



Immingham Green Energy Terminal

9.13 ~~Final~~ Statement of Common Ground between
Associated British Ports, Air Products (BR) Limited and the
Environment Agency (Tracked)

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Version History

Version	Date	Submitted
1.0	13 March 2024	Deadline 1
2.0	3 May 2024	Deadline 3
3.0	11 July 2024	Deadline 5
<u>4.0</u>	<u>15 August 2024</u>	<u>Deadline 7</u>

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Immingham Green Energy Terminal
9.13 **Final** Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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Status of the Statement of Common Ground

Associated British Ports and Air Products (BR) Limited considers that this **Final** Statement of Common Ground is an accurate description of the matters raised and the current status of each matter.

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On Behalf of Associated British Ports

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

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On Behalf of Air Products (BR) Limited

Name	[REDACTED]
Position	Commercial Director
Organisation	Air Products
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 [AS-069]**.

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 Environment Agency.
- 1.8 ABP is the promoter of the Project and the owner and operator of the Port of Immingham.
- 1.9 Air Products is to be the first user of the new terminal with the construction of its green hydrogen production facility.
- 1.10 The Environment Agency (“EA”) is a prescribed consultee for the purpose of Section 42(1)(a) of the PA 2008 and is named as such in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. The consultee is an executive non-departmental public body, established under the Environment Act 1995 to bring together responsibilities for protecting and improving the environment and to contribute to sustainable development. The Environment Agency has three main roles: environmental

regulator, environmental operator and environmental advisor. Within England it is responsible for:

- Regulating major industry and waste
- Treatment of contaminated land
- Water quality and resources
- Fisheries / recreation
- Conservation and ecology
- Managing the risk of flooding from main rivers, reservoirs, estuaries and the sea

1.11 In this SoCG, ABP, Air Products and the Environment Agency 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 is designed to act as a general introduction to the Project and to the parties concerned.

1.15 Section 2 of this SoCG sets out a summary of the correspondence and engagement between the parties to date.

1.16 Section 3 of this SoCG sets out the matters which have been agreed or which remain outstanding, together with any matters upon which it has not been possible to reach agreement.

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

- (a) Green – matter agreed
- (b) Orange – matter ongoing
- (c) Red – matter not agreed

2 Summary of Engagement

- 2.1 A summary of the consultation and engagement between ABP, Air Products and the Environment Agency 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 of key points of discussion
Pre-Application		
10 October 2022	EIA Scoping Opinion was adopted by the Secretary of State	The EA was consulted by the Planning Inspectorate at EIA Scoping stage.
17 November 2022	MS Teams Project introduction meeting	AECOM presented an overview of the Project, the consenting, permitting processes and potential impacts.
9 January to 20 February 2023	First Statutory Consultation	The EA was consulted as part of the First Statutory Consultation.
12 January 2023	MS Teams meeting: ABP, EA and AECOM	Discussions regarding: <ul style="list-style-type: none"> Flood protection Seawall strength and potential impact of bankseat structure Access under pier structure
15 February 2023	Email (letter attachment)	The EA provided their response to the First Statutory Consultation.
13 March 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs	Discussions regarding: <ul style="list-style-type: none"> Flood protection Length and height of jetty
20 April 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs	Discussions regarding: <ul style="list-style-type: none"> Interfaces at the sea defence wall with the jetty Maintenance access road along pipe rack Need for a legal agreement between EA and ABP

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Date	Form of Contact	Summary of key points of discussion
17 May 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs.	ABP provided an update on design development of the jetty over the flood wall.
24 May 2023 to 30 June 2023	Second Statutory Consultation	The EA was consulted as part of the Second Statutory Consultation.
24 May 2023	In-person meeting onsite	Discussions regarding the EA flood defence (sea wall): <ul style="list-style-type: none"> • Maintenance – grass cutting (approximately 4 times per year), visual inspection walkovers and minor repair work • Emergency – as required during a local collapse • Construction – most notably the planned increase to wall height • Security and searches
1 June 2023	MS Teams meeting	Discussions regarding emergency scenarios relating to process safety around the hydrogen production facility.
8 June 2023	MS Teams meeting	Discussions regarding emergency vehicles.
14 June 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs	Discussions regarding: <ul style="list-style-type: none"> • Road traffic • Safety • Hazards, ammonia and accidents scenarios • Odour potential • Shared updated ramp layout
28 June 2023	MS Teams meeting	Discussions regarding: <ul style="list-style-type: none"> • Agreed process for signing off agreed provisions in the design • Vehicle tracking, layout and access • Pedestrian access • Maintenance access • Ground Investigations works
9 August 2023	MS Teams meeting: ABP, EA, Ramboll and Jacobs	ABP provided an update on the Project, current drawings and discussions were had regarding

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Date	Form of Contact	Summary of key points of discussion
		<p>the status of the EA Criteria Sheet for the jetty. The following was discussed:</p> <ul style="list-style-type: none"> • ABP noted that RIBA 2 is largely complete, RIBA 3 is mobilising and the DCO is being finalised. • The EA queried which documents would be shared prior to submission. ABP agreed to provide this list. • ABP and EA reviewed and agreed the headings of the 'Criteria Sheet' including: <ul style="list-style-type: none"> - Continuity of Flood protection - Maintenance Access – Grass Cutting - Visual Inspection & Minor Repairs - Emergency Access - Access: 24/7 and inaccessible areas - Future Proofing: Protection Height, Demolition and construction access - Construction stage - Public Right of Way - Access Agreement for Anglers • Drawings were reviewed. • Access under pier structure now 1.99m – this was previously shown as 1.60m and the EA had been reviewing internally. The feeling was an alternative inspection procedure might be suitable to avoid 'confined spaces' requirements. This could consist of ABP carrying out the annual visual inspection and sharing a video. • Ramboll advised max 'squeeze' of current structural section may add another 250mm. Any further increase would require structural changes (e.g. introduction of a support structure at the bankseat). • Agreed that EA will review procedures and confirm definition of 'confined spaces' in case there is a design ABP can achieve which overcomes the classification. • Further issues discussed included:

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Date	Form of Contact	Summary of key points of discussion
		<ul style="list-style-type: none"> - An update on Ground Investigation ("GI") status – Topographical surveys including EA confirmation of no issue with vegetation removal. - Legal agreements with a follow up meeting to be arranged. - Statutory Feedback from EA. <p>Alternative Access Route will be shared when developed further.</p>
11 August 2023	Email exchange	<p>Email correspondence to confirm landward buffer zones and that zones within the footprint of the jetty will be concreted as they cannot be easily maintained.</p> <p>ABP provided draft Flood Risk Assessment ("FRA") v0.2 for EA review.</p>
25 August 2023	EA letter to Ramboll	Feedback on draft FRA v0.2 provided.
20 September 2023	MS Teams Meeting	<p>Meeting led by Ramboll with attendance from ABP and Jacobs. ABP provided an update on the Project. The following was discussed:</p> <ul style="list-style-type: none"> • ABP noted that RIBA 3 is being fast tracked and due to be finalised in January 2024. • The DCO application is being submitted 21 September 2023. • Flood wall design: ABP asked if there is a design document available to confirm flood levels and wave slam loads. EA will check and share and noted the level is set by the crest of the wave. ABP requested that the EA advise on requirements from ABP's design package or specific details by 29 September 2023. Note to invite the Catchment Engineer to future meeting to present the design package. • Embankment Stability: ABP asked about the position if ABP cannot demonstrate the embankment is sufficient. It would indicate a broader problem with the embankment along that full length. EA highlighted the main point is to tie in as far as practicable.

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Date	Form of Contact	Summary of key points of discussion
		<p>Legal agreement, protective provisions, etc. will be focussed on achieving 7m.</p> <ul style="list-style-type: none"> • Demolition item included: ABP needs to confirm design life of new flood wall (expected to be higher than main structure). EA will check if there is a design life proposed and share. • Survey requirements: EA have issued the survey requirements, and they are to be included in the Contractor package. • Clearance under structure: currently 1.99m with an action on ABP to squeeze the section dimensions in this location if practicable. EA would still like consideration of alternative approaches to inspection (e.g. ABP carry it out with video) if EA conclude it is a confined space due to height of available inspectors. Item to be discussed again once final clearance known. • GI update: Marine boreholes progressing well and expected to be finalised over coming weeks. Land based GI – 9 Oct earliest expected date to have them on site. Includes boreholes at embankment – ABP confirmed EA requirements have been included. • Topographic survey complete: ABP will share completed survey with EA. • Legal agreement: Meeting dates to be agreed between ABP and EA. • IGET EA Basis of Design: Purpose of the document is to agree the provisions being included in the design. It is separate to the legal agreements, noting that there will be overlap. Document was circulated previously to the EA. Each item was reviewed: <ul style="list-style-type: none"> – Continuity of Flood Protection: wording agreed. – Maintenance Access – Grass Cutting: wording agreed. – Maintenance Access – Visual Inspection & Minor Repairs: EA requested a note was added

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Date	Form of Contact	Summary of key points of discussion
		<p>highlighting that repairs under the jetty will be the responsibility of the ABP. ABP confirmed this will be laid out in the legal agreements but also no objection to including in the Basis of Design.</p> <ul style="list-style-type: none"> - Emergency Access – Major Repairs: wording agreed. - Access – 24/7 Access: wording agreed. - Access – Inaccessible Areas: wording agreed. - Future Proofing – Protection Height: wording agreed. - Future Proofing – construction access: wording agreed. - Public Right of Way: wording agreed. - Access Agreements for Anglers: wording agreed.
20 September 2023	Email with attachment	Final FRA sent to EA for review.
Post DCO Submission		
3 October 2023	MS Teams Meeting	Discussions regarding the disapplication of flood risk permits and associated DCO provisions.
5 October 2023	EA letter to Air Products	Feedback provided on final FRA submitted with ABP's application for development consent.
30 October 2023	MS Teams Meeting	<p>Meeting led by Ramboll (with attendees also from ABP, Air Products and Jacobs) to present the flood wall design to the EA and to understand any specific criteria or requirements the EA might have.</p> <p>Ramboll gave an overview of the RIBA 2 design:</p> <ul style="list-style-type: none"> • Key criteria have been agreed with EA regarding flood wall level, access, surfacing works to minimise maintenance, etc. • The current design was presented which consists of a flat seaward face L-wall sitting atop the existing embankment. The inside face of the berm is asphalted to overcome maintenance concerns. Pedestrian access only under the structure for

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Date	Form of Contact	Summary of key points of discussion
		<p>visual inspection. Vehicle access will be provided to the other side of the jetty either by a ramp off the new jetty or through the existing port.</p> <p>Existing studies available with EA: EA confirmed level will have been set based on extreme tides, sea level rise, surge allowance and some consideration of wave action, but no detailed loading or overtopping is available.</p> <p>Ramboll queried if the EA have any specific requirements regarding the structure or deliverables:</p> <ul style="list-style-type: none"> EA only specific requirement is that the structure is robustly designed, preferably to Eurocodes. Ramboll confirmed the structure will be designed to Eurocodes and relevant standards. A flat wall is acceptable as long as it is designed for the loading. EA highlighted that on some projects rocks have been placed in front of the wall to reduce wave loading – this is not specifically required but Ramboll will design so it is not prohibited if practicable. Ramboll will proceed on this basis. EA requested to advise by 03 Nov 2023 if there are any other items that occur to them after the meeting or following internal discussion that should be considered. <p>Other items discussed:</p> <ul style="list-style-type: none"> The wall is shown as replaced in the current drawing. If this is the approach, then the Contractor will be required to secure approval from EA for temporary flood defence works. Ramboll are also exploring the option of constructing the new wall inside of the existing so that it can remain in place. This would reduce the width but is not considered a significant concern as it is pedestrian access for inspections only. No works are planned to the seaward face. Contractor will be required to make good in case of any damage or movement during the works (pre and post inspection requirements have

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Date	Form of Contact	Summary of key points of discussion
		been defined with EA in previous meetings).
7 November 2023	MS Teams Meeting	<p>First pre application meeting with the EA to discuss the Environmental Permit application for the hydrogen production facility. Attendees from Air Products, EA and AECOM. The discussions covered the following aspects:</p> <ul style="list-style-type: none"> • Introduction to the Project • Scope of application • Best Available Techniques • Phasing
27 November 2023	MS teams meeting	<p>Second pre application meeting with the EA to discuss the Environmental Permit application for the hydrogen production facility. Attendees from Air Products, EA, AECOM and ABP.</p> <p>The discussions covered the following aspects:</p> <ul style="list-style-type: none"> • EA feedback on scope of application • Best Available Techniques • Phasing • Statement of Common Ground
17 January 2024	MS teams meeting	<p>Third pre application meeting with the EA to discuss the Environmental Permit application for the hydrogen production facility. Attendees from Air Products, EA, AECOM and ABP.</p> <p>Meeting confirmed agreement on:</p> <ul style="list-style-type: none"> • Scope of application • Best Available Techniques • Application phasing and agreement in using DCO Rochdale envelope approach in the Environmental Permit application • Reviewed SoCG process
16 February 2024	Email Correspondence	ABP shared a first draft of the SoCG with the Environment Agency for review.
1 March 2024	Email Correspondence	The Environment Agency provided their comments on the first draft of the SoCG.

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Date	Form of Contact	Summary of key points of discussion
7 March 2024	Email Correspondence	ABP sent a revised version of the SoCG to the Environment Agency addressing their comments.
8 March 2024	MS Teams Meeting	ABP and the Environment Agency had a meeting to discuss the revisions made to the SoCG.
8 March 2024	Email Correspondence	The Environment Agency confirmed their agreement with the version of the SoCG being submitted at Deadline 1.
5 April 2024	MS Teams Meeting	Meeting held with the Environment Agency to discuss Protective Provisions/ legal agreement and the SoCG.
10 April 2024	Email Correspondence	Revised Protective Provisions shared with the EA for comment along with a note on the proposed approach and a comparison of the revised Protective Provisions against the EA's standard Protective Provisions.
23 April 2024	Email Correspondence	Revised draft SoCG sent to EA for their review ahead of Deadline 3 submission.
25 April 2024	Email Correspondence	EA mark-up of draft SoCG wording returned to ABP.
9 May 2024	Email correspondence	Principle of extent either side of approach jetty to fall within ABP maintenance remit is established.
24 May 2024	Email correspondence	Basis of Design document sent to EA for review – pertaining to the modifications proposed to the fronting flood defence wall.
31 May 2024	Email correspondence	EA review of draft Protective Provisions sent to ABP for review.
5 June 2024	MS Teams meeting	ABP and EA team review of draft Protective Provisions and legal agreement and brief examination of proposed flood defence design and principles of that design.
11 June 2024	Email EA to Air Products	Request for information about EPR Application EPR/VP3425SV/A001 CRM:0349382

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Date	Form of Contact	Summary of key points of discussion
11 June 2024	Email Air Products to EA	Information about EPR Application EPR/VP3425SV/A001 CRM:0349382 provided
28 June 2024	Email correspondence	ABP issued Deadline 5 SoCG to EA for review
4 July 2024	Email correspondence	EA returned Deadline 5 SoCG with minor amendments
<u>29 July 2024</u>	<u>Email correspondence</u>	<u>ABP issued first draft of proposed Legal Agreement to EA for review</u>
<u>1 August 2024</u>	<u>MS Teams meeting</u>	<u>Meeting to discuss content of draft standalone legal agreement and form of protective provisions for benefit of EA.</u>
<u>2 August 2024</u>	<u>Email Correspondence</u>	<u>EA provided written comments on first draft of proposed Legal agreement to ABP</u>
<u>8 August 2024</u>	<u>Email Correspondence</u>	<u>ABP issued second draft of proposed Legal Agreement to EA for review</u>
<u>14 August 2024</u>	<u>Email Correspondence</u>	<u>Final SoCG issued to the EA for review/sign off.</u>
<u>15 August 2024</u>	<u>Email Correspondence</u>	<u>EA returned signed Final SoCG with amendments</u>

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3 Matters Agreed and Matters Not Agreed

- 3.1 It is agreed 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 – the EA was consulted by ABP as part of their statutory obligations.
- 3.1.2 Chapter 5 – Second Statutory Consultation – the EA was consulted by ABP as part of their statutory obligations.
- 3.2 Table 3-1 contains a list of 'matters agreed' (shaded green) ~~and~~ a list of matters in respect of which discussion is ongoing (shaded orange) ~~at Deadline 7~~, along with a concise commentary of what the item refers to and how it came to be agreed between the Parties (as applicable).

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

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
General							
G1	Stakeholder Engagement	Consultation Report [APP-022]	The EA confirms ABP's record of engagement as set out in the Consultation Report [APP-022] and Table 2-1 of this SoCG is accurate.	ABP confirms the record of engagement as set out in the Consultation Report and Table 2-1 of this SoCG is accurate.	As per ABP position.	Agreed	14 February 2024
G2	Stakeholder Engagement: Statutory Consultations	Consultation Report [APP-022] Consultation Report - Appendix P - Response Tables - First Statutory Consultation [APP-040] Consultation Report - Appendix Q - Response Tables - Second Statutory Consultation [APP-041]	The feedback provided to the EA on its responses to the First and Second Statutory Consultations, as outlined in Appendix P [APP-040] and Appendix Q [APP-041] has informed the discussions undertaken to shape the application for development consent for the project.	ABP's response to the EA's 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 EA as detailed in Table 2-1 of this SoCG. ABP sought agreement by the EA that ABP has to the satisfaction of the EA, taken their feedback at the Statutory Consultations into account in the application for development consent for the Project.	As per ABP position.	Agreed	1 March 2024
G3	Stakeholder Engagement:	Relevant Representation	The EA confirms that we have no objection to the	ABP acknowledges the EA's position and has worked with	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
	No objection to principle of proposed development.	[RR-010] para 20.1	principle of the proposed development, as submitted. The issues and holding objection outlined in our Relevant Representation are capable of resolution and we look forward to receiving additional information to resolve our outstanding concerns.	the EA to resolve any outstanding concerns as detailed in the EA Relevant Representation.			
G4	Environment Agency Flood Defence: Maintenance access	2.1 Draft Development Consent Order [REP6-004]	<p>The grass slope behind the wall needs to be maintained to avoid compromising the performance of the flood defence. This scheduled maintenance involves grass cutting 4-6 times per year.</p> <p>The existing flood defence is inspected by walkover survey 4-6 times per year. If these surveys identify minor defects, then local repair works (e.g. concrete patch repairs) may be required.</p> <p>The EA <u>therefore confirms that common ground has been reached on</u> The principles set out in this row <u>which ABP has agreed are to be appropriately reflected in a bespoke flood defence</u></p>	<p>ABP shall facilitate EA access for grass cutting of the zone (back face of the embankment) between the Immingham Green Energy Terminal Jetty and Immingham Oil Jetty.</p> <p>ABP shall facilitate pedestrian and small vehicle access to allow the EA to undertake visual inspection surveys and minor maintenance works. Under the jetty structure access for visual inspection will be maintained. Where maintenance works are identified under the jetty structure, these will be carried out by ABP.</p> <p>ABP and the EA have agreed that this measure would most</p>	As per ABP position.	Discussion ongoing	

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Birmingham Green Energy Terminal
 9.13 Final Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p> <u>agreement. However this matter cannot be marked as 'agreed' until the wording of the flood defence agreement is finalised and completed, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u> </p>	<p> appropriately be secured via a bespoke legal agreement relating to ongoing maintenance of the area of existing flood defences being replaced as part of being crossed by the jetty being authorised by the dDCO. The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke </p> <p> <u>flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as</u> </p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<u>soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u>			
G5	Environment Agency Flood Defence: Emergency access – visual inspection and minor repairs	<u>2.1 Draft Development Consent Order [REP6-004]</u>	<p>If a major defect to the flood defence is identified during a walkover survey or a failure occurs during a storm event, then the EA will require emergency access to the zone. Access would be required for long reach excavators and dump trucks / tipplers.</p> <p>The EA welcomes the Applicant's proposal to secure this measure via a bespoke legal agreement and we will continue to work with them to finalise the details of this.</p> <p>The EA therefore confirms that common ground has been reached on the</p>	<p>ABP shall facilitate access for long reach excavators (L = 12.52m, W=3.19m, H=3.00m) and large tipper trucks (L=10.2m, W=2.50m) for emergency repair works.</p> <p>ABP and the EA have agreed that this measure would most appropriately be secured via a bespoke legal agreement relating to ongoing maintenance of the area of existing flood defences being replaced as part of being crossed by the jetty being authorised by the dDCO.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the</u></p>	As per ABP position.	Discussion going	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p><u>principles set out in this row which ABP has agreed are to be appropriately reflected in a bespoke flood defence agreement. However this matter cannot be marked as 'agreed' until the wording of the flood defence agreement is finalised and completed, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u></p>	<p><u>relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u></p>			
G6	Environment Agency flood defence: Changes to structure	<u>3.1 Book of Reference [AS-054]</u>	The EA agree with the provisions for flood defence (up and over) and continuous protection (maintaining flood resilience through construction). See Matter	ABP and the contractor will maintain continuity of flood defence throughout the construction period through the use of temporary means to maintain the flood defence.	As per ABP position.	Discussion ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>PP1 for where the EA would like to see further assessment.</p> <p>The EA <u>therefore confirms that common ground has been reached</u> on the <u>principles set out in this row which ABP has agreed are to be appropriately reflected in a bespoke flood defence agreement and protective provisions on the face of the draft DCO. However, this matter cannot be marked as 'agreed' until the wording of those protective provisions is finalised and the flood defence agreement completed, at which point, the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u></p>	<p>The Contractor will submit the flood defence construction methodology to the EA for approval prior to commencement of the works. See Matter BoR1 of this table as to how this might be secured.</p> <p>ABP's solicitors provided the EA with protective provisions aligned with the EA's standard form which secure this measure.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards</u></p>			

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 9.13 ~~Final~~ Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u></p>		Discussion ongoing	
G7	Environment Agency flood defence: Changes to structure – crest height	<p><u>2.1 Draft Development Consent Order [REP6-004]</u></p>	<p>The EA will be increasing the height of the sea defence along this section of coast to +10.9m C.D. / +7.0m O.D as part of a future project</p> <p>It will not be feasible for the EA to carry out these works under the new jetty after it is constructed and therefore the seawall should be increased in height during the current IGET project to mitigate future constraints to the flood defence works.</p> <p>This wall should be detailed in a way that makes allowance for the tie in with the future +7mOD EA flood wall.</p> <p><u>The EA therefore confirms that common ground has</u></p>	<p>ABP will increase the height of the flood defence wall within the footprint of the IGET jetty to +10.9m C.D. / +7.0m O.D.</p> <p>The principles of this height increase and that it should be secured by way of a bespoke legal agreement are agreed and common ground between ABP and the EA.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway</u></p>	As per ABP position.		

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p><u>been reached on the principles set out in this row which ABP has agreed are to be appropriately reflected in a bespoke flood defence agreement. However this matter cannot be marked as 'agreed' until the wording of the flood defence agreement finalised and completed, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u></p>	<p><u>concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u></p>			
G8	Hard surfacing in zones that cannot be maintained.	<u>2.1 Draft Development Consent Order [REP6-004]</u>	<p>Agreement for provision of hard surfacing in zones that cannot be maintained. Integrity of bund (not overgrown).</p> <p>The EA requires non-penetrable surfacing (for example, asphalt) to be used.</p> <p><u>The EA therefore confirms that common ground has been reached on the principles set out in this row which ABP has agreed are to be appropriately reflected in a</u></p>	<p>ABP has agreed with the EA the use of appropriate non-penetrable vegetation-free surfacing on the rear slope within the footprint of the IGET jetty and EA access ramp.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and</u></p>	As per ABP position.	Discussion ongoing	

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 Deleted: The relevant details of that agreement (including an appropriate mechanism for arriving at the length of flood defences to be raised) are the subject of ongoing productive discussion between the solicitors for ABP and the EA. The ExA will be updated and the EA will provide confirmation of its satisfaction on this matter when the agreement is completed.

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p><u>bespoke flood defence agreement. However this matter cannot be marked as 'agreed' until the wording of the flood defence agreement has been finalised and completed, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u></p>	<p><u>protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
G9	Construction Environmental Management Plan	2.1 Draft Development Consent Order [REP6-004] 6.5 Outline Construction Environmental Management Plan [REP6-009]	<p>The EA is satisfied that the outline CEMP outlines all the relevant and necessary environmental protection measures (relevant to its remit), and the final plan is currently secured via Requirement 6 in the dDCO and Condition 8 of the Deemed Marine Licence.</p> <p>The EA is satisfied with the Applicant's proposed approach to securing final CEMP(s) and the approval process for those documents.</p>	<p>The final CEMP(s) would be secured through Schedule 2, Requirement 6 of the dDCO and Condition 8 of the Deemed Marine Licence (Schedule 3 of the dDCO). ABP and Air Products intend to progress negotiation with NELC and other relevant stakeholders of the final CEMP(s) to allow for an efficient approval of the CEMP(s) for the landside works by NELC to be secured under Requirement 6 of the dDCO and for the works in the marine area by the MMO (in consultation with NELC) secured by Condition 8 of the Deemed Marine Licence and enable site works to commence at the earliest opportunity. This is a necessity of the programme for delivery of the Project. It is intended at present that the detailed CEMP will form at least three separate documents:</p> <ol style="list-style-type: none"> CEMP relating to all works in the UK Marine area (i.e. all 	As per ABP position.	Agreed	5 April 2024

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 6.5 Outline Construction Environmental Management Plan [REP4-008]~~

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>works below MHWS) which would be for the MMO to approve;</p> <p>2. CEMP relating to that part of work No.1 which is landward of MHWS and work No. 2 which would be approved by NELC.</p> <p>3. One or more CEMP relating to all other landside works which would also be approved by NELC. It is likely that the first CEMP for other landside works would cover phase 1 of the hydrogen production facility.</p> <p><u>CEMP relating specifically to the clearance of woodland in Long Strip ("Long Strip CEMP") which ABP is seeking to have certified in the DCO [REP6-025].</u></p>			

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				ABP and the Environment Agency agree with this approach.			
Air Quality							
AQ1	ES – Chapter 6: Air Quality	6.2 Environmental Statement – Chapter 6: Air Quality [APP-048] Relevant Representation [RR-010] section 5.	The EA has undertaken a high level review this chapter (for issues within its remit) and confirms it is satisfactory for planning purposes. The assessment appears to assess the risk in line with Environment Agency guidance and relevant methodologies. A detailed review of the air quality modelling has not been undertaken by the EA as this will be completed when the EA determines the Environmental Permit application.	ABP notes the EA has reviewed the submission version of ES Chapter 6: Air Quality and is pleased the EA agrees with the guidance and methodology used in that chapter for issues within its remit.	As per ABP position.	Agreed	1 December 2023
Nature Conservation (Terrestrial Ecology)							
NC1	ES Chapter 8: Nature Conservation (Terrestrial Ecology)	6.2 Environmental Statement – Chapter 8: Nature Conservation (Terrestrial	The EA has been unable to undertake a review of this chapter and its related appendices at this stage.	ABP acknowledges the EA's position, a matter of common ground for the purposes of this document, and notes that ABP continued its dialogue	As per ABP position.	Agreed	4 June 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Ecology) [APP-050] 6.5 Outline Construction Environmental Management Plan [REP6-009] 6.9 Outline Landscape and Ecology Management Plan [REP4-012] Relevant Representation [RR-010] section 6	The EA confirmed at deadline 4 to the ExA that this is because it has not been able to secure additional resource and must instead defer to Natural England's view concerning general matters of aquatic ecology.	with Natural England on the matter.			
Nature Conservation (Marine Ecology)							
ME1	ES Chapter 9: Nature Conservation (Marine Ecology)	ES Chapter 9: Nature Conservation (Marine Ecology) [APP-051] Relevant Representation [RR-010] section 7	As stated in our Relevant Representation, we consider assessments relating to marine ecology and fish receptors as satisfactory.	ABP notes the EA has reviewed the submission version of ES Chapter 9: Nature Conservation (Marine Ecology) and is pleased the EA agrees with the methodology and conclusions of that chapter.	As per ABP position.	Agreed	1 December 2023
ME2	ES Chapter 9: Nature Conservation	ES Chapter 9: Nature Conservation	As stated in our Relevant Representation, we will defer to any views provided by the	The position of the EA is noted.	As per ABP position.	Agreed	1 December 2023

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	(Marine Ecology) - underwater noise	(Marine Ecology) [APP-051] 6.4 Environmental Statement Appendices - Appendix 9.B: Underwater Noise Assessment [APP-187] Relevant Representation [RR-010] para 7.2	Marine Management Organisation (MMO) on aspects relating to underwater noise.				
Physical Processes							
PP1	Environmental Statement - Chapter 16: Physical Processes	6.2 Environmental Statement - Chapter 16: Physical Processes [APP-058] Relevant Representation [RR-010] section 8	The EA has reviewed this chapter and is generally satisfied with the assessment and conclusions as detailed in our Relevant Representation. The EA would however like to see an assessment of the impacts of change in flow speeds on the accretion or erosion of the toe of the flood defences. Any impacts on the existing flood defences will need to be mitigated by the undertaker, rather than during	ABP notes the EA has reviewed the submission version of ES Chapter 16: Physical Processes and is pleased the EA generally agrees with the methodology and conclusions of that chapter. ABP notes the EA's comments on matters PP1 and W8 regarding the potential for changes to sediment transport impacting the existing flood defences. In particular, reference is made to paragraph 16.8.54 of	As per ABP position.	Agreed	24 April 2024

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			<p>the Environment Agency maintenance programme.</p> <p>The EA wishes to discuss ABP's response to this point further as paragraph 16.8.54 states that the magnitude and extent of predicted change is 'limited'.</p> <p>The EA welcomes the additional clarification in respect of the assessment undertaken. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved.</p>	<p>Chapter 16 the ES, which states that the predicted magnitude and extent of potential change is 'limited'. The assessment of potential impacts to physical processes, as described in Chapter 16 of the ES, includes the application of bespoke numerical modelling tools to investigate the predicted changes, as a result of the scheme, on local and regional hydrodynamics (water levels, flow speeds etc.) as well as any associated impact on local and regional sediment transport pathways (incl. changes to patterns of erosion and accretion). Furthermore, the assessment has considered impacts to specific groups of impact pathways and receptors, including (in paras. 16.8.69 to 16.8.72) an assessment of 'potential impact on existing features, including marine infrastructure, outfalls and estuary banks and channels'. Whilst not specifically listed in this section, the assessment</p>			

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				<p>here also includes the existing foreshore and adjacent flood defences. The assessment findings (as informed by the local sediment transport modelling) show that the predicted changes to erosion and accretion patterns are only predicted in close proximity to the marine elements of the Project. More specifically, the region of a slight predicted increase in bed erosion is limited to a short section of the line of mean low water springs (MLWS) and the shallow subtidal, located approximately 90-100 m offshore of the existing defences. Landward of the area of predicted erosion, the modelling actually predicts continued accretion (albeit at a slightly slower rate than that defined in the baseline) of parts of the mid- to lower-foreshore. As a result of the assessment, there is not predicted to be any impact on the sediment erosion or accretion at the toe of the existing defences. It is</p>			

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				therefore considered that no further assessment is required.			
Marine Water and Sediment Quality							
MWSQ1	ES – Chapter 17: Marine Water and Sediment Quality	6.2 Environmental Statement – Chapter 17: Marine Water and Sediment Quality [APP-059] Relevant Representation [RR-010] para 9.1	The EA has reviewed this chapter and has no comments to make other than those relating to Appendix 17.A (see matter MWSQ 2).	ABP notes the EA has reviewed the submission version of ES Chapter 17: Marine Water and Sediment Quality and is pleased the EA agrees with the methodology and conclusions of that chapter.	As per ABP position.	Agreed	1 December 2023
MWSQ2	ES Appendix 17.A: Water Framework Directive Compliance Assessment	6.4 Environmental Statement Appendices - Appendix 17.A: Water Framework Directive Compliance Assessment [APP-208] Relevant Representation [RR-010] para 9.2	The EA has reviewed the Water Framework Directive (WFD) assessment and requests additional information/clarification in respect of Section 3.4 (Water Quality), which refers to 'intermittent' timescales over which water quality might be affected. The assessment does not explain what is meant by this term. The concerns from a WFD point of view are different if we are considering, for example, 2	The use of the term intermittent in section 3.4 of the WFD assessment was used to describe the risk posed by construction activities to the water quality of the Humber Lower and North Beck Drain water bodies. This term was used as the effects associated with dredging and disposal activities will be temporary, and short-term and any changes to water quality will not persist beyond a single tidal cycle. The impact	The construction area adjacent to North Beck Drain will be used for laydown and parking and will be in use during the phase 1 construction period but is not expected to be used for subsequent phases. The use of this area will vary during that period depending on the construction workload, hence describing the potential to affect the water	Agreed	4 June 2024

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			<p>days per year, versus 10 days per month.</p> <p>The EA welcomes the Applicant's clarification on the use of the term 'intermittent'. The EA is not yet in a position to provide its agreement on the conclusion of the WFD assessment, and any future agreement will be on the basis that Natural England does not raise any issue in respect of the Habitat Regulations Assessment conclusions.</p> <p>The EA's Deadline 4 submission to the ExA stated: 'we have been able to undertake a focused review, which has taken into account the Applicant's response to the Examining Authority's question Q1.5.3.3 [REP1-026], in respect of the North Beck Drain. We have considered this in relation to our Water Framework Directive (WFD) remit.</p> <p>Accordingly, we are now in a position to confirm that, subject to: 1) the</p>	<p>assessment is set out in the WFD assessment in section 4 (for example, see paragraph 4.2.2, 4.4.23, and 4.4.29.</p> <p>ABP acknowledges the EA's statement that they 'support the conclusions of the WFD Assessment', which can reasonably be described as a position of common ground for the purposes of this row.</p>	<p>quality of North Beck Drain as intermittent.</p>		

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			implementation of all the required pollution prevention measures; and 2) Natural England not raising any issues in respect of the Habitat Regulations Assessment (HRA) conclusions, we support the conclusions of the WFD assessment.'				
Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage							
W1	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] Relevant Representation [RR-010] section 10	The EA has considered the submission version of ES Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage and agrees with the methodology used, subject to clarification on the points the EA has raised in its Relevant Representation which are covered in matters W2 to W14.	The position of the EA means that there is common ground for the purposes of the ES Chapter in question, noting that those points raised in the EA's Relevant Representation and addressed in rows W2 and W3 below are also agreed, and common ground has been reached in relation to them, but they are dealt with separately in those rows.	As per ABP position.	Discussion ongoing	
W2	ES – Chapter 18: Water Use, Water Quality, Coastal	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal	The EA has reviewed this chapter and comment that on page 18-35, Table 18-1 of ES Chapter 18, the consultation summary table states that the	ABP included revised text in the errata sheet submitted at Deadline 1 to clarify that the buffer is no longer required for the sea defence. See item No. 17 in the Table of Errata	As per ABP position.	Agreed	5 April 2024

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	Protection, Flood Risk and Drainage – 1m buffer for sea defence	Protection, Flood Risk and Drainage [APP-060] Relevant Representation [RR-010] para 10.1 Deadline 1 Submission – 8.7 Table of Errata (Clean) [REP1-019]	EA no longer requires a 1m buffer for maintenance. This is incorrect as we do not require a buffer for the sea defence, but we will still need the buffer for the fluvial defences at Stallingborough for the duration of the Bridleway diversion. The EA welcomes the inclusion of entry 17 of the Table of Errata confirming correction of this matter. This matter is now agreed.	submitted at Deadline 1 [REP1-019].			
W3	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – fluvial flood zones	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 6.4 Environmental Statement Appendices - Appendix 18.A: Flood Risk Assessment [AS-134]	Paragraph 18.6.50 considers the potential for fluvial flooding at the site and uses the North East Lincolnshire Preliminary Flood Risk Assessment to provide some indication of fluvial flood zones, suggesting the site is located in Flood Zone 1. This is not entirely correct as there is a small area of fluvial flood risk adjacent to the Stallingborough North Beck (also referred to as the North Beck Drain), which impacts the Work No. 9 area.	ABP confirms that the assessment of flood risk from fluvial sources uses the information in the North East Lincolnshire Preliminary Flood Risk Assessment to provide some indication of fluvial flood zones. However, as noted in paragraph 18.6.55 of ES Chapter 18, the 0.1% AEP modelled flood water levels for Stallingborough North Beck Drain are referred to and show a small area of Work No.9 is located in Flood Zone 2.	As per ABP position.	Agreed	24 April 2024

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		Relevant Representation [RR-010] para 10.4 6.5 Outline Construction Environmental Management Plan [REP6-009]	The EA welcomes the additional clarification in respect of this issue. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved.	For clarity, Work Area 9 is a construction laydown temporary area that will be used only during phase 1 and only for parking and some equipment laydown prior to installation. The Environment Agency is referred to Table 15 of the oCEMP [REP6-009], which outlines the mitigation measures that will be implemented to address potential impacts in relation to flood risk. The text in this table states "A small area to the south east of the Temporary Construction Area (Work Area 9), adjacent to the watercourse, is located in Flood Zone 2. During the construction phase no temporary buildings, plant or materials will be located within this area of fluvial floodplain to allow storage of flood water should high flows occur on the North Beck". Table 15 also states that "Temporary Construction Areas for laydown and construction compounds			

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				<p>(Work No. 8 and Work No.9) would be suitably enclosed with fencing in order to stop construction plant etc. becoming buoyant and floating away should flooding from a breach or overtopping event occur".</p> <p>The final CEMP(s) required to be approved under Requirement 6 of the dDCO will be subject to consultation with the Environment Agency and submitted to NELC for approval following DCO decision.</p> <p>It is therefore considered that no further assessment is required.</p>			
W4	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – water use	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] Relevant Representation	<p>The EA notes that Air Products is working closely with Anglian Water on the issue of non-potable water supply.</p> <p>In terms of potable water, the operational project will also require a limited supply for offices, welfare facilities etc.</p> <p>The EA notes that supply offers for potable and non-</p>	ABP has also applied to Anglian Water for potable water for the jetty facilities and either potable or non-potable for a fire hydrant.	<p>Air Products notes the EA's position on this matter and continues to work with Anglian Water regarding the required water supply.</p> <p>Air Products has made good progress in these discussions on the securing of an existing supply of non-potable</p>	Agreed	4 July 2024

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		[RR-010] para 10.6 to 10.9	potable water have been made to Air Products and ABP, albeit these are time limited (and are therefore reliant on being renewed prior to operations commencing) in accordance with the work practice of Anglian Water Services.		water for the development.		
W5	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – future river restoration (North Beck Drain)	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] 6.8 Outline Woodland Compensation Strategy [APP-224] 6.9 Outline Landscape and Ecology Management Plan [REP4-012] Relevant Representation	As detailed in our Relevant Representation, during pre-application consultation, the EA and ABP discussed the potential for the Project to make future river restoration (North Beck Drain) of the chalk stretch upstream of the development more difficult. The EA suggested ABP consider whether some Biodiversity Net Gain (BNG) could be provided as mitigation for the potential impact. The EA is disappointed to see that although mandatory biodiversity net gain is not required for this Project, only opportunities within the limits of the operational site	ABP notes the EA's view on this matter. It should be noted that Table 18-11 of Chapter 18 has been updated to acknowledge the North Beck Drains WFD status. This update was captured in the Table of Errata submitted at Deadline 1, see item no 20 [REP1-019]. Whilst ABP is not legally required to incorporate BNG in the application, substantial effort has been made to ensure that ecological enhancement measures are included in the scheme. This includes a legal obligation to ensure that the loss of trees protected by a Tree Preservation Order is	As per ABP position.	Agreed	5 April 2024

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Immingham Green Energy Terminal
 9.13 **Final** Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		<p>[RR-010] para 10.10</p> <p>Deadline 1 Submission – 8.7 Table of Errata (Clean) [REP1-019]</p>	<p>boundaries have been considered.</p> <p>The EA welcomes entry 20 in the Table of Errata, which now correctly reflects the WFD status of the North Beck Drain.</p> <p>The EA does not wish to make any further representations on this matter.</p>	<p>adequately compensated via the creation of woodland habitat elsewhere.</p> <p>ABP is promoting biodiversity through the oLEMP which defines the opportunities which are available within the operational site boundaries to provide landscape and ecological measures to enhance the operational layout. The final LEMP would be approved by NELC through Requirement 10 of Schedule 2 of the dDCO.</p> <p>An Outline Woodland Compensation Strategy was also submitted with the application for development consent for the project. This strategy sets out the approach to off-site planting of trees in the Immingham area, as well as enhancement of existing retained on-site woodland, to ensure that the tree loss from the Long Strip is appropriately compensated. The final woodland compensation plan would be approved by NELC, following</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				consultation with Natural England, through Requirement 11 of Schedule 2 of the dDCO.		Agreed	
W6	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – uncontrolled discharges to Stallingborough North Beck	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] Relevant Representation [RR-010] para 10.11	Paragraph 18.8.49 refers to temporary uncontrolled discharges to Stallingborough North Beck. The EA is content that Requirement 12 of Schedule 2 of the dDCO secures sufficient control over discharges.	ABP has progressed the drainage strategy for the jetty access road, to which the reference to uncontrolled discharges related, (Work No. 1 and 2) since DCO submission. There is no longer an uncontrolled discharge into the Stallingborough North Beck. Surface water runoff is being attenuated to a rate that has been agreed with North East Lindsey Drainage Board (NELDB). The final drainage strategy would be approved by NELC, following consultation with the EA and NELDB, through Requirement 12 of Schedule 2 of the dDCO.	As per ABP position.		4 July 2024
W7	ES – Chapter 18: Water Use, Water Quality,	6.2 Environmental Statement – Chapter 18: Water Use, Water	Paragraphs 18.8.87-8 (Changes to flow regimes and/or water levels) refer to areas of land raising falling	The Flood Risk Assessment (FRA) has assessed the impact on local drainage systems and provides	As per ABP position.		4 July 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
	Coastal Protection, Flood Risk and Drainage – land raising	<p>Quality, Coastal Protection, Flood Risk and Drainage [APP-060]</p> <p>6.4 Environmental Statement Appendices - Appendix 18.A: Flood Risk Assessment [AS-134]</p> <p>6.4 Environmental Statement Appendices - Appendix 18.B: Drainage Strategy [APP-210]</p> <p>Relevant Representation [RR-010] para 10.14</p>	<p>outside of the main river extent.</p> <p>However, no assessment appears to have been made as to the impact on the local drainage systems from the land raising.</p> <p>Following discussions with ABP, the EA is content that the NELDB will need to be satisfied that any risks are acceptably limited. On the basis that appropriate controls are in place (see Requirement 12 of Schedule 2 of the dDCO) there is now common ground between ABP and the EA in relation to this matter.</p>	<p>diversions where required and no further impacts were identified. Topographic levels show ground levels for the areas of the site where land raising is proposed (West Site (Work No. 7) and East Site (Work No. 3 and Work No. 5)) are predominantly higher than the surrounding small drainage ditches. No areas of significant flooding from NELDB systems have been identified via discussions with NELDB and as noted in paragraph 4.4.28 of ABP's FRA, the drainage system managed by NELDB is understood to be able to accommodate events with 0.1% AEP by a combination of storage and pumping, without any flooding of the surrounding area.</p> <p>As demonstrated in paragraphs 4.5.3 – 4.5.9 together with Plate 5: Risk of Flooding from Surface Water (of the FRA), there are no concerns with regards to</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>flood risk from the local drainage system in proximity to the East and West Sites.</p> <p>In addition, a drainage strategy has been developed for the Site in consultation with NELDB with attenuation provided up to and including the 1% AEP plus 40% climate change event. Surface water runoff will be discharged at a restricted rate from the site to the local drainage systems and will therefore provide betterment when compared to the current scenario. The drainage strategy will therefore reduce peak flows/water levels within the local drainage system comprising small drainage ditches which predominantly drain surface water runoff from these site areas. It is therefore considered that compensatory storage is not needed to mitigate flood risk due to land raising and no further assessment is required. The final drainage</p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p>strategy would be approved by NELC, following consultation with the EA and NELDB, through Requirement 12 of Schedule 2 of the dDCO.</p> <p>Discussions with NELDB has resulted in that body being satisfied that the land raising will not inappropriately increase flow into those watercourses.</p>			
W8	ES – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – changes in tidal regime	<p>6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060]</p> <p>6.2 Environmental Statement - Chapter 16: Physical Processes [APP-058]</p> <p>Relevant Representation</p>	Paragraph 18.8.97 (Changes in Tidal Regime) states that the development has the potential to change the rates of erosion and/ or accretion on the foreshore in proximity to the flood defences over the operation of the project. We would like to see further assessment of this in the Physical Processes Chapter (as mentioned in paragraph 8.1 above). Any impacts on the existing flood defences will need to be mitigated by the undertaker, rather than during the Environment	<p>ABP notes the EA's comments on matters PP1 and W8 regarding the potential for changes to sediment transport impacting the existing flood defences. In particular, reference is made to paragraph 16.8.54 of Chapter 16 the ES, which states that the predicted magnitude and extent of potential change is 'limited'.</p> <p>The assessment of potential impacts to physical processes, as described in Chapter 16 of the ES, includes the application of bespoke numerical modelling</p>	As per ABP position	Agreed	24 April 2024

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Birmingham Green Energy Terminal
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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		[RR-010] para 10.15	<p>Agency maintenance programme.</p> <p>The EA welcomes the additional clarification in respect of the assessment undertaken. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved.</p>	<p>tools to investigate the predicted changes, as a result of the scheme, on local and regional hydrodynamics (water levels, flow speeds etc.) as well as any associated impact on local and regional sediment transport pathways (incl. changes to patterns of erosion and accretion). Furthermore, the assessment has considered impacts to specific groups of impact pathways and receptors, including (in paras. 16.8.69 to 16.8.72) an assessment of 'potential impact on existing features, including marine infrastructure, outfalls and estuary banks and channels'. Whilst not specifically listed in this section, the assessment here also includes the existing foreshore and adjacent flood defences. The assessment findings (as informed by the local sediment transport modelling) show that the predicted changes to erosion and accretion patterns are only predicted in close proximity to</p>			

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				<p>the marine elements of the Project. More specifically, the region of a slight predicted increase in bed erosion is limited to a short section of the line of mean low water springs (MLWS) and the shallow subtidal, located approximately 90-100 m offshore of the existing defences. Landward of the area of predicted erosion, the modelling actually predicts continued accretion (albeit at a slightly slower rate than that defined in the baseline) of parts of the mid- to lower-foreshore. As a result of the assessment, there is not predicted to be any impact on the sediment erosion or accretion at the toe of the existing defences.</p> <p>It is therefore considered that no further assessment is required.</p>			
W9	ES Appendix 18.B Flood Risk Assessment – temporary	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal	The EA disagrees with the statement provided at paragraph 4.4.16 regarding the flood levels within the temporary construction area	Paragraph 4.4.1 of the FRA acknowledges that should a breach of the fluvial flood defences along Stallingborough North Beck occur in the location of Work	As per ABP position.	Agreed	24 April 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
	construction area (Work No. 9)	<p>Protection, Flood Risk and Drainage [APP-060]</p> <p>6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [AS-134]</p> <p><u>2.1 Draft Development Consent Order [REP6-004]</u></p> <p>Relevant Representation [RR-010] para 10.21</p> <p><u>6.5 Outline Construction Environmental Management Plan [REP6-009]</u></p>	<p>(Work No. 9) as detailed further in our Relevant Representation.</p> <p>The proximity of Work No. 9 to the embankments of the Stallingborough North Beck is such that there would be limited spreading of the fluvial flood water over the floodplain during any initial flooding. When the temporary work area (Work No. 9) is in use, it is recommended that this is considered. Also, this needs to be considered when drafting the emergency plan, particularly in respect of a place for the safety of the people using the area.</p> <p>The EA welcomes the additional clarification in respect of this issue. The EA is now satisfied that the assessment undertaken is appropriate and no further assessment is required. This matter is now resolved</p>	<p>No.9, then this work area could potentially be inundated by flood water to a depth of 0.52 – 1.05m. Based on topography flood water would flow north, into Work No.9, and towards the west towards land between the watercourse and the Project.</p> <p>The Environment Agency is referred to Table 15 of the oCEMP [REP6-009], which outlines the mitigation measures that will be implemented to address potential impacts in relation to flood risk. The text in this table states "A small area to the south east of the Temporary Construction Area (Work Area 9), adjacent to the watercourse, is located in Flood Zone 2. During the construction phase no temporary buildings, plant or materials will be located within this area of fluvial floodplain to allow storage of flood water should high flows occur on the North Beck". Table 15 also states that "Temporary Construction</p>			

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				<p>Areas for laydown and construction compounds (Work No. 8 and Work No.9) would be suitably enclosed with fencing in order to stop construction plant etc. becoming buoyant and floating away should flooding from a breach or overtopping event occur".</p> <p>Additional relevant measures are also included in this table in relation to the storage of construction materials, monitoring of weather forecasts and a commitment to produce an Emergency Response Plan which details the actions that would be taken in the event of a possible flood event.</p> <p>The final CEMP(s) required to be approved under Requirement 6 of the dDCO will be subject to consultation with the Environment Agency and submitted to NELC for approval following DCO decision.</p>			

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W10	ES Appendix 18.B Flood Risk Assessment – local ordinary watercourses	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [AS-134]	The Flood Risk Assessment (FRA) should assess the impacts of land raising on the displacement of flood water from non-main river sources and whether any floodplain compensatory storage is required.	The Flood Risk Assessment (FRA) has assessed the impact of land raising on the displacement of flood water from non-main river sources and whether any compensatory storage is required.	As per ABP position.	Agreed	4 July 2024
		6.4 Environmental Statement Appendices – Appendix 18.B: Drainage Strategy [APP-210] Relevant Representation [RR-010] para 10.22	The FRA has currently only assessed the floodplain compensation from main river flooding. EA accepts that the NELDB will need to be satisfied there is no risk. On the basis that appropriate controls are in place this matter can now be shown to constitute common ground.	The FRA has assessed the impact on local drainage systems and provides diversions where required and no further impacts were identified. Topographic levels show ground levels for the areas of the site where land raising is proposed (the West Site (Work No. 7) and East Site (Work No. 3 and Work No. 5)) are predominantly higher than the surrounding small drainage ditches. No areas of significant flooding from NELDB systems have been identified via discussions with NELDB. As noted in paragraph 4.4.28 of the FRA, the drainage system managed by NELDB is understood to be able to			

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				<p>accommodate events with 0.1% AEP by a combination of storage and pumping, without flooding the surrounding area.</p> <p>As demonstrated in paragraphs 4.5.3 – 4.5.9 together with Plate 5: Risk of Flooding from Surface Water (of the FRA) do not highlight any areas of concern with regards to flood risk from the local drainage system in proximity to the East and West Sites.</p> <p>In addition, a Drainage Strategy has been developed for the Site in consultation with the NELDB with attenuation provided up to and including the 1% AEP plus 40% climate change event. Surface water runoff will be discharged at a restricted rate from the site to the local drainage systems and will therefore provide betterment when compared to the current scenario. The</p>			

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				<p>Drainage Strategy will therefore reduce peak flows/water levels within the local drainage system comprising small drainage ditches which predominantly drain surface water runoff from these site areas. It is therefore considered that compensatory storage is not needed to mitigate flood risk due to land raising and no further assessment is required.</p> <p>The final drainage strategy would be approved by NELC, following consultation with the EA and NELDB, through Requirement 12 of Schedule 2 of the dDCO.</p> <p>ABP notes the NELDB did not respond to ExQ1.8.1.2 at Deadline 1 which addressed the topic of landraising. The topic of landraising will be discussed further with the NELDB.</p> <p>Recent discussion with NELDB has resulted in that</p>			

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				body being satisfied that the land raising will not inappropriately increase flow into those watercourses.			
W11	ES Appendix 18.B Flood Risk Assessment – place of safe refuge	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [AS-134] 2.1 Draft Development Consent Order [REP6-004] Relevant Representation [RR-010] para 10.23	The EA supports the use of areas of safe refuge and note that the number of areas being provided has been increased from the preliminary proposal. This will provide more and safer options for employees. However, it is still worth noting that the flood refuge areas would only serve the buildings themselves and the immediate vicinity. The occupants of the rest of the site could have to get through deep flood water to reach the areas, which could pose a risk to life.	Paragraph 6.6.2 of the FRA [AS-134] notes that the following safe refuge areas will be provided; the control room buildings within the West Site (Work No. 7) and East Site (Work No. 5), and within the Toxic Safe Haven building located within the West Site (Work No. 7), close to Queens Road. The East Site (Work No.3) is normally an un-occupied site. Specific flood emergency response procedures and contingencies will be covered in the detailed flood response plan required by Para 6.7.3 of the FRA [AS-134] which requires a Flood Emergency Response Plan to be prepared in consultation with the Environment Agency and LLFA. <u>This would be secured under Requirement 20 of Schedule 2 of the dDCO [REP6-004].</u>	As per ABP position.	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
W12	ES Appendix 18.B Flood Risk Assessment – flood warning and emergency plan	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [AS-134] 2.1 Draft Development Consent Order [REP6-004] Relevant Representation [RR-010] para 10.25	Throughout the FRA it states that the site will be shut down on receipt of a Tidal Flood Warning. We support the intention to shut down the facility during periods when there are flood warnings in place. We also welcome the fact that the site can be shut down in situ and remotely. However, paragraph 6.7.4 states that “the Site will only be evacuated when it is really necessary”, which seems to contradict the plans outlined elsewhere in the FRA. We would request that any future flood emergency response plan makes it very clear what procedures will be followed and what the specific triggers and actions will be.	It is confirmed that the Hydrogen Production Facility would be shut down if a tidal flood warning was received. The Flood Emergency Response Plan reference Para 6.7.3 of the FRA [AS-134], which FRA has been prepared in consultation with the Environment Agency and LLFA, will cover what procedures will be followed and what the specific triggers and actions will be. In referring to ‘when necessary’ this means necessary to protect the safety of people. <u>This operational phase flood emergency response plan would be secured under Requirement 20 of Schedule 2 of the dDCO [REP6-004].</u>	As per ABP position.	Agreed	1 March 2024
W13	ES Appendix 18.B Flood Risk Assessment – flood warning and emergency plan	6.4 Environmental Statement Appendices – Appendix 18: A: Flood Risk Assessment [AS-134]	Paragraph 6.9.7 of ES Appendix 18: A states that “contingency measures will be put in place, as necessary, for the construction of the proposed the ramps and new section of flood defence to ensure the continuity of the	ABP notes this comment and further information regarding contingency measures for the construction of the proposed ramps and new section of flood defence will be provided to the Environment Agency for review as the design of the development progresses	As per ABP position.	Discussion ongoing	

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		<p><u>2.1 Draft Development Consent Order [REP6-004]</u></p> <p>Relevant Representation [RR-010] para 10.26</p>	<p>flood defence throughout the works".</p> <p>The EA has agreed with ABP that Protective Provisions and a bespoke legal agreement are the appropriate mechanisms to secure these measures. The principle of the contingency measures, however, is common ground between ABP and the EA.</p> <p><u>The EA therefore confirms that common ground has been reached on the principles set out in this row which ABP has agreed are to be appropriately reflected in a bespoke flood defence agreement and protective provisions on the face of the draft DCO . However this matter cannot be marked as 'agreed' until the wording of those protective provisions is finalised and the flood defence agreement completed, at which point the EA will be in a position to confirm its final satisfaction on the matter to the</u></p>	<p>in accordance with the bespoke legal agreement to which the EA refers.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which.</u></p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			Examination <u>or the Secretary of State.</u>	Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.			
W14	ES Appendix 18.B: Drainage Strategy	6.4 Environmental Statement Appendices – Appendix 18: B: Drainage Strategy [APP-210] Relevant Representation [RR-010] para 10.27	<p>We request further information and consultation on the water discharge into the Stallingborough North Beck. The drainage strategy (and paragraph 18.8.49 of Chapter 18) indicates that there will be “uncontrolled discharges to North Beck Drain”. This will not be acceptable as this main river is currently up to capacity and we are unlikely to permit any increase in flow to it.</p> <p>The EA notes the Applicant’s assertion that no uncontrolled discharges will occur but recognises, in any event, that relevant legal protections are in place through Schedule 2, Requirement 12 of the DCO and is content that there is therefore common ground in relation to the matter.</p>	<p>ABP has progressed the Drainage Strategy for the jetty access road, to which the reference to uncontrolled discharges related, (Work No. 1 and 2) since DCO submission.</p> <p>There is no longer an uncontrolled discharge into the Stallingborough North Beck. Surface water runoff is being attenuated to a rate that has been agreed with North East Lindsey Drainage Board (NELDB).</p> <p>The final drainage strategy will be approved through Schedule 2, Requirement 12 of the DCO.</p>	As per ABP position.	Agreed	4 July 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
Materials and Waste							
MW1	ES Chapter 20: Materials and Waste and Appendix 2.A Waste Hierarchy Assessment	6.2 Environmental Statement – Chapter 20: Materials and Waste [APP-062] 6.4 Environmental Statement Appendices - Appendix 2.A: Waste Hierarchy Assessment [APP-172] Relevant Representation [RR-010] para 11.1	The EA has reviewed the submission version of these documents and has no comments to make.	ABP notes the EA response and is pleased the EA agrees with the methodology and conclusions of that chapter.	As per ABP position.	Agreed	1 December 2023
Ground Conditions and Land Quality							
GC1	ES Chapter 21: Ground Conditions and Land Quality	6.2 Environmental Statement – Chapter 21: Ground Conditions and Land Quality [APP-063] 6.4 Environmental Statement Appendices -	The EA has reviewed Chapter 21 and the associated Appendices 21.B Phase II Ground Investigation Interpretative Report and 21.C Outline Remediation Strategy. Based on the findings of the site investigations undertaken to date, potential controlled	ABP notes the EA has reviewed ES Chapter 21 and the associated appendices and is pleased the EA agrees with the methodology and conclusions of those documents. The final remediation strategy(ies) detailing the	As per ABP position.	Agreed	1 December 2023

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Appendix 21.B: Phase II Ground Investigation Interpretative Report [APP-216] 6.4 Environmental Statement Appendices - Appendix 21.C: Outline Remediation Strategy [APP-217] Relevant Representation [RR-010] para 12.1	waters pollution risks have been identified. We agree with the recommendations of the Interpretative Report that further groundwater monitoring is recommended to fully characterise groundwater conditions below the site. Based on the findings of the additional groundwater monitoring, further risk assessment, site investigation and/or remediation may be required. We are satisfied that Requirement 15 in Schedule 2 of the draft DCO is sufficient to manage the risks from contamination at the site, in so far as it relates to controlled waters.	programme of groundwater and surface water monitoring will be approved through Schedule 2, Requirement 15 of the dDCO.			
GC2	Materials Management Plan (MMP)	6.2 Environmental Statement – Chapter 21: Ground Conditions and Land Quality [APP-063] 6.5 Outline Construction Environmental	We welcome the acknowledgement on page 55 that within Work Area 9, no temporary buildings, plant or materials will be located within the area of the fluvial floodplain or within 8m from the landward toe of the fluvial flood defence, whichever is further. A note to this effect should also be included in	ABP notes the comment on the Soil Management Plan. An updated Outline Soil Management Plan was submitted at Deadline 2 as Appendix B to the updated oCEMP [REP2-004] . Paragraph 4.2.4 was added to section 4.2 of the Outline	As per ABP position.	Agreed	5 April 2024

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9.13 **Final** Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		Management Plan [REP2-004] Relevant Representation [RR-010] para 15.2	Section 4.2 of the Soil Management Plan to ensure floodplain storage and flood flows are not impacted. The EA welcomes the amendment to paragraph 4.2.4 of the updated oSMP which includes an appropriate acknowledgement of this issue.	Soil Management Plan to address this comment.			
Major Accidents and Disasters							
MAD1	Other sites that may be impacted by major accidents	6.2 Environmental Statement - Chapter 22: Major Accidents and Disasters [APP-064] Relevant Representation [RR-010] para 13.1	In our Relevant Representation, the EA has identified a number of other sites in the locality which hold an Environmental Permit but do not fall under COMAH. These sites may be impacted by major accidents at the site, leading to escalated consequences.	Any site within the vicinity of the Project that has the potential to be impacted by the Project has been considered in chapter 22 Major Accident and Disasters para 22.6 including sites which hold an Environmental Permit but do not fall under COMAH.	As per ABP position.	Agreed	1 December 2023
Cumulative and In-Combination Effects							
CE1	ES Chapter 25: Cumulative and In-	6.2 Environmental Statement - Chapter 25: Cumulative and In-Combination	The EA has reviewed Chapter 25 together with Figures 25.1 and 25.2 and we	ABP acknowledges the EA's position and is pleased to see the EA has no comments on these documents.	As per ABP position.	Agreed	1 December 2023

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Immingham Green Energy Terminal
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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
	Combination Effects	Effects [REP5-009] Relevant Representation [RR-010] para 14.1	have no comments to make on these.				

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Management Plans

MP1	Outline Construction Environmental Management Plan	6.5 Outline Construction Environmental Management Plan [REP2-004] Relevant Representation [RR-010] section 15	The EA is satisfied that this plan outlines all the relevant and necessary environmental protection measures (relevant to our remit) that will be implemented. We look forward to reviewing the final plan secured via Requirement 6 in due course. The EA welcomes the acknowledgement on page 55 that within Work Area 9, no temporary buildings, plant or materials will be located within the area of the fluvial floodplain or within 8m from the landward toe of the fluvial flood defence, whichever is further. A note to this effect should also be included in Section 4.2 of the Soil Management Plan to ensure	ABP acknowledges the EA's position and is pleased to see the EA is satisfied the oCEMP outlines all the relevant and necessary environmental protection measures relevant to the EA. ABP notes the comment on the Soil Management Plan. An updated Outline Soil Management Plan was submitted at Deadline 2 as Appendix B to the updated oCEMP [REP2-004] . Paragraph 4.2.4 was added to section 4.2 of the Outline Soil Management Plan to address this comment.	As per ABP position.	Agreed	1 December 2023
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Immingham Green Energy Terminal
 9.13 **Final** Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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			floodplain storage and flood flows are not impacted.				
MP2	Outline Decommissioning Environmental Management Plan	6.6 Outline Decommissioning Environmental Management Plan [REP5-019] Relevant Representation [RR-010] section 16	The EA has reviewed the contents of this plan, which are satisfactory. See also matter dDCO8.	ABP agrees that the EA should be included as a consultee on the oDEMP, noting that on site decommissioning requirements associated with the hydrogen production will be addressed in the Environmental Permit for that facility (which will require a decommissioning/site closure plan approved by the EA. Refer to matter DCO8.	As per ABP position.	Agreed	1 December 2023
MP3	Outline Landscape and Ecology Management Plan	6.9 Outline Landscape and Ecology Management Plan [REP4-012] Relevant Representation [RR-010] section 17	The EA will not be able to review or comment on this document during the Examination and defers to NE's position on such matters.	ABP notes the EA's position and continues its productive discussions with NE.	As per ABP position.	Agreed	4 July 2024
Other DCO Documents							

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
O1	Schedule of Mitigation and Monitoring	<p>7.2 Schedule of Mitigation and Monitoring [REP6-011]</p> <p>Relevant Representation [RR-010] section 18</p>	The EA has reviewed the contents of this schedule and have no comments to make on it at the current time.	ABP acknowledges the EA's position.	As per ABP position.	Agreed	1 December 2023
O2	Consents and Agreements Position Statement	<p>7.4 Consents and Agreements Position Statement [REP1-010]</p> <p>Relevant Representation [RR-010] section 19</p>	The EA has reviewed this statement and concur with the identification of possible permits that will be required from the Environment Agency for the construction and operation of the development.	ABP acknowledges the EA's position.	As per ABP position.	Agreed	1 December 2023
Environmental Permitting							
EP1	Environmental Permit – scope of the application and applicable guidance		EA confirms that the environmental permitting scope is considered at this stage permissible.	As per Air Products position.	Air Products and ABP have agreed the scope of the Environmental Permit application with the Environment Agency and on the applicable BAT (application ref: EPR/VP3425SV/P001) and the pre application process is closed. Any	Agreed	1 March 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
					significant updates on the Environmental Permit application will be provided to the ExA as required.		
Development Consent Order							
DCO1	Article 3: Application, disapplication and modification of legislative provisions	6.2 Environmental Statement – Chapter 18: Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage [APP-060] Draft Development Consent Order [REP6-004] Relevant Representation [RR-010] para 3.1	The Environment Agency has not been consulted on text for the Protective Provisions that have been included in the draft DCO. These provisions are not in a format that is acceptable to us and therefore we do not currently agree to the disapplication of Regulation 12 (the requirement for environmental permit) of the Environmental Permitting (England and Wales) Regulations 2016(c) in respect of flood risk activities. The EA is currently reviewing draft protective provisions, which it received from the Applicant on 8 August 2024. The EA cannot agree to the disapplication of the requirement for a flood risk activity permit until the	ABP prepared a set of bespoke protective provisions in favour of the EA which reflect the particular circumstances of the proposals pursuant to the DCO for Work No. 1 to cross through existing flood management infrastructure maintained by the EA pursuant to a licence from ABP as long leaseholder in this location. These protective provisions were based on relevant wording adopted from protective provisions in favour of the EA on the face of recently made DCOs. The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the	As per ABP position.	Discussion Ongoing	

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<u>wording of those protective provisions are finalised, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u>	<u>face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u>			
DCO2	Article 18: Discharge of Water	<u>Draft Development Consent Order [REP6-004]</u> Relevant Representation [RR-010] para 3.2	The Environment Agency asks for two additional provisions to be added to Article 18 in respect of the Highbrough Marsh Drain and Stallingborough North Beck outfall as detailed in our Relevant Representation.	ABP is content with the principle of monitoring the Highbrough Marsh and Stallingborough North Beck outfall channels and its solicitors have revised the proposed dDCO protective provisions in favour of the EA to secure appropriate measures. The matter is	As per ABP position.	Discussion Ongoing	

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			<p>These additional provisions are required to secure monitoring to ascertain if the proposed development has a negative impact on the function of these outfalls over time.</p> <p>The EA is content that the principle of this matter being secured via the Protective Provisions in its favour, is agreed.</p> <p><u>The EA therefore confirms that common ground has been reached on the principles set out in this row which ABP has agreed are to be appropriately reflected in the protective provisions on the face of the draft DCO . However this matter cannot be marked as 'agreed' until the wording of those protective provisions is finalised, at which point The EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u></p>	<p>therefore considered common ground.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form</u></p>			

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<u>documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u>			
DCO3	Remediation works	<u>Draft Development Consent Order [REP6-004]</u> Relevant Representation <u>[RR-010]</u> para 3.3	Linked to the EA's position at Matter dDCO02, is that the EA needs to secure an appropriate mechanism under the DCO to agree on remediation works to clear any obstruction resulting from the authorised development and the timescales within which this needs to be carried out. The EA is content that this matter is being secured via the protective provisions in its favour. The EA and ABP continue engagement on the terms of the protective provisions. <u>The EA therefore confirms that common ground has been reached on the principles set out in this row which ABP has agreed are to be appropriately reflected in</u>	ABP's solicitors have revised the proposed dDCO protective provisions in favour of the EA to secure an appropriate mechanism for agreeing and taken steps to remedy obstructions to the Habrough Marsh and Stallingborough North Beck outfall channels as a result of the authorised project for 10 years and provided a copy to the EA for its comment. As the principle is agreed, the matter is considered common ground. <u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-</u>	As per ABP position.	Discussion ongoing	

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Immingham Green Energy Terminal
 9.13 Final Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			the protective provisions on the face of the draft DCO . However this matter cannot be marked as 'agreed' until the wording of those protective provisions are finalised, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.	glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.			
DCO4	Schedule 2 – interpretation 1: “commence”	Draft Development Consent Order [REP6-004] Relevant Representation [RR-010] para 3.4 Deadline 1 Submission – 9.30 Written Summaries of the Applicant’s Oral Case at Issue Specific Hearing 2	The EA requests that ‘remedial work in respect of any contamination’ be deleted from this interpretation, for the reasons detailed in our Relevant Representation. The EA notes that this has now been done and is content with the Applicant’s revised wording on the	ABP removed “remedial work due to ground contamination” from the exceptions list in the definition of “commence” at Schedule 2 of the dDCO [REP6-004].	As per ABP position.	Agreed	4 July 2024

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Birmingham Green Energy Terminal
 9.13 Final Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
		with Appendices [REP1-065]	definition of 'commence' in the dDCO submitted at Deadline 4.				
DCO5	Schedule 2 Requirement 6 – Construction Environmental Management Plan	Procedural Deadline A Submission – 2.1 Draft Development Consent Order [PDA-004] Relevant Representation [RR-010] para 3.5	The EA requests that we are included as the consultee to Requirement 6(1) for Work No. 1, for the reasons detailed in our Relevant Representation.	ABP added the EA as a consultee to this Requirement in the revised dDCO submitted at Procedural Deadline A [PDA-004] .	As per ABP position.	Agreed	1 March 2024
DCO6	Schedule 2 Requirement 13 – Flood Risk Assessment	Relevant Representation [RR-010] para 3.6 Procedural Deadline A Submission – 2.1 Draft Development Consent Order [PDA-004]	The EA requested the words 'outside of the UK marine area', 'general' and 'unless otherwise approved by the relevant planning authority' be deleted from this requirement, for the reasons detailed in our Relevant Representation. The EA welcomes the amendments to Requirement 13, now reflected in the dDCO submitted at Deadline 4, to delete the term 'general' and add a paragraph 14 of Schedule 3 (deemed marine licence) to provide for licensed activities to be	ABP is content for the word 'general' to be deleted in this instance. An updated dDCO was submitted at Procedural Deadline 1 to remove 'general' from the wording of Schedule 2, Requirement 13 [PDA-004] . "Unless otherwise approved by the relevant planning authority" provides the appropriate flexibility required by a nationally significant infrastructure project and ABP notes that such relevant planning authority approvals are limited in the usual manner, according with	As per ABP position.	Agreed	4 July 2024

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 9.13 **Final** Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>carried out in accordance with the approved flood risk assessment. The EA does not believe there is a need to include the 'tailpiece' [<i>Unless otherwise approved by the relevant planning authority</i>] and notes that this issue has been raised by the Examining Authority. The EA will, therefore, make no further comment on this matter and leaves this to the discretion of the decision maker as to whether this should be retained or deleted.</p>	<p>established case law for such wording, by Article 63(2)(b) which states 'When any consent, agreement or approval is required of, or with, the relevant planning authority pursuant to a requirement set out in Schedule 2 (requirements) such consent agreement or approval must not be given if it would [...] give rise to any materially new or materially different significant effects on the environment that have not been assessed in the environmental statement or in any updated environmental information supplied under the 2017 Regulations'. Further detail on this matter is set out in ABP's response to ExA second round written question DCO 2.2 (see page 55 of [REP4-047]).</p> <p>As discussed in the meeting of 5 April with the EA, "outside of the UK marine area" is being retained in Requirement 13 but an equivalent deemed marine licence condition has been</p>			

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				added at paragraph 14 of Schedule 3 (deemed marine licence) of the dDCO being submitted at Deadline 3 as follows: "All licensed activities must be carried out in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the MMO." This approach accommodates the EA's request but maintains an appropriate distinction between the Requirements, dealing with matters above mean high water springs, and the deemed marine licence, dealing with matters below mean high water springs.			
DCO7	Schedule 2 Requirement 15 – Contaminated Land	<u>Draft Development Consent Order [REP6-004]</u> Relevant Representation [RR-010] para 3.7	The EA requests that Requirement 15 (1) is amended to delete the phrase 'may be undertaken' and replaced with 'may be commenced' to ensure that no remediation works start before the final CEMP and the remediation strategy have been approved. This is	ABP is pleased the EA is satisfied with Requirement 15 and has amended Requirement 15 (1) and the definition of "commence" in Schedule 2 in the dDCO as requested by the EA in the column to the left (see the	As per ABP position.	Agreed	4 July 2024

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date	
			required, along with the deletion of the remedial work 'exception' in Requirement 1 Interpretation (see DCO4 above) to ensure risks from contamination at the site, in so far as it relates to controlled waters, are appropriately managed.	version submitted at Deadline 4).		Agreed		
DCO8	Schedule 2 Requirement 18 – Decommissioning Environmental Management Plan	Procedural Deadline A Submission – 2.1 Draft Development Consent Order [PDA-004] Relevant Representation [RR-010] para 3.8	The Environment Agency requests its inclusion as a specific consultee to the discharge of the Requirement for all issues within its remit.	ABP has added the EA as a consultee to this Requirement in the revised dDCO submitted at Procedural Deadline A [PDA-004].	As per ABP position.			1 March 2024
DCO9	Schedule 3: Deemed Marine Licence – Condition 8: Construction Environmental Management Plan	<u>Draft Development Consent Order [REP6-004]</u> Relevant Representation [RR-010]	The EA welcomes our inclusion as a consultee to this condition, which will allow us to comment on matters within our remit.	ABP notes the EA's agreement with Condition 8.	As per ABP position.			1 December 2023

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DCO10	Schedule 8: Part 1: Temporary Restriction or Alteration, etc. of the Use of Streets or Public Rights of Way	<p>Draft Development Consent Order [REP6-004]</p> <p>Relevant Representation [RR-010] para 3.10 and 3.11</p> <p>Deadline 2 (D2) Submission – 6.5</p> <p>Outline Construction Environmental Management Plan (Clean) [REP2-004]</p>	<p>The EA requires appropriate mitigation measures to be in place should the temporary diversion of Bridleway Number 36 run close to the existing flood defence assets on Stallingborough North Beck, to ensure that no access can be gained to the flood defence.</p> <p>The EA would require a 1m buffer from the landward toe to enable maintenance to be carried out on the flood defence.</p> <p>Details of these mitigation should be provided to the EA.</p> <p>The same would apply should motor vehicles need to use the bridleway.</p> <p>It was also previously stated that the temporary Public Rights of Way diversion may mean that a temporary bridge could be needed over the channel behind the sea wall. We would welcome conversations about this structure as part of our</p>	<p>ABP agrees with the mitigation measures proposed by the EA. These measures were added to Table 15 of the updated oCEMP submitted at Deadline 2 [REP2-004].</p>	As per ABP position.	Agreed	5 April 2024

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			continuing engagement with ABP. The EA welcomes the mitigation measures added to Table 15 of the updated oCEMP submitted at Deadline 2 [REP2-004]. This matter is now resolved.				
DCO11	Schedule 14, Part 2: Protective Provisions for the Environment Agency	<u>Draft Development Consent Order [REP6-004]</u> Relevant Representation [RR-010] para 3.12	The Environment Agency has not been consulted on text for the Protective Provisions that have been included in the draft DCO. These provisions are not in a format that is acceptable to us. <u>The EA is currently reviewing draft protective provisions, which it received from the Applicant on 8 August 2024. the EA cannot agree to the disapplication of the requirement for a flood risk activity permit (Environmental Permitting Regulations 2016) until the wording of those protective provisions are finalised, at which point the EA will be in a position to confirm its final satisfaction on the matter to the</u>	This matter restates matter dDCO1 of this table. Refer to ABP's response to matter dDCO1. <u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked "Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards</u>	As per ABP position.	Discussion ongoing	

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Birmingham Green Energy Terminal
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			Examination or the Secretary of State.	achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.			
DCO12	Schedule 17: Procedure regarding certain approvals etc. Article 63: – Further information and consultation	Procedural Deadline A Submission – 2.1 Draft Development Consent Order [PDA-004] Relevant Representation [RR-010] para 3.13 to 3.16	The EA’s full comments on this Article are provided in our Relevant Representation. In summary, the EA is of the view that the provisions in this article will not provide sufficient time for adequate consultation to take place for the discharge of Requirements. The EA requests that the timeframe be amended from 10 business days to 20 business days. The EA also requests that the term ‘business days’ is included in Condition 1 (Interpretation) for this Schedule as meaning a day other than a Saturday or Sunday, Good Friday, Christmas Day or a bank	Paragraph 3(3) of Schedule 17 (Procedure regarding certain approvals, etc.) of the existing dDCO mirrored the Riverside Energy Park Order 2020, which reflects the imperative of expeditious decision-making for nationally significant infrastructure projects. However, further to the EA’s request, ABP is content to increase the period within which the relevant planning authority must notify the undertaker in writing specifying any additional further information requested by the requirement consultee to within 20, rather than the previous 10, business days of receipt of the application. This amendment was made in the revised dDCO	As per ABP position.	Agreed	1 March 2024

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			holiday in England and Wales under section 1 of the banking and Financial Dealings Act 1971	submitted at Procedural Deadline A. ABP advises there is no need to add the term 'business days' to the Schedule of Requirements. It already appears in article (2) (Interpretation) of the dDCO.			

Book of Reference

BoR1	Reconstruction, future ownership, operation and maintenance of flood defence	3.1 Book of Reference [AS-054] Relevant Representation [RR-010] para 4.0 and 4.1	The EA requires ABP to enter into a bespoke legal agreement to ensure that the proposed works to the flood defence will be carried out in a way that ensures an appropriate level of flood protection is maintained both now and into the future. The EA will work with ABP to negotiate this agreement and will update its position in this SoCG as the examination progresses. The EA provided ABP with an example template of the type of legal agreement it is seeking under Section 30 of the Anglian Water Authority	The EA has permissive powers to maintain flood defences at the Immingham foreshore. ABP considers it is also currently the responsibility of the EA to maintain its flood defence works at the Immingham foreshore, including within the Order limits pursuant to licences granted by ABP in 1980 and 1999. ABP is, however, content with the principle that the width of flood defence works being replaced as part of the jetty works crossing them overhead as part of the authorised project, should be maintained by ABP following construction. ABP is content		Discussion ongoing	
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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
			<p>Act 1977 on 5th December 2023.</p> <p>The EA welcomes the applicant's agreement that the width of flood defence works being replaced as part of the jetty works crossing them overhead as part of the authorised project, should be maintained by ABP following construction.</p> <p><u>The EA therefore confirms that common ground has been reached on the principles set out in this row which ABP has agreed are to be appropriately reflected in a bespoke flood defence agreement. However this matter cannot be marked as 'agreed' until the wording of the flood defence agreement has been finalised and completed, at which point the EA will be in a position to confirm its final satisfaction on the matter to the Examination or the Secretary of State.</u></p>	<p>that a further legal agreement is necessary to secure this but considers that there is no necessity for the scope of such an agreement to be any wider given matters already secured by the protective provisions. The EA has confirmed that the relevant bespoke legal agreement can be prepared, drawing on the template flood defence agreement provided by the EA as appropriate.</p> <p><u>The principles set out in this row are agreed. ABP and the EA are negotiating the relevant form of bespoke flood defence agreement and protective provisions for the face of the draft DCO (which are separate legal documents but intended to work hand-in-glove). Constructive discussions are still underway concerning drafting details. Therefore this row cannot yet be marked</u></p>			

Deleted: The EA will continue to engage with the applicant on the details (and wording) of an appropriate Legal Agreement to secure this.

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Immingham Green Energy Terminal
 9.13 Final Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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ID	Matter	Reference	Environment Agency Position	ABP Position	Air Products Position	Status	Date
				<p><u>"Agreed". However, ABP sees no particular impediment to reaching agreed form documentation, which the parties are working towards achieving as soon as possible but could now be after close of the Examination. As soon as that agreed form documentation is achieved the EA can confirm its final satisfaction on the matter to the Examining Authority.</u></p>			

Deleted: Drafting work continues. ABP is sending its draft to the EA. As the overall principle of entering into such an agreement is not contested and, once completed, the EA will confirm its satisfaction on the matter to the ExA. ABP considers that the matter is now common ground.

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▼mmingham Green Energy Terminal
9.13 **Final**, Statement of Common Ground between Associated British Ports, Air Products (BR) Limited and the Environment Agency (Tracked)

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4 Glossary

Abbreviation / Acronym	Definition
ABP	Associated British Ports
AEP	Annual Exceedance Probability
BAT	Best Available Techniques
BNG	Biodiversity Net Gain
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
ES	Environmental Statement
FRA	Flood Risk Assessment
MMO	Marine Management Organisation
MMP	Materials Management Plan
NSIP	Nationally Significant Infrastructure Project
oCEMP	Outline Construction Environmental Management Plan
oDEMP	Outline Decommissioning Environmental Management Plan
oLEMP	Outline Landscape and Ecology Management Plan
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
SoCG	Statement of Common Ground
SoS	Secretary of State for Transport
UK	United Kingdom
WFD	Water Framework Directive

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