

# H2 Teesside Project

Planning Inspectorate Reference: EN070009

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

The H2 Teesside Order

Document Reference: 8.39 – Protective Provisions Statement

Planning Act 2008



**Applicant: H2 Teesside Ltd**

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## **1.0 INTRODUCTION**

### **1.1 Background**

- 1.1.1 This document sets out a statement on the position of the Protective Provisions and the Voluntary Land Agreements between the Applicant and the relevant Interested Parties.

## 2.0 NEGOTIATIONS UPDATE

**Table 2-1: Negotiations Update following Deadline 7 submission**

PARTY	NEGOTIATIONS UPDATE
<p>Air Products Public Limited Company, Air Products (BR) Limited, Air Products Renewable Energy Limited</p>	<p>The Applicant has reviewed Air Products’ preferred protective provisions submitted at Deadline 5A [REP5a-002]. The Applicant has included Air Products’ preferred protective provisions in the DCO submitted at Deadline 7 to the extent these are agreed.</p> <p>The Applicant is continuing to negotiate protective provisions and a side agreement with Air Products and most recently had a meeting with Air Products on 21 January 2025 to discuss these documents.</p> <p>There are also outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties. The Applicant expects these matters can be resolved before the end of examination.</p>
<p>Anglo American Woodsmith Limited, Anglo American Woodsmith (Teesside) Limited and Anglo American Crop Nutrients Limited</p>	<p>The Applicant is continuing to negotiate protective provisions and a side agreement with Anglo American and most recently had an ‘all parties’ meeting with Anglo American on 23 January 2025 to discuss these documents. Further discussions have taken place between the parties subsequent to this meeting.</p> <p>The key issues that are still being negotiated in the protective provisions are:</p> <ul style="list-style-type: none"> <li>• interaction of the Proposed Development and environmental permit <u>FB3601GS</u>;</li> <li>• various technical aspects that address the interaction of the York Potash Order and the Proposed Development to manage the construction and operation of both projects;</li> </ul>

	<ul style="list-style-type: none"> <li>• Amendments to the York Potash Order;</li> <li>• Proposed road closures; Construction traffic management;</li> <li>• Restoration of land used during the construction phase;</li> </ul> <p>There are also outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties.</p> <p>Due to the complexity of the matters, active engagement and negotiation is still ongoing and expect to provide further update to the status of the agreements.</p> <p>The Applicant continues to engage regularly with the Affected Party. The Applicant is providing further technical details to the Affected Party and Heads of Terms covering various elements of the Project are being negotiated. The Applicant has agreed with the Affected Party, where possible, to utilise previously agreed documents as a base to improve efficiency in reaching agreement, subject to any amendments required to reflect the specific interactions of the Proposed Development.</p>
BOC Limited	<p>The Applicant held a further meeting with BOC Limited and the parties' respective legal advisors on 29 January 2025 for the purposes of reviewing the remaining points of difference between their respective preferred draft protective provisions.</p> <p>This was supplemented by a further meeting between the Applicant and BOC Limited on 3 February 2025 following which in-principle agreement was reached on the remaining substantive points of difference.</p>

	<p>A further joint meeting between the parties and their solicitors was held on 5 February 2025 to seek to identify resolution of any outstanding detailed drafting points.</p> <p>Following this further meeting, the parties' solicitors are preparing an updated draft set of protective provisions. Subject to that draft being agreed, the only remaining points which require resolution pertain to commercial matters and will be the subject of an appropriate side agreement. This will also confirm the agreed protective provisions for inclusion in the DCO in due course.</p> <p>The Applicant envisages that the parties will be able to provide a further progress update to the ExA on or before 13 February 2025.</p>
<p>CATS North Sea Limited and Kellas Midstream Limited</p>	<p>The Applicant continues to hold regular weekly meetings with the Affected Party and progress is being made. The next weekly meeting is scheduled to be held on 6th February 2025.</p> <p>Protective Provisions are under negotiation and the Applicant is expecting to exchange drafts within the next week following further direct engagement between the Applicant's and CATS' legal representatives. The principal points outstanding relate to those parts of the protective provisions where CATS has proposed a departure from those contained in the recently made Net Zero Teesside DCO.</p> <p>The Applicant expects to be able to provide a further update at DL8.</p>
<p>CF Fertilisers UK Limited</p>	<p>The parties have had weekly meetings, most recently on 5 February 2025 to discuss additional principles for inclusion in the protective provisions and side agreement. There are also outstanding points between the parties regarding commercial issues. These</p>

	<p>commercial issues and principles need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties.</p> <p>Due to the nature of the remaining issues between the parties and the time remaining in the examination period, the Applicant does not expect to reach agreement on all matters in the side agreement and protective provisions prior to the end of examination. However, negotiations are ongoing and the Applicant remains committed to reaching agreement. The Applicant anticipates reaching agreement with CF Fertilisers on all aspects shortly after the end of examination.</p> <p>The Applicant is in active negotiations with CF Fertilisers regarding the property agreements. The Applicant issued Heads of Terms in October 2024 and received initial comments however, there are still some outstanding points to be agreed. The Applicant expects Heads of Terms to be agreed prior to the end of the examination period with the legal documents to be completed thereafter.</p>
Environment Agency	<p>The Applicant has reviewed the protective provisions provided by the Environment Agency and have made some amendments for the Environment Agency’s consideration.</p> <p>The Applicant will continue to negotiate the Protective Provisions with the Environment Agency and is hopeful that these will be agreed by the close of Examination.</p>
Greenergy Limited	<p>The Applicant’s solicitors have provided Greenergy Limited’s representatives with information requested by the Affected Party regarding the Proposed Development. The Applicant is currently awaiting confirmation from Greenergy Limited on the status of its holding objection to the Proposed Development.</p>



<p>H2Northeast Limited</p>	<p>The Applicant’s solicitors are in the course of preparing a draft engagement agreement to secure the ongoing information sharing and technical team meetings which have now been agreed between the parties.</p> <p>The Applicant anticipates being able to provide a further update at DL8 once the draft agreement has been reviewed by H2Northeast Limited.</p>
<p>Industrial Chemicals Limited</p>	<p>On 5 February 2025 the Applicant provided Industrial Chemicals with proposed protective provisions and is awaiting comments. Given the nature of Industrial Chemicals’ concerns only relate to maintaining access along Huntsman Drive and Seaton Carew Road, and the parties have agreed the principles of the protective provisions, the Applicant expects the protective provisions can be resolved before the end of examination.</p>
<p>INEOS Nitriles (UK) Limited</p>	<p>The Applicant is continuing to negotiate protective provisions and a side agreement with INEOS Nitriles and most recently had a meeting with INEOS Nitriles on 29 January 2025 to discuss these documents. There are also outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties. The Applicant expects these matters can be resolved before the end of examination.</p> <p>The Applicant has continued to negotiate with the Affected Party and an approach for drafting Heads of Terms has been agreed. The Applicant is expecting Heads of Terms to be agreed before the end of examination.</p>
<p>INEOS UK SNS Limited and One-Dyas UK Limited</p>	<p>The Applicant issued proposed protective provisions to INEOS UK SNS Limited and One-Dyas UK Limited for inclusion in the draft DCO</p>

	<p>at Schedule 32 in December 2024. INEOS UK SNS Limited and One-Dyas UK Limited acknowledged this action and have not issued any comments in respect of the provisions.</p>
<p>Legal &amp; General Assurance (Pensions Management) Limited (Lighthouse Green Fuels) (Alfanar)</p>	<p>The Applicant has reviewed Lighthouse Green Fuels' (LGF) preferred protective provisions submitted at Deadline 5A[REP5a-012]The Applicant has included LGF's preferred protective provisions in the DCO submitted at Deadline 7 to the extent these are agreed.</p> <p>The Applicant is continuing to negotiate protective provisions and a side agreement with LGF and most recently had a meeting with LGF on 21 January 2025 to discuss these documents.</p> <p>There are outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties. The Applicant expects these matters can be resolved before the end of examination.</p>
<p>Flavour Specialities Limited (Natara Global Limited)</p>	<p>The Applicant continues to seek a voluntary agreement and is in active negotiations with the Affected Party to agree the same. The outstanding issues relate to the detailed drafting of the agreements proposed by the Affected Party and whether these are appropriate at the current stage of design for the Proposed Development.</p> <p>If voluntary agreements cannot be concluded, then the Applicant will propose appropriate protective provisions for inclusion in the dDCO on or before DL8 to require the submission of a construction management and logistics plan for the Affected Party's approval prior to the Applicant entering onto the Affected Party's land.</p>

	<p>This will be sufficient to manage any interactions between the Proposed Development and the Affected Party’s site operations and mitigate any potential impacts on those operations so far as reasonably practicable, in order to address the substantive points of concern raised by the Affected Party during the previous bilateral engagement activities with the Applicant and its agents.</p>
<p>National Gas Transmission Public Limited Company</p>	<p>The Applicant is continuing to negotiate protective provisions and a side agreement with National Gas Transmission Public Limited Company (NGT) and most recently held a meeting with NGT on 4 February 2025 to discuss these documents and to resolve outstanding issues.</p> <p>The Applicant is currently updating the protective provisions and side agreement to reflect this discussion.</p> <p>Progress has been made in respect of these matters but there remain a small number of points in relation to commercial issues that need to be resolved and addressed in an appropriate side agreement before the protective provisions can be finalised.</p> <p>The Applicant expects these matters can be resolved before the end of examination.</p>
<p>National Grid Electricity Transmission Public Limited Company</p>	<p>The Applicant has submitted a Change Application and will be submitting a report with regards to the interface between the Proposed Development and the Affected Party’s operations.</p> <p>The Applicant continues to negotiate protective provisions and a side agreement with the Affected Party and has been holding weekly meetings since mid-January 2025 to discuss these documents and the resolution to the interface between the Proposed</p>

	<p>Development and the Affected Party's operations referred to above which informs negotiations.</p> <p>The Applicant will continue to progress the discussion with regards to the Protective Provisions while noting NGET's view on the interaction between the developments.</p>
<p>Navigator Terminals Seals Sands Limited and Navigator Terminals North Tees Limited</p>	<p>The Applicant is continuing to negotiate protective provisions and a side agreement with Navigator Terminals and most recently had a meeting with Navigator Terminals on 22 January 2025 to discuss these documents.</p> <p>There are also outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties. The Applicant expects these matters can be resolved before the end of examination.</p> <p>The Applicant has continued to engage with the Affected Party in the form of fortnightly meetings. The Applicant is awaiting feedback from the Affected Party on Heads of Terms. The Applicant is expecting that Heads of Terms will be agreed prior to the end of examination.</p>
<p>Net Zero Teesside Power</p>	<p>The Applicant remains in discussion with Net Zero Power Ltd with regards to Protective Provisions.</p>
<p>Network Rail Infrastructure Limited</p>	<p>The Applicant is in active negotiations with Network Rail and held a meeting on commercial terms on 28<sup>th</sup> January 2025. The Applicant has sent previous Heads of Terms back in June 2024 and has received initial comments on these; however, Network Rail would like to agree commercial terms and then confirm the any outstanding points left to negotiate. The Applicant is hopeful that Heads of Terms can be agreed prior to the end of examination with the legal documents to be completed thereafter.</p>

	<p>The Applicant’s solicitors have been engaging with Network Rail’s solicitors and have requested a meeting to discuss the Side Agreement and Protective Provisions. On 4 February 2025, the Applicant’s solicitors received an email from Network Rail’s solicitors with Network Rail’s preferred form of Side Agreement and Protective Provisions. The Applicant will review this and respond to Network Rail’s solicitors as soon as practicable with a view to agreeing a final form of agreements.</p>
Norsea Pipeline Limited	<p>The Applicant continues to be engaged in bilateral discussions with the operator of the Conoco Norsesea system and it is not anticipated that protective provisions will be required to be included in the dDCO.</p>
North Tees Limited	<p>The Applicant has been attempting to engage with North Tees group. The Applicant previously issued Heads of Terms in June 2024 and has not received feedback on these to date</p> <p>The Applicant has included protective provisions for the benefit of the North Tees Group in the dDCO submitted at Deadline 7.</p>
North Tees Land Limited	
North Tees Landfill Limited	
North Tees Rail Limited	
Northern Electric North East PLC / Northern Powergrid PLC	<p>The Applicant is continuing to negotiate protective provisions and a side agreement with Northern Powergrid.</p> <p>There are outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties. The Applicant expects these matters can be resolved before the end of examination.</p> <p>The necessary land rights for the Proposed Development will be derived from their landlord, Venator.</p>

Northern Endurance Partnership (NEP)	The Applicant remains in discussion with North Sea Net Zero Storage Ltd with regards to Protective Provisions.
Northern Gas Networks Limited	<p>The Applicant is in active negotiations with Northern Gas Networks for the Heads of Terms and a meeting was held between the parties on Friday 31<sup>st</sup> January to progress discussions. There are commercial matters outstanding between the parties and the Affected Party has requested further information from the Applicant which the Applicant is responding to. The Applicant expects a voluntary agreement will be reached by the end of examination.</p> <p>The Applicant’s solicitors have prepared a draft Side Agreement and Protective Provisions, which has been sent to the Affected Party. The Applicant is awaiting comments from the Affected Party.</p> <p>The Applicant envisages that a further update will be provided at DL8.</p>
Northumbrian Water Limited	<p>The Applicant continues to engage with the Affected Party. The Applicant is responding to some technical questions and is confident that a voluntary agreement can be reached prior to the end of examination.</p> <p>The Applicant continues to negotiate protective provisions and a side agreement with the Affected Party.</p> <p>The Applicant has included protective provisions in the dDCO at Schedule 39 for the benefit of the Affected Party. The Applicant’s legal and technical teams are currently reviewing the Affected Party’s preferred form of protective provisions and side agreement and will include any additional protective provisions that are agreed in the next version of the dDCO to be submitted to the ExA and will work to resolve areas of difference between the parties.</p>

	<p>The Applicant anticipates that matters can be resolved before the end of examination.</p>
PD Teesport Limited	<p>Regular weekly meetings are continuing to be held -between the Parties. the most recent of which being the 5<sup>th</sup> of February. Commercial terms remain outstanding, although a way forward has been agreed.</p> <p>Protective Provisions remain under negotiation, and it is expected that an agreement will be reached before the end of examination.</p>
Redcar Bulk Terminal Limited	<p>The Applicant continues to negotiate protective provisions and a side agreement with Redcar Bulk Terminal Limited (<b>RBT</b>). Both parties have attended meetings to discuss commercial terms, most recently on 6 February 2025.</p> <p>The Applicant returned comments on the protective provisions and side agreement to RBT on 5 February 2025.</p> <p>The Applicant considers that good progress has been made however there remain outstanding points between the parties regarding commercial issues. These issues need to be resolved and addressed in the side agreement before protective provisions can be finalised between the parties. The Applicant is confident that these matters will be resolved, and parties will reach an agreement on the protective provisions and side agreement before the end of examination.</p>
SABIC UK Petrochemicals Limited	<p>The Applicant continues to engage with the Affected Party and has regular weekly meetings. The Applicant is confident that a voluntary agreement can be reached. Heads of Terms were re-issued on the 21<sup>st</sup> of January 2025 and the Applicant looks forward to receiving any substantive feedback in early course.</p>

	<p>A draft protective provisions side agreement has been prepared following the latest round of engagement with SABIC and its solicitors. This was issued to SABIC’s solicitors on 30 January 2025.</p> <p>There remain a small number of commercial points which require resolution, but the overall content of the protective provisions is now broadly agreed.</p> <p>The Applicant envisages that a further update will be provided on or before DL8.</p>
<p>Sembcorp Utilities (UK) Limited</p>	<p>It is noted that the Applicant and Sembcorp Utilities (UK) Limited submitted the following statement into the Examination at Deadline 5:</p> <p><i>“The Applicant and Sembcorp Utilities (UK) Limited are at a critical stage of negotiations of the protective provisions for the Proposed Development and it would therefore not be constructive for protective provisions to be submitted at deadline 5. The Applicant and Sembcorp Utilities (UK) Limited will continue negotiations but with the Christmas break approaching, it is considered that deadline 7 is a more realistic date by which finalised protective provisions can be submitted.”</i></p> <p>The Applicant and Sembcorp Utilities (UK) Limited have reached an advanced stage of negotiations on protective provisions subsequent to this. The parties are committed to submitting an agreed form of protective provisions into the Examination and therefore intend to submit these by no later than 14 February 2025 to allow for the final matters remaining between the parties to be resolved.</p> <p>The Applicant is in active negotiations with the affected Party on the Heads of Terms and is having weekly meetings with them. The parties have agreed high level points on the</p>



	<p>Heads of Terms and the Applicant expects that the Heads of Terms will be agreed between the parties shortly after the end of examination.</p>
<p>Shirley Peel</p>	<p>The Applicant has successfully negotiated Heads of Terms with the Affected Party, with no outstanding issues remaining. Solicitors have been instructed to proceed with the legal agreements, which will be issued shortly.</p>
<p>South Tees Group – Teesworks Limited, South Tees Development Corporation, South Tees Developments Limited</p>	<p>The Applicant is continuing to negotiate protective provisions with STG and most recently had a meeting with STG on 27 January 2025 to discuss the protective provisions. Schedule 30 of the dDCO the Applicant has submitted at Deadline 7 has been updated to include the current status of negotiations.</p> <p>The key issues that are still being negotiated relate to:</p> <ul style="list-style-type: none"> <li>• The works to which the ‘consent for works’ and ‘diversion works’ provisions apply;</li> <li>• The appropriate diversion conditions that are applicable to the diversion works;</li> <li>• Application of the deemed approval mechanism in the DCO;</li> <li>• Various aspects in relation to the provision of alternative apparatus;</li> <li>• Various aspects in relation to the ‘specified works’; and</li> <li>• How the protective provisions relate to the various STG entities and their land interests in the different aspects of the site.</li> </ul> <p>The Applicant anticipates that some, but not all, of these aspects can be resolved by the end of examination. The Applicant is committed to ongoing negotiations with STG.</p>

<p>Suez Recycling and Recovery UK Limited</p>	<p>The Applicant attended a meeting with Suez on 16 January 2025 and is awaiting Suez’ comments on the protective provisions.</p> <p>The Applicant has successfully negotiated Heads of Terms with the Affected Party, with no outstanding issues remaining. Solicitors have been instructed to proceed with the legal agreements, which will be issued shortly.</p>
<p>Teesside Gas &amp; Liquids Processing, Teesside Gas Processing Plant Limited and Northern Gas Processing Limited (“NSMP Entities”)</p>	<p>Whilst the form of the protective provisions are now agreed, the parties continue to negotiate a side agreement to resolve minor commercial and drafting matters, and the Applicant envisages that this will be completed prior to the close of the examination.</p> <p>The Applicant expects to be in a position to provide a further progress update to the ExA on or before DL8.</p>
<p>The Crown Estate</p>	<p>The Applicant issued Heads of Terms to Carter Jonas, the Crown’s appointed agent on 6<sup>th</sup> December 2024 together with commercial details. The Applicant has made several requests for an update and is awaiting a response..</p>
<p>Venator Materials UK Limited</p>	<p>The Applicant is continuing to negotiate protective provisions and a side agreement with Venator. There are outstanding points between the parties regarding commercial issues. These commercial issues need to be resolved and addressed in an appropriate side agreement before protective provisions can be finalised between the parties.</p> <p>The Applicant has included protective provisions for the benefit of Venator in the draft DCO submitted at Deadline 7.</p>

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	<p>The Applicant has successfully negotiated Heads of Terms with Venator, with no outstanding issues remaining. The parties' solicitors are currently in discussions on the long form legal agreements.</p>
Vodafone	<p>Vodafone has made some recent requests for information on the Proposed Development. The Applicant has provided responses.</p> <p>The Applicant has noted to Vodafone that protective provisions for the Protection of Operators of Electronic Communications Code Networks are contained within Schedule 17 of the draft dDCO and has enquired whether any bespoke protections are required by Vodafone having regard to this.</p>