

Date: 11th April 2023
Your Ref: EN010103
Our Ref: 13626



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Dear Mr Wagstaff

APPLICATION REF: EN010103 – THE NET ZERO TEESSIDE PROJECT

SECRETARY OF STATE’S INVITATION FOR THE APPLICANTS TO COMMENT ON THE RESPONSES RECEIVED TO THE SECRETARY OF STATE’S REQUEST FOR FURTHER INFORMATION AND UPDATES DATED 10TH MARCH 2023 IN RESPECT OF THE NET ZERO TEESSIDE DEVELOPMENT CONSENT ORDER (‘THE NET ZERO TEESSIDE ORDER’) APPLICATION

LAND AT AND IN THE VICINITY OF THE FORMER REDCAR STEEL WORKS SITE (TEESWORKS SITE), REDCAR AND IN STOCKTON-ON-TEES

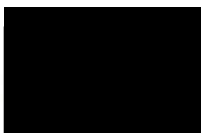
I write on behalf of the Applicants, Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited, in response to the Secretary of State’s letter dated 3rd April 2023 relating to the Net Zero Teesside Development Consent Order (‘DCO’) Application.

The Secretary of State issued a letter to the Applicants on 10th March 2023 requesting further information and updates on the DCO Application in relation to compulsory acquisition and related matters and nutrient nitrogen modelling. The Applicants provided a response to those matters on 24th March 2023 and also made an additional submission in relation the protective provisions agreed with Sembcorp Utilities (UK) Limited.

The Secretary of State’s letter dated 3rd April 2023 invites the Applicants to comment on the responses received from Interested Parties to the Secretary of State’s letter dated 10th March 2023. The Applicants’ comments on those responses are set out in the document, which accompanies this letter.

I would be grateful if you could confirm receipt of this submission.

Yours sincerely



Geoff Bullock
Partner
DWD – on behalf of NZT Power Limited & NZNS Storage Limited



**APPLICANTS' COMMENTS ON THE RESPONSES RECEIVED TO
THE SECRETARY OF STATE'S REQUEST FOR FURTHER
INFORMATION AND UPDATES DATED 10TH MARCH 2023 IN
RESPECT OF THE NET ZERO TEESIDE DEVELOPMENT
CONSENT ORDER APPLICATION**

1.0 CATS NORTH SEA LIMITED (“CNSL”)

1.1.1 CNSL submitted the following response to the Secretary of State on 24 March 2023.

1 INTRODUCTION

1.1 We write on behalf of our client, CATS North Sea Limited (“CNSL”), in response to the request in your letter that an update is provided in respect of the protective provisions being negotiated between CNSL and the Applicant.

2 UPDATE ON PROTECTIVE PROVISION NEGOTIATIONS

2.1 Following the close of examination, CNSL and the Applicant have been engaged in negotiations with a view to reaching an agreed position on the terms of the protective provisions and any necessary commercial agreement.

2.2 As outlined in paragraph 3.1.7 of the Final Side Statement of Common Ground between the Applicant and CATS [REP13-013], at the close of the examination parties were seeking internal sign-off of a Side Agreement and protective provisions. CNSL required to obtain the approval the other parties that have an ownership interest in the CATS pipeline and associated infrastructure, being Kellas CATS Limited (company number 08021886), Eni UK Limited (company number 00862823) and Chrysaor Petroleum Company U.K. Limited (company number 00792712). The Side Agreement is not yet in a form that has been approved by all of the parties with an interest in the CATS pipeline.

2.3 Negotiations are continuing between CNSL and the Applicant. CNSL are optimistic that an agreed position can be reached in early course.

3 CNSL’S POSITION ON THE PROTECTIVE PROVISIONS IN THE FINAL DCO

3.1 The Applicant submitted a final draft DCO at Deadline 12 [REP12-003] that includes protective provisions for CNSL at Schedule 12, Part 6. CNSL’s position remains that if the DCO is granted in those terms, the protective provisions would not be sufficient to protect CNSL’s interest and could give rise to operational and safety concerns.

3.2 In particular, the DCO would give the undertaker the power to acquire rights in land that are held by CNSL, or to extinguish rights of CNSL within the Order Limits. That includes rights over sections of the CATS pipeline. As detailed in section 2 of CNSL’s Written Representation [REP2-081], CATS, including the CATS pipeline, is essential national infrastructure necessary for the operation at any one time of approximately 30 natural gas fields in the North Sea. Any incident which results in damage to the CATS pipeline or which would require the CATS pipeline to shut down would, amongst other things, have considerable impact upon the UK gas and electricity supplies to both the domestic and commercial markets.

3.3 CNSL need certainty that such rights will not be interfered with so that they can ensure they have the powers to operate and maintain the pipeline in the future. CNSL consider that the Applicant has not justified the need to have these powers over CNSL's interests.

3.4 CNSL submit that further protections should be included within the protective provisions to avoid those potential impacts occurring and to mitigate the impacts on CNSL that would result from the authorised development. The Appendix to this letter includes provisions that CNSL consider could be added to Schedule 12, Part 6 of the DCO to address these concerns, if the Secretary of State is minded to grant the DCO.

1.2 Applicants' Comments

- 1.2.1 The Applicants continue to negotiate frequently and productively with CNSL with the aim of reaching agreement on the protective provisions and commercial agreement. The Applicants responded to CNSL's representative's latest comments on 11 April 2023 and the well-progressed draft is currently with them.
- 1.2.2 The Applicants have set out their position in the Examination in terms of the content of the protective provisions in Appendix 1, entry 6 to [REP12-005], and maintain that appropriate protections are in place.

2.0 THE ENVIRONMENT AGENCY (“EA”)

2.1.1 The EA submitted the following response to the Secretary of State on 24 March 2023.

The Environment Agency is satisfied with the Nutrient Nitrogen Modelling submitted as part of this Development Consent Order application.

2.2 Applicants’ Comments

2.2.1 The Applicants acknowledge the EA’s response and have no further comment.

3.0 EXOLUM SEAL SANDS LTD AND EXOLUM RIVERSIDE LTD (“EXOLUM”)

3.1.1 Exolum submitted the following response to the Secretary of State on 24 March 2023.

We have been engaging with the solicitors acting for Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited ("the Promoter") to agree a protective provisions agreement ("PPA") in relation to the Scheme.

The PPA completed on 12 December 2022. As a result, Exolum withdraws its objection to the Scheme.

3.2 Applicants' Comments

The Applicants acknowledge Exolum's response and have no further comment.

4.0 INEOS ENERGY

- 4.1.1 Ineos Energy submitted the following response to the Secretary of State on 15 March 2023.

We write with reference to the representation made by INEOS UK SNS Limited (on behalf of itself and ONE-Dyas UK Limited, collectively being the Breagh Pipeline Owners) in respect of the Net Zero Teesside Project. We can confirm that, following fruitful discussions to ensure suitable protections are in place for our operations in the vicinity of the Net Zero Teesside Project, we have no further objection to the application for development consent for the Net Zero Teesside Project.

4.2 Applicants' Comments

- 4.2.1 The Applicants acknowledge Ineos Energy's response on behalf of the Breagh Pipeline Owners and have no further comment.

5.0 NATIONAL GRID ELECTRICITY TRANSMISSION PLC (“NGET”)

5.1.1 NGET submitted the following response to the Secretary of State on 23 March 2023.

NGET is close to agreeing final protective provisions with the applicant and is confident that final terms will be reached soon. There are very few outstanding matters of substance. However, NGET notes that the last dDCO submitted by the applicant does not contain up-to-date protective provisions that NGET require to protect its assets and interests impacted by the DCO and as such I am instructed to attach NGET’s proposed protective provisions that it asks the Secretary of State and the applicant to include in the future iterations of the draft and final DCO.

5.2 Applicants’ Comments

5.2.1 The Applicants note NGET’s response and agrees with their position that the parties are very close to agreeing final terms. The Applicants were provided with a copy of the protective provisions NGET has proposed to include in the Order on 23 March 2023. The Applicants are undertaking a detailed review of these but does not anticipate there to be any issues of substance outstanding. The Applicants and NGET will continue to negotiate the terms of the protective provisions and any associated agreements with a view to reaching agreement as expeditiously as possible. Notwithstanding, the Applicants consider the protective provisions in the draft Order to adequately protect NGET.

6.0 NATIONAL GAS TRANSMISSION PLC (“NGT”)

6.1.1 NGT submitted the following response to the Secretary of State on 23 March 2023.

Please note that as of January 2023 National Grid Gas plc has changed its name to become National Gas Transmission plc and it is still the relevant gas undertaker for the purposes of the DCO.

NGT is close to agreeing final protective provisions with the applicant and is confident that final terms will be reached soon. There are very few outstanding matters of substance. However, NGT notes that the last dDCO submitted by the applicant does not contain up-to-date protective provisions that NGT require to protect its assets and interests impacted by the DCO and as such I am instructed to attach NGT’s proposed protective provisions that it asks the Secretary of State and the applicant to include in the future iterations of the draft and final DCO. Notwithstanding, the Applicants consider the protective provisions in the draft Order to adequately protect NGT.

6.2 Applicants’ Comments

The Applicants and NGT have been engaged in negotiations throughout the course of the Examination, however it was agreed between the parties that efforts would be focused on agreeing matters of substance on the NGET protective provisions in the first instance, and for those terms to be replicated to the extent applicable and relevant for NGT. As set out above, now the parties are close to agreement on the NGET documents NGT provided a set of protective provisions to the Applicants for review on 31 March 2023. The Applicants are considering these further and expects to be in a position to respond to NGT shortly.

7.0 NETWORK RAIL INFRASTRUCTURE LIMITED (“NRIL”)

7.1.1 NRIL submitted the following response to the Secretary of State on 24 March 2023.

By way of update on behalf of Network Rail Infrastructure Limited, the applicant has, today, been provided with further comments on the draft protective provisions. NR will require the protective provisions, once agreed, to form part of the Order itself however the Applicant is of the view that they should remain confidential. This is a point of principle that remains unresolved between the parties.

7.2 Applicants’ Comments

7.2.1 As recorded in Network Rail’s submission to the Secretary of State of 24 March 2023, the Applicants received comments on the protective provisions and confidential framework agreement on the afternoon of the same day. The comments were the first substantive response the Applicants received from NRIL since issuing the documents in June 2022. The Applicants have been considering these comments and are due to respond to NRIL imminently.

7.2.2 The Applicants are unclear on the reference by NRIL to the Applicants requiring the agreed protective provisions to remain confidential. The parties are negotiating a set of protective provisions, which it is intended would be included in the draft Order (if agreed during the Secretary of State’s decision-making period). The parties are also negotiating a framework agreement which is intended would remain confidential. The Applicants will update the Secretary of State when any agreement is reached as to the protective provisions both parties consider should be included in any Order made.

7.2.3 In the meantime, the draft Order, as submitted to the Examination by the Applicants, includes provisions for the protection of NRIL (Part 11 of Schedule 12), and with those protections in place the Applicants consider no serious detriment would result to NRIL’s undertaking as a consequence of the Proposed Scheme.

8.0 NORTH SEA MIDSTREAM PARTNERS (“NSMP”)

8.1.1 NSMP submitted the following response to the Secretary of State on 24 March 2023.

We refer to your letter of 10 March 2023 and confirm that we act on behalf of Teesside Gas Processing Plant Limited (“TGPP”) and Teesside Gas & Liquids Processing (“TGLP”) in relation to the above DCO application. TGLP and TGPP’s interests are managed by North Sea Midstream Partners (“NSMP”).

Before responding to Item number 6, we propose to briefly set out the nature and importance of our clients’ facility. The Gas Processing Plant located at Seal Sands on Teesside is a highly efficient and flexible gas processing plant which has, since construction in 1993, been operated and managed to world class standards. As a major gas processing facility, the Gas Processing Plant is vital national infrastructure and supports the operation of approximately 30 natural gas fields in the North Sea. Any negative impact on the Gas Processing Plant’s operation would have considerable impact on the UK’s energy security. Together, the facilities have a combined capacity to process up to 19 million cubic metres of gas per day, representing approximately 10% of daily UK gas demand. The Gas Processing Plant also has unique processing equipment for deep liquids extraction, not available at any other processing facility on Teesside.

The engagement between the Applicant and our clients only occurred after the Examination had commenced. As a consequence, the first representation made to the Examination on behalf of our clients was not made until 23 June. Thereafter, our clients fully participated in the Examination and attended both ISH 5 and CAH 3 hearings. A fuller description of the plant and its nature is set out in Rep 5-041. During the course of the Examination, the following written representations were made: 3-018, 4-043, 5-041, 6-142, 9-035, 11-040, 12-167 and 13-032.

Protective Provisions and Compulsory Acquisition matters

Our clients’ position in respect of the protective provisions was set out in Rep 13-032 and the summary in relation to compulsory acquisition matters was set out in Rep 12-167.

Update

Since the close of the Examination, our client has sought to progress negotiation of a contractual settlement agreement with the Applicant. The settlement agreement contains detailed provisions to manage access to and construction of the Applicants’ proposed Development within the vicinity of our clients’ Gas Processing Plant, principally affecting Plots 108, 103, 105 and 106 including to facilitate the Applicant’s access to Plots 110, 112, 113 and 114. The Applicant’s proposed DCO and protective provisions do not adequately address our clients’ concern in respect of maintaining unimpeded

24 hour access over the sole access road (within Plots 108, 103 and 106) to the Gas Processing Plant in a sufficient level of detail. In addition, the Applicant's proposed protective provisions are fundamentally inadequate in providing protection for our clients and the key national infrastructure which they operate.

Throughout the Examination, the Applicant has stated that it does not intend to use Plot 108 and 103 to access Plot 110, 112, 113 and 114 and that access to those plots will be taken from the main terminal road through the adjacent Cats North Sea Limited ("CATS") site. To date, our client has received no update as to the progress of securing rights over the CATS site. The access route required by the Applicant from the terminal road through the CATS site is not situated wholly within the order limits and our client has real concerns that the "fall back" position is to take access over Plots 108 and 103. Accordingly, the provisions in the settlement agreement to regulate access over roads our clients use is becoming more significant.

The proposed protective provisions put forward by the Applicant do not address key areas of risk to our clients of having the proposed Development on and adjacent to the Gas Processing Plant site and other assets owned, operated or used by our clients. In particular, the liability protection offered by the Applicant covers only the construction phase of the proposed Development and not its operation, which is intended to continue for decades and includes the ongoing operation and maintenance of a major gas pipeline. For detail on these and other fundamental gaps in the liability protection offered by the Applicant, please see our clients' written representation 13-032 which appends our clients' proposed protective provisions. In the event the DCO is granted, we urge you to mandate the adoption of our clients' proposed protective provisions to provide protection to our clients' key national infrastructure.

As of today's date, the settlement agreement is not in agreed form and there remain several key outstanding commercial matters such as the level of liability cap in respect of indemnities provided in the settlement agreement, scope of the indemnity protection, minimum level of insurance cover, satisfying our client on the covenant strength of the Applicant and level of costs to be covered by the Applicant. To assist the Applicant, our client has provided a list of rights, easements and pipelines that the Applicant should be aware of and consider as part of its design of the proposed Development. This was provided during the Examination period in 2022 but to date no response or comments have been received in respect of that list.

The last turn of the settlement agreement was sent to the Applicant's solicitor on 15 February together with a request for the Applicant to set out their counter proposals for the outstanding matters. A holding response was received on 08 March requesting dates for an all parties call but no response

or counter proposals were put forward. A further request for counter proposals was issued on 13 March and to date no further response has been received.

With regards to voluntary acquisition of rights, our client has had no engagement from the Applicant since the Examination period. As a minimum, it is expected that the Applicant will require an easement across parts of our clients' freehold land in Plot 105. This land is subject to a lease and therefore a tripartite agreement will be required in order to properly grant the easement over Plot 105.

Conclusions

As you will appreciate from the terms of this letter and no doubt from the Examination Authority's Recommendation Report, this project is proposed at a location where there is a concentration of nationally important energy infrastructure. The Applicant should have been fully aware of the sensitivities of locating this development in this type of environment. Against that background, our clients are very disappointed about the failure of the Applicant to meaningfully try and resolve the various land and related issues arising from the promotion of the project. Our clients have extensive experience in dealing with other infrastructure providers and sharing facilities with them. Our clients have been willing and ready to have detailed discussions with the Applicant in order to try and finalise the matters in relation to the Settlement Agreement and any voluntary land agreements. The lack of engagement by the Applicant suggests that they would prefer to defer matters until the DCO has been granted.

We would invite the Secretary of State to carefully review the level of outstanding land and related issues and to reflect on this in the context of the decision making. In the absence of meaningful engagement, we would invite the Secretary of State to include our clients' specific protective provisions which were set out in representation 13-032. It is only by imposing these requirements that a base level of protection can be provided.

8.2 Applicants' Comments

- 8.2.1 NSMP's characterisation of the Applicants' approach to engagement is misleading and misconceived.
- 8.2.2 As set out in paragraphs 2.2 and 2.3 of the Statement of Common Ground with NSMP submitted at Deadline 13 [REP13-015]. The Applicants issued consultation letters to the registered addresses of TGPP and TGLP prior to submission of the NZT DCO Application and subsequently during the pre-Examination phase. No responses were received from TGPP or TGLP. The Applicants also held a call with NSMP on 28th April 2022, prior to the commencement of Examination.
- 8.2.3 With respect to negotiation of the confidential side agreement and protective provisions, it is correct that the last turn of the agreement was sent by NSMP's

solicitor to the Applicants' solicitor on 15 February 2023. The implication in the submission on behalf of NSMP appears to be that the Applicants are not willing to engage meaningfully or have not been responsive in these negotiations. What the submission does not record is that since the close of the Examination on 10 November 2022, the Applicants provided full comments to NSMP on the agreement on 24 November 2022. At that time a call was suggested, and lawyers for the parties ultimately held a call on 20 December 2022, following which NSMP's lawyers undertook to return comments on the draft early in the new year. Comments to the Applicants' 24 November 2022 draft were then received from NSMP on 15 February 2023. In the Applicants' email of 8 March 2023 it requested that NSMP's lawyers provide availability for a call. On 13 March 2023 NSMP's lawyers asked for the Applicants' counter-proposals before a call was scheduled. The Applicants set out their counter proposals on 28 March 2023, inviting NSMP to nominate times for a call. A response is awaited. The Applicants consider that both parties have been actively engaged in the negotiation of the agreement, and this is reflected in the actions set out above. The Applicants remain willing to continue meaningful negotiations with a view to reaching agreement and are endeavouring to do so.

8.2.4 The Applicants have set out their position in the Examination in terms of the content of the protective provisions in Section 10 of [REP13-019] and Appendix 1, entry 28 to [REP12-005], and maintain that appropriate protections are in place, responding to the concerns raised by NSMP and recorded in its submissions during the Examination. The Applicants would only repeat what it has set out in Appendix 1 to REP12-005 with respect to the specific and comprehensive protections they have put in place with respect to NSMP's assets and concerns:

- The protective provisions proposed 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 in Appendix 1 to REP12-005). 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, restriction or interruption on the NSMP entity's access to the access road which runs across plots 108, 103 and 106". 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.

- The Applicants also confirmed in Appendix 1 to REP12-005 that the protective provisions have included a restriction 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).
- 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.

8.2.5 With respect to comments that NSMP has had no engagement from the Applicants with respect to voluntary acquisition of rights, this is misleading and incorrect. The Applicants have been (and remain) willing and ready to negotiate the voluntary acquisition of rights. The Applicants issued an updated markup of draft Heads of Terms to NSMP's representatives on 13 September 2022. However, NSMP's clear position has been that any discussions of Heads of Terms for such an agreement should be on hold pending agreement of the confidential side agreement. The Applicants remain open to progressing these discussions ahead of the confidential side agreement being in place.

9.0 NPL WASTE MANAGEMENT LIMITED (“NPL”)

9.1.1 NPL submitted the following response to the Secretary of State on 24 March 2023.

I write further to our letters in 2022 and to reconfirm our position as below.

NPL Waste Management Limited have been approached by the Net Zero Teesside Project (“DCO Applicant”) to complete an Option Agreement to Lay a Pipeline across their land, attaching the Pipeline to an existing pipebridge in Plot 4.

We are aware that the DCO applicant is seeking to compulsorily acquire the rights to lay a pipeline as part of the above referred to Application number across the property of NPL Waste Management Limited.

I can confirm that it has still not been possible to voluntarily reach agreement between the DCO Applicant and NPL Waste Management Limited due to the DCO Applicant not wishing to reach agreement with NPL Waste Management Limited on a number of terms, most notably not accepted indirect losses, capping indemnities, excluding consequential loss and not accepting liability for all contamination caused by their project.

We would therefore request for compulsory acquisition rights across NPL Waste Management Limited’s property to not be granted to the DCO Applicant.

9.2 Applicants’ Comments

9.2.1 A voluntary agreement remains the Applicants’ preferred outcome to negotiations. Whilst the Applicants have been pursuing negotiations with NPL, responses from NPL have been slow and comments on the revised terms were only received by the Applicants on 3 March 2023 (having been issued by the Applicants in July 2022). The Applicants responded in full on comments issued by NPL on 20 March 2023 and have yet to receive any further engagement to the proposed revised terms covering the points raised above by NPL. It is important to note that these points had also been addressed previously through the heads of terms and numerous concessions made by the Applicants on previous iterations of the heads of terms.

10.0 REDCAR BULK TERMINAL LIMITED (“RBT”)

10.1.1 RBT submitted the following response to the Secretary of State.

Please find attached objection withdrawal letter sent on behalf of RBT together with a Statement of Common Ground agreed between RBT and the Applicant.

10.2 Applicants’ Comments

10.2.1 The Applicants acknowledge RBT’s response and have no further comment.

11.0 SEMBCORP UTILITIES (UK) LTD (“SEMBCORP”)

- 11.1.1 Sembcorp submitted the following response to the Secretary of State on 24 March 2023.

We write further to the Secretary of State’s request for further information dated 10 March 2023. We can confirm that the position is as set out in the attached emails, namely that the Protective Provisions (including the explanatory note at the end of paragraph 226 thereof) lodged by the undertaker under cover of the email from Alexis Coleman of Pinsent Masons sent at 12:50pm on 9 December 2022 (copy attached) have been agreed between Sembcorp and the undertaker. We understand that the undertake will be submitting a plan to the Secretary of State as part of its response to the request for information depicting the “Sembcorp Protection Corridor” as referred to in the agreed Protective Provisions, and we can also confirm that this plan is agreed.

11.2 Applicants’ Comments

- 11.2.1 The Applicants acknowledge Sembcorp’s response and have no further comment.

12.0 SOUTH TEES DEVELOPMENT CORPORATION (“STDC”)

12.1.1 STDC submitted the following response to the Secretary of State on 24 March 2023.

In response to paragraph 6 of the Secretary of State’s letter of 10 March 2023, STDC submits the following update for the Secretary of State’s consideration:

1. The Applicant and STDC are yet to reach a formal agreement on (i) protective provisions (ii) property agreements for the main application site; or (iii) property agreements for easements required for the installation of the Applicant’s bespoke apparatus (including CO₂, natural gas, nitrogen, untreated water effluent and treated water effluent pipelines, electricity interconnector cables and fibre optic cables) which are not covered by the main site agreement.

2. The parties have been negotiating the option for the main application site since the close of examination and positive progress has been made. However, no further progress has been made on the protective provisions, nor on those easements for services not covered by the main site site agreement.

3. Accordingly, STDC maintains the objections set out in its Final Summary of Outstanding Objections and Closing Submissions [REP12-166]. STDC’s preferred protective provisions remain those submitted at the end of the examination. For avoidance of doubt, these were sent under cover of our letter to the Planning Inspectorate dated 10 November 2022¹ and included both “clean”² and “tracked change”³ versions (as compared to the Applicant’s final draft DCO). These submissions were accepted at the discretion of the Examining Authority and published on the Planning Inspectorate’s website on 17 November 2022.

4. There provisions include a proportionate level of control over the Applicant’s use of compulsory acquisition and temporary possession powers. If development consent is granted, STDC invites the Secretary of State to adopt STDC’s preferred protective provisions into the made DCO, given the impact the Net Zero Teesside proposals would have on STDC and its tenants.

12.2 Applicants’ Comments

12.2.1 The status of negotiations and the Applicants’ position with respect to protective provisions remains as set out in row 77 of the Applicant’s Compulsory Acquisition Schedule dated March 2023 which was submitted with the Applicants’ response dated 24 March 2023 to the Secretary of State’s Request for Information dated 10 March 2023.

13.0 THE CROWN ESTATE (“TCE”)

13.1.1 TCE submitted the following response to the Secretary of State on 24 March 2023.

The Commissioners and the undertakers have been in discussions in connection with the provision of the necessary Crown authority (pursuant to section 135 of the Planning Act 2008) in regard to powers sought in relation to Crown Land and/or Crown rights consistent with the Book of Reference at Deadline 12. The parties are close to reaching an agreed position and the Commissioners expect to be in a position to issue a letter of consent shortly and comfortably in advance of the deadline for the Secretary of State to issue a decision and so enable this to be taken into account in the final Order (if made).

13.2 Applicants’ Comments

13.2.1 The Applicants agree with the content of the response from TCE. As a further update, the Applicants can confirm that an agreed position has now been reached with the Commissioners. As such, the Commissioners have indicated that they expect to be in a position to issue a letter of consent during the course of this week.