# H2Teesside Project

Planning Inspectorate Reference: EN070009

Land within the boroughs of Redcar and Cleveland and Stockton-on-Tees, Teesside and within the borough of Hartlepool, County Durham

The H2 Teesside Order

Document Reference: 8.11.9 Response to ExQ1 Draft Development Consent Order

Planning Act 2008

**Applicant: H2 Teesside Ltd**

Date: October 2024

Rev: 0

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## APPENDICES

# 1.0 INTRODUCTION

## 1.1 Overview

1.1.1 This document has been prepared on behalf of H2 Teesside Limited (the 'Applicant'). It relates to an application (the 'Application') for a Development Consent Order (a 'DCO'), that was submitted to the Secretary of State for Energy Security and Net Zero ('DESNZ') on 25 March 2024, under Section 37 of 'The Planning Act 2008' (the 'PA 2008') in respect of the H2Teesside Project (the 'Proposed Development').

1.1.2 The Application has been accepted for examination. The Examination commenced on 29 August 2024.

## 1.2 The Purpose and Structure of this document

1.2.1 The purpose of this document is to set out the Applicant's responses to the Examining Authority's ExQ1 on Draft Development Consent Order, which were issued on 4 September 2024 [PD-008]. This document contains a table which includes the reference number for each relevant question, the ExA's comments and questions and the Applicant's responses to each of those questions, and is followed by appendices where they are referred to in the responses.

**Table 1-1 Applicant's Responses to ExQ1 Draft Development Consent Order**

| EXQ1 | QUESTION TO: | QUESTION: | RESPONSE |
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| Q1.9.1 | Applicant. | Consistency.<br>The Contents page refers to Schedule 7 as 'Temporary Traffic Measures', yet within the body of the DCO Article 16 and Schedule 7 are both titled 'Traffic Regulation Measures'. Please review and amend or explain why no amendment is required. | The Contents page reference has been amended to 'Traffic Regulation Measures' for consistency with the relevant article and Schedule, in the draft Development Consent Order (DCO) submitted by the Applicant at Deadline 2. |
| Q1.9.2 | Applicant. | Consistency.<br>Contents Page – Schedule 14, Part 4 should refer to National Grid Electricity Transmission PLC for consistency with the remainder of the DCO document. Please review the whole of the DCO document and amend or explain why no amendment is required. | The Contents page reference has been amended to 'National Grid Electricity Transmission PLC' to be consistent with the remainder of the draft DCO, in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.3 | Applicant. | Clarification/ Error correction.<br>Contents Page – National Grid Transition Gas PLC in its RR [RR-017] have highlighted they have incorrectly been referred to as National Grid Gas PLC throughout the submitted documentation, including Schedule 12, Part 5. Please review the whole of the DCO document and amend, as appropriate, or explain why no amendment is required. | The references to 'National Grid Gas PLC' have been amended to 'National Gas Transmission PLC' in accordance with National Gas Transmission PLC's Relevant Representation [RR-017], in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.4 | Applicant. | Clarification/ Error correction.<br>Contents page – Second full paragraph beneath the listing for Schedule 16 (Design Parameters), please amend by deleting the optionality so the so the start of the sentence reads *"The application was examined by a panel appointed by the SoS…"*. | The square brackets and optionality referred to in this question have been deleted as requested, in the draft DCO submitted at Deadline 2, so that the start of the sentence reads: "*The application was examined by a panel appointed...*" |
| Q1.9.5 | Applicant. | Clarification/ Error correction.<br>Contents page – Second full paragraph beneath the listing for Schedule 16 (Design Parameters), which starts "Accordingly, the SoS, in exercise of the powers…", please clarify why section 149A of the PA2008 is listed when no 'Deemed Marine Licence' is being sought. | The reference to section 149A of the PA2008 had been included in error and has been deleted from this paragraph in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.6 | Applicant. | Clarification.<br>Article 2 (interpretations) – General comment concerning flexibility, as provided for example in the maintenance article and definition, definition of commencement, power to deviate, Schedule 1 authorised development and requirements.<br>The extent of any flexibility provided by the DCO should be fully explained, such as the scope of maintenance works and ancillary works, limits of deviation and any proposed ability (through tailpieces) of discharging authorities to authorise subsequent amendments.<br>The preferred approach to limiting this flexibility is to limit the works (or amendments) to those that would not give rise to any materially new or materially different environmental effects to those identified in the ES.<br>In regard to the use of 'tailpieces', please see section 5.3 17 (Providing flexibility – approving and varying final details) of Advice Note 15 (drafting DCOs). | The Applicant notes the ExA's comments in respect of the preferred approach to 'tailpieces' and has amended the definition of 'maintain' in article 2 (Interpretations) of the draft DCO submitted at Deadline 2 to:<br>'"*maintain" includes, inspect, repair, adjust, alter, remove, refurbish, reconstruct, replace and improve any part of, but not remove, reconstruct or replace the whole of, the authorised development provided that such activities do not give rise to any materially new or materially different adverse effects that have not been assessed in the environmental statement and "maintenance" and "maintaining" are to be construed accordingly;*'.'<br>This amendment provides consistency between the 'tailpiece' used in the 'maintain' definition and in the definition for 'permitted preliminary works' (PPW). This revised drafting for 'maintain' definition is also in the Net Zero Teesside Development Consent Order 2024 as made by the Secretary of State.<br>The use of this 'tailpiece' in the maintain and PPW definitions provides flexibility for the project as it develops during detailed design and construction to provide for unforeseen circumstances on the ground and for alternative approaches to reach the same outcome |

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| | | The definition of 'maintain' in Article 2 of the draft DCO [AS-013] refers to activities that *"are not likely to give rise to any significant adverse effects that have not been assessed in the ES".* This would permit a much wider range of activities than if it were limited to those that would not give rise to any materially new or materially different effects. Additionally, the ExA notes that definition of 'permitted preliminary works' refers to the works that will not give rise to any materially new or materially different effects to those assessed in the ES. Bearing in mind the above, the applicant is requested to amend the wording in the definition of 'maintain' to reflect this or provide detailed justification for the alternative wording in the definition of 'maintain'.<br>In terms of drafting which gives rise to an element of flexibility (or alternatives), such drafting should provide clearly for unforeseen circumstances and define the scope of what is being authorised with sufficient precision. For example, the SoS had to amend article 6 (Benefit of Order) of the National Grid (Richborough Connection Project) DCO 2017 at decision stage to remove ambiguity (as later corrected by the National Grid (Richborough Connection Project) (Correction) Order 2018).<br>In relation to the flexibility to carry out advance works, any 'carve out' from the definition of 'commencement' should be fully justified and it should be demonstrated that such works are de-minimis and do not have environmental impacts which would need to be controlled by requirement. See section 5.7 21 (Defining 'commencement' – advance works and environmental protection) of Advice Note 15 (drafting DCOs). Pre-commencement requirements should also be assessed to ensure that the 'carve out' from the definition of 'commencement' does not allow works which defeat the purpose of the requirement.<br>Please review the DCO, in the light of the above comments, amending the document accordingly or provide full and justified reasoning why such amendments are not required in the instance of this DCO. | (so long as these do not give rise to any materially new or materially different adverse effects that have not been assessed in the Environmental Statement).<br>In respect of the PPW and ensuring these do not have environmental impacts, the works set out are de-minimis and have been assessed as such in the Environmental Statement (ES), as explained in paragraphs 5.3.7 and 5.3.8 of ES Chapter 5: Construction Programme and Management [APP-057].<br>The types of works encompassed within PPW are clearly set out and, in accordance with 5.7.21 of AN15, the DCO does not allow for a range of site preparation works (such as demolition or de-vegetation) to take place before the relevant planning authority has approved measures to protect the environment. For example, under Requirement 4 in Schedule 2 of the draft DCO no part of the authorised development may commence until a Landscape and Biodiversity Management Plan has been submitted and approved by the relevant planning authority. This does not include an exception for PPW and therefore must be discharged before those can take place.<br>There are also controls in Requirement 15 in Schedule 2 where no part of the PPW may be carried out until a PPW Construction Environmental Management Plan for that part has been submitted to and approved by the relevant planning authority (and the plan submitted must be in substantial accordance with the Framework CEMP to the extent it is relevant to PPW). The flexibility is constrained by and is contained within these controls, and these are clearly defined in the draft DCO.<br>The Applicant has taken this opportunity to review the draft DCO in light of the ExA's comments and proposes to change the drafting at the end of Schedule 1 to the following:<br>'*In connection with and in addition to Work Nos. 1 to 11, further ancillary development comprising such other works or operations for the purposes of or in connection with the construction, operation and maintenance of the authorised development but only within the Order limits and insofar as they are unlikely to give rise to any materially new or materially different environmental effects which are worse than those assessed in the environmental statement including…*'<br>The previous drafting was taken from the Net Zero Teesside Development Consent Order 2024 as made, but the wording above provides more clarity by using this 'tailpiece' wording and it has precedent in the Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024. |
| Q1.9.7 | Applicant, LAs (HBC, RCBC and STBC), the STDC, and any other relevant Authority/ Body | Clarification.<br>Article 2 (interpretations) – The definition of 'permitted preliminary works' is noted. However, the ExA asks whether other relevant Environmental Plans, such as Written Schemes of Investigation, are intended to take place prior to the commencement of the Permitted Development and if so should such works also be included within the term 'permitted preliminary works'? | The Applicant has taken account of the potential need for environmental plans to be required before permitted preliminary works (PPW) are carried out, and has drafted Schedule 2 to the draft DCO [AS-013] accordingly. For instance, Requirement 13(1) states that '*no part of the authorised development may commence until a written scheme of investigation for that part has been submitted to and approved by the relevant planning authority*'. There is no exception which allows PPW to take place first, and therefore a Written Scheme of Investigation (WSI) needs to be approved for that part before PPW may start. |

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| | | | The Applicant considers that surveys and investigations implemented under any WSI would be covered by the terms '*environmental surveys*' and '*geotechnical surveys*' but is content to make the PPW explicit and has therefore amended this in the draft DCO at Deadline 2 to specifically reference '*archaeological investigations*'. |
| Q1.9.8 | Applicant. | Clarification/ Error correction.<br>Article 2 (interpretations) and throughout the document – It is noted that reference to "the 1980 Act…" appears on Page 4 of the DCO and is marked at the end of the interpretation with footnote (**a**). However, there are two occurrences of footnote (**a**) on this page and the one at the bottom of the page appears below the marking for footnote (**h**), with the relevant footnote dropping to the following page (Page 5). This if clearly a pagination/ footnote error issue and there are a few similar occurrence of this issue that appear to occur elsewhere in the DCO document. The ExA would ask for the document to be reviewed and corrected, where necessary. | The legislative footnotes have been checked and amended as required in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.9 | Applicant. | Clarification/ Error correction.<br>Article 2 (interpretations) "Flood Risk Assessment" (FRA) and Schedule 14 (Documents and plans to be certified) – The FRA forms part of "the environmental statement" and as such the ExA would ask whether there is a need to list the FRA separately in Article 2 (Interpretations) or in Schedule 14 (Documents and plans to be certified)? If it does need to be listed separately please explain your reasoning. | The Flood Risk Assessment had been defined and set out separately in article 2 (interpretations) and Schedule 14 (Documents and plans to be certified) because it is mentioned specifically as a control document in Requirement 10 (Surface and foul water drainage) and Requirement 11 (Flood risk mitigation) of Schedule 2.<br>However, the Applicant notes the ExA's comments and has amended the draft DCO submitted at Deadline 2 to:<br>• Change the definition of the Flood Risk Assessment in article 2(1) to '*means the document of that description which is certified as part of the environmental statement by the Secretary of State under article 44 for the purposes of this Order*'; and<br>• Delete the row containing Flood Risk Assessment from Schedule 14 (Documents and plans to be certified). |
| Q1.9.10 | Applicant. | Clarification.<br>Article 2 (interpretations) "The Net Zero Teesside Order 2024" – The ExA notes the inclusion of the "The Net Zero Teesside Order 2024" within Article 2 (Interpretations). However, it also noted the York Pot Ash Harbor Facilities Order 2016 is referred to in the main body of the DCO document (see Article 9 (Application and Modification of Statutory Provisions) and Schedule 3 (Modifications to and Amendments of the York Pot Ash Harbor Facilities Order 2016)), but has not been separately defined in Article 2 (Interpretations). Please amend, or explain why it is not considered necessary to define the York Pot Ash Harbor Facilities Order 2016 within Article 2 (Interpretations). | The Applicant has inserted a definition for the 'The York Potash Harbour Facilities Order 2016' in article 2 (Interpretations) in the draft DCO that has been submitted at Deadline 2. |
| Q1.9.11 | Applicant. | Clarification/ Error correction.<br>Article 2 (Interpretation) – Should ""NGN replacement special category land" reference plot 4/95 in addition to plot 4/94? | Plot 4/95 should not be referenced in the definition of 'NGN replacement special category land'. This is because the Cowpen Bewley Special Category Land is part-owned by Stockton-on-Tees Borough Council and part-owned by Northern Gas Networks Ltd. |

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| | | | The draft DCO [AS-013] provides that the replacement land will be apportioned between these parties, with plot 4/94 being the replacement land proposed to vest in NGN ('NGN replacement special category land') and plot 4/95 is the replacement land proposed to vest in the Stockton-on-Tees Borough Council ('council replacement special category land').<br>The definitions in article 2 currently set this out with plot 4/95 in the definition for 'council replacement special category land'.<br>More information about the process in regard to special category land is set out in the Explanatory Memorandum [APP-028] at paragraphs 3.6.18 to 3.6.24. |
| Q1.9.12 | LAs) HBC, RCBC and STBC and the STDC, together with any other relevant Authority/ Body. | Clarification.<br>Article 2 (interpretations) "Permitted Preliminary Works" – Are you satisfied as to the extent of the 'Permitted Preliminary Works' set out in this Article. If not satisfied please explain in full the reasons why you are not satisfied and what you consider needs to be done to rectify the concerns you are raising. | n/a |
| Q1.9.13 | Applicant | Clarification.<br>Article 7 (Benefit of this Order) – This Article, as currently drafted does not require SoS consent for the transfer of any benefit. Whilst the ExA does not consider this is the Applicant's intention, if any part of this Article is drafted so as to allow any transfer of benefit by the applicant (undertaker) to any other named person or category of person without the need for the SoS's consent, then full justification as to why a transfer to such person without such consent must be provided.<br>As the Applicant will be aware, where the purpose of the provision is to enable such person(s) to undertake specific works authorised by the DCO the transfer of benefit should be restricted to those works. If the provision seeks to permit transfer of CA powers the applicant should provide evidence to satisfy the SoS that such person has sufficient funds to meet the compensation costs of the acquisition.<br>Bearing the above two paragraphs in mind please confirm whether it is the Applicant's intent not to require SoS consent for the transfer of any benefit. If so please provide full justification as to why a transfer to such person without such consent must be provided. If not please amend this Article accordingly.<br>In addition to the above the ExA would ask if the reference to paragraph (4) in paragraph (1) is an error and suggests this paragraph (paragraph (1)) be amended to read "subject to paragraph (6), the undertaker may with the written consent of the SoS…"<br>Furthermore, paragraph (3) the ExA would query whether the reference to paragraph (6) should be to paragraph (4), so that it reads "except in paragraph (4)".<br>The ExA would also ask if reference in paragraph (7) to consent being required by paragraph (2) is incorrect, as all paragraph (2) says is when consent is not required. The ExA considers the Applicant should amend this in line with other amendments to | The Applicant can confirm its intention that consent for the transfer of the benefit of the Order will require Secretary of State consent except where one of the situations set out in article 8(6) applies.<br>To make this clear, article 8(2) of the draft DCO submitted by the Applicant at Deadline 2 has been amended to the following:<br>'*(2) The consent of the Secretary of State is required for a transfer or lease pursuant to this article, except where paragraph (6) applies*.'<br>Noting the ExA's comments, the following further amendments have been made to improve clarity:<br>• The reference to paragraph 4 in article 8(1) has been amended to paragraph 2;<br>• The reference to paragraph 6 in article 8(3) has been amended to 'this paragraph 3'; and<br>• In article 7, the reference to 'sub-paragraph (2) of' has been deleted so it reads 'subject to article 8'.<br>The ExA's final point concerns whether '*a person to whom a supply of hydrogen is to be provided*' in article 8(6)(iii) is sufficiently certain and precise and if the ExA can be satisfied that such a person would have the requisite funds to pay all necessary CA compensation. The Applicant is content that the term 'a person to whom a supply of hydrogen is to be provided' is a clear description in this case, given the nature of the project and the works to be permitted by the DCO.<br>Also, the situation envisaged by the drafting in article 8(6)(iii) is to provide a connection between any part of Work Nos. 6A.1, 6A.2 or 6A.3 (the hydrogen distribution network) and the person's site, which will be works that are limited in both scope and geographical extent, and in practical terms will most likely be on the land in which the offtaker already |

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| | | this article to ensure that consent is required for transfer other than where paragraph (6) applies.<br>Finally, the ExA would question whether the transfer to "a person to whom a supply of hydrogen is to be provided" is sufficiently certain and precise and would ask if the ExA can be satisfied that such a person would have the requisite funds to pay all necessary CA compensation? Please provide justification as to whether the transfer to "a person to whom a supply of hydrogen is to be provided" is sufficiently certain and precise and explain how it can be satisfied that such a person would have the requisite funds to pay all necessary CA compensation. | has an interest, meaning that the extent of any CA compensation arising from this would likely be small. |
| Q1.9.14 | PDT, as the statutory harbour authority for Teesport. | Dis-application.<br>Article 9 (Application and Modification of Statutory Provisions) - The ExA notes that Article 9 (Application and Modification of Statutory Provisions) seeks to disapply:<br>requirements of section 22 (licensing of works) of the Tees and Hartlepool Port Authority Act 1966 (the 1966 Act); and<br>a number of bylaws and directions made under the 1966 Act, the Tees and Hartlepool Port Authority Revision Order 1974 and the Tees and Hartlepool Harbour Revision Order 1994, which prevent, restrict, condition or require the consent of the Tees Port and Hartlepool Authority or the Harbour Master to any such works.<br>The ExA would specifically seek the comments of the statutory harbour authority in regard to the proposed dis-applications listed above. Should you consider any or all of the above mentions dis-applications to be of concern, the ExA would welcome any comments or suggestions in regard to how the requirements referred to in i. above and the bylaws and directions referred to in ii. above could be complied with in an acceptable manner and to the satisfaction of the statutory harbour authority without adversely affecting the Applicant's ability to implement any DCO which may be made by the SoS. | n/a |
| Q1.9.15 | Applicant | Clarification.<br>Article 9 (Application and Modification of Statutory Provisions) - The ExA notes the objection of the EA to the disapplication of the need for a Flood Risk Activity Permit, as set out in Article 9(2)(g) of the proposed DCO, in the absence of adequate PPs. Please advise how you are actively seeking to address the concerns of the EA in this regard. | The Applicant is currently waiting to receive comments from the Environment Agency (EA) on the drafting of the Protective Provisions (PPs). However, the PPs set out in the draft DCO are based on a precedent that the EA has agreed on other recent schemes (such as The Gate Burton Energy Park Order 2024) and the Applicant does not envisage that there would be any major changes to the PPs and the Applicant is content that they are in an appropriate form to safeguard the EA's interests. |
| Q1.9.16 | Applicant and LAs, together with any other relevant Authority/ Body | Justification/ Views sought.<br>Article 10 (Power to alter layout of streets) – The Applicant's EM (APP-028], especially paragraphs 3.4.1 and 3.4.2 are noted. However, notwithstanding other precedents, the ExA notes that this is a wide power authorising alteration etc. of any street within the Order limits. As such the ExA considers further justification should be provided clearly setting out why the power related to any streets within the Order limits is necessary (underlining is the ExA's emphasis). | Schedule 4 to the draft DCO [AS-013] sets out the streets that the Applicant is already aware require alteration of the layout and for works to be carried out in the streets. The powers sought in Article 10 are sought to allow for the scenario that any other highway works, that are not at this stage known, are required. These may be identified in the future by the highway authority or the undertaker, and it is appropriate that the undertaker can carry them out within the regime imposed by the Order.<br>In addition, the nature of the existing streets could change prior to the commencement of the DCO, which could necessitate the need for alterations to the streets. Such alterations |

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| | | The ExA would ask the LAs, together with any other relevant Authority/ Body, as to whether such a wide ranging power is necessary and whether or not this power should be limited to identified streets? | are limited to any street within the Order limits and for the purposes of constructing, operating and maintaining the authorised development. While such a power might appear wide, the consent of the street authority is required in order for this power to be exercised, which the Applicant considers provides the requisite level of input and control.<br>The implications of not including such a provision are that the undertaker would not have the power to alter the layout of streets and which is necessary in order to deliver the project. This would then require a separate Section 278 agreement to be entered into with the relevant highway authority outside of the Order regime, which could lead to a delay in the implementation of the project and is contrary to the 'one-stop shop' approach to powers and consents enabled by the Planning Act 2008. |
| Q1.9.17 | Applicant | Justification.<br>Article 13 Temporary stopping up and restriction of use of streets - The Applicant's EM [APP-028], especially paragraphs 3.4.7 to 3.4.9 are noted. However, notwithstanding other precedents, the ExA considers further justification should be provided as to why the powers secured in this Article are considered to be appropriate and proportionate having regard to the impacts on pedestrians and others of authorising temporary working sites in these streets. Please provide such further justification or explain why such further justification is not necessary in this instance. | The Applicant is not seeking any permanent stopping up powers anywhere across the Order limits. Accordingly, no streets will be permanently closed.<br>Article 13 allows the undertaker to temporarily stop up, prohibit or restrict the use of, alter or divert any street or public right of way (PRoW). Article 16 includes powers to manage vehicles, such as through prohibiting stopping or parking, or to make provision for the direction or priority of traffic. These powers will allow the undertaker to be able to safely manage streets and PRoW, as is commonly required for any project which is undertaking works in the vicinity.<br>The Applicant does not anticipate requiring the temporary closure of the whole width of any street, and instead anticipate that other measures will be used so that traffic can be safely and adequately managed, alongside the works. This may include for instance closing each lane of traffic in turn (not both at the same time), and managing traffic through the use of temporary traffic controls.<br>The Applicant does not anticipate temporarily stopping up any PRoW, although it may be necessary to provide for short sections of diversion, which will be in the immediate vicinity of the existing PRoW. This would be in order to ensure the safety of users of the PRoW, by avoiding conflict with the construction works. No impacts on the flow of traffic or on PRoW are therefore expected. |
| Q1.9.18 | Applicant. | Clarification.<br>Article 16 (Traffic Regulation Measures) – Schedule 15 (Appeals to the SoS) provides the Applicant with a right of appeal where *"…a relevant Local Authority (a) refuses an application for any approval under this Order by- …(iv) article 16…"*. However, Article 16 does not appear to require the approval of 'a relevant local authority' or 'traffic authority' , just written notification from the 'undertaker' of an intent do the works (Article 16(4)(a)) and any need to advertise its intent should the 'traffic authority' required it to do so in a manner prescribed by it (Article 16(4)(a)). Please clarify and amend, if required. | The Applicant's intention is that the approval of the traffic authority is required when exercising powers under article 16(2).<br>In the draft DCO submitted by the Applicant at Deadline 2, the Applicant has inserted a new paragraph 4 for clarity as follows:<br>*'(4) Before exercising the power conferred by paragraph (2) the undertaker must—*<br>*(a) consult with the chief officer of police in whose area the road is situated; and*<br>*(b) obtain the written consent of the traffic authority.'* |
| Q1.9.19 | Applicant | Clarification. | The Applicant confirms that it is aware of and has taken account of section 146 of the Planning Act 2008 when including article 17 (Discharge of water) in the draft Development |

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| | | Article 17 (Discharge of Water) – In regard to this Article, please could the Applicant confirm it is aware of and been mindful of s146 of the PA2008? | Consent Order. The Applicant is aware that if development consent is granted to authorise the discharge of water into inland waters or underground strata, they will not acquire the right to take water or require discharges to be made from the source of water under the DCO. |
| Q1.9.20 | Applicant, LAs, (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification.<br>Article 18 (Felling or lopping of trees and removal of hedgerows) - The ExA would ask the Applicant and LAs (RCBC, STBC and HBC), together with any other relevant Authority/ Body, whether any tree(s) within the confines of the Order limits, as defined by the Works Plan [AS-005], or any other tree(s) likely to be impacted by the Proposed Development, are protected by a Tree Preservation Order (TPO) or located within a designated conservation area? If the answer to either questions is yes, please:<br>i) specify the relevant reference number of the TPO and provide a copy of the relevant TPO; and<br>ii) provide details of the relevant designated conservation area(s), including:<br>the name of the conservation area(s):<br>a current appropriately scaled map of the designated conservation area(s);<br>confirmation of the year of designation and the year of any subsequent conservation area review undertaken;<br>copies of any relevant conservation area review document; and<br>copies of any relevant conservation area appraisal, together with confirmation of the status of that document. | The Applicant contacted RCBC, STBC and HBC by email on 1 May 2024 to clarify whether there were any trees protected by a TPO or relevant conservation area within the Order limits.<br><br>The Applicant has received responses from RCBC, STBC and HBC confirming there are no TPO designations within their respective administrative boundaries that also overlap the Order limits.<br>The Applicant notes that the Proposed Development's Order limits overlap with the Cowpen Bewley Conservation Area, this was confirmed by STBC via email. While STBC (the authority which designated this area) is best placed to provide the detailed information requested by the ExA, the Applicant notes that impacts of the Proposed Development on the Cowpen Bewley Conservation Area have been assessed in ES Chapter 17: Cultural Heritage [APP-070]. This assessment found a Minor Adverse (Not Significant) effect during construction (see Paragraphs 17.6.35 and 17.6.48) and no impacts to the area during operation (see Paragraph 17.6.68).<br><br>Notwithstanding the above, the Applicant has found information on the conservation area from the LAs website. The Cowpen Bewley Conservation Area was designated in 1977 and a plan of the conservation area is shown below: |

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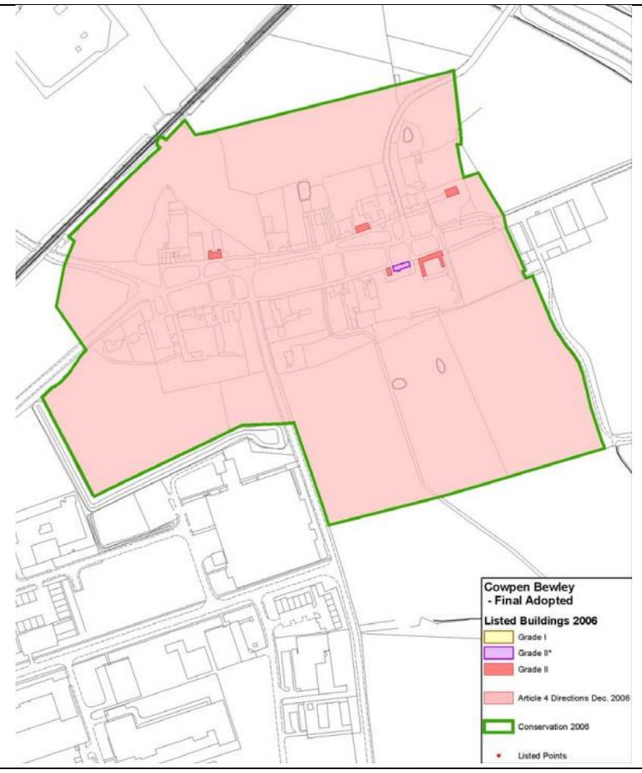
| | | |  |
| Q1.9.21 | LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification.<br>Article 18 (Felling or lopping of trees and removal of hedgerows) - Article 18(4) allows the removal of hedgerows within the Order limits that may be required for the purposes of carrying out the authorised development. The ExA would seek the views of relevant LAs in regard to this provision, and the effect of such any such provision on:<br>hedgerows within the Order limits; and<br>the Hedgerow Regulations 1997. | N/A |
| Q1.9.22 | Applicant. | Correction.<br>Article 18 (Felling or lopping of trees and removal of hedgerows) - Article 18(5) refers to Schedule 11 but provides an incorrect title, when compared to the Contents Page and Schedule 11. Please review and amend or explain why no amendment is required. | The title of the Schedule referred to in article 18(5) has been corrected to be consistent with the Schedule title and the Contents page. Please note that due to structural changes made in the draft DCO the Important Hedgerows to be Removed Schedule is now Schedule 8 and not Schedule 11. For more information see the Schedule of Changes to the Draft DCO submitted at Deadline 2. |
| Q1.9.23 | Applicant. | Consistency.<br>Article 18 (Felling or lopping of trees and removal of hedgerows) - Article 18(6) provides a definition of the term “Authorised Development”. However the ExA notes this definitions references “Planning Permission… for the purposes of… the Hedgerow | After reviewing article 9(3) and article 18(6) in light of the ExA’s comments, the Applicant has deleted the definition of ‘authorised development’ from article 18(6) for greater consistency. This is reflected in the draft DCO submitted by the Applicant at Deadline 2. |

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| | | Regulations…" differs from the way this matter has been dealt with at Article 9(3) of the DCO. Please review and amend or explain why no amendment is required. | |
| Q1.9.24 | Applicant. | Clarification.<br>Article 19 (Removal of Human Remains) – Having reviewed the submitted application documents, the ExA has not found any direct reference to human remains or potential sites of human remains, including in relation to archaeology. Whilst the ExA is aware of a similar Article within the NZT DCO and notes the Applicant's EM [APP-028] at Paragraph 3.5.3, the ExA seeks clarification from the Applicant why this Article is considered to be necessary/ relevant to the development being sought and whether the Article would be reasonable in all other respects? This question is asked especially in the light of the fact similar Articles were removed by the SoS in a number of recent decision letters/ made DCOs, where no reasoned justification had been provided during the Examination of those submissions to substantiate their inclusion. (See the HyNet CO2 Pipeline Order 2024, The Sunnica Energy Farm Order 2024, The Gate Burton Energy Park Order 2024 and The Mallard Pass Solar Farm Order 2024). | The effect of this Article is to replace the existing regime for regulating the removal of human remains. It has been included so that if human remains were to be found in land within the Order limits, the process and procedure to follow is set out in the DCO. This is in accordance with the 'one-stop shop' approach to powers and consents for the DCO that is envisaged enabled by the Planning Act 2008.<br>It is also the approach taken in the Net Zero Teesside Order 2024 and the Applicant is not aware of any differences between the projects that would justify excluding this article from this draft DCO.<br>The Applicant also notes that it has not yet completed its archaeological investigations, with more required pursuant to Requirement 13 of Schedule 2 to the draft DCO [AS-013]. Consequently, it is not currently in a position to know whether or not it is likely that human remains could be found. Having a process set out in the draft DCO provides a specified and certain procedure to follow to deal with this scenario, in a timely manner, should this issue arise. |
| Q1.9.25 | Applicant | Clarification and correction.<br>Articles 22 - 28 – CA and extinguishment of rights<br>These provisions (and any relevant plans) should be drafted in accordance with the guidance in Advice Note 15 (drafting DCOs), in particular sections 5.9 23 (Extinguishment of private rights over land) and 5.10 24 (Restrictive Covenants). In this regard the SoS for the Department for Transport's decision in regard to the M4 Motorway (Junctions 3 to 12) (Smart Motorway) DCO should be noted, especially paragraph 62 which said: "*to remove the power to impose restrictive covenants and related provisions as he does not consider that it is appropriate to give such a general power over any of the Order land as defined in article 2(1) in the absence of a specific and clear justification for conferring such a wide-ranging power in the circumstances of the proposed development and without an indication of how the power would be used*". Other Department for Transport decisions have included very similar positions, eg the A556 (Knutsford to Bowdon Improvement) DCO and the Lancashire County Council (Torrisholme to the M6 Link (A683 Completion of Heysham to M6 Link Road)) DCO.<br>Where an applicant wishes to create and compulsorily acquire new rights over land, those rights should be fully, accurately and precisely defined for each relevant plot and the CA should be limited to the rights described. This could be done by drafting which limits the CA of new rights to those described in a schedule in the DCO or to those described in the BoR.<br>Please review these Articles in the light of the above comments and amend them and the DCO accordingly. Where the applicant is seeking to create and compulsorily acquire new rights over land, please ensure those rights are fully, accurately and | The Applicant considers that the draft DCO provides sufficient constraints on the use and scope of powers to create and compulsorily acquire rights over the land.<br>This is in part a question about how the DCO may be used in practice to deliver the project. The DCO allows the promoter to use temporary possession powers to undertake the construction of the project. It is generally the case that the entirety of the construction area would not then be needed during the operation of the project, and therefore that a smaller area can be subject to compulsory acquisition or that it can operate with land rights only rather than owning the freehold of the relevant land. Therefore, the powers allow the Applicant only to compulsorily acquire the land rights/land that it actually needs, and where possible to refine this down following detailed design and construction. This approach is precedented in general, using compulsory acquisition as a matter of last resort and giving the promoter the ability to acquire rights instead.<br>The draft DCO constrains the use of compulsory acquisition powers in the following ways:<br>• For land of which temporary possession may be taken (shown shaded yellow on the Land Plans [AS-003] and set out in Schedule 10 to the draft DCO [AS-013]), new rights cannot be acquired or created or restrictive covenants imposed on it pursuant to article 25(11).<br>• For land in which new rights may be acquired (shown shaded blue on the Land Plans), these are limited to the acquisition of "such wayleaves, easements, new rights over the land or the imposition of such restrictive covenants" set out in Schedule 8 (land in which new rights etc may be acquired) pursuant to article 25(5).<br>• Paragraph 6.1.14 of the Statement of Reasons [AS-024] provides that the power to compulsorily acquire rights also applies in relation to land in which compulsory acquisition is proposed (land shown shaded pink on the Land Plans). There is no requirement to limit the extent of rights in or restrictions on land that can be |

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| | | precisely defined for each relevant plot and that the CA has been limited to the rights described.<br>In terms of CA of an interest in land held by or on behalf of the Crown, the ExA would stress that such CA cannot be authorised through this or any other article. Ensuring clarity on this can be achieved, for example, by expressly excluding all interests held by or on behalf of the Crown in the BoR land descriptions for relevant plots (where the DCO is drafted to tie CA powers to the BoR entries) or by excepting them from the definition of the Order land (if 'Order land' definition is not used for other purposes in the DCO) or by drafting the relevant CA article to expressly exclude them. Where an applicant wishes to compulsorily acquire some other person's interest in that same land, that can only be done if the appropriate Crown authority consents to it under s135(1) of the PA2008. Please review these Articles in the draft DCO and the draft DCO generally to ensure the comments in this paragraph are taken into account.<br>The extended definition of statutory undertaker in Article 25(9) relates it to any person who has apparatus (defined in Article 2) within the order limits. Paragraph (2) enables a statutory undertaker to exercise the CA powers (with SoS consent except for those listed in Article 7). The ExA would ask the Applicant why it has used this definition instead of that in the PA2008. In responding please justify your reasoning in relation to the use of this definition and provide commentary on whether the use of this definition has any implications in relation to the exercise of CA powers and ability to pay compensation. | compulsorily acquired where the land can also be compulsorily acquired outright, as the compulsory acquisition of rights is a 'lesser' property interest than freehold acquisition, and therefore also a lesser interference with the land. The power to acquire or create rights in this land pursuant to article 25(1) provides the Applicant with flexibility to permanently acquire less land by using new rights instead, if that is appropriate.<br>In relation to Crown land, the Applicant confirms it is not seeking compulsory acquisition powers through the DCO to acquire Crown land. The draft DCO includes a standard Crown rights article (article 42) which sets out this position.<br>The extended definition of statutory undertaker in article 25(9) is precedented and has been taken from the Net Zero Teesside Order 2024 (article 25(8)). The broader definition accommodates the fact that in this location there are a broader array of apparatus owners potentially affected by the project, and this definition allows for pipes and cables belonging to others (beyond those defined by the Planning Act 2008 as statutory undertakers) to be included. Where appropriate, protective provisions will provide for the necessary protections for those with apparatus.<br>On review of this article, the Applicant has amended article 25(3) to remove the reference to article 7 so that it states:<br>'The Secretary of State's consent is not required for any statutory undertakers to whom the benefit of the Order has been transferred pursuant to article 8(6) (consent to transfer benefit of this Order)'.<br>The practical effect is that in most cases, the transfer of these powers to statutory undertakers will be subject to the consent of the Secretary of State. The situations where Secretary of State consent is not required is limited to gas undertakers, highways authority or hydrogen offtakers.<br>The Applicant also notes that article 25(4) provides that in situations where statutory undertakers are exercising these powers, that the liability for the payment of compensation 'must remain with the undertaker' and so the ability of the relevant statutory undertaker (as defined) to pay compensation is not relevant to the broader definition and has no implications in this regard. The Applicant has made an amendment to article 25(4) to ensure that it is clear that this caveat applies to both article 25(2) and article 25(3).<br>The amendments referred to above have been made to the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.26 | Applicant. | Correction.<br>Article 25 (CA of rights etc.) – Article 25(5) has a duplication of the words 'on the' in the second line. Please review and amend. | This duplication has been deleted in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.27 | Applicant | Clarification and correction.<br>Article 29 (Special category land and replacement special category land). | The process in article 29 of the draft DCO as a whole follows other precedent drafting (such as The A303 (Amesbury to Berwick Down) Development Consent Order 2023 and The A38 Derby Junctions Development Consent Order 2023) in the fact that there is a |

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| | | Article 29(1) says that the undertaker cannot exercise powers over the special category land until the Local Planning Authority has approved a scheme for the layout of the replacement special category land. This would appear to allow the undertaker to acquire the special category land before they have acquired the replacement land and before they have implemented the approved scheme on the replacement land. Please explain how this is acceptable to enable the SoS to be satisfied that the tests in s.131(4) and 132(4) of the PA2008 are met. The tests require the replacement land to be vested in the undertaker subject to the same rights and restrictions as attach to the special category land. While this does not have to happen before the special category land is acquired, it must happen and needs to therefore be secured in the DCO. At present there appears to be nothing to compel the undertaker to acquire the replacement land once it had acquired the special category land following approval of the scheme.<br>Where it is argued that special parliamentary procedure should not apply (before authorising CA of land or rights in land being special category land) full details should be provided to support the application of the relevant subsections in Section 130, 131 or 132, for example (in relation to common, open space or fuel or field garden allotment):<br>Where it is argued that land will be no less advantageous when burdened with the order right, identifying specifically the persons in whom it is vested and other persons, if any, entitled to rights of common or other rights, and clarifying the extent of public use of the land.<br>Where it is argued that any suitable open space land to be given in exchange is available only at prohibitive cost, identifying specifically those costs.<br>As stated above, Article 29(1) says that the undertaker cannot exercise powers over the special category land until the Local Planning Authority has approved a scheme for the layout of the replacement special category land. This would appear to allow the undertaker to obtain the special category land before they have acquired the replacement land and before they have implemented the approved scheme on the replacement land.<br>In the absence of something obliging the undertaker to acquire the replacement land and lay it out in accordance with the approved scheme, it seems to the ExA it is unlikely that it can advise the SoS it is satisfied that the tests in s131(4) and 132(4) are met, requiring the replacement land to be vested in the undertaker subject to the same rights and restrictions as attach to the special category land.<br>Please respond. | delay between the undertaker acquiring the special category land and the provision of replacement special category land.<br>The tests relating to open space in sections 131(4) and s132(4) of the Planning Act 2008 are that:<br>(a) replacement land has been or will be given in exchange for the order land [under s131(4)] or for the order right [under s132(4)], and<br>(b) the replacement land has been or will be vested in the prospective seller and subject to the same rights, trusts and incidents as attach to the order land.<br>There is no statutory requirement that the replacement special category land is acquired by the undertaker at the same time as the special category land vests in the undertaker, noting the reference to “or will be” in those sub-sections.<br>There is also no statutory requirement to provide the replacement special category land at the same time as when the special category land vests in the undertaker.<br>The tests are that replacement special category land will be provided in exchange and is or will be vested in the prospective seller with the same rights, trusts and incidents as attach to the original land.<br>Article 29 of the draft DCO sets out the process of how the Cowpen Bewley Special Category Land vests at the point the planning authority approves a scheme for the layout of the replacement special category land (article 29(1)).<br>The draft DCO then sets out how the replacement special category land must vest and which satisfies s131(4) and s132(4) above.<br>To provide another level of certainty to this, the Applicant has amended article 29(3) so it begins ‘*The undertaker must lay out and provide the replacement special category land in accordance with the scheme approved under paragraph (1) and on the date….*’<br>This ensures that the laying out happens and the passing of rights, trusts and incidents can then ‘kick in’. Paragraph (7) then goes on to ensure that there is a time period to this happening (24 months).<br>If the replacement special category land is not provided in that timeframe, unless otherwise agreed with the planning authority, the undertaker would be in breach of the DCO.<br>Notwithstanding the above, the Applicant has considered the ExA’s comments and has further amended the draft DCO in article 29(1) so it reads:<br>‘*(1) The undertaker must not exercise the relevant Order powers in respect of the cowpen bewley special category land until the undertaker has exercised a relevant Order power over the replacement special category land and the relevant planning authority has approved a scheme for the layout of the replacement special category land*.’<br>This ensures that the Applicant will, before it takes possession of the special category land, know what it needs to do on the replacement land, and accesses the land to start those works, thus starting the 24 month clock as early as possible, to minimise any delay between the special category land being lost, and its replacement.<br>The Applicant’s position as to why special parliamentary procedure does not apply to the special category land affected by the DCO application are set out in the Explanatory |

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| | | | Memorandum at section 2.7 [APP-028] and in Chapter 9 of the Statement of Reasons [APP-024] but is predicated on the test for replacement land having been met.<br>With these measures in place, the Applicant does not consider that the other tests within sections 131 and 132 need to be engaged. |
| Q1.9.28 | Applicant and IPs. | Clarification.<br>Article 32 (Temporary use of land for carrying out the authorised development) – Article 32(5)(b) provides and 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."*<br>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:<br>The Applicant for an explanation of the potential implications of having to removing 'ground strengthening works' should Article 32(5)(b) be removed.<br>Interest Parties for their views as to any potential implications of leaving such 'ground strengthening works' in situ. | The drafting in article 32(5)(b) is precedented in other DCOs including the Boston Alternative Energy Facility Order 2023 and the A38 Derby Junctions Development Consent Order 2023.<br>Examples of 'ground strengthening works' which may be relevant to the project include:<br>• The need to strengthen the ground to accommodate crane pads, to allow cranes to operate safely; and<br>• Works to strengthen the ground to accommodate heavy plant and machinery required for the construction phase.<br>These works need to be considered in both environmental and land contexts. In relation to the former, whilst the Applicant does not consider that significant environmental effects would be likely to arise, in principle it would not be beneficial to carry out works to the ground and then require these to be removed and incur additional environmental impacts, unless there is a good reason to do so. In addition, the works would likely constitute an improvement to the land and hence be of benefit to the land owner. As such being compelled to remove ground strengthening works upon completion of construction would not be of benefit to either party.<br>The Applicant also notes that under article 31(6), the undertaker must pay compensation to the owners and occupiers of land subject to temporary possession for any loss or damage arising from the exercise of these powers. That assessment of compensation would take account of matters such as the period of works and the state of the land after the Applicant has handed back possession, and therefore including any loss or damage arising from strengthening works being left in place. |
| Q1.9.29 | Applicant | Justification.<br>Article 34 (Statutory undertakers) and 35 (Apparatus and rights of statutory undertakers in streets)<br>Where a representation is made by a statutory undertaker (or some other person) that engages section 127(1) of the PA2008 and has not been withdrawn, the SoS will be unable to authorise CA powers relating to that statutory undertaker land unless satisfied of specified matters set out in s127 of the PA2008. If the representation is not withdrawn by the end of the examination, the ExA will need to reach a conclusion whether or not to recommend that the relevant statutory test has been met in accordance with s127.<br>The SoS will be unable to authorise removal or repositioning of apparatus (or extinguishment of a right for it) unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates in accordance with s138 of the PA2008. | • The Applicant's Statement of Reasons [APP-024] details the justification for the Proposed Development and the compulsory acquisition powers sought in the draft DCO. In particular, please see: Chapter 6 - Need for Compulsory Acquisition of Land and Rights;<br>• Chapter 7 - Justification for the Use of Powers of Compulsory Acquisition; and<br>• Chapter 8 – Policy Support.<br>Justification for the Proposed Development and the use of powers of compulsory acquisition is also set out in the Planning Statement [APP-031] and Project Need Statement [APP-033].<br>The Applicant considers that there is a clear and compelling national need for the Proposed Development as:<br>• the Proposed Development will make a major contribution toward addressing the need that exists for the shift to clean energy generation and greater energy |

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| | | A number of Statutory Undertakers have made Representations, most of which raise concerns over the removal or repositioning of apparatus (or extinguishment of a right for it).<br>Please signpost the ExA as to where within the Application documentation you have provided such justification showing that such extinguishment or removal is necessary or provide such justification. | efficiency which provides the most effective route to ensuring both climate and energy security;<br>• the Applicant has selected the site on which to construct and operate the Proposed Development for technical, environmental and commercial reasons; and<br>• it will provide social and economic benefits to the local area to strengthen Teesside's development into the UK's leading hydrogen hub, creating new high quality jobs, supporting local education and skills development and kick-starting a highly skilled UK-based hydrogen supply chain.<br><br>The purpose for which land is subject to the proposed powers of compulsory acquisition and to possess land temporarily is summarised in the Schedule of Negotiations and Powers Sought [APP-026].<br>Supplementary to this, the Land Rights Tracker [PDA-022] has also been produced by the Applicant at the Examining Authority's request which specifies the land and rights proposed to be acquired in respect of each individual plot specified in the Book of Reference [REP1-004]. |
| Q1.9.30 | Applicant | Justification.<br>Article 39 (Planning Permission) – This article is intended to allow development not authorised by the DCO to be carried out within the Order limits pursuant to planning permission. Whilst the Applicant's explanation related to this Article, as set out in the EM (APP-028] is noted, the ExA is concerned that no justification has been provided in terms of this Article appearing to obviate the need, in such circumstances, to apply to change the DCO (through section 153 of the PA2008). As such the ExA would seek justification in this regard to this Article. | The Applicant set out an explanation about the drafting of article 39 in paragraphs 3.7.2 to 3.7.5 of the Explanatory Memorandum [APP-028].<br>In respect of the ExA's comments about a requirement to apply to change the DCO in such circumstances, there is nothing in the drafting of article 39 that obviates the need to apply to change the DCO under section 153 of the Planning Act 2008 if that were to be required under the circumstances.<br>The Applicant notes that development consent must be obtained for nationally significant infrastructure projects (NSIPs), and in H2T's case a DCO must be obtained for the 'Specified Elements' set out in the Secretary of State's Section 35 Direction (Work No. 1- carbon capture enabled hydrogen production facility and Work No. 6 – hydrogen distribution network).<br>Development consent may be granted for associated development (and is the approach taken for this DCO application) but it is not an imperative and there is a consenting choice for this type of development.<br>Article 39 provides flexibility for the Applicant to determine the best course of action for the project depending on how another planning permission interfaces with the DCO.<br>If another planning permission affected the ability to construct the associated development as set out in the DCO then the Applicant would have a consenting choice whether to apply to amend the associated development as a change to the DCO or whether to obtain a separate planning permission for the changed associated development.<br>If the circumstances were such that changes were required to the development consent for Work Nos. 1 and 6, then the Applicant would need (and is not prevented from doing so |

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| | | | in the article) to apply to change the DCO pursuant to section 153 of the Planning Act 2008.<br>In addition, it may be that there are existing or future planning permissions which benefit third parties, and these are also catered for by the drafting in Article 39, which ensures that the DCO and those other planning permissions are not legally inconsistent, and where appropriate can both be progressed. |
| Q1.9.31 | LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | View(s) sought..<br>Article 39 (Planning Permission, etc.) – The ExA is interested in the views of the LAs listed, as well as any other relevant Authority/ Body, in regard to the implications of this Article and its effect, especially Article 39(3). | N/A |
| Q1.9.32 | LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | View(s) sought.<br>Article 40 (Defence to proceedings in respect of statutory nuisance) – Article 40(1) prevents any Order under the Environmental Protection Act being made against any nuisance falling within section 79(1) (statutory nuisances and inspections therefor.) of that Act and any fine being imposed, under section 82(2) (summary proceedings by persons aggrieved by statutory nuisances) of that Act if the defendant can show:<br>(a) the defendant shows that the nuisance—<br>(i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development and that the nuisance is attributable to the carrying out of the authorised development in accordance with a notice served under section 60 (control of noise on construction sites), or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974; or<br>(ii) is a consequence of the construction or maintenance of the authorised development and that it cannot reasonably be avoided; or<br>(b) is a consequence of the use of the authorised development and that it cannot reasonably be avoided.<br>Article 40(2) states “Section 61(9) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised development.”<br>The Applicant’s EM [APP-028] at Paragraph 3.7.6 states it “…considers that the Requirements provide sufficient protection against the matters that may constitute "statutory nuisances" under section 79(1) of the Environmental Protection Act 1990.”<br>The ExA would ask the LAs listed above, together with any other relevant Authority/ Body:<br>whether they agree with the Applicant’s above mentioned statement and if not why they do not agree; and<br>for their considered views on this Article and any implications that may arise as a result of its inclusion in the DCO. | N/A |

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| Q1.9.33 | Applicant. | Correction.<br>Article 42 (Crown rights) – The ExA considers the word 'take' should be removed from this Article or the Applicant should provide full and justified reasoning for its inclusion. | The drafting of article 42 (Crown rights) is standard article drafting and well-precedented having been used in numerous DCOs including The Net Zero Teesside Order 2024, The A66 Northern Trans-Pennine Development Consent Order 2024, The Hornsea Four Offshore Wind Farm Order 2023 and The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.<br>As there is Crown land in the Order limits for the project, the purpose of the article is to make the legal position clear that the DCO does not allow for powers of compulsory acquisition or temporary possession to be exercised against Crown land or rights without the appropriate consent.<br>The use of 'take' in that context is to emphasise the inability to use compulsory acquisition powers to take land.<br>The Applicant has not therefore amended the article to remove the reference to 'take'. |
| Q1.9.34 | Applicant. | Clarification.<br>Article 43 (Procedure in relation to certain approvals) – For the purposes of this Article does the term 'Application' need to be defined. If not please explain why not. | The Applicant's position is that the normal day-to-day meaning of 'an application' i.e. a formal written request should be used, rather than creating a definition for a specific definition for 'application' in article 43.<br>This drafting for article 43 is common and sufficiently certain, and has been approved and well-precedented in other DCOs including The Net Zero Teesside Order 2024, The Mallard Pass Solar Farm Order 2024 and The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024.<br>Article 43(6) also provides that an application submitted pursuant to article 43(1) 'must include a statement… that refers to the timeframe for consideration of the application and the consequences of failure to meet that timeframe'. This means that the relevant consenting authority's attention will be drawn to the timeframe for consideration of the application and that it is related to the obtaining of a consent, agreement or approval under the Order.<br>In addition, when the relevant consenting authority does receive an application from the Applicant it is in the context of wider discussions with the Applicant about the project and its experience with other projects. Consequently, it would be apparent on the face of the application that it is related to the obtaining of a consent, agreement or approval under the Order and that the DCO timeframes apply. |
| Q1.9.35 | LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | View(s) sought.<br>Article 43 (Procedure in relation to certain approvals) – Article 43(5) sets out that after 6 weeks (42 days) applications made under this Article will gain a deemed approval from the consenting authority, if that consenting authority *"…has not notified the undertaker of its disapproval and the grounds of disapproval…".* The ExA would ask the LAs listed above, together with any other relevant Authority/ Body:<br>i) for its views on whether the 6 week period is adequate and if not what alternative period should be specified and why; and | N/A |

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| | | ii) should a fee be payable for the submission of details made pursuant to an Article. | |
| Q1.9.36 | Applicant. | Error.<br>Schedule 1 (Authorised Development) – First paragraph refers to "… the Borough of Stockton and Tees…" but should read 'the Borough of Stockton on Tees'. Please amend. | This has been amended to 'Stockton-on-Tees' in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.37 | Applicant. | Clarification.<br>Schedule 1 (Authorised Development) – Work No. 1 - Should the first reference to a chemical in this Schedule be the name of that chemical followed by its chemicals symbol in brackets, rather than just a reference to the chemical symbol? For example $CO_2$ and hydrogen are both listed using their chemical symbols in the first instance and also throughout the remainder of the schedule. | References to chemical symbols in Schedule 1 (and the rest of the draft DCO where relevant) have been amended to just the full name of the chemical for consistency. This has been done in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.38 | Applicant. | Clarification.<br>Schedule 1 (Authorised Development) – Work No. 1A.2 – The ExA notes that this Work No. does not include a flare as specified in Work No. 1A.1. Is this because Work No.1A.2 will utilise the flare provided by Work No. 1A.1. Please confirm. If not please advise why a flare is not included in Work No. 1A.2. | The Applicant notes that it is currently consulting on the addition of a second flare, for Work No. 1A.2, as part of its potential set of changes to the DCO application. The Applicant's Change Notification Report [PDA-019] noted at paragraph 2.4.2 onwards that "further engineering studies and on site engagement has enabled the design of the Hydrogen Production Facility to be refined. A second flare is now proposed as part of Phase 2 of the Proposed Development. The second flare would also be located within the Main Site (Work No. 1A.2). The second flare would perform the same function as the Phase 1 flare described in ES Chapter 4 'Proposed Development' [APP-056] paragraph 4.3.10, albeit to serve Phase 2 of the Proposed Development."<br>The Applicant will be considering responses to its consultation on potential changes, including to the above, and then submitting its formal change request application to the ExA as appropriate. |
| Q1.9.39 | Applicant. | Clarification.<br>Schedule 1 (Authorised Development) – Work No. 1B.2 – The ExA notes that area for Work No. 1B.2, as detailed on the Works Plans [AS-005] is much larger that the area shown on the Works Plans for Work No 1B.1. This seems anomalous bearing in mind Work No. 1B.1 is providing water connections and water and effluent treatment plant for Work Nos. 1A.1 and 1A.2, comprising exactly the same plant, networks, pipework, cables, racks, infrastructure, etc., to that proposed in Work No. 1B.2, yet Work No. 1B.2 is only serving Work No. 1A.2. Please provide a detailed explanation as to why the area difference between the two Work Nos. (Work Nos. 1B.1 and 1B.2) is so different? | Some elements (e.g. pipework etc.) of Work No 1B.1 will serve both Work No 1A.1 and Work No 1A.2. It is planned that Work No 1A.2 will have its separate and dedicated water treatment infrastructure, and this is what Work No 1B.2 covers. The Applicant is seeking to accommodate the same level of geographical flexibility for Works No 1A.2 and 1B.2 as these will be co-located. As such, the final location and extent of Work No 1B.2 will need to be determined as a result of the final location and extent of Work No 1A.2. |

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| Q1.9.40 | Applicant | Clarification.<br>Schedule 1 (Authorised Development) – Work No. 3B.1 – The ExA notes that the Applicant is seeking to retain optionality in respect of the proposed electrical connection, with potential connections via an AGI at Pellet-Sinter substation (Work No. 3B.1), Tod Point substation (existing) (Work No. 3B.2) or a new substation, which is located on the site of the NZT DCO (Work No. 3B.3).<br>Irrespective of the above, the ExA notes the Pellet-Sinter substation is referred to on the Works' Plans as though it is existing, but the STDC substation is described as has having secured planning permission at paragraph 4.3.24 of ES Chapter 4 (Proposed Design) [APP-056]. Additionally new substations, Work Nos. 1E.1 and 1E.2, allow for the construction of substations in connection with the hydrogen production facility but as shown on the Works' Plans, these are not located where Work No. 3B.3 is located. Furthermore, the description of Work Nos. 1E.1 and 1E.2 at paragraph 4.2.2 in ES Chapter 4 (Proposed Design) [APP-056], does not include substations. Bearing these factors in mind, the ExA is unclear if these references to sub-station works in the draft DCO [AS-013] are an error?<br>Is this new substation (Pellet-Sinter substation) something to be constructed as part of the NZT DCO?<br>Are new substations to be included in Work Nos. 1E.1 and 1E.2 as part of the draft DCO [AS-013] and if so, does ES Chapter 4 (Proposed Design) [APP-056] need correcting in this regard? Please clarify. | Pellet-Sinter substation is an existing substation owned and operated by STDC. This is one option for the Proposed Development to draw its power. This is not something to be constructed as part of NZT DCO.<br><br>Work No. 3 provides for the electrical connections taken from the Main Site to connection points in the network, and provides for extensions to existing, or provision of new substations, as appropriate.<br><br>Substations indicated in Work Nos. 1E.1 and 1E.2 form part of the e electrical infrastructure on the Main Site, . It is noted that this is not referenced in Paragraph 4.2.2 of the ES so this is an omission.<br><br>However, it is the case that Work No. 1E was generally assessed as constituting ancillary infrastructure within and adjacent to the Main Site. Substations at the Main Site would be of this nature and so would not be something that would change the parameters of the assessment of Main Site activities undertaken. |
| Q1.9.41 | Applicant. | Clarification.<br>Schedule 1 (Authorised Development) – The way Schedule 1 has been drafted, the ExA is unclear as to what Work Nos. within the Schedule constitute 'Authorised Development' and what Work Nos. constitute 'Associated Development'. Please review Schedule 1 (Authorised Development) and make it clear what Work Nos. are 'Authorised Development' and what Work Nos. are 'Associated Development'. | All of the works set out in Schedule 1 constitute the "Authorised Development".<br>The Authorised Development is comprised of:<br>• Works for which development consent must be obtained (which in this case in overall terms is Work Nos. 1 and 6 the hydrogen production facility and the hydrogen distribution network); and<br>• "Associated development" under section 115(1)(b) of the Planning Act 2008 which is capable of being granted development consent by virtue of being development associated with the hydrogen production facility and the hydrogen distribution network (Work Nos. 2, 3, 4, 5, 7, 8, 9, 10 and 11).<br>This is explained in more detail in sections 2.1 to 2.3 of the Explanatory Memorandum [APP-028]. There is no need to set this out in Schedule 1 as for the purposes of the wider DCO, references are to "authorised development" meaning everything set out in Schedule 1 in its totality. Given the above, the Applicant does not think that changes are required to Schedule 1 on this point.<br>It is important for the Secretary of State to be certain that the DCO can lawfully grant consent for the development set out in Schedule 1 – this is explained in the Explanatory Memorandum paragraphs noted above. |
| Q1.9.42 | LAs (HBC, RCBC and STBC), together with | Views sought. | N/A |

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| | any other relevant Authority/ Body | Schedule 2 (Requirements) – General – Several of the Requirements (Requirements 4 (LBMP), 10 (Surface and foul water drainage), 15 (CEMP) and 18 (Construction traffic management plan) say that plans must be in "substantial accordance with" outline plans, framework plans or indicative plans.<br>Do you consider the above to be sufficiently precise and certain to secure any relevant mitigations reference in those Requirements? Please provide full and reasoned answers and if you do not consider these Requirements to be sufficiently precise and certain, please suggest how the Requirement can be amended to address the concerns you have. | |
| Q1.9.43 | Applicant, LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Views sought.<br>Schedule 2 (Requirements) – General – The ExA notes Requirement 31 (Amendments agreed by the relevant planning authority), as well as the use of 'tail pieces' throughout the Requirements, such as "…unless otherwise agreed with the relevant planning authority." The ExA is concerned in regard to the use of such 'tail pieces' due to the fact they can create a risk that significant changes to the development could be made and/or statutory routes to vary such requirement could be avoided thus depriving third parties of the opportunity to comment.<br>Caselaw (Hubert v Carmarthenshire CC [2015] EWHC 2327 (Admin))' exists on this matter. In that case permission had been granted for the construction of a wind turbine and it was held that a condition stating that the turbine should be of certain dimensions 'unless given the written approval of the local planning authority' could lead to the approval of a turbine of a greater scale and environmental impact than had been permitted; the clause had to be removed.<br>In the light of the above and the ExA's would seek the views of both the Applicant and the LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body, as to the inclusion of Requirement 31 (Amendments agreed by the relevant planning authority) and the use of such 'tail pieces' throughout Schedule 2 (Requirement). | The approach taken in the Requirements to use '*…unless otherwise agreed with the relevant planning authority*' 'tail pieces' throughout and to define what this means in a separate Requirement is well-precedented including in The Net Zero Teesside Order 2024.<br>The Applicant notes that the definition in article 31 clearly states that this approval '*may only be given in relation to non-material amendments and where it has been demonstrated to the satisfaction of that authority that the subject matter of the approval… sought will not give rise to any materially new or*<br>*materially different environmental effects from those assessed in the environmental statement'*. As a result, the constraining nature of the drafting used distinguishes the draft DCO from that in Hubert v Carmarthenshire CC [2015] EWHC 2327 (Admin) which provided for an ability to change dimensions of a turbine of a wind farm. This is because a change of that nature to the project would most likely be a material amendment (not a non-material one) and would likely to give rise to materially new or materially different environmental effects from those in the Environmental Statement.<br>The Applicant would also highlight that different DCOs employ different forms of drafting to achieve the same outcome as in the draft DCO and The Net Teesside Order 2024.<br>For example, The Mallard Pass Solar Farm Order 2024 and The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 do not set out the 'tail pieces' throughout the Requirements but have a standalone Requirement called 'Approved details and amendments to them' which states (text taken from the Mallard Pass Order):<br>'*5.—(1) With respect to any plans, details or schemes which have been approved pursuant to any requirement (the "Approved Documents, Plans, Details or Schemes"), the undertaker may submit to the relevant planning authority or both relevant planning authorities (as applicable) for approval any amendments to any of the Approved Documents, Plans, Details or Schemes and, following approval by the relevant planning authority or both relevant planning authorities (as applicable), the relevant Approved Documents, Plans, Details or Schemes is to be taken to include the amendments as so approved pursuant to this paragraph.*<br>*'(2) Approval under sub-paragraph (1) for the amendments to any of the Approved Documents, Plans, Details or Schemes must not be given except where it has been demonstrated to the satisfaction of the relevant planning authority or both relevant planning authorities (as applicable) that the subject matter of the approval sought is* |

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| | | | *unlikely to give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.*' |
| Q1.9.44 | Applicant | Clarification.<br>Should Schedule 2, Requirement 3 of the draft DCO [**AS-013**] also refer to the detailed design of Work Nos. 1 to 8 being in accordance with the design principles, as set out in the Design and Access Statement (DAS) [**APP-034**]? | The Applicant notes that the Design and Access Statement (DAS) [APP-034] does not include a set of specific 'project design principles' as is sometimes seen on other projects. It instead discusses how the design has progressed in the context of the NIC Design Principles.<br>It is therefore not appropriate for the Requirement to refer to the DAS. |
| Q1.9.45 | LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Views sought.<br>Schedule 2, Requirements 4 (LBMP) – Requirement 4(6) specifies a period of five years after planting, for any shrub or plant that *"…is removed, dies or becomes… seriously damaged or diseased…"* to be *"…replaced in the first available planting season with a specimen of the same species and size as that originally planted…".* The ExA would ask whether a period of five years is an acceptable timeframe and if not why not? | N/A |
| Q1.9.46 | Applicant. | Clarification.<br>Schedule 2, Requirements 8 (Site Security) – Requirement 8(1) requires a written scheme to be submitted and approved, whilst Requirement 8(2) required the approved scheme to be maintained and operated. However, there is no implementation the details approved pursuant to this Requirement. Please review this requirement, along with all the other Requirements in Schedule 2, and amend the Requirement(s), as necessary, to ensure implementation of any approved details is specified. | There is an inference in Requirement 8(2) that in order for the 'approved scheme' to be 'maintained and operated' it must have been implemented as approved by the relevant planning authority. This drafting has also been approved by the Secretary of State in the Net Zero Teesside Order 2024.<br>Notwithstanding this, Requirement 8(2) has been amended to '*The scheme must be implemented as approved and must be maintained and operated throughout the operation of the relevant part of the authorised development*.' |
| Q1.9.47 | Applicant and STDC | Views sought.<br>Schedule 2, Requirements 10 (Surface and foul water drainage) – Requirement 10(3) – Should STDC be included in the list of consultees? | The Applicant notes that STDC is a consultee in relation to the equivalent Requirement in the Net Zero Teesside Order 2024 (Requirement 11 (Surface and foul water drainage). In view of this, the Applicant has amended Requirement 10(3) of the draft DCO submitted at Deadline 2 to include STDC as a consultee. |
| Q1.9.48 | Applicant. | Clarification.<br>Schedule 2, Requirements 11 (Flood risk mitigation) – Requirement 11(1) requires the approved flood management plan to be implemented throughout the commissioning and operation of the relevant part of the authorised development. However, there is no requirement for those works to be maintained throughout the same period. As such they could be implemented and then immediately removed. Whilst The ExA is certain there is no such intention on the part of the Applicant, the requirement should include the element to maintain those works throughout the commissioning and operation of the relevant part of the authorised development.<br><br>Please also review all other Requirements in Schedule 2 and ensure they are | The Applicant would highlight that it is not their intention that the flood management plan is implemented and then immediately removed, and that this is plain from the drafting of Requirement 11(7) of Schedule 2 to the draft DCO which states that 'the flood management plan… must be implemented *throughout* the commissioning and operation of the relevant part of the authorised development…' (italics added for emphasis).<br>The clear intention is that in order to 'implement throughout' the period, the plan (and the measures it sets out) has to be maintained.<br>Notwithstanding this, the Applicant has amended Requirement 11(7) to state that the flood management plan 'must be implemented and maintained' for greater clarity in the draft DCO submitted by the Applicant at Deadline 2. |

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| | | amended, as necessary, to include the need to maintain the relevant approved details for the relevant period required. | |
| Q1.9.49 | Applicant. | Clarification.<br>Schedule 2, Requirements 12 (Contaminated land and groundwater) – Requirement 12(2)(f) refers to the updating of *"…the hydrogeological impact assessment including hydrogeological conceptual model…"*. Please could you signpost the ExA to the location of the existing hydrogeological impact assessment and hydrogeological conceptual model within the submitted Application documentation. | A standalone hydrogeological impact assessment or a hydrogeological conceptual model have not been produced. However, contamination risks to hydrogeological receptors are covered in both the Conceptual Site Model and the Environmental Risk Assessment presented as Appendices to Chapter 10 [APP-062, APP-194 to APP-197] of the Environmental Statement.<br>To reflect this, Requirement 12(2)(f) of Schedule 2 to the draft DCO submitted by the Applicant at Deadline 2 has been amended to:<br>'*an update to the environmental risk assessment including contaminated land conceptual site model that is informed by any further ground investigation reports and groundwater monitoring in addition to the information in chapter 10 of the environmental statement*'. |
| Q1.9.50 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 2, Requirements 12 (Contaminated land and groundwater) – Requirement 12(7) provides for an alternative option to seeking approval of a scheme to deal with the contamination of land, including groundwater, which is likely to cause significant harm to persons or pollution of controlled waters or the environment. Specifically Requirement 12(7) would allow the Undertaker to:<br>"…rely on any scheme to deal with the contamination of land (including groundwater) which relates to any part of the *authorised development that has been previously approved by the relevant planning authority pursuant to an application for planning permission or an application to approve details under a condition attached to a planning permission."*<br>The ExA would ask:<br>The Applicant in regard to whether its intention is for this sub-paragraph to also include other DCOs and Requirements imposed under them, which have been previously approved by the relevant planning authority pursuant to a DCO or a Requirement to approve such details under/ attached to that DCO?<br>LAs and any other relevant Authority/ Body for their comments/ views on this sub-paragraph (Requirement 12(7)) generally, together with the following two subsequent sub-paragraph (Requirement 12(8) and 12(9)), especially in regard to whether sub-paragraph (Requirement 12(7)) should allow alternative options, including schemes to deal with contamination of land (including groundwater) that have been previously approved by the relevant planning authority pursuant to an application for planning permission/ or made DCO or an application to approve details under a condition/ requirement attached to a planning permission/ DCO? | As explained in paragraphs 10.5.8 to 10.5.14 of ES Chapter 10 Geology, Hydrogeology and Contaminated Land [APP-062], the Applicant will (prior to the design and construction of the Main Site) undertake confirmatory GI to assess whether and to what extent contamination is present at the Main Site and the finds of this will feed into the detailed design process and the scheme to deal with contamination of land set out in Requirements 12(1) to 12(6).<br>Requirements 12(7) and 12(8) have been included because it is the Applicant's understanding that South Tees Development Corporation / Teesworks (STG) are currently completing site clearance in the central and southern areas of the Main Site and will complete remediation works required to create a suitable development area before construction starts on the Main Site.<br>The Applicant also understands that STG intend to submit reserved matters approval applications for remedial works in central and southern areas of the Main Site under their existing outline planning approval for the Foundry site. It is also anticipated that STG would submit additional reserved matters approval or planning applications for further site clearance and remedial works in the north-west or north-east of the Main Site for Phase 2.<br>Requirements 12(7) and 12(8) have been included with the STG applications in mind and one of the benefits of this flexibility is that it reduces duplication of work from the perspective of the relevant planning authority.<br>It is not the Applicant's current intention to use any other planning permissions associated with any other projects, in the main part because the Applicant is not aware of other permissions which may create this same situation.<br>If, for any reason, STG do not bring forward these reserved matters planning applications, or the remediation works are not undertaken in the timescales required, the Applicant could then undertake remedial activities required for the development itself.<br>Also, Requirement 12(8)(b) provides that if the relevant planning authority (following consultation with the Environment Agency) does not provide its approval, then the Applicant would need to submit its own scheme to deal with contamination of land |

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| | | | pursuant Requirement 12(1) – so the flexibility provided by this option is constrained by the relevant planning authority. |
| Q1.9.51 | LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification.<br>Schedule 2, Requirements 18 (Construction traffic management plan) – Requires the Approval of a Construction Traffic Management Plan, whilst Requirement 18(3) specifies what the plan should contain. Requirement 18(3)(f) specifies the inclusion of *"details of how the undertaker will seek to engage with the undertaker as defined in the Net Zero Teesside Order 2024 and the developer of HyGreen Teesside to manage cumulative construction transport impacts."* The ExA would ask the LAs listed above, together with any other relevant Authority/ Body, whether other major developments in the area should be specified in Requirement 18(3)(f) and listed to ensure the Applicant has explained how they have sought to engage with other developers of major development in the area. | This Requirement refers to both Net Zero Teesside and HyGreen, as these are both developments led by bp and therefore the Applicant is more likely to be able to engage in constructive discussions around co-ordination of activities across the various developments.<br>However, to reference other developments in this Requirement would mean that the Applicant would be beholden to other developments and other companies, complying with this DCO, which the Applicant would have no control over.<br>The Applicant also considers that, given the results of the ES, there is no criteria to validly determine which developments should or should not be referenced within this Requirement, given the wider development environment within Teesside. The Applicant considers it is not appropriate for one consent to seek to manage the impacts and benefits of a large number of other consents.<br>In addition, as the projects are still at an early stage, the Applicant notes that it has not undertaken specific engagement on this issue because its delivery programme and the programmes of the other projects will continue to evolve between now and when the traffic management is required. |
| Q1.9.52 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | – Clarification/ Views sought.<br>Schedule 2, Requirements 19 (Construction hours) – Requirement 19(4)(a) makes reference to 'Start-up' and 'Shutdown' periods.<br>Could the Applicant direct the ExA as to where in the Applicant Documentation these terms ('Start-up period' and 'Shutdown periods') are defined. Such definitions must clearly explain what can take place during the Start-up' and 'Shutdown' periods.<br>Could the LAs listed above, together with any other relevant Authority/ Body, confirm they are satisfied, or not, with the timings of the Start-up' and 'Shutdown' periods. If not satisfied, please provide a detailed explanation as to why you are not satisfied. | Information concerning construction working hours and management are set out in the Chapter 5: Construction Programme and Management of the Environmental Statement [APP-057].<br>Paragraphs 5.3.102 to 5.3.108 explain the construction working hours for the project, including a "*mobilisation period… required in relation to daily start-up and close down procedures*".<br>It also sets out a non-exhaustive list of examples of the types of activity that are included in these periods as including:<br>• Deliveries and unloading;<br>• Workforce movement to place of work;<br>• Site briefings;<br>• Inspections, refuelling and maintenance; and<br>• General preparation and housekeeping works.<br>Paragraph 5.3.104 clearly states that the mobilisation period will not include the operation of plant or machinery and "*will be limited to activities that do not cause a disturbance to local residents, schools, businesses or other sensitive environmental receptors identified in the EIA*".<br>This detail is also captured in Section 3.3 of the Framework Construction Environmental Management Plan (CEMP) [APP-043].<br>In order that the draft DCO is more consistent with the terminology in the Framework CEMP, the Applicant has amended Requirement 19(4)(a) so that instead of "start-up" and |

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| | | | "shut-down" periods the reference is made to "mobilisation and de-mobilisation periods" as follows:<br>*'(a) mobilisation and de-mobilisation periods from 0600 to 0700 and from 1900 to 2000 Monday to Friday;*<br>*(b) mobilisation and de-mobilisation periods from 0600 to 0700 and from 1300 to 1400 on a Saturday.'*<br>These mobilisation and de-mobilisation periods for Saturday also reflect the amendment to Saturday construction hours from 0700 to 1700 to 0700 to 1300. |
| Q1.9.53 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 2, Requirements 25 (Local liaison group) – Requirement 25(1) specifies *"…the undertaker has established, or has convened jointly with either both or one of the undertaker as defined in The Net Zero Teesside Order 2024 and the promoter of HyGreen Teesside to establish, a group to liaise with local residents and organisations about matters relating to the authorised development (a 'local liaison group')."* The ExA would ask the Applicant and the LAs listed above, together with any other relevant Authority/ Body, whether other major developments in the area, being constructed at the same time, should be included in this Requirement (Requirement 25(1)). If so please specify which developments should be included, providing details of the Planning Application Reference Number, the name of the Applicant and their contact details, the name of the Development and its location, the date of the permission granted along with a copy of that planning consent. | We do not plan on inviting other developers to join the proposed 'local liaison group'.<br>The intent is to convene with Net Zero Teesside, NEP and HyGreen Teesside given commercial interests in these projects and the ability to effectively collaborate to provide one forum for bp to keep local residents and organisations informed about progress of the projects and provide a regular forum for the local community to engage with the project team, ask questions about the project and provide feedback. It is expected that the projects would become part of the LLG at different points ahead of commencement of individual project construction activities.<br>Please also see the response to 1.9.58 below. |
| Q1.9.54 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 2, Requirements 25 (Local liaison group) – What are/ should be the terms of reference of this Local Liaison group? What is it seeking to achieve and how will it's aims be secured in this Requirement? How are the Local Liaison groups achievement to be measured and what mechanisms are to be put in place/ are in place to ensure its aims are successfully delivered. What provisions are in place to ensure the Local Liaison group does not fail in delivering its terms of reference/ aims? What happens in the event of failure? How will such failure be redressed through this Requirement? Please clarify/ provide your responses to all of the questions set out above. | The Local Liaison Group (LLG) will be established to provide a forum for ongoing dialogue and discussion between the local community and the H2Teesside project team.<br>The group will provide an opportunity and forum for residents, business and local authorities and other interested parties to be kept informed of project developments, provide feedback, raise any concerns or queries with the ongoing delivery of the project. The LLG will provide a mechanism to enable the views of residents/their representatives and other relevant stakeholders to be heard, providing a direct channel to engage with the developer.<br><br>The principal overarching aims of the LLG Community Liaison Group are:<br>• To promote communication across the communities and organisations potentially affected by the construction of H2 Teesside;<br>• To keep stakeholders, communities and businesses well informed about the project's progress, any potential impacts and opportunities available;<br>• To give all members of the local community potentially affected by the project an opportunity to express their views and influence the approach to communication activity at a local level; |

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| | | | • Provide a forum for the local community to discuss, understand and potentially influence the way that contractors undertake the construction activity.<br><br>• LLG meetings will take place as agreed by the LLG, subject to review of frequency and need, with the first two meetings planned bi-monthly.<br><br>Membership is likely to change as the project progresses, and future attendance can be agreed by the LLG, however, the initial membership will comprise the following:<br>• Project team members.<br>• Representative from project communications & external affairs team – will chair meetings<br>• Officers, and or Councillors from the relevant local authorities/parishes.<br>• Community and resident representatives, businesses and businesses representative groups<br>• Project specialists e.g. members of the team from Engineering or Health & Safety for example will be invited to attend meetings, as required.<br><br>The achievement of the Group will be measured through the output of meeting minutes and attendance of members/invitees. Minutes will document feedback on specific topics, site management issues, mitigation and community engagement. Additionally, the Applicant will look to measure the impact of the group by evaluating correspondence / complaints as potential issues should be identified early and mitigated to avoid further issues.<br><br>Meetings will be chaired by a member of the project's communications and external affairs team. An independent member (someone not directly involved with the day-to-day decisions of those involved with the works) may be appointed as Chair in agreement with representatives of the LLG to Chair the Group.<br><br>The role of the Chair will be to encourage debate, identify areas of consensus, summarise differences and distil possible solutions emerging or needing to be investigated further to resolve issues of concern to the local community. |
| Q1.9.55 | Applicant. | Clarification.<br>Schedule 2, Requirements 25 (Local liaison group) – What happens in the event that the Members of the Local Liaison Group are outnumbered by the representatives of the various developers that are listed in Requirement 25(1)? Could the various developers out vote the Members of the Local Liaison Group so as to prevent any motion being passed that the representatives of the various developers disagree with? Please explain what provisions will be put in place and secured through this Requirement to ensure such an event could not occur. | Members of the LLG will not risk being outnumbered or outvoted by the project team, as it is designed to be a public forum for open dialogue rather than a voting platform. The Applicant aims to be a good corporate neighbour and will use the LLG to focus on collaborating with and listening to the community. |

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| Q1.9.56 | Applicant. | Error correction.<br>Schedule 2, Requirements 25 (Local liaison group) – Requirement 25(4)(a) refers to 'contactor'. Should this read 'Contractor'? Please review and amend, as necessary. | The reference to 'contactor' has been amended to 'Contractor' in Requirement 25(4)(a) in Schedule 2 to the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.57 | Applicant. | Error correction.<br>Schedule 2, Requirements 26 (Employment, skills and training) – The sentence in Requirement 26(3) appears to ends prematurely. Should the word 'authority' be added to the end of the sentence? Please review and amend as required. | The word 'authority' has been inserted after 'relevant planning' at the end of Schedule 2 - Requirement 26(3) in the draft DCO submitted by the Applicant at Deadline 2. |
| Q1.9.58 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 2, Requirements 26 (Employment, skills and training) – Should Requirement 26(5) include other major developments that are taking place or likely to take place in the vicinity of the Proposed Development at the same time? If so please provide details of those other major development including the relevant Planning Application Reference Number, the name of the Applicant and their contact details, the name of the Development and its location, the date of the permission granted along with a copy of that planning consent granted. If you consider no other major developments should be included in Requirement 26(5) please provide a full and reasoned explanation of your view. | This Requirement refers to Net Zero Teesside and HyGreen as they are both projects led by bp and therefore the Applicant is more likely to be able to engage in constructive discussions around co-ordination of activities across the various developments. The Applicant had drafted the Requirement to allow for a co-ordinated approach where it had the ability to facilitate it.<br>To reference other developments in this Requirement would mean that the Applicant would be beholden to other developments and other companies, complying with this DCO, which the Applicant would have no control over.<br>The Applicant also considers that, given the results of the ES, there is no criteria to validly determine which developments should or should not be referenced within this Requirement, given the wider development environment within Teesside. The Applicant considers it is not appropriate for one consent to seek to manage the impacts and benefits of a large number of other consents. |
| Q1.9.59 | Applicant. | Clarification.<br>Schedule 2, Requirements 27 (CO2 transport and storage) – The ExA notes that ES Chapter 19 (Climate Change) [APP-072] assumes a 95% carbon capture rate and that this would be addressed through an EP. The Applicant is requested to explain how Requirement 27 of the draft DCO [AS-013] would operate to prevent either Work No. 1A.1 or Work No. 1A.2 from becoming operational before the Proposed Development can connect to a carbon capture and storage facility to achieve the assumed 95% capture rate. | The Applicant is confident that the project timelines are such that Northern Endurance Partnership's carbon dioxide transport storage facility would be operational at the point in time that the Proposed Development has been constructed, undergone commissioning and was ready to come into operation on a commercial basis.<br>In any event, the Environmental Permit will serve to ensure that a carbon capture rate is achieved..<br>To assist the ExA, the Applicant has appended at Appendix 1 the permit obtained for Net Zero Teesside - the Applicant expects that similar conditions will be applied to the Proposed Development.<br>As the DCO Requirement requires the Environmental Permit to be in place before works commence, and NPS EN-1 is clear that it should be assumed that the permitting process will "*be properly applied and enforced by the relevant regulator*. *The Secretary of State should act to complement but not seek to duplicate them* (paragraph 4.12.10)" and can therefore be confident that a 95% capture rate will be achieved, requiring a connection to the NEP system. |
| Q1.9.60 | Applicant. | Clarification.<br>Schedule 2, Requirements 27 ($CO_2$ transport and storage) – Requirement 27(1) specifies: | The carbon storage licence that will be in place for the Northern Endurance Partnership project, will relate to a carbon storage location that will service the whole of the Teesside cluster. This includes both Phase 1 and Phase 2 of the Proposed Development. There is not |

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| | | "No part of the authorised development other than the permitted preliminary works may commence until evidence of the following (or such licence or consent as may replace those listed) has been submitted to and approved by the relevant planning authority—<br>(a) that the carbon dioxide storage licence has been granted; and<br>(b) that an environmental permit has been granted for Work No. 1A.1."<br>The ExA would ask why similar evidence is not required in relation to the construction of Work No. 1A.2? Please provide a full and reasoned explanation in response to this question. | a separate carbon storage location for Phase 2, as it will connect into the carbon transfer network of Northern Endurance Partnership, which will only go to that carbon storage location.<br>As such, when that carbon storage licence is in place for Phase 1, it is also in place for Phase 2, so a separate requirement is not needed.<br>Work 1A.2 will be Phase 2 as:<br>Schedule 1 refers to it being the 'second' unit;<br>negotiations with South Tees Group have focussed on Work 1.A.1 land as the initial phase; and<br>the Applicant's negotiations with Government are on the basis of the first phase of the project being able to proceed at pace once DCO consent is granted, which therefore means those land negotiations that have made very good progress are the primary area of focus in those discussions with Government.<br>Finally, it is noted that, legally, no blue hydrogen project could operate without an Environmental Permit in place first, as such uncontrolled operational emissions from Phase 2 could not arise. |
| Q1.9.61 | Applicant. | Clarification<br>Schedule 2, Requirements 33 (Disapplication of requirements discharge under the NZT Order 2024) – This requirement appears to disapply any requirement within the proposed DCO where the requirement has already been discharged pursuant to The NZT DCO. However, what happens where a requirement of the same name/ nature has been discharge under The NZT DCO but it has failed or does not cover all of the necessary details require to discharge the same Requirement imposed in any DCO made of the Proposed Development, if made. Please provide and full and reasoned argument when responding to this question. | Net Zero Teesside and H2Teesside are separate projects, however, due to the nature of their location and their Applicants' corporate relationship with bp, there are also potential overlaps for some elements which require the discharge of requirements.<br>This includes the creation of a Local liaison group (Requirement 29 of the Net Zero Teesside Order 2024, Requirement 25 of H2T) and of the Employment, skills and training plan (Requirement 30 of NZT and Requirement 26 of H2T). The two projects anticipate working closely to deliver these elements together in a joined-up approach.<br>The purpose of Requirement 33 is to enable the relevant planning authority to disapply a requirement in the H2T DCO if it has already been discharged by NZT in its activities in implementing its projects. The idea is that this would prevent the duplication of work of discharging what is effectively the same Requirement twice and so save time and resources for both of the projects and the relevant planning authority.<br>The power in Requirement 33 is limited and constrained by the fact that this can only be done with the relevant planning authority's approval. If the equivalent NZT requirement has been refused or does not cover all the necessary details to discharge the same requirement in H2Teesside, then the relevant planning authority will be able to refuse to allow the requirement to be disapplied and require the undertaker to make an application to discharge the requirement.<br>After considering the ExA's question, the Applicant has amended the drafting to remove the generality of Requirement 33 and focus it on the Requirements where the Applicant considers there is sufficient overlap that the discharge of the Requirement by the Net Zero Teesside project may be sufficient to discharge the equivalent Requirement in the H2Teesside DCO. The drafting set out in the draft DCO submitted by the Applicant at Deadline 2 is as follows:<br>*'33. Subject to the relevant planning authority's approval-* |

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| | | | *(a) requirements 25 and 26 in this Schedule may be disapplied where the requirements 29 and 30 have already been discharged pursuant to The Net Zero Teesside Order 2024*;<br>*(b) requirement 3 in this Schedule may be disapplied where requirement 3 has been discharged pursuant to The Net Zero Teesside Order 2024 in respect of any infrastructure that is to be utilised for the purposes of the authorised development and the authorised development as defined in The Net Zero Teesside Order 2024; and*<br>*(c) requirement 10 in this Schedule may be disapplied where requirement 11 has been discharged pursuant to The Net Zero Teesside Order 2024 in respect of any surface and foul water drainage systems that are to be utilised for the purposes of the authorised development and the authorised development as defined in The Net Zero Teesside Order 2024.'* |
| Q1.9.62 | Applicant. | Additional Information.<br>Schedule 3 (Modifications to and amendments of the York Potash Harbour Facilities Order 2016) –<br>The ExA would remind the Applicant of Section 5.11 25 of Advice Note 15 (drafting DCOs) concerning 'Applications, modifications and exclusion of statutory provisions', especially:<br>Section 5.11 25.2 which states *"The power to apply, modify or exclude an existing statutory provision should be set out in an Article in the main body of the draft DCO. Those provisions that are proposed to be applied, modified or excluded by a DCO should be clearly identified, and, if extensive, identified in a Schedule or Schedules"* and<br>Good practice point 10.<br>In addition to the above, the ExA would point out, where the consent falls within a schedule to the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015 evidence will be required that the regulator has consented to removing the need for the consent in accordance with s150 of the PA2008.<br>Anglo American in its RR are critical of the Applicant in regard to their communication with them and failure to include any detail as to how the proposed development will impact the York Potash Harbour Facilities Order 2016. This is especially true in terms of no details whatsoever being provided in Schedule 3 (Modifications to and amendments of the York Potash Harbour Facilities Order 2016), where it states: *"This Schedule has been left intentionally blank."* The ExA notes the Applicant's comments on this matter as set out in its EM [APP-028] (Paragraph 3.8.79) but is concerned about the lack of detail supplied and the claims of Anglo American related to the Applicants poor communication with them.<br>It is noted by the ExA that a number of other RRs from other IPs repeat the same or similar claims regarding poor communication from the Applicant. | The placeholder for a Schedule 3 (Modifications to and amendments of the York Potash Harbour Facilities Order 2016) is included in the draft DCO [AS-013] to show the intention of incorporating protective provisions for the Proposed Development in the York Potash Harbour Facilities Order 2016, following agreement of these provisions between the Applicant and Anglo American. This follows the precedent in The Net Zero Teesside Order 2024 (NZT Order).<br>The principle that these negotiations will be based on the protective provisions found in Schedule 3 of the NZT Order that has been agreed between the parties, subject to the amendments that are required to reflect the specific interactions between the York Potash Harbour Facilities Order 2016 development and the Proposed Development. The content of the NZT Order provisions were included in the Applicant's Deadline 1 submissions (Net Zero Teesside Order as made [REP1-009]) so that the nature of the type of provisions that will be included can be seen. It can be seen in particular that they contain 'reciprocal' provisions to those contained in the Protective Provisions for Anglo American. As such, the two sets of Protective Provisions need to be seen together, and the Applicant is working to add them to the DCO at the same time once progress has been made.<br>The Applicant's technical team are in discussions with Anglo American in connection with revising Schedule 3 of the NZT Order as required so that it can be used in the context of the Proposed Development. The Applicant will be issuing a draft of these provisions to Anglo American's legal representatives imminently.<br>Finally, the Applicant notes that Anglo American's consent is not required to the inclusion of these provisions pursuant to the section 150 of the PA2008, as such provisions do not fall within the ambit of that section or the accompanying Regulations. |

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| | | Please provide full details of the content of Schedule 3 (Modifications to and amendments of the York Potash Harbour Facilities Order 2016) in the interests of openness and fairness. | |
| Q1.9.63 | Applicant. | Clarification/ Error correction.<br>Schedule 8 (Land in Which New Rights etc. may be Acquired) Table 7, page 81 – reference is made to plots *"…7/1, 7/1-…".* Should this be "…7/1, 7/10…"? | The Applicant can confirm that the reference to plot "7/1-" in Schedule 8 (Land in Which New Rights etc. May Be Acquired) of the draft DCO should be to plot "7/10". This has been amended in the draft DCO submitted at Deadline 2 [Document Ref. 4.1]. |
| Q1.9.64 | Applicant. | Clarification/ Error correction.<br>Schedule 8 (Land in Which New Rights etc. may be Acquired) of the draft DCO [AS-013] at Table 7 (page 74) references Plot No. 13/6 as being coloured pink in relation to Work No. 1B.2. However, the BoR [AS-012] references this as being TP and is shown coloured yellow on the Land Plans [AS-003]. Please amend, as necessary. | The Book of Reference [AS-012] and the Land Plans [AS-003] are correct to reference plot 13/6 for temporary possession. Plot 13/6 was already listed in Schedule 10 (Land of Which Temporary Possession may be taken) in the draft DCO [AS-013]. However, the Draft DCO submitted at Deadline 2 has been amended to remove the reference to plot 13/6 from Schedule 8 (Land in Which New Rights etc. may be Acquired). |
| Q1.9.65 | Applicant. | Update.<br>Schedule 12 (PPs) – A significant number of RR are critical of the Applicant in regard to their failure to engage with them in regard to PPs. Whilst seven PPs have been included in Schedule 12, these all appear to be generic, with no specific PPs being provided or agreed with any of those making RRs in this regard. The ExA is concerned about alleged lack of engagement with IPs concerning PPs and would urge the Applicant to engage with those IPs and reach agreement with them at the earliest opportunity. The ExA is aware of paragraph 6.15 of the SoS's Decision letter regarding NZT, dated 16 February 2024, where it was noted *"…that 13 objections remain outstanding…"* which the SoS considered *"…this to be unsatisfactory considering the amount of time that has passed since the close of the examination."* The SoS clearly stated they it was expected *"…that parties should engage early and often to seek to reach agreement wherever possible."* In the light of this clear statement the ExA expects the Applicant to engage early and often with IPs who have indicated that they are willing to enter into negotiations regarding PPs, with a view to reach agreement wherever possible and would ack the Applicant to provide an update in regard to PPs negotiations with each of those IPs through the Land Rights Tracker referred to in Annex F of the ExA's Rule 6 letter dated 31 July 2024 and Annex B of its Rule 8 letter dated 30 August 2024. | Negotiations with those IPs that have requested bespoke protective provisions are ongoing and the Land Rights Tracker submitted by the Applicant at Deadline 2 [Document Ref. 8.3] includes the latest position on these continuing discussions. |
| Q1.9.66 | Applicant. | Clarification.<br>Schedule 12 (PPs), Part 4 – (For the Protection Of National Grid Electricity Transmission Plc…) – The ExA notes that National Grid Electricity Transmission Plc's RR [RR-024], where they have included a copy of PPs with 'Track Changes'. Please review and update Schedule 12 (PPs), Part 4 accordingly or give full and reasoned justification as to why National Grid Electricity Transmission Plc's suggested revisions are not acceptable to you. | The Applicant and National Grid Electricity Transmission PLC are negotiating a confidential side agreement and protective provisions as noted in the Land Rights Tracker [PDA-022], including negotiation of the amendments proposed in National Grid Electricity Transmission PLC's Relevant Representation [RR-024].<br>Once any amendments have been agreed between the parties, the Applicant expects to be able to incorporate them into the protective provisions 'For the Protection of National Grid Electricity Transmission Plc' in the draft DCO. |

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| Q1.9.67 | IPs and Statutory Undertakers | Clarification<br>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. | N/A |
| Q1.9.68 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 13 (Procedure for the Discharge of requirements) – Should Paragraph 1 define the word 'application' so it is clear that an 'application' must be valid for the remainder of the paragraphs to be triggered? Additionally, please signpost the ExA to the paragraph in this Schedule where the relevant planning authority is required to notify the Applicant of the start date, as defined in paragraph 1. | The drafting for Schedule 13 (Procedure for the discharge of requirements) is standard and word 'application' used in its normal day-to-day sense throughout is sufficiently certain to have been approved and well-precedented in various DCOs including The Net Zero Teesside Order 2024, The Mallard Pass Solar Farm Order 2024 and The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024.<br>From a practical perspective, the Applicant and the relevant planning authority will be in communication with each other throughout the process of implementing the development consent. The relevant planning authority will also have experience of these applications when dealing with other DCO projects (such as Net Zero Teesside), and from analogous applications received to discharge planning conditions from many developments.<br>Paragraph 2(3) also sets out how the application must confirm whether the subject matter of the application would give rise to any materially new or materially different environmental effects compared to those in the ES.<br>As a result, when the relevant planning authority does receive an application from the Applicant, it is in the context of those wider discussions, experience with other projects and the inclusion of a statement pursuant to paragraph 2(3) of Schedule 13. Consequently, it will be apparent on the face of the application that it is related to the obtaining consent, agreement or approval under the Order and that the DCO timeframes apply without any definition or further formalities.<br>In response to the second element of the question, the "start date" is defined as the date of the notification given by the Secretary of State (SoS) under paragraph 5(2)(b) of Schedule 13.<br>In paragraph 5(2)(b) the SoS is required to notify parties of the identity of the appointed person and the date of that notification is the "start date" for the purposes of paragraph 5(2)(c).<br>There is no requirement on the SoS to specifically notify the Applicant of the "start date" - it is simply the date of the notification that is issued under 5(2)(b).<br>This is standard drafting approved by SoS in other DCOs such as The Net Zero Teesside Order 2024 and Keadby 3 (Carbon Capture Equipped Gas Fire Generating Station) Order 2022. |

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| Q1.9.69 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 13 (Procedure for the Discharge of requirements) and Schedule 15 (Appeals to the SoS) – A number of paragraphs within these Schedules specify the number of days by which specific tasks have to be undertaken by various named parties (ie Schedule 13, Paragraphs 3(2) and 3(3) and Schedule 15, Paragraph 2(d)). The number of working days specified are relatively short periods with a couple of periods in Schedule 13 being 5 working days. The ExA would be interested to hear from the Applicant and relevant LAs, as listed above, together with any other relevant Authority/ Body, whether these periods have been discussed between the parties and whether, in the opinion of the Relevant Planning Authorities or other relevant Authority/ Body whether the periods specified provide sufficient time to take into account any administrative functions, including the validation and registration of the application submitted. | The purpose of Schedule 13 is to set out a bespoke mechanism and procedure in the DCO so that the relevant planning authority's assessment of the information submitted by the undertaker are both robust but carried out in a timely and efficient manner. This is so that the anticipated timeframe of the authorised development is not disrupted.<br>Schedule 13 sets out the same procedure as approved by the Secretary of State for the Net Zero Teesside Order 2024 and which apply to two out of three of the relevant planning authorities relevant to H2Teesside. As a result, the timeframes set out have precedent and have been considered to be reasonable by the SoS.<br>From a consistency perspective, it would be beneficial if the procedure for discharge of requirements and the timeframes were the same as those for Net Zero Teesside. From the planning authority perspective, two of the three relevant planning authorities (Redcar and Cleveland and Stockton-on-Tees borough councils) have a procedure in place for Net Zero Teesside and the Applicant believes that to have H2Teesside following the same procedure would reduce potential confusion about timeframes for responses and actions, and allow for consistency in approach. Neither Redcar and Cleveland [REP1-043] or Stockton-on-Tees [REP1-045] have raised any issue with the procedure set out in Schedule 13 in their respective Local Impact Reports.<br>The two instances in Schedule 13 where a period of five working days is set are only in cases where there is a requirement consultee who needs to be informed that an application for discharge of their requirement has been received. In order that timely and effective consultation can be undertaken during the procedure, it is only correct that the relevant planning authority should notify these parties as soon as possible so they can mobilise their own resources to review and comment on the material provided as soon as possible. Also, it is not requiring the relevant planning authority to make a decision or analyse any information during that time period. |
| Q1.9.70 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 13 (Procedure for the Discharge of requirements) – Paragraph 2 specifies provides for the granting of a deemed consent in the event that the relevant planning authority fails to determine the application. In this case the failure of the relevant planning authority to determine the application within an 8 week period, as defined in paragraph 1. Should the word 'application' be defined, so it is clear that an 'application' must be valid for the remainder of the paragraphs to be triggered?<br>Additionally, paragraph 3 requires a statement to confirm whether it is likely that the subject matter of the application will give rise to any materially new or materially different environmental effects compared to those in the ES and, if it will, then states it must be accompanied by information setting out what those effects are.<br>Bearing the above in mind the ExA would ask the Applicant/ Relevant Planning Authorities, as listed above, together with any other relevant Authority/ Body for them comments make observations on these matters, especially in related to: | In respect to the first question about whether 'application' should be defined, see the Applicant's response to FWQ 1.9.68.<br>Responding to point i), please see the Applicant's response to FWQ 1.9.69 above.<br>Deemed consent of applications is required to ensure that the nationally-needed authorised development will not be slowed down by the discharge of requirements.<br>In addition, the Applicant's position is that eight weeks is an appropriate length of time in order to balance the need for a robust check by the planning authority of the information and for the project to not be unduly delayed with the implications that has for project timescales, mobilisation of resource and costs. This period was approved by the SoS in The Net Zero Teesside Order 2024 as well as The Drax Power Station Bioenergy with Carbon Capture and Storage Extension Order 2024 and The Boston Alternative Energy Facility Order 2023.<br><br>Responding to point ii), the purpose of the statement in Paragraph 2(3) of Schedule 13 is to ensure that the relevant planning authority has been provided with all of the information that it needs to determine whether the requirement has been discharged. It is |

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| | | i. a deemed consent being made after a period of 8 weeks in the event of the relevant planning authority failing to determine the application within that time period; and<br>ii. the ability to submit applications that could give rise to any materially new or materially different environmental effects compared to those in the ES, and whether such applications have the potential to result in significant changes not previously considered and/ or resulting IPs being deprived of the opportunity to comment. | unlikely that materially new or materially different environment effects would be reported in this scenario, but it is possible that improvements in mitigation measures, unexpected conditions on the ground or developments in detailed design could lead to materially new or materially different effects that are positive compared to findings in the Environmental Statement. This provides the relevant planning authority with this information 'up-front' so they can consider it clearly and the project with flexibility to improve environmental effects of the project if it is possible. It ensures provision of environmental information at all stages of consenting.<br>Paragraph 2(3) of Schedule 13 is also standard and well-precedented drafting including in The Net Zero Teesside Order 2024 and The Mallard Pass Solar Farm Order 2024. |
| Q1.9.71 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 13 (Procedure for the Discharge of requirements), Paragraph 4 (Fees) – Paragraph 4(1) specifies a fee must be paid to the relevant planning authority for each application. However, the ExA would seek the views of the Applicant and relevant Planning Authorities, listed above, as to whether a fee should be paid in relation to each request within an application to discharge a Requirement? | The drafting for Schedule 13 in the draft DCO, including those relating to fees as set out in paragraph 4, is the same as approved by the SoS in the Net Zero Teesside Order 2024.<br>The Applicant's position is that paragraph 4(1) is clear that a fee is payable for each application for consent, agreement or approval in respect of a requirement submitted to the relevant planning authority. Therefore, for each application for each requirement a fee is payable. If there were multiple applications for the discharge of many requirements submitted in one go, then a fee would be payable for each of those requirement applications (even if they were presented as a single package). |
| Q1.9.72 | Applicant and LAs (HBC, RCBC and STBC), together with any other relevant Authority/ Body. | Clarification/ Views sought.<br>Schedule 13 (Procedure for the Discharge of requirements), Paragraph 5 (Appeals) – Paragraph 5(1) specifies a number of events after which the 'Undertaker' may Appeal. The ExA notes that the events listed in Paragraphs 5(1)(c) and 5(1)(d), would enable the undertaker to potentially Appeal prior to period specified in Paragraph 2(1). The ExA would ask the Applicant if this is their intent and for the views of the relevant Planning Authorities, as listed above, together with any other relevant Authority/ Body on the potential ability to appeal prior to the close of the period specified in Paragraph 2(1). | As stated in the above responses, the drafting for Schedule 13 (Procedure for the discharge of requirements) in the draft DCO is the same as the Schedule approved by the SoS in The Net Zero Teesside Order 2024.<br>The purpose of the appeal in paragraphs 5(1)(c) and (d) is not related to the 8-week determination period for the relevant planning authority to decide whether to approve the application for discharge of requirement. Instead, the purpose of the appeals in these sub-paragraphs is to enable there to be a way forward in a situation where there is disagreement between the relevant planning authority and the undertaker about whether further information requested is required or not.<br>The substance of the appeal would be on the decision about further information. The Applicant's position is that it would be entirely appropriate to appeal about this subject matter before the close of the period specified in paragraph 2(1) in order to ensure that the process is not unduly delayed by requests for information which are not necessary for consideration of the application, and to provide a mechanism to bring the matter before a third party for a decision in an appropriate and swift timescale. |
| Q1.9.73 | Applicant. | Justification/ amendments sought.<br>Schedule 13 (Procedure for the Discharge of requirements), Paragraph 5 (Appeals) and Schedule 15 (Appeals to the SoS) – Schedule 13, Paragraph 5(2)(e) and 5(3) and Schedule 15, Paragraph 2(2)(g) - Please justify the time periods you are seeking to imposed on the 'appointed person' as specified in Schedule 13(5)(2)(e)), Schedule | In response to points i) and ii), please also see the Applicant's responses to FWQs 1.9.68, 1.9.69, 1.9.70 and 1.9.72.<br>For the reasons set out in the FWQs above, the Applicant has not amended the wording in Schedule 13 as requested by the ExA in order that there is alignment in timeframes and administrative processes for the relevant planning authorities dealing with both NZT and |

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| | | 13(5)(3) and Schedule 15(2)(2)(g). In the event failure to adequately justify the imposition of the time limit:<br>All wording after the words 'as soon as reasonably practicable' in Schedule 13(5)(2)(e) should be deleted and replaced with the following punctuation and wording '; and'.<br>In Schedule 13(5)(3) delete the wording 'within five working days' and replace that wording with 'as soon as reasonably practicable'.<br>In Schedule 15(2)(2)(g) delete all wording after the words 'as soon as reasonably practicable' and replace with a full stop '.' | H2T projects. The Applicant is not aware of any differences between the two projects which would warrant these changes to be made.<br>In response to the ExA's request to justify the time periods imposed on the 'appointed person' in both Schedule 13 and Schedule 15, the Applicant reviewed the provisions and has amended the time period in paragraph 2(2)(g) of Schedule 15 so that it is consistent with the equivalent provision in Schedule 13(5)(2)(e).<br>This has led to an increase in the determination period for the appointed person in Paragraph 2(2)(g) of Schedule 15 from ten working days to 30 working days. This is to ensure the processes are consistent across the draft DCO. |
| Q1.9.74 | Applicant. | Justification/ amendments sought.<br>Schedule 13 (Procedure for the Discharge of requirements), Paragraph 5 (Appeals) – Paragraph 5(4). This is the first reference to the word 'timetable' in this Schedule with no explanation or interpretation of what is meant by that term. Whilst it might seem obvious, there is potential for misunderstand of the term without clarification and therefore, in the interests of precision the ExA would ask the Applicant to clarify what is meant by the words 'timetable' and 'revised timetable' and amend the DCO document as may be necessary. | Paragraph 5(4) of Schedule 13 should be read in the context of a paragraph setting out the steps of the process where dates have been set, and then information requested, and then dates have been re-set. In this context, the use of the term 'revised timetable' ('timetable' by itself is not used as a term) does not need further clarification.<br>As stated in responses to previous FWQs, the drafting in Schedule 13 is common wording that has been approved without concerns about the clarity and certainty of the wording in The Net Zero Teesside Order 2024. |
| Q1.9.75 | Applicant. | Clarification.<br>Schedule 15 (Appeals to the SoS) – Paragraph 2(2)(b) should appeal documentation also comprise the relevant authorities reason for refusal? Please review and amend, if necessary. | The Applicant would note that the local authority's refusal is only one ground for the undertaker to appeal and the description of appeal documentation in paragraph 2(2)(b) of Schedule 15 (Appeals to the Secretary of State) needs to ensure it covers all the grounds.<br>For clarity, the reference to appeal documentation in paragraph 2(2)(b) has been amended to:<br>'*(comprising the relevant application to the local authority, a copy (where it has been provided to the undertaker) of the local authority's reason for its decision and the undertaker's reasons as to why the appeal should be granted)*'. |
| Q1.9.76 | Applicant. | Clarification**.**<br>Table 4-1 of ES Chapter 4 (Proposed Development) [APP-056] and Schedule 16 (Design Parameters) of the draft DCO [AS-013] provide a maximum height for "Other Production Plant" of 36m aOD. This term is not defined in the draft DCO.<br><br>As such the Applicant is ask to clarify if the term for "Other Production Plant" encompass all other forms of plant proposed for the Main Site, as listed in paragraph 4.3.10 in ES Chapter 4 (Proposed Development) [APP-056], including:<br>Process Water Treatment Plant<br>Demineralisation Plant<br>Bio-treatment Plant<br>Effluent Treatment Plant<br><br>Additionally, the ExA notes Schedule 16 (Design Parameters) of the draft DCO [AS-013] does not include a maximum height parameter for AGIs; this information is provided | "Other production plant" refers to anything that is not specifically listed in Table 4-1 of ES Chapter 4 (Proposed Development), including those items of plant listed in the ExA's question. The maximum height of "other production plant" is 36maOD. The maximum height parameter for the Above Ground Installations (AGIs) is not set out in the Schedule 16 (Design Parameters) to the draft DCO [AS-013] to avoid duplication because the maximum height for the AGIs is set out where relevant as part of Requirement 3 (Detailed Design) in Schedule 2. |

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| | | in Table 4-1 of ES Chapter 4. Please explain why the maximum height parameter for AGIs has not been included in Schedule 16 (Design Parameters) of the draft DCO [AS-013]. | |
| Q1.9.77 | Applicant. | Clarification.<br>Schedule 16 (Design Parameters) – Table 11 shows the flare stack as a 4.0 diameter. However, the ExA notes the Applicant's DAS [APP-034] gives the specification as '4.0 diameter (flare 1.0 and platform 4.0)'.<br>Additionally, Table 11 also shows the $CO_2$ absorber column as '5.5 diameter (top section) 8.5 diameter (bottom section)', whereas the Applicant's DAS [APP-034] gives the specification as '8.5 diameter (bottom section – 0.0 to 30.0m above ground level) 5.5 diameter (top section – 30 to 48.0m above ground level)'<br>Please clarify and amend, as necessary. | The information is correct. The maximum width of the flare stack is 4 metres. However, to clarify, the cylindrical flare itself has a diameter of only 1 metre, while the platform supporting the flare, which is rectangular in shape, has a maximum width of 4 metres. The Applicant has amended the Design Parameters Schedule to the draft DCO at Deadline 2 to remove reference to 'diameter' from the Flare Stack row and has amended the entry to '4.0 (flare 1.0 and platform 4.0)' for clarity.<br><br>The information provided is correct. The CO2 absorber column has a bottom section with a diameter of 8.5 metres, which extends from 0 metres to 30 metres above ground level. Above this, the top section of the column has a diameter of 5.5 metres and extends from 30 metres to 48 metres in height. Therefore, the bottom section is 30 metres tall, and the top section is 18 metres tall, starting from 30 metres above ground level. |
| Q1.9.78 | Applicant. | Clarification.<br>Schedule 16 (Design Parameters) – Table 11 – The $CO_2$ absorber column, as specified in the Applicant's DAS [APP-034] at Table 5.1 in the Maximum Width column states the top section of the column will be 48.0m above ground level, whilst Schedule 16 (Design Parameters), Table 11 specifies in the Maximum Height column a maximum height of 56m aOD. Please explain the different heights specified in the two different table columns. | Above Ordnance Datum (AOD) is defined in ES Chapter 4 Proposed Development [APP-056] at paragraph 4.6.7, where 8 m AOD is regarded as the worst-case scenario. Therefore, there is an 8-metre difference between AOD stated in the draft DCO [AS-013], Table 4-1 in ES Chapter 4 and in the final column of Table 5.1 of the Design and Access Statement [APP-034] and the above ground level (AGL) measurements on the Main Site (56 m and 48 m respectively). |
| Q1.9.79 | Applicant. | Clarification.<br>Schedule 16 (Design Parameters) – Table 11 – the abbreviation ASU is the first and only time it is used in the DCO. As such please use the full wording for this term. | This has been amended to 'Air Separation Unit (ASU)' for greater clarity in the draft DCO submitted at Deadline 2. |

# APPENDIX 1: NET ZERO TEESSIDE POWER STATION AND CARBON CAPTURE PLANT ENVIRONMENTAL PERMIT

# Permit with introductory note

## The Environmental Permitting (England & Wales) Regulations 2016

Net Zero Teesside Power Limited

Net Zero Teesside Power Station and Carbon Capture Plant
Redcar
Cleveland
TS10 5QW

### Permit number

EPR/PP3501LR

# Net Zero Teesside Power Station and Carbon Capture Plant
# Permit number EPR/PP3501LR

## Introductory note

### This introductory note does not form a part of the notice.

The main features of the permit are as follows.

The installation is located on the previous Redcar Steelworks site on the South Bank of the River Tees, approximately 750m west of Warrenby, 1.5km north-west of Dormanstown, and 400m to the south of the North Sea shoreline. There are a number nationally designated ecological sites situated in close proximity to the site including the Teesmouth and Cleveland Coast Site of Special Scientific Interest (SSSI)/ special Protection Area (SPA)/ Ramsar site located approximately 240m north of the site (at its nearest point).

The Installation will comprise of one Combined Cycle Gas Turbine (CCGT) power plant (with a thermal input capacity of approximately 1,400 Megawatts thermal (MWth) with post combustion carbon capture and carbon dioxide ($CO_2$) electrically driven compression plant. The installation will also include electrically powered auxiliary boilers to provide heat/steam during commissioning, start-up, shut-down and maintaining carbon capture equipment in a hot or warm stand-by state when the CCGT is off-line. Emergency gas oil generators will also be used to provide electrical power in the event of interruption of fuel supply and/or simultaneous loss of power generation and external power failure to the site.

The installation will operate under the following Environmental Permitting Regulations (EPR) Schedule 1-Part 2 activities:

- Section 1.1 Part A(1)(a) Burning of fuel in an appliance with a rated thermal input of 50 or more MW;
- Section 6.10 Part A(1): Capture of carbon dioxide streams from an installation for the purposes of geological storage

The installation will generate electricity from the combustion of natural gas within the CCGT. Hot exhaust gases from the combustion process will drive the gas turbine, along with steam generated from the heat of the exhaust gas in the heat recovery steam generator (HRSG). The plant can operate in both $CO_2$ abated and unabated mode. When operating in $CO_2$ abated mode the combustion gases from the CCGT will be pre-treated before entering the carbon capture plant. This treatment will include selective catalytic reduction (SCR) to reduce oxides of nitrogen ($NO_x$) and direct contact cooling to reduce the temperature of the gases. The carbon capture plant will then use an amine-based solvent contained in a packed column to strip $CO_2$ from the exhaust gases via a weak acid-base reaction. The $CO_2$ -depleted exhaust gases will then pass through emissions abatement stages to minimise amine carry over and is then released to atmosphere via the absorber stack (A1). The solvent can accumulate impurities over time, and these are removed via a thermal solvent reclaiming process.

The $CO_2$ is removed from the $CO_2$ rich solvent by heat, using steam taken from the HRSG. The solvent is recirculated within the plant, whilst the $CO_2$ gas passes to the low-pressure compressor where it is compressed to a medium pressure and impurities (moisture, oxygen) are removed before the $CO_2$ is exported to a high pressure (HP) compressor where the $CO_2$ is compressed to a pressure of between 120-160 barg ('dense phase') and introduced into the $CO_2$ export pipeline and offshore permanent storage beneath the North Sea. The HP compressor is a directly associated activity (DAA) to the Section 6.10 Part A(1): carbon capture and storage activity and will be operated by a separate legal entity so has a separate Environmental Permit (EPR/FP3143QN), therefore this a multi-operator installation.

The installation can operate in either baseload or in flexible (dispatchable) mode. Baseload mode power refers to power generation that runs continuously at high levels of power output throughout the year. Dispatchable mode generation refers to highly flexible operation when the CCGT will be on demand and dispatched according to market conditions and requirements. The installation can operate without carbon

capture ($CO_2$ unabated mode) however this will not be the normal mode for the proposed installation. When operating in $CO_2$ unabated mode combustion gases will be released to atmosphere via the HRSG stack (A2). Cooling for the installation will be achieved through the use of mechanical draught cooling towers.

Waste-water and surface water run-off will be discharged to Tees Bay via emission point W1. Effluent from the direct contact cooler will undergo treatment via reverse osmosis on site to remove ammonia, with the resulting treated effluent either being re-used on site or discharged to Tees Bay via emissions point W1.

The requirements of the Industrial Emissions Directive (IED) are given force in England through the Environmental Permitting (England and Wales) Regulations 2016 (the EPR). This permit, for the operation of large combustion plant (LCP), as defined by articles 28 and 29 of the IED, implements the special provisions for LCP given in the IED. The IED makes special provisions for LCP under Chapter III and contains emission limit values (ELVs) applicable to LCP, referred to in Article 30(2) and set out in Annex V.

We have also assessed the permit application for compliance with the revised Best Available Techniques (BAT) Conclusions for the LCP sector published on 31st July 2017 including the incorporation of the relevant BAT Associate Emission Levels (AELs) into the permit.

The status log of a permit sets out the permitting history, including any changes to the permit reference number.

| **Status log of the permit** | | |
|---|---|---|
| **Description** | **Date** | **Comments** |
| Application EPR/PP3501LR/A001 | Duly made 30/06/2022 | Application for 1400MW thermal input Power Station and Carbon Capture Plant |
| Schedule 5 Notice for further information issued | 15/11/2022 | Response received 31/03/2023 & 18/10/2023 |
| Permit determined EPR/PP3501LR | 14/05/2024 | Permit issued to Net Zero Teesside Power Limited |

| **Other Part A installation permits relating to this installation** | | |
|---|---|---|
| **Operator** | **Permit number** | **Date of issue** |
| Net Zero North Sea Storage Limited | FP3143QN | 14/05/2024 |

End of introductory note

# Permit

## The Environmental Permitting (England and Wales) Regulations 2016

### Permit number

**EPR/PP3501LR**

The Environment Agency hereby authorises, under regulation 13 of the Environmental Permitting (England and Wales) Regulations 2016

**Net Zero Teesside Power Limited** ("the operator"),

whose registered office is

**Chertsey Road**
**Sunbury On Thames**
**Middlesex**
**United Kingdom**
**TW16 7BP**

company registration number 12473751

to operate part of an installation at

**Net Zero Teesside Power Station and Carbon Capture Plant**
**Redcar**
**Cleveland**
**TS10 5QW**

to the extent authorised by and subject to the conditions of this permit.

| Name | Date |
|---|---|
| **Daniel Timney** | **14/05/2024** |

Authorised on behalf of the Environment Agency

# Conditions

## 1 Management

### 1.1 General management

1.1.1 The operator shall manage and operate the activities:

(a) in accordance with a written management system that identifies and minimises risks of pollution, including those arising from operations, maintenance, accidents, incidents, non-conformances, closure and those drawn to the attention of the operator as a result of complaints; and

(b) using sufficient competent persons and resources.

1.1.2 Records demonstrating compliance with condition 1.1.1 shall be maintained.

1.1.3 Any person having duties that are or may be affected by the matters set out in this permit shall have convenient access to a copy of it kept at or near the place where those duties are carried out.

### 1.2 Energy efficiency

1.2.1 The operator shall:

(a) take appropriate measures to ensure that energy is used efficiently in the activities;

(b) take appropriate measures to ensure the efficiency of energy generation at the permitted installation is maximised;

(c) review and record at least every four years whether there are suitable opportunities to improve the energy efficiency of the activities; and

(d) take any further appropriate measures identified by a review.

1.2.2 The operator shall review the viability of Combined Heat and Power (CHP) implementation at least every 4 years, or in response to any of the following factors, whichever comes sooner:

(a) new plans for significant developments within 15 km of the installation;

(b) changes to the Local Plan;

(c) changes to the BEIS UK CHP Development Map or similar; and

(d) new financial or fiscal incentives for CHP.

The results shall be reported to the Agency within 2 months of each review, including where there has been no change to the original assessment in respect of the above factors.

### 1.3 Efficient use of raw materials

1.3.1 The operator shall:

(a) take appropriate measures to ensure that raw materials and water are used efficiently in the activities;

(b) maintain records of raw materials and water used in the activities;

(c) review and record at least every four years whether there are suitable alternative materials that could reduce environmental impact or opportunities to improve the efficiency of raw material and water use; and

(d) take any further appropriate measures identified by a review.

## 1.4 Avoidance, recovery and disposal of wastes produced by the activities

1.4.1 The operator shall take appropriate measures to ensure that:

(a) the waste hierarchy referred to in Article 4 of the Waste Framework Directive is applied to the generation of waste by the activities;

(b) any waste generated by the activities is treated in accordance with the waste hierarchy referred to in Article 4 of the Waste Framework Directive; and

(c) where disposal is necessary, this is undertaken in a manner which minimises its impact on the environment.

1.4.2 The operator shall review and record at least every four years whether changes to those measures should be made and take any further appropriate measures identified by a review.

## 1.5 Multiple operator installations

1.5.1 Where the operator notifies the Environment Agency under condition 4.3.1 (a) or 4.3.1 (c), the operator shall also notify without delay the other operator(s) of the installation of the same information.

# 2 Operations

## 2.1 Permitted activities

2.1.1 The operator is only authorised to carry out the activities specified in schedule 1 table S1.1 (the "activities").

## 2.2 The site

2.2.1 The activities shall not extend beyond the site, being the land shown edged in green on the site plan at schedule 7 to this permit, which is within the area edged in blue on the site plan that represents the extent of the installation covered by this permit and that of the other operator of the installation.

## 2.3 Operating techniques

2.3.1 The activities shall, subject to the conditions of this permit, be operated using the techniques and in the manner described in the documentation specified in schedule 1, table S1.2, unless otherwise agreed in writing by the Environment Agency.

2.3.2 For the following activities referenced in schedule 1, table S1.1: LCP687. The activities shall be operated in accordance with the "Electricity Supply Industry IED Compliance Protocol for Utility Boilers and Gas Turbines" dated November 2022 or any later version unless otherwise agreed in writing by the Environment Agency.

2.3.3 If notified by the Environment Agency that the activities are giving rise to pollution, the operator shall submit to the Environment Agency for approval within the period specified, a revision of any plan or other documentation ("plan") specified in schedule 1, table S1.2 or otherwise required under this permit which identifies and minimises the risks of pollution relevant to that plan , and shall implement the approved revised plan in place of the original from the date of approval, unless otherwise agreed in writing by the Environment Agency.

2.3.4 Any raw materials or fuels listed in schedule 2 table S2.1 shall conform to the specifications set out in that table.

2.3.5 For the following activities referenced in schedule 1, table S1.1: LCP687. The end of the start-up period and the start of the shutdown period shall conform to the specifications set out in Schedule 1, tables S1.5.

2.3.6 For the following activities referenced in schedule 1, table S1.1: LCP687. The effective Dry Low NOx threshold shall conform to the specifications set out in Schedule 1, tables S1.2 and S1.6.

2.3.7 For the following activities referenced in schedule 1, table S1.1: LCP687. The following conditions apply where there is a malfunction or breakdown of any abatement equipment:

Unless otherwise agreed in writing by the Environment Agency:

(i) if a return to normal operations is not achieved within 24 hours, the operator shall reduce or close down operations;

(ii) the cumulative duration of breakdown in any 12-month period shall not exceed 120 hours; and

(iii) the cumulative duration of malfunction in any 12-month period shall not exceed 120 hours.

2.3.8 The operator shall ensure that where waste produced by the activities is sent to a relevant waste operation, that operation is provided with the following information, prior to the receipt of the waste:

(a) the nature of the process producing the waste;

(b) the composition of the waste;

(c) the handling requirements of the waste;

(d) the hazardous property associated with the waste, if applicable; and

(e) the waste code of the waste.

2.3.9 The operator shall ensure that where waste produced by the activities is sent to a landfill site, it meets the waste acceptance criteria for that landfill.

## 2.4 Improvement programme

2.4.1 The operator shall complete the improvements specified in schedule 1 table S1.3 by the date specified in that table unless otherwise agreed in writing by the Environment Agency.

2.4.2 Except in the case of an improvement which consists only of a submission to the Environment Agency, the operator shall notify the Environment Agency within 14 days of completion of each improvement.

## 2.5 Pre-operational conditions

2.5.1 The activities shall not be brought into operation until the measures specified in schedule 1 table S1.4 have been completed.

# 3 Emissions and monitoring

## 3.1 Emissions to water, air or land

3.1.1 There shall be no point source emissions to water, air or land except from the sources and emission points listed in schedule 3 tables S3.1, S3.1a, S3.1b, S3.2 and S3.3.

3.1.2 The limits given in schedule 3 shall not be exceeded.

3.1.3 The emission values from emission points A1 and A2 listed in schedule 3 tables S3.1 and S3.1a, measured during periods of abatement equipment malfunction and breakdown shall be disregarded for the purposes of compliance with tables S3.1 and S3.1a emission limit values.

3.1.4 Total annual emissions from the emission points set out in schedule 3 table S3.4 of a substance listed in schedule 3 table S3.4 shall not exceed the relevant limit in table S3.4.

3.1.5 The Operator shall carry out monitoring of groundwater and soil in accordance with IED articles 14(1)(b), 14(1) (e) and 16(2) of the IED to the protocol as detailed in the monitoring and maintenance plan and as approved in writing with the Environment Agency under PO10 in table S1.4.

3.1.6 For the following activities referenced in schedule 1, table S1.1 (AR1) the first monitoring measurements shall be carried out within four months of the issue date of the permit or of the date when the MCP is first put into operation, whichever is later.

## 3.2 Emissions of substances not controlled by emission limits

3.2.1 Emissions of substances not controlled by emission limits (excluding odour) shall not cause pollution. The operator shall not be taken to have breached this condition if appropriate measures, including, but not limited to, those specified in any approved emissions management plan, have been taken to prevent or where that is not practicable, to minimise, those emissions.

3.2.2 The operator shall:

(a) if notified by the Environment Agency that the activities are giving rise to pollution, submit to the Environment Agency for approval within the period specified, an emissions management plan which identifies and minimises the risks of pollution from emissions of substances not controlled by emission limits;

(b) implement the approved emissions management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.

3.2.3 All liquids in containers, whose emission to water or land could cause pollution, shall be provided with secondary containment, unless the operator has used other appropriate measures to prevent or where that is not practicable, to minimise, leakage and spillage from the primary container.

## 3.3 Odour

3.3.1 Emissions from the activities shall be free from odour at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved odour management plan, to prevent or where that is not practicable to minimise the odour.

3.3.2 The operator shall:

(a) if notified by the Environment Agency that the activities are giving rise to pollution outside the site due to odour, submit to the Environment Agency for approval within the period specified, an odour management plan which identifies and minimises the risks of pollution from odour;

(b) implement the approved odour management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.

## 3.4 Noise and vibration

3.4.1 Emissions from the activities shall be free from noise and vibration at levels likely to cause pollution outside the site, as perceived by an authorised officer of the Environment Agency, unless the operator has used appropriate measures, including, but not limited to, those specified in any approved noise and vibration management plan to prevent or where that is not practicable to minimise the noise and vibration.

3.4.2 The operator shall:

(a) if notified by the Environment Agency that the activities are giving rise to pollution outside the site due to noise and vibration, submit to the Environment Agency for approval within the period

specified, a noise and vibration management plan which identifies and minimises the risks of pollution from noise and vibration;

(b) implement the approved noise and vibration management plan, from the date of approval, unless otherwise agreed in writing by the Environment Agency.

## 3.5 Monitoring

3.5.1 The operator shall, unless otherwise agreed in writing by the Environment Agency, undertake the monitoring specified in the following tables in schedule 3 to this permit:

(a) point source emissions specified in tables S3.1, S3.1a, S3.1b and S3.2; and

(b) process monitoring specified in table S3.3.

3.5.2 The operator shall maintain records of all monitoring required by this permit including records of the taking and analysis of samples, instrument measurements (periodic and continuous), calibrations, examinations, tests and surveys and any assessment or evaluation made on the basis of such data.

3.5.3 Monitoring equipment, techniques, personnel and organisations employed for the emissions monitoring programme and the environmental or other monitoring specified in condition 3.5.1 shall have either MCERTS certification or MCERTS accreditation (as appropriate), where available, unless otherwise agreed in writing by the Environment Agency.

3.5.4 Permanent means of access shall be provided to enable sampling/monitoring to be carried out in relation to the emission points specified in schedule 3 tables S3.1, S3.1a and S3.2 unless otherwise agreed in writing by the Environment Agency.

## 3.6 Monitoring for Large Combustion Plant

3.6.1 All monitoring required by this permit shall be carried out in accordance with the provisions of Annex V of the Industrial Emissions Directive and the Large Combustion Plant Best Available Techniques Conclusions.

3.6.2 If the monitoring results for more than 10 days a year are invalidated within the meaning set out in condition 3.6.7, the operator shall:

(a) within 28 days of becoming aware of this fact, review the causes of the invalidations and submit to the Environment Agency for approval, proposals for measures to improve the reliability of the continuous measurement systems, including a timetable for the implementation of those measures; and

(b) implement the approved proposals.

3.6.3 Continuous measurement systems on emission points from the LCP shall be subject to quality control by means of parallel measurements with reference methods at least once every calendar year.

3.6.4 Unless otherwise agreed in writing by the Environment Agency in accordance with condition 3.6.5 below, the operator shall carry out the methods, including the reference measurement methods, to use and calibrate continuous measurement systems in accordance with the appropriate CEN standards.

3.6.5 If CEN standards are not available, ISO standards, national or international standards which will ensure the provision of data of an equivalent scientific quality shall be used, as agreed in writing with the Environment Agency.

3.6.6 Where required by a condition of this permit to check the measurement equipment, the operator shall submit a report to the Environment Agency in writing, within 28 days of the completion of the check.

3.6.7 Where Continuous Emission Monitors are installed to comply with the monitoring requirements in schedule 3, tables S3.1and S3.1a; the Continuous Emission Monitors shall be used such that:

(a) for the continuous measurement systems fitted to the LCP release points defined in table(s) S3.1 and S3.1a the validated hourly, monthly, yearly and daily averages shall be determined from the measured valid hourly average values after having subtracted the value of the 95% confidence interval;

(b) the 95% confidence interval for nitrogen oxides and sulphur dioxide of a single measured result shall be taken to be 20%;

(c) the 95% confidence interval for dust releases of a single measured result shall be taken to be 30%;

(d) the 95% confidence interval for ammonia releases of a single measured result shall be taken to be 40%;

(e) the 95% confidence interval for carbon monoxide releases of a single measured result shall be taken to be 10%;

(f) an invalid hourly average means an hourly average period invalidated due to malfunction of, or maintenance work being carried out on, the continuous measurement system;

(g) any day, in which more than three hourly average values are invalid shall be invalidated;

(h) to allow some discretion for zero and span gas checking, or cleaning (by flushing), an hourly average period will count as valid as long as data has been accumulated for at least:
(i) 20 minutes of the period for open cycle turbines and engines; and

(ii) 40 minutes of the period for all other combustion appliances.

Such discretionary periods are not to exceed more than 5 in any one 24-hour period unless agreed in writing. Where plant may be operating for less than the 24-hour period, such discretionary periods are not to exceed more than one quarter of the overall valid hourly average periods unless agreed in writing.

# 4 Information

## 4.1 Records

4.1.1 All records required to be made by this permit shall:

(a) be legible;

(b) be made as soon as reasonably practicable;

(c) if amended, be amended in such a way that the original and any subsequent amendments remain legible, or are capable of retrieval; and

(d) be retained, unless otherwise agreed in writing by the Environment Agency, for at least 6 years from the date when the records were made, or in the case of the following records until permit surrender:

(i) off-site environmental effects; and

(ii) matters which affect the condition of the land and groundwater.

4.1.2 The operator shall keep on site all records, plans and the management system required to be maintained by this permit, unless otherwise agreed in writing by the Environment Agency.

## 4.2 Reporting

4.2.1 The operator shall send all reports and notifications required by the permit to the Environment Agency using the contact details supplied in writing by the Environment Agency.

4.2.2 A report or reports on the performance of the activities over the previous year shall be submitted to the Environment Agency by 31 January (or other date agreed in writing by the Environment Agency) each year. The report(s) shall include as a minimum:

(a) a review of the results of the monitoring and assessment carried out in accordance with the permit including an interpretive review of that data;

(b) the resource efficiency metrics set out in schedule 4 table S4.2;

(c) the performance parameters set out in schedule 4 table S4.3 using the forms specified in table S4.4 of that schedule;

(d) where condition 2.3.7 applies, the cumulative duration of breakdown and cumulative duration of malfunction in any 12 month period; and

(e) The function and monitoring of the carbon capture plant in a format agreed with the Environment Agency. The report shall, as a minimum requirement give an account of the running of the process (including a summary of records of process monitoring requirements of table S3.3), the emissions into air compared with the emission limits in table S3.1 and S3.1a, and details of the waste generated.

4.2.3 Within 28 days of the end of the reporting period the operator shall, unless otherwise agreed in writing by the Environment Agency, submit reports of the monitoring and assessment carried out in accordance with the conditions of this permit, as follows:

(a) in respect of the parameters and emission points specified in schedule 4 table S4.1;

(b) for the reporting periods specified in schedule 4 table S4.1 and using the forms specified in schedule 4 table S4.4; and

(c) giving the information from such results and assessments as may be required by the forms specified in those tables.

4.2.4 The operator shall, unless notice under this condition has been served within the preceding four years, submit to the Environment Agency, within six months of receipt of a written notice, a report assessing whether there are other appropriate measures that could be taken to prevent, or where that is not practicable, to minimise pollution.

4.2.5 Within 10 days of the notification of abatement equipment malfunction or breakdown (condition 2.3.7) the operator shall submit an Air Quality Risk Assessment as outlined in the IED Compliance Protocol (condition 2.3.2).

## 4.3 Notifications

4.3.1 In the event:

(a) that the operation of the activities gives rise to an incident or accident which significantly affects or may significantly affect the environment, the operator must immediately—

(i) inform the Environment Agency,

(ii) take the measures necessary to limit the environmental consequences of such an incident or accident, and

(iii) take the measures necessary to prevent further possible incidents or accidents;

(b) of a breach of any permit condition the operator must immediately—

(i) inform the Environment Agency, and

(ii) take the measures necessary to ensure that compliance is restored within the shortest possible time;

(c) of a breach of permit condition which poses an immediate danger to human health or threatens to cause an immediate significant adverse effect on the environment, the operator must

immediately suspend the operation of the activities or the relevant part of it until compliance with the permit conditions has been restored.

(d) of any malfunction or breakdown of abatement equipment relating to condition 2.3.7, the operator shall notify the Environment Agency within 48 hours unless notification has already been made under (a) to (c) above.

4.3.2 Any information provided under condition 4.3.1 shall be confirmed by sending the information listed in schedule 5 to this permit within the time period specified in that schedule.

4.3.3 Where the Environment Agency has requested in writing that it shall be notified when the operator is to undertake monitoring and/or spot sampling, the operator shall inform the Environment Agency when the relevant monitoring and/or spot sampling is to take place. The operator shall provide this information to the Environment Agency at least 14 days before the date the monitoring is to be undertaken.

4.3.4 The Environment Agency shall be notified within 14 days of the occurrence of the following matters, except where such disclosure is prohibited by Stock Exchange rules:

Where the operator is a registered company:

(a) any change in the operator's trading name, registered name or registered office address; and

(b) any steps taken with a view to the operator going into administration, entering into a company voluntary arrangement or being wound up.

Where the operator is a corporate body other than a registered company:

(c) any change in the operator's name or address; and

(d) any steps taken with a view to the dissolution of the operator.

In any other case:

(e) any change in the operator's name(s) or address(es); and

(f) any steps taken with a view to the operator, or any one of them, going into bankruptcy, entering into a composition or arrangement with creditors, or, in the case of them being in a partnership, dissolving the partnership.

4.3.5 Where the operator proposes to make a change in the nature or functioning, or an extension of the activities, which may have consequences for the environment and the change is not otherwise the subject of an application for approval under the Regulations or this permit:

(a) the Environment Agency shall be notified at least 14 days before making the change; and

(b) the notification shall contain a description of the proposed change in operation.

4.3.6 The Environment Agency shall be given at least 14 days notice before implementation of any part of the site closure plan.

4.3.7 Where the operator has entered into a climate change agreement with the Government, the Environment Agency shall be notified within one month of:

(a) a decision by the Secretary of State not to re-certify the agreement;

(b) a decision by either the operator or the Secretary of State to terminate the agreement; and

(c) any subsequent decision by the Secretary of State to re-certify such an agreement.

4.3.8 The operator shall inform the Environment Agency in writing of the closure of any LCP within 28 days of the date of closure.

## 4.4 Interpretation

4.4.1 In this permit the expressions listed in schedule 6 shall have the meaning given in that schedule.

4.4.2 In this permit references to reports and notifications mean written reports and notifications, except where reference is made to notification being made “without delay” or “immediately”, in which case it may be provided by telephone.

# Schedule 1 – Operations

| Table S1.1 activities | | | |
|---|---|---|---|
| **Activity reference** | **Activity listed in Schedule 1 of the EP Regulations** | **Description of specified activity** | **Limits of specified activity** |
| AR1 | Section 1.1 Part A(1) (a): Burning any fuel in an appliance with a rated thermal input of 50 megawatts or more. | LCP687 (CCGT mode): Operation of a combined cycle gas turbine power plant (CCGT) burning gas to produce electricity (approximately 1400$MW_{th}$) | From receipt of natural gas to discharge of exhaust gases (emission points A1 and A2) and wastes, and the generation of electricity and steam for use in the Heat Recovery Steam Generator (HRSG), steam turbine and carbon capture plant. |
| | | Emergency gas oil generators to provide electrical power in the event of interruption of fuel supply and/or simultaneous loss of power generation and external power failure to the site. Schedule 25A – Medium Combustion Plant (MCP) and Specified generator that is excluded. | Emergency generators, as approved in response to pre-operational condition PO5, operated for the purpose of testing for no more than 1 hour per month per engine and no more than 500 hours operation per year in an emergency.<br>Only one generator shall be tested at a time unless otherwise agreed in writing with Environment Agency.<br>From receipt of gas oil to discharge of exhaust gases to emission point A3, and generation of electricity for emergency use at the installation only. |
| AR2 | Section 6.10 Part A(1): Capture of carbon dioxide streams from an installation for the purposes of geological storage | Operation of a carbon capture plant involving the treatment of exhaust gas from the HRSG into the capture plant using an amine-based solvent to extract $CO_2$ followed by compression, oxygen removal and dehydration of the $CO_2$ for off-site transportation and long-term storage, and release of $CO_2$-abated flue gas to atmosphere. | From receipt of exhaust gases from the HRSG in the carbon capture plant to the treatment of exhaust gas prior to export of $CO_2$ from the installation; release to atmosphere of treated exhaust gases from emission points A1; or venting of $CO_2$ from emission point A4. |

| Table S1.1 activities | | | |
|---|---|---|---|
| **Activity reference** | **Activity listed in Schedule 1 of the EP Regulations** | **Description of specified activity** | **Limits of specified activity** |
| | **Directly Associated Activity** | | |
| AR3 | Directly associated activity | Storage of gas oil for use in emergency gas oil generators. | From receipt of raw materials to dispatch for use. |
| AR4 | Directly associated activity | Water treatment – The pumping, filtering and chemical treatment of raw water from 3rd party supply for use in the cooling water circuit, capture plant and boiler (steam cycle). | From receipt of raw materials to dispatch to chemical effluent and dirty water system. |
| AR5 | Directly associated activity | Electric auxiliary boiler providing steam/heat for use within the carbon capture plant. | |
| AR6 | Directly associated activity | Discharge to Tees Bay of cooling water blow-down, steam condensate, treated direct contact cooler effluent and surface water run-off. | From collection of effluents and surface water run-off to discharge at emission point W1. |
| AR7 | Directly associated activity | Treatment of effluent from the direct contact cooler using reverse osmosis. | From the receipt of effluent from the direct contact cooler to treatment and release at W2 to emission point W1. |

| Table S1.2 Operating techniques | | |
|---|---|---|
| **Description** | **Parts** | **Date Received** |
| Application EPR/PP3501LR/A001 | Responses to question in Part B3 of the application form and Appendix 1<br><br>Non-technical summary, supporting document and appendices<br><br>Response to request for information for duly making dated 22/04/2022 - Response to questions 2, 4, 5 and 6 | Duly made 30/06/2022 |
| Response to Schedule 5 Notice issued on 15/11/2022 | Response to questions 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27 and 28<br><br>$CO_2$ Venting Modelling Assessment V4 | 31/03/2023 & 18/10/2023 |
| Response to information request made on 02/02/2023 via email | Additional information on viability of heat recovery from Direct Contact Cooler; and a Sankey Diagram. | 31/03/2023 |
| Response to information request made on 15/02/2023 via email | Additional information on proposed effluent treatment plant | 31/03/2023 |
| Response to information request made on 28/03/2023 & 04/05/2023 via email | Additional information on proposed discharge to Tees Bay | 29/03/2023 & 08/05/2023 |
| Response to information request made on 09/05/2023 via email | Additional information on key features of the CO2 venting systems | 24/05/2023 |
| Response to information request made on 16/05/2023 via email | Clarification on proposed use of Selective Catalytic Reduction (SCR) | 16/05/2023 |
| Additional Information | Technical Note to the Environment Agency on $CO_2$ Capture Rates | 11/07/2023 |
| Response to information request made on 05/07/2023 via email | BAT Assessment for Effluent Treatment | 29/08/2023 |
| Additional Information | Updated Technical Note to the Environment Agency and Natural England on Nitrogen Deposition – Dated 18/03/2024 | 18/03/2024 |

| Table S1.3 Improvement programme requirements | | |
|---|---|---|
| **Reference** | **Requirement** | **Date** |
| IC1 | **MSUL and MSDL**<br>The Operator shall submit a written report in writing to the Environment Agency for assessment and written approval to define the "minimum start up load" (MSUL) and "minimum shut-down load" (MSDL) for LCP687.<br>The report shall include a written justification as required by the Implementing Decision 2012/249/EU in terms of:<br>i. the output load (i.e. electricity, heat or power generated) (MW); and<br>ii. the output load as a percentage of the rated thermal output of the combustion plant (%).<br>And / Or<br>iii. at least three criteria (operational parameters and / or discrete processes as detailed in the Annex) or equivalent operational parameters that suit the technical characteristics of the plant, which can be met at the end of start-up or start of shut-down as detailed in Article (9) 2012/249/EU. | Within 12 months of the date on which fuel is first burnt |
| IC2 | **Net rated thermal input**<br>The Operator shall submit a written report to the Environment Agency for assessment and written which provides the net rated thermal input for LCP687.<br>Evidence to support this figure, in order of preference, shall be in the form of:-<br>a) performance test results* during contractual guarantee testing or at commissioning (quoting the specified standards or test codes),<br>b) manufacturer's contractual guarantee value,<br>c) published reference data, e.g., Gas Turbine World Performance Specifications (published annually);<br>d) design data, e.g., nameplate rating of a boiler or design documentation for a burner system;<br>e) operational efficiency data as verified and used for heat accountancy purposes;<br>f) data provided as part of Due Diligence during acquisition,<br>*Performance test results shall be used if these are available. | Within 12 months of the date on which fuel is first burnt |
| IC3 | **SCR optimisation**<br>The Operator shall submit a written report to the Environment Agency for assessment and written approval describing the performance and optimisation of the Selective Catalytic Reduction (SCR) system and combustion settings to minimise oxides of nitrogen (NOx) emissions within the emission limit values described in this permit with the minimisation of nitrous oxide ($N_2O$) emissions. The report shall include an assessment of the level of NOx and $N_2O$ emissions that can be achieved under optimum operating conditions. | Within 4 months of the completion of commissioning. |

| Table S1.3 Improvement programme requirements | | |
|---|---|---|
| **Reference** | **Requirement** | **Date** |
| IC4 | **Commissioning**<br>The Operator shall submit a written report to the Environment Agency for assessment and written approval on the commissioning of the installation. The report shall summarise the environmental performance of the installation as set out in the commissioning plan required by pre operational condition PO2 in table S1.4 of this permit.<br>The report shall include:<br>• a summary of the environmental performance of the plant as installed against the design parameters and risk assessments set out in the application and updated in response to the pre-operational conditions in this permit;<br>• a review of the performance of the facility against the conditions of this permit and details of procedures developed during commissioning for achieving and demonstrating compliance with permit conditions and confirm that the Environmental Management System (EMS) has been updated accordingly. | Within 3 months of the completion of commissioning. |
| IC5 | **Monitoring location**<br>The Operator shall submit a written report to the Environment Agency for assessment and written approval on the assessment of air emissions monitoring locations A1 and A2 during commissioning of the installation.<br>The report shall include:<br>• whether the air monitoring locations meet the requirements of BS EN 15259 and supporting Method Implementation Document (MID).<br>• the results and conclusions of the assessment including where necessary proposals for improvements to meet the requirements.<br>Where notified in writing by the Environment Agency that the requirements are not met, the Operator shall submit proposals or further proposals for rectifying this in accordance with timescale in the notification.<br>The proposals shall be implemented in accordance with Environment Agency's written approval. | Before the installation is commissioned |

| Table S1.3 Improvement programme requirements | | |
|---|---|---|
| **Reference** | **Requirement** | **Date** |
| IC6 | **Monitoring exercise at W1**<br>The Operator shall carry out a monitoring exercise on the final discharge to Tees Bay at emission point W1 when the site is fully operational. The Operator shall monitor the final effluent discharge to Tees Bay at least once a month for at least 12 consecutive months for the full suite of pollutants that have been modelled in the Water Quality Risk Assessment submitted and approved in accordance with PO6 in table S1.4 of this permit. The monitoring shall be carried out in accordance with relevant Environment Agency Guidance:<br>Monitoring discharges to water: guidance on selecting a monitoring approach - GOV.UK (www.gov.uk)<br>Monitoring discharges to water: CEN and ISO monitoring methods - GOV.UK (www.gov.uk)<br>Monitoring discharges to water: alternative monitoring methods - GOV.UK (www.gov.uk)<br>Monitoring discharges to water: analytical quality control charts - GOV.UK (www.gov.uk) | Within 14 months of completion of commissioning or as agreed in writing with the Environment Agency |
| IC7 | **Monitoring exercise at W1 – review**<br>The Operator shall submit a written report to the Environment Agency for assessment and written approval detailing the results of the monitoring exercise (IC6) and the conclusions from the review.<br><br>Following completion of the monitoring exercise completed in accordance with IC6 in this table the Operator shall use the discharge monitoring results to review and verify the conclusions of the existing Water Quality Risk Assessment. | Within 2 months from the completion of IC6 or as agreed in writing with the Environment Agency |
| IC8 | **Dry low NOx**<br>The operator shall submit a written report to the Environment Agency for assessment and written approval to define when dry low NOx operation is effective.<br>The report shall include:<br>• an output load or operational parameters to justify when the dry low $NO_x$ operation is effective.<br>• the $NO_x$ profile through effective dry low $NO_x$ to 70% and then to full load.<br>See Note 1 in this table. | Within 4 months of the completion of commissioning |
| IC9 | **NOx and CO emissions**<br>The operator shall submit a written report to the Environment Agency for assessment and written approval on their proposed achievable emission limit values (ELVs) for $NO_x$ and CO.<br>ELVs shall be expressed as a daily mean of validated hourly averages from minimum start-up load (MSUL) to baseload, supported by a summary of emissions data.<br>See Note 2 in this table. | Within 6 months of the completion of commissioning |

| Table S1.3 Improvement programme requirements | | |
|---|---|---|
| **Reference** | **Requirement** | **Date** |
| IC10 | **Carbon capture efficiency**<br>The Operator shall submit a written report to the Environment Agency for assessment and written approval detailing the carbon capture efficiency of the Carbon Capture Plant and CCGT under normal operating conditions (calculated using the methodology as approved in accordance with PO2 in table S1.4 of this permit) averaged over one year of operation as specified in table S3.3 of this permit.<br><br>Should the normal operating conditions carbon capture efficiency reported be less than the design capture performance specification of 95%, the Operator shall carry out an analysis of the issues affecting the performance of the plant with respect to achievement of the 95% carbon capture rate and either;<br><br>• propose remedial actions for approval by the Environment Agency designed to improve capture efficiency, or;<br>• provide an acceptable justification to the Environment Agency that a 95% capture rate is not reasonably achievable and that no further remedial action is to be taken. | Within 15 months from the completion of commissioning. |
| IC11 | **Monitoring**<br>The Operator shall submit a written report to the Environment Agency for assessment and written approval with reference to the monitoring requirements set in table S3.1 of this permit.<br><br>The report must contain:<br><br>• the results of tests carried out for species to be considered for bi-annual monitoring<br>• assessment of the results and conclusions of the assessment<br>• proposals to change monitoring to bi-annual<br><br>The proposals shall be implemented in accordance with Environment Agency's written approval. | At least 3 months prior to the proposed start of bi-annual monitoring |
| IC12 | **Solvent degradation**<br><br>The Operator shall submit a written report to the Environment Agency for assessment and written approval on the degradation of absorber solvent quality. The report shall review the findings from the monitoring of absorber solvent quality over 12 months of operation, including but not limited to the monitoring carried out in accordance with table S3.3 of this permit. The report shall include:<br><br>• an investigation into the reasons for solvent degradation and how degradation effects the performance of the plant over time.<br>• a review of the options for reducing the rate of solvent degradation; and proposals for the implementation of any measures identified from the review.<br><br>The proposals shall be implemented in accordance with Environment Agency's written approval. | 15 months from the completion of commissioning |

| Table S1.3 Improvement programme requirements | | |
|---|---|---|
| **Reference** | **Requirement** | **Date** |
| Note 1: Effective dry low $NO_x$ thresholds are defined in table S1.6 of this permit, until IC8 has been completed compliance with ELVs will be based on 70% to baseload.<br><br>Note 2: This ELV applies when the load varies between MSUL/MSDL and base load during the daily reference period. MSUL and MSDL are defined in table S1.5 of this permit. | | |

| Table S1.4 Pre-operational measures | |
|---|---|
| **Reference** | **Pre-operational measures** |
| PO1 | **EMS**<br><br>Prior to the commencement of commissioning, the Operator shall send a summary of the site EMS to the Environment Agency and make available for inspection all documents and procedures which form part of the EMS. The EMS shall be developed in line with the requirements set out in Environment Agency web guide on developing a management system for environmental permits (found on www.gov.uk).<br>The documents and procedures set out in the EMS shall form the written management system referenced in condition 1.1.1 (a) of the permit. |
| PO2 | **Commissioning plan**<br>At least 3 months prior to the commencement of commissioning, the Operator shall submit a written commissioning plan, including timelines for completion, for assessment and written approval by the Environment Agency. The commissioning plan shall include, but not be limited to:<br>• the timelines for the commissioning and the expected durations of these activities.<br>• the expected emissions to the environment during the different stages of commissioning; risk assessment demonstrating that the environmental risks are not significant throughout all the phases of commissioning; the expected durations of commissioning activities and the actions to be taken to protect the environment and report to the Environment Agency in the event that actual emissions exceed expected emissions.<br>• proposal for the validation of the approved noise assessment that is submitted in response to pre-operational condition PO4 in this table.<br>• a methodology for approval to demonstrate the carbon capture efficiency of the plant. The approved methodology shall be used to demonstrate the carbon capture efficiency of the plant as part of the commissioning activities, and, after the commissioning phase, for process monitoring and reporting purposes in compliance with the conditions of the permit.<br>• a methodology for approval for quantifying total mass of $CO_2$ emissions during short duration venting that may be required during the start-up sequence of the carbon capture plant and during other than normal operating conditions.<br><br>The commissioning activities shall be carried out in accordance with the commissioning plan approved by the Environment Agency. |

| Table S1.4 Pre-operational measures | |
|---|---|
| **Reference** | **Pre-operational measures** |
| PO3 | **Recovery of heat**<br><br>Prior to the commencement of commissioning, the Operator shall submit a report for assessment and written approval by the Environment Agency. The report shall contain a comprehensive review of the options available for utilising the heat generated by the combustion process and carbon capture plant in order to ensure that it is recovered as far as practicable. The review shall detail any identified proposals for improving the recovery and utilisation of waste heat and shall provide a timetable for their implementation. |
| PO4 | **Noise Impact Assessment (NIA)**<br><br>Following the completion of the final design of the Installation and at least 6 months prior to the commencement of commissioning the Operator shall submit an updated NIA for assessment and written approval by the Environment Agency. The NIA shall be in accordance with BS4142:2014 (Rating industrial noise affecting mixed residential and industrial areas) or other methodology as agreed with the Environment Agency. The assessment shall be based on the final design of the installation and include consideration of $CO_2$ venting as a noise source. |
| PO5 | **Emergency gas oil generators**<br><br>Following the completion of the final design of the installation and at least 6 months prior to the commencement of commissioning the Operator shall submit a report for assessment and written approval by the Environment Agency for the emergency gas oil generators.<br><br>The report shall include:<br><br>• the number, size (MWth) and emission point locations<br><br>• an updated emissions to air risk assessment (including air dispersion modelling), for emissions of combustion gases from the proposed generators based on the final design of the installation. The assessment shall follow the methodology set out in Environment Agency guidance https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit.<br><br>• In the event that the assessment shows that impacts will lead to the exceedance of an environmental standard for air quality and/or relevant critical level or critical load at a relevant conservation/habitat site (as defined in Environment Agency https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit.) then the Operator shall submit proposals for approval for appropriate emissions abatement. |
| PO6 | **Water Quality Assessment W1**<br><br>Following the completion of the final design of the installation and at least 6 months prior to the commencement of discharges of effluent and surface water runoff to Tees Bay from emission point W1, the Operator shall submit an updated Water Quality Assessment for assessment and written approval by the Environment Agency. The assessment shall be written in accordance with Environment Agency guidance Surface water pollution risk assessment for your environmental permit - GOV.UK (www.gov.uk) and H1 annex D2: assessment of sanitary and other pollutants in surface water discharges - GOV.UK (www.gov.uk) |

| Table S1.4 Pre-operational measures | |
|---|---|
| **Reference** | **Pre-operational measures** |
| PO7 | **Drainage plan**<br><br>Following the completion of the final design of the installation and at least 6 months prior to the commencement of commissioning the Operator shall submit to the Environment Agency a drainage plan based on the final design of the installation. |
| PO8 | **$CO_2$ assessment**<br><br>Following the completion of the final design of the Installation and at least 12 months prior to the commencement of commissioning the Operator shall submit a report for assessment and written approval by the Environment Agency. The report shall include:<br><br>• An updated assessment of the impact of $CO_2$ emissions on human health from the short duration venting that may be required during the start-up sequence of the carbon capture plant, during other than normal operating conditions and plant commissioning. The assessment shall be carried out in accordance with environmental risk assessment methodology set out in Environment Agency guidance https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit, with impacts compared with $CO_2$ acute exposure levels to humans.<br><br>• A management plan detailing operating techniques to minimise potential $CO_2$ phase changes, solid effects and dense gas behaviour when venting $CO_2$ atmosphere. |
| PO9 | **Baseline conditions**<br><br>At least 6 months prior to the commencement of commissioning the Operator shall submit an updated report for assessment and written approval by the environment Agency on the baseline conditions of soil and groundwater at the installation. The report shall contain:<br><br>• the information necessary to determine the state of soil and groundwater contamination so as to make a quantified comparison with the state upon definitive cessation of activities provided for in Article 22(3) of the IED.<br><br>• all information needed to meet the information requirements of the EA H5 Site Condition Report Guidance Environmental permitting: H5 Site condition report - GOV.UK (www.gov.uk); and Article 22(2) of the IED including European Commission Guidance Note Concerning Baseline Reports under Article 22(2) (2014/C 136/03).<br><br>The report shall be implemented in accordance with that agreed with the Environment Agency. |

| Table S1.4 Pre-operational measures | |
|---|---|
| **Reference** | **Pre-operational measures** |
| PO10 | **Monitoring and maintenance plan**<br><br>At least 6 months prior to the commencement of commissioning the Operator shall submit a written protocol for assessment and written approval by the Environment Agency in the form of a monitoring and maintenance plan for the monitoring of soil and groundwater.<br><br>The protocol shall demonstrate how the Operator will meet the requirements of Articles 14(1)(b), 14(1)(e) and 16(2) of the IED, the Water Framework Directive and Groundwater Daughter Directive<br><br>As a minimum the plan should include but not be limited to the following;<br><br>• proposals for monitoring of soil quality;<br>• identification of monitoring points;<br>• sample collection methodology;<br>• sampling frequency;<br>• laboratory testing;<br>• baseline soil and groundwater quality;<br>• maintenance, inspection and contingency proposals;<br>• robust justification for the duration of periodic monitoring of soils and groundwater through a systematic appraisal of the risk of contamination and reporting requirements.<br><br>This plan should also provide a methodology for the appropriate decommissioning of any redundant historic or current ground investigation boreholes present on the site which have been installed but which are not required for monitoring purposes.<br><br>The procedures above shall be implemented in accordance with the written approval from the Environment Agency. |
| PO11 | **Boreholes**<br><br>At least 3 months prior to the commencement of commissioning the Operator shall submit a validation report detailing how redundant historic and current ground investigation boreholes have been decommissioned for approval of the Environment Agency. |
| PO12 | **Air quality assessment**<br><br>Following the completion of the final design of the installation and at least 6 months prior to the commencement of commissioning the Operator shall submit an updated air quality assessment (for emission points A1 and A2) for assessment and written approval by the Environment Agency.<br><br>The assessment shall review and update the air quality risk assessment submitted with the permit application and be carried out in accordance with environmental risk assessment methodology set out in Environment Agency guidance https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-permit. |

| Table S1.4 Pre-operational measures | |
|---|---|
| **Reference** | **Pre-operational measures** |
| PO13 | **PCC other than normal operating conditions (OTNOC) plan**<br><br>Following the completion of the final design of the Installation and at least 6 months prior to the commencement of commissioning the Operator shall submit to the Environment Agency for assessment and written approval a post combustion carbon capture (PCC) plant OTNOC management plan. The plan shall set out any potential 'other than normal operating conditions (OTNOC)' for the PCC plant, taking into consideration both internal and external causes of OTNOC. OTNOC shall include periods of start-up and shut-down and the plan shall detail measures to (i) minimise the occurrence of OTNOC that are within operator control except for periods of start-up and shut-down associated with dispatchable power generation; and (ii) reduce the impact of all OTNOC events.<br><br>The plan shall also set out proposals for measuring and reporting carbon capture performance during periods of start-up and shut down; and proposals for reviewing and optimising capture performance periodically so capture rates are as high as reasonably practical during these periods. |
| PO14 | **Process monitoring methods**<br><br>Following the completion of the final design of the installation and at least 6 months prior to the commencement of commissioning the Operator shall submit to the Environment Agency for assessment and written approval methodologies for the following process monitoring requirements for absorber amine solvent quality as required in table S3.3 of this permit:<br><br>• percent active amine (MEA)<br>• carbon dioxide loading (rich amine)<br>• heat stable salts<br>• soluble iron concentration (rich and lean amine)<br>• colour |
| PO15 | **Emissions to Air**<br><br>Following the completion of the final design of the Installation and at least 6 months prior to the prior to the first combustion of a fuel or first firing the Operator shall submit to the Environment Agency for approval in writing a report proposing annual mass emissions limits or operating techniques, with associated calculation and reporting methods for parameters which could contribute to nutrient nitrogen deposition at the Coatham Dunes area of the Teesmouth and Cleveland Coast Site of Special Scientific Interest (SSSI). Compliance with the limits or operating techniques shall ensure that nutrient nitrogen deposition rates at this receptor do not exceed 1% of the lower end of the critical load range for nutrient nitrogen deposition. |

| Table S1.5 Start-up and Shut-down thresholds | | |
|---|---|---|
| **Emission Point and Unit Reference** | **"Minimum Start-Up Load"**<br>**Load in MW and as percent of rated power output (%)** | **"Minimum Shut-Down Load"**<br>**Load in MW and as percent of rated power output (%)** |
| A2 LCP687 Unit1 | To be agreed in writing by the Environment Agency, following the outcome of improvement condition IC1 in table S1.3 of this permit. | To be agreed in writing by the Environment Agency, following the outcome of improvement condition IC1 in table S1.3 of this permit |

| Table S1.6 Dry Low NOx effective definition | |
|---|---|
| **Emission Point and Unit Reference** | **Dry Low NOx effective definition**<br>**Load in MW and as percent of rated power output (%)** |
| A2 LCP287 Unit1 | Load: As approved in accordance with IC8 in table S1.3 of this permit. |

# Schedule 2 – Raw materials and fuels

| Table S2.1 Raw materials and fuels | |
|---|---|
| **Raw materials and fuel description** | **Specification** |
| Gas oil | Not exceeding 0.1% w/w sulphur content |
| Monoethanolamine (MEA) | Diethanolamine (DEA) not exceeding 0.2% content (unless otherwise agreed with the Environment Agency). |

# Schedule 3 – Emissions and monitoring

| Table S3.1 Point source emissions to air for CCGT operating with carbon capture ($CO_2$ abated mode). | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point reference** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| A1 as shown on site plan in Schedule 7. | Oxides of nitrogen (NO and $NO_2$ expressed as $NO_2$) | Absorber stack | 34 $mg/m^3$<br>Effective DLN to baseload [Note 4] | Yearly average | Continuous | BS EN 14181 |
| | | | 51.7 $mg/m^3$<br>Effective DLN to baseload [Note 4] | Monthly mean of validated hourly averages | | |
| | | | 45.8 $mg/m^3$<br>Effective DLN to baseload [Note 3]<br>To be confirmed following completion of IC1 MSUL/MSDL to base load [Note 3] | Daily mean of validated hourly averages | | |
| | | | 103.3 $mg/m^3$<br>Effective DLN to baseload [Note 4] | 95% of validated hourly averages within a calendar year | | |
| | Carbon monoxide | | 34.4 $mg/m^3$<br>Effective DLN to baseload [Note 4] | Yearly average | | |
| | | | 103.3 $mg/m^3$<br>Effective DLN to baseload [Note 4] | Monthly mean of validated hourly averages | | |

| Table S3.1 Point source emissions to air for CCGT operating with carbon capture ($CO_2$ abated mode). | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point reference** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| | | | 113.7 mg/m$^3$<br>Effective DLN to baseload [Note 4]<br>To be confirmed following completion of IC1 MSUL/MSDL to base load [Note 3] | Daily mean of validated hourly averages | | |
| | | | 206.7 mg/m$^3$<br>Effective DLN to baseload [Note 4] | 95% of validated hourly averages within a calendar year | | |
| | Sulphur dioxide | | - | - | At least every 6 months | Concentration by calculation, as agreed in writing with the Environment Agency |
| | Sulphur Trioxide | | - | Daily average or average over the sampling period | Once every year | As agreed in writing with the Environment Agency |
| | Oxygen | | No limit | - | Continuous as appropriate to reference | BS EN 14181 |
| | Water vapour | | | | Continuous as appropriate to reference [Note1] | |
| | Stack gas temperature | | | | Continuous as appropriate to reference | Traceable to national standards |
| | Stack gas pressure | | | | Continuous as appropriate to reference | |

| Table S3.1 Point source emissions to air for CCGT operating with carbon capture ($CO_2$ abated mode). | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point reference** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| | Carbon dioxide | | | | Continuous as appropriate to reference | BS EN 14181 |
| | Stack gas volume flow | | | | Continuous | BS EN 16911 |
| | As required by the Method Implementation Document for BS EN 15259 (Homogeneity test) | | - | - | Pre-operation and when there is a significant operational change | BS EN 15259 |
| | Ammonia | | 3 $mg/m^3$ | Annual Average | Continuous | BS EN 14181 |
| | Formaldehyde | | 0.5 $mg/m^3$ | Average over the sampling period | Monthly until the requirements of IC11 have been agreed, then as bi-annual. | Isokinetic<br>CEN TS 17638 |
| | Acetaldehyde | | 5.3 $mg/m^3$ | | | Isokinetic based on<br>CEN TS 17638 |
| | Total amines (expressed as MEA)<br>CAS No 141-43-5 | | 1 $mg/m^3$ | | | Isokinetic impinger method based on EN 14791 to be agreed with the EA in writing |
| | Monoethanolamine (MEA)<br>CAS No 141-43-5 | | No limit set | | | |
| | Ethylamine (EA)<br>CAS No 75-04-7 | | | | | |
| | Methyl diethanolamine (MDEA)<br>CAS No 105-59-9 | | | | | |
| | Diethanolamine (DEA)<br>CAS No 111-42-2 | | | | | |
| | Dimethylamine (DMA)<br>CAS No 124-40-3 | | | | | |

| Table S3.1 Point source emissions to air for CCGT operating with carbon capture ($CO_2$ abated mode). | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point reference** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| | Morpholine (MOR)<br>CAS No 110-91-8 | | | | | |
| | Monomethylamine (MMA)<br>CAS No 74-89-5 | | | | | |
| | 2-(ethylamine) ethanol<br>CAS No 110-73-6 | | | | | |
| | Total nitrosamines expressed as N-nitrosodimethylamine (NDMA)<br>CAS No. 62-75-9 | | 0.002 $mg/m^3$ | | | |
| | N-nitrosodimethylamine<br>CAS No. 62-75-9 | | No limit set | | | |
| | N-nitrosomorpholine<br>CAS No. 59-89-2 | | | | | |
| | N-nitrosomethylethylamine<br>CAS No. 65-75-9 | | | | | |
| | N-nitrosodiethylamine<br>CAS No. 55-18-5 | | | | | |
| | N-nitrosodiisopropylamine<br>CAS No. 601-77-4 | | | | | |
| | N-nitrosodipropylamine<br>CAS No. 621-64-7 | | | | | |
| | N-nitrosodibutylamine<br>CAS No. 924-16-3 | | | | | |
| | N-nitrosodibenzylamine<br>CAS No. 5335-53-8 | | | | | |
| | N-(2-hydroxyethyl)ethylenediamine<br>CAS No. 111-41-1 | | | | | |
| | N-nitrosomorpholine<br>CAS No. 59-89-2 | | | | | |

| Table S3.1 Point source emissions to air for CCGT operating with carbon capture ($CO_2$ abated mode). | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point reference** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| | N-nitrosodiethanolamine (NDELA) 1116-54-<br>CAS No. 1116-54-7 | | | | | |
| | N-nitrosomethylethylamine<br>CAS No. 10595-95-6 | | | | | |
| | N-nitrosopyrrolidine<br>CAS No. 930-55-2 | | | | | |
| | N-nitrosodibenzylamine<br>CAS No. 5336-53-8 | | | | | |
| A4- location(s) as agreed in accordance with Pre-Operational Condition PO8 in table S1.4 of this permit. | $CO_2$ Vent(s) | Carbon dioxide | No limit set | - | - | - |

Note 1: The continuous measurement of the water vapour content of the flue-gas is not necessary if the flue-gas is dried before analysis.

Note 2: "average over the sampling period" means the average value of three consecutive measurements of at least 30 minutes each or as agreed in writing with the Environment Agency.

Note 3: This ELV applies when the load varies between MSUL/MSDL and base load during the daily reference period. MSUL and MSDL are defined in Table S1.5 of this permit.

Note 4: This ELV applies between the effective dry low $NO_x$ threshold and baseload once IC8 in table S1.3 of this permit has been completed. Effective dry low $NO_x$ thresholds are defined in table S1.6 of this permit, until IC8 has been completed compliance with ELVs will be based on 70% to baseload.

| Table S3.1a Point source emissions to air for CCGT operating in $CO_2$ unabated mode. | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| A2 as shown on site plan in Schedule 7. | Oxides of Nitrogen (NO and $NO_2$ expressed as $NO_2$) | Emissions from HRSG Stack<br>LCP No. 687<br>Gas turbine fired on natural gas | 33.3 $mg/m^3$<br>Effective DLN to baseload Note 4 | Yearly average | Continuous | BS EN 14181 |
| | | | 50 $mg/m^3$<br>Effective DLN to baseload Note 4 | Monthly mean of validated hourly averages | | |
| | | | 44.4 $mg/m^3$<br>Effective DLN to baseload Note 4<br>To be confirmed following completion of IC1 MSUL/MSDL to base load Note 3 | Daily mean of validated hourly averages | | |
| | | | 100 $mg/m^3$<br>Effective DLN to baseload Note 4 | 95% of validated hourly averages within a calendar year | | |
| | Carbon Monoxide | | 33.3 $mg/m^3$<br>Effective DLN to baseload Note 4 | Yearly average | | |
| | | | 100 $mg/m^3$<br>Effective DLN to baseload Note 4 | Monthly mean of validated hourly averages | | |

| Table S3.1a Point source emissions to air for CCGT operating in $CO_2$ unabated mode. | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| | | | 110 mg/m$^3$<br>Effective DLN to baseload [Note 4]<br>To be confirmed following completion of IC1 MSUL/MSDL to base load [Note 3] | Daily mean of validated hourly averages | | |
| | | | 200 mg/m$^3$<br>Effective DLN to baseload [Note 4] | 95% of validated hourly averages within a calendar year | Continuous | |
| | Sulphur dioxide | | - | - | At least every 6 months | Concentration by calculation, as agreed in writing with the Environment Agency |
| | Ammonia | | 3 mg/Nm$^3$ | Annual Average | Continuous | BS EN 14181 |
| | Sulphur Trioxide | | - | Daily average or average over the sampling period | Once every year | As agreed in writing with the Environment Agency |

| Table S3.1a Point source emissions to air for CCGT operating in $CO_2$ unabated mode. | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Parameter** | **Source** | **Limit (including unit)** | **Reference period[Note2]** | **Monitoring frequency** | **Monitoring standard or method** |
| | Flow | | - | - | Continuous<br>As appropriate to reference | EN ISO 16911 and M2 |
| | Oxygen | | - | - | Continuous<br>As appropriate to reference | BS EN 14181 |
| | Water vapour | | - | - | Continuous<br>As appropriate to reference [Note1] | BS EN 14181 |
| | Stack gas temperature | | - | - | Continuous<br>As appropriate to reference | Traceable to national standards |
| | Stack gas pressure | | - | - | Continuous<br>As appropriate to reference | Traceable to national standards |
| | As required by the Method Implementation Document for BS EN 15259 | | - | - | Pre-operation and when there is a significant operational change | BS EN 15259 |

Note 1: The continuous measurement of the water vapour content of the flue-gas is not necessary if the flue-gas is dried before analysis.

Note 2: "average over the sampling period" means the average value of three consecutive measurements of at least 30 minutes each or as agreed in writing with the Environment Agency.

Note 3: This ELV applies when the load varies between MSUL/MSDL and base load during the daily reference period. MSUL and MSDL are defined in Table S1.5 of this permit.

Note 4: This ELV applies between the effective dry low $NO_x$ threshold and baseload once IC8 in table S1.3 of this permit has been completed. Effective dry low $NO_x$ thresholds are defined in table S1.6 of this permit, until IC8 has been completed compliance with ELVs will be based on 70% to baseload.

| Table S3.1b Point Source emissions to air – emission limits and monitoring requirements | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Source** | **Parameter** | **Limit (incl. unit)** | **Reference period** | **Monitoring frequency** | **Monitoring standard or method** Note1 |
| A3 – locations as agreed in accordance with Pre-Operational Condition PO5 in table S1.4 of this permit. | Emergency gas oil generator(s) | Oxides of Nitrogen (NO and $NO_2$ expressed as $NO_2$) | No limit | Periodic | First monitoring measurements shall be carried out within four months of the issue date of the permit or of the date when the MCP is first put into operation, whichever is later. Then after 500 hours operation and no less frequent than every 5 years. | MCERTS BS EN 14792 |
| | | Carbon monoxide | No limit | | | MCERTS BS EN 15058 |
| Note 1: Monitoring requirements are defined at a temperature of 273.15 K, a pressure of 101.3 kPa and after correction for the water vapour content of the waste gases at a standardised $O_2$ content of 6% for solid fuels, 15% for engines and gas turbines and 3% all other MCPs | | | | | | |

| Table S3.2 Point Source emissions to water (other than sewer) – emission limits and monitoring requirements | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Source** | **Parameter** | **Limit (incl. unit)** | **Reference period** | **Monitoring frequency** | **Monitoring standard or method** |
| W1 on site plan emission to Tees Bay | Waste water emission from site – includes cooling water blowdown, steam condensate, treated direct contact cooler effluent and surface water runoff. | Requirement as agreed in accordance with IC7 in table S1.3 of this permit. | | | | |
| W2- location as agreed in writing with the Environment Agency<br><br>Emission from effluent treatment plant to W1 and then to Tees Bay | Treated direct contact cooler effluent. | Flow | - | -- | Continuous | MCERTS self-monitoring of effluent flow scheme |
| | | pH | - | - | Continuous | BS6068-2.50 |
| | | Temperature | - | - | Continuous | |
| | | Total organic carbon (TOC) | 50 mg/l | 24-hour flow proportional sample | At least once every month | EN 1484 |
| | | Chemical oxygen demand (COD) | 150 mg/l | 24-hour flow proportional sample | At least once every month | BS ISO 15705 |
| | | Total suspended solids (TSS) | 30 mg/l | 24-hour flow proportional sample | At least once every month | EN 872 |
| | | Fluoride ($F^-$) | 25 mg/l | 24-hour flow proportional sample | At least once every month | EN ISO 10304-1 |

| Table S3.2 Point Source emissions to water (other than sewer) – emission limits and monitoring requirements | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Source** | **Parameter** | **Limit (incl. unit)** | **Reference period** | **Monitoring frequency** | **Monitoring standard or method** |
| | | Sulphide, easily released ($S^{2-}$) | 0.2 mg/l | 24-hour flow proportional sample | At least once every month | - |
| | | Sulphite ($SO_3^{2-}$) | 20 mg/l | 24-hour flow proportional sample | At least once every month | EN ISO 10304-1 |
| | | Arsenic (As) | 50 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |
| | | Cadmium (Cd) | 5 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |
| | | Chromium (Cr) | 50 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |
| | | Copper (Cu) | 50 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |
| | | Nickel (Ni) | 50 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |
| | | Lead (Pb) | 20 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |
| | | Zinc (Zn) | 200 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 11885 or EN ISO 17294-2) |

| Table S3.2 Point Source emissions to water (other than sewer) – emission limits and monitoring requirements | | | | | | |
|---|---|---|---|---|---|---|
| **Emission point ref. & location** | **Source** | **Parameter** | **Limit (incl. unit)** | **Reference period** | **Monitoring frequency** | **Monitoring standard or method** |
| | | Mercury (Hg) | 3 µg/l | 24-hour flow proportional sample | At least once every month | EN ISO 12846 or EN ISO 17852 |
| | | Chloride ($Cl^-$) | - | 24-hour flow proportional sample | At least once every month | EN ISO 10304-1 or EN ISO 15682 |
| | | Total nitrogen | - | 24-hour flow proportional sample | At least once every month | EN 12260 |

| Table S3.3 Process monitoring requirements | | | | |
|---|---|---|---|---|
| **Emission point reference or source or description of point of measurement** | **Parameter** | **Monitoring frequency** | **Monitoring standard or method** | **Other specifications** |
| LCP 687 operating in $CO_2$ abated mode. | Net electrical efficiency | Once within 4 months after commissioning and then after each modification which that could significantly affect these parameters. | EN Standards or equivalent | - |
| LCP 687 operating in $CO_2$ unabated mode. | | | | |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Percent active amine (MEA) | 1-2 days or otherwise agreed in writing with the Environment Agency | As agreed in writing with the Environment Agency in accordance with PO14 in table S1.4. | - |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Carbon dioxide loading (rich amine) | Every 2 days or otherwise agreed in writing with the Environment Agency | | - |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Heat stable salts | Every day during the first month of operation then 1 per week, or otherwise agreed in writing with the Environment Agency. | | - |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Soluble iron concentration – rich amine | | | |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Soluble iron concentration – Lean amine following stripper | Once per week, or otherwise agreed in writing with the Environment Agency | | - |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Colour | Weekly, or otherwise agreed in writing with the Environment Agency. | | - |

| Table S3.3 Process monitoring requirements | | | | |
|---|---|---|---|---|
| **Emission point reference or source or description of point of measurement** | **Parameter** | **Monitoring frequency** | **Monitoring standard or method** | **Other specifications** |
| Absorber amine solvent quality, activity AR2 in table S1.1 | Degradation products – including but not limited to amines, nitrosamines, nitramines (in absorber amine prior to reclaiming and after reclaiming) | Monthly, or otherwise agreed in writing with the Environment Agency | BSEN ISO 10695, or otherwise agreed in writing with the Environment Agency | - |
| Carbon capture performance | Carbon capture efficiency (%) during normal operation. | Continuous | Calculation by method traceable to national standards compliant with UK ETS, to be agreed in writing with the Environment Agency as part of PO2 in Table S1.4 of this permit. | See Note 1 |
| | Carbon capture efficiency (%) during start-up and shut-down. | | | |
| Venting of $CO_2$ from Carbon Capture Plant – venting locations as identified in the assessment provided in response to PO8 in table S1.4 of this permit. | - Duration of event<br>- Total mass of $CO_2$ emissions (tonnes / event) | Event specific, total annual | Calculation by method traceable to national standards compliant with UK ETS, to be agreed in writing with the Environment Agency as part of PO2 in Table S1.4 of this permit. | The operator shall identify the root cause of the venting event and consider ways to prevent or reduce the frequency and duration of reoccurrence. |
| Note 1: Instantaneous and annual average Carbon Capture Efficiency to be monitored. Annual average Carbon Capture Efficiency to be averaged over 1 year of operations (from 1st of January) during normal operation. Excluding periods of OTNOC. OTNOC includes venting of $CO_2$ during periods of time when the $CO_2$ transport and storage system is not available due to causes external to the operations of the installation; and periods of start-up and shut-down. | | | | |

| Table S3.4 Annual limits | | | |
|---|---|---|---|
| **Emission point** | **Substance** | **Medium** | **Limit (including unit)** |
| A1 as shown on site plan in Schedule 7. | As approved in accordance with pre-operational condition PO15 in table S1.4 | Air | As approved in accordance with pre-operational condition PO15 in table S1.4. |

# Schedule 4 – Reporting

Parameters, for which reports shall be made, in accordance with conditions of this permit, are listed below.

| **Table S4.1 Reporting of monitoring data** | | | |
|---|---|---|---|
| **Parameter** | **Emission or monitoring point/reference** | **Reporting period** | **Period begins** |
| Emissions to air<br>Parameters as required by condition 3.5.1. | A1 & A2. | Every 3 months for continuous monitoring and monthly monitoring<br><br>Every 6 months for monthly and bi-annual monitoring<br><br>Every year where there is an annual average | 1 January, 1 April, 1 July, 1 October<br><br>1 January, 1 July<br><br>1 January |
| Emissions to Water<br>Parameters as required by condition 3.5.1. | W1 & W2 | Every 6 months | 1 January, 1 July |
| - Number of events<br>- Duration of events<br>- Root cause analysis for each event and preventative / frequency reduction measures<br>Total mass of $CO_2$ emissions (tonnes / event) | Venting from Carbon Capture Plant- venting locations as identified in the assessment provided in response to PO8 in table S1.4 of this permit. | Annually | 1 January |

| **Table S4.2 Resource Efficiency Metrics** | |
|---|---|
| **Parameter** | **Units** |
| Electricity Exported | GWhr |
| Heat Exported | GWhr |
| Mechanical Power Provided | GWhr |
| Fossil Fuel Energy Consumption | GWhr |
| Non-Fossil Fuel Energy Consumption | GWhr |
| Annual Operating Hours | hr |
| Water Abstracted from Fresh Water Source | $m^3$ |
| Water Abstracted from Borehole Source | $m^3$ |
| Water Abstracted from Estuarine Water Source | $m^3$ |
| Water Abstracted from Sea Water Source | $m^3$ |

| Table S4.2 Resource Efficiency Metrics | |
|---|---|
| **Parameter** | **Units** |
| Water Abstracted from Mains Water Source | $m^3$ |
| Gross Total Water Used | $m^3$ |
| Net Water Used | $m^3$ |
| Hazardous Waste Transferred for Disposal at another installation | tonnes |
| Hazardous Waste Transferred for Recovery at another installation | tonnes |
| Non-Hazardous Waste Transferred for Disposal at another installation | tonnes |
| Non-Hazardous Waste Transferred for Recovery at another installation | tonnes |
| Waste recovered to Quality Protocol Specification and transferred off-site | tonnes |
| Waste transferred directly off-site for use under an exemption / position statement | tonnes |
| Efficiency of carbon dioxide capture (Carbon Capture Plant) during normal operation | % |
| Efficiency of carbon dioxide capture (Carbon Capture Plant) during start-up and shut-down | % |
| Total (thermal and electrical) energy use per tonne of carbon dioxide captured (Carbon Capture Plant) | kW/Tonne $CO_2$ captured |
| Amine solvent usage | tonnes |
| Ammonia/urea usage (SCR) | tonnes |
| Gas oil usage | tonnes |
| Total $CO_2$ captured | tonnes |
| Total $CO_2$ vented to atmosphere | tonnes |

| Table S4.3 Large Combustion Plant Performance parameters for reporting to DEFRA | | |
|---|---|---|
| **Parameter** | **Frequency of assessment** | **Units** |
| Thermal Input Capacity for each LCP | Annually | MW |
| Annual Fuel Usage for each LCP | Annually | TJ |
| Total Emissions to Air of NOx for each LCP | Annually | t |
| Total Emissions to Air of $SO_2$ for each LCP | Annually | t |
| Operating Hours for each LCP | Annually | hr |

| Table S4.4 Reporting forms | | |
|---|---|---|
| **Media/ parameter** | **Reporting format** | **Agency recipient** |
| Air & Energy | Form IED AR1 – $SO_2$, $NO_x$ and dust mass emission and energy.<br>Form as agreed in writing by the Environment Agency. | National and Area Office |
| Air | Form Air 1 – Carbon Capture Plant emissions or other form as agreed in writing by the Environment Agency | Area Office |
| LCP | Form IED HR1 – operating hours.<br>Form as agreed in writing by the Environment Agency. | National and Area Office |

| Table S4.4 Reporting forms | | |
|---|---|---|
| **Media/ parameter** | **Reporting format** | **Agency recipient** |
| Air | Form IED CON 2 – continuous monitoring.<br>Form as agreed in writing by the Environment Agency | Area Office |
| Air | Form IED PM1 – discontinuous monitoring and load.<br>Form as agreed in writing by the Environment Agency. | Area Office |
| LCP | Form IED BD1 – Cumulative annual rolling malfunction and breakdown hours.<br>Form as agreed in writing by the Environment Agency. | Area Office |
| Air | Form IED MF1 – pollutant concentrations when during any day with malfunction or breakdown of abatement plant.<br>Form as agreed in writing by the Environment Agency. | Area Office |
| Air | Form AQRA2 – Air Quality Risk Assessment for Other Than Normal Operating Conditions.<br>Form as agreed in writing by the Environment Agency. | Area Office |
| Resource Efficiency | Form REM1 – resource efficiency annual report<br>Form as agreed in writing by the Environment Agency. | National and Area Office |
| CEMs | Form IED CEM – Invalidation Log.<br>Form as agreed in writing by the Environment Agency. | Area Office |
| Water | Form Water1 – emissions to water or other form as agreed in writing by the Environment Agency | Area Office |
| Process ($CO_2$ venting) | Form Process1 ($CO_2$ Venting) – Process monitoring or other form as agreed in writing by the Environment Agency | Area Office |

# Schedule 5 – Notification

These pages outline the information that the operator must provide.

Units of measurement used in information supplied under Part A and B requirements shall be appropriate to the circumstances of the emission. Where appropriate, a comparison should be made of actual emissions and authorised emission limits.

If any information is considered commercially confidential, it should be separated from non-confidential information, supplied on a separate sheet and accompanied by an application for commercial confidentiality under the provisions of the EP Regulations.

## Part A

| | |
|---|---|
| Permit Number | |
| Name of operator | |
| Location of Facility | |
| Time and date of the detection | |

| **(a) Notification requirements for any malfunction, breakdown or failure of equipment or techniques, accident, or emission of a substance not controlled by an emission limit which has caused, is causing or may cause significant pollution** | |
|---|---|
| **To be notified within 24 hours of detection** | |
| Date and time of the event | |
| Reference or description of the location of the event | |
| Description of where any release into the environment took place | |
| Substances(s) potentially released | |
| Best estimate of the quantity or rate of release of substances | |
| Measures taken, or intended to be taken, to stop any emission | |
| Description of the failure or accident. | |

| **(b) Notification requirements for the breach of a limit** | |
|---|---|
| **To be notified within 24 hours of detection unless otherwise specified below** | |
| Emission point reference/ source | |
| Parameter(s) | |
| Limit | |
| Measured value and uncertainty | |
| Date and time of monitoring | |

| (b) Notification requirements for the breach of a limit | |
|---|---|
| **To be notified within 24 hours of detection unless otherwise specified below** | |
| Measures taken, or intended to be taken, to stop the emission | |

| Time periods for notification following detection of a breach of a limit | |
|---|---|
| **Parameter** | **Notification period** |
| | |
| | |
| | |

| (c) Notification requirements for the breach of permit conditions not related to limits | |
|---|---|
| To be notified within 24 hours of detection | |
| Condition breached | |
| Date, time and duration of breach | |
| Details of the permit breach i.e. what happened including impacts observed. | |
| Measures taken, or intended to be taken, to restore permit compliance. | |

| (d) Notification requirements for the detection of any significant adverse environmental effect | |
|---|---|
| **To be notified within 24 hours of detection** | |
| Description of where the effect on the environment was detected | |
| Substances(s) detected | |
| Concentrations of substances detected | |
| Date of monitoring/sampling | |

# Part B – to be submitted as soon as practicable

| | |
|---|---|
| Any more accurate information on the matters for notification under Part A. | |
| Measures taken, or intended to be taken, to prevent a recurrence of the incident | |

| | |
|---|---|
| Measures taken, or intended to be taken, to rectify, limit or prevent any pollution of the environment which has been or may be caused by the emission | |
| The dates of any unauthorised emissions from the facility in the preceding 24 months. | |

| | |
|---|---|
| Name* | |
| Post | |
| Signature | |
| Date | |

* authorised to sign on behalf of the operator

# Part C Malfunction or Breakdown of LCP abatement equipment

| | |
|---|---|
| Permit Number | |
| Name of operator | |
| Location of Facility | |
| LCP Number | |
| Malfunction or breakdown | |
| Date of malfunction or breakdown | |

| **(a) Notification requirements for any malfunction and breakdown of abatement equipment as defined by the Industrial Emission Directive*.** | |
|---|---|
| **To be notified within 48 hours of abatement equipment malfunction and breakdown** | |
| Time at which malfunction or breakdown commenced | |
| Time at which malfunction or breakdown ceased | |
| Duration of the breakdown event in hours and minutes | |
| Reasons for malfunction or breakdown | |
| Where the abatement plant has failed, give the hourly average concentration of all measured pollutants. | |
| Cumulative breakdown operation in current year (at end of present event) | |
| Cumulative malfunction operation in current year (at end of present event) | |
| **Name**** | |

| | |
|---|---|
| **Post** | |
| **Signature **** | |
| **Date** | |

* See section 3.6 and Appendix E of ESI Compliance Protocol for guidance

** authorised to sign on behalf of the operator

# Schedule 6 – Interpretation

“accident” means an accident that may result in pollution.

“Air Quality Risk Assessment” has the meaning given in Annex D of IED Compliance Protocol for Utility Boilers and Gas Turbines.

“application” means the application for this permit, together with any additional information supplied by the operator as part of the application and any response to a notice served under Schedule 5 to the EP Regulations.

“authorised officer” means any person authorised by the Environment Agency under section 108(1) of The Environment Act 1995 to exercise, in accordance with the terms of any such authorisation, any power specified in section 108(4) of that Act.

“average over the sampling period” means the average value of three consecutive measurements of at least 30 minutes each or as agreed in writing with the Environment Agency.

“average of samples obtained during one year” means the average of the values obtained during one year of the periodic measurements taken with the monitoring frequency set for each parameter.

“background concentration” means such concentration of that substance as is present in:

for emissions to surface water, the surface water quality up-gradient of the site; or

for emissions to sewer, the surface water quality up-gradient of the sewage treatment works discharge.

“base load” means: (i) as a mode of operation, operating for >4000hrs pa; and (ii) as a load, the maximum load under ISO conditions that can be sustained continuously, i.e. maximum continuous rating.

“breakdown” has the meaning given in the ESI IED Compliance Protocol for Utility Boilers and Gas Turbines.

“calendar monthly mean” means the value across a calendar month of all validated hourly means.

“CEN” means Commité Européen de Normalisation.

“Combustion Technical Guidance Note” means IPPC Sector Guidance Note Combustion Activities, version 2.03 dated 27th July 2005 published by Environment Agency.

“combined heat and power” (CHP) or Cogeneration means the simultaneous generation in one process of thermal energy and electrical or mechanical energy.

“commissioning” means testing of the installation that involves any operation of a Large Combustion Plant referenced in schedule 1, table S1.1 or as agreed with the Environment Agency.

“daily average” means the average over a period of 24 hours of validated hourly averages obtained by continuous measurements.

“disposal” means any of the operations provided for in Annex I to Directive 2008/98/EC of the European Parliament and of the Council on waste.

“DLN” means dry, low $NO_x$ burners.

“emergency plant” means a plant which operates for the sole purpose of providing power at a site during an onsite emergency and/or during a black start and which does not provide balancing services or demand side response services.

“emissions of substances not controlled by emission limits” means emissions of substances to air, water or land from the activities, either from the emission points specified in schedule 3 or from other localised or diffuse sources, which are not controlled by an emission or background concentration limit.

“Energy efficiency” means the annual net plant energy efficiency, the value for which is calculated from the operational data collected over the year.

“EP Regulations” means The Environmental Permitting (England and Wales) Regulations SI 2016 No.1154 and words and expressions used in this permit which are also used in the Regulations have the same meanings as in those Regulations.

“gas oil” includes diesel and is defined in Article 3(19) of the MCPD.

“groundwater” means all water, which is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil.

“Industrial Emissions Directive” means DIRECTIVE 2010/75/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 24 November 2010 on industrial emissions, as read in accordance with Schedule 1A to the Environmental Permitting (England and Wales) Regulations 2016.

“large combustion plant” or “LCP” is a combustion plant or group of combustion plants discharging waste gases through a common windshield or stack, where the total thermal input is 50 MW or more, based on net calorific value. The calculation of thermal input, excludes individual combustion plants with a rated thermal input below 15MW.

“limited operating hours MCP” means an MCP that meets the requirements of paragraph 8 of Part 2 of Schedule 25A of the EP Regulations.

“low polluting fuels” means biomass or coal with an average as-received sulphur content of less than 0.4% by mass as described in the ESI IED Compliance Protocol for Utility Boilers and Gas Turbines.

“malfunction” has the meaning given in the ESI IED Compliance Protocol for Utility Boilers and Gas Turbines.

“MCERTS” means the Environment Agency’s Monitoring Certification Scheme.

“MCR” means maximum continuous rating.

“medium combustion plant” or ”MCP” means a combustion plant with a rated thermal input equal to or greater than 1 MW but less than 50 MW.

“Medium Combustion Plant Directive” or “MCPD” means Directive 2015/2193/EU of the European Parliament and of the Council on the limitation of emissions of certain pollutants into the air from medium combustion plants, as read in accordance with Schedule 1A to the Environmental Permitting (England and Wales) Regulations 2016.

“MSDL” means minimum shut-down load as defined in Implementing Decision 2012/249/EU.

“MSUL” means minimum start-up load as defined in Implementing Decision 2012/249/EU.

“Natural gas” means naturally occurring methane with no more than 20% by volume of inert or other constituents.

“ncv” means net calorific value.

“Net electrical efficiency” means the ratio between the net electrical output (electricity produced minus the imported energy) and the fuel/feedstock energy input (as the fuel/feedstock lower heating value) at the combustion unit boundary over a given period of time.

“new MCP” means an MCP first put into operation on or after 20/12/2018.

“operational hours” are whole hours commencing from the first unit ending start up and ending when the last unit commences shut down.

“quarter” means a calendar year quarter commencing on 1 January, 1 April, 1 July or 1 October.

“recovery” means any of the operations provided for in Annex II to Directive 2008/98/EC of the European Parliament and of the Council on waste.

“SI” means site inspector.

“Standby fuel” means alternative liquid fuels that are used in emergency situations when the gas fuel which is normally used, is not available.

Where a minimum limit is set for any emission parameter, for example pH, reference to exceeding the limit shall mean that the parameter shall not be less than that limit.

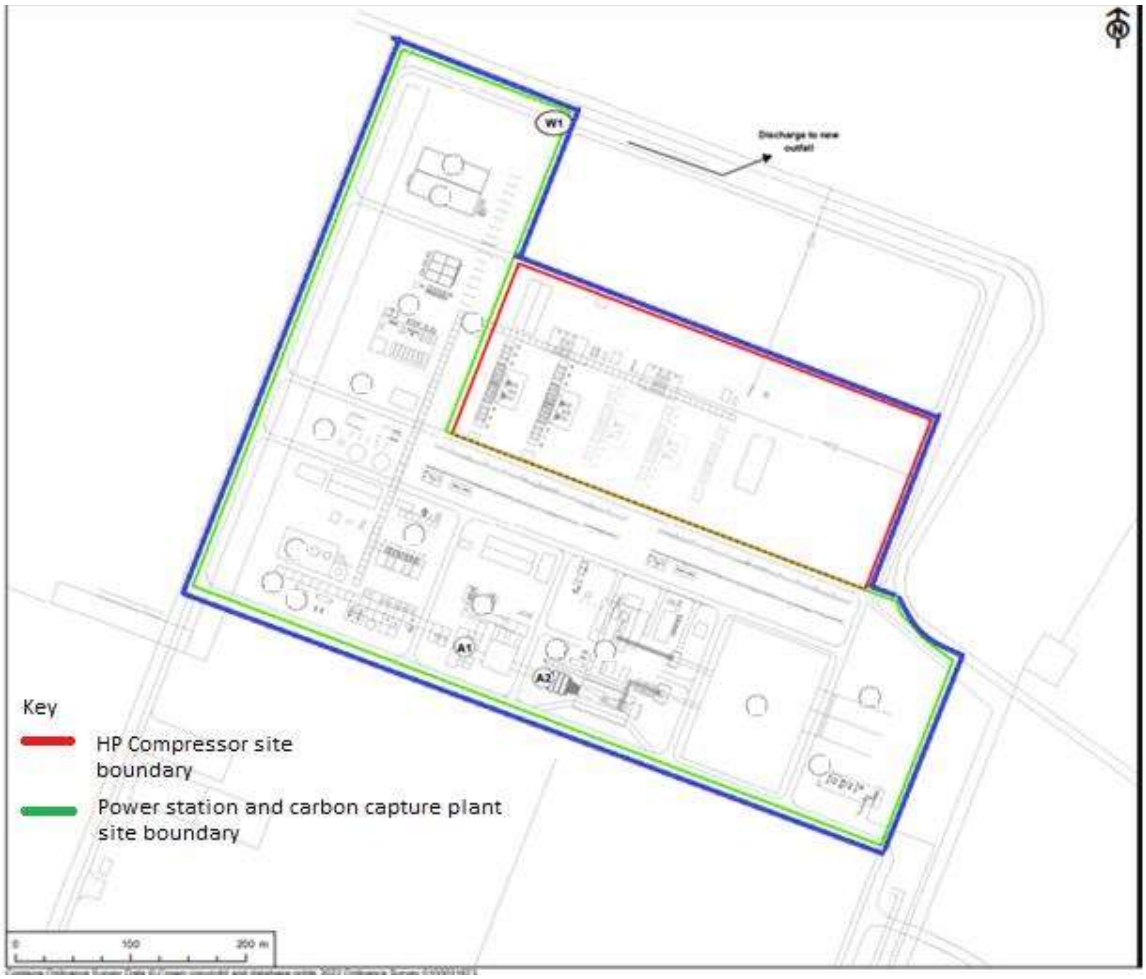
Unless otherwise stated, any references in this permit to concentrations of substances in emissions into air means:

- in relation to emissions from combustion processes, the concentration in dry air at a temperature of 273K, at a pressure of 101.3 kPa and with an oxygen content of 3% dry for liquid and gaseous fuels, 6% dry for solid fuels; and/or
- in relation to emissions from gas turbine or compression ignition engine combustion processes, the concentration in dry air at a temperature of 273K, at a pressure of 101.3kPa and with an oxygen content of 15% dry for liquid and gaseous fuels; and/or
- in relation to emissions from combustion processes comprising a gas turbine with a waste heat boiler, the concentration in dry air at a temperature of 273K, at a pressure of 101.3kPa and with an oxygen content of 15% dry, unless the waste heat boiler is operating alone, in which case, with an oxygen content of 3% dry for liquid and gaseous fuels; and/or
- in relation to emissions from non-combustion sources, the concentration at a temperature of 273K and at a pressure of 101.3 kPa, with no correction for water vapour content.

“year” means calendar year ending 31 December.

“yearly average” means the average over a period of one year of validated hourly averages obtained by continuous measurements.

# Schedule 7 – Site plan






END OF PERMIT