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Our ref: 50303/24/HS/AW/33387518v1

Your ref: 20049353 Anglo American

Dear Rammiel

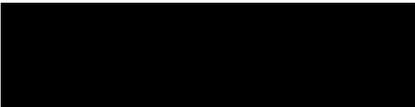
H2 Teesside Examination: Deadline 6A Submission

We write on behalf of our client, Anglo American Woodsmith (Teesside) Limited; Anglo American Woodsmith Limited; and Anglo American Crop Nutrients Limited (collectively 'Anglo American'), registered as an Interested Party for the H2 Teesside DCO Examination (20049353).

Following the Second Compulsory Acquisition Hearing ("CAH2") and the Fourth Issue Specific Hearing ("ISH4") on Monday 13th and Wednesday 15th January 2025, Anglo American is submitting the following as part of the Deadline 6A submissions (22nd January 2025):

- Written summaries of its oral submissions made at the Second Compulsory Acquisition Hearing on Monday 13th January 2025. These are provided at Annex 1 of this letter; and,
- Written summaries of its oral submissions made at Fourth Issue Specific Hearing ("ISH4") on Wednesday 15th January 2025. These are provided at Annex 2 of this letter.

Yours faithfully



Senior Director
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Annex 1: Written summary of oral submissions made at the Compulsory Acquisition Hearing 2 on 13th January 2025 – Deadline 6A submission

Anglo American Woodsmith Limited, Anglo American Woodsmith (Teesside) Limited and Anglo American Crop Nutrients Limited (together “Anglo American”) virtually attended the Compulsory Acquisition Hearing (“CAH2”) with respect to the H2 Teesside DCO application on Monday 13th January 2025. Anglo American was represented by Eversheds International. A summary of Anglo American’s oral submissions is set out below:

- On 4th December 2024 Anglo American provided a marked up Side Agreement to H2 Teesside which included provision for interface arrangements, and also identified where further technical discussions are required in order to ensure effective interface. This also made provisions as regards transfer of the Environmental Permit and provisions to safeguard against breach of the Environmental Permit.
- Whilst technical discussions are progressing, which is welcomed by Anglo American, there is a concerning lack of progress as regards the specifics of how H2 Teesside Project is proposed to be implemented without severely and detrimentally impacting on the Woodsmith Project.
- On 10th December 2024 H2 Teesside were sent Anglo American’s preferred Protective Provisions for inclusion in the dDCO.
- There has been no legal response to either the Side Agreement or the Protective Provisions. Anglo American are therefore unable to report on material progress.
- It is noted that at Deadline 5 (18th December 2024) Protective Provisions were included in the dDCO (REP5-005). This form of Protective Provisions do not include all the protections that were provided to H2 Teesside on 10th December – specifically the provisions to safeguard against breach of the Environmental Permits and protection against extinguishment of rights to land. The draft that had been provided to H2 Teesside was updated from the Net Zero Teesside project to reflect the design progress of the Woodsmith Project. These changes were not included.
- Anglo American welcomes the protection as regards the exercise by H2 Teesside of compulsory powers over Anglo American land interests as well as the requirement for consent and cooperation around the exercise of the works powers. However, the dDCO at Deadline 5 also included amendments to the York Potash DCO, which would have the effect of qualifying Anglo American’s ability to exercise the powers under that Order. Whilst Anglo American understands the requirement for cooperation in order to effectively deliver both important schemes, there is an urgent need to agree the specifics of how the projects will be delivered at the interface areas.
- In the absence of agreeing design interfaces, the operation of the reciprocal Protective Provisions on each respective DCO could effectively lead to a form of stalemate.

- Given the lack of design development of H2 Teesside at this stage, and the potential for severe and detrimental impact on the delivery of the Woodsmith Project, the Protective Provisions lack meaning in their current form.
- Anglo American welcome the ongoing engagement but until such point as H2 Teesside is able to meaningfully provide Anglo American with design proposals in the areas that the Woodsmith Project is severely affected by the powers sought, Anglo American must maintain the full objection to the H2 Teesside DCO. Anglo American notes that given the lack of details at design interfaces, it will need to submit further written submissions to the Examining Authority, and it is likely that matters will not be settled by the end of the Examination.

Annex 2: Written summary of oral submissions made at Issue Specific Hearing 4 on 15th January 2025 – Deadline 6A submission

Anglo American Woodsmith Limited, Anglo American Woodsmith (Teesside) Limited and Anglo American Crop Nutrients Limited (together “Anglo American”) virtually attended the Issue Specific Hearing 4 with respect to the H2 Teesside DCO application on Wednesday 15th January 2025. Anglo American was represented by Lichfields. A summary of Anglo American’s oral submissions is set out below:

ITEM 3: Articles and Schedules of the dDCO

As set out at the CAH2 on Monday 13th January 2025, Anglo American maintains its position as being directly impacted by the H2 Teesside Project. Whilst discussions with both parties are ongoing – and this is welcomed - in the absence of a settled Side Agreement or Protective Provisions, the concerns raised in respect of their Deadline 5 and 6 submissions remain unchanged (REP5-069; REP6-009).

With regard to the specific detail of the draft DCO – Anglo American has concerns about Article 48; Schedule 2 – covering the Requirements; and Schedule 3 – covering Protective Provisions.

Article 48 - Environmental Permit

At Deadline 5, Anglo American raised concerns regarding Article 48 (REP5-069). Specifically, there were concerns about the legal effectiveness of the new Article 48 in preventing Anglo American from being accountable for any liability arising through breach of the Environmental Permit by H2 Teesside, should any adverse effects be caused by activities authorised by the draft Development Consent Order.

It has now been agreed in principle between both parties that provision is made in the Side Agreement for H2 Teesside to indemnify Anglo American in such an event. However, as established at the CAH2, Anglo American is yet to see the detail of this in an updated draft. To this end, Anglo American’s position on the Article 48 matter remains unchanged from its Deadline 5 submission.

Schedule 3 – Protective Provisions

As stated during the CAH2, Anglo American also awaits a formal response from the Applicant with regard to Anglo American’s preferred Protective Provisions which were submitted to H2 Teesside in December. Following the CAH2, the Applicant made various information requests of Anglo American and a meeting is to be held on 23rd January to discuss technical matters. It is understood from the Applicant that this will inform the updated Side Agreement and Protective Provisions.

It is noted that during the CAH2, several Interested Parties made a request for additional hearing sessions in order to provide further updates to the Examining Authority on any outstanding matters. Anglo American would welcome the opportunity to report further on the Side Agreement and Protective Provisions if additional hearing sessions are to be accommodated. Anglo American will otherwise rely on written representations to make further comment.

ITEM 4: Schedule 2 of the dDCO – Requirements

At Deadline 5, Anglo American provided comments in relation to:

- Requirement 18: Construction Traffic Management;
- Requirement 22: Restoration of land temporarily used for construction;
- Requirement 25: Local Liaison Group;
- Requirement 28: Decommissioning; and,
- Additional Requirement: Operational Noise.

It is understood that Anglo American's concerns in relation to these Requirements will be addressed through updated Protective Provisions and /or the Side Agreement. In the absence of an update on these agreements, Anglo American has no further comments on the draft Requirements at this stage. Further comments will be made as required, following receipt of updated drafts.

Anglo American welcomes the Applicant's submission of draft wording for an additional Requirement for Operational Noise (REP5-045). As submitted at Deadline 6, Anglo American maintains that this should be included in the dDCO (REP6-009). Given the limited design development at this stage, this Requirement is considered necessary to provide certainty regarding predicted noise levels, and the mechanisms for management and monitoring are considered appropriate.