



Immingham Green Energy Terminal

9.19 Final Agreed Statement of Common Ground
between Associated British Ports and the Harbour
Master, Humber (Tracked)

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Version History

Version	Date	Submitted
1.0	13 March 2024	Deadline 1
2.0	4 June 2024	Deadline 4
<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~~ and the ~~Harbour Master Humber~~.

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On Behalf of Associated British Ports

Name	██████████
Position	Project Development Manager
Organisation	Associated British Ports
Signature	██████████

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On Behalf of the Harbour Master Humber

Name	██████████
Position	Harbour Master Humber
Organisation	Harbour Master Humber
Signature	██████████

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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 [AS-069]**.

Parties to this Statement of Common Ground

- 1.7 The parties to this SoCG are (1) ABP (as the Applicant) and (2) the Harbour Master for the Humber (“HMH”), whose Unique Reference Number in these proceedings is 20047053. This SoCG covers the general topics listed on page F6 of the Examining Authority’s **Rule 6 letter [PD-005]** dated 8 January 2004 (insofar as relevant) together with the specific topics directed at HMH and Humber Estuary Services (“HES”) set out on page F7.
- 1.8 ABP is the promoter of the Project and the owner and operator of the Port of Immingham.
- 1.9 HES is the informal name (akin to a trading name) used by ABP in its capacity, not as the promoter of the Project and the owner and operator of the Port of Immingham, but as the separate Statutory Conservancy and Navigation Authority for the Humber Estuary (“the SCNA”). The abbreviations SCNA and HES denote the identical entity.

- 1.10 The SCNA has statutory responsibility for the safe navigation of the river for all users and, as Competent Harbour Authority for the Humber, it trains pilots and stipulates pilotage requirements. Through VTS Humber, the SCNA monitors and regulates commercial vessel traffic on the Humber to ensure their safe passage whatever their destination on the Humber.
- 1.11 HMH is the statutory appointee of the SCNA, with overall responsibility for the management of SCNA's operations on the Humber and also has his own independent statutory powers¹.
- 1.12 In this SoCG, ABP and HMH are referred to as "the Parties."

Purpose and Structure of this Document

- 1.13 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.
- 1.14 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]**.
- 1.15 Section 1 of this SoCG is designed to act as a general introduction to the Project and to the parties concerned.
- 1.16 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.
- 1.17 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.
- 1.18 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

¹ The role of Harbour Master, Humber is quite separate from that of the Immingham Dock Master.

2 Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP and HMH 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		
30 August 2022	Email from ABP to HMH and HES Harbour Control Manager	Introducing Project and attaching a briefing note.
10 October 2022	EIA Scoping Opinion was adopted by the Secretary of State	The SCNA was consulted at the EIA Scoping stage by the Planning Inspectorate.
9 January to 20 February 2023	First Statutory Consultation	HES/SCNA was consulted by ABP as part of the First Statutory Consultation.
11, 12 & 13 April 2023	HMH attendance at navigational simulations	HMH attendance at HR Wallingford.
10 May 2023	In Person Meeting	Attendance by HMH at the HAZID workshop.
24 May 2023 to 20 July 2023	Second Statutory Consultation	HES/SCNA was consulted by ABP as part of the Second Statutory Consultation.
29 August 2023	Email from ABP to HMH	Proposal for the DCO to include Protective Provisions very similar, if not identical, to those agreed for the Immingham Eastern Ro-Ro Terminal ("IERRT") project.
Post DCO submission		
22 December 2023	Email exchange	ABP shared a first draft of the SoCG with HMH, asking for comments.
1 February 2024	Email exchange	A second draft of the SoCG with HMH was shared with HMH, asking for comments.
29 February 2024	Email exchange	HMH sent comments back on the draft SoCG to ABP.

Date	Form of Contact	Summary with key outcomes and points of discussion
11 – 12 March 2024	Email exchange	ABP shared an updated draft of the SoCG with HMH which addressed their comments.
13 March 2024	Email exchange	HMH confirmed they agreed with the content and wording of the draft SoCG.
5 – 8 April 2024	Email exchange	Review of Article 3 (2) of the dDCO and the concept of disapplication. Text in ID 2 below amended accordingly.
<u>11 April 2024</u>	<u>MS Teams meeting</u>	<u>Discussion of navigational matters and Safety Zone / Control Zone and agreement of level of information HMH required to agree ABPs assessment of risk and appropriate response in navigational terms.</u>
13 – 14 May 2024	Email exchange	Correspondence regarding correction required to title of paragraph 17 of the draft protective provisions for the SCNA and need for separate paragraph covering removal of wrecks and obstructions, etc.
20 May 2024	Email exchange	Further correspondence on detail of SoCG.
21 May 2024	MS Teams meeting	Discussion regarding ongoing review of potential risks to river users, in particular those associated with the handling of ammonia or carbon dioxide at the jetty. This is pursuant to item ID4 below.
<u>25 June 2024</u>	<u>E-mail exchange</u>	<u>Confirmation of recommended safety zone around IGET jetty head to be employed for protection of river users.</u>
<u>26 June 2024</u>	<u>MS Teams Meeting</u>	<u>Further update and discussion on navigational risk.</u>
<u>29 July 2024</u>	<u>Letter via e-mail</u>	<u>Explanation of how recommended safety zone/controlled zone distances will work and can be implemented in the Marine Safety Management System.</u>
<u>30 July 2024</u>	<u>E-mail</u>	<u>Confirmation from HMH that he is content with the implementation of the Safety Zone/Controlled Zones delineation as recommended.</u>
<u>5 August 2024</u>	<u>E-mail</u>	<u>Final SoCG issued to HMH for review.</u>

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 – HMH was consulted by ABP as part of their statutory obligations.
- 3.1.2 Chapter 5 – Second Statutory Consultation – HMH was consulted by ABP as part of their statutory obligations.
- 3.1.3 The Examining Authority, in its **Rule 6 letter [PD-005]** of 8 January 2024, provided lists of general and party specific matters which should be covered as part of the SoCG process. The matters covered in this SoCG are shown below and addressed in Table 3-1.

- *“The need for and the wording of any Protective Provisions to be included in the draft DCO (dDCO).*
- *The adequacy of the Applicant’s Navigational Risk Assessment (NRA), with particular regard to the assessment methodology employed, including the application of standards and guidance and the suitability of mitigation measures proposed.*
- *The adequacy of the Applicant’s Navigational Simulation Survey (NSS), including the methodology for undertaking the NSS, its conclusions and the suitability of the mitigation measures proposed.*
- *Any cumulative or in-combination effects concerning the construction and operational phases for the proposed IGET.*
- *Suitability of wording for securing mitigation within the dDCO.”*

- 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.

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

ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
1	Role of ABP in its capacity as the SCNA for the Humber	Relevant Representation [RR-003]	<p>ABP is the SCNA for the River Humber and, in respect of pilotage, the competent harbour authority for the River Humber with statutory responsibility for the regulation of vessel movements and navigational safety. ABP in this capacity appointed Captain Andrew Firman, the Harbour Master for the Humber.</p> <p>Both the conservancy and pilotage functions of ABP on the Humber are separate from, and independent of, ABP in its capacity as owner and operator of the Port of Immingham and as the Applicant for the Project.</p>	ABP agrees with the explanation provided by HMH.	Agreed	1 December 2023
2	Draft Development Consent Order – Schedule 14 Protective Provisions, Part 1	<u>2.1 Draft Development Consent Order</u> [REP5-004]	<p>HMH has provided comments on the protective provisions for the SCNA in Part 1 of Schedule 14 to the dDCO. He notes that ABP has accepted his proposed amendments, and therefore considers the wording of those protective provisions in the current draft to be satisfactory.</p> <p>HMH considers that the disapplication of section 9 of the Humber Conservancy Act 1899 (licences for execution of works) in article 3 of the dDCO which provides the usual licensing regime for tidal works justifies the inclusion of the protective provisions for the SCNA in Part 1 of Schedule 14 of the dDCO and the streamlined approvals process for the protection of the SCNA which that Part contains. In light of the</p>	Schedule 14, Part 1 of the draft Development Consent Order sets out the proposed protective provisions for the protection of the SCNA, as the usual statutory licensing procedure for tidal works has been disapplied by the dDCO. HMH has provided iterative comments on those proposed protective provisions, all of which have been accepted by ABP. The <u>subsequent</u> version of the draft Development Consent Order submitted to the Examining Authority <u>reflected</u> the most recent comments provided following Deadline 3 and ABP <u>understands that all</u> SCNA	Agreed	31 January 2024

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ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
			agreed protective provisions, HMH does not, so far as relevant to his functions, have any comments on article 3 (disapplication of legislative provisions) of the dDCO and is content with the provisions which refer to the “harbour master” and “the Statutory Conservancy and Navigation Authority”, as defined in the dDCO. In particular, he has no comments on Articles 49 (Provision against danger to navigation), 50 (Lights on tidal works during construction), 51 (Permanent light on tidal works), 62 (Arbitration) and 63 (Procedure regarding certain approvals, etc.).	drafting points have now been addressed.		
3	Adequacy of NRA	6.4 Environmental Statement Appendices - Appendix 12.A: Navigational Risk Assessment [APP-191]	The HMH participated in the HAZID workshop and he considers the NRA to be fit for purpose, noting that further work will be required in due course to establish safe operating procedures for all vessels, including any new vessel types proposed to be introduced at the jetty. The HMH observes that the risk assessment methodology is broadly in line with the principles of the Port Marine Safety Code. The conclusions are consistent with what HMH would expect and the proposed mitigation measures appear to be reasonable, although the HMH reserves the right to change his position as the examination progresses. HMH notes that his own MarNIS risk assessment will be carried out in accordance with usual practice prior to the coming into operation of the new marine infrastructure and any additional	ABP acknowledges this position and recognises the legal separation between the SCNA and the Statutory Harbour Authority (SHA) of the Port of Immingham.	Agreed	31 January 2024

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ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
			<p>requirements found to be necessary at that time must be met before operation is agreed.</p> <p>HMH has the following points of detail:</p> <p>At paragraph 1.2, HMH believes the reference to the Harbour Master is, in fact, to the Immingham Dockmaster and, at paragraph 3.7.2, the Harbour Master and VTS are referred to as “port personnel” which is incorrect.</p> <p>Paragraph 4.2 suggests that there is no physical overlap between the Humber and Immingham SHAs whereas there are some areas over which each has jurisdiction.</p> <p>Paragraph 4.2 could be read to suggest that there is a single MSMS for both Immingham and the Humber, whereas there are two separate Marine Safety Management Systems (MSMSs).</p> <p>At table 11.3 (as in the table in Chapter 12 of the ES) the list of mitigation measures is not entirely accurate. Point (1) should refer to the Port MSMS, Humber Passage Plan (HPP), Humber Clean and Humber Estuary Serious Marine Emergency Plan, all of which will be updated to take the Project into account. Finally, Point (31) refers to “Harbour Works Consent” which would be disapplied by the dDCO. It should refer instead to the approval of tidal works etc. as set out in the protective provisions for the SCNA.</p>			

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ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
			HMH does not consider any of the above points to be material.			
4	Marine exclusion zone associated with the handling of ammonia at the jetty	6.4 Environmental Statement Appendices - Appendix 12.A: Navigational Risk Assessment [APP-191]	<p>The HMH required, further information from ABP to ensure that potential risks to river users, in particular those associated with the handling of ammonia or carbon dioxide at the jetty are fully understood and addressed.</p> <p>Further information has been received from ABP in light of which HMH is satisfied that an exclusion zone of 100m applied to the IGET jetty head would provide effective protection of other river users without a material adverse effect on navigation generally. HMH anticipates that such exclusion zone would be implemented by the Port of Immingham Dockmaster and would form part of the Safety Management System for the Humber. As noted above, HMH's own MarNIS risk assessment will be carried out in accordance with usual practice prior to the coming into operation of the jetty and any additional requirements found to be necessary at that time will have to be met before operation is agreed.</p>	<p>The, HMH required, further information in respect of the definition of any restricted zones, associated with handling ammonia and carbon dioxide at the jetty. That information was, collated and provided to the Harbourmaster. ABP engaged in ongoing dialogue and work, including the necessary meetings and discussions, with the HMH to address his questions and requirements in this respect.</p> <p>ABP has now supplied further details of its proposed Safety Zone to be applied around the IGET jetty head, noting that this exclusion zone is for the safety of other river users and is not related to the Marine Exclusion Zone required for navigational safety. ABP understands that the HMH is satisfied with the zone and the matter is now resolved.</p>	Agreed	30 July 2024
5	Navigational simulations	6.4 Environmental Statement Appendices - Appendix 12.B: Navigational	The Harbourmaster attended the nautical simulations at HR Wallingford, who are recognised as being industry leaders in their field. The success of these simulations runs, coupled with the known hydrodynamic regime	The HMH's position is acknowledged.	Agreed	31 January 2024

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ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
		Simulation Survey [APP-192]	of this area, give the HMH confidence that this marine facility can be operated safely and successfully. HMH notes that, in his opinion, the Navigational Simulation Survey (NSS) was fit for purpose and the methodology followed was appropriate. The conclusions – that the IGET project can be successfully and safely operated by the vessels simulated - are noted, as are the mitigation measures that have been proposed. The mitigation measures appear to be appropriate.			
6	Cumulative and in-combination effects	Various 6.2 Environmental Statement - Chapter 25: Cumulative and In-Combination Effects [REP5-009]	HES and the HMH serve the needs of all navigational users of the Humber. As is usual when there is any development in the river, HMH expects there to be close liaison between HES and the Immingham SHA, during the IGET construction process, as well as when it is in operation. The HMH is of the opinion that the IGET project – and its attendant vessels – can be readily assimilated into HES’s existing processes for managing commercial vessels. In-combination effects with other marine construction sites will also be manageable by applying the same controls to ensure safe navigation for all users. HMH is comfortable that the additional traffic associated with IGET in combination with the IERRT facility (if authorised) is well within the capacity of what the river can move in a regulated fashion.	The HMH’s position is noted.	Agreed	31 January 2024

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ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
7	Rule 6 letter (Annex F)	<p>Rule 6 Letter [PD-005]</p> <p>6.2 Environmental Statement - Chapter 12: Marine Transport and Navigation [APP-054]</p> <p>2.1 Draft Development Consent Order [REP5-004]</p>	<p>In respect of the list of EIA topics on page F6 of the ExA's Rule 6 letter, HMH notes that his interest is limited to ensuring the safety of navigation for all vessels using the Humber whatever their destination.</p> <p>In relation to the suitability and deliverability of the mitigation measures in Table 12-6 of the Environmental Statement, HMH considers these measures adequate and deliverable through the existing mechanisms for ensuring navigational safety on the Humber, which are compliant with the Port Marine Safety Code and associated guidance rather than through prescriptive provisions in the dDCO.</p> <p>HMH also notes the following provisions in the dDCO which ensure that mitigation can be secured:</p> <ul style="list-style-type: none"> • Article 49 – provision against danger to navigation; • Article 50 – lights on tidal works during construction; • Article 51 – permanent lights on tidal works; • Requirement 6 – compliance with CEMP; • Deemed Marine Licence – paragraph 23 - Notice to Mariners; 	The HMH's position is noted.	Agreed	31 January 2024

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ID	Matter	Reference	Harbour Master Humber Position	ABP Position	Status	Date
			<ul style="list-style-type: none"> • Deemed Marine Licence – paragraph 6 – approval of details by MMO; • The protection for the SCNA conferred by the protective provisions in Part 1 of Schedule 14 to the dDCO, including: <ul style="list-style-type: none"> - Approval and inspection of tidal works under the protective provisions for the SCNA; - Discharges only with prior consent of the SCNA; - Protective works if required by the SCNA pursuant to the protective provisions; - Safe operating procedures, approved by the SCNA, as may be amended from time to time. 			

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4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
HMH	Harbour Master Humber
HPP	Humber Passage Plan
MMO	Marine Management Organisation
MSMS	Marine Safety Management System
NRA	Navigational Risk Assessment
NSIP	Nationally Significant Infrastructure Project
NSS	Navigational Simulation Survey
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
SCNA	Statutory Conservancy and Navigation Authority
SHA	Strategic Harbour Authority
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom