



Immingham Green Energy Terminal

9.11 Applicant's Statement of Commonality (Tracked)

Infrastructure Planning (Examination Procedure) Rules 2010
Volume 9

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<u>6.0</u>	<u>20 August 2024</u>	<u>Deadline 8</u>

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1. Introduction

Purpose of this Document

- 1.1 On 21 September 2023, Associated British Ports ("ABP") submitted an application under section 37 of the Planning Act 2008 (the "Application") to the Secretary of State for Transport for an order to grant development consent (a "DCO") for the Immingham Green Energy Terminal ("IGET") and its associated development. On 19 October 2023 the Planning Inspectorate accepted the Application for Examination.
- 1.2 This Statement of Commonality is provided to assist the Examining Authority ("ExA") in understanding areas of commonality across the Statements of Common Ground ("SoCGs") which have been prepared between a range of stakeholders, ABP and Air Products (BR) Limited ("Air Products").
- 1.3 The document sets out ABP's and Air Products' understanding of the stakeholders' positions, as set out in the SoCGs submitted by ABP to the ExA at Deadline 8, 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. Five previous iterations of this Statement of Commonality were submitted to the ExA, at Deadlines 1 [REP1-046], 3 [REP3-042], 4 [REP4-019], 5 [REP5-029] and 7 [REP7-021].
- 1.5 This Statement of Commonality submitted at Deadline 8 is the Final Statement of Commonality and reflects the update to the Environment Agency SoCG which has changed from 'Final' to 'Final Agreed' and the update to the Cadent Gas Ltd SoCG with all matters now agreed.
- 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

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zero agenda by helping to decarbonise the UK's industrial activities, in particular, the heavy transport sector.

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

Structure of this Document

1.10 This Statement of Commonality comprises five chapters as follows:

- a. Chapter 1 (this chapter) introduces the document and its purpose.
- b. Chapter 2 provides an introduction to the drafting of the SoCGs along with a summary of their structure.
- c. Chapter 3 provides an up-to-date list of the SoCGs and their status and details the progress to date in agreeing the SoCGs.
- d. Chapter 4 provides a summary table which indicates the commonality on topics across the suite of SoCGs (and indicates the principal matters outstanding).
- e. Chapter 5 provides a summarising commentary for the Deadline ~~8~~ submission on topic areas where matters are identified as broadly having been 'agreed', 'subject to ongoing discussion' or 'not agreed'.

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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:
- a. An introduction, setting out the purpose and structure of the document and the parties which the SoCG is prepared in respect of
 - b. A summary of engagement undertaken and information shared in order to draft the position and reach an agreed status of Matters within the SoCG
 - c. 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:
- a. Matter agreed.
 - b. Matter not agreed.
 - c. 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:
- a. 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.
- 3.2 ABP and, where relevant, Air Products, have prepared SoCGs with a number of statutory consultees, including statutory undertakers, and other parties who have registered as interested parties. ABP has taken account of the list of SoCGs requested by the ExA in Procedural Decision 8 set out at Annex F of the **Rule 6 letter [PD-005]** dated 8 January 2024 and has either prepared a draft SoCG with the stakeholder listed or made contact with that stakeholder to agree whether an SoCG is required.
- 3.3 Table 3-1 summarises the status of each SoCG as follows:
- Final Agreed – the final version of the SoCG has been signed by all parties.
 - Final – the final version of the SoCG has not been signed by all parties.
 - Draft Agreed – a draft SoCG with matters outstanding which has been signed by the stakeholder to confirm it is an accurate description of the matters raised and the current status of each matter but there remain matters outstanding which are yet to be agreed, and engagement continues on these.
 - Draft – a draft SoCG with matters outstanding and is unsigned. The draft SoCG has been drafted by ABP (and/or Air Products) and shared with the stakeholder but the stakeholder has either not yet been able to complete their review in line with their governance process or is unable to sign a draft SoCG. ABP considers that these SoCGs present an accurate description of the matters raised and the status of each matter, based on the engagement that has taken place to date.
- 3.4 Following Table 3-1, this Chapter provides a more detailed overview of the progress of discussing and agreeing the SoCG with each stakeholder.
- 3.5 Table 3-1 presents the final status of each SoCG at Deadline 8.

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Table 3-1: List of SoCGs and Status

Stakeholder	ABP Document Reference	Version	DL1	DL2	DL3	DL4	DL5	DL6	DL7	DL8	Status
Anglian Water Services Limited	TR030008/EXAM/9.25	4.0	✓	X	✓	X	✓	X	✓	X	Final Agreed
Cadent Gas Limited	TR030008/EXAM/9.26	5.0	✓	X	✓	✓	X	X	✓	✓	Final Agreed
CLdN Ports Killingholme Limited (CLdN)	TR030008/EXAM/9.23	1.0	✓	X	X	X	X	X	X	X	Not required

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Stakeholder	ABP Document Reference	Version	DL1	DL2	DL3	DL4	DL5	DL6	DL7	DL8	Status
Corporation of Trinity House of Deptford Strond (Trinity House)	TR030008/EXAM/9.22	3.0	✓	X	✓	X	X	X	✓	X	Final Agreed
Environment Agency	TR030008/EXAM/9.13	5.0	✓	X	✓	X	✓	X	✓	✓	Final Agreed
Harbour Master, Humber (HMH)	TR030008/EXAM/9.19	3.0	✓	✓	X	✓	X	X	✓	X	Final Agreed
Health and Safety Executive (HSE)	TR030008/EXAM/9.15	3.0	✓	X	X	X	✓	X	✓	X	Final Agreed
Historic England	TR030008/EXAM/9.21	3.0	✓	X	✓	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	X	Final Agreed
Marine Management Organisation (MMO)	TR030008/EXAM/9.16	4.0	✓	X	✓	X	✓	X	✓	X	Final Agreed
Maritime and Coastguard Agency (MCA)	TR030008/EXAM/9.36	2.0	✓	X	X	✓	X	X	✓	X	Final Agreed
National Highways	TR030008/EXAM/9.14	4.0	✓	X	✓	X	✓	X	✓	X	Final Agreed
Natural England	TR030008/EXAM/9.17	4.0	✓	X	✓	X	✓	X	✓	X	Final Agreed
Network Rail Infrastructure Limited	TR030008/EXAM/9.24	3.0	✓	X	X	X	✓	X	✓	X	Final

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Stakeholder	ABP Document Reference	Version	DL1	DL2	DL3	DL4	DL5	DL6	DL7	DL8	Status
Northern Powergrid	TR030008/EXAM/9.27	3.0	✓	X	✓	X	X	X	✓	X	Final Agreed
North East Lincolnshire Council (NELC)	TR030008/EXAM/9.12	5.0	✓	X	✓	✓	✓	X	✓	X	Final Agreed
North East Lindsey Drainage Board (NELDB)	TR030008/EXAM/9.18	4.0	✓	X	X	✓	✓	X	✓	X	Final Agreed

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SoCG Submission Summary

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 been submitted at Deadline 7 [REP7-045] with one matter not agreed and one matter still under discussion (see Section 5 for further detail).

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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 was submitted at Deadline 7 [REP7-047] with one matter still under discussion (see Section 5 for further detail). A Final Agreed SoCG has been submitted at Deadline 8 with the matter that was under discussion regarding Protective Provisions now agreed.

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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.

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 [REP7-041] with all matters agreed.

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 **accepted** the changes made by the Environment Agency, ABP made minor amendments to its position in places to correspond with the Environment Agency's changes. Given the timing, ABP **was** not able to confirm the Environment Agency's agreement to these minor changes. Therefore a Final SoCG **was** submitted at Deadline 7 [REP7-025] with 12 matters still under discussion (see Section 5 for further detail). A Final Agreed SoCG with the Environment Agency **has been** submitted at Deadline 8.

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 [REP7-037] 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 [REP7-029] 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 [REP7-039] 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 [REP7-031] 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 [REP7-053] 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

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Deadline 5 [REP5-035]. A Final Agreed SoCG has been submitted at Deadline 7 [REP7-027] with all matters agreed.

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 [REP7-033] with seven matters 'not agreed – no material impact' (see Section 5 for further detail).

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 ~~were~~ unable to reach agreement with Network Rail on a document which ~~included~~ and ~~responded~~ to Network Rail’s suggested changes, Network Rail therefore ~~submitted~~ their own version of the SoCG at Deadline 7 [REP7-068]. ~~ABP and Air Products prepared a Final (unsigned) SoCG which included Network Rail’s additions of 14 August and the response to those additions. That document was submitted at Deadline 7 [REP7-043] with one matter not agreed (and two matters agreed subject to that not agreed matter) (see Section 5 for further detail). The differences between the document provided by Network Rail to ABP and Air Products on 14 August and submitted by Network Rail at Deadline 7 were not substantive and therefore the~~ Final SoCG submitted at Deadline 7 sets out the final position of ABP and Air Products on the matters contained within the SoCG.

Northern Powergrid

3.20 A Draft SoCG with Northern Powergrid was submitted at Deadline 1 [REP1-062] and an updated Draft Agreed SoCG at Deadline 3 [REP3-062]. A Final Agreed SoCG has been submitted to the ExA at Deadline 7 [REP7-049] with all matters agreed.

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 [REP7-023] with all matters agreed.

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 [REP7-035] with all matters agreed.

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

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following submissions **[REP2-014 and REP4-045]** and therefore does not consider an SoCG between the parties is required.

4. Commonality

- 4.1 This Chapter of the Statement of Commonality provides a summary of the topics and material matters within in each topic covered in each SoCG and demonstrates where there is commonality in the matters 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 8, 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 8.

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Table 4-2: Status of Commonality at Deadline 8

*as per Deadline 6 SoCG submission.

** as per Deadline 7 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)

**** includes sub matters not agreed but with no material impact

	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	Green		Green			Green																												
Corporation of Trinity House**	Green					Green													Green															
Environment Agency**	Yellow	Green	Green	Green		Green		Yellow	Green		Green		Green		Green								Green	Yellow		Green	Green	Green				Green		
HMH**	Green					Green													Green														Green	
HSE**	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							****
Network Rail**	Red		***																															
Northern PowerGrid**	Green		Green			Green																												

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	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
NELC**																																	
NELDB**																																	

5. Commentary at Deadline 8

5.1 This Chapter provides a high-level commentary on the status of matters within the Final SoCGs at Deadline 8.

5.2 Table 5-1 summarises the status of each SoCG at Deadline 8 in terms of number of matters agreed, under discussion or not agreed.

Table 5-1: Deadline 8 Summary of SoCG Matters

*as per Deadline 6 SoCG submission.

**as per Deadline 7 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	<u>2</u>	<u>0</u>	0	<u>100</u>
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

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Stakeholder	Number of Matters Agreed	Number of Matters Under Discussion	Number of Matters Not Agreed	% Matters Agreed
NELC**	52	0	0	100
NELDB**	9	0	0	100

5.3 The commentary below for Deadline 8, should be read keeping in mind that, of the 16 SoCGs, 15 have been submitted as 'Final Agreed' and one remains as 'Final' as set out below:

a. The 'Final Agreed' SoCG with the EA has been submitted at Deadline 8. 13 SoCGs were submitted as 'Final Agreed' at Deadline 7.

5.4 The 'Final Agreed' SoCG with the IOT was submitted at Deadline 6.

b. The 'Final' SoCG with Network Rail was submitted at Deadline 7 [REP7-043]. The stakeholder submitted their own version of the SoCG at Deadline 7 [REP7-068].

5.5 At Deadline 8, the topics where matters are still under discussion are:

a. 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.

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

5.6 At Deadline 8, 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 [REP7-043], 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

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Deleted: <#>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. ¶

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Deleted: <#>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. ¶

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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 [\[REP7-031\]](#).
- 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 regulated through the Environmental Permit and that separate system of regulation should not be duplicated through requirements of the DCO.

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 [\[REP7-033\]](#).

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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