



Dated 24 February 2025

**APPLICATION BY H2TEESSIDE LIMITED FOR AN ORDER GRANTING DEVELOPMENT
CONSENT FOR THE H2TEESSIDE PROJECT**

PLANNING INSPECTORATE REFERENCE NUMBER: EN070009

WRITTEN REPRESENTATION
submitted on behalf of
NET ZERO NORTH SEA STORAGE LIMITED
at Deadline 8

1 Introduction

- 1.1 This written representation is submitted on behalf of Net Zero North Sea Storage Limited (**NZNSS**) in connection with the application by H2Teesside Limited (**Promoter**) for a development consent order (**DCO**) for the H2Teesside Project (**Proposed Development**).
- 1.2 As well as supplementing NZNSS's previous representations dated 1 July 2024 [**AS-023**] and 17 February 2025, this written representation is NZNSS's update to the Examining Authority at Deadline 8 and response to the updated draft of the Development Consent Order for the Proposed Development submitted by the Promoter at Deadline 7A (**the Deadline 7A DCO**).
- 1.3 NZNSS notes that the Deadline 7A DCO contained, for the first time, a proposed set of protective provisions for the benefit of NZNSS (**the Promoter's PPs**). Whilst NZNSS regards the Promoter's addition of protective provisions in the Deadline 7A DCO as a positive step forward and NZNSS is continuing to discuss matters with the Promoter, NZNSS would like to highlight several issues with the Promoter's PPs submitted in the Deadline 7A DCO as set out below, noting that some of these have since been further discussed and agreed with the Promoter as outlined in Section 4 of this written representation.
- 1.4 In particular, the Promoter's PPs omit a number of standard protective provisions as well as adequate safeguarding provisions for the Net Zero Teesside Project (**the NZT Project**) consented by the Net Zero Teesside Order 2024 (**the NZT Order**). As set out in NZNSS's previous representations, the Proposed Development physically overlaps and is dependent on the NZT Project, which is being delivered by NZNSS and Net Zero Teesside Limited (**NZT**), the undertakers for the purposes of the NZT Order. Accordingly, this is not the typical situation of two unrelated projects potentially wishing to utilise the same land at some point in the future and, as such, NZNSS considers that the Promoter's PPs contained in the Deadline 7A DCO are insufficient for their intended purpose, i.e. to avoid serious detriment to NZNSS's undertaking.
- 1.5 NZNSS's preferred PPs are therefore enclosed at **Appendix 1 (NZNSS's PPs)** and NZNSS requests that these should be included in the DCO for the Proposed Development in place of the Promoter's PPs in the event that the Secretary of State is minded to grant the DCO.

2 The NZT Project and the Proposed Development

- 2.1 As set out in NZNSS's previous representations, the NZT Order came into force on 11 March 2024 and grants development consent for the NZT Project. This includes a gas-fired electricity generating station with carbon capture plant; gas, electricity grid and water connections; a carbon dioxide gathering network; a high pressure carbon dioxide compression station; a high pressure carbon dioxide export pipeline; and associated and ancillary development.
- 2.2 NZNSS will be developing the Northern Endurance Partnership (**NEP**) Project, which encompasses the following elements of the NZT Project: the carbon dioxide gathering network, including pipeline connections from industrial facilities on Teesside to transport the captured carbon dioxide; the carbon dioxide compression station to receive the captured carbon dioxide from the gathering network; and the onshore and offshore elements of the carbon dioxide export pipeline, which will transport the carbon dioxide from Teesside to the Endurance store in the North Sea. NEP forms part of the East Coast Cluster (**ECC**), one of the UK Government's selected CCUS clusters supporting its pathway to net zero emissions by 2050.
- 2.3 NZT will develop the gas-fired power station with carbon capture plant element of the NZT Project. NZT and the Proposed Development were selected together as the first two emitter projects as part of the ECC, with CO₂ to be transported and stored by NEP.

2.4 The relationship between the Proposed Development, the NZT Project and NEP is illustrated in **Figures 1 and 2** below.

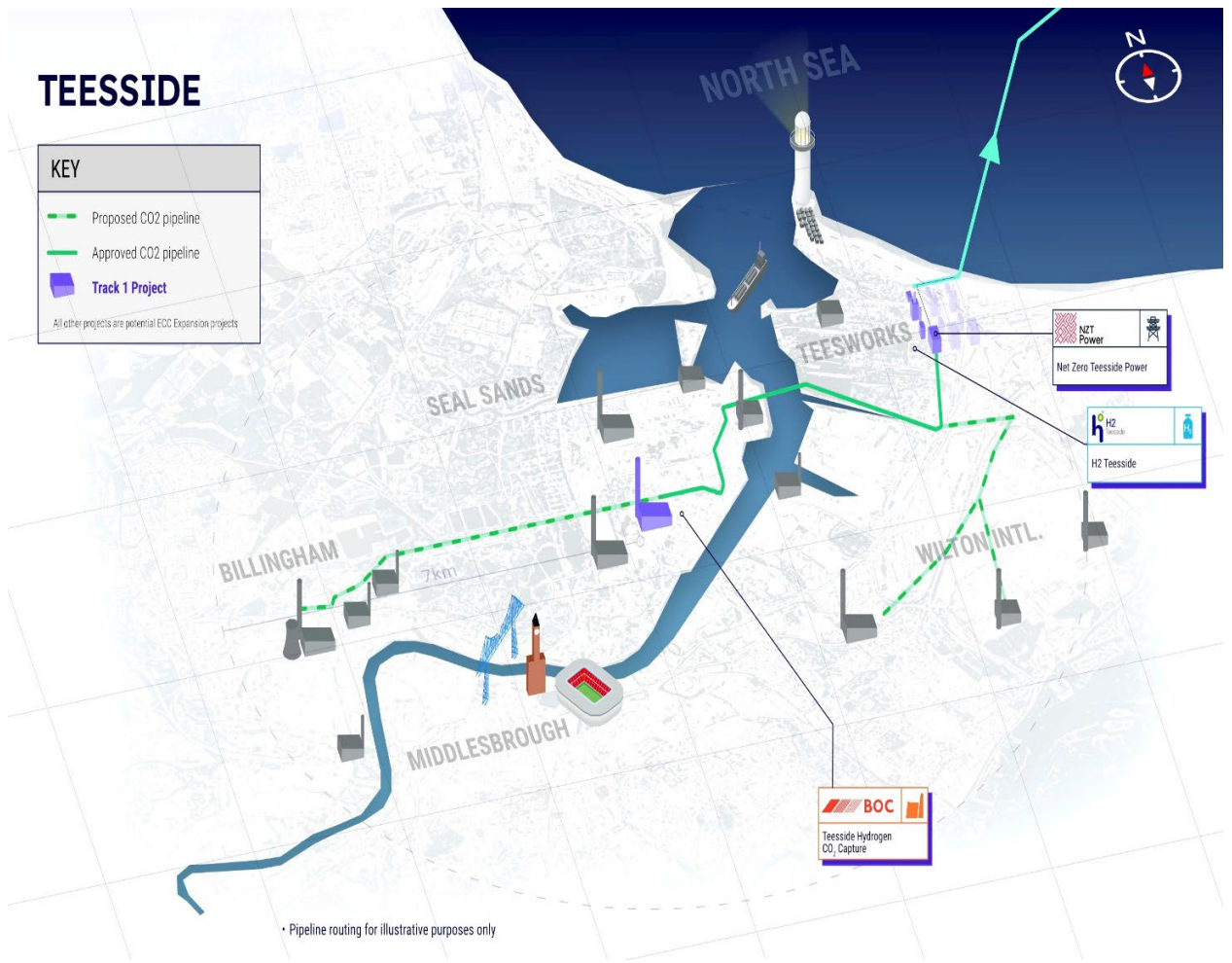


Figure 1: Illustrative drawing showing the Teesside Carbon Capture Pipeline

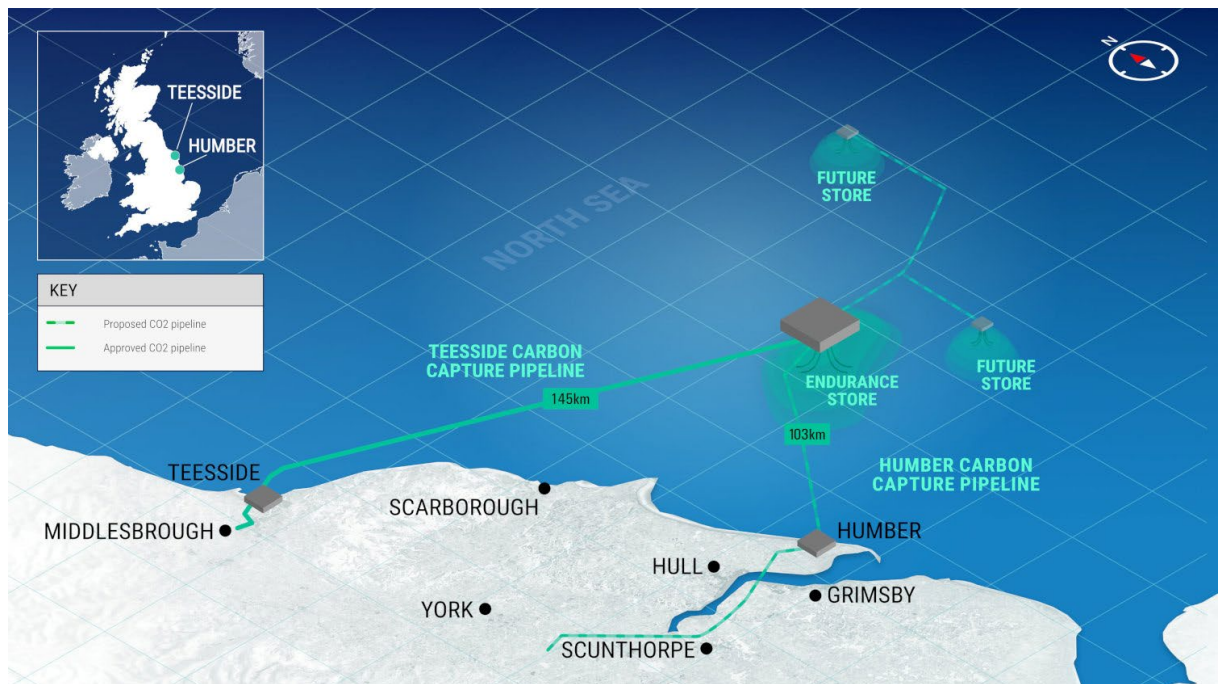


Figure 2: Illustrative drawing of the Northern Endurance Partnership Project

- 2.5 On 10 December 2024 NEP announced financial close and entry into the execution stage of the Project. Construction work is set to start from mid-2025 and the NEP Project is expected to enter operation from 2028. NZT took FID alongside NEP in December 2024 and will be the 'anchor' emitter project for NEP.
- 2.6 The Proposed Development's Order Limits include land within the NZT and NEP projects already consented by the NZT Order. As well as pipeline corridors and other areas, this includes the whole of the Net Zero Teesside Main Site (Work Nos. 1 and 7), as shown in Document Reference: 2.14 H2Teesside and NZT Main Site Shared Area Plan. The extent of this spatial overlap between the projects is NZNSS's principal concern, particularly given that NEP is entering the delivery stage and will start works before the Proposed Development.
- 2.7 Since both the NZT and NEP Projects are essential for the delivery of the Proposed Development, neither of these projects should be put in a position where they could be compromised or prejudiced by an individual emitter project such as the Proposed Development. It is for this reason that NZNSS requires protective provisions for its benefit to be included within the DCO for the Proposed Development.

3 The adequacy of the Promoter's PPs

- 3.1 With the addition of the Promoter's PPs to the Deadline 7A DCO, it appears that the Promoter has accepted the principle that the DCO should include protective provisions for NZNSS's benefit. This is welcomed by NZNSS.
- 3.2 In their current form, however, the Promoter's PPs are insufficient to protect NZNSS's undertaking. The Promoter's PPs omit a number of standard protective provisions and amend others in a way that dilutes the protection that they would afford NZNSS should the Proposed Development be consented. In summary:
- (a) **Inadequate safeguarding provisions** –the scope of the safeguarding provisions in the Promoter's PPs is uncertain. One reason for this is because the Shared Area Works, the subject of the provisions, are defined by reference to a future plan that is to be submitted by the Promoter for the Secretary of State's approval under Article 44 of the DCO for the Proposed Development. Given that the Shared Area Works are simply the areas of physical overlap between the Proposed Development and the NZT Project, there is no need for this uncertainty. NZNSS's PPs therefore amend the definition of Shared Area Works and bring paragraphs 3 and 4 in line with the form of safeguarding provisions adopted in the protective provisions in other recent DCOs for the benefit of undertakers bringing forward infrastructure on which the proposed development is dependent as per the situation here. (Examples include the protective provisions in the Awel y Môr Offshore Wind Farm Development Consent Order 2023 and the Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022).
- (b) **Omission of provisions regulating use of DCO powers** – it is standard practice for protective provisions to include controls on the Promoter's DCO powers, such as the use of compulsory acquisition powers. The absence of such controls is a major omission which undermines the purpose of the protective provisions because it leaves the Promoter free to exercise all of its DCO powers without reference to the relevant undertaker. NZNSS's PPs therefore include standard controls on the Promoter's DCO powers as a new paragraph 6. These are based on paragraph 6 of the set of protective provisions for NZT and NZNSS's benefit in Schedule 3 of the NZT Order, as well as the protective provisions that the Promoter is seeking for themselves in relation to a third

party DCO (see paragraph 6 of the set of protective provisions for the Promoter's benefit in Schedule 3 of the Deadline 7A DCO).

- (c) **Inadequate expenses provisions** – it is standard practice for protective provisions to cover the expenses of the relevant undertaker. Whilst the Promoter's PPs do include a very short form provision of this nature at paragraph 7(2), NZNSS's PPs adopt, as a new paragraph 8, the preferred standard wording that has been included in other protective provisions in the Deadline 7A DCO (for example, the protective provisions for the benefit of National Grid Electricity Transmission, National Gas Transmission, etc.).
- (d) **Omission of indemnity provisions** – it is standard practice for protective provisions to include indemnities for the benefit of the relevant undertaker. Indemnity provisions have been included in multiple protective provisions for other entities in the Deadline 7A DCO, so it is unclear why they have been omitted from the Promoter's PPs. NZNSS's PPs therefore adopt the standard wording that has been included in other protective provisions in the Deadline 7A DCO.
- (e) **Omission of acceptable insurance provisions** - This omission means that there are no requirements for the Promoter to provide any insurance for NZT's benefit prior to commencing the Proposed Development. Since it is standard practice for insurance to be put in place for statutory undertakers in these circumstances and these are standard protective provisions for which there are multiple precedents in existing DCOs, they should be included as per paragraphs 9(7) and 9(8) of NZNSS's PPs.
- (f) **Dispute resolution** – NZNSS's preferred dispute resolution mechanism is expert determination, so the NZNSS PPs update this paragraph accordingly.

3.3 The full extent of the current difference between the parties is illustrated by the enclosed compare at **Appendix 2** of the Promoter's PPs with NZNSS's PPs at Appendix 1. As can be seen by the tracked changes, there are substantial differences in the Promoter's PPs as compared to NZNSS's PPs.

4 Update on negotiations between the Promoter and NZT

4.1 Since Deadline 7A, the Promoter and NZNSS have been discussing the protective provisions for NZNSS's benefit.

4.2 NZNSS's understanding is that the Promoter will be updating the Promoter's PPs at Deadline 8 in order to meet some of NZNSS's concerns as set out above. Whilst this is welcomed by NZNSS and discussions between the parties are ongoing, NZNSS understands that the Promoter will be maintaining its position on the issues described at (b) and (e) above, i.e. it will not be including provisions to either regulate the use of its DCO powers or require insurance to be put in place for the benefit of NZT.

4.3 As noted above, these are standard provisions that NZNSS would expect to be included in the protective provisions for its benefit. In particular the absence of any controls on the Promoter's DCO powers is highly unusual and constitutes a major omission.

5 Conclusion

5.1 In light of the above, NZNSS objects to the Proposed Development on the basis of the Promoter's PPs.

- 5.2 Whilst NZNSS understands that the Promoter will be updating the Promoter's PPs at Deadline 8, as noted above, it does not appear that the Promoter is intending to address all of NZNSS's concerns. Since an agreed position has not yet been reached, NZNSS must reserve its position to make a further submission to the Examination once it has seen the Promoter's Deadline 8 submissions, particularly if any new or unexpected issues are raised.
- 5.3 Accordingly, in the event that the Secretary of State is minded to grant the DCO for the Proposed Development, NZNSS requests that NZNSS's PPs should be included in the DCO in place of the Promoter's PPs for the reasons set out above.

Addleshaw Goddard LLP on behalf of NZNSS

24 February 2025

APPENDICES

APPENDIX 1: NZNSS'S PROTECTIVE PROVISIONS

APPENDIX 2: COMPARE TO SHOW DIFFERENCES BETWEEN NZNSS'S PPS AND THE PROMOTER'S PPS