



Application by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited for the Net Zero Teesside Project
The Examining Authority's third written questions and requests for information (ExQ3)
Issued on 13 October 2022.

The following table sets out the Examining Authority's (ExA's) third round of written questions and requests for information – ExQ3. Questions are set out using the same issues-based framework as ExQ1 [PD-012] and ExQ2 [PD-016], derived from the Initial Assessment of Principal Issues provided as **Annex C** to the Rule 6 letter of 11 April 2022. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with an alphabetical code and then has an issue number and a question number. For example, the first question on general matters is identified as GEN.3.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table is available in Microsoft Word [here](#).

Responses are due by Deadline 11: Wednesday 26 October 2022.



Abbreviations used:

AP(s)	Affected Person(s)
BoR	Book of Reference
CA	Compulsory Acquisition
CCGT	Combined Cycle Gas Turbine
CEMP	Construction Environmental Management Plan
CO₂	Carbon dioxide
CIAS	Cleveland Industrial Archaeology Society
CNSL	Cats North Sea Limited
D	Deadline
DAS	Design and Access Statement
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DIN	Dissolved Inorganic Nitrogen
EA	Environment Agency
ES	Environmental Statement
ExA	Examining Authority
ExQ1	Examining Authority's First Written Questions
ExQ2	Examining Authority's Second Written Questions
HBC	Hartlepool Borough Council
HDD	Horizontal Direct Drilling
HSE	Health and Safety Executive



IP(s)	Interested Party (Parties)
LIR	Local Impact Report
NE	Natural England
NORM	Naturally Occurring Radioactive Material
NSIP	Nationally Significant Infrastructure Project
NWL	Northumbrian Water Limited
PCC	Power Capture and Compression
R	Requirement
RCBC	Redcar and Cleveland Borough Council
RPAs	Relevant Planning Authorities
RR	Relevant Representation
SoCG	Statement of Common Ground
SoR	Statement of Reasons
STBC	Stockton-on-Tees Borough Council
STDC	South Tees Development Corporation
TGPP	Teesside Gas Processing Plant/ Teesside Gas and Liquids Processing
TP	Temporary Possession
WFD	Water Framework Directive
WSI	Written scheme of investigation

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010103/EN010103-001182-NZT%20EL.pdf>



Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg GEN.3.1 – refers to the first question under the third round of questions for General and Cross Topic Questions in this table.



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ExQ2	Question to:	Question:	Sembcorp Response:
COMPULSORY ACQUISITION, TEMPORARY POSSESSION and OTHER LAND AND RIGHTS CONSIDERATIONS			
CA.3.4	Sembcorp Utilities (UK) Ltd	<p>Can Sembcorp provide any comments as to the following:</p> <p>i) D6 Submissions (section 6.0) [REP7-009];</p>	<p>6.2.4: As the ExA has now seen on both of the ASI, the space within the Sembcorp Pipeline Corridor is limited and – having regard to the number of existing pipelines within it, the nature of shared access and the need for those existing apparatus owners to also carry out necessary inspection and maintenance – NZT construction works for prolonged periods and/or the temporary possession of land (denying other shared users access and/or the right to undertake their own construction, inspection and/or repair) for, potentially, periods of up to one year is in Sembcorp’s opinion unnecessary and does not take into account the complex but generally common rights enjoyed by existing users. As Sembcorp has previously intimated during the Examination, it is not appropriate for the Applicants to seek to circumvent these careful arrangements.</p> <p>6.2.5: In Sembcorp’s view, it was not only technically possible but also viable to have undertaken the requisite site surveys and engineering, as well as to have confirmed the expected emitters to be connected to the CO2 transportation pipeline, prior to the end of the Examination and thus it does not share Applicants’ position that it was not possible to select the final pipeline routing for Work No. 6 within the Sembcorp Pipeline Corridor. The Applicants have simply chosen</p>

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			<p>not to in the expectation that overbroad rights would be forthcoming in the dDCO.</p> <p>6.2.6 and 6.2.7: Sembcorp considers that the Applicants have misunderstood its representations on this point or are seeking to rebut a position not in fact taken by Sembcorp. As Sembcorp has previously represented, Sembcorp considers it entirely viable to construct Work No 6 within the confines of the existing pair of piperacks and/or in vacant land between them, and for reasons of access, and manoeuvring emergency service vehicles and/or cranes, Sembcorp considers obstruction of the existing access tracks to be a health and safety concern. The ExA will recall observing some of these access constraints at the ASI held on 20 October 2022.</p> <p>6.2.8: At that ASI the ExA's attention was particularly drawn to an even larger 36 inch diameter Northumbrian Water pipeline within the NTG estate and spine pipeline corridor (also within the Sembcorp Pipeline Corridor) which was successfully constructed and which is still inspected and in service. This does not have the easement width or limits (for construction and/or maintenance) which the Applicants suggest are required. Sembcorp maintains its position that the Applicants have failed to explain satisfactorily why the extent of rights sought in the dDCO is necessary or proportionate.</p> <p>6.2.12: Notwithstanding the representations of the Applicants, Sembcorp is still unable to accept that the</p>

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			<p>Applicants have adequately justified the proposed Order Limits. With specific reference to the proposed extent of rights over the Sembcorp Pipeline Corridor, these continue to be so significantly greater than those enjoyed by existing apparatus owners and it is evident that Sembcorp is not the only interested party in the Examination which holds this concern.</p>
		ii) Updated 'Justification of Corridor Widths' [REP8-051];	<p>Sembcorp considers that this amended document adds little to the previous inadequate justification put forward by the Applicants. As set out above and in previous representations to the ExA, Sembcorp does not agree that the Applicants have articulated adequate justification for the width of the rights sought along the full length of the Sembcorp Pipeline Corridor – providing a narrow selection of 'outlier' examples provides no evidence for the extent of the Order limits sought across the majority of its length.</p> <p>Sembcorp also notes the Applicants admission that they are considering routeing the CO2 Gathering Network pipeline on the outside of the existing pipe racks with the probability that this could impinge upon the vital existing access tracks. If not appropriately managed, this will impede access to the Sembcorp Pipeline Corridor for other apparatus owners – especially during the construction phase of NZT – as well as potentially impeding emergency access. This is why Sembcorp continues to submit that it is the best-placed entity to manage such issues due to its long-standing experience as the pipeline authority,</p>

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			<p>overseeing the interface between the many competing existing uses as well as future developers.</p> <p>This is why it is essential for appropriate protective provisions – substantially equivalent to those provided for in the Dogger Bank DCO – to be included in the dDCO so as to ensure that a fair and proportionate balance between the competing interests (including the Applicants') can be struck.</p>
		<p>The latest version of the Draft Development Consent Order (dDCO) [REP8-003] which is of relevance to Sembcorp including the definitions, Requirements (R) 11, 18 and 37, the Protective Provisions at Part 16 and plans to be certified at Schedule 14; and</p>	<p>The following comments are based on the version of the dDCO lodged at D8 [REP8-003]. Sembcorp reserves the right to submit further representations in respect of any amended dDCO that may be lodged by the Applicants.</p> <p>With respect to the definitions in Article 2, Sembcorp makes the following comments:</p> <ul style="list-style-type: none"> i. the definition of "<i>Sembcorp</i>" should be amended to read in substantially the following terms: "<i>means Sembcorp Utilities (UK) Limited, with Company Registration Number 04636301, whose registered office is at Sembcorp UK Headquarters, Wilton International, Middlesbrough, Cleveland, TS90 8WS <u>and any successor in title or function to the Sembcorp operations in, under or over the Sembcorp Pipeline Corridor</u></i>". <p>This amendment is required because the need for specific Protective Provisions ("PPs") and</p>

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			<p>the associated need for RPA consultation when discharging requirements arises from Sembcorp's management/oversight role as the 'pipeline authority', rather than in its capacity as a simple landowner.</p> <p>Should Sembcorp transfer its management functions and interests in the Sembcorp Pipeline Corridor to another entity in the future, the applicable consultation requirements and PPs should apply to the successor to those functions rather than to Sembcorp only i.e. if Sembcorp is no longer actively involved in the management of the Corridor then there is little point in the undertaker and the RPAs liaising with Sembcorp as this will be of no practical benefit – they should instead liaise with Sembcorp's successor as pipeline authority. The proposed amendment seeks to achieve this.</p> <p>ii. with respect to the definition of "<i>permitted preliminary works</i>" and further to ISH5 Action 1, following further discussions with the Applicants' solicitors Sembcorp is satisfied that its concerns on this front (in terms of potential adverse impacts on the Sembcorp Pipeline Corridor and/or the Wilton Complex arising from the carrying out of the authorised development, including any preliminary works) can be adequately overcome through the inclusion of appropriate PPs in the dDCO equivalent to</p>

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			<p>those provided for in the Dogger Bank DCO. Please see below for further details.</p> <p>Subject to their inclusion, no further amendment would be required to this definition in order to overcome Sembcorp's concerns on this point because the potential risk would have been mitigated through the operation of the PPs.</p> <p>Sembcorp has no further comments in respect of R11 (<i>Surface and foul water drainage</i>) or R18 (<i>Construction traffic management plan</i>). As amended they are acceptable, subject to the omission of R37 as discussed below.</p> <p>As to R37, as intimated at ISH5 Sembcorp considers this requirement to be unnecessary, adding only uncertainty for the undertaker, Sembcorp and the RPAs. This is because a primary purpose of the requirement to consult Sembcorp before the RPA grants approval under the relevant requirements is precisely in order to establish whether the matters in question could or would or might (however the point is expressed) have an adverse effect on the Sembcorp operations. If there is not, Sembcorp would simply provide a nil return to the consultation confirming that there is no objection.</p> <p>R37 introduces needless complexity and delay by seeking to add an extra 'filter' for the RPA to consider first whether Sembcorp's interests could be affected in</p>

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			<p>order to then establish whether it is necessary to consult Sembcorp – all whilst the clock is ticking on the deemed determination period.</p> <p>When asked about this matter by the ExA at ISH5, the RPA representative (rightly) expressed concern about RPA officers being placed in a position of having to determine whether Sembcorp's interests could be affected when (as far as we are aware) it is common ground in the Examination that this is a highly technical matter on which Sembcorp is best placed to input where relevant and appropriate because of its special status as the pipeline authority.</p> <p>The practical effect of R37 is therefore likely to be that the RPA will conduct a non-statutory consultation with Sembcorp on every discharge application in order to enable it to make an informed decision as to whether it is necessary to undertake statutory consultation with Sembcorp on that application. This is needless duplication which does nothing but add extra cost, risk and uncertainty to the process.</p> <p>It is sufficient for the RPA simply to notify Sembcorp of the relevant application to discharge requirements. If Sembcorp has no concerns then there is no issue, but if a concern is identified then Sembcorp can provide an appropriate consultation response for the RPA's consideration in determining the application.</p>

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			<p>The risk of such issues emerging in consultation responses at the requirement discharge stage can of course be largely removed if the undertaker undertakes pre-application engagement with Sembcorp – engagement which Sembcorp would welcome. However, the decision to undertake such engagement lies fully within the undertaker's control and R37 is not necessary to achieve it.</p> <p>Given that the RPA's representative also confirmed at ISH5 that issuing consultation requests to Sembcorp in respect of the discharge of the relevant requirements (i.e. for those where Sembcorp is specified as a statutory consultee in the dDCO) does not in practice impose any particular burden on the RPA (since this process can be largely automated), it is not clear how R37 is of any benefit at all.</p> <p>In light of the foregoing, R37 should be omitted in its entirety.</p> <p>With respect to the PPs at Part 16 of Schedule 12 (and cognisant of ISH5 Action 14), Sembcorp has as yet been unable to reach agreement with the Applicants as to their content.</p> <p>Whilst there is much within the current draft PPs to which Sembcorp does not object, overall they do not provide an appropriate level of protection. In particular, given the potentially serious disruption to the carefully calibrated legal arrangements governing the Sembcorp</p>

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ExQ2	Question to:	Question:	Sembcorp Response:
			<p>Pipeline Corridor and the adverse knock-on effects for the customers reliant upon it (including at the Wilton Complex), the Applicants' proposed inclusion of unrestricted CA powers in the dDCO without any meaningful mechanism of control and oversight by Sembcorp mean that the PPs currently proposed by the Applicants in the dDCO are fundamentally inadequate.</p> <p>As set out in Sembcorp's previous submissions to the ExA, Sembcorp seeks a level of protection commensurate with that already provided for in the Dogger Bank DCO. These settled PPs were recommended by the previous ExA and included in the Dogger Bank DCO by the Secretary of State on the basis that they represented a fair, reasonable and proportionate compromise position between the ability of the then promoter to proceed with its authorised development without undue delay, whilst at the same time appropriately managing the potential risk of disruption to the operation of the Wilton Complex (which is served by the Sembcorp Pipeline Corridor) – an industrial facility that the previous ExA concluded was itself of equal national significance and economic importance to the proposed NSIP and has been expressly recognised by inter alia RCBC in its local plan and at ISH5.</p> <p>The compromise position recommended by the previous ExA was that certain 'identified powers' (primarily relating to CA and extinguishment of land and rights) could not be exercised by the promoter</p>

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			<p>over the relevant Sembcorp land and operations without Sembcorp's consent. Such consent was not to be unreasonably with-held with any differences resolved through a dispute resolution mechanism set out in the DCO i.e. referral to an independent third party for final determination under an expedited process. This struck a fair balance between the need to protect the vital economic contribution made by the Wilton Complex – which is nationally significant – whilst also ensuring that the promoters would not be subjected to unnecessary delay in progressing their own development.</p> <p>Thus far, the Applicants have refused to agree to the inclusion of equivalent provision in the dDCO and have provided no satisfactory explanation as to why a different approach is warranted in the present Examination. The current dDCO PPs are accordingly defective and do not properly mitigate the identified risks to the Sembcorp Pipeline Corridor and the industrial operators (including at the Wilton Complex) which depend upon it.</p>
		<p>iii) Provide an update on discussions in relation to voluntary agreements, and indicate whether these are likely to be successfully concluded before the close of the Examination and if so whether the objection to CA of the listed plots is likely to be withdrawn before the close of the Examination; and</p>	<p>Sembcorp continues to discuss a number of voluntary agreements with the Applicants. A draft agreement (option) and easement was sent to the Applicants' solicitors on 25 May 2022. Preliminary comments in response to those documents were not received back until 27 September, which Sembcorp nevertheless provided initial feedback to during calls with the Applicants' representatives on 28 September and 30 September.</p>

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			<p>The Applicants' solicitors then agreed to provide 'redline' mark-ups of both documents, but the mark-up of the Agreement was only subsequently provided on 20 October 2022. Sembcorp still awaits a mark-up of the easement.</p> <p>Furthermore, even within the material that has been provided, the Applicants' solicitors commentary on several material matters is merely that they 'require further discussion' or that the Applicants' solicitors are still awaiting instructions from the Applicants on a number of points. It is clear there are a number of important issues on which Sembcorp and the Applicants have not yet reached even agreement in principle.</p> <p>In light of the lack of progress made by the Applicants and with due regard to the complexity of the Sembcorp Pipeline Corridor's legal and operational arrangements, Sembcorp considers that it is unlikely that a voluntary agreement (option) and easement will be concluded before the close of the Examination.</p> <p>Accordingly, subject to the important caveat below, Sembcorp's objection to the proposed CA of the relevant plots is unlikely to be withdrawn.</p> <p>Without prejudice to the foregoing, it is possible that the inclusion of appropriate PPs in the dDCO to restrict the use of CA powers by the Applicants may</p>

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			nevertheless enable Sembcorp's objection to be withdrawn even if voluntary agreements are not concluded. If this be the case a further update will be provided to the ExA before the close of the Examination.
		iv) Provide a set of preferred Protective Provisions by D12 should agreement not be reached by Deadline 11.	Sembcorp continues to discuss PPs with the Applicants with a view to reaching an agreed position, but failing this a set of preferred draft PPs will be lodged at DL12. In these circumstances, and with reference to ISH5 Action 2, we envisage that this would be accompanied by any necessary supporting plans.
CA.3.8	All APs	All APs are asked to provide an update on the negotiations regarding the acquisition of plots where there were concerns regarding the operational viability for the current users. Indicate whether these are likely to be successfully concluded before the close of the Examination and if so whether the objection to Compulsory Acquisition (CA) and/or Temporary Possession (TP) of these plots is likely to be withdrawn before the close of the Examination.	Insofar as this matter relates to Sembcorp's interests, please refer to the response to ExQ3 CA.3.4 above.