



Immingham Green Energy Terminal

9.11 Applicant's Statement of Commonality (Tracked)

Infrastructure Planning (Examination Procedure) Rules 2010
Volume 9

~~August~~ 2024

Version ~~5.0~~

Planning Inspectorate Scheme Ref: TR030008

Document Reference: TR030008/EXAM/9.11

Deleted: July

Deleted: 4



Version History

Version	Date	Submitted
1.0	13 March 2024	Deadline 1
2.0	3 May 2024	Deadline 3
3.0	4 June 2024	Deadline 4
4.0	11 July 2024	Deadline 5
<u>5.0</u>	<u>15 August 2024</u>	<u>Deadline 7</u>

Table of contents

1. Introduction	1
Purpose of this Document.....	1
The Project	1
Structure of this Document	2
2. Statements of Common Ground	3
3. List of SoCGs and Status	4
4. Commonality	9
5. Commentary at Deadline 7	11
6. Glossary.....	15

Tables

Table 3-1: List of SoCGs and Status.....	4
Table 4-1: Commonality colour coding.....	9
Table 4-2: Status of Commonality at Deadline 7	10
Table 5-1: Deadline 7 Summary of SoCG Matters.....	11

Deleted: 1. Introduction 1¶
 Purpose of this Document 1¶
 The Project 1¶
 Structure of this Document 2¶
 2. Statements of Common Ground 3¶
 3. List of SoCGs and Status 4¶
 4. Commonality 10¶
 5. Commentary at Deadline 5 13¶
 6. Glossary 19¶

Deleted: Table 3-1: List of SoCGs and Status 4¶
 Table 4-1: Commonality colour coding 10¶
 Table 4-2: Status of Commonality 11¶
 Table 5-1: Deadline 5 Summary of SoCG Matters 13¶

1. Introduction

Purpose of this Document

- 1.1 On 21 September 2023, Associated British Ports (“ABP”) submitted an application under section 37 of the Planning Act 2008 (the “Application”) to the Secretary of State for Transport for an order to grant development consent (a “DCO”) for the Immingham Green Energy Terminal (“IGET”) and its associated development. On 19 October 2023 the Planning Inspectorate accepted the Application for Examination.
- 1.2 This Statement of Commonality is provided to assist the Examining Authority (“ExA”) in understanding areas of commonality across the Statements of Common Ground (“SoCGs”) which have been prepared between a range of stakeholders, ABP and Air Products (BR) Limited (“Air Products”).
- 1.3 The document sets out ABP’s and Air Products’ understanding of the stakeholders’ positions, as set out in the SoCGs submitted by ABP to the ExA at Deadline ~~7~~, and summarises agreement, disagreement and matters outstanding between ABP, Air Products and the stakeholders.
- 1.4 This document ~~has been~~ updated throughout the Examination process to reflect changes made within the SoCGs through ongoing discussions with stakeholders. The Statement of Commonality has been prepared in accordance with the ExA’s letter issued in accordance with Rule 8 of Infrastructure Planning (Examination Procedure) Rules 2010 dated 28 February 2024 [PD-007] (“Rule 8 Letter”), which requires ABP to submit a Statement of Commonality, and updates thereto, alongside updated SoCGs at Deadlines 1, 3, 4, 5 and 7 of the Examination Timetable set out in the Rule 8 Letter. ~~Four~~ previous iterations of this Statement of Commonality were submitted to the ExA, at Deadlines 1 [REP1-046], 3 [REP3-042], 4 [REP4-019] and 5 [REP5-029].
- 1.5 This Statement of Commonality submitted at Deadline 7 is the Final Statement of Commonality.
- 1.6 For more detailed information of the respective stakeholders’ positions, in relation to the topics covered in this Statement of Commonality, please refer to the SoCGs.
- ### The Project
- 1.7 ABP is seeking to construct, operate and maintain the IGET, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (“the Port”). The Associated Development in the Application comprises the construction and operation of a green hydrogen production facility (the Associated Development and the IGET are collectively termed “the Project”).
- 1.8 The green hydrogen production facility would be delivered and operated by Air Products. Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the United Kingdom’s (“UK’s”) net zero agenda by helping to decarbonise the UK’s industrial activities, in particular, the heavy transport sector.

Deleted: 5

Deleted: is a “live” document and will be

Deleted: Three

Deleted:] and

Deleted:],¶
This Statement of Commonality is part of a suite of documents which accompanies the Application. A full description of all the Application Documents is provided in the **Introduction to the Application**

Deleted: APP-003] which also accompanies the Application. ...

1.9 A detailed description of the Project is included in **Environmental Statement ("ES") Chapter 2: The Project [AS-069]**.
Structure of this Document

Deleted: REP3-022
Field Code Changed

- 1.10 This Statement of Commonality comprises five chapters as follows:
- a. Chapter 1 (this chapter) introduces the document and its purpose.
 - b. Chapter 2 provides an introduction to the drafting of the SoCGs along with a summary of their structure.
 - c. Chapter 3 provides an up-to-date list of the SoCGs and their status and details the progress to date in agreeing the SoCGs.
 - d. Chapter 4 provides a summary table which indicates the commonality on topics across the suite of SoCGs (and indicates the principal matters outstanding).
 - e. Chapter 5 provides a summarising commentary for the Deadline 7 submission on topic areas where matters are identified as broadly having been 'agreed', 'subject to ongoing discussion' or 'not agreed'.

Deleted: 5
Deleted: or

2. Statements of Common Ground

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

3. List of SoCGs and Status

3.1 This Chapter provides a list of the SoCGs and a summary of the ~~final~~ status of each.

Deleted: current

3.2 ABP and, where relevant, Air Products, have prepared SoCGs with a number of statutory consultees, including statutory undertakers, and other parties who have registered as interested parties. ABP has taken account of the list of SoCGs requested by the ExA in Procedural Decision 8 set out at Annex F of the **Rule 6 letter [PD-005]** dated 8 January 2024 and has either prepared a draft SoCG with the stakeholder listed or made contact with that stakeholder to agree whether an SoCG is required.

3.3 Table 3-1 summarises the status of each SoCG as follows:

a. Final Agreed – the final version of the SoCG has been signed by all parties.

Deleted: , and there are no matters outstanding

~~b. Final – the final version of the SoCG has not been signed by all parties.~~

c. Draft Agreed – a draft SoCG with matters outstanding which has been signed by the stakeholder to confirm it is an accurate description of the matters raised and the current status of each matter but there remain matters outstanding which are yet to be agreed, and engagement continues on these.

d. Draft – a draft SoCG with matters outstanding and is unsigned. The draft SoCG has been drafted by ABP (and/or Air Products) and shared with the stakeholder but the stakeholder has either not yet been able to complete their review in line with their governance process or is unable to sign a draft SoCG. ABP considers that these SoCGs present an accurate description of the matters raised and the status of each matter, based on the engagement that has taken place to date.

3.4 Following Table 3-1, this Chapter provides a more detailed overview of the progress of discussing and agreeing the SoCG with each stakeholder.

3.5 Table 3-1 ~~presents~~ the ~~final~~ status of ~~each~~ SoCG ~~at Deadline 7~~.

Deleted: , and

Deleted: more detailed

Deleted: updates at Paragraphs 3.6 to 3.23, will be updated for each version

Deleted: the Statement of Commonality to provide an update on the progress made in finalising

Table 3-1: List of SoCGs and Status

Stakeholder	ABP Document Reference	Version	DL1	DL2	DL3	DL4	DL5	DL6	DL7	Status
Anglian Water Services Limited	TR030008/EXAM/9.25	4.0	✓	X	✓	X	✓		X	Final Agreed
Cadent Gas Limited	TR030008/EXAM/9.26	4.0	✓	X	✓	✓	X		X	Final Agreed
CLdN Ports Killingholme Limited (CLdN)	TR030008/EXAM/9.23	1.0	✓	X	X	X	X		X	Not required

Inserted Cells

Inserted Cells

Deleted: 3

Deleted: Draft

Deleted: 3

Deleted: Draft

Deleted: Draft

Immingham Green Energy Terminal
9.11 Applicant's Statement of Commonality (Tracked)

Stakeholder	ABP Document Reference	Version	DL1	DL2	DL3	DL4	DL5	DL6	DL7	Status
Corporation of Trinity House of Deptford Strond (Trinity House)	TR030008/EXAM/9.22	3.0	✓	X	✓	X	X	X	✓	Final Agreed
Environment Agency	TR030008/EXAM/9.13	4.0	✓	X	✓	X	✓	X	✓	Final
Harbour Master, Humber (HMH)	TR030008/EXAM/9.19	3.0	✓	✓	X	✓	X	X	✓	Final Agreed
Health and Safety Executive (HSE)	TR030008/EXAM/9.15	3.0	✓	X	X	X	✓	X	✓	Final Agreed
Historic England	TR030008/EXAM/9.21	3.0	✓	X	✓	X	X	X	✓	Final Agreed
Immingham Oil Terminal (IOT) Operators (Associated Petroleum Terminals (Immingham) Limited (APT) and Humber Oil Terminals Trustees Limited (HOTT))	TR030008/EXAM/9.20	2.0	✓	X	X	X	X	✓	X	Final Agreed
Marine Management Organisation (MMO)	TR030008/EXAM/9.16	4.0	✓	X	✓	X	✓	X	✓	Final Agreed
Maritime and Coastguard Agency (MCA)	TR030008/EXAM/9.36	2.0	✓	X	X	✓	X	X	✓	Final Agreed
National Highways	TR030008/EXAM/9.14	4.0	✓	X	✓	X	✓	X	✓	Final Agreed
Natural England	TR030008/EXAM/9.17	4.0	✓	X	✓	X	✓	X	✓	Final Agreed
Network Rail Infrastructure Limited	TR030008/EXAM/9.24	3.0	✓	X	X	X	✓	X	✓	Final

Inserted Cells

Inserted Cells

Deleted: 2

Deleted: Draft

Inserted Cells

Deleted: 3

Deleted: Draft

Deleted: 2

Deleted: Draft

Inserted Cells

Deleted: 2

Deleted: Draft

Deleted: 2

Deleted: Draft

Inserted Cells

Deleted: 1

Deleted: Draft

Deleted: 3

Deleted: Draft

Inserted Cells

Deleted: Draft

Deleted: 3

Deleted: Draft

Inserted Cells

Deleted: 3

Deleted: Draft

Deleted: 2

Deleted: Draft

Stakeholder	ABP Document Reference	Version	DL1	DL2	DL3	DL4	DL5	DL6	DL7	Status
Northern Powergrid	TR030008/EXAM/9.27	3.0	✓	X	✓	X	X	X	✓	Final Agreed
North East Lincolnshire Council (NELC)	TR030008/EXAM/9.12	5.0	✓	X	✓	✓	✓	X	✓	Final Agreed
North East Lindsey Drainage Board (NELDB)	TR030008/EXAM/9.18	4.0	✓	X	X	✓	✓	X	✓	Final Agreed

Inserted Cells

Inserted Cells

Deleted: 2

Deleted: Draft

Inserted Cells

Deleted: 4

Deleted: Draft

Inserted Cells

Deleted: 3

Deleted: Draft

SoCGs requested by ExA in Rule 6 letter and submitted at Deadline 7.

Anglian Water Services Limited

3.6 A Draft SoCG with Anglian Water Services (“AWS”) was originally submitted at Deadline 1 [REP1-060] with subsequent updates submitted at Deadline 3 [REP3-058] and Deadline 5 [REP5-047]. A Final Agreed SoCG has now been submitted at Deadline 7 with one matter not agreed and one matter still under discussion (see Section 5 for further detail).

Deleted: 5

Deleted: and an updated Draft SoCG

Deleted:]. An update to this SoCG was shared with Anglian Water on 5 July 2024 and their comments provided to ABP and Air Products on 10 July 2024. Whilst Anglian Water will only sign the Final SoCG, the content of the Draft SoCG being submitted at Deadline 5 is agreed by the Parties.

Cadent Gas Limited

3.7 A Draft SoCG with Cadent Gas was originally submitted at Deadline 1 [REP1-061] and Deadline 3 [REP3-060]. A Draft Agreed SoCG was then submitted at Deadline 4 [REP4-027]. A Final Agreed SoCG has been submitted at Deadline 7 with one matter still under discussion (see Section 5 for further detail).

Deleted: All connection requirements and technical aspects of protections and working in proximity to Cadent assets are well understood and aligned. The remaining matter still under discussion in the SoCG relates to the protective provisions, where discussions remain ongoing. ABP and Air Products anticipate that these will be successfully concluded prior to Deadline 7. It is therefore expected that a Final Agreed SoCG between the parties will be submitted at Deadline 7.

CLdN Ports Killingholme Limited (“CLdN”)

3.8 A Draft SoCG with CLdN was submitted at Deadline 1 [REP1-058]. Following productive discussions, CLdN and ABP have agreed a form of protective provisions. The protective provisions have been included at Part 10 of Schedule 14 of the draft DCO [REP6-004] submitted by ABP at Deadline 6 of the Examination. CLdN confirmed in a submission to the ExA at Deadline 6 [REP6-027] that “subject to the continued inclusion of the agreed form of PPs in the final version of the draft DCO submitted to the Secretary of State, CLdN withdraws its objection to, and prior representations regarding, the Project as accepted for examination.” On this basis, an SoCG with CLdN is not required.

Deleted: which provide for notice of relevant works and vessel movements, appropriately limiting undue interference with the Port of Killingholme and an indemnity for losses, etc., caused by ABP in specified circumstances.

Deleted: 5

Deleted: in square brackets. Once both parties have completed a number of internal administration steps in relation

Deleted: protective provisions

Deleted: square brackets will be removed and CLdN will withdraw

Corporation of Trinity House of Deptford Strond (“Trinity House”)

3.9 A Draft Agreed SoCG with Trinity House was submitted at Deadline 1 [REP1-057] and an update at Deadline 3 [REP3-056]. A Final Agreed SoCG has been submitted to the ExA at Deadline 7 with all matters agreed.

Deleted: on the matters set out in

Deleted: Statement of Common Ground. It is therefore anticipated that an

Deleted: will

Deleted: be

Deleted: . ABP will keep the ExA updated on this point

Deleted: All matters in this SoCG are agreed and

Deleted: will be

Deleted: and an update

Environment Agency

3.10 A Draft SoCG with the Environment Agency was originally submitted at Deadline 1 [REP1-048] with updates subsequently submitted at Deadline 3 [REP3-046]

and Deadline 5 [REP5-033]. ABP and Air Products provided the Environment Agency with a Final SoCG on 14 August 2024 and the Environment Agency returned a signed SoCG to ABP and Air Products on 15 August 2024 with some minor changes. Whilst ABP and Air Products accept the changes made by the Environment Agency, ABP has made minor amendments to its position in places to correspond with the Environment Agency's changes. Given the timing, ABP has not been able to confirm the Environment Agency's agreement to these minor changes. Therefore a Final SoCG has been submitted at Deadline 7 with 12 matters still under discussion (see Section 5 for further detail). ABP and Air Products are confident a Final Agreed SoCG with the Environment Agency will be submitted at Deadline 8 prior to the close of Examination.

Harbour Master, Humber ("HMH")

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

Health and Safety Executive ("HSE")

3.12 A Draft SoCG with the HSE was submitted at Deadline 1 [REP1-050] and a Draft Agreed SoCG at Deadline 5 [REP5-037]. A Final Agreed SoCG has been submitted at Deadline 7 with all matters agreed.

Historic England

3.13 A Draft SoCG with Historic England was submitted at Deadline 1 [REP1-056] and a Draft Agreed version at Deadline 3 [REP3-054]. A Final Agreed SoCG has been submitted at Deadline 7 with all matters agreed.

Immingham Oil Terminal ("IOT") Operators

3.14 A Draft SoCG with the IOT Operators was submitted at Deadline 1 [REP1-055] and following agreement of all matters with the IOT Operators, a Final Agreed SoCG was submitted at Deadline 6 [REP6-016].

Marine Management Organisation ("MMO")

3.15 A Draft SoCG with the MMO was originally submitted at Deadline 1 [REP1-051] with updates subsequently submitted at Deadline 3 [REP3-050] and Deadline 5 [REP5-039]. A Final Agreed SoCG has been submitted at Deadline 7 with one matter 'not agreed – no material impact' (see Section 5 for further detail).

Maritime and Coastguard Agency ("MCA")

3.16 A Draft SoCG with the MCA was submitted at Deadline 1 [REP1-069] and a Draft Agreed SoCG submitted at Deadline 4 [REP4-033]. A Final Agreed SoCG has been submitted at Deadline 7 with all matters agreed.

National Highways

3.17 A Draft SoCG with National Highways was originally submitted at Deadline 1 [REP1-049] with updates subsequently submitted at Deadline 3 [REP3-048] and Deadline 5 [REP5-035]. A Final Agreed SoCG has been submitted at Deadline 7 with all matters agreed.

Deleted: J. An updated SoCG was shared with the Environment Agency on 28 June 2024 and their comments returned on 4 July 2024. Substantial progress has been made in working to resolve outstanding matters with the Environment Agency, as is reflected in the Draft SoCG being submitted at Deadline 5.

Deleted: All but one matter in this SoCG are agreed and

Deleted: will be

Deleted: J. Updated draft SoCGs were sent to the HSE for review in April

Deleted: May 2024. Due to staff availability, it was not possible for the HSE to review the updated draft in time for submission

Deleted: 4.

Deleted: clean copy of the Deadline 5 SoCG was provided to the HSE on 4 July 2024. The HSE returned a signed

Deleted: on 9 July 2024. A Draft Agreed SoCG with the HSE is now being

Deleted: to the ExA

Deleted: 5.

Deleted: As there are no matters still under discussion with Historic England,

Deleted: will be

Deleted: <#>. ABP and Air Products have been in active discussions with the IOT Operators throughout the Examination to address their outstanding concerns. On 11 July 2024, an agreement was completed between ABP, Air Products and the IOT Operators to address matters raised through engagement with the IOT Operators. The Applicant understands that completion of this agreement will resolve all outstanding matters with the IOT Operators, who will confirm the same to the Examining Authority and ask that their representations are treated as withdrawn. An updated Draft SoCG reflecting the progress that has been made since Deadline 1 in resolving the remaining matters which have been under discussion will be shared with the IOT Operators imminently. ABP will ask the IOT Operators to review the updated SoCG and provide their comments. As an updated draft SoCG is not being submitted at Deadline 5, for consistency reasons, Table 4-2 and the commentary provided in Section 5 of this Statement of Commonality reflect the content of the Deadline 1 draft SoCG with the IOT Operators. ABP and Air Products want to emphasise however that this does not present an accurate reflection of the progress made in working with the IOT Operators to resolve their concerns. It is the intention of ABP and Air Products to submit an updated SoCG with the IOT Operators to the ExA at Deadline 6 which will present an up to date position on the SoCG matters.¶

Deleted: and

Deleted: J. An update to this Draft SoCG is now being submitted at Deadline 5, the content of which has been agreed with the MMO albeit they are not able to sign unt(...

Deleted: All matters in the SoCG are Agreed.

Deleted: will be

Deleted: and an updated Draft SoCG

Deleted: J. A Draft Agreed version of this SoCG is being submitted at

Deleted: . All matters in the SoCG have now been agreed with National Highways.

Deleted: will be

Natural England

3.18 A Draft Agreed SoCG with Natural England was originally submitted at Deadline 1 [REP1-052] with updates subsequently submitted at Deadline 3 [REP3-052] and Deadline 5 [REP5-041]. A Final Agreed SoCG has been submitted at Deadline 7 with seven matters 'not agreed – no material impact' (see Section 5 for further detail).

Deleted: and an updated Draft SoCG

Deleted:] An update to this Draft SoCG is now being submitted at Deadline 5, the content of which has been agreed with Natural England albeit Natural England are only able to sign a Final SoCG. A Final Agreed SoCG will be submitted at Deadline 7.

Network Rail Infrastructure Limited (“Network Rail”)

3.19 A Draft Agreed SoCG with Network Rail was submitted at Deadline 1 [REP1-059] and an update at Deadline 5 [REP5-045]. Network Rail provided comments on the SoCG on 14 August 2024. Given the timing of receipt, ABP and Air Products are unable to reach agreement with Network Rail on a document which includes and responds to Network Rail’s suggested changes. It is understood that Network Rail will therefore submit their own version of the SoCG. ABP and Air Products have prepared a Final (unsigned) SoCG which includes Network Rail’s additions of 14 August and the response to those additions. That document has been submitted at Deadline 7 with one matter not agreed (and two matters agreed subject to that not agreed matter) (see Section 5 for further detail). This Final SoCG sets out the final position of ABP and Air Products on the matters contained within the SoCG, subject to any further representations submitted by Network Rail at Deadline 7.

Northern Powergrid

3.20 A Draft SoCG with Northern Powergrid was submitted at Deadline 1 [REP1-062] and an updated Draft Agreed SoCG at Deadline 3 [REP3-062]. a Final Agreed SoCG has been submitted to the ExA at Deadline 7 with all matters agreed.

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

North East Lincolnshire Council (“NELC”)

3.21 A Draft SoCG with NELC was originally submitted at Deadline 1 [REP1-047], with updates subsequently submitted at Deadline 3 [REP3-044], Deadline 4 [REP4-021] and Deadline 5 [REP5-031]. A Final Agreed SoCG has been submitted at Deadline 7 with all matters agreed.

Deleted: Discussions are progressing regarding the one remaining matter under discussion in relation to protective provisions. An update to this SoCG is not being submitted at Deadline 5 but it is anticipated that

North East Lindsey Drainage Board (“NELDB”)

3.22 A Draft Agreed SoCG with NELDB was originally submitted at Deadline 1 [REP1-053] and an updated Draft Agreed SoCG subsequently submitted at Deadline 4 [REP4-023] and Deadline 5 [REP5-043]. A Final Agreed SoCG has been submitted at Deadline 7 with all matters agreed.

Deleted: will be

Deleted:] and

Deleted:] Discussions are progressing well with NELC and progress has been made on a number of matters. An updated Draft SoCG is therefore being submitted at Deadline 5. NELC has confirmed it agrees with the content of the Draft SoCG being submitted at Deadline 5

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

PD Ports

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

Deleted:] Discussions with NELDB have progressed well since

Deleted: 1 and an updated Draft

Deleted: is being

Deleted: 5

Deleted: [REP2-014

Deleted: REP4-045]

Deleted: ..

4. Commonality

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

Table 4-1: Commonality colour coding

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

- 4.5 Table 4-2 is intended to assist the ExA in understanding the topics which remain under discussion or not agreed at Deadline 7, particularly such topics where the position is shared across more than one stakeholder. Therefore, the categorisation and colour coding in the matrix is intended to represent the broad position per topic (it is not absolute).
- 4.6 There are limitations with this approach: the summary does not identify particular matters within topics – and any commonality (or not) on those matters.
- 4.7 Table 4-2 presents the final position At Deadline 7.

Deleted: In addition, footnotes have been used to indicate exceptions.

Deleted: will be updated for each issue of

Deleted: Statement of Commonality.¶

Table 4-2: Status of Commonality at Deadline 7

*as per Deadline 6 SoCG submission.

**matters are agreed save that Network Rail's agreement is subject to the lift and shift provision being agreed (see SoCG for further detail).

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

Deleted: <#>5 if an updated SoCG has not been submitted then the colour coding presented in Table 4.2 is as it was at its last submission.
.....Section Break (Next Page).....

Commented [TB1]: Please note that there have been changes to the colour coding of some parties listed in Table 4.2 however, this has not been picked up by the 'tracked changes' comparison so please compare Table 4-2 with that from Version 4.0

Deleted: 1

Deleted: submission.

Deleted: **as per Deadline 3 SoCG submission.¶
***as per Deadline 4 SoCG submission.¶

5. Commentary at Deadline ~~7~~

5.1 This Chapter provides a high-level commentary on the ~~status~~ of ~~matters within~~ the ~~Final~~ SoCGs submitted at Deadline ~~7~~.

5.2 Table 5-1 summarises the ~~status~~ of each SoCG submitted at Deadline ~~7~~, in terms of number of matters ~~agreed~~, under discussion ~~or not agreed~~.

Table 5-1: Deadline ~~7~~ Summary of SoCG Matters

*as per Deadline ~~6~~ SoCG submission.

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

*** matters are agreed save that Network Rail's agreement is subject to the lift and shift provision being agreed (see SoCG for further detail).

Stakeholder	Number of Matters Agreed	Number of Matters Under Discussion	Number of Matters Not Agreed	% Matters Agreed
Anglian Water	7	1	1	78
Cadent Gas	1	1	0	50
Corporation of Trinity House	2	0	0	100
Environment Agency	42	12	0	78
HMH	7	0	0	100
HSE	7	0	0	100
Historic England	6	0	0	100
IOT Operators*	8	0	0	100
MCA	3	0	0	100
MMO	30	0	1**	97
National Highways	18	0	0	100
Natural England	62	0	7**	90
Network Rail	2***	0	1	67
Northern PowerGrid	8	0	0	100
NELC	52	0	0	100

Deleted: 5

Deleted: emerging topics that are

Deleted: common interest to stakeholders as highlighted in ...

Deleted: draft

Deleted: 5. This Chapter will be updated for each version of the Statement of Commonality submitted.

Deleted: current

Deleted: 5

Deleted: and

Deleted: 5

Deleted: 1

Deleted: **as per Deadline 3 SoCG submission¶

Deleted: 6

Deleted: 3

Deleted: 0

Deleted: 67

Deleted: ***

Deleted: CLdN*

Deleted: **

Deleted: ***

Deleted: 6

Deleted: 1

Deleted: 86

Deleted: 2

Deleted: 5

Deleted: 29

Deleted: **

Deleted: 3

Deleted: 7

Deleted: 30

Deleted: ***

Deleted: ****

Deleted: 57

Deleted: 19

Deleted: 12****

Deleted: 75

Deleted: 0

Deleted: 2

Deleted: 0

Deleted: **

Deleted: 7

Deleted: 1

Deleted: 89

Deleted: 49

Deleted: 3

Deleted: 94

Stakeholder	Number of Matters Agreed	Number of Matters Under Discussion	Number of Matters Not Agreed	% Matters Agreed
NELDB	9	0	0	100

5.3 The commentary below for Deadline 7 should be read keeping in mind that of the 15 SoCGs submitted at Deadline 7:

- 13 have been signed and have been submitted as 'Final Agreed'; and
- Two (Environment Agency and Network Rail) have not been signed by the stakeholder and have been submitted as 'Final'. In the case of the Environment Agency, a Final Agreed SoCG will be submitted at Deadline 8 for the reasons explained earlier in Paragraph 3.10. In the case of Network Rail, it is understood that the stakeholder will submit their own version of the SoCG.

5.4 The Final Agreed SoCG with the JOT Operators was submitted at Deadline 6 and it is this version that has been considered in the commentary below.

- At Deadline 7, the topics where matters are still under discussion are:
- Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage – one matter is still under discussion with AWS (Matter No. 2 in Table 3-1 of the SoCG). AWS made an offer to supply potable water to the jetty. ABP reviewed this offer and updated the flow requirements on 19 March 2024. These flow requirements are still being evaluated by AWS (though does not impact the Air Products' facility). The use of non-potable water for the supply to the fire main is also still under consideration by AWS.
 - Draft DCO (including Protective Provisions) – one matter is still under discussion with Cadent regarding Protective Provisions. The Protective Provisions in Cadent's favour remain under discussion between the parties. ABP's preferred draft Protective Provisions were included with square brackets on the face of the draft DCO at Schedule 14, Part 7 submitted to the Examination at Deadline 6 [REP6-004]. In the iteration being submitted at Deadline 7, the square brackets will be removed; however, these provisions are not yet agreed between the parties. ABP and Air Products remain confident that agreement should be reached on the Protective Provisions and side agreement with Cadent by the close of Examination and a further update will be provided to the ExA in its Deadline 8 cover letter.
 - Draft DCO (including Protective Provisions) and design – 12 related matters are still under discussion with the Environment Agency, all of which relate to the protection of the existing Environment Agency flood defence through a bespoke flood defence agreement and protective provisions. Constructive discussions are still underway concerning drafting details therefore these matters 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

- Deleted: 8
- Deleted: 1
- Deleted: 89
- Deleted: 5
- Deleted: nine
- Deleted: 5
- Deleted: Three (the HSE, National Highways and NELDB)
- Deleted: Draft
- Deleted: Five (Anglian Water, the
- Deleted: , MMO, Natural England
- Deleted: NELC) have been agreed by the stakeholders but
- Deleted: therefore
- Deleted: Draft'; and
- Deleted: One (Network Rail) has not been agreed
- Deleted: stakeholder as the stakeholder is yet to return comments and therefore is being submitted as 'Draft'. A further two SoCG submitted at Deadline 1 (CLdN and the
- Deleted:), three SoCGs submitted at Deadline 3 (Trinity House, Historic England and Northern Powergrid) and three SoCGs submitted at Deadline 4 (Cadent Gas, HMM and the MCA) have not been submitted at Deadline 5 for the reasons explained in section 3 of this Statement of Commonality. The previous submitted versions of these SoCGs have
- Deleted: Table 4-2 shows that there are a large number of topics which are not of particular interest to some parties. This reflects the reality that different parties have different technical and professional interests, and/or particular local interests, which inevitably focuses interest on particular topics. In general:¶ The statutory bodies, such as the Environment Agency, Natural England, the MMO and Historic England, are particularly focussed on environmental topics and less focussed on design and operation and maintenance matters;¶ The statutory undertakers, such as Anglian Water Services, Cadent Gas, Northern Powergrid and Network Rail, are generally interested in matters relating to utility connections and protective provisions and how their assets will be protected in the construction and operation phases of the project; ¶ Other port operators and businesses, such as CLdN and the IOT Operators, are generally interested in how the Project may impact their existing operations in regard to navigational safety and major accidents and disasters; ¶ (...)
- Deleted: have broadly been agreed
- Deleted: :¶ (...)
- Deleted: with NELC regarding this topic.
- Deleted: <#>Construction (including CEMP and CTMP) – over 92% of related matters have been agreed. One (...)
- Deleted: <#>over 79% of related matters have now been agreed. Matters
- Deleted: <#>under discussion with Anglian Water, the Environment Agency and NELDB regarding this topic
- Deleted: <#>Decommissioning - over 75% of related matters have been agreed with one matter still under (...)

5.5 the EA can confirm its final satisfaction on the matter to the Examining Authority.

At Deadline 7, the topics where matters are **not agreed** are:

a. **Draft DCO (including protective provisions)**, with Network Rail – as explained further in the SoCG with Network Rail that has been submitted at Deadline 7, the protective provisions for Network Rail have been agreed with the exception of **matters arising from** Air Products' need to acquire a permanent easement under the railway for the purposes of the pipeline corridor in Work No. 6. In negotiations on the potential form of easement (to be entered into voluntarily), Network Rail **required** the ability to compel Air Products to move or relocate ('lift and shift') the development authorised by the **draft DCO** to accommodate works undertaken by Network Rail and ultimately terminate the easement where lift and shift is not **possible**. Air Products are not able to 'shift' the pipeline comprised in the authorised development. Further, the termination of the easement in the absence of an alternative pipeline would **render** Work No. 7 and therefore the entire hydrogen production facility **unusable**. Air Products would welcome Network Rail conceding that lift and shift provisions are not necessary or appropriate in the circumstances of the authorised development and entering into an appropriate easement voluntarily. However, In light of Network Rail's position, ABP may need recourse to the use of compulsory acquisition powers to acquire the relevant easement. In those circumstances, Air Products' and ABP's position is that the protective provisions in favour of Network Rail should not limit the use of those powers by making them subject to Network Rail's approval. For further detail, see the representation submitted by ABP and Air Products, at Deadline 5 [REP5-053] and the SoCG.

b. **Draft DCO (including protective provisions) with the MMO** – there is one matter within the SoCG with the MMO (matter G1) which the Parties do not agree on. In this case, the MMO has confirmed the agreement or otherwise of this matter will have no material impact. The MMO presented their final and full position regarding consents with the drafting of the **draft DCO** and Deemed Marine Licence ("DML") at Deadline 4 [REP4-052]. There are a number of matters relating to **Articles 46(12) – (16), Article 63(5)(b), Paragraphs 24–27** of the DML and **Paragraph 3(1) of Schedule 17** of the **draft DCO** where agreement cannot be reached. The Parties therefore recognise that it will be for the Secretary of State to determine which of the aforementioned provisions are to be included in the **draft DCO**. Further information is provided in the **Final Agreed** SoCG submitted at Deadline 7.

c. **Draft DCO and Water Use, Water Quality, Coastal Protection, Flood Risk and Drainage with AWS** – there is one matter within the SoCG with Anglian Water (Matter No. 6 in Table 3-1 of the SoCG) which the Parties do not agree on. AWS is seeking a pre-commencement requirement for a Water Resources Assessment. ABP and Air Products submitted representations to the ExA at Deadline 6 [REP6-023] explaining why such a pre-commencement requirement does not comply with the tests for imposing a requirement. By reference to those tests, the pre-commencement requirement sought by AWS is unnecessary, unreasonable, and is imprecise. In particular, water use is

- Deleted: broadly still under discussion**
- Deleted:** Design – all three matters relating to this topic are still under discussion, one each with the Environment Agency and NELDB.¶
- Deleted:** Operation and Maintenance – there is only one matter relating to this topic which has been under discussion with the IOT Operators (albeit this matter has now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6). ¶
- Deleted:** Major Accidents and Disasters – approximately 67% of matters relating to this topic are still under discussion. Discussions are ongoing with the HSE to resolve outstanding matters Related matters being discussed with the IOT Operators have now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6. ¶
- Deleted:** Marine Transport and Navigation – approximately 61% of matters relating to this topic are still under discussion. Discussions are ongoing with CLdN, and Harbour Master Humber to resolve outstanding matters. Related matters being discussed with the IOT Operators have now been agreed and will be reported as such in an updated SoCG to be submitted at Deadline 6. ¶
- Deleted:** Draft DCO (including protective provisions) – approximately 47% of the related matters are still under discussion with six stakeholders in total. Active discussions are underway with these stakeholders, particularly regarding protective provisions and positive progress is being made. ABP and Air Products are confident these matters will continue to be resolved as the Examination progresses. The exception to this is the Protective Provisions with Network Rail (see Paragraph 5.8 for further information).¶
- Deleted:** In summary, the topics where some matters are not agreed are:¶
- Deleted:** 5
- Deleted:** require
- Deleted:** feasible
- Deleted:** mean
- Deleted:** could
- Deleted:** operate.
- Deleted:** it is anticipated that Network Rail would withhold its consent under paragraph 55(6) of its protective provisions to the exercise
- Deleted:** such a right or seek
- Deleted:** impose equivalent conditions. The Applicant is therefore submitting
- Deleted:** (a) a draft Development Consent Order which includes Network Rail protection provisions which have been revised to ensure that the provisions do not amou...
- Deleted:** reasons for those together with consideration of the relevant statutory tests under sections 127 and 138 of the Planning Act 2008. As detailed in the
- Deleted:** submitted at Deadline 5, Network Rail have confirmed that due to the impasse on the lift and shift provisions, Network Rail will set out and submit to the E...
- Moved down [1]:** <#> matters within the Natural England SoCG which the Parties do not agree on. In all of these cases, Natural England has confirmed the
- Deleted:** <#>HRA – there are 12
- Deleted:** <#>SoCG submitted at Deadline 5.¶
- Deleted:** <#>Draft
- Deleted:** <#>5

regulated through the Environmental Permit and that separate system of regulation should not be duplicated through requirements of the DCO.

- d. HRA – there are seven matters within the Natural England SoCG which the Parties do not agree on. In all of these cases, Natural England has confirmed the agreement or otherwise of these matters will have no material impact. These matters relate to various aspects of the HRA as detailed in the Final Agreed SoCG submitted at Deadline 7.

Moved (insertion) [1]

6. Glossary

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