

Update re progress of Protective Provisions negotiations as between BOC Limited ("BOC") and H2 Teesside (the "Applicant") as at the date of the CAH2

- **24 April 2024** – The Applicant's solicitor sent generic protective provisions to Fieldfisher LLP (BOC's solicitors) ("Fieldfisher");
- **24 April 2024** – Fieldfisher confirmed that these would not be suitable to BOC given the size and extent of its infrastructure (it subsequently transpired the Applicant had previously not been aware that the majority of the BOC infrastructure was in fact unregistered at HM Land Registry and therefore the extent of the BOC network had not been understood by the Applicant's land referencing team);
- **17 June 2024** – Fieldfisher supplied draft protective provisions to the Applicant's solicitor based on protective provisions agreed for a third party as part of the Net Zero Teesside DCO together with drafting specific for BOC;
- **17 October 2024** – Baker Rose Consulting LLP ("BRC") emailed Matthew Chambers, Dalcour MaClaren, with a schedule listing out plots which BOC had an interest in and/or required continued access over which had not been included in the DCO book of reference;
- **10 October 2024** – The Applicant's solicitor issued a new set of protective provisions to Fieldfisher;
- **25 October 2024** – Fieldfisher reverted on to explain why (given the extent, nature and sensitivity of the BOC infrastructure) the protective provisions (based solely on a precedent relating to the owner of a pipeline corridor) were not suitable to the requirements of a pipeline operator and required amending to suit BOC's requirements (both practically and in terms of land rights);
- **11 November 2024** – The Applicant's solicitor produced a further set of protective provisions on a without prejudice basis shortly before CAH1 (on 13 November 2024);
- **12 November 2024** – (one day before CAH1) BRC emailed Matthew Chambers, Dalcour MaClaren, with a schedule of the interactions between the project and BOC infrastructure on a plot by plot basis, indicating whether the impact was direct or indirect and the necessary protections BOC would require. The Applicant referenced this in the CAH1 and confirmed it would help progress negotiations on the protective provisions;
- **24 November 2024** – BOC attended a presentation by the Applicant in respect of the Applicant's works' proposals as to the Tees Crossing. BOC has buried nitrogen lines through the two existing tunnels under the Tees as well as a currently dormant pipeline. The Applicant currently proposes to use micro-tunnelling, high directional drilling or both (albeit the detail of these works is not yet available). The presentation raised serious concerns within BOC engineering as to the potential impact of such works on its infrastructure at this location
- BOC continued to be concerned as to the level of information and agreement provided as regards the proposed interfaces both in terms of how the new and existing infrastructure will be accommodated both physically and in terms of replacement land rights being granted (especially where a reroute of existing infrastructure might be needed);

- **4 December 2024** – BRC emailed Matthew Chambers, Dalcour MaClaren with a written report summarising the interactions set out in the schedule submitted on 12 November. 2024. It identified the key areas of interaction, including the Tees Crossing, and points for further engagement with the Applicant.
- **6 December 2024** – Fieldfisher produced a marked-up version of the protective provisions to the Applicant's solicitor. This included new drafting to deal with BOC's concerns relating to the safety and integrity concerns relating to the Tees Crossing as well as further drafting to address a continued lack of information or agreement) as to how particular interfaces would be dealt with; and
- **13 January 2025 (during the course of CAH2 at 11:13)** – The Applicant's solicitors responded on a without prejudice basis to BOC's mark up of 6 December 2024.