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Date: 28 February 2025
Our ref: 50303/24/HS/AW/33528960v2
Your ref: 20049353 Anglo American

Dear Rammiel

H2 Teesside Examination: Deadline 9 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 publication of Deadline 8 submissions and the Examining Authority's request for further information under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) (EPR), Anglo American requests that the Examining Authority exercises its discretion to accept this submission at Deadline 9. Anglo American's comments relate to information requested by the Examining Authority under Question 1 under Rule 17 of the EPR, 25th February 2025, and to documents submitted by the Applicant at Deadline 8.

Anglo American's Position (Question 1 under Rule 17 of the EPR 25 February 2025)

As stated at Deadline 8, Anglo American must maintain its objection to the H2 Teesside DCO, as it directly threatens the delivery of the Woodsmith Project which is a consented Nationally Significant Infrastructure Project – the York Potash DCO (REP8-046). That submission included an updated version of Anglo American's preferred Schedule 3 and Schedule 29 Protective Provisions of the DCO and a full explanation of the reason those schedules are necessary in that form. Anglo American remains open to reaching agreement with the Applicant but cannot yet report any progress during the 4 days following Deadline 8. Anglo American therefore shares the Examining Authority's disappointment at Question 1 that agreement has not yet been reached.

The Applicant has commented in response to Question 1 that it cannot bear sole responsibility for the delays in reaching agreement with Interested Parties (REP8-021). Anglo American acknowledges the complexities of the H2 Teesside Project, however this should not undermine the importance of other developments in the area. Anglo American must emphasise that throughout the Examination it has

taken a proactive and positive approach to engagement and negotiation with the Applicant. Progress has been impeded by the Applicant's lack of design development to facilitate agreement at key interfaces, and Anglo American cannot accept responsibility for the considerable delay by the Applicant in returning Protective Provisions and a Side Agreement, the latter of which was received just 4 days before Deadline 8.

Anglo American's position and approach has been clear throughout the Examination. The principal reason for making this submission at Deadline 9 is to comment on the Applicant's amendments to the drafting of Schedule 3 and Schedule 29 following Deadline 8 and its comments in response to Anglo American's preferred versions (REP8-018). This includes the removal of protections previously included, and Anglo American is disappointed that the version of Schedule 29 published at Deadline 8 includes a retraction from the version it received from the Applicant prior to Deadline 8. Anglo American strongly objects to this amendment and maintains its position on key elements which are yet to be resolved. Anglo American has reviewed the Applicant's comments regarding its position and sets out below three key issues of principle for the Examining Authority's consideration. Anglo American maintains its request for its preferred version of Schedule 3 and Schedule 29 it submitted at Deadline 8 to be adopted into the DCO (REP8-046).

Interface Arrangements

The Applicant maintains that the interface arrangements are appropriately managed through the Protective Provisions. It is on this basis that it rebuts the need for Anglo American to be part of consultation for Requirements 3, 15, 18, and 22 as requested. Anglo American acknowledges that the Applicant will now include Anglo American in the consultation for Requirement 28 (REP8-018).

However, Anglo American's position remains that the proposed form of Protective Provisions does not provide adequate protection as asserted by the Applicant, as there is no mechanism for protection from the compulsory acquisition powers in Article 22 of the DCO. Anglo American remains clear that any arrangements as to land must be made by agreement. As stated in Anglo American's Deadline 8 submission, the protection in this context was removed by the Applicant at DL6A, and in so doing, the approvals process under those Protective Provisions became meaningless (REP8-046).

The reason why the same form of Protective Provisions was acceptable and appropriate on the Net Zero Teesside project was because they included a restriction on the dDCO compulsory acquisition powers. If Schedule 29 is to comprise the level of protection and effective interface management that the Applicant argues, paragraphs 6(3) (f) to (i) (restrictions on powers) must be reinstated to include restrictions on compulsory acquisition powers, as included in Revision 5 of the dDCO published at Deadline 5 (REP5-007).

Schedule 29 and Schedule 3 as Reciprocal

Anglo American does not agree that the form of Schedule 3 and Schedule 29 submitted by the Applicant at Deadline 8 (REP8-006 and REP8-005) are reciprocal for the following reasons:

1. *York Potash DCO powers*

Under the York Potash Order, Anglo American has no powers of compulsory acquisition. On this basis there is no need for protections for H2 Teesside in Schedule 3, but this supports the view that paragraphs 6(3)(f) to (i) (restrictions on powers) must be reinstated to include restrictions on compulsory acquisition powers, as included in Revision 5 of the dDCO published at Deadline 5 (REP5-007).

2. *Access to the Woodsmith Project Overland Conveyor*

At Deadline 8, paragraph 10(d) of Schedule 29 was removed which provided protection for Anglo American to access the Woodsmith Project Overland Conveyor (REP8-005). This is a key piece of infrastructure critical to the Woodsmith Project. Aside from the fact that this undermines the Applicant's position on reciprocity, Anglo American strongly objects to this removal which has been done with no explanation. This must be reinstated.

Also in relation to the Overland Conveyor, the Applicant has acknowledged the importance of phased delivery of critical infrastructure in the relevant area. Anglo American has not had sufficient assurance to this effect and for this reason has included provision in the Side Agreement. The absence of such protection reinforces the requirement for restriction of compulsory acquisition powers over Anglo American land.

3. *Redcar Bulk Terminal*

The Applicant has included in Schedule 3 a requirement for H2 Teesside to have unqualified consent in advance of key works under the York Potash Order at Redcar Bulk Terminal (land plot number 13/1, 13/2, 13/3) (REP8-006). This is a critical area of the Woodsmith Project. No such unqualified consent is included in Schedule 29 and should not be included in Schedule 3.

Dispute Resolution Process

Anglo American strongly disagrees with the Applicant that a non-engineering body should be appointed as the expert for dispute resolution (REP8-018). The Dispute Resolution Process is referenced in the context of design approval, and consent and regulation of works. These issues are clearly and necessarily within the scope of a professional engineer.

Concluding Remarks

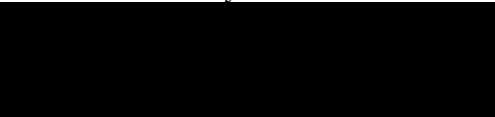

Anglo American requests that the Examining Authority exercise its discretion to accept this submission as it relates to Question 1 under Rule 17 of the EPR 25 February 2025.

Anglo American maintains its objection to the H2 Teesside DCO and disagrees with the Applicant's drafting of Schedule 3 and Schedule 29 submitted at Deadline 8 (REP8-006 and REP8-005). Anglo American shares the dissatisfaction of the Examining Authority that it has not reached agreement with the Applicant.

That Anglo American is making this submission at Deadline 9 is indicative of the Applicant's consistent delay during negotiations – key issues of principle are still to be resolved, and the Applicant has not allowed time for this to be managed during the Examination. Anglo American must strongly object to retractions made from the version of Protective Provisions it received from the Applicant prior to Deadline 8 and considers this to be unacceptable considering the discontinuation of further opportunities for Examination representations.

Anglo American requests that the Examining Authority consider the above comments in conjunction with its previous representations to adopt its preferred version of Schedule 3 and Schedule 29 into the H2 Teesside DCO, as it submitted at Deadline 8 (REP8-046). In light of an ongoing lack of agreement, and outstanding objections of principle, the Applicant's drafted DCO presents a significant risk to Anglo American, and full protections must be incorporated to protect the deliverability of the Woodsmith Project.

Yours sincerely



Senior Director
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