



Immingham Green Energy Terminal

9.15 Final Agreed Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Health and Safety Executive (Tracked)

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Version History

Version	Date	Submitted
1.0	13 March 2024	Deadline 1
2.0	11 July 2024	Deadline 5
<u>3.0</u>	<u>15 August 2024</u>	<u>Deadline 7</u>



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Status of the Statement of Common Ground

This is the Final Agreed Statement of Common Ground (SoCG) between Associated British Ports, Air Products (BR) Limited, and the Health and Safety Executive.

Deleted: 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	Project Development Manager
Organisation	Associated British Ports
Signature	[REDACTED]

On Behalf of Air Products

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

On Behalf of the Health and Safety Executive

Name	[REDACTED]
Position	Acting Director of Chemicals
Organisation	Health and Safety Executive
Signature	[REDACTED]

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1 Introduction

Overview

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

The Project

- 1.4 ABP is seeking to construct, operate and maintain the Project, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the “Port”).
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited (“Air Products”). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the United Kingdom’s (“UK’s”) net zero agenda by helping to decarbonise the UK’s industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement (“ES”) Chapter 2: The Project [REP3-022]**. The hydrogen production facility will require hazardous substance consent and includes a number of major accident hazard pipelines. Any notifications made under Pipeline Safety Regulations have been submitted in line with regulatory requirements and do not form part of the Application

Parties to this Statement of Common Ground

- 1.7 This SoCG has been prepared by (1) ABP (as the Applicant), (2) Air Products and (3) The Health and Safety Executive (“HSE”).
- 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 and operation of its green hydrogen production facility.
- 1.10 HSE is Britain’s national regulator for workplace health and safety. It is an executive non-departmental public body sponsored by the Department for Work and Pensions. HSE is a statutory consultee for all NSIPs in England, providing

public safety advice. As set out in the Planning Inspectorate's Advice Note Eleven: working with public bodies in the infrastructure planning process, Annex G (specific to HSE's role in NSIPs), the two main considerations for HSE in regard to NSIPs are:

- (a) Does the proposed development have the potential to cause a major accident, e.g. does the development require a hazardous substances consent, will it be within scope of the Control of Major Accident Hazards ("COMAH") Regulations or could the development impact on a COMAH site?
- (b) Is the proposed development vulnerable to potential major accidents, e.g. is it within a consultation zone around a major hazard site or pipeline?

1.11 In this SoCG, ABP, Air Products and HSE are collectively referred to as "the Parties".

Purpose and Structure of this Document

- 1.12 The purpose of this document is to identify and summarise any agreement, disagreement or matters outstanding between the parties on matters relevant to the Examination so as to assist the Examining Authority in its consideration of the Application.
- 1.13 In preparing this SoCG, the guidance provided in Planning Act 2008: examination of application for development consent (Department for Communities and Local Government (as it then was), March 2015) has been fully taken into account. In addition, this SoCG has had due regard to the Examining Authority's **Rule 6 letter [PD-005]**.
- 1.14 Section 1 of this SoCG provides a general introduction to the Project and to the Parties.
- 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

2 Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP, Air Products and HSE 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		
15 August 2022	MS Teams: Initial Meeting	Introduction to Project; overview of ammonia storage tank design. Regarding possible hazardous substances consent ("HSC"), land use planning zones ("LUP") impacts.
10 October 2022	An Environmental Impact Assessment ("EIA") Scoping Opinion was adopted by the Secretary of State	HSE was a consultee at EIA Scoping stage. HSE did not provide a response to the Planning Inspectorate at EIA Scoping stage.
October 2022	MS Teams meeting	Request HSE review tank design in the context of COMAH. Presentation of Project and discussion on tank design.
5 December 2022	MS Teams meeting	Project update and follow up on design review requests. (HSE CEMHD7).
9 January to 20 February 2023	First Statutory Consultation on proposed DCO application	HSE was consulted by ABP as part of the First Statutory Consultation.
17 February 2023	HSE response to First Statutory Consultation	HSE provided their response to the First Statutory Consultation. The response noted that a Hazardous Substance Consent application would be made to North East Lincolnshire Council ("NELC") and it is through this process that HSE would provide its statutory advice. HSE also indicated that it expected Air Products would make a COMAH notification and provide a pre-construction safety report in due course.
17 March 2023	MS Teams meeting attendees from Air products and HSE	<ul style="list-style-type: none"> Project Overview Discussion on advance COMAH notification support

Date	Form of Contact	Summary with key outcomes and points of discussion
		<ul style="list-style-type: none"> • Discussion on Ammonia Tank design • COMAH application timing • Requested feedback from HSE
30 March 2023	Hazardous substance consent application was submitted to NELC, validated on 5 April 2023	NELC subsequently undertook public consultation on the Hazardous Substances Consent application and sought HSE advice. As a statutory consultee on the application NELC reference DM/0088/23/HS.
5 April 2023	COMAH notification was submitted to the HSE under COMAH Regulation 6: Notifications and acknowledgment letter received 12 July 2023	
24 May 2023 to 20 July 2023	Second Statutory Consultation on proposed DCO application	HSE was consulted by ABP as part of the Second Statutory Consultation.
13 June 2023	HSE response to Second Statutory Consultation	HSE responded to the Second Statutory Consultation confirming their advice remained as per their response to the First Statutory Consultation and that they had no further comments to make.
24 July 2023	Major hazard pipeline notification was submitted to HSE via HSE portal, acknowledged by HSE	
Post DCO Submission		
25 October 2023	MS Teams meeting	<p>Topic – hazardous substance consent application DM/0088/23/HS.</p> <p>The Air Products team presented the full Project and details of the hydrogen production facility scope along with key safety considerations and proposed mitigation. The HSE requested additional technical clarifications (see entry for meeting on 8 November 2023 where Air Products provided these clarifications).</p>
08 November 2023	Email correspondence	Topic – hazardous substance consent application DM/0088/23/HS.

Date	Form of Contact	Summary with key outcomes and points of discussion
		<p>Technical notes and drawings addressing all points raised in the meeting on the 25 October 2023 were provided to HSE and discussed.</p> <p>No comments were received from HSE on the technical notes provided.</p>
23 November 2023	MS Teams meeting	<p>To review DCO input required from HSE.</p> <p>To confirm HSE can move forward their advice on the Hazardous Substance Consent application. DM/0088/23/HS.</p> <p>Key outcomes:</p> <p>Meeting arranged with all key HSE and competent authority stakeholders on 11 December 2023.</p> <p>HSE indicated they do not sign up to Statements of Common Ground in connection with DCO applications and confirmed this is their position on the Project.</p>
24 November	Email from HSE Land Use Planning Team, Bootle	<p>Informing that, for the Hazardous Substance Consent Application – DM/0088/23/HS – HSE has added the application to their queue and confirmed they would allocate an assessor no earlier than 22 February 2024.</p>
11 December 2023	In person and MS Teams hybrid meeting	<p>Topic covered were:</p> <ul style="list-style-type: none"> • Project update • Application of COMAH • Competent Authority (“CA”) expectations re COMAH and associated timings (the CA for the purposes of COMAH being the Environment Agency and HSE acting jointly) • Co-ordination between COMAH Competent Authority Partners (HSE and Environment Agency) and with Air Products re COMAH, PSR, DCO, Hazardous Substance Consent application DM/0088/23/HS • Roles, responsibilities and points of contact. • Key issues for Air Products and ABP: <ul style="list-style-type: none"> ○ Understanding information requirements of HSE / Environment Agency to undertake their evaluations and timescales for feedback ○ Agreement / fixing of tank design, and other key design basis for example for pipelines as capital commitments are being made ○ As far as possible alignment on DCO application approach • Familiarisation site visit to the proposed landside development location was conducted

Date	Form of Contact	Summary with key outcomes and points of discussion
		Key outcomes <ul style="list-style-type: none"> HSE and Air Products single point of contacts established. Formal COMAH preconstruction pre receipt meeting to be held end January 2024.
29 January 2024	MS Teams meeting	Formal Pre-Construction Safety Report – Pre-receipt Meeting: Air Products, ABP and CA. Objective – CA and Air Products to reach agreement upon: <ol style="list-style-type: none"> The scope and depth of the safety report content required. Expectation of how the content and any necessary supporting information will be presented in the report. Timetable for submission of the safety report. Method of submission. Summary of meeting: ABP and Air Products provided an overview of the Project, the establishment and what makes it subject to COMAH Regulations. Details of any neighbouring establishments – including any potential domino effects. The legal rationale to be provided by Air Products for proposing that the terminal be considered as a single 'establishment' as defined by COMAH Regulations. CA Assessors reviewed expectations of the safety report in terms of the required content and shared the applicable assessment criteria and guidance. Agree Submission Date and a rolling submission approach. Dealing with Requests for Information and exclusions of information set out in Regulation 19(1) of the COMAH Regulations 2015. Outcomes: <ul style="list-style-type: none"> Air Products to submit Pre-construction safety report at end of March or first week of April 2024. Submission date nominally set for 5 April 2024. For this safety report, the CA aims to have communicated the conclusions from its examination of the safety report within three months, but this timescale may be adjusted to suit its complexity.

Date	Form of Contact	Summary with key outcomes and points of discussion
		<ul style="list-style-type: none"> The CA may conclude the assessment report and provide Air Products with a 'Revision Plan', in doing so the CA would make arrangements to explain the basis for the revision plan and the requirements of it. Air Products to send address of establishment for processing (COMAH notification includes a grid reference number) [complete]. Air Products to formalise a request for engagement with HSE's Energy Division on pipeline design [received at time of writing]. Ongoing dialogue between operator (Matt Evans) and CIM (John Boyle) will be facilitated in anticipation of safety report submission [Ongoing].
8 February 2024	Email Air Products to HSE	Providing Air Product's rationale for treating the hydrogen production facility as one establishment under COMAH.
1 March 2024	Email Air Products to HSE	Draft SOCG sent
13 March 2024	MS Teams meeting	<p>To discuss progress on the pre-construction COMAH safety report ("PCSR") submission and information required.</p> <p>It was agreed that Air Products would aim to submit the full pre-construction report submission by 30 April 2024.</p> <p>HSE are to advise whether the terminal is to be treated as a single establishment or not following PCSR submission and any changes to the structure will be addressed in the Pre-Operations Safety Report.</p>
22 April 2024	Email Air Products to HSE	Draft SOCG sent
23 April 2024	Email from HSE to ABP	<p>To confirm HSE view that the East and West Sites should be properly considered to form two separate COMAH establishments rather than as the single establishment proposed by Air Products.</p> <p>In order for HSE to effectively regulate the pipeline connecting the East and West Sites it would be appropriate for this pipeline to be treated as a 'pipeline' under the meaning of the term applied to it by Regulation 3 of the Pipelines Safety Regulations 1996 (and referred</p>

Date	Form of Contact	Summary with key outcomes and points of discussion
		to again within Regulation 2(1) of COMAH) rather than otherwise.
25 April 2024	Email Air Products to HSE	Providing additional information on Air Products' rationale for treating the hydrogen production facility as one establishment under COMAH in response to HSE email. That the sites meet the definition of one establishment under COMAH and at the same time are separate 'premises' under the pipeline safety regulations and the pipeline would be regulated under this regime in any event.
30 April 2024	Email HSE to Air Products	Comments on SOCG
2 May 2024	MS Teams meeting	To further review if the East and West Sites should be properly considered to form two separate COMAH establishments or a single establishment Additional supporting information to be provided by Air Products. Agreement that in any event this does not impact the submission of the pre-construction safety report
7 June 2024	Email Air Products to HSE	Confirming upload of pre-construction safety report
10 June 2024	Email HSE to Air Products	Confirming receipt of pre-construction safety report
12 June 2024	Email HSE to Air Products	Request for information on HSC DM/0088/23/HS - Air Products BR, Immingham - Information required to progress HSE's required technical assessment
14 June 2024	Email Air Products to HSE	Confirming information for HSC will be submitted as requested
14 June 2024	Email HSE to Air Products	Request for information: Air Products- UK Pipelines including proposed IGET pipelines
4 July 2024	Email Air Products to HSE	Clean copy of Deadline 5 SoCG provided to HSE for Sign Off
9 July 2024	Email HSE to Air Products	Signed copy of Deadline 5 SoCG returned by HSE



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Date	Form of Contact	Summary with key outcomes and points of discussion
<u>16 July 2024</u>	<u>MS Teams meeting</u>	<u>Discussion with HSE assessor about information required for the hazardous substance consent assessment</u>
<u>7 August 2024</u>	<u>Email Air Products to HSE</u>	<u>Final Agreed SoCG issued to HSE for Sign Off</u>
<u>14 August 2024</u>	<u>Email correspondence</u>	<u>Email correspondence between Air Products and the HSE to agree final wording of the SoCG</u>
<u>14 August 2024</u>	<u>Email Air Products to HSE</u>	<u>Final Agreed SoCG issued to HSE</u>

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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 are of relevance:
 - 3.1.1 Chapter [4]; First Statutory Consultation – HSE was consulted on relevant aspects of the Application as defined by ABP as part of ABP’s statutory obligations.
 - 3.1.2 Chapter [5]; Second Statutory Consultation – HSE was consulted on relevant aspects of the Application as defined by ABP as part of ABP’s statutory obligations.
 - 3.1.3 Chapter [6]; Hazardous Substance Consent – An application for Hazardous Substance Consent was submitted to North East Lincolnshire Council (“NELC”), acting as the Hazardous Substances Authority, on 30 March 2023; the HSE was consulted as part of this process.
- 3.2 Table 3-1 contains a list of ‘matters agreed’ (shaded green) ~~at Deadline 7,~~ along with a concise commentary of what the item refers to and how it came to be agreed between the Parties. ~~Table 3-1 lists~~ matters in the context of the planning system ~~although~~ other matters relating to health and safety legislation have been discussed with the HSE.

Deleted:); 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

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

ID	Matter	Reference	Health and Safety Executive Position	ABP Position	Air Product's Position	Status	Date
General Engagement							
G1	Stakeholder Engagement	Consultation Report [APP-022]	HSE accepts ABP's record of engagement as set out in the Consultation Report [APP-022] and Table 2-1 of this SoCG is accurate.	ABP confirms the record of engagement as set out in the Consultation Report and Table 2-1 of this SoCG is accurate.	As per ABP position.	Agreed	7 August 2024
G2	Stakeholder Engagement: Statutory Consultations	Consultation Report [APP-022]		ABP's response to the HSE feedback on the First and Second Statutory Consultations is presented in Appendix P of the Consultation Report. ABP's responses were informed by ongoing engagement with the HSE as detailed in Table 2-1 of this SoCG.	As per ABP position.	Agreed	7 August 2024
G3	Stakeholder Engagement: No objection to principle of proposed development.	Relevant Representation [RR-011] section	The HSE has no objection to the principle of the proposed development, as submitted in the context	ABP welcomes the HSE's position.	As per ABP position.	Agreed	6 December 2023

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ID	Matter	Reference	Health and Safety Executive Position	ABP Position	Air Product's Position	Status	Date
			of the Application for the DCO,				
Land Use Planning around Major Accident Hazard Sites and Major Accident Hazard Pipelines							
L1	Risk to Neighbouring Populations	6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] 6.2 Environmental Statement - Chapter 3: Need and Alternatives [APP-045] Relevant Representation [RR-011] section 13	Certain residential properties at Queens Road (1-5, 6-7 (upper floor flat), 8 (upper floor flat), 18 and 31) lie near the proposed hydrogen production facility on the West Site (the "Queens Road Properties"). HSE notes the position of Air Products as stated in the DCO application. Please see L4. After L4 is complete, HSE will be able to advise which properties are incompatible with the proposal in the application.	As per Air Products Position.	Air Products has acquired the Queens Road Properties (i.e. 1-5, 6-7 (upper floor flat), 8 (upper floor flat), 18 and 31) through agreement. This is because these residential properties are expected to lie within the inner zone once HSE confirm the final land use planning zones for the hydrogen production facility in association with the application for hazardous substances consent (see L3). Powers of compulsory acquisition are sought in the DCO (although, as noted above, these residential properties have been acquired by agreement). A requirement of the DCO is also proposed such that (a) prior to operation of the	Agreed,	7 August 2024

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~~Deleted:~~ and should be in-scope for considering compulsory purchase.

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ID	Matter	Reference	Health and Safety Executive Position	ABP Position	Air Product's Position	Status	Date
					hydrogen production facility, Air Products will give notice to the local planning authority that it has taken possession of all the Queens Road Properties and will confirm that the residential use of the properties has ceased and (b) from the date of such notice, the properties will not be used for residential purposes for so long as any part of Work No. 7 is in operational use. Compliance with this requirement would address the non-tolerable risk to the identified neighbouring population. <u>Air Products agree that HSE's advice will follow completion of their assessment.</u>		
L2	Risk from Neighbouring Major Accident Hazard sites (e.g. Industrial	Relevant Representation [RR-011] section 2,8 6.2 Environmental Statement -	This Nationally Significant Infrastructure Project falls into the consultation zone of several Major Accident Hazard Sites ["MAHS"]. The operators of these	As per Air Products position.	Air Products agrees that the site boundary falls into the consultation zone of several Major Accident Hazard sites. Air Products and ABP have been in touch with neighbours and	Agreed	7 August 2024

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	and COMAH sites)	Chapter 22: Major Accidents and Disasters [APP-064]	sites should be consulted.		specifically operators of the identified MAH sites as part of the statutory consultation undertaken before submission of the DCO application. The existence of these sites has been taken into account in assessing the likely significant effects of the Project in relation to a possible major accident, as covered in ES Chapter 22 [APP-064] . The consultation is documented in the consultation report. Consultation with neighbours will also continue as part of the COMAH process. Air Products and ABP have ongoing discussions with nearby COMAH sites where the potential for domino effect has been identified.		
L3	Risk from Major Accident	Relevant Representation [RR-011]	This Nationally Significant Infrastructure Project is close to consultation zones of a	As per Air Products Position.	Air Products have been in dialogue with Cadent Gas about the protection required for the major	Agreed,	7 August 2024

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ID	Matter	Reference	Health and Safety Executive Position	ABP Position	Air Product's Position	Status	Date
	Hazard pipelines	sections 2,5 and 6	Major Accident Hazard Pipelines ['MAHP']. The operators of these pipelines should be consulted.		accident hazard pipeline and the work that can be done in proximity to that pipeline. The parties have agreed that the pipeline can be safely maintained within the project area and will be addressed through appropriate protective provisions that are currently being negotiated		
L4	Hazardous substance consent	Relevant Representation [RR-011] section 5	The HSE highlighted the need for hazardous substances consent ['HSC'] for the substances proposed to be stored. HSE has reviewed the Hazardous Substance consent Application DM/0088/23/HS - HSE and accepted it as a valid application on the 22 November 2023 after revision. HSE has assigned this case to a specialist inspector on 21 March 2024 and commenced its public safety risk assessment;	As per Air Products' Position.	The hazardous substance consent application was submitted to NELC by Air Products on 30 March 2023 and validated on 5 April 2023. Air Products received notification on 22 November 2023 that the HSE have added this to their queue to conduct the public safety risk assessment. <u>As of 7 August 2024 an assessor has been allocated and there is ongoing dialogue between Air Products and HSE on the additional information required.</u>	Agreed,	7 August 2024

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ID	Matter	Reference	Health and Safety Executive Position	ABP Position	Air Product's Position	Status	Date
			<p>HSE estimates it may take up to 26 weeks to complete its assessments and provide advice to the Hazardous Substances Authority.</p> <p>HSE advice will be used by NELC to take a decision on the hazardous substance consent. If consent is granted, HSE will make the land use planning zones information available to NELC.</p>				
COMAH							
C1	COMAH establishment	6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064]	N/A	As per Air Products position	Matters relating to safety will be addressed through COMAH / PSR will be covered under these regimes and do not need to be duplicated in the DCO.	Point of Note	
Pipeline Safety Regulations Notified Major Accident Hazard Pipelines							



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ID	Matter	Reference	Health and Safety Executive Position	ABP Position	Air Product's Position	Status	Date
P1	Major accident hazard pipelines	6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064]	N/A	As per Air Products position	Matters relating to safety will be addressed through COMAH / PSR will be covered under these regimes and do not need to be duplicated in the DCO.	Point of Note	

4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
ALARP	As low as reasonably practicable
COMAH	Control of Major Accident Hazards
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
HSC	Hazardous Substances Consent
LUP	Land Use Planning zones
MAH	Major Accident Hazard
MAHS	Major Accident Hazard Site
MAHP	Major Accident Hazard Pipeline
MMO	Marine Management Organisation
NELC	North East Lincolnshire Council
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