



## Hearing Transcript

<b>Project:</b>	H2 Teesside
<b>Hearing:</b>	Compulsory Acquisition Hearing 1 (CAH1) – Part 1
<b>Date:</b>	13 November 2024

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# TRANSCRIPT\_H2TEESSIDE\_CAH1\_SESSION1\_131124

Wed, Nov 13, 2024 4:01PM • 1:43:21

Good morning and welcome it's now 913, it's time to time for this meeting on the H 2t side national infrastructure project to begin. I would like to welcome you all to this compulsory acquisition hearing, which is now open before the examining authority introduces itself. I'd like to deal with a few preliminary matters. Please, this would be a good time to switch off mobile phones, or at least turns the silent please. Can the case team confirm that you can hear me and that the meeting recording and the live streaming of the event has started? Thank you. Can everybody in the room hear me? Okay? Thank you. No requests have been made for any special measures or arrangements to enable participation in this hearing today, but I just want to confirm that's correct, please. Okay, no indications, and there's no indications online, so I'm going to move on. There's no fire alarm test or drill scheduled for today, as far as we're aware of and told and for those present in the event today, the fire exits are through these doors here, out to the lobby and down the main stairs. And then I believe the the gathering point is in the square, just to the side of the hotel, on that side of the hotel, okay, also just in terms of toilet arrangements. If anybody needs the facilities, they're through this door, and they're straight in this hall just opposite you, so you can find them quite easily. Hopefully there's also some in the lobby behind you as well. Onto introductions, my name is Christopher Butler. I was appointed on the 22nd of May 2024, under Section 65 Planning Act 2008 under delegation from the sector of state as lead panel member to examine this application. I'm a chartered member of the royal Town Planning Institute, and have academic qualifications in Town and Country Planning. I have made a declaration of interest responding to the planning inspectorates conflict of interest policy. Interest policy, and can confirm they have no declarable interests in relation to this appointment. I'm now going to ask my fellow power and members to introduce themselves, starting with Mr. Simms,

please Good morning. My name is Matthew Sims and I was also appointed on the 22nd of May 2024, as a panel member to examine this application under Section 65 of the Planning Act, 2008 as amended under delegation from the Secretary of State. I'm a chartered civil engineer and a member of the Institution of Civil Engineers. I've also made a declaration of interest respond in to the planning inspectorates conflict of interest policy, and can confirm that I have no declarable interests in relation to this appointment. Sharon,

good morning. My name is Sharon Bennett, Matthews, and I was also appointed on the 22nd of May 2024, and as a panel member to examine this application under Section 65 of the Planning Act 2008 as amended under delegation from the Secretary of State. I'm a qualified planning solicitor. I have made a declaration of interest responding to the planning inspectorates conflict of interest policy, and I can confirm that I have no declarable interest in relation to this appointment.

So together, we constitute the examining authority for this application, and we will be reporting to the Secretary of State for energy security and net zero with a recommendation as to whether or not the development consent order should be made. Also present today are members of the planning inspectorates case team working with Mr. Simms, Miss Bennet Matthews and I on this national infrastructure project. In addition to the examining authority, we have the from the planning inspectorate, Lily Robins, who is sat at the back corner. She is the case manager for this national infrastructure project, and she is providing the in person support for the event today. Additionally, we have ramule Burnie and Elias Pereira, who are working on the planet, who are working as part of the planning spectra case team on this national infrastructure application and providing online support for the virtual aspects of today's blended event. Technicians from production. 78 are also in attendance today, solely for the purpose of managing the audio and visual service, including the recording and the live streaming of this meeting. I would also like to just add that other colleagues may from the planning spectrum, may join this compulsory acquisition here in today, solely as observers, as as part of the planning spectrum commitment to continuing professional development. They will be just observing. They will take no formal part in the examination at all. If you have any questions or concerns about today's events, please speak to a member of the case team here today that will be Lily at the back if you're present in the room, or contact a member of the virtual case team if you're attending the event online. That's it from our end today. But turning to attendees, firstly, I'd like to acknowledge and welcome. All of those who are attending today, including those watching the live stream, and welcome you and welcome and thank you for joining us. Now, I'd like to start with introductions from attendees when I read out the name of the organizational company. Could all members of the team present in person introduce themselves one by one, followed by the introductions from any virtual attendees that may be present for that team. Can you also indicate which agenda items you are intending to speak on and also advise how you wish to be addressed? Please. So Mr. Mrs. Etc. Can I start with introductions from the applicant? Please,

Good morning, sir. I appear on behalf of the applicant. My name is Harry wood, Philpott King's Council, and I'm appearing together with Miss Isabella TAFE to my right, we're both instructed by Pinsent Masons on behalf of the applicant, h 2t, side limited. For the purpose of today's hearing, I anticipate calling on two additional speakers who are sat the left hand on my left hand at the end of the table. It's Mr. Joshua Pete who's at the far end. He's an associate surveyor at darkor McLaren, and to his right is Mr. Elnor Ibrahim Zadi, Senior Project Engineer at BP. You heard from him in the first issue, specific hearing between them, they'll be dealing with matters relating to individual land interests and engineering matters. The other members of the team who are sat on the table don't have a speaking part. I can introduce them if you would like, but I wouldn't propose to unless you think it's necessary,

no, if they need to address us at all, that would do it at that point in time, if that's okay. Thank you. Thank you, sir. Thank you for that. Now, in terms of affected persons and interested parties registered to speak, in no particular order, can we start with red car and Cleveland Borough Council, please,

morning, sir. My name is Adrian Miller. I'm a charter town planner. I'm the head of Planning and Development at red car, Cleveland Borough Council. We aren't making any representations specifically on issue today, but I'm here to assist the panel with any issues that might arise. Thank

you, Mr. Miller, so going to go to Stockton on tees Borough Council. We're attending virtually please.  
Hi,

so my name is Jacob Morse, and I work in the valuation and property team at Stockton and tees Borough Council. I'm attending the meeting today just to potentially discuss both the rights that has been acquired over Council land. And I believe my colleague, Dave aske is also in the attendance meeting, who is going to be essentially discussing the replacement land as a part of the part of the project.

Okay, I have that as David aske is Mr. Aske with us at all. Do you want to introduce yourself? All right, yes,

good morning. It's David aske. I'm in the council's countryside and green space section. I'm a programs officer, so my involvement here will be with regard to the country parkland and the replacement land.

Okay, and then, thank you very much, Mr. Aske. But we also have Elaine Atkinson, do you want to introduce yourself? Mrs. Atkinson, hi. Amy,

yeah. I'm Elaine Atkinson. Sorry, I appear to be in the dark. Elaine Atkinson, principal planning officer. I don't intend speaking unless there's any specific questions that need to be answered, and it will generally be Jacob and Dev that will be answering any queries.

That's fine. We don't have anybody else from Stockton on tees, so in that case, I'm intending to move on. But thank you very much. I'd like to move on to South tees group, please. I understand they're participating both in person and virtually. So can we do persons in the room? Please? Mr. Henderson, are you here at all? Please?

I am, sir. Thank you. My name is Tom Henderson. I'm a partner and solicitor at the law firm PDB pittmans. As you say, we are representing the south tees group, which will refer to as STG for convenience through the through the hearing. To my right is my colleague, Megan parent, who is a solicitor at PDB Pitts. We're primarily going to be speaking on agenda item four, and then any other

agenda items where you might have questions for us. I believe we may be the only ones attending the hearing at SDG, unless someone else is online. I hadn't been aware that anyone was

we had a note of Matthew Johnson from South Thames group, or T's group, I should say, but, but he may not be actually in attendance. So when you get used to touch screen, to the monitors, and then, yeah, he's no longer attending. So thank you, Matthew. Right. Thank you very much. So I. And then I want to go to SABIC group, please. SABIC group present at all, or virtually? Yes,

good morning, sir. My name is Stephen DAG. I'm a legal director with one more bond Dickinson, a law firm. And I am here representing the three SABIC entities today. We probably just refer to them as SABIC. I'm also joined by Simon Mann from Subic, and virtually by Daniella Franken from SABIC. So I will be doing most of the speaking. So I think we can possibly, with your permission, dispense with their own introduction.

Yeah, okay.

Anybody else from SABIC at all that you're aware of? No thank thank you, Anglo American. Then please. I understand they're attending virtually, and I have three potential attendees from Anglo American police,

good morning, yes. Juliet Clark, from a legal director with Avid Sutherland representing Anglo American woodsmith, Anglo American woodsmith, Teesside and Anglo American crop nutrients, the three entities that we'll be calling Anglo American. Two representatives from Anglo American are, I think, listening to the live stream, but not on the teams link. I'll be speaking to item number four of the agenda.

Okay? Thank you very much. Mrs. Clark, moving on to BOC limited, please, which I believe are attending virtually.

Yes, good morning, sir. My name is Emily Tetley Jones, and I'm a director at field Fisher LLP, and I am joined by Christopher Stanwell, a partner in our planning team, and we represent BOC limited,

okay. Thank you very much. Do we have Sarah Gilly also representing BOC at all? I had a list on my list,

yes. Hello there. Mrs. Sarah Gilly, partner at Baker rose consulting. LLP, we're also representing BAC limited, and we'll be speaking where required to support field. Fisher on agenda, Item four.

Okay. Thank you very much. Whilst you're online, Miss Mrs. Gilly, I understand you're also representing natural Natura global limited.

That's right, yes, it's Natura global limited and Agenda Item four, right,

fine. And it is Mr. Pannell from natural Chura global with limited with us as well.

Yes, Nick Pennell, VP of transformation and the Tara global limited, able to speak in support of any points that Mrs. Gilly might want to make it

okay. Thank you very much. Mr. Pennell, I'd like to move on to cats, North Stream limited, and Kellis midstream norm limited, and I understand they're being introduced or represented by Mr. Patrick Monroe. Is that correct?

Yes. Good morning, sir. My name is Patrick Munro. I'm a legal director at Burgess salmon solicitors. Today I'll be representing Kellas midstream limited, and cats North Sea limited. I'll also separately be representing h2 North East limited, and I'll look to speak to agenda items four and seven.

Thank you very much, Mr. Monroe, I did have you down as h2 North East limited as well, and I was going to come on to that, but you've already covered that off for me. So thank you very much. I'd like to move on to Mr. Peter Nesbit of ever ever shed Sutherland, who I understand are representing a number of groups today or a number of organizations. So CF, fertilizers limited. INEOS, night trials, UK Limited. Navigator terminals limited. PD, T sport limited and SEM, Corp utilities, UK Limited. Do we have Mr. Nesbit with us? Please?

Yes. Good morning, sir. My name is Peter Nesbitt. I'm a partner at evershed Sutherland. In relation to the specific agenda items for those that I'm representing, I'd like to speak to Item four and potentially item six, depending on the questions raised, and then item seven, in respect of PDT sport limited, okay.

Thank you very much. Mr. Nisbet, moving on to my next company that I need representation from, or would like to. A representation from is industrial chemicals limited. I believe we have a Mrs. Ariatti O'Leary, put your name wrong.

It's arty. O'Leary, Arty. Apologies for that. No problem at all. Yes. My name is Artie O'Leary from Lawson planning partnership, representing industrial chemicals limited. We're principally here to observe, but would like to speak to Agenda Item four, if necessary, if matters arise. Thank you. Okay.

Thank you very much. Mrs. O'Leary. Next organization I have here is lighthouse, green fuels limited, attending virtually. Do we have anybody from Lighthouse green fuels? Please

Good morning. My name is Miss Sophie Reese. I'm a Senior Associate from BDB pittmans appearing on behalf of Lighthouse green fuels. I'll refer to them as lgf for convenience in this hearing, speaking to agenda item four.

Okay. Thank you very much. Moving on to Northern gas processing limited. There's a number of organizations related to this, one Teesside gas and liquids processing and Teesside gas processing plant limited, and I believe that's Mr. Colin Innis of Shepherd and Wedderburn limited, or LLP, sorry, apologies, yes.

Thank you, sir. Good morning. My name is Colin. Mr. Colin Innis, and I'm a partner at Shepherd Wedderburn and represent northern gas processing limited, Teesside gas and liquids processing and Teesside gas processing plant limited, which are collectively call the nsmp entities, unless I need to go down into the detail of any of the individual interests. But yes, thank you, sir.

Okay. Thank you very much for that, Mr. Innes, and then I'd like to move to red card bulk terminal, limited red car bulk terminal, please. Mr. Tom Barton, I believe,

yeah, morning, sir. Tom Barton, partner at Mishcon deere, Acting for Rick carbock terminal or RBT, making submissions on agenda item four.

Okay. Thank you very much, Mr. Barton, I believe that completes people in attendance, both physically and virtually. Today, a few affected persons have notified us that they're no longer attending this compulsory acquisition hearing. And just for completeness, I'll applies that they are Northumbrian Water limited and Venator materials limited. Are there any other interested parties present, either in the room or joining us virtually, who would wish to speak during these hearings or this hearing? If so those in the room, please raise their hands. Please. I'm getting no indication, so I'm going to move on to those present virtually. Can you put your camera on? And I'm getting no indication on either those so I'm going to move on. Thank you very much. Is there anybody else that wishes to introduce themselves at

all? I'm getting no indication, either in the room or online. So I'm now going to move forward and set the procedure for running the hearing today. This is a blended event, and it allows attendance both in person and virtually through Microsoft Teams. Today, we're holding this meeting in Middlesbrough, where some of the attendees are also present. For those attending virtually, we would seek to assure you that you have our full attention, even if we're not looking at the camera all the time. For those online, please, could we ask you to keep your cameras and your microphones switched off unless you're invited to speak or you wish to speak at some point, you might find it of assistance if you have a copy of the agenda, which is available on the examination library of the project page for this proposal on the national infrastructure website, and you can find that using our document reference, EV 5001, if for any medical or other reason, anybody requires a break at a specific time, could you please let the case team know, and we'll hopefully adjust the program to meet those needs. Turning to proposed timings for today, we've allowed for a full day for this hearing, and we advise or we aim to close no later than 5pm however, we've not allowed a reserve day, so if it's not completed in terms of all of today's business by 5pm we'll consider at that time whether or not to continue for a short further period in terms of breaks and timings. Generally, we're aiming to take a 20 minute break at approximately 11 o'clock with a break for lunch between 1245 and 1:30pm we've scheduled a further break for 20 minutes this afternoon, at roughly three o'clock this afternoon. We'll keep these timings under review and break. Suitable points in the agenda. Once the business listed on the agenda has been concluded, the hearing will close. So it may close earlier than 5pm if we get through all of the items quicker than anticipated. As mentioned, these timings are only approximate. If you're joining for a particular agenda item, we recommend you keep in contact with the case team who can tell if the sessions are running ahead or below behind time for virtual attendees, if you decide to leave the meeting during a break, then you can rejoin using the same link provided in your invitation email. If you're watching the live stream, then please refresh your browser to resume any subsequent sessions. Please note that the chat function in teams is not being used today, so don't send any message via the chat or message system, as it's not being monitored. If at any point during the meeting you can't hear us or wish to speak. And I ask that you put your hand up and ask the examining authority for permission to speak at an appropriate time if you are attending virtually at this hearing, can we ask that you put your camera on, if it's turned off, and use the raised hand functions in teams, whether you're here in person or joining virtually, there may be a little delay before we can actually acknowledge or wish to speak. So please bear with us. Can the case? Sorry, the case team will explain what to do if you lose connection, if you've joined virtually, and we're able to adjourn for short periods if an interested party or an affected persons experiences more significant connection problems. So So again, if you can just make us aware, if you do lose connection, uses the same link to that you used to log on this morning, and the case team will endeavor to reconnect you as soon as possible. Should you experience any problem with the live streaming, a digital recording of the event will be published on the national infrastructure web page as soon as practical after the event has ended. Just need to mention something about the general data protection regulations and this live streaming. I'd like to make you all aware that this this event, is being live streamed and recorded and will be published on the project page. The the live streaming and the recording form a public record and can contain personal information and to which the GDPR the data, the general data protection regulations apply. All personal data is managed in accordance with the planning specter its customer privacy notice, which is available on our web pages, on the.gov web pages, I should say, consequently, if you participate in today's compulsory accession in here hearing, it's important that you understand that you will be recorded, and that therefore you are consenting to



the retention and The publication of the digital recording. It is very unlikely that the examining authority will ask you to put any sensitive personal data or information into the public domain. Indeed, we would actively encourage you not to do that. However, if for some reason, you feel it is absolutely necessary for you to reveal sensitive personal information, we would encourage you to speak to the case team in the first instance, please bear in mind that the only official recording of these procedures proceedings is the digital recording that were placed on the project page at the National Infrastructure website, tweaks, blogs and similar communications arising out of this meeting will not be accepted as evidence into the examination of this application. So moving on to agenda item two, which is being taken forward by Miss Bennet Matthews, please. Thank you.

Thank you. Turning now to today's compulsory acquisition hearing itself. We are conducting this meeting in accordance with section 92 and 94 of the Planning Act, 2008 and the infrastructure planning examination procedure rules, 2010 as amended, specifically rule 14 relating to the procedures at hearings. I would remind you all that the Planning Act allows that the examination authority may refuse representations to be made if they consider they are irrelevant, vexatious or frivolous relate to the merits of policy set out in national policy statement, repeat other representations already made in any form and by any person or relate to compensation for compulsory acquisition of land or interest in land or right over land an update, an updated agenda for this hearing was published on the planning inspectorates national infrastructure project website on the sixth of November 2024, this is for guidance, and we may Add other issues, should items take longer than anticipated? It may be necessary to prioritize matters and to defer others to further written questions. It is not intended to discuss all matters relating to compulsory acquisition today, some matters have been pursued in our first. First written questions and a further round of written questions is due to be issued on the 28th of November, 2024 and will allow matters to be pursued further if required. The examination authority also has the ability to seek further information under Rule 17 of the infrastructure planning examination procedures rule 2010 should that be required? This hearing will take the form of a structured discussion led by the panel and based on the public published agenda, the questions that we are asking today will be focused on those errors where we need further information, or where we think the issues would benefit from examination orally, if we do not, if we do not cover a specific question or topic that you were expecting. It is not necessarily that we view that matter as satisfactory. It merely means, it merely indicates that we consider that we have all the information that is needed on this topic. When we call on you to address the examination authority, I would ask you to state your name and the name of your company that you are employed by or are representing parties with an interest in land that is affected by the proposed development are known as affected persons. All affected persons have been notified of this compulsory acquisition hearing and have the right to be heard other than those already introduced, no other right to be heard other than those already introduced. No other affected. Persons have registered to take part, but they may be watching the live streaming or listening to the digital recording. The purpose of this examination is for the examination authority to examine the information submitted both by the applicant and also by the interested parties, other persons and where relevant, affected persons. We would like to reassure you that we are familiar with the documents that you have sent in. So when answering a question, you do not need to repeat at length something that has already been submitted. If you want to refer to information already submitted, please use the appropriate pins, examination, library, reference further Could we please ask you to use abbreviations and acronyms

sparingly as others may not be familiar with them. If you feel that you cannot answer a question fully or require time to get the information requested, then rather than giving a restricted or potentially incorrect answer, can you please indicate that you need to respond in writing? We can then defer the response, either to be submitted at deadline four on the 20th of November 2024 to the next round of written questions, or a later point in time, if the examination timetable allows, the hearing is being held so the examination authority, and ultimately, the Secretary of State, can test the applicant's contentions in the context of the applicable legislation, policy and guidance. As the examination authority considers the request for compulsory acquisition, we will take into account not only what is being heard today, but also all of the relevant associated information in other application documents, oral submissions and written representations. Moving on to the detail of today's hearing, we will be examining the application for compulsory rights in the context of powers provided by the Planning Act. In brief, the examination authority will need to test and advise the Secretary of State on whether the land and rights that are sought are required to build or facilitate the proposed development or relate to necessary replacement land, and whether there is a compelling case in the public interest for the land or rights to be acquired compulsorily and that what is being sought is legitimate, necessary, reasonable and proportionate. The examination authority is also mindful of advice set out by the government in its 2013 publication Planning Act, 2008 guidance related to procedures for compulsory acquisition of land. The examination authority's deliberations and decisions will also be. Guided by relevant human rights legislation, including the European Convention on Human Rights, Article Six, right to fair trial and hearing. Article eight, right to respect for private and family life. And article 14, protection from discrimination and the first protocol. Article One, protection of property. Ultimately, while considering whether a recommended whether to recommend or allow the application for compulsory acquisition powers, both the examination authority and the Secretary of State will take great care to weigh any interference with human rights against the public interest associated with the benefits of the proposed development and ensure that any interference is considered both necessary and proportionate. It is for the applicant to demonstrate that all of the proposed compulsory acquisition powers that it seeks are that it seeks are justified within this framework, that all reasonable alternatives to compulsory acquisitions have been explored and that there is a reasonable prospect of it having the funds available to implement compulsory acquisition rights that may ultimately be granted by the Secretary of State in the time allowed within the development consent order. While there is a clear and obvious link between the examination of the proposed development itself and the examination of the application for compulsory acquisition rights, the two are tested on their own merits. According to the case and whatever the examination authority's ultimate recommendations to the secretary of state, it is possible that he or she could grant development consent but to only, but only, but subject to only some or none of the requested compulsory acquisition powers. I should stress that the examination authority will form a view over the full course of the examination on each of the of the requested requests for compulsory acquisition powers and whether or not there is a compelling case in the public interest, and not just on the submissions and evidence put before the examination authority today, for the purposes of this hearing, I am assuming that many of you are reasonably familiar with the legislative policy and guidance framework and with the process that the examination authority and the Secretary of State will go through for those less used to compulsory acquisition hearings, we will be referring to a small number of principal documents relevant to the application for compulsory acquisition. These include the draft development consent order, land plans, Crown land plans, explanatory memorandum, statement

of reasons, funding statement and book of reference, all of which can be found in the examination library.

Finally, may I remind you that the focus of today's hearing is explicitly on the proposed compulsory acquisition powers, and the examination authority will not be taking any submissions or evidence on any other matter, on any other aspect of the proposed development itself. Similarly, the examination authority cannot take evidence on the quantum of compensation that may be sought or awarded to any individual, affected person or the application of the compensation code, as this is strictly outside the scope of the terms of its reference. Lastly, may I request the applicant and any interested parties, affected persons making oral representations today submits a summary of their oral submissions in writing by deadline four, which is Wednesday the 20th of November, 2024. Additionally, any interested parties or affected persons who may be watching the live stream or listening to the digital recording may make comments on any of the oral representations made today in writing, should they wish to do so by the same deadline or you all written, all written submissions should be based on the representations made today, rather than new material. But they make they can include more detail and cooperative or supporting evidence. This applies to both the applicant and interested parties and affected persons before I move on to deal with the items detailed in the agenda. Are there any questions at this stage about the procedural side of today's agenda? I note that no one has indicated that they have any questions regarding procedural side of today's hearings. That's all for me for now. I turn now to Item three, I will hand over to Mr. Simms,

thank you. MS, Bennet Matthews, so on to Item three, we're going to invite the applicant in a moment to provide an update to its case for the compulsory acquisition and temporary possession regarding its overall approach in the context of the relevant tests under the Planning Act 2008 and the relevant guidance, the purpose, structure and contents of the book of reference, the statement of reasons and the funding statement, along with the powers sort and the overall case for them being granted, including confirmation that the application still accords with Section 1232, of the Planning Act, and whether and how the purposes for which the compulsory act powers are sought comply with what section 122, of the Planning Act. 2008 just before we move on to the main subject of this agenda, agenda item and the rest of the agenda, we just wish to acknowledge that the applicant's change request submission has been submitted and it's been accepted by the examining authority and is currently being consulted upon in accordance with the infrastructure planning compulsory acquisition regulations 2010, and that consultation is currently ongoing so the EXA considers that it would be inappropriate to pursue discussion on the change request at this time, we do appreciate that it might be difficult to avoid it in its entirety, but I hope in the spirit of what I've just said, we'll be trying to avoid discussion about that. Irrespective of this, we would just stress that there is still, there is a currently, an opportunity to make relevant representations in relation to that change request, and there will be a further period of written representations to be submitted in relation to it. Additionally, the EXA may decide to hold a further preliminary meeting, should it consider one to be necessary. And furthermore, there will be an opportunity to make oral representations on such that the change requests a potential hearing to be held in January 2025 if we require one, the dates of which will be confirmed in December 2024 that being said, as per Agenda Item 3.1 I'd like to ask the applicant to give us up to about a 20

minutes opportunity to provide an overview as detailed in Agenda Item 3.1 so I shall hand over to Mr. Philpott for that. Thank you very much. Thank

you very much, sir. Mr. Philpott, on behalf of the applicant, so far as the tests and guidance are concerned, they've just been summarized by your colleague, Miss Bennet Matthews, a few moments ago, and I don't propose to repeat those. I'll just take those as read. So the applicant has included powers in the draft development consent order, which satisfy the tests in Section 1222, and 1223, and also the relevant guidance, the statement of reasons, which is app zero. 24 explains the need, in general terms for the compulsory acquisition of land and rights, the extinguishment and suspension of rights and the temporary possession of land. That needs to be read together with the schedule of negotiations and powers sought, which is app zero 26 which explains why each plot of land within the order limits is required, and the relevant plot numbers are linked to specific works in the draft development consent order, so that it can be understood why each piece of land or new right or extinguishment of rights in that land is required, and for those plots which are subject only to rights or temporary possession, that's also set out in schedules nine and 11 of the draft development consent order, Those documents also now to be read alongside the submissions put in at deadline. Two in particular rep two, zero 37 and zero 38 which is the order width and interrelationship report, which provide more detail in response to matters raised by the exam. Authority. And it can be seen from those documents that in each case, the purpose of acquisition meets the condition in subsection two of Section 122 because it's either for development to which the application relates. So for example, it's the location of some new infrastructure, or it's to facilitate that development. So for example, it might be required to construct the infrastructure, or it's for a purpose that's incidental to that development. That might be because it's required to access and maintain the infrastructure once it's in place, or in this case, it's replacement land that's to be given in exchange for order land under section 131, that's the cowpen Bealey Woodland Park. And the exception in one, section 1314, applies to this land, the open space land and the replacement open space land within the order limits is more particularly described in Section nine of the statement of reasons, which deals with special considerations. I'll turn to the compelling case matter a little later, but in respect of the different powers that are sought within the order, the general approach has been as follows. So first of all, dealing with freehold acquisition. In summary, the areas in which freehold acquisition is sought are those where the applicant requires permanent and sole possession of the land, and acquisition of all interests in the land is the only appropriate route to achieve the proposed development. And the areas to which this applies are as follows. So first of all, part of the tees work site, which is part of the former Red Car steelworks site, and that's the location for the proposed hydrogen production facility. So work number one, as well as part of various connections to work number one, it's land required for the above ground installations which are part of work. Number two, the natural gas connection, land required for the substations or above ground installations which are part of work. Number three, the electrical connection works for the import of electricity from electricity transmission networks, land required for the above ground installations which are part of work. Number six, the hydrogen distribution network to connect work number six A, to the gas grid and distribution networks and to hydrogen off takers work. Number 6b land required for the above ground installations which are part of work. Number seven, carbon dioxide export pipeline for the export of carbon dioxide and the replacement land that's required in exchange for the lost open space. And that's work number 11, so that's the freehold. Then next, new rights. In summary, these are areas

where the applicant needs a permanent interest in the land, but doesn't require exclusive possession of the land. And these are areas required for the installation, construction, operation and maintenance of the following aspects of the scheme. So first of all, the natural gas connection. That's work. Number two, A, the electrical connection corridor. Work. Number three, the water connections. That's work. Numbers four and five, the hydrogen distribution network, underground and overground pipelines work. Number six, A, the CO two export connection, that's work. Number seven, A, the other gasses connections work. Number eight, and the access and highway works, that's work. Number 10, to the extent these are permanent and most of these areas over which new rights are sought include both the substantive work, such as the pipeline or cable, and where necessary routes along which the applicant can gain access to the relevant connection corridors at next extinguishment or suspension of rights, the applicant is included powers in the order to ensure that easements, restrictions and other private rights identified as affecting the land can be extinguished or suspended so as to facilitate the construction and operation of the proposed development without hindrance. Dollars. In addition, there may be unknown rights, restrictions, easements or servitudes affecting the land, which also need to be extinguished in order to facilitate the construction and operation of the proposed development. Then temporary use of land and other areas of land are included in the order limits with powers of temporary possession sought under Article 32 and also article 33 and these are areas which the applicant only requires use of during construction of the proposed development. And article 32 permits temporary use in two ways. First, the land that's been identified in schedule 10 to the order may only be temporarily possessed. In other words, the applicant can't acquire the land or new rights over it, and possession can only be taken of that land for the purposes that are set out in the schedule for that particular plot. And then secondly, Article 32 permits the applicant to take temporary possession of any other part of the order land where it hasn't yet exercised powers of compulsory acquisition. And that would allow it, for example, to initially take temporary possession of the whole width of corridors required for the pipeline or cable connections, so the applicant has included specific powers to use land temporarily. In other words, the land that's colored yellow on the land plans to construct the proposed development where it does not require any interest in the land on a permanent basis, and these areas relate to the temporary construction lay down areas. That's work number nine, to the extent they don't overlap with permanent works and some access and highway improvements. That's work number 10 that will be used for the purposes of construction. So that that's by way of overview in relation to the tests in Section 1222, would you like me to go on to deal with the Section 1223, compelling case test. Or do you want to deal with that under sub item three, I'm in your hands as to what's most convenient.

I'm I'm very happy for you to continue. Mr. Field box,

okay. Thank you so, so subsection three of Section 122 requires the Secretary of State to be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily, and the compelling case test effectively mirrors the requirements of the Human Rights Act 1998 and the need to show that any proposed interference with Article One to the first protocol and article eight is for a legitimate purpose, lawful and proportionate. So if you satisfy the compelling case test, you also satisfy those tests, and the statement of reasons sets out the compelling case at Section seven, that's justification for the use of powers of compulsory acquisition. Section eight, which deals with policy

support and section 11, human rights, although given the rather all embracing nature of the test. It's also relevant to consider what said in Section six, need for the compulsory acquisition of land and rights, and also those other documents that I referred to a moment ago, which show what each piece of land is to be used for how the widths have been arrived at, and matters of that sort, all of which are relevant to satisfying the compelling need test. What those show is that the powers are sought for a legitimate purpose, that efforts have been and continue to be made to acquire the necessary land by negotiation that absent powers of compulsory acquisition, the order land may not be assembled in time to enable the underlying urgent public interest objectives to be met. There is no reasonable alternative to the proposed acquisition in order for the proposed development to proceed, the site selected for the proposed development and the land needed to implement it are suitable, having regard to potential alternatives, the applicants undertaken a clear and appropriate process to identify the site and the most appropriate connection corridors and to justify the land. That's been included in the order, and the applicant has the ability to procure the financial resources required for the project, including the costs associated with the acquisition of land. Section seven of the statement of reasons which deals with the compelling case, summarizes the detail that's contained in the planning statement and the project needs statement, and further expands on the case for the proposed development. Section Eight contains a summary of the policy support for the proposed development, and again, further detail on that is found in the planning statement, in the project need statement, and those show that the proposed development meets an urgent need for new low carbon hydrogen production. It's an essential part of decarbonizing the power and industrial sectors by providing the development of a low carbon hydrogen distribution network that enables decarbonisation of industrial emitters, helping the UK meet Net Zero targets. It's a form of economic development that's suitable for its local context, and it minimizes or mitigates the adverse impacts to an acceptable degree and is compliant with national policy statements, en one, en four and en five, and in accordance with other decision making factors specified in section 104 of the Act, there is a clear, compelling and urgent national need for the proposed development because it will make A major contribution towards addressing the established urgent need for the shift to clean energy generation and greater energy efficiency, which provides the most effective route to ensuring both climate and energy security. The applicant has selected the site on which to construct and operate the proposed development for sound technical, environmental and commercial reasons, it will provide benefits to the local area to strengthen T size development into the UK's leading hydrogen hub, creating new high quality jobs, supporting local education, skills development, and kick starting a highly skilled UK based hydrogen supply chain. Those substantial public interest benefits, and the need to realize them substantially and decisively outweighs the impact on the interests of those who would be affected, and those interests are capable of being adequately protected and concerns addressed through protective provisions, other safeguards within the order and the application of the compensation code. And therefore there is a compelling case for the purposes of Section 1223, I hope that provides a sufficient summary for present purposes, sir,

I think it does indeed. Thank you very much indeed. Thank you very much. Mr. Philpott, I don't have many questions. I do have one which is quite brief, but before I do that, is there any other party that would like to make a comment, I just would bearing in mind that there's quite a lot of detail in the following items of the agenda, but in terms of this agenda item and the the the applicant's case for CA

and temporary possession, are there any particular Comments or questions that other parties would have firstly, can I just sweep the room and anybody online with a hand up?

Is that Mr. Innis, or is that someone that's hovering over Mr. Innis? No, I don't think we've got a hand up from Mr. Innis. That's fine. No problem at all. My only brief question is about the potential for updating the statement of reasons it hasn't been updated yet, and you mentioned, understandably, a couple of new documents that had been submitted in in rep two being the interrelation report and the explanatory note on the Wiz. Are you intending to update the statement of reasons further, or will that not be required in your view?

So we don't, haven't intended to update the statement of reasons we will obviously be providing, after today, a written summary of the oral submissions, so we can include in that, excuse me, the points that I've made about the updating of the position, if, in due course, having seen that, you. You think that an update is necessary, we will, of course, consider and respond to any such request, but that's our current intention. Yeah,

no, that's absolutely fine. It was purely in in in respect of the two documents you mentioned. And maybe after today's hearing, you may feel that there is a need, and we may feel that there is a need, but, but we'll, as you say, I think we'll cover that later in in follow up, after deadline for that's fine. I didn't expect too many questions on that part being a kind of an overview of what has already been submitted. But thank you for doing that. To kick us off, I just asked my colleagues if they have any further questions on that item. Okay, so I'm going to go on to item four. There is every potential that we will not complete item four before we decide for a comfort break around about 11 o'clock. So if everyone's happy with proceeding and curtailing midway through some of our discussions, that would be fine. So I'm going to go on to item four. Sir,

Harry wood Philpot, on behalf of The Haven. Can I please do it? Then? You don't intend me to cover item three, two on the book of reference statement to reasons and the funding statement.

Thank you for pointing that out. I'm very happy for you to do that. And sorry, I just got slightly ahead of myself, obviously getting a bit excited about item four. So please do please drop back on onto that. And apologies, and thank you for Rennie me in well,

so not at all. I'm quite happy to take your lead. So I'll try and deal with this briefly, if I can conscious that most people will have had the chance to read them. So starting with the book of reference and trying to deal with purpose, structure and content. Succinctly, the book of reference, which is app zero, 23 that follows the requirements that are prescribed by regulation five to D and regulation seven of the apfp regulations. It's divided into five parts, so part one deals with categories one and two. So owners,

lessees, tenants, occupiers, other interests of the power to convey or release land. Part two deals with category three. That's Section 10 of the Land Compensation Act 1965 and part one of the Land Compensation Act 1973 being those of the relevant claim pursuant to the definition in Section 57 of the Planning Act 2008 part three, deals with easements or other private rights proposed to be interfered with, suspended or extinguished. Part Four, Crown interests. Part Five, special category and replacement land. And the book of reference provides details of all the land interests that are subject to powers of compulsory acquisition and temporary possession, as required for the development to which the order relates or required to facilitate or incidental to that development. It the book of reference should be read together with the land plans, a P, P, 008, which demonstrate the location of each of the plot numbers that are referenced in the book and the works plans which demonstrate the work numbers for which each such plot is required in order to construct, operate and maintain the proposed development. So that's the book of reference statement of reasons which I referred earlier. That's a PP zero, 24 that has been prepared in accordance to the requirements of section 37 3d of the Planning Act, and regulations five to H and five to N of the apfp regulations. I should just pull myself up there. That is, of course, an acronym that's the infrastructure planning applications prescribed forms and procedure regulations. But if I can use apfp regulations hereafter, and also the guidance on compulsory acquisition, and the purpose of the statement of reasons is to explain why it's necessary, proportionate and justifiable for the applicant seek powers of compulsory acquisition within the application to acquire land, acquire or create rights over land, distinguish or suspend rights over land, temporarily use land for the purpose of the proposed development, and why, there's a compelling case in the public interest for the applicant to be granted those powers. So far as its structure and content is concerned, I'll deal with this briefly, because I alluded to some of these matters a moment ago. There's an executive summary. Then section two, ident explains the purpose of the document and how it's structured. Then in section three, there's a description of the proposed development. Section four describes the site and the order land. Section five explains the statutory basis for the powers sought. Section. Six explains the need for compulsory acquisition of land and rights. Section seven sets out the justification for the use of such powers by reference to the compelling case test. Section Eight summarizes the strong policy support for the proposed development. Section nine deals with special considerations, namely Crown land, special category land and land of statutory undertakers. Section 10 considers the other consents and licenses needed confirms the absence of obvious impediments to their being obtained. Section 11 addresses human rights considerations, and section 12 provides further information for those who might be affected. Then finally, the funding statement. The purpose of the funding statement, which is a P, P zero, 25 is required, pursuant to regulation five to each of the A, P, F, P regulations, and its purpose is to explain how the project would be funded. It provides information to show that adequate funding is likely to be available to enable the proposed compulsory acquisition within the statutory period, following the order being made and addressing the implementation, the costs of implementing the development and the resource implications of a possible acquisition resulting from a blight notice have been taken account of and then so far as its structure and content is concerned, section one comprises introduction, summarizing the background the development, the site and the purpose and the structure of the document. Section Two describes the applicant in its corporate structure that includes information as to the resources available to the applicant in its covenant strength. Section three provides information on the proposed development cost, including costs associated with the use of compulsory acquisition and temporary possession. Section four explains how the applicant has the ability to procure the financial resources necessary to meet those costs. Section five deals specifically



with funding for land acquisition and blight. And the document is supported by appendices which provide more information on corporate structure and also BPS audited accounts. The statement demonstrates that the applicant has the ability to procure the financial resources required for the proposed development, including the cost of acquiring any land and rights in the payment of compensation as applicable. And in addition to that, as you have seen in this case, the applicant has included an article in the draft development consent order, rep 2004, and this is Article 47 which requires it to put in place financial security before exercising powers of compulsory acquisition, the applicant is not aware of any interest within the order land in respect of which a person may be able to make a blight claim. But in the event this did occur, the applicant has access to sufficient funds to meet any compensation due, and it therefore allows the Secretary of State to be satisfied the requisite funds for payment of compensation will be available at the appropriate time. And so, as you alluded to, there is a change request which contains supplementary versions of those documents which are CR, 1009 CR, one zero 13, and CR one zero 14. But at this stage, I then address those further.

Thank you very much. That was that was really useful, I'm assuming, without any hands up on the on virtually and in the room there's no further questions of that, and just so I don't get pulled up again. Mr. Ford, I believe you've probably covered bullet point three in your first

discussion. Indeed, sir. Thank you. Harry was full, but on behalf of the applicant, I did so I dealt with the compelling case as part of point one,

just checking. Thank you very much. Okay, so I'll go back to what I said previously. So we're going to be going on to Item four now, and we will probably be still breaking at about 11 o'clock. So we'll we'll start now and proceed as far as we get to and take an opportune break at 11 o'clock. So in this agenda item, we'll be looking at individual objections, along with other individual issues, and progress on individual voluntary agreements. A number of people have intimated that they would be looking to speak at this so we'll be making sure that we we do that we look out for that at all times. I'll be asking the applicant to provide a brief update on the progress of negotiations into compulsory acquisition and temporary possession of land and rights, and deadlines for conclusions of any associated voluntary. Agreements in general, and highlighting or using the list of affected parties set out on the Publish agenda as a running order. But I'll give you a prompt, and I'm sure between us, we will cover everybody that's here after the update from the applicant on each individual party. I will then ask those who've registered to speak to provide a summary of the location and the manner of land interests and or the plot numbers their case and any outstanding concerns that haven't already been discussed, the applicant will then be asked to respond in return, and we may well ask questions of our own, of either party. So over to the applicant. So if we would start at the top with Anglo American, I think. Thank

you, sir. I'm going to hand over now to Mr. Pete from dark onward, CLARIN and Mr. Ibrahim Zadi from BP, who will be doing something of a double act as we go through each party. So I will only pipe up where I think I've got something useful to add, if at all,

that's thank you for that confirmation. Mr. Pete,

Joshua. Pete, repeat, on behalf of the applicant, my intention is to first of all give a overview of negotiations, and then we can cover off individuals after that. So Darfur McLaren, on behalf of the applicant, has been engaging with affected parties and land interests relating to the h 2t side project since spring 2023 this engagement began with survey access requests and then consultations In September and October of 2023, and February of this year, the applicant has engaged with 52 affected parties in relation to land interests. As for the progress in negotiations with these parties, we maintain and update the land rights tracker to document their status updates in our negotiations with the landowners and occupiers will be submitted at examination deadlines as required, with the latest tracker presented at deadline two, and the next update due At deadline five. Negotiations include a variety of land agreements, protected provisions and side agreements, as well as some more bespoke agreements required by individual landowners, whilst we do not have specific deadlines formalized for the conclusion of voluntary agreements and protected provisions, the applicant is progressing negotiations with many of the landowners and occupiers, and we anticipate securing agreement for a great deal of the heads of terms and protected provisions and Some of the long form legal agreements before examination closes, for landowners and occupiers and affected parties where negotiations are less advanced, the applicant is committed to continued engagement to resolve outstanding issues, Ensuring progress even beyond the examination period. The applicant will continue to update the examining authority and protect provisions and voluntary agreements and remains committed to working alongside all affected parties to ensure the HTT side projects successful development. And that's the end of the general overview. So happy to take your lead to jump into specific parties.

Yes, I think I'm happy. Thanks for the overview that's really useful. So yeah, I think we will jump into negotiations with specific parties. I say I think Anglo American Top the alphabet. So if you could kick off with that and and obviously, Miss Clark, you may well be up you want to comment.

So Mr. Fauci, on behalf of the applicant, just looking at the list. In the agenda, there is Air Products ahead of Anglo American alphabetically, as well as in the list. It's just whether or not you wanted to. I think we're happy to start wherever you see fit, but we can deal with we can deal with them which. Order is appropriate.

Okay, I was generally looking through the list of people that have registered to attend. But, and I don't, let's go with your list. Happy to go with your list. I

don't mind, so it's if they're not. If you don't want to deal with those who aren't attending, we're happy to leave this over, which I was

efficient as you prepared, if you're happy to update us, that would be useful anyway. So let's go with your list.

And thank you, sir Mr. Eleanor Ibrahimza Speaking bodies on behalf of the applicant. And so with Air Products, we've been in continued negotiations to agree a form of protective provisions to provide the necessary protections for their existing infrastructure. I'm pleased to inform that we have not been able to share a draft form of protective provisions on an agreed, pre agreed principle with Air Products team on the Monday of this week, on 11th November. That's currently out with review with Air Products team and their external solicitors, we have also been discussing and are currently scheduling a meeting to go through the form of protected provisions that we've shared with the Air Products team, and we're hopeful that we'll be able to reach a an active form of protective provisions with Air Products by the end of examination. You Duncan, thank

you for that update. I don't believe we have anyone from Air Products with us today. That's very useful. Thank you for the update. So I think we have this.

So just coming in terms of their products, if they do wish to make anything, having watched the live stream or the video recording, they can make a submission at deadline four, which is Wednesday, the 20th of November, I believe. Thank

you very much. Okay, who do you have next on your list?

Josh repeats, on behalf of the applicant, I believe Anglo Americans next. Let's go for it. The applicant is working with Anglo American to address their concerns, and the parties currently hold a monthly meeting in order to progress discussions. The next meeting is scheduled for the 18th of November. Many of the discussions have centered on the interactions between the York potash project and the HTT side DCO. The applicant proposes that these interactions are dealt with via protected provisions, and has issued protected provisions which are with Anglo American for review. The applicant has also issued heads of terms for voluntary land agreements to Anglo American and wish to progress these to legal drafting.

Thank you very much. Can I ask Miss Clark, if you like to respond and outline, as I've said, Anglo Americans position,

thank you, yes, and I'd actually produce some slides to help, to help, sort of visualize the impact here, but I see that the share option isn't open, so I can talk to the slides without showing them. If that yes, yes, it's better. Would it be acceptable for me to submit the slides as the written as part of the written summaries?

Yes, absolutely. If there's anything that's already in the examination library that would be useful for the applicant to share at this moment, to support you that would be accepted as well. So if you think a works plan or a land plan would be useful, then we have those plans ready to share, but only the ones that have been submitted into the examination library already.

Thank you. I might refer to, I think it's 11 D, which is a sort of zoom in on sheet 11 of the land plans. But

for the time, I think, sorry, Mrs. Clark, I think it'd be useful to if we could share those. I think it would be useful rather than trying to guess if that's what you would be looking to do with share them now.

Absolutely yes, if that can be done, I was just going to yes, that's, that's the one. Thank you. Just by way of sort of overview, I mean, what we're looking at here is the brown sands frontage, the the Anglo American. Centered DCO runs from over the frontage area into the tees, covering the whole of the lagoon, and over to the eastern edge of brown sands and beyond. So we've got significant, significant impact of a pre consented end SIP here, and Anglo American is naturally concerned about its ability to deliver its consented project with the significant impact that we're looking at, focusing on brown sands, in particular at the frontage, as has been summarized in RR zero 10, which was the relevant rep submitted in June, the York potash DCO consented, in 2016 authorizes the the mining and export of polyhalite, which is a very significantly important mineral from from this area, as is the it is proposed, it's that it's exported out of the frontage area that we're looking at, we're looking at here. And as I say, that the consented land goes way beyond into the tease. And the idea, or at least the authorization, is that the port area there is developed, and the polyhalite exported out of it. The pink area that we're looking at here is obviously subject to the compulsory powers. There has been little, no engagement in in Anglo Americans. But as to what is, what is how the impact here is going to be managed, the area that we're looking at the white area, basically the to the right of 11, 127, comprises the lagoon area, which is all subject to an environmental permit extending all the way across to the eastern edge of brown sands, which Anglo American is liable to maintaining monitoring mitigations under its own DCO, and various other liabilities under the environmental permit, none of which have been dealt with. And this is this is dealt with in our most recent submission. Should this area be compulsory, acquired and not properly managed? This area that we're looking at here that the pink area, Anglo Americans ability to deliver on its obligations under the environmental permit will be severely compromised. And in addition, obviously, Anglo Americans ability to implement its own development will be impeded, not just even compromised. The area that's subject to the compulsory acquisition of rights here to the blue area, 11, 135, that we're looking at all of that is Anglo American freehold land subject to the leasehold of the Sen court corridor, and is essential access for Anglo American to comply not only with its own liability under the

environmental permit, but also to deliver the development at the frontage here and beyond the frontage, you can see here to the left of the plan, the compulsory acquisitions of rights in the teas. This is a very wide area that has been identified for the compulsory acquisition of rights, and I believe it's with a hydrogen corridor. But also I believe that it, the proposal is that it's micro tunneling, and I'm no expert, but it's, it's quite a significant area that's been identified for that requirement. Anglo American has existing dredging arrangements with the Crown land, an easement just to the front of the frontage here, again, there are obligations on Anglo American under the terms of that easement, as well as dredge pockets that it needs to manage for its own development. And there is a lack of certainty as to how Anglo American will be able to do that, should this lab be compulsory, required, and also how the interface is going to be managed. It was referred earlier that as part of the compelling case, affected parties had been offered protected provisions, and notwithstanding what has just been said, we haven't seen any draft protected provisions. We've seen the area that has been left blank in the draft development consent order, which purports to amend Anglo American's own DCO, which presumably isn't going to contain the protected provisions on the basis that they should be contained in this DCO. So we wait to see those protected provisions and the only other thing that I would mention as regards the general interface is, whilst there have been heads of terms received as to the land arrangements, there has been nothing, whether by Voluntary Arrangement or, as I say, had said. Protected provisions that purports to manage the interface of these two projects. Anglo American, obviously being the pre-existing author consented project, and obviously this project, which is seeking authorization, just briefly, I'll mention two other areas of interface which are of concern, the concern could be mitigated should appropriate Voluntary Arrangements be entered into. But as I say, that is not yet the case. To the eastern edge of the brown sands, there's a consented conveyor, which is part of the Anglo American York Bucha DCO, the h2 DCO proposes compulsory activation of rights for hydrogen corridor. We would like to see that the appropriate arrangements are in place for the interface of these two projects, and it does not seem justified, already compelling for the compulsory acquisition to take place before that that has been secured. And finally, I would just refer to what we see as the third main interface. And sorry if it's misleading to anyone, if we've still got the brand sans frontage on the screen, just above the brown sands function. You've got the red car bulk terminal. This is the this area is consented within the York potters DCA. It is the commercial arrangements between Anglo American and red car for the export of the poly halite. And once again, we would seek to ensure that such arrangements are reached through Voluntary Arrangement, voluntary agreement, rather than post already on the basis that this is pre-existing consented land. Thank you.

Thank you, Mrs. Clark, for that if I could ask the applicant to respond. We are, we are a little bit concerned that you've suggested that there's a the preventive provisions have been issued, and Mrs. Clark saying that they haven't been. So I really quite like clarity on that, please. And I will come back to Mrs. Clark and the applicant to ask if, in your view, those concerns that you have can be resolved adequately through protective provisions and Voluntary Arrangements, or whether you feel that there is going to be anything that can't be covered in those two things. So Mr. Pete first on the protective provisions, or Mr. Philpott. So

if I, if I may, harrow Philpot on behalf of the app, before I hand over to Mr. P Just a short number of points, I I am assured that the protected provisions have been provided. Those are my clear instructions. If there's been some slip to its cup and lip. I'm sure we can sort that out outside the examination, but those are my clear instructions. But I'm also aware that the interrelationship between this project and the Anglo American project, whilst, of course, it has its own individual features which are not identical in some respects to those of the net zero Teesside project, the principles and the use of protective provisions to deal with overlaps has been already negotiated through the net zero T side, examination and development, consent order process, and protective provisions reflecting the same approach were included on the face of that order. And so insofar as those protected provisions have not yet reached the other side, they shouldn't contain any surprises, because the principal approach is the same. Two other points I wanted to make. First, there were certain issues that were raised which are in my submission more appropriately dealt with in tomorrow's issue specific hearing. So the environmental permit issues where there is a specific provision that's been included in the draft order to seek to address those that's something we can pick up in tomorrow's hearing. I do agree. Similarly in terms of the general overlap of having two development consent orders over the same land, that's also something which was is more a DCO matter than a compulsory acquisition matter. And the third point is that you'll be aware that we have provided a written response to the submissions made on behalf of Anglo American. In rep 3006, so we're not proposing to go through all of those matters that we've set out in writing. So just with those points in mind, I'll now pass over to Mr. Beat,

Joshua Pete on behalf of the applicant, just a few things to add, I believe that VP have sorry, the applicant has demonstrated that the infrastructure proposed can be accommodated in interaction with the York potash, DCA, and that further discussions are to be had, specifically in relation to the pink areas over Anglo Americans land. It's anticipated that the tunnel depth is sufficient to not have interactions with the dredge pockets, but we can provide further detail to that after the hearing, and just to reiterate on the PPS, as Mr. Philpott said, there's an agreed principle for the progression of the PPS as negotiated through the NZT project, and it was understood that agreement on that had been reached with Anglo American and their agent Gerald Eve.

Sorry, can I ask some clarification? You say you've demonstrated that the interaction between the duties DCOs actually works. Who have you demonstrated that to? Is that submitted in evidence, or is that submitted to Anglo American? Or who have you demonstrated it to? And how

I believe that was demonstrated through the technical meetings that we've been having regularly with with Anglo American.

Thank you, Mrs. Clark,

hi Juliet Clark, frankly American. Thank you. Thank you for that, and I am aware of the discussion surrounding the the other DCO near the the net zero DCO. It shouldn't come as any surprise that I do think each DCO should be treated as its own project, and we would expect negotiations to be held in respect of these proposals, as opposed to simply relying on a principle that has been agreed some years ago. There are nuances with every project. The interfaces in this particular case are unique to these two particular projects, and I am assured that we have not seen drafts. Well, I certainly haven't. And I'm assured by my client that we have not yet seen draft protected provisions. That is it is proposed by the applicant will be sitting on the face of this particular order. Yes, it is accepted that discussions might progress based on the ntz DCO, but we would expect to see these, this particular DCO to have its own proposed protective provisions for the benefit of Anglo American I'm also assured that we've not yet had any detail as the proposals for the areas that are subject to compulsory acquisition. And it's very reassuring to hear that the tunnel depth is going to be palatable from Anglo Americans point of view, and manageable in terms of the dredge pockets. But again, no details have yet been forthcoming.

Thank you. I think I will, I will ask the applicant for one final response before I make a I think it allows to move on. Mr. Philmott, thank

you, sir, Mr. Philpott, on behalf of the applicant, so I'm just going to turn the moment to a speaker who I didn't introduce earlier, but in light of the discussion, I think it'll be helpful for you to hear from them. I would just say a few words of introduction. First, I hope that in what I said earlier, it's clear that we understand, of course, that the protected provisions that will go on the face of this DCO will have to be bespoke, and will have to deal with such matters as are different between the two. It's simply the principles that are relevant as to how that might work. That's what I'm going to ask Mr. Matthew Fox, who's to my right, who's a senior associate at Princeton Mason's, just to provide you with an overview. Because I'm conscious at the moment, of course, you haven't seen the document, and therefore we're slightly talking about something which is unknown to the examining authority. So I thought it might be helpful just to have an overview of broadly how they might work. And secondly, it's also clear that at the moment, negotiations are ongoing, and that there is a great deal happening, a great deal still to be done, and we would hope to be able to provide you, preferably with something which is an agreed form as to what you do and don't have what the outstanding issues are at a subsequent deadline. So I'll take that away as something we can work on within the team and hopefully with Anglo Americans team, to provide you with greater clarity as to where we are and what's being discussed. But I think it might help to hear from Mr. Fox finally.

Thank you. Yes, no problem.

Thanks, the applicant. So I believe we did submit a copy of the entity, DCO, deadline one appended to our issue on submissions. And I think I just wanted to highlight that the protective provisions for Anglo Americans benefit within, within that DCA were heavily negotiated, and they were based on a sense of set of principles, recognizing, as we discussed this morning, there are certain areas shared areas, as

they were called in those protective reviews, where Anglo American have specific outcomes they want to be ensure and achieved, in terms of when projects are working alongside each other. So there were principles in relation to constructability, principles in relation to design, and there were certain commitments that were made in terms of what the entity applicant would or wouldn't do, and things that they would ensure would be the case, for example, ensuring access to specific facilities and ensuring, as I said, certain outcomes were were achieved. And the important point was as as it's the case here, as our project develops alongside the Anglo American project develops, ensuring that both parties work together to ensure that projects can both be delivered. So it's quite an involved process in those PPS, and that's the basis of what we're doing here for for HTT, and we do, just taking point. We do, we do appreciate that they are different projects, but I think the principle of doing on a shared area basis and ensuring that both projects are able to be delivered and there's not a negative impact to ang Americans operations is is what we seek to deliver through those provisions.

Thank you very

much, and thank you both for the clarification that the PPEs will be based on net zero and not a replicate of net zero. I think that's understood before. I just ask a couple of our final questions. Mrs. Clark, is there anything further that you haven't mentioned yet that you would like to come back on or or have you made all your points so far? No,

as has been mentioned, I think there's probably a number of issues that are going to be raised tomorrow in the issue specific hearing, just that the one, the one thing I would just like to emphasize is that whilst we might have seen sets of heads of terms for the the actual ownership arrangements or the rights arrangements, we do need to see side agreement and protective provisions for the further safe and operative in interface of these two projects.

Thank you, Mr. Butler, yeah,

I just wondered if you could confirm when you issued those protective provisions to Anglo American. You don't have to necessarily do it today if you you haven't got that information, but I would like to know when you issued them, and I'd like to know who in Anglo American they got issued to, so that they can be tracked down. And I just just want to say something separate from that about you. You mentioned during issue specific one about using net zero T side, DCO as the starting point for discussions on protective provisions. And personally, I'm quite disappointed that I haven't seen anything yet, because we're now two and a half months into the examination, and those protective provisions are still absent from the DCO, which we will come to tomorrow. I won't discuss it any too much further in here, but I just really wanted to emphasize that we're now two and a half months in. We've got three and a half months remaining, roughly, and the time will fly by, and we really want to see progress on the. Matters, if at all possible, please,



sir, if I can, I've got instructions on the time and location, or as it were, the the intended location of the protected provisions. It was sent at 10 past six yesterday evening, directly to Juliet Clark, so in terms of tracking it down, if that hasn't come through, I mean, we'll obviously have to make sure that that is addressed, but that was, that was when and to whom they were sent. And then so, so far as your second point is concerned, we're very much alive to that. But I just make one point of caution and practicality in this. If we put in a draft set of protected provisions on the face of the order that goes in at a deadline, alongside negotiations on the protected provisions when they're traveling between the parties. Inevitably, there will be two things that will happen. First is that there will be a dislocation between the set of protected provisions that you and your colleagues are studying and the most up to date version that the parties are discussing. Secondly, in so far, therefore, as you spend time studying the drafts, that may well be time which is ultimately wasted. Secondly, when we if we put in a draft, the relevant party may understand that we feel the need to protect their position by commenting on it, and we'll then expect you and your colleagues to read those comments, we will feel necessary to respond to them. And again, we create parallel processes which we think at the moment is unlikely to be helpful, either to you, your colleagues, or to the progress of those negotiations. Having said that, we're very much alive to the fact that we need to get to a stage well before the end of the examination, where there is a joint position put in by ourselves and the other parties are involved in the negotiations in order to either say we have reached agreement or we're very close to everything, we don't think we need to bother you with competing versions, or we put competing versions in with an explanation at that point as to each side's case for it. So we That's how we're proposing to approach it. And in terms of when that would go in again, there's a need to strike a balance between allowing enough time on the negotiations to run their course, but also allowing enough time after that document is going has gone in for you and your colleagues to look at What's been submitted and to ask questions about it. So our current thinking is that an appropriate deadline for submission of those statements might be deadline six which would allow, we think, an appropriate balance between those matters maximize the chances of agreement being reached, but also allow then for further representations to be made with an update on final positions, perhaps at deadline eight. And that's how we were proposing to manage it. And for those reasons, we're conscious that you don't, at the moment, see the progress that's being made behind the scenes, but as hopefully, you'll get a sense as we go through each party, there is an awful lot of paper going to and fro, and we're conscious because it's in our interest as much as anything else. So the need to make progress as soon as we can.

Thank you very much for that explanation. I'm not surprised Mrs. Clark hasn't seen it in that case, if it was only sent 10 to 610, past six, whichever it was yesterday. So So I understand your frustration, Mrs. Clark, but hopefully now you can locate the source of it being into your email box. I would assume it at least give you a starting point in terms of your explanation about why you've not populated the relevant fields for relevant protective provisions or bespoke protective provisions. I completely understand that. I don't want to be deluged in paper either, but I do want to see progress. I think at least we would like to see the head headlines for those schedules populated within the DCO, even if they remain blank for the time being whilst those negotiations are going on. In terms of deadline six for submission of that detail, I'd I'd need to give that some further thought, make sure that gives us enough to. Item, but clearly with

the change requests coming forward, we're going to have to look at the timetable in any event, so we might do something about that in there. Mrs. Clark, Are you happier with what you've heard about where you can at least source the protected provisions that have been drafted to date?

Thank you. I've just checked my inbox, and there is no email that came in at 10 past six. If there was, funnily enough, I would have seen it and just, just, just, just to note, I mean, obviously there are a number of job protected provisions that's on the face of the order Anglo American shouldn't be treated in differently, in my view, I would submit to any other statutory Undertaker with with critical operators that interfaces with these proposals. And deadline six, seems to me, Well, I'll follow the lead of the examining authority, but it seems to me quite far down the line for us to see these protected provisions and how they interact with the proposals as a whole. But that's that's all I'll say. Thank you

very much. Mrs. Clark, I think Mr. Philpott will come back. So I think there's a slight misunderstanding there, which I contest to it

is. So thank you, Mr. Philpott, on behalf of the African, it's not that Anglo would only see the protected provisions, then they should already have them. If they haven't, we can sort that out outside the examination so that they will see them if they haven't seen them already, very quickly, it's simply that a joint statement as to where there remain differences and what the party's positions are on those differences would go in at that deadline, so that that would be the opportunity for both parties to say, we've managed to get this far. We can't resolve these matters. These are the issues that the examining authority and the Secretary of State will need to grapple with, and this is what each party says in respect of them, recognizing that we don't want to put all parties to the including the examining authority, to the trouble of engaging with those matters too soon in case they can be resolved. But there comes a point where we just have to provide the information in case it is necessary. Thank you,

understood. Thank you.

Thank you. What I'm going to do now is I'm just going to make a point that I know we've had a lengthy discussion with Anglo American I'm sure some of those things will be replicated in terms of questions in the subsequent parties that we talk about. So if you could just be prepared for some of those same questions to come up. And also just to note that we I know we are talking about protected provisions, and Mr. Philpott, you alluded to this earlier. We will be having a DCO issue specific hearing tomorrow. Some things may be duplicated because there's such an emphasis on protected provisions within the CA discussions we'll have today. So apologies for that, but I think it's just a matter of where we are. So I'm going to adjourn this session at what is now 1113 and we will reconvene at 1135 Thank you very much. Applause.