

H2 Teesside

Written Representations - Anglo American 20049353

October 2024

Anglo American Woodsmith Limited, Anglo American Woodsmith (Teesside) Limited and Anglo American Crop Nutrients Limited (together “Anglo American”)

03 October 2024



50303/24/HS/TK
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Executive Summary

- 1 These Written Representations (“WR”) are being submitted on behalf of Anglo American Woodsmith Limited, Anglo American Woodsmith (Teesside) Limited and Anglo American Crop Nutrients Limited (together “Anglo American”) on 3 October 2024 (Deadline 2) in accordance with the H2 Teesside DCO Application (“the Application”) Examination Timetable.
- 2 In compliance with PINS Guidance, these WR develop further the position of Anglo American as set out in the Relevant Representations (“RR”), but do not duplicate points previously submitted. This Executive Summary is provided, given the WR exceed 1,500 words, being also in compliance with PINS Guidance.
- 3 Since submission of the RR, the following position remains:
 - a The Application is subject to further development and as such Anglo American reserves the right to submit further particulars as detail of the Application emerges;
 - b Negotiations have yet to progress sufficiently between Anglo American and the H2 Teesside Ltd (“the Applicant”); and
 - c Significant project clarification requirements have been identified.
- 4 These WR provide the Examining Authority with an update on this position, and set out:
 - a **Key project overlaps and need for further clarity:** Anglo American has continued concern regarding key project overlaps, and a lack of clarity and information – which are set out within these WR. Anglo American will be directly affected by the H2 Teesside proposals in terms of proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area. The Order Limits of the H2 Teesside draft Development Consent Order (‘dDCO’) include land within the York Potash DCO Limits. Key overlaps include the overland conveyor route, the Anglo American Port Handling Facility at Redcar Bulk Terminals, Bran Sands future quay development, the boundary of the Minerals Handling Facility, and construction laydown areas. There continues to be a lack of clarity in the Applicant’s proposals. At the River Tees Crossing Location, the scope of works are not yet known and as such, it is not possible to determine the potential impacts to Anglo American.
 - b **The Applicant’s Change Request Notification:** Anglo American acknowledges the Applicant’s Change Request Notification and the Applicant’s Change Request consultation. Anglo American is engaging with the Applicant in the consultation exercise on the detail of the proposed Change Request. This process is separate to the Examination. Anglo American intend to submit a response to the Applicant with its views on the Change Request consultation. Anglo American reserves the right to comment formally and in full on the proposed Change Request once accepted by the Examining Authority.
 - c **Examination:** Anglo American has provided a response to materials published as part of Deadline 1 in these WR, including the Applicant’s response to Anglo American’s earlier RR (Document Reference 8.4/ REP1-007) and the Applicant’s Statement of Commonality (Document Ref. 9.14/REP1-025).
 - d **Status of negotiations:** Progress on negotiations, with respect to the above matters, is set out within these WR. Anglo American acknowledges that meaningful engagement has commenced, but sight of certain agreements remains outstanding - including:

- a. Draft HoTs for required land arrangements
 - b. Proposed amendments to the dDCO
 - c. Protective Provisions and the intended modifications to the York Potash DCO to populate the blank Schedule in the dDCO.
 - d. HoTs for a Side Agreement to provide for interface measures
 - e. **Agreements and Protective Provisions:** Anglo American has set out its expectations for the agreements and protective provisions within these WR. Anglo American is seeking protective provisions in the dDCO to safeguard the deliverability of the Woodsmith Project. The status of achieving this agreement and other aspects of negotiations is detailed within these WR. Anglo American is seeking meaningful engagement with respect to the protective provisions and other negotiated arrangement with the Applicant to understand specific implications for Anglo American at each Order Limits interface – broadly, this would include an understanding of:
 - a. How works relating to the respective projects might be protected at interface points (requirement for plan exchange and approvals, inspections, step in rights to avoid elements of each project being delayed or adversely impacted);
 - b. Where a use of shared corridor or accesses is proposed, and how this interface will be managed; and
 - c. Where the Applicant is proposing to enter into land agreements with Anglo American, how and where Anglo American’s interests will be preserved.
 - f. **Applicant’s draft DCO submitted at Deadline 1:** Anglo American has provided comments on the dDCO within these WR. It is noted that the Applicant has commented that the protective provisions will be included in the blank Schedule 3. This would not be appropriate as in order to trigger article 41 of the dDCO, protective provisions for Anglo American should be included in Schedule 12 of the dDCO. The Applicant has not informed Anglo American as to the intended effect of the blank Schedule 3 and the amendments to the York Potash DCO which remains a significant concern. Anglo American has concerns regarding a number of the proposed Requirements (Requirements 33, 18, 22, 25 and 28). An additional Requirement is also proposed by Anglo American.
- 5 Detail on the necessary content of these documents is set out within the WR, in absence of which Anglo American will necessarily maintain its objection to the Application on grounds of the material impact that it has on its operations in the area.
 - 6 Anglo American maintains the right to comment as the scheme progresses.
 - 7 In addition, Anglo American has reviewed the set of Examining Authority’s Questions (ExQ1), issued as part of Deadline 1. Responses to questions are provided at Appendix 1 of these WR. Responses to the ExQ1 should be read in conjunction with these WR.

Introduction

- 1.1 These Written Representations (“WR”) are being submitted on behalf of Anglo American Woodsmith Limited, Anglo American Woodsmith (Teesside) Limited and Anglo American Crop Nutrients Limited (together “Anglo American”) on 3 October 2024 (Deadline 2) in accordance with the H2 Teesside DCO Application (“the Application”) Examination Timetable. In compliance with PINS Guidance, these WR develop further the position of Anglo American as set out in the Relevant Representations (“RR”), but do not duplicate points previously submitted. As highlighted in paragraph 1.2 of the RR, and evident in the recent Change Notification in August 2024 (“the Change Notification”) the position remains that the Application is subject to further development and as such Anglo American reserves the right to submit further particulars as detail of the Application emerges.
- 1.2 The RR were submitted on 26th June 2024 (RR-010) for the Application. Anglo American’s concerns are summarised in paragraph 1.4 of the RR.
- 1.3 At the point of submission of the RR, negotiations had yet to progress sufficiently between Anglo American and the H2 Teesside Ltd (“the Applicant”), and significant project clarification requirements were identified. This remains Anglo American’s position. These WR provide the Examining Authority with an update on this position, including an update on negotiations to date with the Applicant to establish and agree protective provisions and other necessary agreements. Anglo American’s concerns regarding a lack of clarity and information as identified in the RRs are maintained.
- 1.4 These WR set out:
- 1 Anglo American’s continued concerns regarding key project overlaps, and a lack of clarity and information.
 - 2 Acknowledgement of the Applicant’s Change Request Notification and the Applicant’s Change Request consultation.
 - 3 Anglo American’s response to materials published as part of Deadline 1, including the Applicant’s response to Anglo American’s earlier RR (Document Reference 8.4/ REP1-007) and the Applicant’s Statement of Commonality (Document Ref. 9.14/REP1-025).
 - 4 Progress of negotiations, with respect to the above matters. Anglo American acknowledges that meaningful engagement has commenced, but sight of certain agreements remains outstanding.
 - 5 Anglo American’s expectations for the agreements and protective provisions.
 - 6 Anglo American’s comments on the draft Development Consent Order (“dDCO”).
- 1.5 In addition, Anglo American has reviewed the set of Examining Authority’s Questions (ExQ1), issued as part of Deadline 1. Responses to questions are provided at Appendix 1 of these WR. Responses to the ExQ1 should be read in conjunction with these WR.

Status of Woodsmith Project

- 1.6 Anglo American is responsible for the delivery of the Woodsmith Project, which comprises a mine for the winning and working of the only known UK resource of polyhalite and its ongoing handling and transport to the national and international marketplace.

- 1.7 The Woodsmith Project includes a Materials Handling Facility and a Minerals Transport System Portal (approved under planning permissions Ref: R/2018/0139/VC and R/2014/0626/FFM) and Harbour Facilities (subject to the York Potash Harbour Facilities Order 2016 and the York Potash Harbour Facilities (Amendment) Order 2022) (hereon referred to as the YP DCO).
- 1.8 The Woodsmith Project is currently under construction and significant progress has been made in its implementation, including:
- the development of a new underground deep mine in the North York Moors National Park,
 - a 36.5 km long tunnel for the transportation of the polyhalite to Wilton International at Teesside;
 - a material handling facility at Wilton International; and
 - harbour facilities and associated development linking those harbour facilities with the material handling facility.
- 1.9 To date, construction has achieved 29km of tunnelling; and shaft sinking as follows:
- Mineral Transport Shaft 335m (of ultimate 360m);
 - Production Shaft 711m (of ultimate 1600m); and
 - Service Shaft 794.2m (of ultimate 1600).
- 1.10 The YP DCO (a Nationally Significant Infrastructure Project (NSIP)) site forms part of the Woodsmith Project and covers an area of approximately 92.4 hectares, extending from the Wilton International complex north-westward to Bran Sands on the south bank of the River Tees. The site includes both the proposed harbour and the required conveyor link between the harbour and Wilton International, the latter being the site of the Materials Handling Facility for the mined polyhalite, the freehold of which location is now owned by Anglo American for the purpose of the delivery of its Project.
- 1.11 At full capacity, the Woodsmith Project will be exporting 13 million tonnes of polyhalite across the world every year, making the UK a global supplier of multi-nutrient fertilizers and securing domestic supply of a nationally important mineral. In so doing, the Woodsmith Project will make a long-lasting significant contribution to the national and regional economy.
- 1.12 On a regional level, the Woodsmith Project has generated £1.5 billion to the economy of Yorkshire and the North-East since 2017. In 2023 alone, it contributed £305 million to the regional economy.

Key project overlaps and need for further clarity

- 1.13 We would like to make clear to the Examining Authority that Anglo American will be directly affected by the H2 Teesside proposals in terms of proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area.
- 1.14 The Order Limits of the H2 Teesside dDCO include land within the YP DCO Limits. Key overlaps include the overland conveyor route, the Anglo American Port Handling Facility at

Redcar Bulk Terminals, Bran Sands future quay development, the boundary of the Minerals Handling Facility, and construction laydown areas.

1.15 The following land is of relevance (see Figures 1-3 below), submitted by Anglo American for Deadline 2 in response to the Examining Authority's Written Questions (see Appendix 1):

- 15/69 (site for AGI) – Anglo American is the freeholder
- 11/126, 11/134 (River Tees Crossing Location) – Anglo American is the freeholder
- 19/13 (Area marked for Temporary Laydown) – Anglo American is the leaseholder, to use land for project laydown

Figure 1 15/69 (site for AGI)

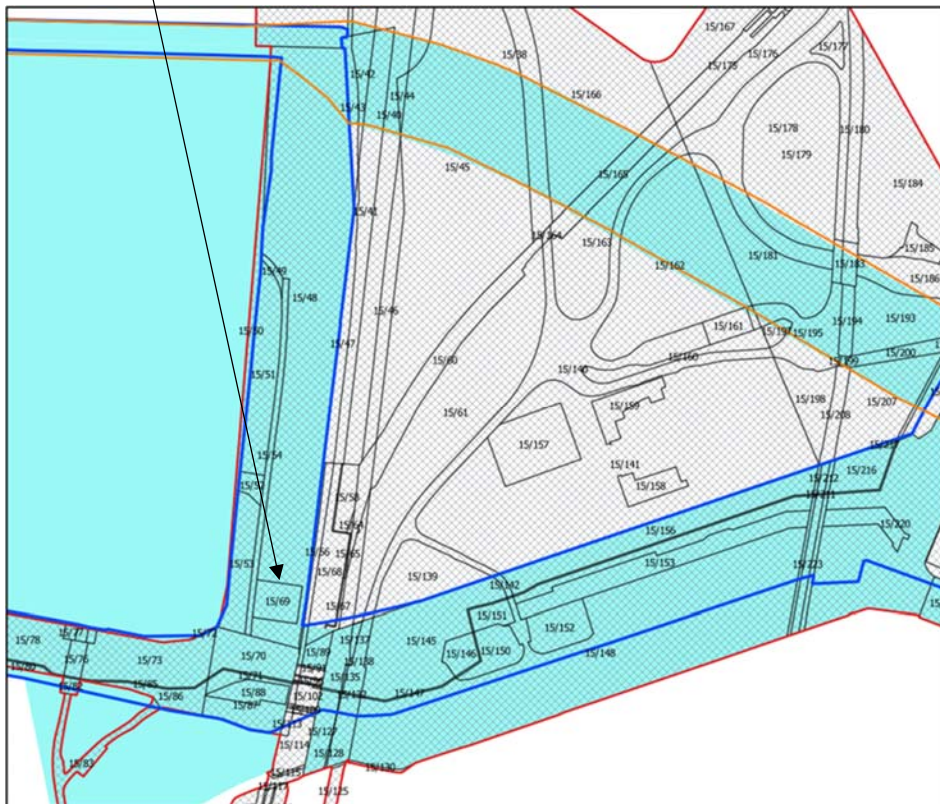


Figure 2 11/126, 11/134 (River Tees Crossing Location)

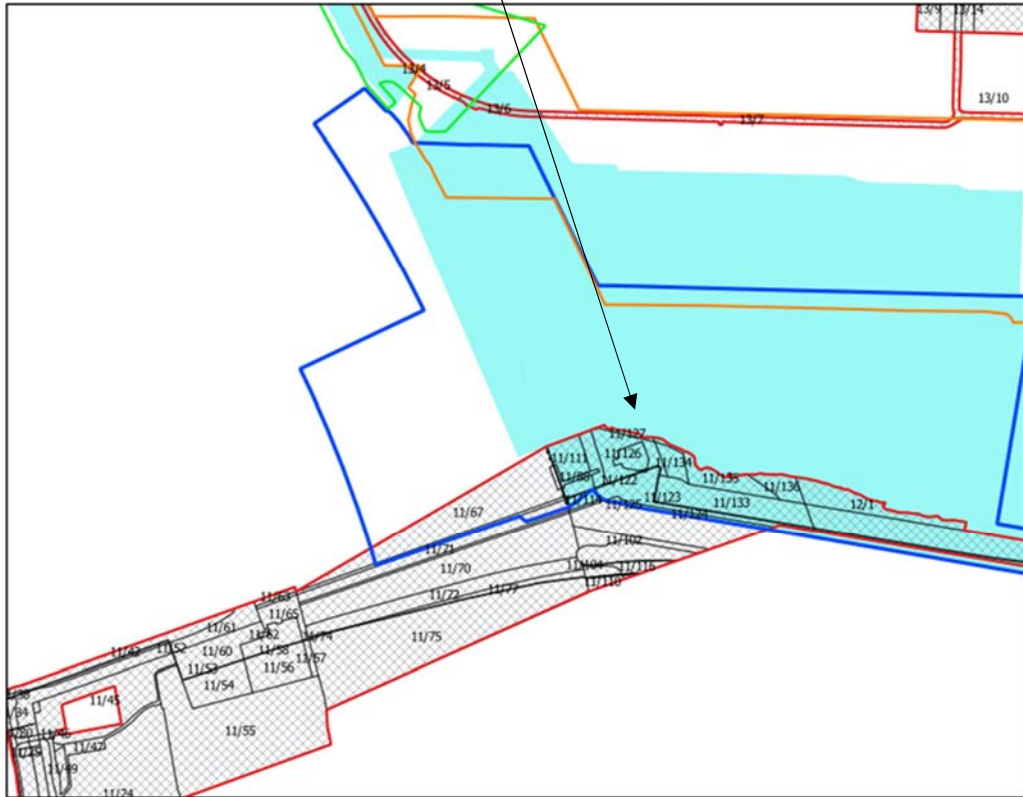
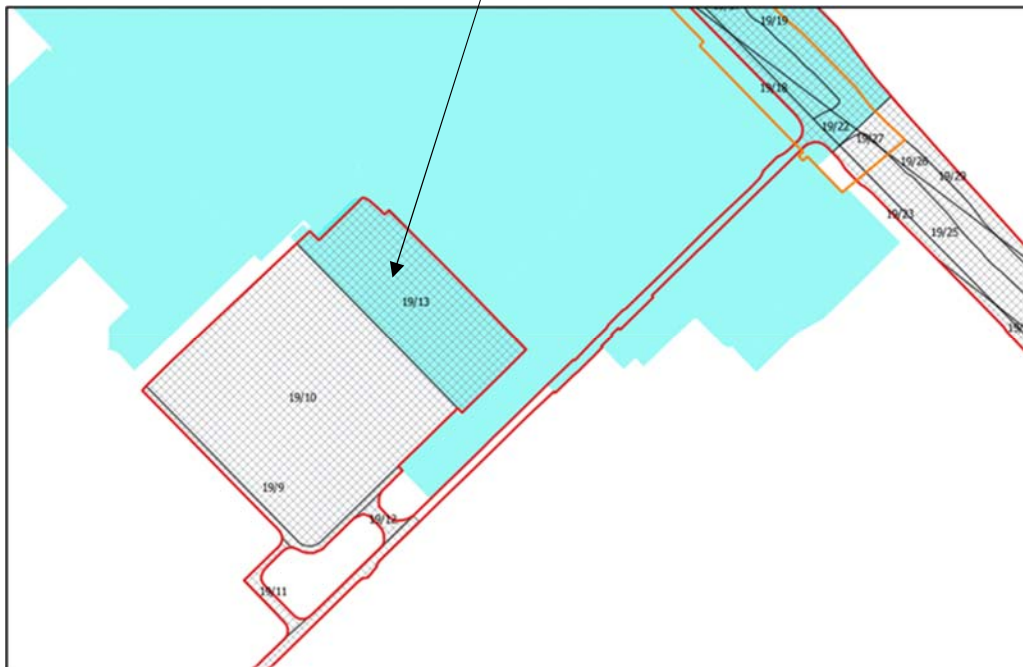


Figure 3 19/13 (Area marked for Temporary Laydown)



- 1.16 Within its submission for Deadline 1, Anglo American included these key project interface areas as recommended locations for the Examining Authority to include in its Accompanied Site visit.
- 1.17 There continues to be a lack of clarity in the Applicant's proposals. At the River Tees Crossing Location, the scope of works are not yet known and as such, it is not possible to determine the potential impacts to Anglo American.
- 1.18 Anglo American is seeking protective provisions in the dDCO to safeguard the deliverability of the Woodsmith Project. The status of achieving this agreement and other aspects of negotiations is detailed below. Anglo American is seeking meaningful engagement with respect to the protective provisions and other negotiated arrangement with the Applicant to understand specific implications for Anglo American at each Order Limits interface – broadly, this would include an understanding of:
- How works relating to the respective projects might be protected at interface points (requirement for plan exchange and approvals, inspections, step in rights to avoid elements of each project being delayed or adversely impacted);
 - Where a use of shared corridor or accesses is proposed, and how this interface will be managed; and
 - Where the Applicant is proposing to enter into land agreements with Anglo American, how and where Anglo American's interests will be preserved.

The Applicant's Change Request Notification

- 1.19 These WR consider the dDCO as it currently stands. Anglo American is aware of the Change Notification submitted 15/08/2024 (Document ref. 7.1/PDA-019) and welcomes the possibility of amendments to reduce the Order Limits boundary, and as such the Works overlaps. We note that the Applicant intends to submit a Change Request as part of Deadline 3.
- 1.20 Anglo American is engaging with the Applicant in the consultation exercise on the detail of the proposed Change Request. This process is separate to the Examination. Anglo American intend to submit a response to the Applicant with its views on the Change Request consultation. In advance of this, from an initial review of the materials, we note that whilst some changes take Anglo American into account, not all have been expressed in a way that fully recognises Anglo American's concerns. For example, the Order Limits continue to overlap with respect to the Bran Sands frontage. From our discussions with the Applicant, it was our understanding that this would no longer be the case.
- 1.21 Anglo American reserves the right to comment formally and in full on the proposed Change Request once accepted by the Examining Authority.

Examination

- 1.22 Anglo American was represented at Issue Specific Hearing 1 in August 2024, with a summary of oral representations submitted for Deadline 1. Anglo American maintained its position as being directly impacted by the H2 Teesside draft DCO (dDCO) and requested to participate in Compulsory Acquisition Hearings and Issue Specific Hearings. This remains the current position.

- 1.23 It was noted that certain documents had not yet been seen by Anglo American. To date, the following remain outstanding:
- Draft HoTs for required land arrangements
 - Proposed amendments to the dDCO
 - Protective Provisions and the intended modifications to the YP DCO to populate the blank Schedule in the dDCO. It is noted that the Applicant has commented that the protective provisions will be included in the blank Schedule 3. This would not be appropriate as in order to trigger article 41 of the dDCO, protective provisions for Anglo American should be included in Schedule 12 of the dDCO. The Applicant has not informed Anglo American as to the intended effect of the blank Schedule 3 and the amendments to the YP DCO which remains a significant concern
 - HoTs for a Side Agreement to provide for interface measures
- 1.24 Detail on the necessary content of these documents is set out below, in absence of which Anglo American will necessarily maintain its objection to the Application on grounds of the material impact that it has on its operations in the area.
- 1.25 As part of ongoing discussions with the Applicant, Anglo American requests the opportunity to see drafts of these materials, to provide comment, before anything is submitted to the Examining Authority.
- 1.26 The progress of negotiations to date is detailed in the section below. Anglo American acknowledges that the Applicant's Statement of Commonality (Document Ref. 9.14/REP1-025) provides the status of the current Statement of Ground as 'subject to further/on-going discussion.'
- 1.27 The Applicant's response to Anglo American's RR (Document Reference 8.4) confirms the current position of negotiations between the parties as ongoing but yet to reach resolution on all matters. Anglo American welcomes the Applicant's acknowledgement of the need for protective provisions, collaboration, and ongoing meaningful engagement to ensure the delivery of both projects in the area.
- 1.28 Anglo American acknowledges that the Applicant has informed the ExA that it will submit further information affecting Anglo American through the Examination, and retains the right to review amendments to the scheme and comment further on any subsequently arising issues.

Status of negotiations

- 1.29 Anglo American remains concerned that granting H2 Teesside compulsory acquisition powers over certain plots of land would adversely affect the deliverability of its own project. Anglo American is hopeful that negotiated agreements can be reached and acknowledges progress to date.
- 1.30 Anglo American confirms receipt of a draft Statement of Common Ground. Comments were provided to its first draft in advance of Deadline 1. The published Statement of Common Ground (SOCG) (Document Reference 9.13/REP1-023) contains details of issues currently under discussion. However Anglo American does not agree that the SOCG reflects reality of

discussions to date, which although positive, have not resulted in Anglo American being provided with draft documents (as set out in paragraph 1.23 above).

Agreements and Protective Provisions

- 1.31 Anglo American has engaged positively with the Applicant since they were initially contacted regarding the Application, and welcomes the Change Notification submitted by the Applicant in August 2024 which in part addresses the considerable interface between the Proposed Scheme and the existing operations of Anglo American as authorised by the YP DCO. Anglo American remains concerned that the Change Notification does not reflect the full extent of discussions with the Applicant, and Anglo American will respond to the consultation on the Change Request as invited by the Applicant, and to this end looks forward to seeing further development towards addressing the subject of interface discussions between the Parties.
- 1.32 Whilst the level of engagement to date has been welcomed by Anglo American, it has not been possible to progress the necessary agreements and protective provisions which are essential for the safeguarding of Anglo American's existing operations and the protection of the interface of the Proposed Scheme with Anglo American's consented NSIP.
- 1.33 Specifically, as detailed in the RR and demonstrated in the plans at Figures 1-3 of these WR, Anglo American is concerned that there are still significant areas of Anglo American owned land that is fundamental to its operations in the area and within the Limits of the dDCO.

Protective Provisions:

- 1.34 Anglo American seeks to secure Protective Provisions on the face of the dDCO to ensure that its operations are protected as follows:
- 1 Regulation of the respective construction works of the Proposed Scheme and Anglo American operations in the areas that are within Anglo American operations and comprise the Proposed Scheme. Such regulation requires:
 - a Protective works to be undertaken where necessary (whether temporary or permanent in nature) to safeguard Anglo American's infrastructure;
 - b A clear process for plan approvals and exchange of information to ensure safe interface of respective operations;
 - c Provisions as to access for inspection of works to ensure safety of interface and operations;
 - d Ensure on-going access to Anglo American operations in the context of the implementation of the Proposed Scheme;
 - e Visibility of construction programme and construction traffic management plan to ensure effective construction interface;
 - f Visibility of arrangements to bring forward compliance with relevant safety, design and management regulations.
 - 2 Protection of Anglo American operations from the exercise of compulsory powers, specifically:

- a Exercise of compulsory powers over Anglo American's land; Anglo American is cooperative to ensure that appropriate agreements as to land are entered into with the Applicant so to ensure the mutually beneficial delivery of both Anglo American's undertaking and the Proposed Scheme however should its land or rights in it or over it be acquired compulsorily its ability to undertake its own consented NSIP will be prevented;
 - b Powers of entry and other powers over land required or affected by Anglo American's operations without Anglo American's consent in order to ensure effective interface.
- 3 Regulation of design interface;
 - 4 Regulation of construction interface;
 - 5 Regulation of maintenance and operational principles; and
 - 6 Appropriate compensation and indemnity provisions in the event of damage or loss to Anglo American as a consequence of the construction and/or Proposed Scheme.

Heads of Terms: Property Agreements and Side Agreement

- 1.35 It is anticipated that the Protective Provisions will comprise a set of high level provisions to ensure effective interface of operations as set out in paragraph 1.34. In discussions with the Applicant, it is clear that more detailed arrangements regarding property arrangements and specific project interfaces will be required. Anglo American will continue to engage with the Applicant as regards the specific arrangements. At the time of these WRs lack of detail of the Proposed Scheme is still problematic and as a consequence those agreements are yet to be progressed.
- 1.36 The Applicant has assured Anglo American that Heads of Terms will be forthcoming. As such agreements are vital to ensure the deliverability of Anglo American's operations in the area, until they are settled in satisfactory terms Anglo American will necessarily maintain its objection to the Application.

Applicant's draft DCO submitted at Deadline 1

- 1.37 The Applicant has made revisions to the dDCO, included in its submissions at Deadline 1. Anglo American does not have any comment on the amendments made to highways arrangements in that submission.
- 1.38 Anglo American is however concerned that Schedule 3, which purports to make amendments to the YP DCO remains blank. This is of material concern to Anglo American as any amendments to the YP DCO will impact on its ability to carry out its consented NSIP operations in the area. Anglo American strongly objects to any amendment to the YP DCO that is made without Anglo American's explicit consent as it will potentially prevent the effective exercise of Anglo American's powers in that DCO and therefore compromise or prevent, the implementation of those powers and Anglo American's ability to deliver its consented NSIP.
- 1.39 Further, as referenced in paragraph 4.3 of the RRs Anglo American has significant concerns that the powers sought in the dDCO will, unless adequately provided for in the dDCO, be problematic in terms of Anglo American's compliance with the environmental permit for

the site at Bran Sands. As no amendment was made to the dDCO at Deadline 1 to remedy this concern, the position remains unacceptable to Anglo American.

1.40

Anglo American has concerns regarding Schedule 2 (Requirements) of the dDCO, which are particularly relevant in the absence of any agreed Protective Provisions to regulate the interface of the operations of Anglo American in the area and the Proposed Scheme. Paragraph 4.1.2 of the RR submitted by Anglo American references that the Environmental Assessment submitted with the Application does not take into account the construction of the YP DCO development not Anglo American operations in the area. It is noted that the Applicant has stated in its response to Anglo American's RR that intends to submit such assessment at Deadline 5. In this context, Anglo American is concerned that the Requirements do not, on a number of occasions, take into account the need to consult Anglo American and take into account Anglo American as an operation in the area. This concern is amplified by the unusual (in Anglo American's opinion) inclusion of **Requirement 33** which provides that:

"Subject to the relevant planning authority's approval, any requirement in this Schedule may be disapplied where the requirement has already been discharged pursuant to The Net Zero Teesside Order 2024".

Anglo American is concerned that Requirements for a standalone NSIP should not be discharged via the actions of a separate scheme, particularly in a geographical context such as Teesside where there is intense development and operation of a number of different schemes. Anglo American submits that Requirement 33 should be removed from the dDCO.

Specific Requirements of concern are as follows:

- 1 **Requirement 18:** Construction traffic management plan: Anglo American seeks to be included in 18(f) such that the Applicant is required to engage with it to manage cumulative construction transport impacts.
- 2 **Requirement 22:** Restoration of land temporarily used for construction: Anglo American seeks to ensure that at points of interface between Anglo American operations and the Proposed Scheme, it is consulted as regards scheme of restoration for land used temporarily (including remediation of contamination). Anglo American's role in such consultation will be important in the context of its liabilities under the Environmental Permit.
- 3 **Requirement 25:** Local liaison group: Anglo American considers it vital to be part of the liaison group as an interest party with significant operations in the area. Anglo American therefore seeks to be included in the liaison group which is proposed to include other major operations in the area (being Net Zero Teesside and HyGreen Teesside) as regards matters relating to the Proposed Scheme.
- 4 **Requirement 28:** Decommissioning: Anglo American has a vested interest in ensuring that any decommissioning works do not adversely impact on its operations, and seeks to be consulted under Requirement 28 unless this is otherwise provided for in appropriate Protective Provisions.
- 5 **Additional Requirement:** Anglo American considers that Schedule 2 of the dDCO should include an additional requirement to the effect that the authorised works should

not be brought into use until such time as a scheme for management and mitigation of noise during operation is consistent with principles of the ES. As alluded in paragraph 1.40(1) above, this is relevant particularly in the current absence of an assessment of the cumulative environmental effects of the Proposed Scheme taking Anglo American's operations into account.

- 1.41 As detailed above, forthcoming amendments to the scheme may require alterations to draft or agreed agreements, and Anglo American maintains the right to comment as the scheme progresses.

Appendix 1 Anglo American's response to ExQ1

Table 1 Anglo American's response to ExQ1 – to be read in conjunction with Anglo American's WR.

ExQ1	Question to	Question	Answer
5. Climate Change			
Q1.5.7	Applicant and all IPs	<p>Views sought.</p> <p>The Supreme Court has recently (20 June 2024) handed down judgment in the case of R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council and others.</p> <p>To the Applicant: Following the Supreme Court judgment, please comment on the relevance or otherwise of the above mentioned Supreme Court judgment, especially in regard to your assessment of GHG emissions in ES Chapter 19 (Climate Change) [APP-072].</p> <p>To IPs: Please comment on the relevance or otherwise of the above mentioned Supreme Court judgment in regard to this Proposed Development.</p>	<p>Anglo American reserves the right to comment on this at this stage, in the absence of further clarity on the Applicant's proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area, as well as assessment of cumulative effects of the H2 Teesside project taking the Woodsmith Project into account.</p>
6. Compulsory Acquisition and Temporary Possession			
Q1.6.7	Affected Persons/ IPs	<p>The accuracy of the BoR, Land Plans and points of clarification.</p> <p>Are any Affected Persons or IPs aware of any inaccuracies in the BoR [AS-012], SoR [APP-024] or Land Plans [AS-003]? If so, please set out what these are and provide the correct details.</p>	<p>Anglo American is not aware of inaccuracies in respect of the Land Plans but awaits the Change Request application, once this is submitted to the Examining Authority. It is our understanding that the Change Request will result in the removal of several land parcels, which are currently of concern to Anglo American.</p>
Q1.6.25	Applicant and relevant IPs.	<p>Whether all reasonable alternatives to CA have been explored.</p> <p>The RR [RR-013] of Navigator Terminals Limited, paragraph 2.13.2, details discussions that have been held regarding the potential for a pipeline tunnel under the River Tees, this is also referenced variously by other RRs. Please explain if these</p>	<p>Anglo American remains of the view set out in the RR that the Applicant has not sufficiently explored the means of entering into voluntary agreements in order to secure interests in land, and has invited the Applicant to engage in discussions in this regard. Discussions are on-going</p>

ExQ1	Question to	Question	Answer
		discussions are still proceeding and detail of how they could impact the CA requirements of the Proposed Development.	but as yet no draft of any such agreement has been forthcoming. Regarding the pipeline tunnel under the Tees – Anglo American does not have any comment.
Q1.6.39	Applicant and IPs	Special Category Land and Crown Land. Please give details of why the replacement land identified, plot numbers 4/94 and 4/95, is considered to be appropriate, or inappropriate, in exchange for that sought to be acquired.	Not applicable
Q1.6.41	STBC, Northern Gas Networks, and other IPs	Special Category Land and Crown Land. The SoR [APP-024], paragraph 9.1.47 states that the Applicant considers that The Cowpen Bewley Access Track Open Space, when burdened with proposed access rights proposed to be subject to CA, will not be any less advantageous to persons in whom it is vested and therefore the test under section 132(3) of the PA2008 is satisfied. Please state if this is considered to be correct or if this is contested.	Not applicable
Q1.6.42	RCBC and other IPs	Special Category Land and Crown Land. The SoR [APP-024], paragraph 9.1.62 states that the Applicant considers that Coatham Marsh Open Space Land, when burdened with proposed access rights proposed to be subject to CA, will not be any less advantageous to persons in whom it is vested and therefore the test under section 132(3) of the PA2008 is satisfied. Please state if this is considered to be correct or if this is contested.	Not applicable
Q1.6.47	Anglo American	Objections to the grant of powers of CA and TP. In the RR of Anglo American [RR-010], at paragraph 4.2.1, it is suggested that acquiring land or rights by CA cannot be fully justified if that land is secured by virtue of a previously consented DCO/ NSIP.	Anglo American has purchased land or entered into agreements via private treaty with relevant landowners, to be able to construct and operate the Woodsmith Project, which was granted development consent in 2016. Compulsory acquisition of the same land that is required for the delivery of

ExQ1	Question to	Question	Answer
		<p>Please explain further the reasoning behind this statement and if it is believed that there can be no acquisition of this land, whether by CA or negotiation. Please also give an update on negotiations with the Applicant.</p>	<p>that scheme will adversely affect and/or restrict deliverability.</p> <p>Anglo American has sought to engage with the Applicant to secure negotiated agreements on terms that would allow both projects to be progressed on suitable terms to safeguard the pre-consented NSIP but is yet to receive drafts as promised by the Applicant.</p> <p>Progress is being made on pipeline routings across land shown on NO. 2.2 LAND PLANS SHEET 15 OF 21 (Document reference APP-008). Anglo American however requires further detail related to the River Tees crossing so that it can determine the degree of impact with its own Quay development at Bran Sands where Anglo American is the freeholder in order to inform and progress appropriate arrangements.</p>
Q1.6.48	Applicant and Anglo American	<p>Objections to the grant of powers of CA and TP.</p> <p>The RR of CF Fertilisers UK Ltd [RR-011] suggests at paragraph 3.2 that the Proposed Development "...does not explicitly provide for capacity to be retained within the pipeline corridor for future pipeline infrastructure". Please explain in this location and any other existing pipeline corridor how future development will not be impacted.</p>	<p>This query is directed to the RR submitted by CF Fertilisers and the impact on Anglo American is not presently clear. Anglo American reserves the right to further comment on the shared pipeline.</p>
Q1.6.62	Applicant, relevant IPs	<p>General, Detailed or Other Matters.</p> <p>Please detail any land which, following acquisition of rights or freehold and extinguishment of existing right, will be inaccessible, severed, have no access or will be economically unviable.</p>	<p>15/69 (site for AGI) – Anglo American is the Freeholder</p> <p>11/126, 11/134 (River Tees Crossing Location) – Anglo American is the Freeholder</p> <p>19/13 (Area marked for Temporary laydown) – Anglo American is the Leaseholder, area used for laydown by the project</p>

ExQ1	Question to	Question	Answer
			Further information is set out with Anglo American's Written Representations.
9. Development Consent Order			
Q1.9.28	Applicant and IPs.	<p>Clarification.</p> <p>Article 32 (Temporary use of land for carrying out the authorised development) – Article 32(5)(b) provides an exemption whereby “the undertaker is not to be required to... (b) remove any ground strengthening works which have been placed on the land to facilitate construction of the authorised development.”</p> <p>Please define the term ‘ground strengthening works’ and provide written examples and/ or drawings of what they would be likely to consist of. Additionally the ExA would ask:</p> <ul style="list-style-type: none"> • The Applicant for an explanation of the potential implications of having to removing ‘ground strengthening works’ should Article 32(5)(b) be removed. <p>Interest Parties for their views as to any potential implications of leaving such ‘ground strengthening works’ in situ.</p>	Anglo American reserves the right to comment on this at this stage, in the absence of further clarity on the Applicant’s proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area.
Q1.9.67	IPs and Statutory Undertakers	<p>Clarification</p> <p>Schedule 12 (PPs) – Please provide details of discussions and progress regarding PPs (if applicable). If you are in agreement with PPs relevant to you, please confirm this, if not, either provide copies of preferred wording for PPs, or if you have provided it elsewhere (such as in a SoCG), signpost where it can be found and explain why you do not want the wording as currently drafted to be used. Note, if this is provided in the requested Land Rights Tracker please signpost this to the ExA.</p>	<p>Anglo American will be directly affected by the H2 Teesside proposals in terms of proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area.</p> <p>The Order Limits of the H2 Teesside dDCO include land within the York Potash DCO Limits Key overlaps include the overland conveyor route, the Anglo American Port Handling Facility, the boundary of the Minerals Handling Facility, and construction laydown areas.</p> <p>Anglo American is seeking protective provisions for its benefit to be</p>

ExQ1	Question to	Question	Answer
			included in Schedule 12 of the dDCO for the protection of its undertaking. The Applicant has undertaken to provide Anglo American with draft Protective Provisions, which are yet to be produced and is a key point of concern.
10. Geology, Hydrogeology and Land Contamination			
Q1.10.4	IPs	Views sought. Can the relevant bodies please confirm whether they have any comments or observations in respect of the Framework CEMP [APP-043]?	Anglo American reserves the right to comment on this at this stage, in the absence of further clarity on the Applicant's proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area.
Q1.10.9	Applicant and relevant IPs	Clarification/ Views sought. Paragraph 10.5.10 of ES Chapter 10 (Geology, Hydrogeology and Contaminated Land) [APP-062] states that assessment of the significance of impacts will take into account the principles of assessment in the Construction Industry Research and Information Association (CIRIA) Report C552 (2001) and the EA's Guiding Principles for Land Contamination in assessing risks to controlled waters (EA, 2010). It also explains that any such risk-based assessment may indicate the need for mitigation measures additional to those as detailed in the ES. An environmental risk assessment has been submitted at ES Appendix 10C (Contaminated Land Environmental Risk Assessment) [APP-196]. Bearing these documents in mind: I. The Applicant is asked to explain how its risk assessments have taken into account the EA's Guiding Principles for Land Contamination. All relevant IPs are asked to confirm whether they consider the Applicant has used the most up to date and appropriate approaches for undertaking such risk assessments (ie to controlled waters and human health); and if not to explain what	Anglo American reserves the right to comment on this at this stage, in the absence of further clarity on the Applicant's proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area.

ExQ1	Question to	Question	Answer
		approaches to such risk assessments the Applicant should have followed?	
17. Traffic and Transport			
Q1.17.1	Applicant and relevant IPs	<p>Update/ Views sought.</p> <p>It would be necessary to use accesses in the ownership and use of a number of IPs and other operators. A number of RRs have raised maintenance of their access rights as an issue. Please could all parties provide an update on whether access concerns remain and if the DCO or relevant PPs offer suitable protection to IPs?</p>	<p>Anglo American will be directly affected by the H2 Teesside proposals in terms of proposed land acquisition and interface with its own consented nationally significant infrastructure in the Teesside area.</p> <p>The Order Limits of the H2 Teesside dDCO include land within the York Potash DCO Limits Key overlaps include the overland conveyor route, the Anglo American Port Handling Facility, the boundary of the Minerals Handling Facility, and construction laydown areas. Anglo American's accesses will be affected by the extent of the dDCO Order Limits.</p> <p>Anglo American is seeking protective provisions for its benefit to be included in Schedule 12 of the dDCO to safeguard the deliverability of the YP DCO, including the ability to maintain access to its own operations in the area. Until draft Protective Provisions are provided by the Applicant, Anglo American is unable to comment on their adequacy or suitability.</p> <p>In addition, Schedule 3 of the dDCO purports to amend the York Potash DCO, however this Schedule remains blank, and the Applicant has yet to engage with Anglo American on the amendments that they might seek. This is of material impact to Anglo American's operations and is a key point of concern.</p> <p>Anglo American seeks amendment to Requirement 18 such that it is consulted on the H2 Teesside Construction Management Plan in order to ensure effective interface of the projects.</p>