

# CAH3\_NETZERO\_SESSION1\_19102022

00:53

Good morning everyone. Can I check that everyone can hear me clearly? And can the case team confirm that the livestream and recording of this event have commenced? It's now 10 o'clock and this compulsory acquisition hearing in relation to the application made by net zero Teesside power limited and Net Zero North Sea storage limited for the proposed Net Zero Teesside project is now open. My name is Beth Davis. I'm a chartered geologist and a planning inspector. I've been appointed by the Secretary of State for levelling up housing communities to be a member of the panel of inspectors examining this application. Today, I'll be going through the management of the event and introductions. I'll now ask my colleagues to introduce themselves.

01:42

Good morning. My name is Susan hunt. I'm a charter town planner, and I've been appointed by a Secretary of States to be a member of the panel of inspectors examining this application. Now I'll be leading the discussion on compulsory acquisition matters today.

01:59

Good morning, my name is Kevin Gleason. I'm also a chartered town planner. And I've been appointed by the Secretary of State's to be the lead member of the panel for the examination, stay over taking notes when the actions

02:12

together we constitute the examining authority for this application and we will be reporting to the Secretary of State for business energy and industrial strategy. The recommendation as to whether the development consent order should be made. We suppose supported by a number of colleagues from the planning inspectorate, tillable sauce and Ted Blackmore are here today in Middlesboro. Paige Hanlon, the case manager for the project and Phoebe chalice from the case team providing online support. If you have any questions regarding today or the application process in general, please direct these to the case team via the email address on the correspondence or on the national infrastructure website. And they'll be happy to help. Is there anyone here today who was not at the issue specific hearing yesterday? That includes people online. Okay, I will skip some of the housekeeping in. So this morning, we intend to take a short break at around 1130. If it looks like the hearing will continue for long beyond then, for the purpose of identification for the benefit of those who may be watching the Digital recording later. Could I ask that at every point at which you speak you give your name and if you're representing an organisation who it is that you represent. Because the digital recordings that we make are retained and published, they form a public record that can contain your personal information and to which the general data protection regulations apply. The planning inspectors practice is to retain and publish recordings for a period of five years from the Secretary of State's decision. Consequently, if you participate in today's meeting, it's important that you understand that you will be live streamed and recorded and the digital recording will be published. Are there any questions with regard to this matter? We haven't been informed that there are any fire alarm tests or drills today. So in the event of a fire

alarm, please exit fire any of the doors in the room and use the stairs to the ground floor and then congregate outside the reception area. Does anyone have any questions or concerns about the technology or the general management of today's event? Thank you. So the purpose of holding the hearing today, it will be a structured discussion led by Mrs. Hunt based on the published agenda. The purpose of the hearing is for us to seek clarification on matters related to compulsory acquisition to ensure that we have all the information that we need to make our recommendation to the Secretary of State. compulsory acquisition hearings can also take evidence in relation to applications through the development consent order for temporary possession or use of land or rights. parties with an interest in land affected are known as affected persons and all have a right to be heard in relation to any objection about the effects of a compulsory acquisition request on their interests in land. A member of the effective persons are in attendance and are requested to speak on such matters today. I'll run through the introduction shortly. The first hearing into compulsory acquisition matters was held in May, that high level hearing assisted examining authority and developing an early and broad understanding of the compulsory acquisition and related provisions. A second hearing was held in July which provided an update into negotiations. A number of documents have since been received which provide further detail into such matters, both from the applicants and affected persons. These included answers to the excess first and second written questions, which are PD 12 and PD 16, and a range of further written submissions. We've had the opportunity to consider all the documents up to those received a deadline nine on Thursday the sixth of October. These are provided a greater level of understanding of the compulsory acquisition issues. However, it is noted the majority of negotiations remain unresolved and Mrs. Hunt will remark on this shortly. It's expected that both the applicants and the affected persons will provide updates today which will result in productive discussions and lead to a conclusion on a number of the outstanding issues. So rule 14 Two of the examination procedure rules requires that at the start of the hearing, the examining authority shall identify the matters to be considered at the hearing. The agenda for these hearings was placed on the pins website on the 12th of October 2022. Mrs. Hunt will lead a discussion on the following items.

06:45

Number three the change the recent change requests for the tests of section 122 of the Planning Act 2008. Being the purpose for which compulsory acquisition may be authorised, which will be based on updates on the progress of negotiations provided by the applicants and will then hear from any affected persons present. Five an update on the proposed use of temporary possession powers six an update in relation to Crown land seven protected provisions relating to statutory undertakers both standard and bespoke, and eight, an update on statements of common ground relevant to affected parties. Ultimately, we will be examining the application for compulsory acquisition rights in the context of the powers provided by the Planning Act 2008. Specifically, sections 122 and 123. In brief, will need to test and advise the Secretary of State on whether the land and rights that are sort of required to build or facilitate the proposed development whether there is a compelling case in the public interest for the land or rights to be compulsorily acquired. If what is sought is legitimate, necessary, reasonable and proportionate. It is for the applicants to demonstrate that all of the proposed compulsory acquisition powers that it seeks are justified within this framework that all reasonable alternatives have been explored. There should also be a reasonable prospect of the applicants having the funds available to implement any compulsory acquisition rights that may ultimately be granted by the Secretary of State in the time allowed with any than any development consent order. The XA will ultimately form a view on

each of the requests for compulsory acquisition powers and whether or not there is a compelling case in the public interest and not just on the submissions and evidence put before us today. For the purposes of this hearing, we assume that the representatives of the applicant the affected persons, the statutory authorities, and the local authorities, are reasonably familiar with the legislative policy and guidance framework and with the process. Please note that we may add other issues for consideration as we progress and there will be an opportunity to raise other relevant business towards the end of item 10 on the agenda will conclude the hearing as soon as all relevant contributions have been made and all questions asked and responded to. Also, Can I remind you that the examination is a predominantly written process. Therefore, if you can't answer the questions that are being asked or require time to get the information requested, then please indicate you need to respond in writing for submission by deadline 11 On Wednesday, the 26th of October. Please also note that the FAA issued a third round of written questions some of which relates to compulsory acquisition matters on Thursday the 13th of October. There are no further hearings or written questions timetables. Given that the closer the examination is only some three weeks away. It may be helpful to have to hand or open on your device copies of various documents. The key documents are the development consent order revision aid, which is rep 8003 compulsory acquisition schedule which is rep 902, to the statement of reasons, as 141 and as 200, the book of reference rep 6007, land plans, rep 6014, works plans, rep 6016, Crown plans rep 6015 and the Guide to land plan plots, which is rep six zero 11. I've quoted the examination library references at the latest versions. We do not foresee a need to screen share any documents. But if you do need to display a plan or document to illustrate a point, please refer to the examination library reference so that the case team can ensure the correct document is displayed. Finally, may I remind you that the focus of today's hearing is explicitly on the proposed compulsory acquisition powers and specific parcels of land or legal interests in parcels of land. And we will not be taking any submissions or evidence on any other aspects of the proposed development, including its merits or wider concerns. There will be other opportunities to speak to us on other aspects of this afternoon's issue specific hearing six relating to environmental matters. Similarly, we cannot take evidence on the quantum of compensation that may be sought or awarded to any individual affected person, or the application of the compensation code as this is strictly outside the scope of our Terms of Reference.

11:32

To complete a preliminary item about the purpose of hearing today, may I request all affected persons who make an oral present representation today to submit a follow up written submission after this hearing by deadline 11, which is Wednesday the 26th of October. written submissions should be based on your representation today rather than new material, but they can include more detail and collaborative, cooperative or supporting evidence. Does anyone have any comments on the hearing arrangements and agenda or the purpose of the hearing? On that, take the introductions from participants here in Middlesboro. And on teams who have registered to speak at the hearing. So if you're a representative, please state whom you represent. Please can you also state how you wish to be addressed? So for the applicants.

12:24

Morning, Madam, my name is Harry Woodfill. Park kings counsel. I appear together with Mrs. ability for of counsel to my left and instructed by Pinsent Masons on behalf of the applicants, it's also possible that today, you may hear from two other speakers who are sat to my right. Mr. Jack Bottomly, who's

one across from me, Project Engineer at BP. And then at the end of the table, Mr. Harry Stubbs from Darko McLaren.

12:57

Thank you Mr. Phillpotts. From the local authority

13:04

on a map My name is Adrian Miller. I'm head of planning and development and rank on Cleveland Brock Council.

13:10

Thank you, Mr. Miller. Was there in one online representing the other local authorities and anybody representing South T Development Corporation

13:25

Yes, morning. My name is Tom Henderson solicitor and partner represent

13:34

Thanks Mr. Henderson. And then the other affected persons Do we have anyone from PDT sport?

13:45

Yes, morning. My name is Peter Nesbitt, former solicitor and partner at eversheds Sutherland. I'm here representing PDT sport limited and two side wind farm limited.

14:00

Thank you Mr. Nesbitt. Red curb bulk terminal.

14:04

Good morning. John Webster partner at Russell Kirk LLP appearing on behalf of red carpet limited.

14:13

Thank you Mr. Webster. Same call.

14:21

Good morning madam. Andrew bias sorry Forgive me Andrew bias instructed by DLA Piper appearing on behalf of cemco

14:30

Thank you Mr. Bias. Is there anyone from Teesside gas processing plant limited and Teesside gas and liquids processing?

14:39

That's Good morning, madam My name is Colin Innes, and I'm from the law firm Shepherd and Wedderburn and I appear today on behalf of Teesside gas processing plant limited and Teesside gas and liquids processing.

14:52

Thank you, Mr. Ellis. Thank you. North tees, limited

15:00

Good morning, Madam, I'm buried on your green of counsel instructed by symptoms, and I represent the North tears group.

15:10

Thank you, Mr. Daniel green. Was there anybody else online? Who is intending to speak today Thanks, everyone. I'm now going to pass over to Mrs. Hunt to lead on the main discussion starting at item three of the agenda.

15:36

Thank you. Item three. And since the last compulsory acquisition hearing number two in July, the applicants have submitted a change request and that was at deadline six and the examining authority we've subsequently agreed to that. And the the reference there's a PD 010 and PD 015. At deadline eight, and the reference is rep 8001. The applicants provided an update on potential further changes which was set out relating to both the T's dock road access, and the outfall option for work number five. And at deadline nine in the covering letter rep. 9001. It was stated that an update on the proposed changes would be provided at deadline 10. However, no such update has been received. Firstly, can the applicants provide reasons for the delay in the update? And then an overview and an update of the forthcoming change request, if any? And can you focus specifically on the amendments which will affect land and rights and the reasons for them?

16:59

Yes. Well, I just it's just been explained to me that the original reference to deadline 10 was before the rule 17. The updated rule eight timetable. And so it was a different there would have been headline 11. Exactly. That's why that so that was referring to a different deadline 10 Understood. As it happens, we are able to provide an update today. So if it's convenient, I'll

17:32

I'll go on to that. Yes, go ahead.

17:34

Madam, as you indicated, two changes have been referred to in the deadline eight submission rep. 8001. First, the selection of an outfall. So the application currently includes two wastewater discharge routes. We're at number five A, which utilises the existing STD C outfall handwork number five B, which involves the construction of a new outfall. The second relates to the removal of T's dock road access route to the T's work site and I'll deal with them in order. So so far as the selection of an outfall is concerned and following the completion of technical assessments. The applicants confirm that they

intend to select the construction of a new outfall under work number five B and consequently to remove work number five A from the DCO. The application to make that change will be submitted as part of the finalised DCO submissions that deadline 12 on the first of November. And so far as land and rights are concerned, the effect of the change is limited to a reduction of the order land for the areas which are included within the order land solely in relation to work number five A. In other words, no other work numbers overlap with the area to be removed. The DCO application currently six powers of temporary possession only over the parts of the order land relating to work number five A and those would come out of the DCO as a result of the change. The context for this, of course is that the intention of the applicants to select one of the outfalls and to remove the other during the course of the examination has been known. Since the submission of the application has been made clear throughout an interested parties have been able to make fully informed representations on the two respective options. As it has turned out no interested party has expressed an objection to or indeed a strong preference for either outfall option. Although STTC has made representations in relation to the root of the connection between the PCC site and the existing outfall infrastructure, which of course is relevant only to work number five A, and those representations would no longer be relevant once that word number has been removed. The environmental Statement Considered the potential for either option to come forward. And whilst the removal of word number five A is being confirmed relatively late in the examination, for the reasons I've just summarised, the applicants could consider the changes non material. It doesn't involve the introduction of any new or additional development or any additional powers. Consequently, the nature of the change means that there is no issue in terms of either being able properly to examine the application as changed, or possible prejudice to the interests of affected persons or interested parties. So that's the first change. So far as the second is concerned to stop road access. The applicants position remains are set out in the response to the second round written questions ca 2.7. So that's in document rep. 6121. negotiations are ongoing with STD C, and therefore at this stage, the applicants are not in a position to remove the T's dot roadblocks from the DCO. It is intended once the applicants have been able to secure the alternative rack and the gate access route via a legal agreement with STD see that there would be a request from the applicants to remove the relevant plots and the area to be removed has been agreed with STD see, but that is now likely to happen only after the close of the examination.

22:16

I was then going to just outline our suggested approach to the remaining changes in terms of the procedure and process. It we are keen to ensure that there is clarity and transparency as to the changes made in the preferred form of the DCO. And to give you madam and your colleagues and the Secretary of State all the information that they would need. And in order to do that, we're going to take the following approach at deadline 12. So, the first thing is we will be submitting the finalised preferred form of the DCO as required deadline 12 That will include those amendments which are required in all circumstances in other words, amendments which are not related to the change request. It will also include those amendments which relate to the outfall selection change request and alongside the preferred form of development consent order. We will also be submitting the associated documents, so statutory plans, books, rap book of reference and so on, which relate to the outfall selection change request including an addendum to the environmental statement, a deadline 12 The applicants will also submit a schedule of changes to the DCO and that will clearly identify three things. First of all those changes in the finalised DCA, which apply in all circumstances. Secondly, changes which relate to the

outfall selection change request and this will allow you madam and your colleagues to identify those amendments which would be required if the change requests is not accepted, so that you can understand the implications depending on which way you form your judgement. And then thirdly, although these matters won't be included in the final development consent order, the shedule of changes will also set out the amendments that would be required to the development consent order to remove the T's dock road access in order to ensure transparency allow any interested parties in particular obviously STD see to comment on that deadline 13 and to enable the drafting to be considered both by yourselves and the sector status as required. Word. If you'd find it helpful, we would be content to put a document in it deadline 11, which confirms the intention to make the change and outlines the scope of the change and the documents that we put in at deadline 12. And that would also then provide alongside it, the up to date position in relation to the T's dot road access. So that that comes before deadline 12 Just to help have written confirmation of what is proposed following this hearing.

25:42

Okay, thank you. And if you've any questions on that,

25:47

I think it would be helpful to have that outline that's deadline 11, if that could be provided. Can I just tell you back though, to the talk, roads, Chip potential change. You said something about a change coming in after the close of the examination wasn't quite sure what was meant by that. In terms of what was happening before the close. We

26:13

our current anticipation is that, if the negotiations do not complete by the end of examination at the moment, we don't anticipate that we would be in a position to complete those. The application as you will be asked to report on will be as it is now. So it will include the current access, we have set out and we will set out whenever this is an item later in the agenda, why we say the order should be confirmed as it stands, if that access rate has not changed, and so we will be inviting you to report and recommend on that basis, however, acknowledging that the intention of the parties is to continue to negotiate after the end of the examination. If that produces agreement, our intention will be then to say to the Secretary of State, when you come to make the order, we would invite you to make it with the following amendments. The only parties that would be affected by that would be ourselves in sec. But of course, Secretary State has the ability to ask anyone else for any comments if, if it is intended to make the order in that form. And of course, the Secretary of State has a discretion as to the form in which the order is made that would embrace the ability to remove plots that are proposed for compulsory acquisition. This would be hopefully something done by agreement, it would be done with the relevant changes, notified in advance parties who might be affected, having the opportunity to comment on what those changes might be. But nevertheless, obviously, as the guidance compulsory acquisition guidance contemplates, the Secretary State may decide in some circumstances not to confirm any compulsory acquisition. So it's well within the scope of what Secretary say can do after the end of the examination. So we

28:07

would then be provided by the entity examination with options, two options. So first of all, the stock road in terms of the TCO the DCO,

28:18

would be presented to you as it exists with the T's dock road plots included in Yes, it as to what other parties might invite you to do about that that's a matter for them, we will be inviting you simply to confirm the T's dot road plots should be included within the powers. This is not an area where we are proposing to include additional land to create new optionality. It was not as you'll recall, one of those instances where the development consent order is submitted included options. This has always been a single proposal. It's simply that during the course of the examination SDDC has advanced and alternative. We have engaged with them positively and constructively in relation to that. Those negotiations have not concluded so far, and it seems that they're unlikely to conclude by the end of the examination.

29:18

Just pushing that a little further, and this is a proposal from STD C, where you're saying that he won't be concluded. Is there a difficulty on your side's from what's been proposed or the reason why

29:34

the reason the reason why it simply doesn't come out of the order now is because we haven't secured any alternative access right now, for the purposes of implementing the project. We need access vehicular access from the rain road. Yes, we have got a DCA which includes an acceptable and sensible proposal to secure such access, which has been fully assessed shown To be acceptable, we believe that there is a clear and compelling case for the grant of the necessary powers that would enable us to use that access. That last element is something which SDDC contest. And we'll come to that later in the morning's agenda, I know that we will be asking you to confirm would recommend that the audit be confirmed as it exists. However, insofar as the change comes after the end of the examination, we will also be explaining to you how that could be accommodated by the Secretary of State in terms of changes to the order, in circumstances where as we hope negotiations are concluded to the satisfaction of both parties post examination. Thank you.

30:56

Okay, can I just ask Mr. Henderson? Could I have your comments just in relation to the process that's just been outlined and the timescales rather than detailed comments on on the plots themselves? Because I'll come on to those in the next items. Thank you.

31:17

Thank you, Madam Tom Henderson for STbc. I mean, I should say at the outset, that the process that's been outlined is, is is new to us. We had a brief email on this point on Monday evening. But obviously, this is the first time we've heard of the full proposal in terms of how the applicant tends to manage this. So I will need to take instructions and anything I say really is provisional. I think what I can say is that we, our position hasn't changed, in that we still require the plots of land that allow the formation of that access to be removed. So listening to what the applicants have said, we will be inviting you in your recommendation to recommend that those plots come out. I suppose it is helpful, from our perspective



that the nature of the change required to facilitate that will be made clear. So as I say, that's subject to taking further instructions. Did I anticipate that's likely to be our opposition at the end of the examination?

32:33

Okay, thank you Miss Tennyson. And could the applicants confirm any other optionality which remains and if any further change is likely to be requested?

32:48

mode? I can do that following the formal selection of the outfall option. The Africans don't consider there be any remaining optionality within the DCO if that change is accepted. And as I've explained that will change requests will come and deadline 12 But that would remove the final optionality.

33:10

Okay, that's helpful. Thank you. I think we'll move on to Item four, compulsory acquisition. Firstly, I'd just like to remind all parties that only three weeks remain in the examination period, and it will close on Thursday the 10th of November. There were three deadlines left, all of which are very close together. The information and updates provided so far, both by the applicants and some of the affected persons have been very useful in explaining the compulsory acquisition issues. However, we are conscious that the vast majority of the negotiations to achieve voluntary agreements remain unresolved. So it's clear I've been regular discussions with him with most of the effective persons and hopefully these have been productive and the compulsory acquisition schedule has indicated the expected timescales for responses have slipped every deadline. We do understand that land acquisition and rights required for this project are vast and involve numerous overlapping interests. The efforts made so far to reduce optionality and thereby the the amount of land involved are recognised. However, the sheer number of agreements outstanding will will make the examining authorities reporting to the Secretary of State's complex. This is unsatisfactory to have so many of them unresolved for the Secretary of State's consider. Firstly, can the applicant provide a broad summary of the numbers involved? How many voluntary agreements with affected persons have been concluded? How many are likely to be agreed by the end of the examination? And finally, how many are likely to remain unresolved? Just a broad idea of the numbers for now.

35:19

Thank you, madam. Howard Philpott on behalf of the applicant. You will recall previous compulsory acquisition hearings you addressed on this matter by Mr. biller Ahmed from BP he is no longer with us. So I will be providing on instruction. An Overview if there are further questions of detail about the negotiations. That would be a matter then for Mr. Stop. So I'll provide you with the information I've been given. Hopefully that will give you a an idea of the broad position. There are 17 identified landowners across the order limits at the second compulsory acquisition here and we confirmed which concluded heads of terms with eight of these landowners. And for each of these draft legal agreements have been prepared by legal representatives and in most cases had been shared with the third party. With agreement, the applicants have progressed directly to draft and legal agreements with STD C and Anglo American. That's rather than seeking to finalise heads of terms first, that's that approach has been agreed with them. Negotiations with both those parties are well progressed. We're competent of

concluding agreements shortly. Though, as I said in respect of SDDC, we think that might slip beyond the end of the examination. We are continuing to engage, proactively and productively with all of the other landowners listed against this agenda item. We remain confident negotiations can be concluded so as to either negate or at least minimise the necessity to use compulsory acquisition powers in practice, though, that is likely in many cases to fall beyond the examination period. We will continue to progress with voluntary agreements after the examination has concluded and indeed beyond the secretary state's decision on the DCI application. If it's confirmed, it should any remain unsigned by that stage. That's what I have by way of overview. And if you have any more detailed questions, I have Mr. stamps here who can assist you on individual parties.

37:39

Okay, thank you. So we'll now go through individually. An update on the progress for those negotiations. Relating to land and rights, we'll deal with temporary possession next, protective provisions that agenda item seven. We did discuss protective provisions for all affected persons except statutory undertakers yesterday. But for completeness, when we're talking about the updates, you can also state to what extent protective provisions are relevant to the negotiations. We'll use the alphabetical list of the effective persons who have submitted representations as provided at item four of the agenda. There are there are a few policies that were missed off that for some reason that list should be a products in as nitriles en su que es un S and T side windfarm as well on that list. We will discuss the statutory undertakers which are listed at item seven of the agenda, given the overlap with their protective provisions. Good we start firstly, with products please.

39:05

Just understand, in the absence I think we've got a representative from our products, just to make sure that for Ask the stubs to provide a our overview what you're what you're seeking, as I understand it is where we currently are what's expected by closer the examination.

39:24

Yeah, pretty much what would go in the compulsory acquisition schedule when where you are today?

39:31

Indeed. Thank you. I'll pass it over to Pat. I think Mr. Bottomly is going to deal with this.

39:39

Good morning, madam Jack Bottomly on behalf of the applicants with regard to Air Products, we're currently negotiating protective provisions and signed agreement with them. Both of these have been with our products since July, and the applicants have continued to chase her response. once more recently we had a productive call with them on the seventh of October and are awaiting detailed comments back on both agreements.

40:12

Okay, thank you Anglo American

40:23

Yeah, Anglo American. As you may have seen those detailed update at deadline eight of the compulsory acquisition schedule. Being rep eight. Sorry, apology rep. 8052. So we have now reached agreements on both protected provisions and as a side agreement with Anglo American. Those are subject to concluding the property agreements of Anglo American. We have as Mr. Philpott outlined earlier, we are exchanging draft legal agreements with their legal representatives. And we are still hopeful of reaching agreement for the end of examination on those property agreements.

41:26

Okay, thank you and cats North Sea limited

41:36

in regards to land matters with cats, we've exchanged heads of terms with them in July and we followed up with an update to the heads of terms in October following some technical discussions between parties. We've recently given them an undertaking on with their representatives to provide drafts on those sets of terms we await a response and we're expecting that very shortly. But we do not expect to conclude those sets of terms within examination

42:17

the the the technical discussions with cats they either any outstanding that would affect the the land issues.

42:26

The technical discussions have progressed enough to be able to progress and conclude land agreements now so we're on to commercial matters, Madam

42:43

sia CF fertilisers UK Limited

42:51

so with CF fertilisers, we have agreed heads of terms with them. We exchanged we shared draft legal agreements with their representatives in August and we have recently been engaging with them on all comments on those but we have not had full markups on those draft legal agreements as yet.

43:18

That likely to be agreed before the end of the examination.

43:21

As I said we've we've agreed heads of terms but considering the timeline we we think there's probably they'll fall outside examination but But shortly after.

43:42

Excel and sales hands

43:50

with regards to Excel, we are currently negotiating protective provisions and a side agreements. Discussions are well progressed and we are on to final matters with them. We are currently arranging a follow up call with both legal representatives and their in house team that's expected to happen early next week where we're hopeful of concluding both those agreements before the end of examination.

44:28

Okay, and INEOS nitriles.

44:35

With any US we have agreed to terms in principle with them is still currently pending their board approval. Language and Damco McLaren are currently engaging with their their senior leader leadership on on progressing that to legal agreements we've prepared the legal agreements and are ready to share with them. We're just waiting for their instructions. to their engaged their solicitors to receive them. With that one again considering timing we do not expect to conclude within examination, but shortly after

45:17

the NSC UK SNS.

45:23

In the US, UK SNS yet the bread pipeline owners, we have agreed peepees with them and we are continuing to negotiate a side agreement with any SNS. We are hopeful to conclude that an examination we have got a few minor points outstanding, so, we are hopeful we can conclude that in the coming weeks.

45:55

North Chase group,

45:59

northeast group we've been engaging with them for since since early 2021. We we've had extensive comments back and forth on the heads of terms but they are not yet agreed. We also as we covered yesterday, working on protective provisions, those parties we do not expect at the terms to be agreed with an examination but we will continue to to work with northeast group to conclude the voluntary agreement.

46:33

Okay, MPL waste management Ltd.

46:38

Good morning, Martin Harris stubs on behalf of the applicant. We've been engaging with NPL since late 2020. We've had numerous calls and teams meetings regarding heads of terms and our progress stage. A full suite of documents was issued to MPL in July and we are awaiting comment on those terms and it is hoped they will progress quickly but we do not envisage them being complete by the end of examination.

47:18

PD T's pulse they classified as a statutory Undertaker they stay on land which is occupied by other affected part of the affected persons. So PDT sport

47:32

yes jump ultimately on behalf of the applicants. So we have agreed the PPS. Within the drafting see our deadline aid with PDT sports. We're currently engaging on them with their side agreement and near completion on the side agreements. Regarding land agreements. We've exchanged draft heads of terms with PDT sports. From from July and most recently, we sent an update in September. We're having positive commercial discussions with them that we do not expect heads of terms to be agreed before the end of examination.

48:18

may come about how terminal

48:22

yet with recap about demo, we've agreed the PPS and we are close to agreeing the side agreements. We've also agreed heads of terms with our BT and have exchanged draft legal legal agreements between both parties. Both parties are engaging regularly on on these draft agreements. And we're hopeful we can conclude them before the end of examination.

49:02

Semco utilities

49:04

Sorry, madam, just a point on RBT. I've just been notified that their deadline nine comments outline there are still some points outstanding on the PPP on the PPS that are subject to agreement.

49:23

Okay, I'm Sembcorp.

49:26

We've numerous engagements with Sembcorp at varying levels, and we're currently on bi weekly meetings with them. Heads of turns in principle are agreed for the above ground co2 gathering network and option agreements have been shared between legal parties. Those are progressing well. And we will be issuing comments back to Sembcorp. This week, and we have another follow up meeting with them next week.

50:00

is likely to be concluded before the end of the examination.

50:04

Apologies we've set timeframes between us and we hope to complete them by the end of examination. But it's potentially unlikely that that will happen although we are progressing PPS alongside that which I will be covered later.

50:19

Okay, thank you. And SABIC, UK petrochemicals limited.

50:28

sabich. From lamp agreements perspective, we've agreed heads of terms with Subak some time ago, and we've shared draft legal agreements with their representatives. We've received comments back on those legal agreements, and we're expecting to return for further markup shortly. We are we're potentially going to reach a fully termed agreements on this within examination but again, it's it's going to be tight. We are also worth we are working on protective provisions and a side agreement with sabich as well which we covered in ice h5 yesterday.

51:18

And both of the council's reckon Cleveland and Stockton on tees

51:25

it's we've guarding Redcar Cleveland Borough Council. We've agreed heads of terms for the land interests, and we are engaging with their solicitors and have exchanged draft legal agreements. We've also received comments back so they are progressing well. We're hopeful we can conclude those within examination. We don't with regards to Stockton Council, we are by the voluntary land agreement with Sembcorp they are able to grant us rights for the crossing within Stockton and interests that consists of a below ground culvert.

52:20

Hi, can you just explain that a bit further?

52:25

The morning, we are in discussions with Sembcorp they are able to grant us contractual rights for the use of the COVID. discussions are ongoing with the local authority as well though should we not reach agreement with cemco?

52:55

A southeast Development Corporation

53:01

Yes, so we are currently exchanging frequent markups of draft legal agreements for the main option agreement with STD see, we are hopeful that we can conclude those very shortly. But it's doubtful that we will conclude it in advance of the close of examination. This up include it concluding the main site option agreements, we will also then exchange draft legal agreements for the easement agreement associated with the connection corridors. This is the sequential processes has been agreed between the applicants and CDCs. Parties. And we will take the fully termed agreement for the main site and as

a starting point for the connection agreements. So we expect that one to conclude at a greater pace than the main site option. We're also working on protective provisions and aside agreements with a CDC which were shared with a CDC Representatives last week, and we are continuing to work to progress those two agreements before the end of examination

54:24

says it right that some kinds of agreements have hopeful before the examination but others after

54:31

Yeah, so we are we're still working with SDDC to progress both the protective provision side agreement and main option within examination that the additional easement agreements will not be concluded within the examination. While the principles of that agreement are captured in the main main option, it will be subject to a separate legal agreement

55:15

Teeside gas processing plant?

55:21

Yes. So with TPP, we are working on protective provisions and aside agreements, we've exchanged a number of draft comments between parties, and we are looking to conclude those before the end of examination. There's also land agreements. And with these we are exchanging comments on draft heads of terms. They are progressing at pace but conscious of where we are in examination, we would, we're unlikely to conclude the heads of terms before the end of examination at this stage, but both parties are engaging proactively to try and move those along as quick as possible.

56:10

To side wind farm

56:15

at the seaside wind farm limited, we are working on protective provisions and a side agreement with them. We have exchanged a number of comments on both these these drafts and we are hopeful we can conclude these from an examination angle most recently, drafts were shared with to segment on late last week.

56:43

Okay, thank you. I don't know if there's any that I've missed off that are not in that list. I've just read out or statutory undertakers if if there is any that jumped out at you shout now. I think that's a comprehensive list,

57:06

you know, so yeah, so I get the FSR captured later in the agenda. Yeah,

57:11

the statutory undertakers,

57:12

right. That's fine. Madam, if I can just to round that off and conscious of your introductory comments, encouraging us and others to continue our efforts, you will appreciate that this is a particularly complex site with many interrelated interests and items of infrastructure and relationships between interests. And all of that is reflected in the number and the nature of agreements and protected provisions needed. So it's not just the number of parties. It's also the nature of what has to be negotiated. And I'd simply say that, despite as I could have seen, during the course of the examination, a consistent and concerted effort to engage and positive discussions taking place with most parties. It is perhaps unsurprising in this particular case, that not all of those agreements have come to fruition or will necessarily come to fruition by the end of the examination. But of course, the key thing is one that there has been a concerted effort to seek to negotiate acquisition through that route, the secondly, that those negotiations will continue. It is not the end of the process, as we've sought to stress so far as in negotiations are concerned. And more generally, it is not unusual in cases where a number of interests need to be acquired, even in less complex cases, in terms of the nature of the site, to have a by the end of the examination, outstanding interests, which were in negotiation has not been concluded. Indeed, it's quite common to have got that heads of terms but no option agreements concluded with parties by the end of the examination, and that's part of the key importance within the process of having the ability to use powers of compulsory acquisition and powers of temporary possession. If despite best efforts of both sides, some agreements are not able to be reached even even after the an order has been made. I've just been indicate or just been told by Mr. bossman that there are two further parties that we ought to just address you

1:00:03

can chat bots, on behalf of the applicants to parties, we didn't give an update for that have not made submissions within examination. So as Recycling and Recovery UK Limited with this party, we are working on protective provisions and aside agreements, they're currently with their representatives for comments. And we've also agreed heads of terms for that property agreements for the property, land agreements. The draft legal agreements are waived, so as his representatives, as well for those and we await comments on those, and the second party is navigator terminals co sounds limited. Again, we are continuing to work with protective provisions and decide agreement with them. And both of those are with navigators representatives, comments as of July. We've agreed heads of terms for the land. And we are currently awaiting comment on the draft legal agreements with which again, have been with navigators, sisters since June.

1:01:17

Okay, that's helpful. Thank you. And they see the two parties that hadn't submitted representations.

1:01:25

Yes, yes, Nova has submitted anything during examination.

1:01:33

Alright, I'd like to move on to giving the affected persons who were present here today and their opportunity to speak and on the current negotiations and an update, so if there's anything additional



they wish to add to what's already been said, and this should be on land and rights matters only we'll we'll be looking at temporary possession next. So firstly, Mr. Henderson southeast Development Corporation.

1:02:11

Thank you, madam. I don't really have a huge amount of say beyond beyond the applicants update we we did receive amended protect provisions and interface agreement last Friday. So we have those under review. But notes, the applicants comments about the completion of the main PCC site option and the interface agreement is tied to that. So we're taking it from the those submissions that neither of those agreements, potentially is concluded before the end of the examination. So I think, as I've alluded to, in other submissions, we, we intend to, to submit to you at end of examination position on the unresolved issues. In the absence of those agreements, we'll be inviting you to make certain changes to the order to protect our interests. And we'll give a justification as to why we should do that in our in our final submissions. On the point about options for easements I think I'd like to just reserve comment on that. Pending take instructions. I mean, my understanding is that fundamentally, it was the applicants decision as to whether to progress options for easements at earliest stage and, you know, they've they've taken the decision to pursue the main site option we have been asking in submissions made to you in the various deadlines that we that we wanted to advance, negotiating your options. And that hasn't happened. As I say, I've just reserved judgement on any further comments from my clients in relation to that I haven't taken instructions on that specific point.

1:04:03

Thank you very much. Thank you. So is that is there likely to be another statement of common ground for the end of the examination? This just sent him slightly about table 3.6 of the points that are raised in that is there likely to be any change?

1:04:21

To medicine for a CDC? Yes. Certainly from our perspective, we would we would anticipate working with the with the applicants to provide us or final position on matters agreed not agreed to so yes, we'll combine that with the various submissions we need to put in.

1:04:40

That's helpful. Thank you. I've got no further questions for Mr. Henderson. No North tase limited Mr. Daniel green. Do you have any comments to make

1:05:00

barring any green northeast group, thank you very much. First of all, can I just raise the point of a missing document, we had a missing document last week that was cured. There's a missing document to document in the library ra P seven, Dash 005. It is the statement of common grounds and the plan is missing from the end. It contains quite an important point. I wonder if that could be resolved, madam. Sorry for that.

1:05:46

Yeah, we're just checking that. Move on to the next point while the check. Try I proceed? Yes, please, cooperate.

1:06:00

We agree with what Mr. Bottomly summarise in terms of negotiations. My clients are very keen to settle an agreement. There's much willingness on their part to settle on agreement. But they have been in negotiations for something like 20 months. And it's only last Friday that they received the documents for the purposes of protective provisions, which obviously we haven't yet had time to deal with in any detail. So that's some indication of the slowness of negotiations, as to negotiations for the heads of terms. Again, these are being progressed on the parliament mekons positively, but we're not getting responses in a solid timely manner to reach some point where heads of terms can be agreed and then documents settled. That's our principal concern in terms of the progress of the negotiations.

1:07:07

Fine finally, as to the outstanding matters on compulsory acquisition, we've summarised these in our document as dash 207. In a sense, that's a precursor of the deadline 11 final submissions, but it indicates for that for the assistance of the applicant, the matters that if compulsory acquisition is to be pursued. Those are the outstanding matters in summary, my them their concern, objection to too extensive acquisition, not against the principle of it, but

1:07:48

Okay, have you seen the the justification of corridor widths documents rep 8051. Man on my phone,

1:08:02

but not the standard. I'm instructed northeast group. Project

1:08:20

that seems to be the main issue in terms of compulsory acquisition and the regulations that it's excessive with over and above what's required. As examining authority, we do need your position on that, if that could come in writing at the next deadline deadline 11 specific comments on the justification of the corridor weights. And if you and for what reasons, you don't agree with their position on it.

1:08:57

mannerless helpful. The other matters, of course, a temporary position we're coming to later on in the agenda.

1:09:22

Okay, just before we move on, are you intending that we respond at the end of the full list of people unquiet attend whichever way you prefer? Yeah,

1:09:31

at the end of the there's not many more to go. That's fine. In terms of the missing document, with the case team, Mr. Gleason, have you found anything?

1:09:41

I think Mr. Stubbs may be able to or Mr. Bottomly may be able to assist on

1:09:48

chatbots on behalf of the applicants. Yeah, I've just looked up the reference is there's been a attract change error here. So the drawing was incorrect. In a previous statement, a common ground. This was an advance of the deadline six, change request, and it was an indicative markup of the land plans that showed the extent of the proposed changes. Since this statement of common ground was submitted at deadline seven, the appendix has been deleted. But the heading and the reference to the appendix has failed has been removed as a track change, which is why it's still showing it's appears as a blank page.

1:10:30

So it's not something that's missing at our end. It's the Yeah, it wasn't supposed to be in there in the photo.

1:10:35

Yes. There's just there's remnants of reference to Appendix A one still there

1:10:40

is no index. Okay. Nine Thank you. Mr. Webster for red car bulk terminal. Do you have any comments to make?

1:10:58

Yeah, good morning. John Webster a couple terminal. I just have a couple of comments. I just agree with with report that it's the party's intention to finalise their negotiations complete the site agreement and associated agreements prior to the close examination. Just picking up on a point made by Mr. Bodily concerning the protective provisions. The position is as a reporter that yesterday at the RSH, which to protect provisions in our deadline nine submission are agreed in principle between RBT and the applicants with the exception of the indemnity provisions, which is still under negotiation. So I believe that's what Mr. Bosley was referring to is the element which still hadn't yet been agreed. Other than that, that's it, man. Thank you.

1:11:45

Thank you very much. Mr. Byers for STEM Corp. Do you have any comments in the light of what you've heard?

1:11:54

Thank you, Madam Andrew bias for Sembcorp. Madam, we remain hopeful that agreement will be reached on all matters. There's been varying levels of engagement, given the range of interests that same call have, including, for example, in respect of crossings, there's been less engagement in some of those matters. And there have been, for example, in relation to easements without seeking to be critical, because we understand very considerably understand the complexities of multiple parties involved. There have been considerable days delays in receiving draft agreements back from the applicant solicitors. The draft that was mentioned earlier. In the update is the draft we provided in May,

we were hopeful of getting that in the week following discussions that took place in late September. We're grateful that it's going to be provided this week, but we anticipate there will be much to discuss before the close of the examination. And essentially, for those reasons, we consider that it's unlikely that matters will be agreed by the close of the examination, albeit that we will continue to engage in discussing discussions with applicants in in the hope of reaching an agreement. But for some cause part that does bring in to pretty sharp focus the importance of their protective provisions and the scope for them playing a role in allowing an agreement to allow it for agreement to avoid the use of compulsory acquisition powers as it was provided for in Dogger bank. So that's broadly where we are. We will of course, work towards reaching agreement, we'll of course work to do what we can before the close of examination, but being realistic about where we are we think that unlikely, and the protective provisions are going to be very important in that context. Thank you, madam.

1:13:44

Okay. Thank you, Mr. Bias, previous representations referred to construction weights and the aforementioned construction weights documents. Do you have any further comments to make on on that?

1:13:59

Madam, I've seen that in in the the questions of the 13th of October. We're going to reply to those in writing by deadline alone.

1:14:12

Yeah, that's fine. That's question ca 3.4. So for the next week, thank you.

1:14:17

Yes, it is. Thank you.

1:14:31

Miss Mr. Nesbitt for PTTs port.

1:14:39

Thank you, madam. I'm able to agree with Mr. Bottom Lee's summary of the situation in relation to the protective provisions and side agreements. I think it's unlikely that the heads of terms in relation to the property agreements will be completed. Within an hour be agreed rather within the examination period. However, the protective provisions inside agreement should certainly be capable of completion within that period. The only thing I would add is that there was reference to agreement on protective provisions. That agreement is subject to provisions that are in the site agreement. If that were not to complete, then we would have comments on the draft protected provisions in the order. And obviously know the examining authorities request that those differences be set out in writing in due course, if that's required.

1:15:44

Yeah, that's fine. Have you seen the latest version of the statement of common ground? Rep. 9010, which does set that out, and we'd expect to receive an updated version of that anyway, before the end of the examination. Thank you. Thank you. Mr. Ennis, for North Teesside gas processing.

1:16:10

Yes, behalf of T GPP, and GTL. In terms of the background, we I agree with the general summary that's been provided in relation to the negotiations that have been ongoing. We're in a very similar position to Mr. nesbit's clients in the sense of we are currently very focused on resolving protective provisions and a signed agreement. And they are really the real focus. And we really do anticipate that we will make progress on those. But in relation to the voluntary acquisition deal position, we agree that it's very unlikely that that will be resolved, it is a relatively complex issue. So insofar as those matters are agreed, happy that that sets the general position, I would have liked at this juncture to briefly address the objection that my clients have to the to the CPO. And the only reason for taking a little time over this is there are subtleties which are often best explained in oral proceedings and can be difficult to to set out in written proceedings. And equally, it may require reference. As I think it's fairly clear from our representations made to date, one of the primary issues that my clients have relating to the order have been in the selection of the site for potential access to various works. And this has been set out in the various reps, rep 541 6142, a 9035. I really want to focus, there's one particular plot number that I will come to focus on and that was 106, which originally when we made our first rep, substantive rep and 5041 actually wasn't encompassed in sheduled seven, but it's now in shedule. Seven and I'll go on to look at the terms of the rights sought. But I think perhaps and we then followed up with specific reps once we did and had been identified where that particular plot sat and the rights which was sought over it. In terms of of looking at the situation relative to my clients interest, I think it might be helpful to look at the to the land plans, which is rep six hyphen 014 and in particular sheet three of 14

1:19:01

I will just go in the case team to display the lamp.

1:19:37

It's the next one on. think those are the chrome Yes. This is the chrome land plans. That's the one

1:20:12

can you roughly try and describe where this plot is we're at numbers on my screen.

1:20:18

It's it's very small isn't it? We're dealing with the with the area to the north and seal sons road and then we get to the first of the access arrangements to my clients site that's 108 it comes off steel sands roots and heads in a northwesterly direction and is plot 108. If that makes sense at that is a land interest which is owned by PDT sport and which my clients have various rights have access to their various interests located to the Northwest. We then as we travel further north move removed from one of eight at two plots 103106 on 105, which are land which my respective clients have freehold interest in. And insofar as the insofar as the plans concerned, one to six, and one is three, are sought in relation for access. And 105 is has substantive works in it related to work to a, which is the high pressure pipeline, and it would connect and then it travels, the high pressure pipeline on to plot 110. And ultimately, to the

above ground installation, the works to be and it's perhaps just helpful to understand just our understanding of the current situation. And then I'll go on to make a particular reference to plot 106. But insofar as the general position is concerned, as it's currently phrased, the order would permit the construction traffic, both in relation to plot 105 and one a 10 and 112. To take access along one to eight, and thereafter to access the these construction sites. And the current point, again, is in terms of plots 101 10 112, we understand from the applicants, that effectively, it would be intended that the access would be taken over 108 And part of 103. And thereafter, the access to 110 and 12, with branch off in to the east from 103. Now, in terms of representations, my clients have made representations is that their position is that that access will be better taken through cats land. And that is a matter which is potentially being considered. But that's that's as far as it goes as my clients position is that that would be a better alternative. And that's the better way to access 108 Sorry, 110 112 Given the nature and scale of construction traffic, that would be required to build those facilities. So that that's a general position. And we set that out and representations. And obviously, that's a matter that the applicant is still considering and still evaluating and to think whether that is possible. So we now come to turn with that it's my understanding is they it would be an access taken from 103 to the east, where they were now come to look at the works at 105 which is location of the high pressure gas pipeline installation and it it would be accessed from extending onto 123 through 106. So we then carry on going further north and 106 is contiguous to the south with 105. So that is where the access to that installation would take place. And in that respect my clients do except the typical ones carrying out the works on 105. That the that the the appropriate and probably better access is through 108123 and one of six subjects of course to The necessary controls and management, which obviously, is a matter of which we're obviously be discussing with the, with the applicants insofar as how the order is drafted. However, the powers sought as currently drafted, effectively mean that 106 and 105 could be utilised to provide access to the works carried out and 110 and 112. And that would include the balance of the works relating to, to a and the construction have to be, and that is where we say the powers have been sort of gone too far. And in that respect, I think perhaps just be helpful to give you that context as to look at the the actual DCO powers that are sought in rep eight double 03, which is the latest version of the DCO. And in particular, to look at sheduled seven, which sets out the land in which the new rights may be acquired. So we're talking new rights here. And in the first instance, I just want to look at the table seven and the first actually set of plot numbers and that's on page 76 of eight double 03

1:26:37

Okay, we're just going to bring that one up on the screen so everyone's on the same page. So it's scheduled to schedule seven sorry, which is page 75 of PDFs

1:26:50

of rep 8003. Rep 8003 Yes she's the DCA PDF page 75 is titled schedule seven landed revenue new rights etc may be acquired in your case to just find in that document. Yes please PDF page 75 Again the wrong way Hang on then.

1:30:01

Next Page Yes, next page, just the, it's the column table set. And that's it for just stop there. If we look, the left hand column has the plot numbers and the right hand column sets out the right that's to be associated with the respective plot. So first noting under this first entry is plot one of the five steps in

that plot to reference and 105 for for remember is the land over which parts of work number two a will be undertaken. But insofar as the right that sought, if you look at the right hand column, and you go down, that the first one is all persons authorised on behalf of it to enter pass and repass on foot, or without, with vehicles, plant and machinery for purposes of connection with the laying, installation use and maintenance of what number two a infrastructure and work number two be infrastructure. So, insofar as the rights are being taken over plot 105, they relate both to the installation of works in relation to works number two, A, which is effectively the high pressure gas pipeline. But in addition, the additional rate that is taken at that point is both for construction and future maintenance rates are taken over the plot for to be infrastructure as well. Now if we then move on to to page 79, of this document. So 79, it's a bit further on, it's this page 79. So we're just

1:31:58

I think, yes, I think that was it, if you just go back up to the top. Yes, that's where we get if we see along the top line in second line of that, again, we're in the column of what plots are being considered. We see plots 12316 and 128, are identified on the second line, one awaits the the axis of steel sands road. And then we go on to my clients interests that one is six and 123. And that encompassed Barney, the broad work number 10, which is the general right of access for the Undertaker, for all purposes in connection with delaying installation and maintenance. So the very broad powers were the axis right to taking the taken both for the purposes construction and maintenance. If you combine those two sets of powers, as set out in the order, the rights that are taken effectively mean that plot one of five could be used to access both the construction and maintenance of not only the works directly rated the plot, but also land to the east, associated with the balance of the construction of to a and the whole have to be. Now, it's our understanding that the applicants acknowledge that they have no such intention to carry out or use those plots in that fashion. And in that respect, it is therefore clear overreach in terms of rights because they are not necessary for the purposes of implementation, both in construction and operation of the order. And our position is that quite properly, the rights sought over one of six should be restricted effectively, to the construction, operation and maintenance of the works constructed on plot 105, which is the plotter meet up to the north of 106. And that's the general position. But I think the subtlety of this is that if, as I say there was a number of access issues, if for example, access to plots 110 112 was actually taken through the capsule and then we still say that and I think it is likely that the applicants would need access through 108123 and 106. To access to to effectively Access to Work Psalm 105. So we acknowledge that we acknowledge that in terms of the 105, irrespective of how the wider access ultimately plays out to the construction of 110 112. That in relation to 105, that would be the potentially appropriate route. But as I say, we have concerns that that given that currently it is unknown, precisely how 110 and 112 in the works for two MB are going to be accessed. But the taking of those rights over 1106. And by implication, one a five goes too far. And in terms of of dealing with that issue, obviously, it may well be that we're able to reach an agreement that deals with that contractually. But suffice to say, I, I thought it was worth explaining that position, should we ultimately not be able to agree it and our ultimate submission is that the way in which the rights sought in terms of schedule seven should be altered to be more specific, and to respect the fact that it would not be appropriate to take access to 110 112 through plot 105.

1:36:26

And obviously, my ultimate conclusion is that it wouldn't be in the public interest. And the second cut in case in public interest for the for the acquisition of that right in its terms.

1:36:42

Okay, thank you, Mr. Ennis, I think before we move on to the applicants response to those comments, and the ones before them that we'll take a break and give you time to digest it as well. And I'll just pass over to Mr. Davis.

1:37:03

I suggest we take about 15 minutes. It it's 1237 now so 1137. So if we say five to 12. Does that sound reasonable to everyone? Okay, so Allah June at 1137 and I'll see you back here at 1155. Thank you