

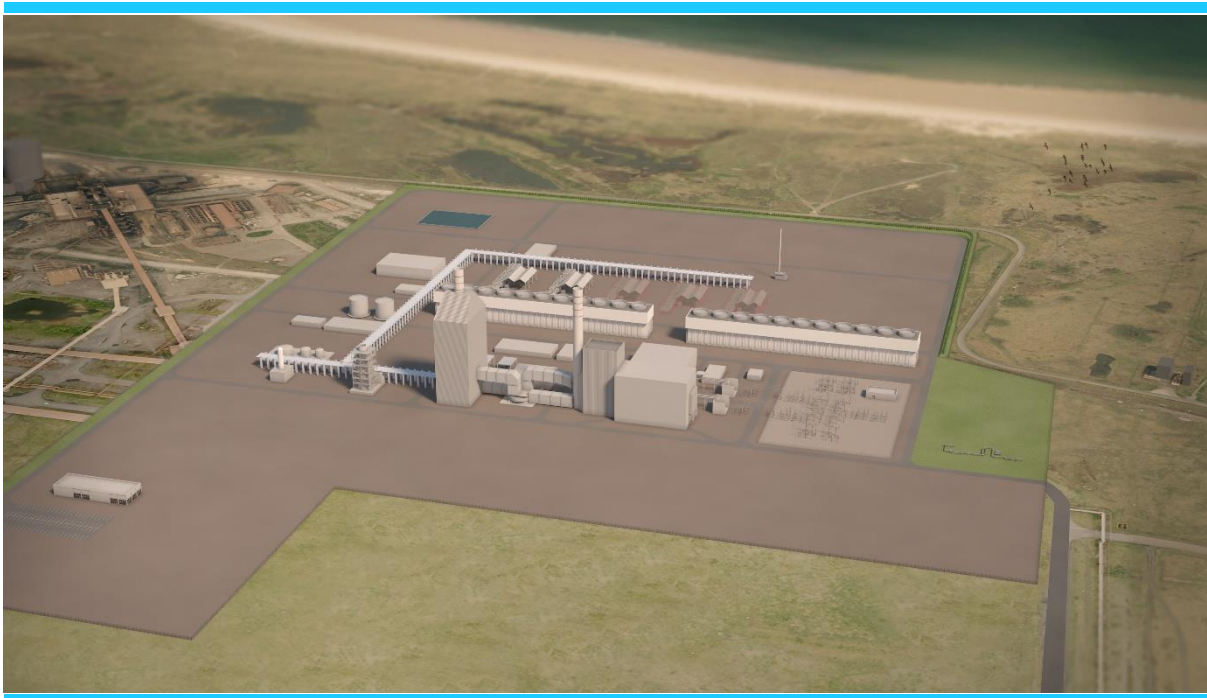
Net Zero Teesside Project

Planning Inspectorate Reference: EN010103

Land at and in the vicinity of the former Redcar Steel Works site, Redcar and in Stockton-on-Tees, Teesside

The Net Zero Teesside Order

Document Reference: 2.1f - Schedule of Changes to the draft Development Consent Order



Applicants: Net Zero Teesside Power Limited (NZN Power Ltd) & Net Zero North Sea Storage Limited (NZNS Storage Ltd)

Date: November 2022

THE NET ZERO TEESSIDE ORDER

EXPLANATION OF CHANGES MADE TO THE DRAFT DEVELOPMENT CONSENT ORDER ('DCO') AT DEADLINE 12 (1 NOVEMBER 2022) AND GUIDE TO POTENTIAL CHANGES AFTER DCO EXAMINATION

This schedule of changes comprises three parts:

1. **Part 1:** An explanation of:
 - a. changes between the draft DCO submitted at Deadline 8 on 20 September 2022 [REP8-003] and the final DCO submitted at Deadline 12 on 1 November 2022 [Document Reference 2.1] in order to address comments from Interested Parties and the Examining Authority, and all other changes volunteered by the Applicants with the exception of b) below; and
 - b. the specific changes required to the draft DCO as part of the Applicants' change request to remove Work No. 5A (repair and upgrade of the existing water discharge infrastructure to the Tees Bay) at Deadline 12.
2. **Part 2:** Details of the drafting changes required to the final DCO submitted at Deadline 12 [Document Reference 2.1] if the Applicants' change request to remove Work No. 5A (repair and upgrade of the existing water discharge infrastructure to the Tees Bay) submitted at Deadline 12 is not approved by the Examining Authority.
3. **Part 3:** Details of the drafting changes required to the final DCO submitted at Deadline 12 [Document Reference 2.1] if the Applicants and South Tees Development Corporation reach an agreement that allows the Applicants to request that the Secretary of State makes a further change to the DCO, to remove the Tees Dock Road access and related powers.

In addition, **Appendix 1** sets out the position in relation to protective provisions in Schedule 12 to the draft DCO.

PART 1: Explanation of changes made in final DCO submitted at Deadline 12

Due to the insertion of new paragraphs/requirements in the updated draft DCO, the numbering and internal cross referencing (including the contents) within the draft DCO have been updated accordingly. These changes, along with minor typographical amendments for clarity and consistency are not set out below. The numbering referred to below is to that in the updated draft DCO.

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
Article 2 (Interpretation) definition of “Sembcorp” and “TG entities”	The definition of “Sembcorp” and “TG Entities” has changed following comments by Sembcorp at ISH5 and by NSMP (TG Entities) in their Deadline 11 submission [REP11-040]. The operative definitions are now within the relevant sets of protective provisions in Schedule 12 (and provide for those parties’ successors), with a cross-reference to those at the end of Schedule 2.	No
Article 8(a)(iv) Consent to transfer benefit of this Order	Deletion of power to transfer or lease all or part of Work No. 5A to Teesworks Limited, or such other entity has STDC may confirm in writing to the undertaker. The Applicants have submitted a change request a Deadline 12 seeking to remove Work No. 5A from the Order.	Yes
Article 8(14) (Consent to transfer benefit of this Order)	Change to require that notice must now be given to STDC <u>prior to the earlier of</u> : 10 working days of the transfer or grant of powers taking effect, <u>or</u> the exercise of any powers by the transferee or grantee affecting the STDC area. Changes have been made to address submissions by STDC at Deadline 8 [REP8-057] that it should be notified before the transfer or grant of powers under Article 8 of the Order. The Applicants’ justification for this change is set out in the Applicants’ Comments on Deadline 11 Submissions (Document Ref. 9.48).	No
Article 37 (Deemed marine licences)	Minor amendment to reflect that the numbering of the Parts to Schedule 10 (Project A DML) and Schedule 11 (Project B DML) has been changed. There are now only two parts to the Deemed Marine Licences since updates were made in the DCO submitted at Deadline 8 [REP8-003].	No
Schedule 1 (Authorised Development)	Work No. 5A (repair and upgrade of the existing water discharge infrastructure to the Tees Bay) has been deleted. The Applicants have submitted a change request at Deadline 12 seeking to remove Work No. 5A from the Order.	Yes

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
Schedule 2 (Requirements), Requirement 3(6)(a) (detailed design)	The requirement to submit details of the method of works of any upgrade or repairs to any existing water discharge pipelines above mean low water springs in respect of Work No. 5 has been deleted. The Applicants have submitted a change request at Deadline 12 seeking to remove Work No. 5A (repair and upgrade of the existing water discharge infrastructure to the Tees Bay) from the Order. Consequently there will be no upgrade or repair to existing water discharge pipelines that would require submission of details to the relevant planning authority.	Yes
Schedule 2 (Requirements), Requirement 13 (contaminated land)	<p>Various changes have been made as part of agreeing R13 with the Environment Agency:</p> <ul style="list-style-type: none"> - R13(2)(a) – the words “including a” have been deleted. This makes clear that the preliminary risk assessment <u>is</u> a desk top study (rather than includes it). - R13(2)(c) – the word “preliminary” has been deleted. The need for remediation will be identified by the “risk assessment” rather than the “preliminary” risk assessment. - R13(2)(f) – change made to make it clear that the hydrogeological impact assessment must include a hydrogeological conceptual model. The words “hydrogeological impact assessment” have been deleted at the end of this sub-paragraph. - R13(2)(g) – changes made to specify that the long term monitoring and maintenance plan must include monitoring of groundwater and surface water, and appropriate screening criteria. - Sub-paragraphs 3, 8 and 9 have been amended to require that any approval by the relevant planning authority must be subject prior consultation with the Environment Agency. <p>The EA confirmed that it was satisfied with R13 in its submission at Deadline 11 [REP11-031].</p>	No

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
Schedule 2 (Requirements), Requirement 32(3) and 32(4) (decommissioning)	<p>The Applicants have amended R32(3) to make it clear that the re-submission of details is required within two months of the relevant planning authority giving notice that the previous submission of details was not approved <u>unless</u> the undertaker has submitted an appeal to the Secretary of State against the decision of the relevant planning authority pursuant to sub-paragraph 5(1) of Schedule 13.</p> <p>The Applicants have amended R32(4) to specify that, if the appeal pursuant to sub-paragraph 5(1) of Schedule 13 is dismissed, the undertaker must then make a further submission to the relevant planning authority within two months of the date of dismissal of the appeal. The effect of this change is that the undertaker will always be obliged to continue to seek approval of details of decommissioning, where previous details have been refused.</p> <p>A full explanation of this change is set out in the Applicants Written Summary of Oral Submission at ISH5 [REP11-015] at electronic page 34.</p>	No
Schedule 2 (Requirements), Requirement 37 (effluent nutrient nitrogen safeguarding scheme)	<p>The Applicants have inserted a new requirement that specifies that no part of the authorised development other than the permitted preliminary works may commence until an effluent nutrient nitrogen safeguarding scheme has been submitted to and, after consultation with Natural England and the Environment Agency, approved by the relevant planning authority.</p> <p>R37(2) specifies the details that must be included in the scheme. R37(3) specifies the scheme must demonstrate how nitrogen in effluent from operation of the authorised development is controlled and discharged. R37(4) specifies that the undertaker must implement the scheme as approved.</p> <p>A full explanation of this change is set out in the Applicants Written Summary of Oral Submission at ISH6 [REP6-017 from page 6.</p>	No
Schedule 2 (Requirements), Requirement 37 (consultation with Sembcorp Utilities (UK)	Requirement 37 (consultation with Sembcorp Utilities (UK) Limited) and Requirement 38 (consultation with TG entities) have been deleted. An explanation of this change is set out in the Applicants Written Summary of Oral Submissions at ISH5 [REP6-015] at page 35.	No

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
Limited) and Requirement 38 (consultation with TG entities)		
Schedule 2 (Requirements), Requirement 38 (Consultation with Sembcorp and TG entities)	A new Requirement has been inserted specifying that references to Sembcorp and the TG entities must be interpreted by reference to the protective provisions for the benefit of those parties.	No
Schedule 5, Part 1, Table 2 (Accesses to be maintained by the highway authority)	A row has been deleted that referred to A1185 / unnamed private track with details of an access to be maintained by the highways authority in an area cross hatched in blue at the point marked P on sheet 7 of the access and rights of way plans. No rights are required for this or shown on the Access and Rights of Way Plans.	No
Schedule 6, (Temporary stopping up of streets, public rights of way and access land), Part 2, Table 5 (those public rights to be temporarily stopped up)	The Applicants have deleted rights to temporarily stop up parts of the public footpath forming part of the Teesdale Way. The temporarily stopping up was required in connection with work No. 5A. The Applicants have submitted a change request a Deadline 12 seeking to remove Work No. 5A (repair and upgrade of the existing water discharge infrastructure to the Tees Bay) from the Order. Consequently associated temporary stopping up powers are not required.	Yes
Schedule 9 (Land of which temporary possession may be taken)	Deletion of plots 297, 304, 305, 306, 307, 308, 310, 311, 312, 326 and 371 for temporary use to facilitate carrying out of Work no. 5A. Deletion of plot 305 for temporary use to facilitate access to and highway improvements (Work No. 10). This plot is not required for Work No. 10. The Applicants have submitted a change request a Deadline 12 seeking to remove Work No. 5A (repair and upgrade of the existing water discharge infrastructure to the Tees Bay) from the Order (and Work No. 10 in relation to plot 305). Consequently temporary possession powers are not required over these plots.	Yes
Schedule 10 (Project A DML) and Schedule 11 (Project B DML)	Various amendments have been made to the deemed marine licences to address comments from the MMO at Deadline 9 [REP9-029] and Deadline 11 [REP11-034]. The Applicants have provided a full explanation of each change to the DMLs to address the MMO's comments in the Applicants Comments on Deadline 11 Submissions [Document Reference 9.48].	Some changes related to WN5A change request

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
	Additional changes have been made at Deadline 12 to the DMLs to remove licensed activities and related conditions associated with Work No. 5A.	
Schedule 12 (Protective provisions)	The Applicants have provided substantive updates to a number of the sets of protective provisions in Schedule 12 where appropriate, to reflect the discussions with the relevant parties and to provide the Applicants' final position on the protections required where necessary. Details of the changes and justification for their inclusion in the final DCO is set out Appendix 1.	Single change to STDC protective provisions to remove "diversion works" provisions related to WN5A. All other changes unrelated to change request.
Schedule 14 (Documents and plans to be certified) Table 13	<p>Various changes to include new certified documents or change revision numbers and dates of existing certified documents:</p> <ul style="list-style-type: none"> - access and rights of way plans – new version 5 (October 2022) required as part of change request to remove Work No. 5A; - application guide – new version 6 (November 2022) to include new documents and versions related to change request to remove Work No. 5A and other documents required for Deadline 12; - book of reference – new version 5 (October 2022) required as part of change request to remove Work No. 5A; - design and access statement – new version 4 (November 2022) required as part of change request to remove Work No. 5A; - endurance store protective provisions plan – document reference 4.18, version 1 (October 2022) – new plan that must be certified to give effect to definitions in Article 	Some changes required as part of change request to remove WN5A.

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
	<p>49 (modification of interface agreement (alternative one) and Article 50 (modification of interface agreement (alternative two));</p> <ul style="list-style-type: none"> - new Non-Technical Summary of Third Environmental Statement Addendum (document reference 7.14), Third Environmental Statement Addendum – Volume 1, (document reference 7.15.1) and Third Environmental Statement Addendum – Volume II, (document reference 7.15.2) required as part of change request to remove Work No. 5A; - framework construction environmental management plan – new version 3 (October 2022) that was submitted at Deadline 9 [REP9-007] and that is the correct version to be certified in the final DCO; - land plans – new version 5 (October 2022) required as part of change request to remove Work No. 5A; - Sembcorp Pipeline Corridor protective provisions supporting plans – document reference 4.19 (November 2022) – new plan required to give effect to definitions of “Sembcorp” “Sembcorp operations” “Sembcorp Pipeline Corridor” and “Wilton complex” in article 2 (Interpretation) and for the purposes of consultation with Sembcorp in Schedule 2 (Requirements) and for the purposes of the protective provisions in Schedule 12, Part 16 of the Order. - Net Zero Teesside Anglo American Shared Area Plan – name changed from “shared areas plan” to align with definitions in Part 18 of Schedule 12 (Anglo American protective provisions) and details of document reference (4.17) now inserted – plan required to give effect to Schedule 3 and protective provisions for the benefit of Anglo American in Schedule 12, Part 18 of the Order. - Updated landscape and biodiversity plan - new version 4 (October 2022) required as part of change request to remove Work No. 5A; 	

Article / Requirement number in draft DCO	Explanation of Change	Change made as part of request to remove WN5A?
	<ul style="list-style-type: none"> - works plans – new version 5 (October 2022) required as part of change request to remove Work No. 5A. 	

PART 2: Drafting changes required to re-instate WN5A if change request is not accepted

Article / Requirement number in draft DCO	Drafting to be re-instated
Article 8(8)(a)(iv)	"in relation only to a transfer or lease of all or part of Work No. 5A, Teesworks Limited or such other entity as STDC may confirm in writing to the undertaker; or"
Schedule 1, (Authorised Development), "Work No. 5(a)"	"(a) Work No. 5A – repair and upgrade of the existing water discharge infrastructure to the Tees Bay; or"
Schedule 2, (Requirements), Requirement 3, (6)(a)	After the words "low water springs" insert: ", and the method of works of any upgrade or repairs to any existing water discharge pipelines above mean low water springs"
Schedule 6, (Temporary stopping up of streets, public rights of way and access land), Part 2, Table 5 (those public rights to be temporarily stopped up)	Insert a new first row and insert: Column 1: "In the District of Redcar and Cleveland" Column 2: "Public footpath - Teesdale Way LDR" Column 3: "Temporarily stop up, prohibit the use of, restrict the use of, alter or divert the footpath between the points marked DK and DJ on Sheet 2 of the access and rights of way plans"
Schedule 9, (Land of Which Temporary Possession May Be Taken), Table 8	Insert "305" in column 1 of row with the following words in the second column: "Temporary use to facilitate access to and highway improvements (Work No. 10) in relation to the authorised development". Insert a new row: Column 1: "297, 304, 305, 306, 307, 308, 310, 311, 312, 326, 371" Column 2: "Temporary use to facilitate carrying out of Work No. 5A"
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 1(1)	Insert the words "Work No. 5A" after "means" in the definition of "authorised development".

Article / Requirement number in draft DCO	Drafting to be re-instated																																						
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 1(1)	Insert a new definition: “Work No. 5A” means Work No. 5A as described in Schedule 1 to the Order; and”																																						
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 2(2)(a)	After the words “construction, maintenance and operation of” insert: “(a) Work No. 5A— (i) refurbishment works, including the insertion of replacement outfall tunnel liner(s); (ii) emplacement of a new outfall head; and (iii) recommissioning of the outfall tunnel; and”																																						
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 2(2)	After the words “in connection with” insert: “Work No. 5A and”																																						
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 3	After the words “activities related to” insert: “Work No. 5A and”																																						
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 3, Table 9	Insert: <table border="1" data-bbox="766 1010 1957 1437"> <tbody> <tr> <td data-bbox="766 1010 1167 1042">“Work No. 5A”</td> <td data-bbox="1167 1010 1563 1042">1.114457</td> <td data-bbox="1563 1010 1957 1042">54.644012</td> </tr> <tr> <td></td> <td data-bbox="1167 1042 1563 1074">-1.114827</td> <td data-bbox="1563 1042 1957 1074">54.643431</td> </tr> <tr> <td></td> <td data-bbox="1167 1074 1563 1106">-1.114842</td> <td data-bbox="1563 1074 1957 1106">54.643408</td> </tr> <tr> <td></td> <td data-bbox="1167 1106 1563 1137">-1.114851</td> <td data-bbox="1563 1106 1957 1137">54.643394</td> </tr> <tr> <td></td> <td data-bbox="1167 1137 1563 1169">-1.117103</td> <td data-bbox="1563 1137 1957 1169">54.639863</td> </tr> <tr> <td></td> <td data-bbox="1167 1169 1563 1201">-1.118957</td> <td data-bbox="1563 1169 1957 1201">54.636955</td> </tr> <tr> <td></td> <td data-bbox="1167 1201 1563 1233">-1.121603</td> <td data-bbox="1563 1201 1957 1233">54.632804</td> </tr> <tr> <td></td> <td data-bbox="1167 1233 1563 1265">-1.122095</td> <td data-bbox="1563 1233 1957 1265">54.632033</td> </tr> <tr> <td></td> <td data-bbox="1167 1265 1563 1297">-1.122265</td> <td data-bbox="1563 1265 1957 1297">54.632129</td> </tr> <tr> <td></td> <td data-bbox="1167 1297 1563 1329">-1.122887</td> <td data-bbox="1563 1297 1957 1329">54.63252</td> </tr> <tr> <td></td> <td data-bbox="1167 1329 1563 1361">-1.122894</td> <td data-bbox="1563 1329 1957 1361">54.632527</td> </tr> <tr> <td></td> <td data-bbox="1167 1361 1563 1393">-1.122917</td> <td data-bbox="1563 1361 1957 1393">54.632542</td> </tr> </tbody> </table>			“Work No. 5A”	1.114457	54.644012		-1.114827	54.643431		-1.114842	54.643408		-1.114851	54.643394		-1.117103	54.639863		-1.118957	54.636955		-1.121603	54.632804		-1.122095	54.632033		-1.122265	54.632129		-1.122887	54.63252		-1.122894	54.632527		-1.122917	54.632542
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		-1.122924 -1.121638 -1.120978 -1.11812 -1.118002 -1.116188 -1.115509 -1.115461	54.632546 54.634564 54.635599 54.640081 54.640267 54.64311 54.644175 54.644251”
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 11(8)(a)	After the words “the start date of” insert: “Work No. 5A or”		
Schedule 10, (Deemed Marine Licence under the 2009 Act: Project A), 14(2)	Below sub-paragraph 1 insert a new sub-paragraph 2: “(2) A marine method statement submitted pursuant to sub-paragraph (1) for licensed activities related to Work No. 5A must include details of— (a) methods of dredging to be employed and associated disposal arrangements; (b) the discharge tunnel repairs and methodology; (c) the discharge head installation technique and methodology; (d) rock armour specification, provenance and installation technique; and (e) an indicative programme for the delivery of the licensed activities.”		
Schedule 11, (Deemed Marine Licence under the 2009 Act: Project B), 1(1)	Insert the words “Work No. 5A” after “means” in the definition of “authorised development”.		
Schedule 11, (Deemed Marine Licence under the 2009 Act: Project B), 1(1)	Insert a new definition: “Work No. 5A” means Work No. 5A as described in Schedule 1 to the Order;”		

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Schedule 11, (Deemed Marine Licence under the 2009 Act: Project B), 2(2)(a)	After the words “construction, maintenance and operation of” insert: “(a) Work No. 5A— (i) refurbishment works, including the insertion of replacement outfall tunnel liner(s); (ii) emplacement of a new outfall head; and (iii) recommissioning of the outfall tunnel; and”																																												
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Schedule 11, (Deemed Marine Licence under the 2009 Act: Project B), 11(8)(a)	After the words “the start date of” insert: “Work No. 5A or”		
Schedule 11, (Deemed Marine Licence under the 2009 Act: Project B), 14(2)	<p>Below sub-paragraph 1 insert a new sub-paragraph 2:</p> <p>“(2) A marine method statement submitted pursuant to sub-paragraph (1) for licensed activities related to Work No. 5A must include details of—</p> <ul style="list-style-type: none"> (a) methods of dredging to be employed and associated disposal arrangements; (b) the discharge tunnel repairs and methodology; (c) the discharge head installation technique and methodology; (d) rock armour specification, provenance and installation technique; and (e) an indicative programme for the delivery of the licensed activities.” 		
Schedule 12, Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 256	<p>The following words to be inserted:</p> <p>“discharge outfall land” means plots 297 and 308, so far as required in relation to Work No. 5A;</p> <p>“discharge outfall works” means Work No. 5A within the discharge outfall land;”</p>		

Article / Requirement number in draft DCO	Drafting to be re-instated
Schedule 12, Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 256	The following words forming part of the definition of “proposed land” to be inserted after “AIL access route land,”: “, or the discharge outfall land;”
Schedule 12, Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 256	The following words forming part of the definition of “proposed work” to be inserted after the “AIL access route works,” “the discharge outfall works,”
Schedule 12, Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 264(d)	Insert the words “the outfall discharge works” after “instead of the southern access route works,”
Schedule 14 (Certified Documents)	Insert the table on the following pages (page 16 and 17 of this document) in Schedule 14 instead of Table 13 in Schedule 14.

Schedule 14, Table 13 replacement table:

<i>(1)</i> <i>Document name</i>	<i>(2)</i> <i>Document reference</i>	<i>(3)</i> <i>Revision number</i>	<i>(4)</i> <i>Date</i>
access and rights of way plans	4.5	4	August 2022
application guide	1.2	6	November 2022
book of reference	3.1	4	August 2022
design and access statement	5.4	3	August 2022
endurance store protective provisions plan	4.18	1	October 2022
environmental statement	Non-technical summary, 6.1 Volume 1, 6.2 Volume 2, 6.3 Volume 3, 6.4 Non-Technical Summary of Environmental Statement Addendum, 7.7 Environmental Statement Addendum – Volume I, 7.8.1 Environmental Statement Addendum – Volume II, 7.8.2 Non-Technical Summary of Second Environmental Statement Addendum, 7.10 Second Environmental Statement Addendum – Volume 1, 7.11.1 Second Environmental Statement Addendum – Volume II, 7.11.2	- - - - - - - - - -	As listed in the application guide

framework construction environmental management plan	6.45	3	October 2022
indicative lighting strategy	5.11	1	May 2021
indicative landscape and biodiversity strategy	5.12	2	August 2022
land plans	4.2	4	August 2022
Net Zero Teesside Anglo American Shared Area Plan	4.17	1	September 2022
parking plan	4.16.2	3	October 2022
PCC site access plan	4.16.3	2	August 2022
Sembcorp Pipeline Corridor protective provisions supporting plan	4.19	1	October 2022
updated landscape and biodiversity plan	4.15	3	August 2022
water connection plan	4.16.4	2	August 2022
works plans	4.4	4	August 2022

PART 3: Drafting changes required to remove Tees Dock Road access

Article / Requirement number in draft DCO	Drafting change
Schedule 5, Access, Table 5 (Those parts of access to be maintained by the street authority)	Delete entire first row containing the words “In the District of Redcar and Cleveland” in column 1, the words “Tees Dock Road / unnamed private road” in column 2, and the words: “That part of the access in the area cross hatched in red at the point marked BO on sheet 4 of the access and rights of way plans” in column 3.
Schedule 9, (Land of Which Temporary Possession May Be Taken), Table 8	Delete the numbers “274” and “279” from column 1 of the row containing the following words in column 2: Temporary use to facilitate access to and highway improvements (Work No. 10) in relation to the authorised development
Schedule 12, Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 256	<p>Delete paragraph (i) from the definition of “diversion condition”;</p> <p>Delete the definition of “Lackenby Gate”;</p> <p>Delete “southern access land” from the definition of “proposed land”</p> <p>Delete “southern access route works” from the definition of “proposed work”</p> <p>Delete definition of “southern access route land”</p> <p>Delete definition of “southern access route works”</p> <p>Insert definition of “Tees Dock Road access” as “means an access from Tees Dock Road to plots 274 and 279 as shown on the land plans”</p>
Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 234(d)	Delete “the southern access route works” from sub-paragraph d);

Article / Requirement number in draft DCO	Drafting change
Part 20 (Protective provisions for the benefit of South Tees Development Corporation) paragraph 234(d)	Insert new paragraph 260A: "The undertaker must not under any circumstances exercise powers conferred by article 14 or other provision of this Order to create a means of access between the Tees Dock Road and plots 274 and 279 as shown on the land plans".
Schedule 14 (Certified Documents)	The Applicants will provide details of the required updates to certified documents as part of the formal change request.

Appendix 1 – Comments on Protective Provisions in Schedule 12

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
1	Electricity, Gas, Water and Sewerage Undertakers	<p>Section 127 is not engaged as no person to whom these provisions apply has submitted a representation.</p> <p>Section 138 is relevant to the extent statutory undertakers have a 'relevant right' potentially affected by the powers in the DCO. As explained in the Applicants' Written Summary of Oral Submission for CAH2 [electronic page 8 to 9, REP5-026] MGT Teesside Limited and Whitetower Energy Limited are the relevant parties to whom these protections apply. As noted in the fifth column these are standard protective provisions for the specified types of undertakers, and are in a similar form to that adopted in many prior development consent orders. They provide for replacement rights to be granted to the relevant statutory undertakers where relevant, as well as securing approval of works and indemnity provisions.</p>	No	<p>These are standard protective provisions for electricity, gas, water and sewerage undertakers, where those undertakers are not covered by Parts 2 to 27 of this Schedule. These provisions ensure no detrimental effect of the proposed scheme on the undertaking of statutory undertakers. The Applicants have amended the definitions of "apparatus" and "utility undertaker" to include owners or operators of mains, pipelines or cables so that the protection is not limited to statutory undertakers, but other owners or operators of apparatus.</p>
2	Operators of Electronic Communications Code Networks	<p>Section 127 is not engaged as electronic communication code operators are not statutory undertakers for the purposes of section 127, and no person to whom</p>	No	<p>These are standard protective provisions for operators of electronic communications code networks, and provide appropriate protection to ensure no detrimental effect of the proposed scheme on their network.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
		<p>these provisions apply has submitted a representation.</p> <p>Section 138 is engaged, in relation to BT plc (Openreach Limited). Part 2 would also apply to any other communications code network operators who have apparatus within the Order limits – see the Applicants' response to CA.2.15 (electronic page 39, Applicants' Responses to the ExA's Second Written Questions REP6-121).</p> <p>As noted in the fifth column these are standard protective provisions for the operators of telecommunications code networks, and are in a similar form to that adopted in many prior development consent orders. They provide for protections which are similar to that provided for in the telecommunications code.</p>		
3 and 4	National Grid	<p>S127 and 138 are engaged.</p> <p>Both NGET and NGG are statutory undertakers and have submitted representations.</p> <p>National Grid Electricity Transmission plc (NGET)</p>	No	<p>The Applicants and NGET / NGG have been engaged in dialogue on the Protective Provisions.</p> <p>NGET</p> <p>The Applicants received comments on the Protective Provisions and a proposed Side Agreement for review on 12 and 11 October 2022 respectively. The Applicants and NGET are working collaboratively and negotiating those documents with a view to reaching agreement as soon as possible.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
		<p>NGET has apparatus and interests within the Order land for the purposes of its undertaking as an Electricity Act 1989 licence holder.</p> <p>NGET submitted a Relevant Representation, requesting, amongst other matters, Protective Provisions to be agreed.</p> <p>National Grid Gas plc (NGG)</p> <p>NGG has apparatus and interests within the Order land for the purposes of its undertaking as a gas transporter.</p> <p>NGG submitted a Relevant Representation, requesting, amongst other matters, Protective Provisions to be agreed.</p>		<p>Most recently, the Applicants and NGET and its legal advisors had a meeting on 27 October 2022 to discuss outstanding matters. The Applicants provided further comments on the Protective Provisions and Side Agreement on 28 October 2022.</p> <p>Given the stage at which the Applicants received the comments, the Protective Provisions included at Part 3 of Schedule 12 to the Order do not take into account NGET's preferred position, however the parties are committed to working together with a view to reaching agreement and will update the ExA as soon as possible prior to the close of the Examination. The Applicants are of the view that the protections included in Part 4 are adequate to protect NGET and its statutory undertaking.</p> <p>NGG</p> <p>The Applicants received NGG's preferred form of Protective Provisions on 24 October 2022. The Applicants have not yet received a copy of the NGG Side Agreement but expect to do so shortly. The Applicants and NGG are working collaboratively and negotiating the Protective Provisions with a view to reaching agreement as soon as possible and awaits a copy of the Side Agreement for review.</p> <p>Most recently, the Applicants and NGG and its legal advisors had a meeting on 27 October 2022 to discuss outstanding matters. The Applicants provided further comments on the Protective Provisions on 28 October 2022.</p> <p>Given the stage at which the Applicants received preferred form of Protective Provisions from NGG, the version included at Part 4 of Schedule 12 to the Order do not take into account NGG's preferred position, however the parties continue to discuss this with a view to reaching agreement and will update the ExA as soon as possible. The Applicants are of the view that the protections included in Part 4 are adequate to protect NGG and its statutory undertaking.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
5	Air Products PLC	S127: No S138: No	No	<p>The Applicants and AP have been engaged in dialogue on the Protective Provisions.</p> <p>On 16 March 2022 AP lawyers provided the Applicant's lawyers with a draft form Asset Protection Agreement and Protective Provisions and the parties have been working collaboratively and negotiating those documents with a view to reaching agreement as soon as possible.</p> <p>Most recently, the parties' respective lawyers had a productive call on 7 October 2022 to discuss outstanding matters, after which the Applicants sent further information requested by AP on 11 October 2022. The Applicants are currently awaiting a further mark-up of the documents from AP's lawyer following those discussions.</p> <p>The provisions in Part 4 are considered to adequately protect Air Products, however the parties are committed to working together with a view to reaching agreement and will update the ExA as soon as possible.</p>
6	CATS North Sea Limited	S127: No S138: No	No	<p>The Applicants have been in contact with CATS in relation to protective provisions since May / June 2021, and in contact with CATS' legal representatives since April 2022.</p> <p>The Parties are very engaged in the draft PPs and are also exchanging a side agreement. The negotiations are at an advanced stage, with the latest draft being provided by the Applicants on 31 October 2022. It is anticipated that agreement will be reached shortly.</p> <p>The provisions seek to protect the CATS pipelines by requiring CATS' consent prior to commencing any part of the authorised development that is within 50m of the pipelines and by identifying requirements that must be complied with by the undertaker, reflecting those sought by CATS in discussions. The Applicants therefore consider that the protective provisions appropriately address and manage the potential impact of the proposed development on the CATS pipelines.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
7	CF Fertilisers UK Limited	S127: No S138: No	No	The Parties have agreed the form of PPs to be included in the DCO and have agreed a separate Side Agreement and private PPs which are going through the final approval and execution process.
8	Exolum Seal Sands Ltd and Exolum Riverside Ltd	S127: No S138: No	Yes – REP5-033	<p>The Parties have agreed a separate side agreement and private protective provisions, which are going through the final approval and execution process.</p> <p>Exolum submitted their own preferred set of PPs to the Examination at Deadline 5 [REP5-033]. Whilst it is noted that the parties expect to execute the agreed form side agreement and private protective provisions imminently, the Applicants have provided comments on REP5-033 as follows.</p> <p>1. Paragraph 77 prohibition of acquisition and interference - Exolum's draft PPs provide for a restriction on acquisition of Exolum's operations, rights or interests in land, or creation of new rights, other than by agreement with the undertaker. Paragraph 77(2) also places a reasonable endeavours obligation on the parties to seek to enter into a crossing agreement before carrying out restricted works. Alternatively, the Applicants' PPs retain the right to compulsory acquisition powers for the benefit of the proposed development, but must not render Exolum's access to be less convenient, interfere with Exolum's operations, relocate or remove any of Exolum's operations without consent and in the case of access, by providing alternative apparatus (the Exolum PPs also contain this language). The DCO PPs reflect the position that compulsory powers are required and are necessary in order to deliver the authorised development. They also provide appropriate protection for Exolum's operations and interests.</p> <p>Exolum's PPs paragraph 77(3) relating to temporary possession do not contain paragraph 77(2)(a) of the DCO PPs. This provision states that where Exolum's rights do not provide or require access over, in or under the Order limits, there is no restriction on the exercise of such rights. The DCO PPs therefore reflect the position that where Exolum's rights are not to be affected by the temporary possession powers under the DCO, the remaining provisions of the temporary possession protections are not to apply (because no need for those protections arises).</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>Paragraph 79(1)(b) of the Exolum PPs provides for expenses, specifically of works undertaken by third parties within 15m of the Exolum operations. The DCO PPs have deleted this 15m limit from paragraph (b) because a 15m limit is contained within the definition of “restricted works” in the DCO PPs.</p> <p>Paragraphs 79(2) – (4) of Exolum’s draft PPs contain the details of arrangements for costs-sharing, payment and a good-faith requirement to enter into a works agreement. The DCO PPs do not contain similar provisions because in the Applicants’ view these are not necessary or appropriate terms and the Applicants’ proposed drafting adequately provides for Exolum’s costs to be covered where appropriate.</p> <p>Paragraph 80 of the Exolum PPs contains Exolum’s preferred position with regard to indemnity, including an uncapped indemnity. The DCO PPs do not contain similar terms because it is the undertaker’s position that such a position is disproportionate and unnecessary. In terms of the details of the indemnity provided in sub-paragraphs to paragraph 80, the Applicants do not consider such details to be appropriate.</p> <p>Paragraph 80(2) of the DCO PPs provides that the undertaker is not to be liable where Exolum or its agents and contractors have acted with neglect or default. It is the Applicants’ position that that is a reasonable and proportionate exclusion, since the Applicants would not be at fault and would not have caused the relevant loss, and so should not have to stand behind it via the indemnity.</p> <p>Paragraph 80(3) requires Exolum to not settle or compromise any claim without the consent of the undertaker, which in the Applicants’ position is proportionate and reasonable given that ultimate liability will rest with the undertaker. It is not in the Applicants’ interests to avoid or prevent settlement of a claim (if that is Exolum’s concern), but it does require oversight of and a level of control over claims to be able to manage its liability.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				Paragraph 81(1) of the DCO PPs contains a requirement to use reasonable endeavours to secure amicable resolution in accordance with the arbitration provisions of the Order. The Applicants consider this is a reasonable and proportionate requirement and is consistent with the arbitration mechanism under the Order.
9	Ineos Nitriles (UK) Limited	S127: No S138: No	No	<p>The Applicants have been in contact with legal representatives for Ineos Nitriles in relation to protective provisions since December 2021.</p> <p>The Applicants provided an amended version of the protective provisions on 4 April 2022, with a view to addressing concerns raised in Ineos Nitriles' Relevant Representation. The Applicants did not hear from Ineos Nitriles' legal representative until 6 October 2022 when a brief response was provided, and then on 19 October when the Applicants received a revised draft of the protective provisions. The Applicants are currently considering these amendments.</p> <p>The Protective Provisions require the consent of Ineos Nitriles prior to commencing any part of the authorised development that would have an effect on the operation or maintenance of the Ineos operations or access to them, and for an indemnity to Ineos Nitriles for relevant loss or damage. The Applicants consider that the definition of 'Ineos operations' relating to the Order limits is appropriate given that the Ineos site is vacant and its operations there have ceased. The Applicants therefore consider that the protective provisions appropriately address and manage the potential impact of the Proposed Development on Ineos.</p>
10	Marlow Foods Limited	S127: No S138: No	No	The Applicants have been in contact with Marlow Foods' legal representatives since August 2021, and the Applicants' lawyers have sought comments on the protective provisions. Marlow Foods' representative has acknowledged the correspondence but no substantive comments on the draft protective provisions have been received. The Applicants have held several meetings with Marlow Foods to discuss the potential impact of the Proposed Development on Marlow Foods' access.

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>Marlow Foods utilise part of Nelson Avenue as their primary access to their operational site at Billingham.</p> <p>The protective provisions prevent the undertaker from exercising powers so as to prevent Marlow Foods being able to access their adjacent site and require advanced notice to be given to Marlow Foods before doing works that utilise the highway route at Nelson Avenue. The Applicants therefore consider that the protective provisions appropriately address and manage the potential impact of the proposed scheme on Marlow Foods' operations.</p>
11	Network Rail Infrastructure Limited	<p>S127 and s138 is engaged.</p> <p>NRIL is a statutory undertaker and is the freehold owner of operational land affected by the Order and also enjoys other rights over other land affected by the Order. NRIL has made a representation which has not been withdrawn.</p>	No	<p>The Applicants and NRIL have been engaged in dialogue on the Protective Provisions.</p> <p>On 4 May 2022 NRIL provided the Applicants with a draft form Asset Protection Agreement and Protective Provisions. These were returned by the Applicants to NRIL on 24 June 2022 with minor comments, including some points where clarification was sought.</p> <p>The parties have engaged in correspondence since but no substantive comments on the drafts have been received from NRIL.</p> <p>Given that comments are currently awaited from NRIL, the Protective Provisions included at Part 10 of Schedule 12 to the Order do not take into account NRIL's preferred position, however the parties are committed to working together with a view to reaching agreement and will update the ExA as soon as possible.</p> <p>In the absence of substantive engagement on the Protective Provisions, the Applicants consider the form of Protective Provisions included on the face of the Order are appropriate and adequate to protect NRIL's interests, including in relation to its statutory undertaking.</p>
12	Northern Powergrid (Northeast) Plc	<p>S127: Yes S138: Yes</p>	No	<p>The Applicants have been in contact with Northern Powergrid's legal representatives since June 2021.</p> <p>The parties are in negotiations for a side agreement and annexed set of protective provisions, and negotiations are at an advanced stage. The last</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>exchange of draft documents was provided by the Applicants to Northern Powergrid's legal representatives on 13 October and a response is awaited.</p> <p>The DCO protective provisions were updated at Deadline 8 and at Deadline 12 to account for the parties' discussions.</p> <p>The DCO protective provisions provide suitable and proportionate protection to Northern Powergrid. With respect to temporary prohibition on access, the DCO PPs make clear that Northern Powergrid is at liberty at all times to take all necessary access as may be reasonably necessary to enable it to maintain any apparatus. No apparatus may be acquired other than by agreement of Northern Powergrid. No apparatus may be removed, and access must not be extinguished, until alternative apparatus has been constructed and is in operation and access has been provided, all to the reasonable satisfaction of Northern Powergrid – these are important provisions in terms of the S127 and S138 tests, since they ensure that the statutory undertaking is protected. The undertaker's works must be carried out in accordance with works details submitted to Northern Powergrid prior to execution of the works. Northern Powergrid's reasonable expenses are to be paid by the undertaker, in accordance with the process set out in the PPs which is reasonable and allows the undertaker an appropriate level of information and control over expenses which will fall to it.</p> <p>Accordingly, the Applicants consider that the DCO Protective Provisions contain appropriate and proportionate protection for Northern Powergrid.</p>
13	NPL Waste Management Limited	S127: No S138: No	No	<p>The Applicants and NPL Waste exchanged comments on the draft Protective Provisions, as included in Part 13 of Schedule 12 to the Order, in May and June 2022. The Applicants provided comments to NPL on 17 June 2022, however have not received any further response.</p> <p>The Applicants consider the form of Protective Provisions included in the Order are appropriate in the absence of an alternative being presented by NPL, and adequate to protect NPL's interests, including in particular the need for it to have</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				access to its mineral operations. The Applicants have adequately dealt with NPL's mines and minerals interests through the Book of Reference.
14	PD Teesport Limited	S127: Yes S138: Yes		An agreed form of PPs was included in the Applicants' Deadline 8 DCO. No further changes are proposed, and it is anticipated that the Side Agreement between the parties will complete imminently as it is in agreed form. An update will be provided before the end of Examination if it appears that this will not be the case.
15	Redcar Bulk Terminal Limited	S127: No S138: No	Yes - REP9-034	A form of Protective Provisions was submitted at Deadline 9 by RBT [REP9-034] which reflected discussions between the Parties. These provisions have been incorporated into the DCO at Deadline 12 as agreed, save that in subparagraph (b) of the paragraph headed 'Indemnity' the Applicant has added additional words which allows NZT to take on the conduct of claims made against RBT which would be claimed against NZT under the indemnity (" <i>which, if it withholds such consent, has the conduct of any settlement or compromise of any proceedings necessary to resist the claim or demand</i> "). This wording is sought by the Applicants (but is not agreed by RBT) on the basis that, given the indemnity provided by the Applicants under the provisions, the Applicants should be able to take on claims to ensure that it at least has the possibility of minimising its liability, where RBT would have no incentive to do so. These matters have formed part of the discussions between the Parties on a Side Agreement but this has not yet been able to conclude. The Applicants therefore seeks to protect its position accordingly in the Protective Provisions.
16	Sabic UK Petrochemicals Limited	S127: No S138: No	No	<p>The Applicants have been in contact with SABIC's legal representatives since April 2021 with respect to protective provisions and have been in more active discussions on the protective provisions since July 2022, when the Applicants first received a substantive response on the draft provisions and side agreement from SABIC's legal representatives.</p> <p>The Applicants have accepted the principle of using SABIC's preferred form of protective provisions, and this is reflected in the draft DCO submitted at Deadline</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>12. The protective provisions in the draft DCO are largely in agreed form, however, some matters remain outstanding.</p> <p>The Applicants understand SABIC's concerns to be the interaction of the proposed scheme with SABIC's apparatus within the Order limits, the facilities its apparatus is connected to at North Tees, and access with respect to both its apparatus and the North Tees facilities. In order to ensure adequate protection for SABIC's interests, the Applicants have accepted detailed provisions proposed by SABIC with respect to approval of certain works and the works details to be submitted for this purpose (with Sabic able to impose conditions on approvals to ensure continued safe operation of assets and appropriate access to assets), requirements in relation to pipeline surveys, restrictions relating to certain works such as piling or excavation of trenches near pipelines, monitoring for damage to pipelines, and preparation of construction access plan to manage access. In addition, the Applicants' provisions do not include a restriction on compulsory acquisition powers, since these are required to enable the Proposed Development to be delivered, as set out in various previous submissions (including written summaries to issue specific and compulsory acquisition hearings [REP5-025/026] and the Applicants' response to written representations [REP3-012]).</p> <p>With SABIC's proposed protections in place, the Applicants consider that the protective provisions, as updated in the draft DCO for Deadline 12, appropriately and adequately protect SABIC's interests.</p>
17	The Sembcorp Pipeline Corridor	S127: No S138: No	No	<p>The Applicants have been in contact with Sembcorp's legal representatives with respect to the protective provisions since August / September 2021, with a substantive response and drafting first being received by the Applicants in April 2022. Since that point the parties have been actively engaged in an effort to reach agreement on the protective provisions and side agreement.</p> <p>Whilst not submitting a set of protective provisions into the Examination drafted specifically in relation to the authorised development, Sembcorp has submitted the protective provisions included in The Dogger Bank Teesside A and B Offshore Wind Farm Order 2015, as attached to its written representation</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>[REP2-098], and Sembcorp's position in the Examination has been that those provisions should also be adopted here.</p> <p>The protective provisions included in the draft DCO are to a substantial degree in agreed form, with the main outstanding matters as indicated below.</p> <p>Provisions are included by the Applicants to regulate the position where separate approvals are sought from third party owners or operators pursuant to other sets of protective provisions within Schedule 12. The approach previously proposed by the Applicants was that where such third party approval was obtained, the consent of Sembcorp for the same works would not also be required. In the amendments made to the protective provisions at Deadline 12, the Applicants have revised this drafting to reflect the managerial role Sembcorp has of the pipeline corridor in particular, so that where third party owners or operators are required to approve works under other sets of protective provisions in Schedule 12, Sembcorp's approval role is not dispensed with, rather it is limited to its overarching managerial role and in considering any works details for approval, it must also have regard to the consent being obtained by the third party owner or operator. The Applicants consider this is an appropriate position in order to manage the different roles of parties and to reflect the interactions between the different sets of protective provisions potentially applying within the Sembcorp Pipeline Corridor.</p> <p>Sembcorp's submissions to the Examination have sought the inclusion of restrictions on the Applicants' use of compulsory acquisition powers with respect to Sembcorp and other owners and operators within the Sembcorp Pipeline Corridor. The Applicants' position with respect to a restriction on its ability to exercise powers of compulsory acquisition is set out in the Applicants' Comments on Written Representations [REP3-012], table 16.0. The Applicants maintain that to protect the delivery of the nationally significant infrastructure project, the Applicants must retain compulsory acquisition powers over the Order land to facilitate the construction, maintenance and operation of the pipelines. That approach is consistent with the Applicants' position on separate protective provisions within Schedule 12, being negotiated or agreed with other owners or</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>operators within the Sembcorp Pipeline Corridor. The position with the Proposed Development is somewhat different to Dogger Bank, where there was one set of protective provisions for owners and operators at Wilton, and the one set of protective provisions therefore covered all of them. That is not the case here, where the protective provisions with Sembcorp provide protection for Sembcorp and various other owners and operators, however, there are several owners or operators within the pipeline corridor who have separate protection under their own sets of protective provisions (for example, SABIC, HPU and Exolum). A consistent approach is therefore preferred across the protective provisions, and it is not considered a different approach for Sembcorp and some owners / operators is justified.</p> <p>In addition, the overarching positions of Dogger Bank and the Proposed Development are considered to be different. The interaction of the Proposed Development's Order Limits with Sembcorp is centred on a well-developed, linear pipeline corridor. The Proposed Development seeks the compulsory acquisition of rights for an easement limited to Work No. 6 with the associated construction, maintenance and operational access rights. As explained previously, the Applicants would only acquire rights in the areas required, following detailed investigation, design and engineering. This is the basis of the pipeline corridor and therefore it is reasonable to expect that if voluntary agreements cannot be reached that the use of compulsory powers can be exercised in such a way to minimise the impact on the pipeline corridor. In contrast, the Dogger Bank proposals had a potential impact on an area or areas of the Wilton site itself, including on the existing use of Wilton and with its development potential for existing and future industries. The Applicants therefore consider that compulsory acquisition powers could have had a far greater impact on the Wilton site as a whole, compared to the more limited impact that the Proposed Development could have on certain apparatus which links into the Wilton site, and noting the significant protections proposed by the Applicants in Part 17.</p>
18	Anglo American	S127: No S138: No	No	Protective Provisions (in Schedule 3 and 12) have been included in the Deadline 12 DCO, to reflect that the Side Agreements between the Parties has not yet

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>been able to complete. These are agreed save for Anglo American's position that it should be required to consent to the use of the Applicant's compulsory acquisition and land powers in the DCO. This is discussed (with both Parties' position on this matter expressed) in the Joint Statement also submitted at Deadline 12 (Document Ref. 8.38 and also being separately submitted by Anglo American).</p>
19	Suez Recycling and Recovery UK Limited	S127: No S138: No		<p>The Applicants have been in contact with Suez with respect to protective provisions since April 2022. Prior to that, there was discussion on some aspects of the protective provisions as part of discussions on the Heads of Terms for the property agreements. Most recently, updated protective provisions and a side agreement were provided to Suez's legal representatives on 25 July 2022, with the Applicants then following up to seek comments. No substantive response on the protective provisions has been received from Suez.</p> <p>The Applicants are aware that Suez has concerns about the interaction of the proposed scheme with its proposed energy from waste facility. The protective provisions are therefore drafted so that if that Suez facility is being constructed, or has been constructed, at the point in time when the relevant part of the authorised development is commenced (Work No. 6) Suez would be required to approve certain works details for the authorised development. There are also provisions requiring the parties to cooperate in relation to the two developments. The provisions are considered adequate to protect Suez's interests.</p>
20	South Tees Development Corporation	S127: No S138: No	No	<p>Protective provisions for the benefit of Teesworks Limited were included in the draft DCO [APP-005] submitted with the application on 19th July 2021. The protective provisions have been the subject of negotiation throughout the DCO Examination. The Applicants sent amended protective provisions to legal representatives for STDC on 21 April 2022, responding to amendments provided as part of their Relevant Representation. Further drafts have been exchanged since with STDC most recently returning comments on the protective provisions on 28 October. STDC's comments have been considered and incorporated where appropriate into the final set of protective provisions in the DCO submitted at Deadline 12.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>The protective provisions were amended in the DCO submitted at Deadline 4 [REP4-002] to benefit not only Teesworks Limited, but South Tees Development Corporation (STDC) and South Tees Developments Limited (STDC) (see paragraph 255). The protective provisions are framed as being for the benefit of any "Teesworks entity" comprising the aforementioned parties as well as "any successor in title to the freehold interest in the "Teesworks site", which is tied to the area of the numbered works 2A, 3, 4A, 5, 6, 8, 9 and 10 as shown on the works plans (the referred throughout the remainder of this document as the "Connection Corridors Land") (paragraph 256). The Applicants have also inserted an interpretative provision (paragraph 284) which makes clear that any reference to the "Teesworks entity" means the freehold owner of the relevant part of the connection corridors land in the Teesworks site. Together this addresses comments from STDC in their Written Representation [REP2-097a] that the protective provisions must benefit successors in title to the Teesworks site.</p> <p>The protective provisions contain "consent to works" provisions that specify that approval must be obtained from the Teesworks entity prior to works being carried out in the Connections Corridors Land. That includes details of the design and programming of works. It also extended to providing confirmation of location of infrastructure within the areas of works numbers shown on the works plans. The Teesworks entity may also request and approve (acting reasonably) any further particulars. The undertaker must not commence such works without the approval of details by the Teesworks entity (acting reasonably) and must carry out the works in accordance with the details that have been approved.</p> <p>The "consent to works" provisions have been extended in the version of the protective provisions submitted at Deadline 12 to include a requirement for prior approval of any "permitted preliminary works" within the Connections Corridor Land (paragraph 257). This addresses comments from STDC made in its Written Representation [REP2-097a] and at Issue Specific Hearing 3 (DCO) [REP5-042].</p>

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				<p>The protective provisions include arrangements for cooperation between the undertaker and the Teesworks entities including arrangements for information sharing between the parties (paragraphs 261 to 262) and coordination of works and maintaining accesses (paragraph 263(2)(a)). The parties must use their reasonable endeavours to avoid conflict between their respective developments (paragraph 263(2)(b)).</p> <p>The Applicants have excluded the requirement for the protective provisions (including consent for works) applying in respect of the development comprising Work No. 1 (the low carbon generating station) and Work No. 7 (the high pressure compressor station). The location of these works is self-contained. They would be located on land under the ownership and control of the undertaker. There is no reasonable or proportionate basis for the Teesworks entity to have an approval role over the construction, operation, maintenance or decommissioning of such infrastructure.</p> <p>The Applicants have excluded from the protective provisions, and strongly oppose any counter proposal by STDC, that the powers of compulsory acquisition over STDC's interests may only be exercised following agreement with the Teesworks entity. The Applicants continue to progress property agreements with the STDC entities, as more fully set out in the Applicants' Compulsory Acquisition Schedule (row 77) [Document Reference 9.5]. However no agreement has yet been entered into between the parties. In the absence of land agreements being entered into, the Applicants require powers of compulsory acquisition and temporary possession to ensure that the NZT project can be built, maintained, and operated, and to ensure that its nationally significant public benefits can be realised, including supporting the Government's policies in relation to the timely delivery of new generating capacity and achieving ambitious net zero targets. Protective provisions that allow for powers to be exercised only with STDC's approval would jeopardise the delivery of the project and must not be included in the Order. The Examining Authority is directed to (electronic page) 97 of its Comments on Written Representations [REP3-012] for a full summary of the Applicants' position.</p>

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				<p>The Applicants would resist any proposal by STDC for protective provisions excluding powers in the Order being exercised to create a means of access between Tees Dock Road and plots 274 / 279 (as shown on the land plans). No agreement has been entered into with STDC to provide an alternative access arrangement and there is no guarantee that an agreement will ultimately be secured. The Applicants accordingly must retain the rights to create a means of access at Tees Dock Road, as secured in the Order. The Examining Authority its directed to page 3 of the Applicant's Written Summary of CAH2 [REP5-026] for a full summary of the Applicants' position. The Applicants have also proposed an appropriate "lift and shift" provision in the protective provisions to address STDC's concerns (see below). Notwithstanding, the Applicants have committed to requesting a further change to the Order to remove 274 and 279 <u>if</u> an agreement to secure an alternative access is entered into with STDC following the end of the Examination. The Examining Authority is directed to page 5 of the Applicant's Written Summary of CAH2 [REP11-016] for a full summary of their position. It has also enclosed the proposed changes to the Order that would be required if the change is accepted. The Examining Authority is directed to Part 3 of the Applicant's Schedule of Changes to the DCO [Document Reference 2.1f]. In the absence of agreement, and submission of a change request, the protective provisions must not include any restriction on the exercise of powers (whether relating to land, accesses or otherwise) under the Order over this area of the Order limits.</p> <p>The protective provisions include details of the arrangements for the payment of expenses (paragraph 264). The provisions specify that the undertaker must pay reasonable costs and expenses for the Teesworks entity to approve works details (paragraph 264(1)(a)) and the costs incurred by the Teesworks entity in seeking to agree a "diversion work" (see the summary of lift and shift arrangements below). The protective provisions specify that the Applicants will also pay for the cost of the construction of a diversion work where it is solely for the use of the undertaker in connection with the authorised development (264(1)(c)). The parties must agree the split of costs for works that may have a mutual benefit, namely the diversion work that will replace the southern access route works, the PCC site access route works or the water connection works, as</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>secured in the Order (paragraph 264(1)(d)). The Applicants consider this approach to be reasonable in the circumstances, given that this infrastructure is likely to be provided for the benefit of the Applicants and other parts of the Teesworks development site. It would not be reasonable or proportionate to require the Applicants to pay for the whole of the cost of such infrastructure. It is subject to an arbitration provision if agreement cannot be reached (paragraph 283).</p> <p>The Applicants have specifically drafted the expenses provisions so that the undertaker is not required to pay the costs incurred by the Teesworks entity in pursuing arbitration in relation to the “lift and shift” provisions (see below). Including the costs of arbitration would be a strong disincentive to the Teesworks entity following the lift and shift process. It could also lead to unreasonable delays and cost to the undertaker whereby the Teesworks entity would have little to lose by pursuing arbitration, even in a scenario where the outcome of the diversion works process was entirely appropriate and both parties had acted reasonably.</p> <p>The protective provisions specify that the Teesworks entity that proposes an alternative to the AIL access route works or the parking works (as defined below) must incur the costs of construction of such diversion. The Applicants require certainty as to the availability of these works to construct the proposed development in an efficient and cost effective manner. The benefit of such works would be for STDC following the construction of the proposed development. If a Teesworks entity wishes to propose an alternative to what is proposed in the Order, and which the undertaker will be obliged to construct and deliver under the powers in the Order (and pay related compensation) it is reasonable that such cost is incurred by the Teesworks entity.</p> <p>The protective provisions include an indemnity in favour of the Teesworks entity if there is damage to its infrastructure or interruption to its services as a consequence of works being carried out in the Connection Corridors Land, or by the undertaken pursuant to carrying out a “diversion work”. Standard provisions</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>are included that the undertaker will not be liable where the Teesworks entity is at fault and that the Teesworks entity is obliged to mitigate its costs.</p> <p>The remainder of the protective provisions, with exception of the arbitration and interpretation clauses, sets out a procedure for the Teesworks entity to propose an alternative “diversion work” instead of works and related land rights that are secured in the Order (the “proposed works”). This procedure has been referred to in various submissions during the course of the Examination as the “lift and shift” arrangements. The underlying objective of these arrangement is to address concerns expressed by STDC that the proposed works in the Order and related powers (the “identified powers” as defined in paragraph 256) may frustrate development or sterilise land across parts of the Teesworks site. The arrangements recognise that the development proposals have evolved (since the Applicants consulted on and fixed the Order limits pre-application submission) and will continue to evolve. They also reflect where appropriate the discussions between the parties in relation to the option agreements. The Applicants understanding is that the principle of the “lift and shift” arrangements is agreed subject to some remaining disagreement on the conditions for an alternative being considered acceptable, and the timescales for consideration of alternative works.</p> <p>As requested by STDC, the five elements to which the “lift and shift” arrangements relate are called the AIL access route work (the road known as ‘Red Main’ between the PCC Site and Redcar Bulk Terminal, part of WN10); the parking works (part of the construction laydown area next to the PCC Site and which is required for parking, part of WN9A), the southern access route works (the route from Tees Dock Road up to near Tod Point substation, part of WN10), the PCC site access route works (an access route within the Teesworks site to the PCC Site, part of WN10), and the water connection works (the connection for water supply to the PCC Site, WN4).</p> <p>There are two points to note in respect of the scope of the diversion works:</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<ol style="list-style-type: none"> 1. A sixth "diversion work" (to divert the discharge outfall works - that part of the existing outfall to Tees Bay which falls within the Teesworks site, part of WN5A) has been deleted as a consequence of the Applicants' change request at Deadline 12 to remove WN5A. As the Applicants cannot pre-empt the approval of the change request by the Examining Authority, drafting has been provided in Part 2 of the Applicants Schedule of Changes [Document Reference 2.1f) which includes drafting to reinstate the lift and shift provision if the change request is refused (and therefore WN5A remains part of the Order). 2. The "southern access route" works would also be deleted if a change request to remove the creation of an access at Tees Dock Road is accepted following the end of the Examination. The parts of the protective provisions that would need to be deleted in that scenario are set out in Part 3 of the Applicants Schedule of Changes [Document Reference 2.1f). <p>The protective provisions prevent the undertaker from exercising the identified powers in relation to each of the proposed works unless it has served a works notice on the Teesworks entity (paragraph 266(b)), and after which the Teesworks entity has the ability to serve a diversion notice under which it must set out the works which would constitute the relevant diversion works (paragraph 268). Those must comply with the diversion condition (paragraph 256(1)) which sets out the requirements which must be achieved so that the undertaker has sufficient certainty that the diversion works are available, deliverable and cost effective.</p> <p>The elements of the diversion condition are in some cases general ones which would apply to each of the diversion works, and others are specific to the particular diversion works. They are also subject to an overarching "adequacy criteria" (paragraph 256(2)) which prohibits the undertaker from rejecting a diversion work proposed by the Teesworks entity that may involve a longer route or journey time unless such diversion work:</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>A) Incurs unreasonable cost, having regard to both the nature and scale of the relevant proposed work, and the nature and scale of the impact on the development proposed by the Teesworks entity; or</p> <p>B) Would have a material adverse impact on the timetable for the delivery of the authorised development in accordance with the undertaker's construction programme.</p> <p>The undertaker considers that the diversion conditions are reasonable and strike an appropriate balance between the need for the undertaker to have certainty that the project is deliverable in a timely and cost efficient manner, whilst also providing the Teesworks entities with an appropriate opportunity to propose alternatives.</p> <p>The undertaker must consider any diversion notice and confirm whether it is agreed, not agreed or that further information is required (which it must specify) (paragraph 270). The undertaker can only notify STDC that it is not agreed if it reasonably considers that the diversion condition is not satisfied, and it must provide reasons. STDC can submit the requested further information or a revised diversion notice (paragraphs 274 and 276, respectively) and the undertaker must once again consider this and respond.</p> <p>Once a diversion notice is accepted, the parties must use reasonable endeavours to enter into a diversion works agreement – this is required so that the undertaker obtains the necessary land rights to carry out or use the diversion work, and to ensure the delivery of the diversion work (by either STDC or the undertaker) (paragraph 277). If the parties do not enter into an agreement, then either may refer the matter to arbitration, with the arbitrator to determine if a diversion works agreement can be put in place which achieves the diversion condition and, if so, the terms of the agreement (paragraph 278). The parties must then enter into a diversion works agreement in that form (paragraph 280).</p> <p>Where the result of the process is that a diversion works agreement is entered into, the undertaker is prevented from exercising the identified powers (paragraph 281). Where the process does not result in a diversion works</p>

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				<p>agreement being entered into, the undertaker is able to exercise compulsory acquisition or temporary possession powers in relation to the relevant proposed work (paragraph 282).</p> <p>The process deliberately includes specific time periods for the taking of each action by STDC and the undertaker, and an overall period for the process of considering works and diversion notices, so that there is certainty as to how long the process may take. This means that there is a clear and defined process, and ensures that the undertaker is able to implement the authorised development – and realise its substantial benefits – without undue delay if it is not possible for a diversion works agreement to be entered into.</p> <p>The Applicants would oppose any counter proposal by STDC for alternative timeframes to be inserted in the protective provisions. The protective provisions already require that the undertaker must provide information on the construction programme and related works <u>at any point</u> following the Order being made and a request being made by the Teesworks entity (paragraph 266(a)(i)). That information must be provided within 30 days (paragraph 266(a)(ii)). The effect of this is that STDC can obtain details of any proposed works much earlier than the date that it receives a works notice from the undertaker and the diversion works process in the protective provisions takes effect.</p> <p>The drafting in the protective provisions also specifically allows for the re-submission of diversion works notices where a previous diversion work has not satisfied the diversion conditions (paragraph 276) and for further information to be provided (paragraph 274). The "longstop date" whereby the undertaker is not obliged to consider further diversion notices after 150 days of the service of the works notice (paragraph 275(b)) is also specifically drafted to factor in time for re-submissions and provision of further information by the Teesworks entity, whilst still ensuring that the undertaker does not suffer unacceptable delays in progressing works and ensuring the delivery of this (nationally significant and urgently required) project. The Applicants note that completion of all of the steps in the lift and shift process would already take up to six months, or potentially even longer if arbitration is pursued. The Applicants consider that any extension</p>

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				<p>to the timescales in the protective provisions would become very challenging to factor into the Applicant's construction timetable and could lead to unacceptable cost and delay.</p> <p>It is also highly relevant that the proposed works and the potential diversion works are not unknown – the parties have been discussing the interactions of the respective developments on the Teesworks site for a considerable period, and have specifically been negotiating provisions in the option agreement which are akin to the lift and shift provisions that appear in the DCO. STDC is therefore already well aware of the Applicants' requirements and in some cases there has already been discussion on a proposed alternative which STDC may provide (under the option agreement terms). In that context, as well as the urgent need for the Proposed Development, the timescales are considered to be adequate and reasonable.</p> <p>The drafting also envisages some flexibility (the undertaker is simply "not obliged" to consider further notices rather than being prohibited from doing so). The expectation must be that parties will in practice work constructively (as they are required to under the cooperation provisions) to accommodate each other's respective development proposals.</p> <p>The arbitration provision (paragraph 283) specifies that either party may defer to arbitration in accordance with Article 47 of the Order (unless otherwise agreed in writing between the parties).</p>
21	The Breagh Pipeline Owners	S127: No S138: No	No	The Parties have agreed the form of PPs to be included in the DCO and have agreed a separate Side Agreement and private PPs which they are seeking to complete imminently.
22	Teesside Windfarm Limited	S127: No S138: No	No	<p>The Parties have agreed a separate side agreement and private protective provisions, which are going through the final approval and execution process.</p> <p>The protective provisions take into account the submission made by Teesside Wind Farm Limited at Deadline 6 of the Examination (REP6-131) and in</p>

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				particular includes provisions providing for TWF's approval of works potentially interacting with or impacting the offshore windfarm (as well as those previously included relating to the export cable from the windfarm).
23	Huntsman Polyurethanes (UK) Limited	S127: No S138: No	No	<p>The Applicants have been in contact with Huntsman's (HPU's) legal representatives since April 2021 with respect to protective provisions and have been in more active discussions on the protective provisions since July 2022, when the Applicants first received a substantive response on the draft provisions and side agreement from HPU's legal representatives.</p> <p>The Applicants have accepted the principle of using HPU's preferred form of protective provisions, and this is reflected in the draft DCO submitted at Deadline 12. The protective provisions in the draft DCO are largely in agreed form, however, some matters remain outstanding.</p> <p>The Applicants understand HPU's concerns to be the interaction of the proposed scheme with HPU's apparatus within the Order limits, the facilities its apparatus is connected to at North Tees, and access with respect to both its apparatus and the North Tees facilities. In order to ensure adequate protection for HPU's interests, the Applicants have accepted detailed provisions proposed by HPU with respect to approval of certain works and the works details to be submitted for this purpose (with conditions able to be imposed on approvals to ensure continued safe operation of assets and appropriate access to assets), requirements in relation to pipeline surveys, restrictions relating to certain works such as piling or excavation of trenches near pipelines, monitoring for damage to pipelines, and preparation of construction access plan to manage access. In addition, the Applicants' provisions do not include a restriction on compulsory acquisition powers, since these are required to enable the Proposed Development to be delivered, as set out in various previous submissions (including written summaries to issue specific and compulsory acquisition hearings [REP5-025/026] and the Applicants' response to written representations [REP3-012]).</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				With HPU's proposed protections in place, the Applicants consider that the protective provisions, as updated in the draft DCO for Deadline 12, appropriately and adequately protect HPU's interests.
24	Navigator Terminals Seal Sands Limited	S127: No S138: No	No	<p>The protective provisions were provided to Navigator in March 2022. The Applicants have received on set of substantive comments on the protective provisions on 28 July 2022, and has sought further comments. No further response has been received by the Applicants.</p> <p>The Applicants accepted most of the amendments proposed by Navigator and made amendments to the protective provisions resulting from the July 2022 comments from Navigator in the draft DCO submitted at Deadline 8 [REP8-004].</p> <p>The Applicants' understanding (not confirmed by Navigator but based on the limited extent of the comments received in July 2022), is that the principle of the protection proposed in the draft provisions amount to appropriate protection for Navigator's operations. On this basis and in the absence of representations or comments from Navigator, the Applicants consider that the protective provisions as proposed are acceptable.</p>
25	Northumbrian Water Limited	S127: Yes S138: Yes	No	<p>The Applicants have been in contact with Northumbrian Water's legal representatives since December 2021. The Parties agreed to use bespoke Northumbrian Water protective provisions as requested in Northumbrian Water's RR. The Parties are negotiating a separate Side Agreement and set of protective provisions. Negotiations are at an advanced stage, with the latest set of comments being provided by the Applicants to Northumbrian Water's legal representative on 27 October 2022. Agreement of these documents is expected to be reached shortly.</p> <p>The DCO protective provisions provide suitable and proportionate protection to Northumbrian Water. They require that the undertaker must not interfere with, build, remove or disconnect apparatus within standard protection strips unless agreed in writing with Northumbrian Water, such consent not to be unreasonably withheld or delayed. The undertaker must also provide alternative means of access to apparatus where existing access is obstructed. They provide for</p>

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				<p>compensation to be paid for damage caused to apparatus or interruption to service and for reference to arbitration in the event of dispute.</p> <p>The Applicants consider that the form of Protective Provisions included in the Order are appropriate and adequate to protect Northumbrian Water's interests, including in relation to its statutory undertaking.</p>
26	Northern Gas Networks Limited	<p>S127: No, NGN has not made a representation and so s127 is not engaged.</p> <p>S138: Yes, as NGN has rights to retain apparatus in the Order land.</p>	No	<p>The Applicants and NGN have been engaged in dialogue on the Protective Provisions, with drafts of an Asset Protection Agreement and Protective Provisions exchanged on 28 July, 5 September and 5 October. The Applicants are awaiting a further response from NGN.</p> <p>The Protective Provisions included at Part 25 to the Order do not take into account NGN's preferred position, however the parties are committed to working together with a view to reaching agreement and will update the ExA as soon as possible.</p> <p>The Applicants consider that the form of Protective Provisions included on the face of the Order are appropriate and adequate to protect NGG's interests including its statutory undertaking (relevant to s.138).</p>
27	North Tees Limited, North Tees Rail Limited and North Tees Land Limited	<p>S127: No</p> <p>S138: No</p>	No	<p>Protective Provisions are being negotiated between the parties, and draft provisions were included in the draft DCO (Part 27, Schedule 12) at Deadline 4 [REP4-002]. Draft Protective Provisions were also sent by the Applicants' solicitor to North Tees Limited's solicitor on 16 August and on 14 October. North Tees Limited's solicitor provided their draft protective provisions on 19 October, and the Applicants returned comments to North Tees Limited's solicitor on 28 October.</p> <p>The DCO PPs require the approval of works details by the North Tees Group (comprising North Tees Limited, North Tees Land Limited and North Tees Rail Limited) prior to the undertaker commencing any part of the authorised development that would have an effect on their operations or their access to land</p>

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				<p>adjacent to the Order limits. The DCO PPs also make provision for a proportionate and appropriate indemnity and reference to arbitration. The Applicants therefore consider that the DCO PPs provide appropriate and proportionate protection for the NT Group's functions and roles as a landowner and leaseholder.</p> <p>The Applicants have provided further comments on the protective provisions in the Applicants' Comments on D9 Submissions and Additional Submissions [REP11-014] and in the Applicant's Comments on D11 Submissions (Document Ref. 9.48, also submitted at Deadline 12). That includes submissions on why provisions sought by Sembcorp are not appropriate or required in relation to NTG's interests.</p>
28	Teesside Gas & Liquids Processing, Teesside Gas Processing Plant Limited and Northern Gas Processing Limited	S127: No S138: No	No	<p>Draft Protective Provisions and a side agreement were provided to lawyers representing Teesside Gas & Liquids Processing, Teesside Gas Processing Plant Limited and Northern Gas Processing Limited (together, NSMP) on 20 July 2022 for their consideration, with a further email on 27 July 2022 responding to various queries. The Applicants received comments on the protective provisions on 22 August 2022, and responded on 5 September 2022. Parties have been actively engaging on protective provisions since that time, with various calls and exchanges of comments taking place. On 17 October 2022 the Applicants received a detailed mark-up of the side agreement from NSMP's legal representatives, which has been the subject of several calls, and one set of comments returned by the Applicants. The Applicants are currently considering further aspects of the side agreement, with a view to reverting to NSMP shortly.</p> <p>The Applicants have made updates to the draft protective provisions in the draft DCO submitted for Deadline 12, and whilst these are not agreed with NSMP, the extensive protection proposed by the Applicants in the updates provisions reflects NSMP's concerns and requirements expressed through its representations.</p>

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				<p>Below are set out what the Applicants understand to be NSMP's concerns (as they have been made to the Examination) and how the protective provisions address them:</p> <ol style="list-style-type: none"> 1. <i>Concerns regarding the proposal within the DCO to utilise the sole access road to NSMP's gas processing plant for operational and construction traffic related to the proposed scheme. Concerns relate to potential risk to NSMP to maintain safe and continuous operation of its facilities in this location, potential for damage to its facilities at this location.</i> 2. <i>Construction access for plot 105 via NSMP's access road must be subject to stringent safeguards, including but not limited to a robust liability and indemnity regime, a comprehensive agreed construction and traffic management plan, compliance by the Applicants with all site rules and regulations, and maintenance of site security at all times.</i> <p>In response to points 1 & 2, the Applicants appreciate NSMP's concerns with respect to its gas processing plant and access to it, and have given careful consideration as to what protection is required and can be agreed, in order to provide adequate protection to NSMP in this respect whilst ensuring that the Proposed Development can be delivered. As a result, the protective provisions define "relevant works package A" which is Work Nos. 2 and 10 of the authorised development or the access to those works, located on plots 103, 105, 106 or 108 (plots 103, 106 and 108 being the existing NSMP access road, and all plots, other than plot 108 being part of NSMP's freehold) and the neighbouring plots 110, 112, 113 and 114 (unless access is not needed via the NSMP plots to access those plots, as explained under point 4 below). For those works, a design package must be approved by NSMP and the protective provisions set out restrictions as to the circumstances in which any works or access would be allowed on these plots. For instance and importantly, NSMP could withhold consent for any design package for works proposed by NZT if they would materially adversely affect the uninterrupted and unimpeded operation, safety and maintenance of, or access to, the NSMP operations. The protective provisions confirm that this would include "any impediment, diminution,</p>

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				<p><i>restriction or interruption on the NSMP entity's access to the access road which runs across plots 108, 103 and 106".</i> The protective provisions also require compliance with conditions, requirements or regulations relating to uninterrupted operation and access, health, safety, security and welfare as are operated in relation to access to or activities in the NSMP operations. The Applicants' proposals would therefore maintain safe and continuous operation of and access to NSMP's gas processing plant and use of the access road over plots 103, 106 and 108. The Applicants consider that what is proposed amounts to stringent safeguards which would control the Applicants' access to plot 105 over plots 103, 106 and 108. It is also considered that these measures address NSMP's requirements in relation to compliance with site rules and regulations and site security.</p> <p>With respect to an agreed traffic management plan relating to access to plot 105, this is required to be agreed between the parties pursuant to the protective provisions and thereafter complied with by the Applicants. The traffic management plan is defined as being a detailed plan which will set out access arrangements relating to plots 103, 105, 106 and 108, and access in connection with works on plots 110, 112, 113 and 114 (unless not required), and Seal Sands Road. The traffic management plan is to include plans for ensuring 24 hour unhindered access for the period of construction of the relevant works package A for the NSMP entity, its employees, contractors, sub-contractors, agents and assigns whether by cars, light commercial vehicles, heavy vehicles carrying abnormal loads and emergency services vehicles) for each stage or phase of the relevant works package A. The protective provisions therefore address the requirements of NSMP in this respect.</p> <p>In terms of a robust liability and indemnity regime, the protective provisions include an indemnity in relation to damage caused to the NSMP operations (meaning its gas processing plant, pipelines, access, land and interests within and beyond the Order limits) or if there is any interruption in any service provided or in the supply of goods by the NSMP entity. The protective provisions therefore address this requirement of NSMP.</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				<p>3. <i>Use of plots 105 and 106 for access for any construction beyond NSMP's freehold</i> – The Applicants have agreed this point and have included a restriction in the protective provisions so that plots 105 and 106 must not be used to access plots 110, 112, 113, 114 (which are the plots in this location where Work No. 2 would be constructed and which are outside of the NSMP freehold).</p> <p>4. <i>Suggestion that an alternate access should be utilised.</i> – The Applicants have included provisions in the protective provisions so that if agreement is reached by the Applicants securing an alternate access to plots 110, 112, 113 and 114 without using NSMP's freehold land (that is, in this case plots 103 and 108 which form part of the NSMP access road), the Applicants must not use plots 103 and 108 for access to the neighbouring plots outside NSMP's freehold. This is included so that NSMP has certainty that, if the Applicants can secure an alternative access route, then it will be used. The Applicants maintain that the use of plots 103 and 108 is appropriate, as the most direct and available route to the relevant parts of the Proposed Development, but are willing to use an alternative if it can be secured.</p> <p>5. <i>It is likely that protections will be required in respect of NSMP's other rights within the order limits. In particular, NSMP are concerned about potential damage or adverse impact of works on land, roads, pipelines or other infrastructure owned, operated or used by NSMP or over which NSMP has rights.</i> – NSMP's other rights, pipelines, assets, land and rights both within and outside the Order limits are protected by the protective provisions. The Applicants have proposed the same approach to "relevant works package A" (explained above) with respect to works beyond "relevant works package A" which may impact on NSMP's other interests (defined as "relevant works package B"). Approval of a design package would be required for those works, as for relevant works package A. The design package would still require relevant design documents for approval. The key differences between the protection for relevant works packages A and B, is that for B the restrictions around access are reduced and as a result, approval of a</p>

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				<p>design package for relevant works package B could be withheld having regard to requirements for:</p> <ul style="list-style-type: none"> a. uninterrupted and unimpeded emergency access with or without vehicles to the NSMP operations at all times; and b. reasonable access with or without vehicles to inspect, repair, replace and maintain and ensure the continuing safety and operation or viability of the NSMP operations, <p>rather than uninterrupted and unimpeded access at all times (as has been agreed to for relevant works package A). There is also no requirement for a traffic management plan for relevant works package B. This approach as proposed in the protective provisions reflects two things:</p> <ul style="list-style-type: none"> a. based on NSMP's submissions to the Examination, the Applicants understand the key area of interaction and importance for NSMP, in terms of impact on their operations and need for uninterrupted access, to relate to the works identified in relevant works package A. Whilst the Applicants understand there are more general concerns about the potential for interactions with NSMP interests elsewhere, they do not require the same level of protection as has been proposed by the Applicant for relevant works package A; and b. the Applicants are seeking consent to deliver a nationally significant infrastructure project, and whilst the importance of the NSMP interests, in particular its gas processing plant, are well understood, the delivery of the proposed scheme has the potential to be unreasonably delayed if the Applicants are required to provide access to all interests of NSMP both within and outside the Order limits in the way proposed for works package B. <p>Protections set out above relating to NSMP's site rules and regulations and indemnity provisions, also apply to relevant works package B. The Applicants</p>

Sch 12 Part	Protected Party	Whether S127 / S138 Applicable	IP Submitted Preferred PPs (pre-D12)?	Applicants' Comments on Protective Provisions
				therefore considers appropriate protection is provided for NSMP interests across the Order limits and beyond.