELC”)**

- 3.21 A Draft SoCG with NELC was submitted at Deadline 1 [REP1-047], Deadline 3 [REP3-044] and Deadline 4 [REP4-021]. Discussions are progressing well with NELC and progress has been made on a number of matters. An updated Draft SoCG is therefore being submitted at Deadline 5. NELC has confirmed it agrees with the content of the Draft SoCG being submitted at Deadline 5.

**North East Lindsey Drainage Board (“NELDB”)**

- 3.22 A Draft Agreed SoCG with NELDB was submitted at Deadline 1 [REP1-053] and an updated Draft Agreed SoCG at Deadline 4 [REP4-023]. Discussions with NELDB have progressed well since Deadline 1 and an updated Draft Agreed SoCG is being submitted at Deadline 5.

**SoCGs being considered which are not requested by ExA in Rule 6 letter**

**PD Ports**

- 3.23 The ExA in their **Rule 6 letter** [PD-005] did not request a SoCG be prepared with PD Ports. ABP has responded to the points raised by PD Ports in full in the following submissions [REP2-014 and REP4-045] and therefore does not consider an SoCG between the parties is required..

## 4. Commonality

- 4.1 This Chapter of the Statement of Commonality provides a summary of the topics and material matters within in each topic covered in each SoCG and demonstrates where there is commonality in the matters being discussed with stakeholders.
- 4.2 Table 4-2 shows:
- a. The broad topics covered by the SoCGs running along the top.
  - b. The stakeholders running down the side.
- 4.3 Within the matrix in the table, the colour coding represents whether matters under the topic are broadly agreed, broadly under discussion, or broadly not agreed.
- 4.4 This is represented by colour coding as set out in Table 4-1.

**Table 4-1: Commonality colour coding**

|  |  |
|--|--|
| Matters under the topic broadly agreed   |  |
| Matters under the topic broadly not agreed   |  |
| Matters under the topic broadly under discussion   |  |
| Matters under the topic broadly not agreed – no material impact (relevant to Natural England and MMO only) |  |
| Matters not raised at this point   |  |

- 4.5 Table 4-2 is intended to assist the ExA in understanding the topics which remain under discussion or not agreed, particularly such topics where the position is shared across more than one stakeholder. Therefore, the categorisation and colour coding in the matrix is intended to represent the broad position per topic (it is not absolute). In addition, footnotes have been used to indicate exceptions.
- 4.6 There are limitations with this approach: the summary does not identify particular matters within topics – and any commonality (or not) on those matters.
- 4.7 Table 4-2 will be updated for each issue of the Statement of Commonality.
- 4.8 At Deadline 5 if an updated SoCG has not been submitted then the colour coding presented in Table 4.2 is as it was at its last submission.

**Table 4-2: Status of Commonality**

\*as per Deadline 1 SoCG submission.

\*\*as per Deadline 3 SoCG submission.

\*\*\*as per Deadline 4 SoCG submission.

|                                | DCO (including Protective Provisions) | Other Consents and Licenses | Utility connections | Need for the project/ Principle of Development | Assessment of alternatives | Consultation and engagement | Land and compulsory acquisition | Design | Construction (including CEMP and CTMP) | Operation & maintenance | Decommissioning | Local Planning Policy | Air Quality | Noise and Vibration | Nature Conservation (Terrestrial Ecology) | Nature Conservation (Marine Ecology) | Ornithology | Traffic & Transport | Marine Transport and Navigation | Landscape & Visual Impact | Historical Environment (Terrestrial) | Historical Environment (Marine) | Physical Processes | Marine Water and Sediment Quality | Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage | Climate Change | Materials and Waste | Ground Conditions and Land Quality | Major Accidents and Disasters | Human Health and Wellbeing | Socio-economics | Cumulative and In-Combination Effects | Habitat Regulations Assessment |       |      |      |      |      |
|--------------------------------|---------------------------------------|-----------------------------|---------------------|--|----------------------------|-----------------------------|---------------------------------|--------|--|-------------------------|-----------------|-----------------------|-------------|---------------------|---|--------------------------------------|-------------|---------------------|---------------------------------|---------------------------|--------------------------------------|---------------------------------|--------------------|-----------------------------------|---|----------------|---------------------|------------------------------------|-------------------------------|----------------------------|-----------------|---------------------------------------|--------------------------------|-------|------|------|------|------|
| Anglian Water                  | Green                                 | Grey                        | Yellow              | Grey   | Grey                       | Green                       | Green                           | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Yellow                            | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           |       |      |      |      |      |
| Cadent Gas***                  | Yellow                                | Grey                        | Green               | Grey   | Grey                       | Green                       | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  |      |      |      |      |
| CLdN*                          | Yellow                                | Grey                        | Grey                | Green  | Grey                       | Yellow                      | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Yellow                          | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  |      |      |      |      |
| Corporation of Trinity House** | Green                                 | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Green                           | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey |      |      |      |
| Environment Agency**           | Yellow                                | Green                       | Green               | Green  | Grey                       | Green                       | Grey                            | Yellow | Green                                  | Grey                    | Green           | Grey                  | Green       | Grey                | Green                                     | Green                                | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Green              | Green                             | Yellow  | Grey           | Green               | Green                              | Green                         | Grey                       | Grey            | Green                                 | Grey                           | Grey  | Grey |      |      |      |
| HMH**                          | Green                                 | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Yellow                          | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Green                          | Grey  | Grey |      |      |      |
| HSE                            | Yellow                                | Yellow                      | Grey                | Green  | Grey                       | Yellow                      | Yellow                          | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Yellow                        | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey |      |      |      |
| Historic England**             | Green                                 | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Green                                | Green                           | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey | Grey |      |      |
| IOT Operators*                 | Yellow                                | Grey                        | Grey                | Grey   | Green                      | Yellow                      | Grey                            | Yellow | Yellow                                 | Yellow                  | Yellow          | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Yellow                          | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Yellow                        | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey | Grey |      |      |
| MCA***                         | Green                                 | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Green                           | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey | Grey |      |      |
| MMO                            | Yellow                                | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Green                                  | Grey                    | Grey            | Grey                  | Grey        | Grey                | Green                                     | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Green              | Green                             | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Green                          | Grey  | Grey | Grey |      |      |
| National Highways              | Green                                 | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Green                                  | Grey                    | Green           | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Green                           | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey | Grey | Grey |      |
| Natural England                | Grey                                  | Grey                        | Grey                | Grey   | Grey                       | Green                       | Grey                            | Grey   | Green                                  | Grey                    | Grey            | Grey                  | Grey        | Grey                | Green                                     | Green                                | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Green               | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Green | Grey | Grey | Grey |      |
| Network Rail                   | Red                                   | Grey                        | Yellow              | Grey   | Grey                       | Grey                        | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey | Grey | Grey |      |
| Northern PowerGrid**           | Yellow                                | Grey                        | Green               | Grey   | Grey                       | Green                       | Grey                            | Grey   | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Grey                              | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  | Grey | Grey | Grey | Grey |

|       | DCO (including Protective Provisions) | Other Consents and Licenses | Utility connections | Need for the project/<br>Principle of Development | Assessment of alternatives | Consultation and engagement | Land and compulsory acquisition | Design | Construction (including CEMP and CTMP) | Operation & maintenance | Decommissioning | Local Planning Policy | Air Quality | Noise and Vibration | Nature Conservation (Terrestrial Ecology) | Nature Conservation (Marine Ecology) | Ornithology | Traffic & Transport | Marine Transport and Navigation | Landscape & Visual Impact | Historical Environment (Terrestrial) | Historical Environment (Marine) | Physical Processes | Marine Water and Sediment Quality | Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage | Climate Change | Materials and Waste | Ground Conditions and Land Quality | Major Accidents and Disasters | Human Health and Wellbeing | Socio-economics | Cumulative and In-Combination Effects | Habitat Regulations Assessment |       |
|-------|---------------------------------------|-----------------------------|---------------------|---|----------------------------|-----------------------------|---------------------------------|--------|--|-------------------------|-----------------|-----------------------|-------------|---------------------|---|--------------------------------------|-------------|---------------------|---------------------------------|---------------------------|--------------------------------------|---------------------------------|--------------------|-----------------------------------|---|----------------|---------------------|------------------------------------|-------------------------------|----------------------------|-----------------|---------------------------------------|--------------------------------|-------|
| NELC  | Orange                                | Orange                      | Grey                | Green   | Green                      | Green                       | Green                           | Grey   | Green                                  | Grey                    | Green           | Green                 | Green       | Green               | Green                                     | Grey                                 | Green       | Orange              | Grey                            | Green                     | Green                                | Grey                            | Grey               | Green                             | Green   | Green          | Green               | Green                              | Green                         | Green                      | Green           | Green                                 | Green                          | Green |
| NELDB | Green                                 | Green                       | Grey                | Grey  | Grey                       | Green                       | Grey                            | Orange | Grey                                   | Grey                    | Grey            | Grey                  | Grey        | Grey                | Grey                                      | Grey                                 | Grey        | Grey                | Grey                            | Grey                      | Grey                                 | Grey                            | Grey               | Orange                            | Grey  | Grey           | Grey                | Grey                               | Grey                          | Grey                       | Grey            | Grey                                  | Grey                           | Grey  |

## 5. Commentary at Deadline 5

- 5.1 This Chapter provides a high-level commentary on the emerging topics that are of common interest to stakeholders as highlighted in the draft SoCGs submitted at Deadline 5. This Chapter will be updated for each version of the Statement of Commonality submitted.
- 5.2 Table 5-1 summarises the current status of each SoCG submitted at Deadline 5 in terms of number of matters agreed and under discussion.

**Table 5-1: Deadline 5 Summary of SoCG Matters**

\*as per Deadline 1 SoCG submission.

\*\*as per Deadline 3 SoCG submission

\*\*\*as per Deadline 4 SoCG Submission

\*\*\*\*in the case of Natural England and the MMO, the matters not agreed listed in this table are considered by the Parties to be of no material impact.

| Stakeholder                    | Number of Matters Agreed | Number of Matters Under Discussion | Number of Matters Not Agreed | % Matters Agreed |
|--------------------------------|--------------------------|------------------------------------|------------------------------|------------------|
| Anglian Water                  | 6                        | 3                                  | 0                            | 67               |
| Cadent Gas***                  | 1                        | 1                                  | 0                            | 50               |
| CLdN*                          | 1                        | 10                                 | 0                            | 9                |
| Corporation of Trinity House** | 2                        | 0                                  | 0                            | 100              |
| Environment Agency             | 42                       | 12                                 | 0                            | 78               |
| HMH***                         | 6                        | 1                                  | 0                            | 86               |
| HSE                            | 2                        | 5                                  | 0                            | 29               |
| Historic England**             | 6                        | 0                                  | 0                            | 100              |
| IOT Operators*                 | 3                        | 7                                  | 0                            | 30               |
| MCA***                         | 3                        | 0                                  | 0                            | 100              |
| MMO                            | 30                       | 0                                  | 1****                        | 97               |
| National Highways              | 18                       | 0                                  | 0                            | 100              |
| Natural England                | 57                       | 19                                 | 12****                       | 75               |



| Stakeholder          | Number of Matters Agreed | Number of Matters Under Discussion | Number of Matters Not Agreed | % Matters Agreed |
|----------------------|--------------------------|------------------------------------|------------------------------|------------------|
| Network Rail         | 0                        | 2                                  | 1                            | 0                |
| Northern PowerGrid** | 7                        | 1                                  | 0                            | 89               |
| NELC                 | 49                       | 3                                  | 0                            | 94               |
| NELDB                | 8                        | 1                                  | 0                            | 89               |

5.3 The commentary below for Deadline 5 should be read keeping in mind that of the nine SoCGs submitted at Deadline 5:

- a. Three (the HSE, National Highways and NELDB) have been signed and have been submitted as 'Draft Agreed';
- b. Five (Anglian Water, the Environment Agency, MMO, Natural England and NELC) have been agreed by the stakeholders but have not been signed and have therefore been submitted as 'Draft'; and
- c. One (Network Rail) has not been agreed with the stakeholder as the stakeholder is yet to return comments and therefore is being submitted as 'Draft'.

5.4 A further two SoCG submitted at Deadline 1 (CLdN and the IOT Operators), three SoCGs submitted at Deadline 3 (Trinity House, Historic England and Northern Powergrid) and three SoCGs submitted at Deadline 4 (Cadent Gas, HMM and the MCA) have not been submitted at Deadline 5 for the reasons explained in section 3 of this Statement of Commonality. The previous submitted versions of these SoCGs have been considered in the commentary below.

5.5 Table 4-2 shows that there are a large number of topics which are not of particular interest to some parties. This reflects the reality that different parties have different technical and professional interests, and/or particular local interests, which inevitably focuses interest on particular topics. In general:

- a. The statutory bodies, such as the Environment Agency, Natural England, the MMO and Historic England, are particularly focussed on environmental topics and less focussed on design and operation and maintenance matters;
- b. The statutory undertakers, such as Anglian Water Services, Cadent Gas, Northern Powergrid and Network Rail, are generally interested in matters relating to utility connections and protective provisions and how their assets will be protected in the construction and operation phases of the project;
- c. Other port operators and businesses, such as CLdN and the IOT Operators, are generally interested in how the Project may impact their existing operations in regard to navigational safety and major accidents and disasters;

- d. The Local Authority, NELC, is interested in a wide variety of topics as would be expected given their remit of responsibilities; and
- e. Other stakeholders who have statutory responsibilities in relation to the safe navigation of the Humber, such as HMM, the MCA and Trinity House, are mainly interested in navigational safety on the Humber and related provisions in the draft DCO.

5.6 In summary, the main topics where matters have **broadly been agreed** are:

- a. Need for the Project and/or the principle of the development – as stated previously in the Deadline 1 version of this document, four stakeholders (CLdN, the Environment Agency, HSE and NELC) have confirmed they have no objection in principle to the Project whilst none of the stakeholders have indicated they object to the Project. All matters relating to this topic have therefore been agreed.
- b. Assessment of alternatives – as stated previously in the Deadline 1 version of this document, two SoCGs (IOT Operators and NELC) contain related matters, all of which have now been agreed.
- c. Noise and vibration, materials and waste and human health and wellbeing – as previously reported in the Deadline 1 version of this document, all matters relating to these topics have been agreed.
- d. Land and compulsory acquisition – all matters relating to this topic have now been agreed (subject to the matter relating to Protective Provisions with Network Rail. See **Paragraph 5.8** for further information).
- e. Air Quality - all matters relating to this topic have now been agreed.
- f. Historical Environment (Terrestrial) and (Marine) – all matters relating to these topics have now been agreed.
- g. Physical Processes – all matters relating to this topic have been agreed.
- h. Climate Change - all matters relating to this topic have been agreed.
- i. Ground Conditions and Land Quality - all matters relating to this topic have been agreed.
- j. Cumulative and In-Combination Effects – all matters relating to this topic have been agreed.
- k. Local Planning Policy – all matters relating to this topic have been agreed with NELC.
- l. Socio-economics - all matters relating to this topic have been agreed with NELC.
- m. Nature Conservation (Terrestrial Ecology) – since Deadline 4, all matters relating to this topic have been agreed with stakeholders.
- n. Nature Conservation (Marine Ecology) – since Deadline 4, all matters relating to this topic have been agreed with stakeholders.
- o. Landscape and Visual Impact – since Deadline 4, all matters relating to this topic have now been agreed with NELC.

- p. Marine Water and Sediment Quality – since Deadline 4, all matters relating to this topic have now been agreed.
- q. Traffic and Transport – over 96% of related matters have now been agreed with stakeholders. One matter is still under discussion with NELC regarding this topic.
- r. Construction (including CEMP and CTMP) – over 92% of related matters have been agreed. One matter is still under discussion with the IOT Operators (albeit these matters have now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6) regarding this topic.
- s. Ornithology – since Deadline 4, all matters relating to this topic have now been agreed with stakeholders with the exception of a number of matters within the Natural England SoCG that are linked to the HRA (see **Paragraph 5.8**).
- t. Habitat Regulations Assessment – over 80% of related matters have been agreed with Natural England (see **Paragraph 5.8** for matters not agreed).
- u. Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – over 79% of related matters have now been agreed. Matters are still under discussion with Anglian Water, the Environment Agency and NELDB regarding this topic.
- v. Decommissioning - over 75% of related matters have been agreed with one matter still under discussion with the IOT Operators.
- w. Utility connections – over 76% of related matters have been agreed. Matters are still under discussion with Anglian Water and Network Rail.
- x. Consultation and engagement – over 69% of related matters have now been agreed with stakeholders. Matters are still under discussion with the IOT Operators (albeit this matter has now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6) and CLdN regarding this topic.

5.7 In summary, the main topics where matters are **broadly still under discussion** are:

- a. Design – all three matters relating to this topic are still under discussion, one each with the Environment Agency and NELDB.
- b. Operation and Maintenance – there is only one matter relating to this topic which has been under discussion with the IOT Operators (albeit this matter has now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6).
- c. Major Accidents and Disasters – approximately 67% of matters relating to this topic are still under discussion. Discussions are ongoing with the HSE to resolve outstanding matters. Related matters being discussed with the IOT Operators have now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6.
- d. Marine Transport and Navigation – approximately 61% of matters relating to this topic are still under discussion. Discussions are ongoing with CLdN, and

Harbour Master Humber to resolve outstanding matters. Related matters being discussed with the IOT Operators have now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6..

- e. **Draft DCO** (including protective provisions) – approximately 47% of the related matters are still under discussion with six stakeholders in total. Active discussions are underway with these stakeholders, particularly regarding protective provisions and positive progress is being made. ABP and Air Products are confident these matters will continue to be resolved as the Examination progresses. The exception to this is the Protective Provisions with Network Rail (see **Paragraph 5.8** for further information).

5.8 In summary, the topics where some matters are **not agreed** are:

- a. Protective Provisions with Network Rail – as explained further in the SoCG with Network Rail that has been submitted at Deadline 5, the protective provisions for Network Rail have been agreed with the exception of Air Products' need to acquire a permanent easement under the railway for the purposes of the pipeline corridor in Work No. 6. In negotiations on the potential form of easement (to be entered into voluntarily), Network Rail require the ability to compel Air Products to move or relocate ('lift and shift') the development authorised by the **draft DCO** to accommodate works undertaken by Network Rail and ultimately terminate the easement where lift and shift is not feasible. Air Products are not able to 'shift' the pipeline comprised in the authorised development. Further, the termination of the easement in the absence of an alternative pipeline would mean Work No. 7 and therefore the entire hydrogen production facility could not operate. In light of Network Rail's position, it is anticipated that Network Rail would withhold its consent under paragraph 55(6) of its protective provisions to the exercise of compulsory acquisition powers to acquire such a right or seek to impose equivalent conditions. The Applicant is therefore submitting at Deadline 5 (a) a draft Development Consent Order which includes Network Rail protection provisions which have been revised to ensure that the provisions do not amount to a negation of the compulsory purchase powers in the dDCO and (b) a note which explains the Applicant's position as regards the Network Rail land, the powers sought over it and the reasons for those together with consideration of the relevant statutory tests under sections 127 and 138 of the Planning Act 2008. As detailed in the SoCG submitted at Deadline 5, Network Rail have confirmed that due to the impasse on the lift and shift provisions, Network Rail will set out and submit to the ExA their case on the Protective Provisions and objection to the compulsory acquisition of land in due course.
- b. HRA – there are 12 matters within the Natural England SoCG which the Parties do not agree on. In all of these cases, Natural England has confirmed the agreement or otherwise of these matters will have no material impact. These matters relate to various aspects of the HRA as detailed in the SoCG submitted at Deadline 5.
- c. **Draft DCO** (including protective provisions) – there is one matter within the SoCG with the MMO (matter G1) which the Parties do not agree on. In this case, the MMO has confirmed the agreement or otherwise of this matter will

have no material impact. The MMO presented their final and full position regarding consents with the drafting of the **draft DCO** and Deemed Marine Licence ("DML") at Deadline 4 **[REP4-052]**. There are a number of matters relating to **Articles 46(12) – (16), Article 63(5)(b), Paragraphs 24–27** of the DML and **Paragraph 3(1) of Schedule 17** of the **draft DCO** where agreement cannot be reached. The Parties therefore recognise that it will be for the Secretary of State to determine which of the aforementioned provisions are to be included in the **draft DCO**. Further information is provided in the Draft SoCG submitted at Deadline 5.

## 6. Glossary

| <b>Abbreviation / Acronym</b> | <b>Definition</b>                              |
|-------------------------------|--|
| ABP                           | Associated British Ports                       |
| APT                           | Associated Petroleum Terminals                 |
| CEMP                          | Construction Environmental Management Plan     |
| CTMP                          | Construction Traffic Management Plan           |
| DCO                           | Development Consent Order                      |
| EIA                           | Environmental Impact Assessment                |
| ES                            | Environmental Statement                        |
| ExA                           | Examining Authority                            |
| HES                           | Humber Estuary Services                        |
| HMH                           | Harbour Master, Humber                         |
| HOTT                          | Humber Oil Terminals Trustees                  |
| HSE                           | Health and Safety Executive                    |
| IOT                           | Immingham Oil Terminal                         |
| MCA                           | Maritime and Coastguard Agency                 |
| MMO                           | Marine Management Organisation                 |
| NELC                          | North East Lincolnshire Council                |
| NELDB                         | North East Lindsay Drainage Board              |
| NSIP                          | Nationally Significant Infrastructure Project  |
| PA 2008                       | Planning Act 2008                              |
| PINS                          | Planning Inspectorate                          |
| SCNA                          | Statutory Conservancy and Navigation Authority |
| SoCG                          | Statement of Common Ground                     |
| SoS                           | Secretary of State for Transport               |
| UK                            | United Kingdom                                 |