

The Planning Inspectorate  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

Atria One  
144 Morrison Street  
Edinburgh EH3 8EX  
Tel: [REDACTED]  
Fax: [REDACTED]  
email@burgess-salmon.com  
[REDACTED]  
DX ED30 Edinburgh  
Direct Line: [REDACTED]  
[REDACTED]@burgess-salmon.com

By Email [NetZeroTeessideProject@PlanningInspectorate.gov.uk](mailto:NetZeroTeessideProject@PlanningInspectorate.gov.uk)

Our ref: PM11/CW18/56335.1/MUNRO

Your ref: EN010103

07 July 2022

When telephoning please ask for: Patrick Munro

Dear The Planning Inspectorate

**Application by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited for an Order Granting Development Consent for the Net Zero Teesside Project**  
**Planning Inspectorate Ref: EN010103**  
**CATS North Sea Limited (Registration Identification Ref: 20029916)**  
**Deadline 4 Response**

This response is submitted on behalf of CATS North Sea Limited (“**CNSL**”) to the Examining Authority for Deadline 4 of the above examination. This submission addresses the Applicant’s comments in their response submitted at Deadline 3 to CNSL’s Written Representation. The Appendix to this letter contains a table setting out the Applicant’s response and CNSL’s further comment. CNSL’s Written Representation has not been repeated, but the heading for each section has been noted for reference.

[REDACTED]  
BURGES SALMON LLP

WORK\45609101\1

6 New Street Square, London, EC4A 3BF  
Tel: [REDACTED]

One Glass Wharf, Bristol, BS2 0ZX  
Tel: [REDACTED]

Burgess Salmon LLP is a limited liability partnership registered in England and Wales (LLP number OC307212, SRA ID 401114), and is authorised and regulated by the Solicitors Regulation Authority. It is also regulated by the Law Society of Scotland. Its registered office is at One Glass Wharf, Bristol, BS2 0ZX. A list of the members may be inspected at its registered office. Further information about Burgess Salmon entities, including details of their regulators, is set out on the Burgess Salmon website at [www.burgess-salmon.com](http://www.burgess-salmon.com).

WRITTEN REPRESENTATION ISSUE	APPLICANTS' RESPONSE	CNSL FURTHER COMMENT
<p>1. Introduction and 2. Background to CNSL's operations</p>	<p>The Applicants welcome CNSL's representation and in principle support for the Proposed Development. The Applicants are in regular dialogue with CNSL on both technical and commercial matters and are working towards a voluntary agreement in regards to plot 112, and have included adequate protective provisions in the Draft DCO [REP2-002]. The Applicants require powers of compulsory acquisition and temporary possession in order to be able to deliver the Proposed Development. The matters in sections 1 and 2 are considered further below as relevant.</p>	<p>CNSL continue to engage with the Applicant on the terms of the protective provisions.</p> <p>In respect of a voluntary agreement in respect of plot 112, CNSL first received Heads of Terms from the Applicant on 7 July 2022.</p>
<p>3. Compulsory acquisition of land occupied by CNSL is unnecessary and could cause material disadvantage</p>	<p>The Applicants require the ability to exercise compulsory acquisition powers as they must be able to execute the Proposed Development should the parties not reach a voluntary agreement. In circumstances where a voluntary agreement is reached, the Applicants need to retain their compulsory acquisition rights where CNSL is in breach or where there is a need to acquire or suspend third party rights. The Applicants preference remains to reach voluntary agreement with CNSL. The Applicants carried out extensive pre-application consultation, and since May 2021 the Applicants have held regular interface meetings with CNSL. Further details are set out in the Consultation Report [APP-068], Consultation Statement Proposed Changes [AS-048] and the SoCG (Document Ref. 8.18). The Applicants' preference is to conclude an agreement with CNSL for the necessary land and rights, but to ensure that the Proposed Development can be delivered, compulsory acquisition powers are required and justified.</p> <p>In circumstances where a voluntary agreement is reached, the Applicants need to retain their compulsory acquisition</p>	<p>It is not clear to CNSL that there are no alternatives to NZT to acquisition of plot 112, or that NZT have given adequate consideration to whether any such alternatives exist.</p> <p>CNSL understand that the works to be undertaken at plot 112 are to allow for the sourcing of natural gas (whether from CATS or the grid). The former will only be possible with commercial agreement and subject to technical feasibility. CNSL consider that there would be alternative sites from which NZT could secure grid access and it has not been demonstrated by the Applicant why these are not suitable.</p> <p>The Applicant has not explained to CNSL why they consider plot 112 to be the best location within the CATS site. It is not clear what assessment work has been carried out to inform that and whether that took account of CNSL's current and proposed operations. As set out in the Statement of Common Ground, following consultation in March and April 2022, the Applicants and CNSL agreed that completion of study work on the location of Proposed Developments infrastructure at the CATS site is required in order to sufficiently mature the Applicants' proposals and to allow CNSL to definitively</p>

	<p>rights where CNSL is in breach or where there is a need to acquire or suspend third party rights.</p> <p>The Applicants preference remains to reach voluntary agreement with CNSL. The Applicants carried out extensive pre-application consultation, and since May 2021 the Applicants have held regular interface meetings with CNSL. Further details are set out in the Consultation Report [APP-068], Consultation Statement Proposed Changes [AS-048] and the SoCG (Document Ref. 8.18). The Applicants' preference is to conclude an agreement with CNSL for the necessary land and rights, but to ensure that the Proposed Development can be delivered, compulsory acquisition powers are required and justified.</p>	<p>respond on the proposals. CNSL consider that completion of that study work is essential to determine if and to what extent plot 112 is required for the Proposed Development.</p> <p>Plot 112 is not required for the carbon capture aspects of the Proposed Development. Delivery of the scheme is not predicated on the acquisition of plot 112. There are other areas of land both within the CATS site and in the wider area which could meet the needs of the project with a lesser impact on CATS.</p>
<p>4. Compulsory acquisition plot 112</p>	<p>The Applicants' selected plot 112 based on its strategic location being in close proximity to the National Transmission System (NTS), the CATS terminal, the TGPP terminal and the Seal Sands Road easement corridor. The Applicants acknowledge that plot 112 is within the CATS terminal site and forms part of the wider operational site.</p> <p>Throughout the pre-application phase, plot 112 has been identified as the location for Work No. 2B and part of Work No. 2A. During the pre-application and pre-examination phases, Work No. 2B was located within plot 112 for all options (1A, 1B and 2) within the draft DCO. Following the selection of option 2 by the Applicants, plot 112 remains essential for the Proposed Development.</p> <p>The Applicants have received confirmation from PD</p>	<p>As detailed above, CNSL consider that it is not clear that this plot (in whole or in part) is essential to the Proposed Development and that there are no suitable alternatives.</p> <p>Acquisition of plot 112 through compulsory acquisition powers causes disproportionate harm to CNSL. Such acquisition would remove CNSL's rights over this operational land. CNSL would no longer have any rights of access or otherwise. It is not correct that simply because there is no infrastructure located within that location that it is not in use. A statutory undertaker such as CNSL cannot be expected to have infrastructure located on all parts of its operational land for fear of losing it through compulsory acquisition by another undertaker for its own purposes.</p> <p>An alternative to acquisition of the plot would be for the Applicant to acquire a sub-lease from CNSL. CNSL have</p>

	<p>Teesport Limited that the Applicants should negotiate directly with CNSL on a sublease of plot 112, seeking to reach a voluntary agreement in support of the Proposed Development.</p> <p>As part of the discussions for a voluntary agreement, the Applicants are in discussion with CNSL on the above ground installations (Work No. 2B) within the CNSL terminal boundary. The Applicants consider that the size and location of plot 112 is appropriate and justified but is continuing to work with CNSL during FEED to address any design or operational concerns.</p> <p>However, it is important to note that plot 112 does not contain any current CATS infrastructure and there would no direct impact caused by locating Work No. 2B in plot 112.</p> <p>The Applicants anticipate operating the above ground installations in a similar manner to National Grid Gas plc's compound located within the CNSL terminal boundary. The Applicants assessed an alternative location for Work No. 2B, adjacent to the CATS terminal site, a technical assessment of the alternative concluded that:</p> <ul style="list-style-type: none"><li>• It would increase the length of connections to the NTS and the Sembcorp South Pipeline</li><li>• Increase the engineering and construction complexity due to the number of crossings of existing apparatus</li><li>• Increase the overall construction risk due to the additional crossing</li></ul> <p>As per paragraph 4.1, the Applicants selected plot 112</p>	<p>received Heads of Terms from the Applicant on 7 July 2022, which will take time to consider.</p> <p>Furthermore, as set out in CNSL's written representation, plot 112 has potential strategic importance as a site for future CATS developments and for the Kellas group's planned H2NorthEast hydrogen production facility.</p>
--	--	--

	<p>based on its strategic location. In order to deliver the scheme the Applicants need to secure a connection to the NTS.</p> <p>See paragraph 4.3, the Applicants believe that both projects can be constructed and operated without detriment to the other party and are continuing to work with CATS to address areas of concern</p>	
<p>5. Insufficient Pre-Application Engagement</p>	<p>The Applicants' response in relation pre-application engagement is set out above. As also noted, the Applicants' preference is to secure land and rights by agreement, and it has sought powers of compulsory acquisition alongside those negotiations, in order to ensure that the Proposed Development can be delivered. Without those powers it is unlikely that all the agreements required with a number of different land owners will be achieved, and the substantial benefits of the Proposed Development will not be achieved. The Guidance notes (at paragraph 25) that "Where proposals would entail the compulsory acquisition of many separate plots of land (such as for long, linear schemes), it may not always be possible to acquire by agreement each plot of land. Where this is the case it is reasonable to include provision authorising compulsory acquisition covering all the land at the outset." Paragraph 26 also notes that "Applicants should consider at what point the land they are seeking to acquire will be needed and, as a contingency measure, should plan for compulsory acquisition at the same time as conducting negotiations. Making clear during pre-application consultation that compulsory acquisition will, if necessary, be sought in an order will help to make the seriousness of the applicant's intentions clear from the outset, which in turn might encourage those whose land is affected to enter</p>	<p>As detailed above, study work is now underway that is essential to inform all parties on the technical feasibility of a CATS connection and the siting of AGIs in plot 112. The outputs of that work are required to properly assess the appropriateness of plot 112 and its impact on CATS. CNSL has seen no evidence of the alternatives/modifications to the scheme that could be pursued in place of compulsory acquisition of plot 112.</p>

	<p>more readily into meaningful negotiations.” The Applicants’ pre-application notices and publicity made clear that such powers would be sought, and the Applicants have planned for and sought powers of compulsory acquisition accordingly.</p> <p>As noted above, the Applicants are discussing the possibility of securing a sub-lease of the land required for WN2B (the AGIs) by agreement, and which is not a route which can be sought via compulsory acquisition powers. The powers sought over the Order land, including Plot 112, are those which are required to deliver the Proposed Development.</p>	
<p>6. The Compulsory Acquisition Order Plans</p>	<p>The Applicants are aware of the existing CATS pipeline infrastructure and have been through the pre- application stage, and note that the CATS pipeline is for instance shown on 4.7.1 Rev 3 - Gas Connection and AGI Plans Sheet 1-7 [AS-155 to AS-161]”. Considering that the Proposed Development relies on constructing a number of linear pipeline routes from North and South Tees to the PCC site, interactions with existing apparatus (including the CATS pipeline) are unavoidable.</p> <p>It has always been the Applicants’ intention to work with the operators of existing apparatus to minimise and appropriately mitigate any interactions. The Applicants established quarterly engagement meetings with the technical team operating the CATS pipeline in 2021 and more recently in 2022 these engagements have become monthly.</p>	<p>CNSL note the Applicant’s comments and refer to their Written Representation.</p>
<p>7. Safety Issues and The Protective Provisions</p>	<p>Through regular technical meetings with CNSL’s pipelines group, the Applicants are familiar with the controls and protections in place to ensure the safe and continued operation of the CATS pipelines. The Applicants are familiar with working within similar constraints, such as execution of work within existing, operational facilities. The</p>	<p>CNSL continue to engage with the Applicant on the proposed protective provisions. CNSL’s concerns remain as outlined in their Written Representation.</p>

	<p>Applicants welcome the clarity the guidance documents provide and their nominated FEED contractor is incorporating this knowledge into the design, routing and construction methodology of the Proposed Development.</p> <p>The Applicants are in negotiation with CNSL with regards to the protective provisions and will consider the matters raised for inclusion in the updated Draft DCO to be submitted at Deadline 4. As noted above, the Applicants require powers of compulsory acquisition in order to deliver the Proposed Development</p>	
--	--	--