

Meeting Note

File reference	EN030001
Status	FINAL
Author	Eleri Davies

Meeting with	Local Authorities, Key Stakeholders and the Promoter
Meeting date	05 October 2010
Attendees (IPC)	Sir Mike Pitt (pre-application Commissioner) Tom Carpen (Case Leader) Simon Butler (EIA and Land Rights Manager) Laura Allen (EIA and Land Rights Advisor) Eleri Davies (Case Officer)
Attendees (non IPC)	Stuart Perigo (Lancashire County Council) Ian Blinkho (Lancashire County Council) David Thow (Wyre Borough Council) Bill Reed (Wyre Borough Council) Paul Rossington (Fylde Borough Council) Mark Evans (Fylde Borough Council) Gary Johnston (Blackpool Borough Council) Vernon Martin (Health and Safety Executive) Giles Hyder (Health and Safety Executive) Amy Heys (Environment Agency) Stuart McDonald (Environment Agency) Ian Mulroy (Protect Wyre Group) Howard Phillips (Protect Wyre Group) Mr and Mrs Jackson (Local residents/representatives) Adrian James (Barton Willmore) Bruce Gibson (Halite Energy Group Ltd) Bryan Stanley (Halite Energy Group Ltd)
Location	Lancashire County Council Offices, County Hall, Preston

Meeting purpose	Inception Meeting to discuss the Infrastructure Planning Commission ('IPC') process
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Summary of outcomes	<p><u>Introductions</u></p> <p>IPC: advised on its policy of openness and transparency. Issues discussed and advice given will be recorded and placed on the IPC's website under Section 51 of the Planning Act 2008 (the 2008 Act). Any advice given under Section 51 does not constitute legal advice upon</p>
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which applicants (or others) can rely. IPC advised that, under Section 51, no advice can be given on the merits of an application.

IPC: advised that Sir Mike Pitt is the pre-application Commissioner and will have no involvement in the examination of this application. The Commissioner or Panel of Commissioners responsible for carrying out the examination of an application will be appointed following any acceptance of an application for examination.

IPC: the coalition government is committed to an efficient and democratically accountable fast-track process for major infrastructure projects and will implement legislative changes in due course. The IPC will continue to deal with Nationally Significant Infrastructure Projects (NSIPs) under the transitional arrangements. Until a change in legislation takes effect, the IPC will decide any application where an NPS is designated and, where an NPS is not designated, a recommendation will be made to the Secretary of State who will decide the application.

IPC: advised its responsibility to advise all parties in the process equally.

Overview of IPC Application Process

IPC: presentation on process (see PowerPoint slides)

Anticipated Project Timetable by Halite Energy Group Ltd ('Halite')

Halite: Indicated that it is difficult to be specific on timescales at present as the outcomes of Environmental Impact Assessment ('EIA') Scoping exercise and formal/informal consultation may raise additional issues for consideration/assessment. Anticipated programme (subject to change):

- **October 2010:** Submit draft Statement of Community Consultation (SoCC) to Local Authorities under **Section 47(2) of the Act**.
- **October 2010:** Submit EIA Scoping Opinion request under **Regulation 8 of the Infrastructure Planning (EIA) Regulations 2009** ('the EIA Regulations 2009') to the IPC.
- **Early 2011:** Local community consultation under **Section 47(7) of the 2008 Act**
- **Early 2011:** Formal consultation with statutory consultees and publicity under **Sections 42 and 48 of the 2008 Act**
- **End of Quarter 1 (January – March) 2011:**

	<p>submission of application to the IPC</p> <p>Halite: Halite will share all pre-application consultation responses. These will also be used in the preparation of any Statements of Common Ground (SoCG)</p> <p><u>IPC Outreach Programme</u></p> <p>Q: What is 'outreach'?</p> <p>IPC: Outreach is not a mandatory element of the IPC application process and is dependant on the needs identified by Local Authorities, statutory consultees and other interested parties (collectively referred to as 'stakeholders'). Outreach events are IPC-led events to discuss the IPC process and how/when stakeholders can get involved in the application and there is no discussion of the merits relating to any specific projects. The IPC will consider holding more than one event if identified as necessary and subject to resources.</p> <p>Q: When will outreach events be held?</p> <p>IPC: Timing depends on which stage the application is at and also when stakeholders require input from the IPC on process issues. Experience has shown that outreach events held shortly before the commencement of formal consultation are usually appropriate.</p> <p>Q: Who is invited to outreach events?</p> <p>IPC: The IPC would take advice from stakeholders on the type of event and who should be invited to attend.</p>
<p>Record of any advice given</p>	<p><u>Pre-application</u></p> <p>Q: Is this application an NSIP? How will this be decided?</p> <p>IPC: At the pre-application stage, it is for the applicant to decide, after taking its own legal advice, whether the application they intend to submit to the IPC is an NSIP as defined by Sections 14 to 30 (inclusive) of the 2008 Act. It is not until an application is submitted that the IPC makes its own assessment of whether the application is for an NSIP.</p> <p>Q: Understand that the planning application process for non-NSIP developments involve submission of application → make comments to Local Authority; whereas the IPC process involves making comments at pre-application to applicant → submit application → make relevant representations to the IPC. Is this understanding correct?</p>

IPC: This is a basic summary of the IPC process. IPC emphasised how the applicant is legally required under **Section 49 of the 2008 Act** to have regard to any relevant responses. If consultation has not been carried out in accordance with the procedures set out in legislation and guidance then the IPC may decide not to accept an application. There is little scope for amending the application once submitted to the IPC and the applicant must be satisfied that any issues identified at the pre-application stage have been adequately addressed.

Q: Can interested parties be copied in to exchanges between the IPC and Halite at the pre-application stage?

IPC: The IPC will publish all pre-application advice provided to Halite and any Scoping Opinion on its website. At pre-application stage, **Section 47 of the 2008 Act** requires the applicant to engage directly with the local community in accordance with the proposals set out in its published SoCC. **Section 49 of the 2008 Act** requires the applicant to have regard to any relevant responses.

IPC: At submission stage, **Section 37(3)(c) of the 2008 Act** requires an application for development consent to be accompanied by “the consultation report” which must set out what consultation has been undertaken, what responses have been received and what account has been taken of those responses (see section 37 (7) of the 2008 Act for a full definition).

IPC: When deciding whether to accept an application for examination, the IPC will assess the application documents against the provisions of **Section 55 of the 2008 Act** and associated legislation and guidance. When deciding whether the applicant has complied with the pre-application procedure the IPC must, among other matters, have regard to:

- The consultation report (referred to above);
- Any adequacy of consultation representation received from a Local Authority consultee
- The extent to which the applicant has had regard to any guidance issued under Section 50 of the Act”.

Acceptance

Q: If the application is not accepted, what options are available to the applicant?

IPC: The Commissioner appointed to decide whether to accept the application will take legal advice and, if the application is not accepted, the Commissioner will give full

reasons for the decision not to accept as required by **Section 55(7) of the 2008 Act**. **Section 55(8) of the 2008 Act** makes provision for the applicant to submit modified (or further modified) applications in an attempt to address these reasons.

Q: Is the acceptance checklist available?

IPC: The Commissioner will assess the submitted application against the provisions set out in the 2008 Act and the **Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009** (the APFP Regulations 2009).

Pre-examination

Q: Protect Wyre Group (PWG) previously co-ordinated objections to the LAs. Would such objections now go the IPC and when?

IPC: PWG is not a statutory consultee and would therefore need to register as an interested party at the pre-examination stage **after** notification of acceptance by the applicant under **Section 56 of the 2008 Act** giving minimum of 28 days for registration. **Section 56(8) of the 2008 Act** states that the publicity must, in particular, include a deadline for receipt by the IPC of representations of interest/objection from interested persons; these are referred to as 'relevant representations'. Once registered, interested parties are kept informed of the application process and are able to submit relevant representations. IPC Advice Note 8 'How to have your say about a major infrastructure proposal' (available online) provides advice on this matter.

Examination

Q: **Section 100 of the Act** states that "the person appointed to chair the Commission ("the chair") may, at the request of the Examining authority, appoint a person to act as an assessor to assist the Examining authority in the Examining authority's examination of the application". Who is the Examining Authority (ExA)?

IPC: The single Commissioner or Panel of Commissioners appointed by the Chair to examine the application is the ExA. If there is uncertainty surrounding a particular issue(s), then the ExA may request the Chair to appoint an assessor subject to the provisions of **Section 100(2) of the Act**.

IPC: **Regulation 10 of the Infrastructure Planning**

(Examination Procedure) Rules 2010 requires the ExA to provide all interested parties with the opportunity to comment in writing on any written representation relevant to the examination of the application.

Q: Is it possible for the 6 month examination period to be extended?

IPC: Section 98(4) of the Act makes provision for the chair to set a deadline later than the 6 months prescribed in **Section 98(1) of the Act**. To exercise this power, the Chair must notify the Secretary of State under **Section 98(6) of the Act** giving reasons. IPC indicated that Commissioners are expected to comply with statutory timescales and that the provision to extend the examination period is only likely to be used in exceptional circumstances.

Q: Will the IPC provide hard copies of all application documents?

IPC: Making copies of the application documents available is the responsibility of the applicant. The IPC will make all application documents available electronically on its website.

IPC: Regulation 9 of the APFP Regulations 2009 stipulates how the applicant must publicise an accepted application under **Section 56(7) of the Act** and this must include a statement that a copy of the application form and its accompanying documents, plans and maps are available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice; the latest dates on which those documents will be available; and a statement as to whether a charge will be made for copies and, if so, the amount of any charge.

Environmental Impact Assessment

Q: What is the difference between the information to be provided in the Scoping Report and the Preliminary Environmental Information (PEI)?

IPC: It should be noted that a request to the IPC for a Scoping Opinion is not a mandatory requirement, whilst consultation on the PEI is a requirement. PEI is defined under **Regulation 2 of the EIA Regulations 2009** and means "information referred to in **Part 1 of Schedule 4 of the EIA Regulations 2009** which (a) has been compiled by the applicant; and (b) is reasonably required to assess the environmental effects of the development (and of any

associated development)". The applicant needs to set out in the SoCC (prepared in accordance with **Section 47 of the 2008 Act**) how the applicant intends to publicise and consult on the PEI, if the development is an EIA development in accordance with **Regulation 10 of the EIA Regulations 2009**. The promoter needs to decide what is relevant and important to convey at the consultation stage.

Local Impact Reports (LIR)

Q: Should LAs submit one LIR each or co-ordinate efforts to submit a joint LIR?

IPC: It is up to LAs to decide whether to work together on their LIRs bearing in mind LAs own internal procedures for ratification.

Q: Should LAs carry out their own consultation exercise prior to preparing their LIR?

IPC: There are procedures written into the 2008 Act to enable statutory consultees and other interested parties to be consulted and/or invited to submit their relevant representations to the IPC. The LIRs and relevant representations will form evidence for the ExA's examination of the application.

Compulsory Acquisition

Q: Do compulsory acquisition powers apply to private projects?

IPC: The 2008 Act makes provisions for compulsory acquisition to be exercised in the case of NSIPs. At the pre-application stage, the applicant is required to consult any person who is an owner, lessee, tenant or occupier of any land and any person who has an interest in the land or has the power to sell and convey, or release the land to which the application relates. These persons may also request, and make oral representation at, a compulsory acquisition hearing under **Section 92 of the Act**.

Planning Performance Agreements (PPA)

Q: What is a PPA?

IPC: Local Authority(ies) (LAs) who are expected to provide input to the application can enter into an agreement with the promoter. This may cover agreed timescales and sharing of information and resources for the local authority (ies). The IPC is not in any way involved with PPAs.

	<p><u>Other Consents</u></p> <p>Q: Will all consents required for the project be included as part of the IPC application?</p> <p>IPC: The legislation makes provision for a number of consents to be incorporated into the IPC application with the agreement of relevant consenting bodies. There are some consents which will remain outside of the IPC application process and would have to be sought independently (e.g. environmental permitting). It is the applicant's responsibility to get all the necessary consents and the ExA will take account of any relevant representations made by consenting bodies in relation to these consents.</p>
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Specific decisions/follow up required?	IPC: write to PWG and Mr and Mrs Jackson to explain opportunities for making submissions at examination.
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Circulation List	Attendees
	Peter Bond
	Tracey Page