

**PLANNING ACT 2008**

**THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)  
RULES 2010**

**APPLICATION BY NET ZERO TEESSIDE POWER LIMITED AND  
NET ZERO NORTH SEA STORAGE LIMITED FOR A  
DEVELOPMENT CONSENT ORDER IN RESPECT OF THE NET  
ZERO TEESSIDE PROJECT GENERATING STATION**

**SEMBCORP PIPELINE CORRIDOR PROTECTIVE PROVISIONS**

**POSITION STATEMENT**

**ON BEHALF OF**

**SEMBCORP UTILITIES (UK) LIMITED**

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## Introduction

1. This position statement is made on behalf of Sembcorp Utilities (UK) Limited (“**Sembcorp**”) and sets out the rationale and justification for Sembcorp's preferred draft protective provisions (“**PPs**”) which are proposed for inclusion in the dDCO for the protection of the Wilton Complex and its associated supporting infrastructure in the Sembcorp Pipeline Corridor. It should be read in conjunction with the attached PPs at Annexe E<sup>1</sup> and the explanatory memorandum associated therewith at Annexe F.
2. Reliance is placed in particular on the consideration of this issue by the examining authority which considered The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015 (“**Dogger Bank DCO**”). Relevant extracts from the Dogger Bank DCO recommendation report are provided at Annexe C and extracts from the made Dogger Bank DCO at Annexe D of this statement and will be referred to at relevant points.

## The important role of Wilton in the UK and local economy

3. Sembcorp is a Teesside based subsidiary of Sembcorp Energy UK, a leading provider of sustainable solutions supporting the UK's transition to Net Zero. With a total generational and storage portfolio of over 1.3GW in operation or under development, including significant renewable generation and existing battery storage, Sembcorp Energy UK helps to keep the country's electricity system balanced and resilient, through a fast-acting, decentralised fleet of assets. In turn, Sembcorp Energy UK is part of the Singapore-based Sembcorp Industries group, a leading multi-national energy and urban solutions provider, which is playing its part in building a sustainable future through supporting the energy transition and delivering sustainable development. Listed on the main board of the Singapore Exchange, it is a component stock of the Straits Times Index and sustainability indices including the FTSE4Good and iEdge SG ESG. It has a balanced energy portfolio of 16.6GW, with 7.1GW of gross renewable energy capacity comprising solar, wind and energy storage globally.
4. On Teesside, Wilton International (“**Wilton Complex**”) , with significant land within the Teesside Freeport, sits amongst a hub of decarbonisation innovation. Sembcorp's major industrial power plants deliver high-quality, centralised utilities and services to energy-intensive industrial businesses. This includes the operation of a private electricity grid at the Wilton Complex as well as the management and control of a significant network of pipeline corridors connecting the Wilton Complex and other industrial businesses located within the other clusters at Billingham and North Tees. The pipeline corridors enable the transportation of industrial gases, raw materials and feedstock seamlessly between manufacturers, storage and process plants. The Sembcorp Land Plan provides a high level overview of the geographical relationship between these key industrial and economic assets [**REP2-099a**], although it should be noted that this does not exhaustively show the location of all Sembcorp apparatus and infrastructure in the region.
5. The Wilton Complex, where Sembcorp's industrial power and other utility assets are located, is one of the UK's leading multi-occupancy industrial and manufacturing sites, with the products made there being both of national importance and generating millions of pounds in export revenues annually for the UK economy.
6. The Wilton Complex is a large industrial / manufacturing site located between Redcar and Middlesbrough, to the south of the former steel-making enclave now being redeveloped by

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<sup>1</sup> Annexe E1 is a 'clean' version. Annexe E2 shows tracked changes compared to the dDCO version most recently submitted by the Applicants at DL8 [**REP8-003**].

Teesworks and Teesport (the fifth largest port in the UK and only major net exporting port in England) and to the north of the A174 Redcar - A19 dual carriageway. Initially developed by the former Imperial Chemical Industries conglomerate ("ICI"), the Wilton Complex was officially opened in the early 1950s as a major integrated petrochemical facility, supported by internal electricity generation facilities. Following divestment by ICI in the late 1990s, the Wilton Complex continues to contain major petrochemical process plant and it now hosts diversified businesses in a variety of fields including energy generation, plastic recycling and process research together with office accommodation and production research facilities. Raw materials are imported to and exported from the Wilton Complex via marine terminals at Teesport and North Tees, by pipeline and by road. The Wilton Complex also benefits from extensive private sidings and connection to the rail network.

7. The operation of the Wilton Complex operation is split between Sembcorp (as a freeholder and integrated infrastructure provider to the entire site) and a series of individual process and related industrial undertakings. A number of multinational chemical companies now operate on the site and more than £1 billion has been spent by companies at the Wilton Complex in recent years. This includes in excess of £200 million by Sembcorp to date in new and improved assets. Sembcorp is currently underway with a project to add around 360MW of battery energy storage, with the first phase now in pre-construction and full works to follow before year end. This builds on Sembcorp's commitment to delivering a low carbon and energy secure future for the UK, including pioneering new technologies such as the UK's first ever wood-fired power station, Wilton 10 – built by Sembcorp at the Wilton Complex and part fuelled by locally processed waste wood material.
8. Other significant investment at the Wilton Complex includes £250 million by SABIC on its Low Density Polyethylene plant (the world's largest such facility), £350 million on Crop Energies' bioethanol plant and a new £250 million energy from waste facility in which Sembcorp is a major stakeholder. Furthermore, SABIC is currently underway with a major overhaul and fuel conversion project for its Olefins 6 'cracker' plant with an estimated cost of around £850 million. For further information, please refer to Sembcorp's responses to ExQ1 GEN.1.38 [REP2-099].
9. Around 4,400 people are currently employed at the Wilton Complex, with a further 1,300 contractors visiting the site each weekday. Thousands more jobs are supported through the supply chains of businesses based at the site, which include SABIC, Ensus, Alpek Polyester UK, Huntsman, Biffa Polymers, Nippon Gases and Anglo Woodsmith. The significance of these businesses cannot be overestimated. For example, since its opening in March 2011, Biffa Polymers' polymer recycling plant has handled up to 30% of the UK's plastic milk bottle recycling.
10. Sembcorp actively markets the Wilton Complex with a view to securing inward investment and further growth. The Northeast of England is recognised and promoted by the Department for International Trade as a leading location in the UK for foreign direct investment into the chemistry using industries. The Wilton Complex's status as a multi-occupancy business and research centre is a key attraction. Together with the Wilton Centre (owned by Wilton AG), it hosts one of the largest R&D facilities in Europe and includes the Centre for Process Innovation ("CPI"), part of the Technology Strategy Board's (also branded as Innovate UK) High Value Manufacturing Catapult network. CPI is a British technology and innovation centre which was established in 2004 by the UK Government agency ONE NorthEast as one of five centres of excellence in a long-term strategy to "*reposition the North-East [of England] on the world stage for research and development*". CPI helps companies to develop, prove, prototype and scale-up new products and processes by providing access to facilities, expertise and networks of public and private funders. Accordingly, the Wilton Complex's continued success forms a key part of the Government's long-standing economic and trade strategy for the UK.

11. The Wilton Complex is also one of the main sites used by the economic cluster body the Northeast of England Process Industry Cluster ("NEPIC"). An economic or business cluster is a geographic concentration of interconnected businesses, suppliers, and associated institutions in a particular field. Clusters have the potential to affect competition in three ways: by increasing the productivity of the companies in the cluster; by driving innovation in the field; and by stimulating new businesses in the field. Clusters increase the productivity with which companies can compete, nationally and globally.
12. NEPIC has been created by the chemistry using industries based in Northeast England – including many businesses based at the Wilton Complex – where more than 1,400 companies are locally based in the supply chain for this vital sector. The sector has over 35,000 direct employees and some 190,000 indirect employees in the northeast of England and together they represent over one third of the industrial economy of the region. Companies in the NEPIC area manufacture 50% of the UK's petrochemicals and 35% of the UK's pharmaceuticals and they significantly contribute towards making the region the only net exporting region of the UK. By 2017 the total GVA contribution of NEPIC to the local and UK economy had climbed to £3.34 billion.
13. The Wilton Complex thus forms part of an important cluster of petrochemical, speciality and other process manufacturing businesses of local, regional and national economic significance. Sembcorp plays a central role as part of that cluster. The Wilton Complex itself is an industrial and manufacturing hub of national importance and whilst overall Sembcorp supports the Net Zero Teesside Project ("Project") (acknowledging the important contribution the Project could, if selected and/or developed have towards the shared goal of reducing the UK's greenhouse gas emissions over the coming decade(s)), Sembcorp continues to express its concern about the impact Project may have on it, the Wilton Complex and a number of the existing industrial emitters on Teesside, which the CO2 gathering network is intended to support.
14. Sembcorp supplies the major industrial businesses at the Wilton Complex with secure and reliable supplies of electrical power, steam, water (raw, potable and demineralised), and other services, using a mix of combined heat and power (CHP), renewable and/or sustainable power generating facilities. It also owns much of the land available for development on the site. This 'ready-to-go' site solution integrates energy, development land, infrastructure, utilities and security, supported by the site's extensive network of internal infrastructure, providing gas, electricity, water, steam, drainage, pipe and road connectivity, moving inputs, products, by-products and wastes between different production facilities – both within and outwith the Wilton Complex itself. This includes:
  - a. on-site energy generation utilising multiple assets with National Grid backup to ensure energy security, resilience and cost savings;
  - b. established industrial infrastructure ready to deliver the utilities, feedstocks, industrial gases and products needed by investing businesses;
  - c. a range of large-scale, fully serviceable development plots are available, with flexible tenancies and pre-consented planning – enabling quick and convenient 'plug-and-play' property solutions and enabling businesses to reduce investment project costs, risk and timeframes; and
  - d. specialist site safety and security teams compliant with all applicable standards demanded by major process industry companies, including COMAH regulations.
15. For investing, energy-intensive industrial businesses, this delivers competitive advantage through reduced costs, risk and project timeframes.

## The Sembcorp Pipeline Corridor

16. To sustain cluster performance in the long term, strong inter-organisational relationships within the cluster are vital, including important aspects of strategic management of the essential supporting infrastructure. In the case of Sembcorp, this includes the strategic management of the essential pipeline route and associated infrastructure between the Wilton Complex and Billingham via North Tees ("**Sembcorp Pipeline Corridor**")<sup>2</sup>.
17. The Sembcorp Pipeline Corridor carries a variety of industrial gases, raw materials and feedstock including natural gas, fuel oils, nitrogen and hazardous chemicals such as hydrogen cyanide. These are produced or used by major multinationals and household names including BOC, Ineos, Huntsman and Mitsubishi. The Sembcorp Pipeline Corridor connects directly into the Wilton Complex's substantial network of service corridors (also known as vein lines), which themselves incorporate established pipelines, cables, cable routes & supports, culverts, bridges, pipe supports and anchor blocks.
18. The draft Sembcorp Pipeline Corridor protective provisions supporting plans supplied with this statement show the extent of this vital infrastructure and Sembcorp's associated land interests which underpin it edged red. Please see Annexe A of this statement for further details.
19. Importantly, the Sembcorp Pipeline Corridor provides pipeline connection capability to:
  - a. Teesside's North Sea gas processing plants and the UK national gas transmission networks, enabling businesses at the Wilton Complex or Billingham who require a supply of natural gas in large volumes to have access to it; and
  - b. the UK's ethylene distribution network, with Teesside being the central node and the only chemical cluster to provide combined production, consumption, storage and export facilities on the system.
20. Whilst this network has (for convenience) been referred to during the Examination as the Sembcorp Pipeline Corridor (singular), it is important to note that the infrastructure and apparatus in question forms part of a more extensive network. Individual sections are not readily severable because they form part of an integrated whole.
21. In general terms, the Sembcorp Pipeline Corridor consists of a main 'trunk' route (shown tinted yellow on [REP2-099a]) together with a number of branches which connect the main trunk with other infrastructure compounds and facilities in the area, including the Wilton Complex vein lines and other industrial undertakers such as gas compounds. The extent of these branches is shown edged red on the draft plans provided at Annexe A of this statement.

## Sembcorp's role

22. Sembcorp takes on a key role in respect of the Sembcorp Pipeline Corridor: managing, maintaining, patrolling and facilitating both the use of the corridor and the shared apparatus infrastructure and any works within it (see further below). Sembcorp acts as a central body for the management of the

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<sup>2</sup> At Billingham meeting up with CF Fertiliser's pipeline corridor which runs into and around the Billingham cluster.

Sembcorp Pipeline Corridor (as distinct from its parallel capacity as a landowner) and this co-ordinating function provides significant economic and strategic value. In this respect, Sembcorp could be considered to play a similar role to that occupied by National Grid concerning the management and oversight of the UK's national electricity grid and gas transmission networks, albeit with a more limited scope and scale.<sup>3</sup>

23. Sembcorp coordinates all users use of the Sembcorp Pipeline Corridor, in terms of both routine communication and in the management of all works, from routine assurance to future proposals and enhancements. The Applicants have asked to be part of this communication distribution list in the negotiated Heads of Terms with Sembcorp and this is now included in the draft agreement with them<sup>4</sup>, which demonstrates that the Applicants themselves also see the benefits of Sembcorp's role as pipeline authority.
24. Additionally, during the negotiations we understand the Applicants have asked Anglo Woodsmith and PD Teesport to grant them the rights necessary for the CO2 gathering network aspect of the Project. Anglo Woodsmith has indicated that Sembcorp would be best placed to coordinate and grant the rights directly to the Applicants, whilst PD Teesport has also indicated to Sembcorp that Sembcorp is best placed to coordinate and permit the Applicants' works within the Sembcorp Pipeline Corridor. In Sembcorp's view, this demonstrates those parties also recognise the value and role that Sembcorp undertakes as the pipeline authority in the Sembcorp Pipeline Corridor. Sembcorp has significant experience in this role, having undertaken it since acquiring the business in 2003.
25. At present, the Sembcorp Pipeline Corridor has the (existing and potential) capacity required for both Sembcorp's business plans and those of the wider Wilton Complex and Billingham cluster. This includes future development, including the likely relocation and expansion of existing users as well as the establishment of new manufacturing and process plant during the next 30 to 60 years. Compulsory acquisition of rights by the Applicants and the extinguishment of existing established rights in the Sembcorp Pipeline Corridor as proposed in the dDCO will impact Sembcorp's ability to service its other customers and to continue to provide this vital co-ordinating function.
26. In particular, the Sembcorp Pipeline Corridor contains a 24 inch gas pipeline running between Billingham and the Wilton Complex via the Teesside gas processing plant ("TGPP") which was built in the early 1990s. This took gas either from the National Grid gas connection point at Billingham AG11 or from the gas processing plant at TGPP, which cleans up gas coming in from the North Sea for onward transmission to either the national transmission system or directly to industrial users in the region.
27. The route of the pipeline between TGPP and the Wilton Complex is shown (for indicative purposes only) as a thick red line on the plan reproduced at Annexe B. The TGPP is located at the western end (on the plot labelled '14') with the eastern end joining into the main 'trunk' of the Sembcorp Pipeline Corridor at the eastern end of the No2 Tunnel en route to the Wilton Complex.
28. At the Wilton Complex end, the pipeline brought gas to AGI4 where it was connected to a power station known as Teesside Power Limited ("TPL"). That power station provided circa 1700MW

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<sup>3</sup> For convenience, in this statement Sembcorp's management role with respect to the Sembcorp Pipeline Corridor is referred to as it acting as the "pipeline authority".

<sup>4</sup> Regrettably, the Applicants have made little progress to date in terms of finalising this (see Sembcorp's response to ExQ3 CA.3.4.iii [REP11-029]).

generating capacity and, in addition to supplying electricity to the National Grid, also supplied steam and electricity to the Wilton Complex.

29. In circa 2012, TPL's then owner (GDF Suez (GDFS)) ceased operation and, following decommissioning of TPL, Sembcorp acquired the gas pipeline infrastructure outright. This acquisition was primarily to provide a future gas supply for a replacement power station serving the Wilton Complex in order to meet future anticipated needs. Whilst Sembcorp has other on-site generation in the form of two gas turbines, a biomass boiler, steam raising via package boilers and an energy from waste plant, on-site power demand has grown which means that it is necessary for Sembcorp to provide and build new electricity and steam generation facilities to serve the needs of the Wilton Complex, to support a number of new industrial plants such as the planned materials handling facility of Anglo Woodsmith (which is to be used for polyhalite processing).
30. On site generation is highly important to the petrochemical and heavy manufacturing users at the Wilton Complex because, when combined with Sembcorp's own on-site private power and steam distribution systems, it ensures sufficient capacity is available<sup>5</sup>, allows access to steam (which is typically used for process heating and is more efficient than local boilers) and is typically cheaper. All of these factors are essential in helping on-site businesses at the Wilton Complex remain competitive in the global market.
31. Sembcorp has already been granted development consent for a new power generation plant to replace TPL through The Tees Combined Cycle Power Plant Order 2019. This comprises a natural gas fired combined cycle gas turbine generating station with an output capacity of up to 1700 MW. The station will include up to two gas turbine units, up to two steam turbine units, ancillary plant and equipment located in the main power island as well as hybrid water coolers and, in accordance with policy requirements for new, large energy generating plant, an area of land for possible future carbon capture equipment. The design also makes provision for combined heat and power.
32. In addition, the planned Whitetail Clean Energy project is poised to become the UK's first 300MW 'Net Zero Power' generating station – one of the first projects of its kind in the world. The plant will be located within the Wilton Complex and generate approximately 300MW of clean power, available whenever it is needed, while capturing and storing its carbon emissions. The project is a collaboration between 8 Rivers Capital and Sembcorp, alongside NET Power which brings world-leading development expertise to the project, and aims to reach Final Investment Decision in 2022/23 and could begin operations by 2025.
33. The process combusts natural gas with oxygen, rather than air, and uses supercritical carbon dioxide (CO<sub>2</sub>) as a working fluid to drive a turbine instead of steam. This means that near all air emissions, including traditional pollutants and CO<sub>2</sub>, are eliminated and pipeline-quality CO<sub>2</sub> is produced so that it can be captured and stored offshore, making Whitetail a Net Zero emissions plant. The project will further support the decarbonisation efforts of the region, and the UK, to help reach the Net Zero 2050 target. It will also operate at competitive cost and efficiency compared to traditional gas power plants.
34. Whitetail is also expected to bring significant investment into Teesside, potentially creating more than 2,000 direct, indirect, and induced jobs during peak construction and 200 direct and indirect highly skilled jobs during operation.
35. In addition, there is currently only a single supply of gas to the Wilton Complex. This is from a connection to Northern Gas Networks local distribution zone ("LDZ") which enters the Wilton

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<sup>5</sup> There are potential capacity and technical constraints with going direct to the Grid for power.



Complex from the south. Many on-site customers require gas and there is simply insufficient capacity in the current supply from the LDZ to provide all the gas that it is envisaged that Whitetail, existing and new plants will require. The current single supply is also insufficiently resilient, particularly as the Wilton complex continues to expand because, in the event of a loss of the existing gas supply, almost all major petrochemical and heavy manufacturers would be unable to operate, either because they directly require gas or because Sembcorp would be unable to generate sufficient power or steam.

36. For these reasons, Sembcorp is currently actively exploring the provision of an additional gas supply into the Wilton Complex. Whilst the gas pipeline from Billingham via TGPP is not currently in active use, preliminary investigations from in-line inspection indicate that it can be returned to service and this will be necessary in order to facilitate the expanded power and steam generation facilities serving the Wilton Complex in due course. This additional supply is essential in order to cement the vital and substantial economic output from both existing and future Wilton Complex businesses. Accordingly, it forms a key part of the Sembcorp Pipeline Corridor infrastructure serving the Wilton Complex.
37. As set out above, Sembcorp's supervisory and management role in relation to the Sembcorp Pipeline Corridor is distinct from its status as an owner of land within the Order Limits. Its active role as the pipeline authority for the Sembcorp Pipeline Corridor provides a separate substantial benefit for industrial occupiers of the Wilton Complex and the wider NEPIC area which itself serves the public interest. This could not be adequately provided for through the standard compulsory acquisition and compensation mechanisms i.e. the value of Sembcorp's involvement to the cluster, the region and the UK economy is not compensable because it is conceptually different to and wider than a mere land interest.

### **The legal framework governing the Sembcorp Pipeline Corridor**

38. Sembcorp is a freeholder, leaseholder and rights holder pursuant to several deeds in and around the Teesside area. As the owner and controller of the complete Sembcorp Pipeline Corridor<sup>6</sup>, Sembcorp has granted several packages of rights to its customers to use the Corridor, including use of the surrounding land, apparatus and infrastructure.
39. There are broadly two main categories of apparatus and infrastructure:
  - a. **Shared Apparatus<sup>7</sup> and Infrastructure<sup>8</sup>** is the equipment and civil structures that Sembcorp or its predecessors have built and provided for its customers to provide a readily useable route for new pipelines and other apparatus. All customers are able to make shared use of this equipment (where provided for in their package of rights) and Sembcorp maintains it in exchange for a maintenance charge<sup>9</sup>.

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<sup>6</sup> Save for the Crown Land comprised in the two tunnels under the River Tees (but it should be noted that Sembcorp controls the infrastructure and space within those two tunnels under the River Tees) and working with North Tees Group in relation to the section through the North Tees Estate.

<sup>7</sup> Such as support racks, stanchions, pipe supports, pipebridges, cable supports, cable bridges and cable trees upon which pipelines, tubes, cables, wires and other conducting media may be located

<sup>8</sup> Such as the drains, bridges, ducts, culverts, access tracks, trenches, embankments and other civil structures

<sup>9</sup> Made up of a proportionate share of the cost of its maintenance plus a fee in respect of Sembcorp's management and overheads for so doing.

- b. **Exclusive Apparatus Infrastructure** is the equipment that customers build within the Sembcorp Pipeline Corridor for their sole purpose and use, where other customers are not entitled to use it. It should be noted that Exclusive Apparatus Infrastructure is still subject to Sembcorp's direction and design approval in its capacity as pipeline authority.
40. There are different types of rights granted for different customer needs, and the documentation with each customer has been tailored for each i.e. these are not template documents. The packages of rights comprise a mix of easements and contractual licences which – in combination – convey the rights of use of the Sembcorp Pipeline Corridor for transmission of waste water, natural gas, nitrogen, hydrogen, etc for each of the customers' specific businesses.
41. In this regard, the various packages of rights granted by Sembcorp over the Sembcorp Pipeline Corridor generally provide for the following functions to be exercised by Sembcorp in the wider interest:
- a. **management** is the organisation and coordination of activities within the Sembcorp Pipeline Corridor, such as communication to customers via the distribution list of any works or proposals (new customers, new works, and maintenance) that will be taking place, liaison with other landowners where relevant and the operation of a diary and plan for upcoming maintenance activities, so as to ensure customers' apparatus is not damaged, works are co-ordinated and managed safely, and that in so far as is possible business is not interrupted. This also includes overseeing the protective provisions as between asset owners provided for in the relevant packages of rights i.e. Sembcorp will not permit/consent to any one asset owner's works in the Corridor unless that asset owner has gone (either directly or via Sembcorp) through the applicable process of notifying the other asset owners of the details/method statement etc and affording those other asset owners an opportunity to specify what protective measures need to be put in place to protect their respective assets during any those works;
  - b. **maintenance** of the Shared Apparatus and Infrastructure within the Sembcorp Pipeline Corridor more generally and provision of access and accessways, including effecting repairs (planned and reactive) and patrolling the Corridors and alerting customers to any major defects or issues identified by those patrols;
  - c. **facilitation** including:
    - i. access onto the Sembcorp Pipeline Corridor and adjoining property for the purpose of carrying out inspection and/or works to a customer's own apparatus or Exclusive Apparatus Infrastructure;
    - ii. liaising with other customers in respect of any proposed works;
    - iii. scheduling the works and issuing inductions and issue of permits to work in accordance with the relevant works provisions;
    - iv. reviewing method statements and monitoring design and safety reviews;
    - v. producing and issuing a 'mod' form in respect of any proposed works and reviewing specified qualifying activities;
    - vi. attending customers' project meetings and/or process reviews; and

- vii. monitoring and auditing any works conducted.
42. It will be seen that Sembcorp's role as pipeline authority is underpinned by this interconnected web of reciprocal rights and obligations. These are essential in order for Sembcorp to discharge its functions and to ensure the on-going safe operation of the apparatus and infrastructure. The rights are enforceable against Sembcorp as the contracting party to the easements or licences and, conversely, Sembcorp is able to enforce customers' obligations in order to protect the collective interest in the safe, efficient and effective operation of the Sembcorp Pipeline Corridor and the businesses that use it whether at the Wilton Complex or elsewhere upon Teesside.

### **The potential adverse effect of the Project**

43. Sembcorp is concerned to ensure that the important apparatus within the Sembcorp Pipeline Corridor, as well as route for connecting pipework, cables and other conducting media between the Wilton complex and the other clusters is not disrupted by the Applicants' proposals in ways that lead to economic harm, loss of employment, or additional operational safety or environmental concerns for the existing plant and equipment.
44. There is no explicit policy guidance in the National Policy Statements in respect of the impact of fossil fuel generating stations on major onshore industrial operations or infrastructure, such as the Wilton Complex or the Sembcorp Pipeline Corridor.
45. However, paragraph 4.1.3 of the Overarching National Policy Statement for Energy (EN-1) states that:
- "In considering any proposed development, and in particular when weighing its adverse impacts against its benefits ...[the ExA] should take into account its potential benefits ... and its potential adverse impacts".*
46. Paragraph 4.1.4 of EN-1 goes on to explain that *"social and economic benefits and adverse impacts"* should be taken into account *"at national, regional and local levels"*.
47. This supplemented by EN-1 paragraph 5.1.2 which makes clear that the *"list of impacts (generic and technology-specific) and the policy in respect of the consideration of impacts"* in EN-1 and in the impact section of the technology-specific NPSs *"is not exhaustive"*. The NPSs address those impacts and means of mitigation that are anticipated to arise most frequently, but they are not intended to provide a list of all possible effects or ways to mitigate such effects. The ExA should therefore consider other impacts and means of mitigation where it determines that the impact is relevant and important to its decision.
48. In this regard, as set out above, the Wilton Complex is a hub of petrochemical, speciality and other process manufacturing businesses and these businesses are vital contributors not only to the regional, but also the national economy. It forms a vital part of the NEPIC cluster. The businesses served by the Sembcorp Pipeline Corridor – including those located at the Wilton Complex – are as a whole a highly significant economic asset and, whilst they are not an NSIP or the direct subject of NPS policy, they make an important and relevant contribution to national economic life. This is

a matter to which the ExA should attach considerable weight – as did the Dogger Bank DCO examining authority.<sup>10</sup>

49. The importance of the cluster (and of the Wilton Complex in particular) is recognised in the adopted local plans for the host local authorities. For example, paragraph 1.18 of the Redcar and Cleveland Local Plan (May 2018) acknowledges that:

*"The chemical industry, mainly based at Wilton International, is a vitally important part of the local, regional and national economy."*

50. This importance was reinforced at ISH5 in the oral submissions made on behalf of RCBC.

51. This is supplemented by paragraph 5.28 which states:

*"Wilton International is a world class chemicals and energy complex with large multinational operators such as Sabic, Lotte and Huntsman currently operating from the site. The site is operated by Sembcorp who provide a range of utilities to meet the needs of operators. These sectors are a significant employer within the borough, and with potential for growth and investment over future years."*

52. Policy LS4 also sets out key strategic aspirations to *"deliver significant economic growth and job opportunities through the South Tees Development Corporation and Tees Valley Enterprise Zone"* and *"develop the chemical, technology and energy production industries"* at the Wilton Complex.

53. Paragraph 1.67 also makes clear that the Wilton Complex's economic and social contribution also arises within the wider context of the NEPIC cluster:

*"The chemicals industry is a key part of the local economy with the Wilton International site, together with sites on the northern side of the river, comprising the largest integrated chemicals complex in the UK in terms of manufacturing capacity, and the second largest in Europe. The chemicals sector supports a significant number of jobs in the borough and makes an important contribution to the local economy."* [emphasis added]

54. The Stockton-on-Tees Borough Council Local Plan (January 2019) contains similar provision. For example, Policy SD2.5.a establishes the need for new development to *"demonstrate operational benefits to the North and South Tees Cluster"* (which includes Wilton) in order *"to meet the needs of existing businesses, new start-ups and major inward investment"*. Policy SD4.3 further highlights the important role played by this area for hazardous substances installations, of which the Sembcorp Pipeline Corridor forms an essential part.

55. Paragraphs 4.16 and 4.36 further emphasise the "integrated" nature of the cluster on both sides of the Tees Valley which *"is of vital importance to the local, regional and national economy"*.

56. The emphasis on the importance of addressing the needs of the Wilton Complex as part of the wider cluster (in which regard, the Sembcorp Pipeline Corridor acts as the vital artery between the Wilton, Billingham and North Tees industrial complexes) finds further support in NPPF83 which provides that planning decisions should make appropriate provision for vital knowledge networks such as NEPIC.

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<sup>10</sup> See Annexe C, paras. 4.13.18 and 6.4.116

57. Accordingly, any development carried on by the Applicants must not materially disrupt these existing businesses or the vital supporting infrastructure (within the Sembcorp Pipeline Corridor) upon which they rely. The continued vitality and growth of the Wilton Complex and the cluster is clearly an important and relevant consideration.
58. Sembcorp is concerned that the Applicant's proposals to extinguish rights in the Sembcorp Pipeline Corridor will result in disruption to the flows in the pipelines. Any disruption to the flows in the pipelines will likely result in direct financial loss to the owners/end users which in many instances will be significant. Further, Sembcorp is concerned that the Applicants' works in and its use of the Sembcorp Pipeline Corridor would be implemented in a way that would leave the Wilton Complex operators and other users exposed to events or disruption that could have the effect of harming the safe operation of plant or damaging infrastructure, adversely affecting the ability of Sembcorp (and other plant operators) to deliver planned maintenance or planned upgrades.
59. The clear conclusion reached by the Dogger Bank DCO examining authority was that – given the economic significance of the Wilton Complex which is "*essentially of equal weight*" to the potential benefits of a proposed NSIP – this was a matter which "*should not...rest in the hands of the undertakers alone*". The ability of the relevant parties (and, by extension, in the present case Sembcorp) to use their expertise in relation to their own operations and assets was considered a key requirement in order "*to manage down potential conflict between them and the undertakers*" as part of a process in which there should be "*broad equity*".<sup>11</sup>
60. As described above, there is a complex structure of legal relationships set out in property and contractual documents which underpin the provision and receipt of the complex infrastructure services provided by Sembcorp. The various producers located at the Wilton Complex and in the wider NEPIC cluster rely upon its continuation.
61. In particular:
- a. some of the manufacturing processes and products managed, stored and transported within the Wilton Complex and the Sembcorp Pipeline Corridor are potentially hazardous to the workforce, local populations and the environment. Facilities within the complex are on the register maintained by the Health and Safety Executive (HSE) under the COMAH Regulations. Parts of the Wilton Complex are also within a secure, access controlled perimeter for these reasons;
  - b. Sembcorp has since 2003 held the role of pipeline authority (in addition to its ownership of the majority of the investment land within the Wilton Complex) in a manner that has enabled the continued safe, effective and integrated operation of diverse, complex and potentially hazardous industrial plant, apparatus and infrastructure in separate ownerships
  - c. Particularly within those parts of the Sembcorp Pipeline Corridor which are outside the Wilton Complex, where Sembcorp has little of its own apparatus, it undertakes its role for the collective benefit of all of the users and in order to protect the economic benefit to be derived from the activities taking place within the three clusters upon Teesside linked by it;
  - d. the passage of the pipeline apparatus and the related development process proposed by the Applicants within the Sembcorp Pipeline Corridor would best be regulated

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<sup>11</sup> See Annexe C, paras. 4.3.38 to 4.3.41

alongside other existing and proposed uses and developments, in order to avoid unforeseen conflicts between the Project and other use and development; and

- e. Sembcorp's co-ordinating role has enabled potential conflicts between customers, whether managing and upgrading large and complex plant requiring new or when undertaking statutorily required assurance works on their apparatus within the Sembcorp Pipeline Corridor, to be avoided in a manner that has assisted with their safe operation and maximised the economic benefit to be obtained from the area as a whole, including the Wilton Complex.

62. Sembcorp achieves these outcomes in large part through the complex interplay of existing contracts and property rights that regulate its relationship with plant operators and regulate access and the exchange of materials through the highly complex shared infrastructure in the Sembcorp Pipeline Corridor. As the pipeline authority, Sembcorp has a special status<sup>12</sup> by convening, representing and regulating its customers to maximise shared benefit and minimise conflict – in so doing advancing the clear public interest in the on-going success of the Wilton Complex and the wider Teesside cluster. As the Dogger Bank DCO examining authority expressly concluded:

*"The continued safe operation of the Wilton complex, employment and the generation of economically significant products and other economic benefits there is in the public as well as the private interest...The public benefit offered by the continued successful operation of the Wilton Complex as a whole is relevant and important under the PA2008, is substantial and forms an important and relevant consideration in the decision to be taken on this application. It follows that there is not a simple trade-off within the Wilton Complex between the public interest as represented by the development of the proposed NSIP and the private interests of Sembcorp."<sup>13</sup>*

63. The following examples illustrate the vast array of functions which Sembcorp carries out as pipeline authority in accordance with this carefully calibrated and balanced legal framework:

- a. There are carefully crafted deemed acceptance provisions in existing deeds managed by Sembcorp, such that a constructee enjoys certainty that it can construct, subject to taking account of any reasonable concerns raised by Sembcorp or other customers.
- b. Notice and consultation obligations with existing apparatus owners exists primarily for safety so they can require reasonable protection of their existing assets, but also identify applicable code and standards issues which constructees may not be aware of. This also allows detailed knowledge of third party apparatus to be shared e.g requiring certain sections to be fully welded (when British Standards may otherwise permit the use of flanged joints) and/or requiring the revision of designs so as not to place a joint or valve typically within 3 metres of an existing purge valve, drain vent or similar due to risk of fluid leak and/or a flammable atmosphere.
- c. Sembcorp assists in developing and monitoring safe systems of work, including advising constructees on the potential hazards around them – whilst the Applicants' construction and maintenance contractors will no doubt be experienced in building its pipeline, they will not necessarily know all of the hazards which exist in the Sembcorp

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<sup>12</sup> Referred to by the Dogger Bank DCO examining authority as Sembcorp being a 'quasi-public authority' (see Annexe C, para. 6.4.177).

<sup>13</sup> Annexe C, para. 6.4.118

Pipeline Corridor such as culvert loadings or the requirements that must be complied with in respect of other types or categories of apparatus.

- d. Sembcorp also manages liability to the existing apparatus owners and obtains appropriate indemnities and insurances from the constructee for damage that may be caused to that existing apparatus owner's equipment or to the Shared Apparatus and Infrastructure. This ensures that Sembcorp and its customers have appropriate recourse and protection if during construction or maintenance their apparatus is damaged.
  - e. Sembcorp holds and also obtains via the standard documentation, outline detail on all apparatus in the Sembcorp Pipeline Corridor such that, in the event of an emergency or incident, it can provide crucial information (including to the emergency services) without the need for contact with every individual apparatus owner, i.e. it is not just a question of providing information on the specific apparatus to which the incident relates, but also upon the surrounding hazards.
  - f. The local authority issues the rates bill for the Sembcorp Pipeline Corridor to Sembcorp, which then apportions the liability to those with apparatus in it.
64. Consequently, if the Applicants seek to acquire rights over the Sembcorp Pipeline Corridor and to extinguish or suspend the existing rights in it enjoyed by Sembcorp and its customers, it is incumbent upon them to set out in detail their proposals for the on-going management of this vitally important infrastructure. This they have failed to do with the Applicants' sole focus during the Examination being on their interests alone.
65. Even if such management measures were proposed, the inevitable fragmentation of the current integrated role played by Sembcorp as pipeline authority that would result (including from the availability and use of unfettered powers of compulsory acquisition and extinguishment) would have significant adverse effects on the continued safe and economic operation of the Sembcorp Pipeline Corridor and those businesses across the three Teesside chemical clusters which rely upon it, including at the Wilton Complex. For common sense, practical reasons there is much advantage in their being a single body for the co-ordination, review and notification of works within the Sembcorp Pipeline Corridor to which all users of it can turn, especially given that the area included within the Order Limits is only part of the whole. It would be less efficient, economical and coordinated for two different parties to manage different parts of the Corridor.
66. As the Dogger Bank DCO examining authority concluded:
- "The success of the Wilton operation as such is secured through the 'ringmaster' role played by Sembcorp since 2003, whereby each individual tenant is provided with the infrastructure that it requires to operate and that the development plans of each tenant and operator are balanced with those of other tenants and operators to ensure the safety and economic well-being of each is achieved without compromising the safety and economic well-being of its neighbours."*<sup>14</sup>
67. This means that the Applicants must accept that they will be merely part of a wider 'ecosystem' of operators, producers and businesses in the cluster and to participate in the existing co-ordination arrangements which Sembcorp has successfully operated for nearly two decades.
68. The continued safe operation of the Sembcorp Pipeline Corridor, employment and the generation of economically significant products and other economic benefits that it facilitates (including at the

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<sup>14</sup> Annexe C, para. 6.4.116

Wilton Complex and across the NEPIC cluster more generally) is in the public as well as the private interest. The significant public benefit offered by the continued successful operation of the Sembcorp Pipeline Corridor considered as a whole, integrated infrastructure network is relevant and important under the PA 2008, is substantial and forms an important and relevant consideration in the decision to be taken on this application.

69. It follows that there is not a simple trade-off between the public interest as represented by the development of the NZT Project and the private interests of Sembcorp. The competing public interest in the effective management of the Sembcorp Pipeline Corridor must also be taken into account.
70. This is important because Sembcorp is concerned about the Applicants being provided with powers that enable it to interfere with the operations of Sembcorp and others associated with the Sembcorp Pipeline Corridor and those customers who depend upon it, including the economically significant Wilton Complex. Sembcorp's concerns are essentially that the Applicants and their potential successors have neither the duty nor the relevant technical information to ensure the development of the relevant parts of its Project is balanced against the interests of Sembcorp and its customers.
71. The unfettered operation of compulsory acquisition powers in the absence of engagement between the undertakers and Sembcorp could have significant adverse effects on the continued safe and economic operation of these important businesses, and constrain future growth. As the Dogger Bank DCO examining authority expressly concluded:

*"The Panel considers that applicants proposed powers in Part 5 of the DCO, (powers [of] acquisition) in addition to Part 3 powers over street works if unalloyed **would** damage the future economic prospects of the Wilton Complex." [**emphasis added**]<sup>15</sup>*

72. This position takes account of the fact that several Sembcorp customers are operating large, technically complex and high economic value plant and equipment. This is plant which may cause significantly adverse and possibly hazardous social, economic and environmental effects should access to it or to the Sembcorp Pipeline Corridor which supports it be blocked, repairs or upgrades to it be delayed or significant infrastructure be damaged or forced to be shut down.
73. If the Applicants have pre-emptive powers, including the compulsory acquisition or extinguishment of rights within the operational area of the integrated Sembcorp Pipeline Corridor, the potential for the timing of acquisition and development and for the interference with access, operations and other upgrade proposals could be significantly detrimental to the continuing safe and economic operation of plant, both that of individual operators at the Wilton Complex and within the wider cluster served by the Corridor. The weight that should be afforded to this matter by the ExA is significant and at the very least equivalent to the weight to be accorded to the putative public benefits of the Project.

### **Need for protective provisions: striking a fair balance**

74. As set out above, Sembcorp is supportive of the principle of the Project which offers significant opportunities to enhance the offer of the NEPIC cluster and drive competitive advantage for the region and the UK on a global scale.

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<sup>15</sup> Annexe C, para. 4.13.18



75. However, it is vital that securing these envisaged benefits does not adversely affect the highly important existing economic activity within the cluster which is served by the Sembcorp Pipeline Corridor, including at the Wilton Complex.
76. Sembcorp considers that as long as the Applicants are prepared to take their place as part of the wider 'eco system' of entities active within the cluster, ensuring that its needs are balanced with those of other entities rather than taking precedence over them, this risk can be mitigated. The appropriate means by which this can be achieved is through the inclusion of appropriate protective provisions in favour of Sembcorp in the dDCO.
77. Sembcorp notes that this very issue was the subject of extensive consideration by the examining authority in connexion with the Dogger Bank DCO. In summary the examining authority concluded that:
- a. The proposed NSIP would deliver significant economic benefits.
  - b. Set against that, the economic contribution made by the Wilton Complex was itself nationally significant.
  - c. The public interest on both sides was of equal weight which meant that unfettered powers of compulsory acquisition were not appropriate and protective provisions were required.
  - d. However, it would not be appropriate for Sembcorp to unreasonably prevent or delay the NSIP coming forward through the operation of those protective provisions.
78. Accordingly, the examining authority recommended a compromise position which would allow for an appropriate degree of oversight whilst not preventing the NSIP from being progressed or frustrating the delivery of the additional public benefits envisaged. Insofar as relevant to the principal point in dispute between Sembcorp and the Applicants in the present case – the inclusion of compulsory powers over the Sembcorp Pipeline Corridor – the examining authority's recommended protective provisions may be summarised as follows:
- a. Compulsory powers (referred to as the 'identified powers'<sup>16</sup>) were to remain in the order and apply to the protected Wilton land;
  - b. Their exercise was not permitted without the consent of the relevant landowner or apparatus operator<sup>17</sup>;
  - c. That consent was not to be unreasonably with-held<sup>18</sup>; and
  - d. If the undertaker considered that consent had been unreasonably with-held or delayed, it had the option to 'appeal' to an independent third party to determine the matter.<sup>19</sup>
79. The examining authority's overall conclusion was that these protective provisions would "*provide a clear means whereby these [concerns regarding the Wilton Complex] can be taken into account*

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<sup>16</sup> See Annexe D, Schedule 12, Part 6, para. 4(6)

<sup>17</sup> See Annexe D, Schedule 12, Part 6, para. 5(1)

<sup>18</sup> Annexe D, Schedule 12, Part 6, para. 5(2)

<sup>19</sup> Annexe D, Schedule 12, Part 6, paras. 5(3), 5(4) and 24

*before the identified powers are used by the undertaker, but would not provide any significantly likelihood of substantial delay or uncertainty in the project".<sup>20</sup> In other words, they strike a fair balance between the completing – and equally important – public interests.*

80. The examining authority's recommendations were accepted by the Secretary of State with the protective provisions then incorporated at Part 6 of Schedule 12 to the Dogger Bank DCO.
81. Importantly, it is these provisions which have already been determined by the Secretary of State to strike the right balance between the competing public interests i.e. between the delivery of a proposed NSIP versus mitigating the potential risks to the Wilton Complex and its associated supporting infrastructure in the Sembcorp Pipeline Corridor. The Applicants have advanced no reason at all why a different approach is warranted now.
82. In these circumstances, subject to appropriate modifications which are explained in the accompanying explanatory memorandum at Annexe F, Sembcorp considers that its preferred protective provisions based on the Dogger Bank DCO (see Annexe E of this statement) should be considered appropriate and necessary by the ExA and the Secretary of State in relation to the present dDCO. The examining authority is accordingly invited to recommend their inclusion should the DCO be made by the Secretary of State.

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<sup>20</sup> Annexe C, para. 7.2.38