

National Infrastructure Planning
Net Zero Teesside DCO Case Team

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Your Ref
Unique Reference: 20029934
Our Ref
RAQ/TGH/203316.0001
Date
10 November 2022

Dear Sir or Madam

Application by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (NZN) for an Order Granting Development Consent for the Net Zero Teesside Project (the Project)

Close of Examination - South Tees Development Corporation (STDC)

Update to STDC's preferred protective provisions

Whilst STDC recognises that the final deadline in the Rule 8 letter has passed, following ongoing consideration of outstanding negotiation points on the protective provisions, STDC is able to provide a positive update on two elements, which move STDC's preferred version closer to the Applicant's version. Specifically, the two elements concern the definitions of "red main criteria" and "parking diversion works" at paragraph 256(1) of Part 20 of Schedule 12 to the draft DCO.

STDC anticipates it will be helpful for the Examining Authority to be in receipt of these prior to the examination closing, and so it requests that the Examining Authority accept this further submission for its consideration. STDC has appended to this letter updated versions of its preferred "track" and "clean" protective provisions, which update its preferred definitions of "red main criteria" and "parking diversion works". The updated versions are otherwise unchanged. For the avoidance of doubt, the updated "track" and "clean" versions of STDC's preferred protective provisions supersede those submitted at Deadline 13. These updated versions, along with this letter, will be shared with the Applicants.

"Error" referred to in Anglo American protective provisions

STDC notes that the Applicants' Deadline 13 submission "9.50 - Applicants' Comments on D12 Submissions - Nov 2022" (Deadline 13 response [REP13-019]) includes responses to STDC's Deadline 12 final submission [REP12-166] and STDC's preferred protective provisions (submitted at Deadline 12 [REP12-165]).

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STDC notes in particular the Applicants' statement at paragraph 9.2.10 of its Deadline 13 response, that the "inclusion of a restriction on powers of compulsory acquisition" within the Anglo American protective provisions in the final Deadline 12 DCO [REP12-003] was "an error". STDC notes the restriction on compulsory acquisition powers in both the Anglo American protective provisions at paragraph 202(5) of Part 18 of Schedule 12 to the DCO, and the Applicants' preferred protective provisions in the York Potash Harbour Facilities Order 2016 in Schedule 3 to the DCO, at paragraph 6(5). It remains unclear to STDC whether this is an error in both sets of protective provisions. However, STDC notes that the restriction is still Anglo American's preferred wording (see para 7 of the joint submission of Anglo American and the Applicants [REP12-135]).

In light of the "error" referred to by the Applicants, which was unknown to STDC until it had sight of the D13 documents, STDC considers it fair to highlight before the close of the examination the points made above, and also to highlight that other restrictions on compulsory acquisition powers remain in other protective provisions. For example the protective provisions in favour of Northern Gas Networks Limited include a control over overriding of easements at para 353 of Part 26 of Schedule 12 to the DCO.

Other clarifications

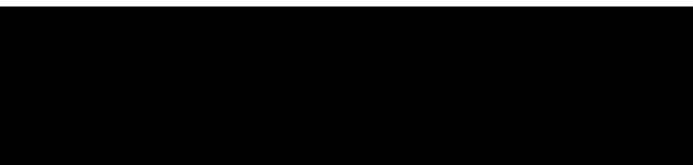
Finally, STDC requests the Examining Authority's permission to clarify two other matters which it has previously raised in its submissions, but which were referred to by the Applicants at D13:

- (i) 85-metre easement corridor (Paragraph 9.2.17 of the Applicants' Deadline 13 response [REP13-019])

The Applicants are seeking compulsory acquisition powers over the 85-metre wide corridor. For the avoidance of doubt STDC's point is that, until compulsory powers are exercised, all of this land will be blighted from the shadow of those powers, and thereby will be sterilised.

- (ii) Status of negotiations (paragraph 9.2.1 of Applicants' Deadline 13 response [REP13-019])

Whilst STDC acknowledges that numerous calls and meetings have taken place between the parties, that does not have a bearing on STDC's previous submissions, to the effect that there has been a lack of *progress* in those calls / meetings on resolving outstanding matters. STDC's position is that the majority of outstanding issues sit with the Applicants, and a number of these have been outstanding for some time now.



BDB Pitmans LLP

■ [Redacted]
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■ [Redacted]