

**Meeting Note**

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| <b>File reference</b> | <b>110519_EN010016_Meeting note</b> |
| <b>Status</b>         | <b>Final</b>                        |
| <b>Author</b>         | <b>Nik Perepelov</b>                |

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| <b>Meeting with</b>        | <b>RES/North Blyth Energy Limited (NBEL)</b>  |
| <b>Meeting date</b>        | <b>19 May 2011</b>  |
| <b>Attendees (IPC)</b>     | <b>Kath Haddrell (Case Leader)<br/>Lynne Franklin (Lawyer)<br/>Nik Perepelov (Assistant Case Officer)</b> |
| <b>Attendees (non IPC)</b> | <b>Chris Lawson<br/>Donna Brown<br/>Richard Guyatt<br/>Claire Rees</b>                                    |
| <b>Location</b>            | <b>IPC offices, Bristol</b>   |

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| <b>Meeting purpose</b> | <b>To discuss a revised draft development consent order (DCO)</b> |
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| <b>Summary of key points discussed and advice given</b> | <p><b>Project update</b></p> <p>Application documents are being finalised and the anticipated date for submission remains late August 2011. The Marine Management Organisation (MMO) are currently drafting the Marine Licence and an application for an Environmental Permit is yet to be made. Copies of the draft environmental statement will be sent to s.42 consultees.</p> <p>The IPC will monitor the need for further outreach in the vicinity of the proposal site.</p> <p><b>The draft DCO</b></p> <p>The recent issue-specific hearing held in connection with the Rookery South Energy from Waste proposal has highlighted the importance of careful and rigorous drafting of the DCO. The IPC advised that given the relatively short period of time allowed to examine the application, technical drafting issues should be resolved ahead of submission as far as possible.</p> <p>The model provision is being used to require consent from 'the Secretary of State' in order to transfer the benefit of the DCO although it was also noted that NBEL is considering restricting the benefit of compulsory acquisition powers to the undertaker. RES/NBEL were advised to discuss with DECC and any other</p> |
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relevant Department how obtaining consent might work in practice. The examining authority (ExA) may view this as a procedural matter.

RES/NBEL hope to agree voluntary arrangements for the acquisition of rights over land owned by statutory undertakers. These discussions could be evidenced in the Statement of Reasons and/or any Statements of Common Ground. Where voluntary arrangements are not possible, ministerial certification will be required before the DCO can lawfully authorise compulsory acquisition of special category land. The IPC encourages developers to begin discussions with relevant departments about these certificates as early as it is appropriate to do so.

It was noted that NBEL hope to obtain a generation licence shortly which they consider will bring them within the category of statutory undertaker under s.129 (1) (e) of the Planning Act 2008 (PA 2008) and s.8 of the Acquisition of Land Act 1981. This would mean that because NBEL would be a statutory undertaker the requirement for special parliamentary procedure (under s.128 (2)) would not apply if a representation by a statutory undertaker or local authority in relation to compulsory acquisition of their land was not withdrawn before the completion of the examination.

It would be helpful to submit with the application a schedule of the applicant's likely timescales for obtaining ministerial certificates if required (and indeed any other consents/licences). The ExA may choose to set a deadline within the 6 month examination timetable by which date it will need to be satisfied that these matters have been resolved.

RES/NBEL are proposing to apply s.78 and s.79 of the Town and Country Planning Act 1990 (TCPA 1990), with relevant amendments made to that Act. IPC advised that any such application of TCPA 1990 should be within the powers of PA 2008, so RES/NBEL may wish to consider the drafting further having regard for example to:

- the implications of applying s.79 TCPA (power of the Secretary of State to vary scheme on appeal) given the power under s114 of PA 2008 relating to material changes to an application and that changes to a DCO must be made in accordance with s153 and Schedule 6 of PA 2008
- modifying the preamble in article 8 relating to the power to impose conditions under s.72 of TCPA 1990 (given the power to impose requirements under s.120(1) of PA 2008

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|  | <p><b>Other matters discussed</b></p> <p>RES/NBEL are in the process of determining whether an Appropriate Assessment may be required. IPC advised that a 'no significant effects' report or information sufficient to enable the competent authority to carry out an appropriate assessment should be included with the application. RES/NBEL should look at the IPC advice note for further guidance about what information should be provided.</p> |
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| <b>Specific decisions/<br/>follow up<br/>required?</b> | <p>IPC and RES/NBEL to hold further meetings on the application material relating to compulsory acquisition and further drafts of the DCO.</p> <p>IPC to provide RES/NBEL with a contact within The Stationery Office to advise on preparing Statutory Instruments.</p> |
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| <b>Circulation<br/>List</b> | Attendees |
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