

Net Zero Teesside Project

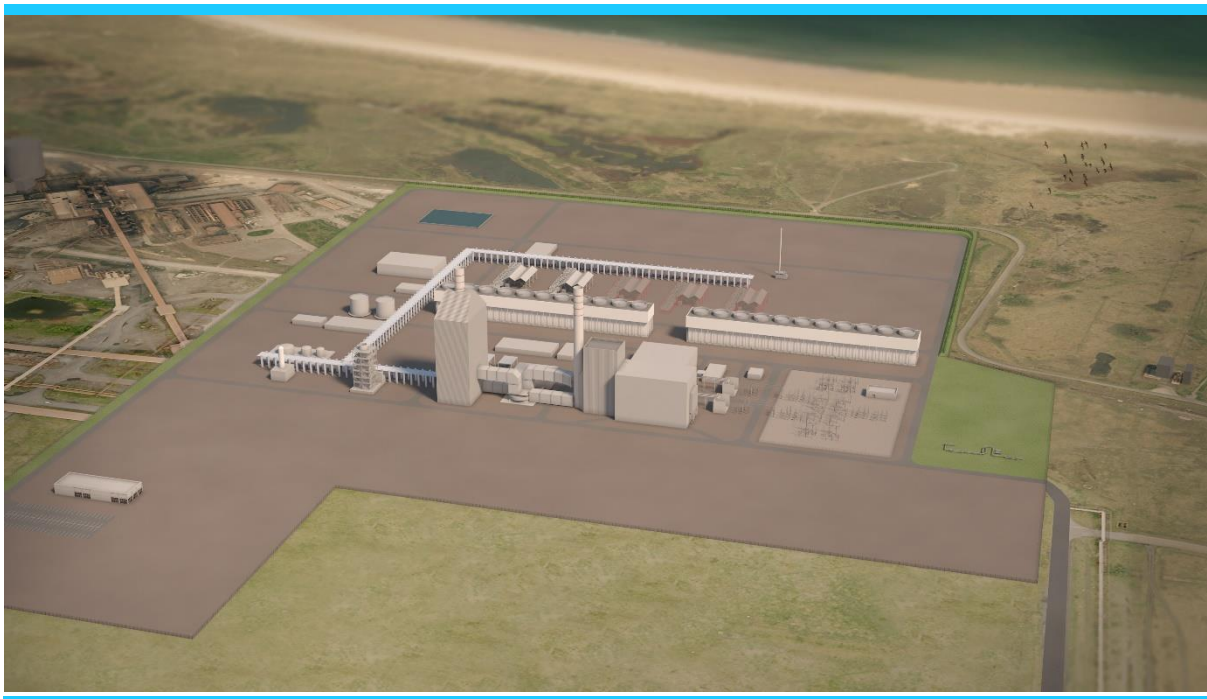
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Land at and in the vicinity of the former Redcar Steel Works site, Redcar and in Stockton-on-Tees, Teesside

The Net Zero Teesside Order

Document Reference: [9.15 Applicants' Comments on Deadline 3 Submissions and Updates to Previous Submissions](#)

Planning Act 2008



Applicants: Net Zero Teesside Power Limited (NZN Power Ltd) & Net Zero North Sea Storage Limited (NZN Storage Ltd)

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GLOSSARY

Abbreviation	Description
AOD	Above ordnance datum
AS-	Additional Submissions
BAT	Best Available Techniques
BEIS	The Department for Business, Energy and Industrial Strategy
CCGT	Combined Cycle Gas Turbine
CCUS	Carbon Capture, Utilisation and Storage
CEMP	Construction and Environmental Management Plan
CTMP	Construction Traffic Management Plan
CO ₂	Carbon dioxide
CPO	Compulsory Purchase Order
dB	Decibels
DCO	Development Consent Order
dDCO	Draft Development Consent Order
EIA	Environmental Impact Assessment
EPC	Engineering, Procurement and Construction
ES	Environmental Statement
ETS	Emissions Trading Scheme
ExA	Examining Authority
FEED	Front end engineering and design
FRA	Flood Risk Assessment
Ha	Hectares
HDD	Horizontal Directional Drilling
HIA	Hydrogeological Impact Appraisal
HoT	Heads of Terms
kV	Kilovolts
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs
Mt	Million tonnes

NATS	National Air Traffic Services
NSIP	Nationally Significant Infrastructure Project
NWL	Northumbria Water Lagoon
NZT	The Net Zero Teesside Project
NZT Power	Net Zero Teesside Power Limited
NZNS Storage	Net Zero North Sea Storage Limited
PA 2008	Planning Act 2008
PCC	Power Capture and Compressor Site
PDA-	Procedural Deadline A
PINS	Planning Inspectorate
RCBC	Redcar and Cleveland Borough Council
RR	Relevant Representation
SBC	Stockton Borough Council
SEL	Sound Exposure Level
SPA	Special Protection Areas
SoCG	Statement of Common Ground
SoS	Secretary of State
STDC	South Tees Development Corporation
SuDS	Sustainable urban drainage systems
UXO	Unexploded Ordnance
WFD	Water Framework Directive

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1.0 INTRODUCTION

1.1 Overview

1.1.1 This document, the 'Applicants' Comments on Deadline 3 Submissions and Updates to Previous Submissions (Document Ref. 9.15) has been prepared on behalf of Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (the 'Applicants'). It relates to the application (the 'Application') for a Development Consent Order (a 'DCO'), that has been submitted to the Secretary of State (the 'SoS') for Business, Energy and Industrial Strategy ('BEIS'), under Section 37 of 'The Planning Act 2008' (the 'PA 2008') for the Net Zero Teesside Project (the 'Proposed Development').

1.1.2 The Application was submitted to the SoS on 19 July 2021 and was accepted for Examination on 16 August 2021. A change request made by the Applicants in respect of the Application was accepted into the Examination by the Examining Authority on 6 May 2022.

1.2 Description of the Proposed Development

1.2.1 The Proposed Development will work by capturing CO₂ from a new the gas-fired power station in addition to a cluster of local industries on Teesside and transporting it via a CO₂ transport pipeline to the Endurance saline aquifer under the North Sea. The Proposed Development will initially capture and transport up to 4Mt of CO₂ per annum, although the CO₂ transport pipeline has the capacity to accommodate up to 10Mt of CO₂ per annum thereby allowing for future expansion.

1.2.2 The Proposed Development comprises the following elements:

- **Work Number ('Work No.') 1** – a Combined Cycle Gas Turbine electricity generating station with an electrical output of up to 860 megawatts and post-combustion carbon capture plant (the '**Low Carbon Electricity Generating Station**');
- **Work No. 2** – a natural gas supply connection and Above Ground Installations ('AGIs') (the '**Gas Connection Corridor**');
- **Work No. 3** – an electricity grid connection (the '**Electrical Connection**');
- **Work No. 4** – water supply connections (the '**Water Supply Connection Corridor**');
- **Work No. 5** – waste water disposal connections (the '**Water Discharge Connection Corridor**');
- **Work No. 6** – a CO₂ gathering network (including connections under the tidal River Tees) to collect and transport the captured CO₂ from industrial emitters (the industrial emitters using the gathering network will be responsible for consenting their own carbon capture plant and connections to the gathering network) (the '**CO₂ Gathering Network Corridor**');

- **Work No. 7** – a high-pressure CO₂ compressor station to receive and compress the captured CO₂ from the Low Carbon Electricity Generating Station and the CO₂ Gathering Network before it is transported offshore (the '**HP Compressor Station**');
- **Work No. 8** – a dense phase CO₂ export pipeline for the onward transport of the captured and compressed CO₂ to the Endurance saline aquifer under the North Sea (the '**CO₂ Export Pipeline**');
- **Work No. 9** – temporary construction and laydown areas, including contractor compounds, construction staff welfare and vehicle parking for use during the construction phase of the Proposed Development (the '**Laydown Areas**'); and
- **Work No. 10** – access and highway improvement works (the '**Access and Highway Works**').

1.2.3 The electricity generating station, its post-combustion carbon capture plant and the CO₂ compressor station will be located on part of the South Tees Development Corporation ('STDC') Teesworks area (on part of the former Redcar Steel Works Site). The CO₂ export pipeline will also start in this location before heading offshore. The generating station connections and the CO₂ gathering network will require corridors of land within the administrative areas of both Redcar and Cleveland and Stockton-on-Tees Borough Councils, including crossings beneath the River Tees.

1.3 The Purpose and Structure of this Document

1.3.1 The purpose of this document is to summarise the Applicants' comments on the submissions made by Interested Parties at Deadline 3 (23 June 2022). It also provides updates on the Applicants' previous submissions. The document is structured to provide comments on the following Interested Parties' Deadline 2 submissions:

- Section 2 – Anglo American
- Section 3 – Marine Management Organisation
- Section 4 – Teesside Gas & Liquids Processing and Teesside Gas Processing Plant Limited
- Section 5 – CF Fertilisers
- Section 6 – Corporation of Trinity House of Deptford Strond
- Section 7 – INEOS Nitriles (UK) Limited
- Section 8 – Orsted Hornsea Project Four Limited
- Section 9 – Northumbrian Water Limited
- Section 10 – PD Teesport Limited
- Section 11 – Sembcorp Utilities (UK) Ltd
- Section 12 – South Tees Development Corporation
- Section 13 – Environment Agency

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- Section 14 – Redcar Bulk Terminal Limited
 - Section 15 – NatureScot
 - Section 16 – CATS North Sea Limited
 - Section 17 – Updates to Previous Submissions

2.0 ANGLO AMERICAN

2.1.1 The Deadline 3 Submission by Anglo American [REP3-016] includes an update on discussions with the Applicants and comments on the draft DCO [REP2-002].

2.2 Applicants' Response

2.2.1 2.2a – The Applicants note Anglo American's comments on negotiations - this broadly aligns to the Applicants' position, but the Applicants would contest that a lack of detail is preventing progress on these matters. Through regular meetings both parties have communicated progress of their respective developments. While both are in early design stages there is sufficient detail to progress and conclude voluntary agreements and protective provisions. Further to Anglo American's receipt of a revised draft side agreement and protective provisions on 21 June 2022, the Applicants received draft documents back from Anglo American on 3rd July 2022. The Applicants have acknowledged receipt and the documents are under consideration.

2.2.2 2.2b – The Applicants note Anglo American's submission. Both parties have been in discussion on land agreements for some time. The Applicants have now issued draft property agreements to Anglo American for their consideration. Anglo American has confirmed safe receipt of the draft documents and comments are awaited.

2.2.3 3.2 – In addition to the changes at Part 17 of Schedule 12 in the NZT Order identified by Anglo American, the Applicants have deleted the "mirror" protection under Schedule 3 of the NZT Order (for insertion in the York Potash DCO). Schedule 3 contained provision that Anglo American must not exercise powers of compulsory acquisition over areas where there is overlap with the NZT development without the consent of the Applicants. This "mirror" protection in the York Potash Order has been deleted on the basis that it serves no purpose following the expiry of Anglo American's powers of compulsory acquisition under Article 27 of the York Potash Order. As prescribed under Regulation 6(2) of the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, Article 27 of the York Potash Order specified that the powers of compulsory acquisition were to expire five years after the making of the York Potash Order (by 20 July 2021).

2.2.4 3.3 – 3.6 Paragraph 193 of Part 17 of Schedule 12 of the NZT Order were included in the protective provisions to secure a reciprocal protection for the benefit of Anglo American as the "mirror" protection for the benefit of the Applicants to be inserted in the York Potash DCO (see paragraph 3.2). As the "mirror" protection for the benefit of York Potash no longer serves a purpose and has been deleted, the Applicants (for the reasons more fully set out below) do not consider it appropriate to retain the reciprocal protection under paragraph 193 for the benefit of the York Potash undertaker.

2.2.5 The reciprocal protections above were intended to manage the interaction between two nationally significant infrastructure projects, where each benefitted from statutory powers of compulsory acquisition that could be exercised over the same land. In these circumstances, the Applicants considered that the reciprocal

protections provided an effective safeguard that ensured each project could control how powers of compulsory acquisition were exercised in the shared land, and that overlapping powers of land assembly would not be at odds with each other and jeopardise the delivery of the projects.

- 2.2.6 Following the expiry of the powers under Article 27 of the York Potash Order, it is reasonable to assume that there is no ongoing requirement for powers of compulsory acquisition for the York Potash project and that Anglo American or its predecessor has secured all of the land and rights required to deliver the project (either by the exercise of such powers or otherwise by voluntary agreement). That the applicant for the York Potash DCO originally applied for and was granted a five-year term for the exercise of compulsory acquisition powers, and Anglo American has not applied for any extension to such powers, is also indicative that such powers are no longer required.
- 2.2.7 The Applicants' position with respect to the NZT project is different. As matters stand, it does not hold the necessary land and rights within the shared land. It follows that in the absence of a voluntary agreement with Anglo American, it must secure (and retain the ability to exercise) the powers of compulsory acquisition over this area in order to deliver the NZT project and realise its substantial (nationally significant) public benefits. Following the expiry of Anglo American's compulsory acquisition powers, the Applicants' position is that the retention of paragraph 193 would undermine this objective. It would, in effect, give Anglo American a veto over the exercise of compulsory acquisition powers over the shared land in circumstances where there is no need for a reciprocal safeguard for the benefit of the Applicants. For the foregoing reasons, the Applicants' position is that the deletion of paragraph is both reasonable and necessary.
- 2.2.8 Both the necessity of powers of compulsory acquisition over the shared land, and the need for autonomy over the Applicants' ability to exercise such powers, must be carefully considered taking into account the robust protective provisions that have been retained for the benefit of Anglo American under Part 17 of Schedule 12:
- a) The general protective provision under paragraph 198 has been retained which specifies that the undertaker must not exercise any power granted under the NZT Order so as to hinder or prevent the construction, use or maintenance of the York Potash works within the shared land without the prior written consent of the York Potash undertaker. This provides an overarching obligation not to exercise the powers of compulsory acquisition in a way that could frustrate works being carried out by York Potash in the shared land (and a corresponding control for Anglo American where such risk exists).
 - b) The general provision sits alongside the protection under paragraph 203 which specifies that the Applicants must not exercise any of the powers conferred by this Order or undertake the NZT works in the shared land so as to prevent or interfere with access by Anglo American to its own works. An alternative means of access must be provided where Anglo American is obstructed.

- c) There are further consultation and approval provisions that prohibit the Applicants from carrying out any NZT works in the shared land without the consent of Anglo American, and for such consent to be subject to the imposition of conditions by Anglo American.
 - d) Where Anglo American consents to NZT works in the shared land, the Applicants must also submit plans and further particulars as Anglo American require, and carry out the works without unreasonable delay and in accordance with such plans and particulars as approved by Anglo American (with expenses for Anglo American recoverable from the Applicants). Protective works must also be carried out upon request and to the reasonable satisfaction of Anglo American.
 - e) The Applicants must give Anglo American at least 28 days' notice of carrying out NZT works within the shared land and give notice of completion with 14 days of such works being completed.
 - f) The Applicants must make provision for Anglo American and its appointed employees, contractors or agents to inspect the NZT works at all reasonable times.
 - g) Any temporary works that are required must be removed from the shared area in accordance with reasonable notice provided by Anglo American, with step in rights available for Anglo American to remove such works and recover costs.
 - h) Co-operation obligations are secured that require co-ordination of construction programming and the carrying out of works and the maintenance of access for the construction of the respective projects, and to use reasonable endeavours to cooperate and avoid any conflict arising from the carrying out of the respective projects, and to act in good faith at all times.
 - i) The arrangements above are underpinned by an indemnity in favour of Anglo American in the event that, notwithstanding all of the robust protective measures set out above, any damage is caused to the York Potash works within the shared land, or there is any interruption in any service provided, or in the supply of any goods, by Anglo American, or if Anglo American becomes liable to pay any amount to any third party.
- 2.2.9 The Applicants are satisfied that the protective provisions set out above are robust and ensure that there is no realistic prospect that the exercise of compulsory powers of acquisition in the shared land would have a detrimental impact on the York Potash project. Notwithstanding the Applicants' position that the arrangements above provide certainty as to the deliverability of both projects, the Applicants' strong preference remains to enter into a voluntary agreement on mutually acceptable terms that would remove the need to exercise powers of compulsory acquisition over the shared land.
- 2.2.10 3.8(a) The Applicants have explained the full rationale for the deletion of paragraph 193 in responding to paragraph 3.3 to 3.6 above. Discussions continue on the terms of property agreements, and an alternative side agreement and protective provisions. Negotiations have been ongoing for some time and progress is being

made as set out in the Applicants' response in relation to paragraphs 2a and 2b above. It is correct however that no agreements have been signed, and the Applicants maintain its position that it is necessary and proportionate to seek powers of compulsory acquisition (and retain its rights to exercise such powers) in the absence of such agreements being completed.

- 2.2.11 3.8(b) The width of the utility corridors has been specifically designed to provide certainty that the Proposed Development (a nationally significant project) is capable of being delivered and that its substantial public benefits are fully realised. The Applicants have explained in paragraph 3.3 to 3.6 why the exercise of such powers within the shared land must not be subject to Anglo American's approval but would, nevertheless, be carried out in a way that provides robust protection to Anglo American and its operations.
- 2.2.12 3.8(c) The Applicants disagree that there is any reasonable prospect of any part of Anglo American's operations being prejudiced. It would direct the Examining Authority to the protective provisions set out in its response at paragraphs 3.3 to 3.6 above.
- 2.2.13 3.8 (d) The Applicants agree with the proposed approach taken to discussions to date and fully intends to continue to engage with Anglo American in good faith. The approach to discussions set out by Anglo American is also secured by the protective provisions in the Order. The Examining Authority is directed to paragraph h) in its response to paragraphs 3.3 to 3.6 above and paragraphs 197, 198 and 206 in Part 17 of Schedule 12 of the Order.
- 2.2.14 3.8 (e) The Applicants disagree that it is seeking "primacy" of its development over the York Potash project by deleting paragraph 193 of Part 17 of Schedule 12 of the Order. The rationale for the deletion is set out in response to paragraphs 3.3 to 3.6 above. It is required to ensure that the NZT project is deliverable alongside the York Potash project. The Applicants do not see any rationale or necessity for the Examining Authority or Secretary of State to weigh the merits of one project over the other in determining the NZT DCO application or granting the related powers of compulsory acquisition. Through securing the protective provisions proposed in the draft Order, the Examining Authority and Secretary of State can be satisfied that both nationally significant projects are capable of being delivered efficiently and in a way that would secure all of the associated public benefits.
- 2.2.15 3.9 – 3.12 The Applicants would direct the Examining Authority to its response at 3.8(e) above. The Applicants do not dispute that there are nationally significant public benefits associated with the York Potash project. The Applicants do not agree that the powers of compulsory acquisition would "frustrate" the delivery of the York Potash project. Its position is that the powers of compulsory acquisition are necessary and proportionate, and that both projects are capable of being delivered subject to securing the protective provisions proposed by the Applicants in the draft Order.

3.0 MARINE MANAGEMENT ORGANISATION (MMO)

3.1.1 The Deadline 3 Submission by the Marine Management Organisation ('MMO') [REP3-017] includes comments on the Applicants' draft DCO [REP2-002] and Written Representations submitted by other parties.

3.2 Applicants' Response

Comments on the draft DCO [REP2-002]

3.2.1 1.1.1 – The Applicants have no further comment

3.2.2 1.1.2 – The Applicants have no further comment

3.2.3 1.1.3 – The Applicants have no further comment

3.2.4 1.1.4 – The Applicants welcome the MMO's support for the amendments to the condition. The Applicants retain its position that the licensing of UXO detonation and removal activities can be included in the DMLs as set out at page 238 of the Applicant's Comments on Relevant Representations [REP1-045] for an explanation

3.2.5 1.1.5 – The Applicants have set out each of the changes it has made in response to the MMO's comments in the Schedule of Changes to the DCO at Deadline 2 [REP2-004] and explained where it has incorporated changes or why it has not made certain changes at pages 225 to 254 of the Applicants Comments on the Relevant Representations submitted at Deadline 1 [REP1-045], and pages 15 and 16 of the Applicants Comments on Deadline 2 Submissions submitted at Deadline 3 [REP3-011]. The Applicants issued correspondence on 25 May 2022 to the MMO explaining each of the changes made or not made in response to the MMO's comments on the DML. The Applicants look forward to receiving further clarification on the points requested. Further changes to the DMLs have also been made in the draft DCO submitted at Deadline 4 as set out in the accompanying Schedule of Changes.

Comments on Written Representations

3.2.6 2.1.1 - The Applicants welcome this confirmation and has updated Part 3 (15) of Schedules 10 & 11 in the DCO submitted at Deadline 4 in order to include HE as a consultee.

3.2.7 2.2.1 - The Applicants note the response regarding the integration of mitigation for the potential impacts of bore collapse, the FCEMP will be updated to include references to the use of existing ground condition information in the design of HDD, the engagement of experienced designers in the design of any HDD and the use of competent contractors. This mitigation has already been integrated into the assessment presented in the Habitat Regulations Assessment Report [REP3-002].

3.2.8 2.3.1 - The Applicants have included a new condition in the Deemed Marine Licences requiring that a marine management safety system must be submitted to and approved by the MMO. The marine management safety system must be in accordance with the Port Marine Safety Code and Guide to Good Practice on Port Marine Operations.

4.0 TEESSIDE GAS & LIQUIDS PROCESSING AND TEESSIDE GAS PROCESSING PLANT LIMITED

4.1.1 The Deadline 3 submission by Teesside Gas & Liquids Processing and Teesside Gas Processing Plant Limited ('TGPP') [REP3-018] in summary requests to participate in examination and confirmed they will provide a more detailed response at Deadline 4.

4.2 Applicants' Response

4.2.1 The Applicants note TGPP's submission and await their detailed submission at Deadline 4. The Applicants have engaged with TGPP during recent months and will continue to do so on technical and commercial matters.

5.0 CF FERTILISERS LIMITED (CFL)

5.1.1 The Deadline 3 Submission provided by CF Fertilisers Limited ('CFL') [REP3-019] includes comments on the draft DCO [REP2-002].

5.2 Applicants' Response

5.2.1 With respect to Requirement 32(1) of Schedule 2 of the DCO, the Applicants consider that the ordinary meaning of the words "permanently ceases" provides sufficient certainty and precision as to when the 12-month period for submission of the Decommissioning Environmental Management Plan (DEMP) would commence.

5.2.2 The underlying purpose of the trigger for submission of the DEMP and evidence of consents is to ensure that there is adequate time for the relevant planning authority to scrutinise this information and either approve it, require additional information before making a decision, or otherwise refuse to approve it (in which case a re-submission is required – see paragraph 5.2.6 below). The Applicants consider that the trigger as proposed achieves this purpose.

5.2.3 The power to enforce the DCO Requirements lies with the relevant planning authority (as defined in Article 2 of the DCO). If no DEMP has been submitted, and the relevant planning authority (applying the ordinary meaning of the words) considers that the undertaker ceased permanent operation of any part of the authorised development more than 12 months beforehand, it would have the power to take enforcement action under Part 8 of the Planning Act 2008. There are also specific powers available to the planning authority under section 167 of the Planning Act 2008 to request information from the undertaker in order to determine if and when any part of the authorised development ceased permanent operations.

5.2.4 The Applicants would also point out that wording in Requirement 32(1) is more precise and provides greater clarity than in other Development Consent Orders made by the Secretary of State. For example, the Examining Authority is directed to Requirement 24 in Schedule 2 of the Immingham Open Cycle Gas Turbine Order 2020 which simply requires that the DEMP must be submitted within 12 months "...of the date that the undertaker decides to decommission".

5.2.5 Requirement 32 also secures that the works must be carried out in accordance with DEMP as approved.

5.2.6 With respect to Requirement 32(2) the Applicants confirm that the DCO submitted at Deadline 4 includes additional drafting to require the undertaker to submit further information to the relevant planning authority where the relevant planning authority refuses a submission pursuant to Requirement 32(1). This addresses any potential uncertainty over the enforceability of the decommissioning requirements where the material submitted by the undertaker under Requirement 32(1) is "insufficient for approval".

5.2.7 Together the Applicants consider that the current drafting of Requirement 32 provides certainty that the decommissioning works must be carried out, and secures

the arrangements for the approval of the DEMP and consents that the decommissioning works must be carried out in accordance with.

6.0 CORPORATION OF TRINITY HOUSE OF DEPTFORD STROND

6.1.1 The Deadline 3 Submission provided by the Corporation of Trinity House of Deptford Strong [REP3-020] includes comments on the draft DCO [REP2-002].

6.2 Applicants' Comments

6.2.1 The Applicants have accepted the amendments to Article 47 (arbitration) proposed by Trinity House of Deptford Strond. This change has been made in the draft DCO submitted at Deadline 4. The Applicants have accepted the change on the basis that Trinity House is not anticipated to have any approval or consenting powers under the draft DCO.

7.0 INEOS NITRILES (UK) LIMITED

7.1.1 The Deadline 3 Submission by INEOS Nitriles (UK) Limited ('INEOS') [REP3-021] includes comments on the draft DCO [REP2-002].

7.2 Applicants' Comments

7.2.1 The Examining Authority is directed to the Applicants comments at paragraph 5.2.

8.0 ORSTED HORNSEA PROJECT FOUR LIMITED

8.1.1 The Deadline 3 Submission by Orsted Hornsea Project Four Limited [REP3-022] includes comments on the draft DCO [REP2-002], the Applicants' Response to the Examining Authority's Written Questions [REP2-016] and Applicants' comments on Deadline 1 Submissions [REP2-060].

8.2 Applicants' Response

8.2.1 Refer to the additional submission, Applicants' Response to Orsted Hornsea Project Four Limited's D3 Submission (Document Ref. 9.20).

9.0 NORTHUMBRIAN WATER LIMITED

9.1.1 The Deadline 3 Submission provided by Northumbrian Water Limited ('NWL') [REP3-023] includes comments on the Applicants' Response to the Examining Authority's Written Questions [REP2-016].

9.2 Applicants' Response

9.2.1 The Applicants' have addressed NWL's comments within the updated draft SoCG submitted at Deadline 4 (Document Ref 8.13). The Applicants continue to work with NWL on water supply and wastewater treatment for the Proposed Development.

10.0 PD TEESPORT LIMITED

10.1.1 The Deadline 3 submission provided by PD Teesport Limited ('PDT') [REP3-024] includes comments on the draft DCO [REP2-002].

10.2 Applicants' Response

10.2.1 The Examining Authority is directed to the Applicants comments at paragraph 5.2.

11.0 SEMBCORP UTILITIES (UK) LTD

11.1.1 The Deadline 3 submission by Sembcorp Utilities (UK) Limited ('Sembcorp') [REP3-025] includes comments on the Applicants' Response to the Examining Authority's Written Questions [REP2-016], the Statement of Commonality [REP2-013], Written Representations submitted by other parties and the Applicants' draft DCO [REP2-002].

11.2 Applicants' Response

Comments on Applicants' Response to the ExA FWQs:

11.2.1 GEN.1.14 – Refer to the Applicants response to paragraphs 51-58 of Sembcorp's Written Representation [REP3-012]. The comparison between corridor widths on STDC land and the Sembcorp Pipeline Corridor is not appropriate or practical. The width of the Order Limits for Work No. 6 have taken account of the existing width of the corridor, including access tracks. In addition, where required to support laydown and construction activities temporary possession rights have been sought outwith the existing tracks to enable laydown and staging of materials, clearance for plant and machinery, and continued access for operators with apparatus in the corridor. The 28m wide corridor referred to on STDC land is subject to FEED and detailed design. It is also not an established multi-user corridor and therefore is subject to different design and access considerations.

11.2.2 PPL.1.6 – ExQ1 PPL.1.6 asked the Applicants' to respond to two questions relating to the draft revised energy NPSs:

- i. Do these change the analysis of policy set out in the application documents, particularly the Planning Statement and the relevant sections of the ES? If so, are revised versions required for the Examination?
- ii. In particular, is there any information within them which is important and relevant to the SoS's decision on applications for Carbon Capture Infrastructure?

11.2.3 The Applicants, in their response to PPL.1.6 (i), confirmed that an assessment of the Proposed Development's compliance with the assessment principles and generic and technology specific impacts of the relevant draft revised energy NPSs, against any material changes to relevant assessment principles/impacts from the current NPSs or any relevant new assessment principles/impact within the draft revised NPSs, had been provided at Appendix 3 of the updated Planning Statement submitted at Deadline 1 [REP1-003]. The Applicants confirmed that the assessment at Appendix 3 of the Planning Statement did not alter the overall assessment of the Proposed Development against current NPS policy and other relevant policy. The Applicants note that Sembcorp do not disagree with their response to PPL.1.6 (i).

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- 11.2.4 In their response to PPL.1.6 (ii), the Applicants provided a summary of the information within the revised draft NPSs, which is “important and relevant” to the SoS’s decision on applications for Carbon Capture infrastructure.
- 11.2.5 Draft revised EN-1 confirms the urgent need for new electricity generating capacity (paragraph 3.3.20) and that that need includes gas-fired plants with CCS (paragraph 3.3.37), which “can provide reliable low carbon generation capacity”. Furthermore, Section 3.5 of draft EN-1 confirms the need for new nationally significant carbon capture and storage infrastructure, stating (paragraph 3.5.1) that this will be needed to ensure the transition to a net zero economy. Paragraph 3.5.3 of EN-1 states that there do not appear to be any realistic alternatives to new CCS infrastructure for delivering net zero by 2050.
- 11.2.6 The Applicants have not claimed that the draft revised NPSs have any “formal or privileged status” under Planning Act 2008 (PA 2008) or that there is a legal requirement under the PA 2008 for the DCO Application to be determined in accordance with the draft NPSs. The draft NPSs are however reflective of current Government energy and climate change policy (which underlines the need for CCS infrastructure as part of achieving net zero by 2050) and are strongly indicative of the direction of travel of planning policy in respect of projects such as the Proposed Development. As such, they are important and relevant to the SoS’s decision-making on the Application.
- 11.2.7 The Applicants have not suggested that the draft revised NPSs support CCS infrastructure coming forward “at any cost”. However, the fact remains that the draft NPSs reflect current Government energy and climate change policy, which underlines the urgent need for CCS infrastructure to help decarbonise the UK’s power and industrial sectors and achieve the Government’s legally binding target of net zero greenhouse gas emissions by 2050. That energy and climate change policy is important and relevant to the determination of the Application.
- 11.2.8 The Applicants have not claimed that the draft revised NPSs for energy provide “specific support” for the Proposed Development (i.e. as named) or its location on Teesside. However, recent Government energy and climate change policy, notably the ‘Net Zero Strategy: Build Back Greener (October 2021)’ and the ‘British Energy Security Strategy (April 2022)’ do identify Teesside as being one of four potential CCS/CCUS clusters to be brought forward by 2030. Furthermore, the Proposed Development forms part of the East Coast Cluster (ECC), which was selected by the Department of Business, Energy and Industrial Strategy (BEIS) in October 2021 under its cluster sequencing process, as one the successful CCUS clusters. The ECC aims to deliver 20 million tonnes per annum (MTPA) of CCUS capacity by 2030 across multiple emitters in both Teesside and Humber, with further expansion to 27 MTPA of CCUS capacity by 2035. The identification of Teesside as a potential CCS/CCUS cluster and the status of the ECC in the BEIS cluster sequencing process are also important and relevant to the determination of the Application.
- 11.2.9 The Applicants are continuing to engage with Sembcorp to reach agreement on the matters set out in Sembcorp’s Deadline 2 Written Representations.

11.2.10 TT.1.1 - Refer to paragraph 21.2.7 Applicants' Comments on Deadline 2 Submissions [REP3-011].

Comments on Applicants' Deadline 2 Statement of Commonality:

11.2.11 The Applicants note Sembcorp's comments and has addressed these in the update submitted at Deadline 4.

Comments on WRs submitted by other parties:

11.2.12 15 – Sembcorp's submission is noted, the Applicants have provided justification for the rights sought and addressed the individual concerns raised by interested parties in responses to Relevant Representations [REP1-045] and Written Representations [REP3-012].

11.2.13 16 – Refer to the Applicants and Anglo American's SoCG [REP1-030]. The Applicants are in discussion with Anglo American to address the overlap between the two developments so that they can be successfully delivered, and a framework is in place to manage the construction and operational interfaces.

11.2.14 17 – The Applicants note Sembcorp's comments and would clarify that discussions progressed significantly just prior to Deadline 3 and since then. Both parties have been working closely on the technical evaluation for the use of the Sembcorp tunnel. Following recent technical and commercial discussions both parties agree that the Sembcorp tunnel represents a practical solution and are aligned to the selection of this option within the draft DCO.

11.2.15 The Applicants have completed the initial phase of FEED to determine the technical feasibility of Work No. 6 Option 3. The Applicants presented the outcome of this work to Sembcorp and other operators within the Sembcorp No. 2 tunnel on 16th June 2022.

11.2.16 The Applicants and Sembcorp have since held further discussions to reach in-principle agreement for use of the Sembcorp No. 2 tunnel. Discussions will continue between the parties with the aim of securing a voluntary agreement within examination.

11.2.17 18-21 – The Applicants note Sembcorp's submission. Refer to the Applicants response to paragraph 45 of Sembcorp's Written Representation, page 91 [REP3-012] With regards to those with rights and/or apparatus within the Sembcorp Pipeline Corridor, the Applicants have included additional protections in the Sembcorp PPs in the draft DCO submitted at Deadline 4.

Comments on Applicants' dDCO:

11.2.18 22 – The Applicants will continue to engage with Sembcorp to seek to agree the terms of changes to the dDCO. The Applicants have responded on the specific changes sought by Sembcorp below.

11.2.19 23 - The Applicants direct the Examining Authority to its response to paragraph 5 of STDC's Relevant Representation as set out in the Applicants' Comments on Relevant Representations [REP1-045]. With regards to Sembcorp's concern that the permitted

preliminary works (such as fencing) having implications for Sembcorp and/or relevant pipeline operators' ability to access the Sembcorp Pipeline Corridor, the concept of "permitted preliminary works" does not apply in the protective provisions with Sembcorp. Those protective provisions specify that before commencing any part of the authorised development which would have an effect on the operation or maintenance of the Sembcorp operations or access to them, the undertaker is obliged to submit works details to Sembcorp for approval. That consultation and approval process with Sembcorp would encompass works such as fencing that form part of the permitted preliminary works.

- 11.2.20 24 - The list of permitted preliminary works includes some works that are not listed in the Immingham Open Cycle Gas Turbine Order 2020 ("Immingham Order") but is nevertheless prescriptive and comprises minor and required early on-site activities and works such as survey, display of site notices, fencing and preparation of contractors' facilities. The latter specifically excludes earthworks. The Applicants consider that the list of works proposed in the DCO are no different in nature and would have the same neutral or de minimis environmental effect as those works listed in the Immingham Order. If any other works are required, that would require the consent of the planning authority who will need to be satisfied that they do not give rise to new or materially different environmental effects from those assessed in the Environmental Statement. The Applicants require the ability to undertake these activities in advance of discharging some requirements (not all exclude the permitted preliminary works) - the activities will be required in order to provide the information to discharge the requirements and / or are initial construction-related activities which can appropriately commence in advance of discharging relevant requirements.
- 11.2.21 The Eggborough Gas Fired Generating Station Order 2018 ("Eggborough Order") includes a definition of "permitted preliminary works" that is drafted widely to refer to all of the Work Nos in Schedule 1 (Authorised Development) to the Order but within a defined geographic area within the Order Limits. Sembcorp has not provided any rationale for restricting the works to a defined geographic extent within the Order Limits in the NZT DCO. The Applicants would also point out that there is precedent in the Eggborough Order for other "permitted preliminary works" to be carried out subject to approval from the relevant planning authority and only where that would not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.
- 11.2.22 25 – 27 The Applicants agree that it is reasonable that Sembcorp is given not less than 14 days notice of the date that commissioning starts and the date of final commissioning. The protective provisions in Part 16 of Schedule 12 of the DCO have been updated to secure these notification requirements. For the reasons set out at paragraphs 28 - 50 the Applicants do not consider that it is necessary or appropriate to notify Sembcorp under Requirement 2 of Schedule 2 of the DCO.
- 11.2.23 28 – 50 – The Applicants disagree that Sembcorp should be added as a consultee on Requirements 3 (detailed design), 4 (landscaping and biodiversity protection management and enhancement), 7 (highway accesses), 8 (means of enclosure), 11

(surface and foul water drainage), 16 (CEMP), 18 (CTMP), 21 (noise and vibration), 23 (piling and penetrative design), 25 (restoration of land used temporarily), or 32 (decommissioning). The Applicants consider that the protective provisions under Part 16 of Schedule 12 of the DCO provide a robust framework for Sembcorp to be notified about any works that affects its interest and secure a process for it to be consulted on and approve (in accordance with the terms of Part 16) such works before they can commence.

- 11.2.24 The protective provisions are drafted broadly so as to require that “works details” are submitted to and approved by Sembcorp (either conditionally or unconditionally) before commencing any part of the authorised development which would have an effect on the operation or maintenance of the Sembcorp operations or access to them. The “works details” encompass plans and sections, details of the proposed method of working and timing of execution of works, details of vehicle access routes for construction and operational traffic. They also include “any further particulars provided in response to a request from Sembcorp” which provides a mechanism for Sembcorp to seek any additional information (including that submitted or to be submitted pursuant to the discharge of Requirements). The Applicants are satisfied that the arrangements above are robust and reflective of what has previously been accepted by the Secretary of State in order to protect the interest of landowners or apparatus owners affected by nationally significant infrastructure projects. Nevertheless, the Applicants have included an indemnity in the protective provisions in favour of Sembcorp that covers any losses incurred for any damage to its operations or property, interruption in any service provided, or in the supply of any goods, as a consequence of the Proposed Development.
- 11.2.25 The arrangements above allow Sembcorp to have a practical and reasonable degree of control over the nature and timing of works so as to avoid, or mitigate through the imposition of conditions, any impacts on its infrastructure (and to recover losses in the unlikely event that they do occur). The Applicants accordingly disagree that there is any necessity for it to be consulted on the information submitted to the relevant planning authority pursuant to the discharge of the Requirements under Schedule 2 of the DCO.
- 11.2.26 The Applicants would also point out that it is not standard practice to include landowners or owners of apparatus within the Order Limits as consultees on DCO Requirements. Conversely the precedent for protecting such interests through protective provisions in the DCO is well established. That is reflective of the arrangements under the statutory framework which makes separate provision for the inclusion of requirements in DCOs under s.120(1) of the Planning Act 2008 and “any of the matters listed in Part 1 of Schedule 5” under s.120(4) of the Planning Act 2008. Schedule 5 paragraph 10 (“protection of the property or interests of any person”) of the Planning Act 2008 in turn provides the statutory basis for including protective provisions in a DCO.
- 11.2.27 Taken together there is a robust and well established process for protecting Sembcorp’s interests without including them as a consultee on the DCO Requirements. That can readily be distinguished from seeking approval or consulting

the relevant planning authority (or other public authorities such as with responsibility for highways) under Requirements where there is a wider public interest role in overseeing development and which does not attach to a party holding solely a proprietary interest (and where an alternative mechanism is available under the protective provisions in the DCO). The Applicants would also point out that the relevant planning authority in any case has discretion to consult any party (including Sembcorp) where it considers that appropriate to deciding whether to discharge a requirement under a development consent order.

- 11.2.28 The Applicants make the following additional comments in respect of Sembcorp's comments on the DCO Requirements:
- 11.2.29 37. The Examining Authority is directed to the Applicants response at paragraph 23 above.
- 11.2.30 40 The Applicants have updated Requirement 16(2)(f) in Schedule 2 of the DCO submitted at Deadline 4 to specify that the notification of significant construction impacts must include notifying businesses as well as local residents.
- 11.2.31 47 – 48 The Applicants have updated Requirement 29(2) to specify that Sembcorp Utilities (UK) Limited must be invited to join the local liaison group it establishes pursuant to Requirement 29(1). The Applicants have updated the protective provisions in Part 16 of Schedule 12 to require the undertaker to participate in any relevant consultation groups established or co-ordinated by Sembcorp. The protective provisions also require that undertaker must participate in any relevant community environmental liaison group that may be established or co-ordinated by Sembcorp with local residents where works are being carried out affecting the Sembcorp operations, and which might reasonably be expected to give rise to significantly perceptible effects beyond the Order Limits. The undertaker must also co-operate with Sembcorp to respond promptly to deal with any complaints raised in relation to the construction or operation of the authorised development or the traffic associated with the authorised development. The updates have been made in the draft DCO submitted at Deadline 4.
- 11.2.32 49. The Applicants consider that Requirement 32 already secures a timetable for the removal of apparatus within the Sembcorp Pipeline Corridor. The works within the Sembcorp Pipeline Corridor are part of the 'authorised development'. Once such works permanently cease, Requirement 32, which secures the DEMP, would take effect. R32(3) states that the decommissioning scheme must include a "timetable for the implementation" of the decommissioning works and R32(4) secures implementation of the DEMP (including the timetable for implementation).
- 11.2.33 51. The Applicants will continue to engage with Sembcorp with a view to agreeing mutually acceptable protective provisions.
- 11.2.34 52. Sembcorp have requested consultee status on the Requirements that STDC have requested an approval function on. At the outset the Applicants do not consider that STDC's proposal for an approval function in respect of Requirements 3, 4, 7, 8 and 25 is necessary or appropriate. The Examining Authority is directed to the Applicants'

response to paragraphs 5.2 to 5.4 of the Applicants comments on Written Representations [REP3-012]. The Applicants would direct the Examining Authority to the Applicants response to paragraphs 28 – 50 in respect of Sembcorp's proposal to be added as a consultee on these Requirements.

12.0 SOUTH TEES DEVELOPMENT CORPORATION

12.1.1 The Deadline 3 submission by South Tees Development Corporation ('STDC') [REP3-026] includes comments on the draft DCO [REP-002], Book of Reference [REP2-006], Applicants' Response to the Examining Authority's Written Questions [REP2-016].

12.2 Applicants' Comments

12.2.1 Draft DCO – with respect to STDC having an approval role on the discharge of DCO Requirements, refer to the Applicants response to paragraphs 5.2 to 5.4 of the response to STDC's Written Representation in the Applicants Comments on Written Representations [REP3-012]. With respect to STDC to amendments to the protective provisions which would restrict use of compulsory acquisition powers, refer to paragraph 3.4 of the response to STDC's Written Representation in the Applicants Comments on Written Representations [REP3-012].

12.2.2 Book of Reference – Refer to points 28, 33 & 34 of the SoCG [REP3-006].

12.2.3 GEN.1.9 – Refer to paragraph 6.1-6.2 (page number 105) of Applicants comments on Written Representations [REP3-012]. The Applicants will update the Framework CEMP to include a requirement for the full CEMP submitted pursuant to Requirement 16 to include details of the arrangements and timescales for the removal of residual arisings. The full CEMP must be in accordance with the Framework CEMP under Requirement 16.

12.2.4 GEN.1.11 – The Applicants have no further comment.

12.2.5 DLV.1.2 – Refer to the Applicants comments in response to paragraphs 4.5 and 4.6 (page 101) of STDC Written Representations in the Applicants Comments on Written Representations [REP3-012].

12.2.6 TT.1.2 – The access to Teesworks via Tees Dock Road (plot 274) has been assessed by the Applicants and under the benefit of Work No. 10 adequate improvements could be made to ensure the safe and secure access to the Teesworks site. The access route would only be used for scheduled imports or exports of material. Therefore, access and use can be controlled to maintain a secure perimeter. Refer to point 28 of the SoCG [REP3-006] for the status of discussions between parties on this matter.

13.0 ENVIRONMENT AGENCY

13.1.1 The Deadline 3 Submission by the Environment Agency ('EA') [REP3-027] includes comments on a number of the Applicants submissions:

- Applicants' Response to the Examining Authority's Written Questions [REP2-016]
- Document 5.10 Other Consents and Licences [REP2-007]
- Appendix GH.1.1b: Preliminary Onshore Ground Investigation for Net Zero Teesside Ground Investigation Report [REP2-043]
- Schedule of Changes to the draft Development Consent Order [REP2-004]

13.2 Applicants' Comments on the EA's response to Deadline 2 Submission - 9.7 Applicants' Response to the Examining Authority's Written Questions [REP2-016]

13.2.1 GEN.1.6: The internal diameter of the stack is dependent on the volume of air flowing through the stack. The stack width is sized to ensure that a suitable efflux velocity is achieved to enable adequate dispersion, and also to ensure that the back pressure caused by the stack does not impact on plant and equipment downstream of the stack. A 6.5m or 6.6m stack is considered to be in the normal range of stack widths for power stations of a size corresponding to the Proposed Development, indeed stack widths up to 8m are normal for this size of power station. The requirements of the M1 monitoring guidance will be taken into account during the FEED process to ensure suitable monitoring controls are in place.

13.2.2 GEN.1.7: See response GEN.1.6 above.

13.2.3 AQ.1.13: The Applicants understand that this comment from the Environment Agency is in support of the air quality assessment, in which the Applicants have completed detailed dispersion modelling. The outcome of this modelling was a 72% Predicted Environmental Concentration (PEC), however, as inferred above, this is not considered a significant environmental effect.

13.2.4 AQ.1.14: The above is correct when referring to SPAs, SACs, Ramsars and SSSIs. However, the wording on the Environment Agency's website is the impact of stack emissions can be regarded as insignificant at sites of local importance if less than 100% of the critical level.

13.2.5 DLV.1.11: See response GEN.1.6 above.

13.3 Applicants' Comments on the EA's response to Deadline 2 Submission - 5.10 Other Consents and Licences (Clean) [REP2- 007]

13.3.1 The EA comment on NORM is acknowledged by the Applicants. Naturally Occurring Radioactive Material (NORM) is not expected to occur on NZT. NORM is generally associated with fluids being produced from an oil and gas reservoir and the associated processing of the reservoir fluids. No natural fluids will be produced from the aquifer into the pipeline and no fluids will be transported in the pipeline from the aquifer to the PCC site. The pipeline will only be used to transport carbon dioxide

from the PCC site to the store. With no fluids from the aquifer being transported through the pipeline there is no potential for NORM to form in the pipeline.

13.4 Applicants' Comments on the EA's response to Deadline 2 Submission - Deadline 2 Submission - 9.8 Appendix GH.1.1b: Preliminary Onshore Ground Investigation for Net Zero Teesside Ground Investigation Report [REP2-043]

13.4.1 The EA's comments on the Preliminary Onshore Ground Investigation are to be discussed at a meeting with the EA on the 13th of July 2022. Following this, the Applicants' response will be submitted at Deadline 5.

13.5 Applicants' Comments on the EA's response to Deadline 2 Submission - 2.1a Schedule of Changes to the draft Development Consent Order [REP2-004]

Requirement 13 – Contaminated land and groundwater

13.5.1 The Applicants have updated Requirement 13 in the DCO submitted at Deadline 4 to include the wording requested by the EA regarding the requirement for a "site investigation scheme" to support a preliminary risk assessment and risk assessment.

13.5.2 A response to the EA's comment on the reuse of processed slag and the need for contamination monitoring plan and any further remedial works will be discussed at a meeting with the EA on the 13th of July 2022. Following this, the Applicants' response will be submitted at Deadline 5.

Requirement 25 – Restoration of land used temporarily for construction.

13.5.3 The Applicants have inserted wording in Requirement 25 to specify that the restoration of temporary land "...including remediation of contamination caused by the undertaker's activities".

14.0 REDCAR BULK TERMINAL LIMITED

14.1.1 The Deadline 3 submission by Redcar Bulk Terminal Limited ('RBT') [REP3-028] includes a further response to CA.1.8 of the Examining Authority's First Written Questions – ExQ1 [PD-012].

14.2 Applicants' Comments

14.2.1 The Applicants note RBT's submission and welcome the acknowledgement of further discussions between the parties. The Applicants will continue to work with RBT to address all outstanding matters.

14.2.2 With regards to the annotated plans, the Applicants were unable to observe any annotations on the Land Plan extracts and therefore have no comment at this time.

15.0 NATURESCOT

15.1.1 The Deadline 2 submission by NatureScot [REP3-029] notified the ExA that the Proposed Development is unlikely to affect Scottish protected areas and doesn't consider needing to provide evidence into Examination.

15.2 Applicants' Response

15.2.1 The Applicants have no further comment.

16.0 CATS NORTH SEA LIMITED

16.1.1 The Deadline 3 submission by CATS North Sea Limited ('CNSL') [REP3-030] includes comments on Applicants' Response to the Examining Authority's Written Questions [REP2-016], comments on the Applicants' dDCO [REP2-002] and an update on the SoCG.

16.2 Applicants' Response

16.2.1 GEN.1.10 – The Applicants have no further comment.

16.2.2 MA.1.11 – The Applicants have no further comment.

16.2.3 Comments of the Applicants' dDCO – The Applicants note CNSL's submission and will continue to work with CNSL to address their concerns.

16.2.4 Statement of Common Ground – A draft revision of the SoCG has been submitted at Deadline 4 (Document Ref 8.18).

17.0 UPDATES TO PREVIOUS SUBMISSIONS

17.1 Update to GEN.1.37 [REP2-016]

17.1.1 The Applicants have submitted a detailed response to GEN.1.37 at Deadline 4 (Document Ref. 9.19).

17.2 Update to GH.1.5 [REP2-016]

17.2.1 The Hydrogeological Impact Assessment Report has been submitted at Deadline 4 (Document Ref. 9.17).

17.3 Update to HE.1.1, HE.1.5 & HE.1.6 [REP2-016]

17.3.1 The Applicants have submitted Further Information Regarding Applicants Responses to Historic Environment FWQs (Document Ref. 9.18) at Deadline 4.

17.4 Update to WE.1.1 [REP2-016]

17.4.1 In the Applicants' response to ExQ1 WE.1.1, section i) of the Applicants response contained an error in stating that the development will have an operational water demand of up to 82M l/d. The correct figure for operational raw water demand is up to 32 M l/d. Construction and decommissioning demands will be significantly lower.

17.4.2 The Applicants are also able to confirm that operational demand for potable water will be 0.015 M l/d, with peak demand during construction of up to 0.15 M l/d.

17.5 Update to WE.1.29 [REP2-016]

17.5.1 The Applicants' response to ExQ1 WE.1.29 stated that "the Applicants are undertaking further water quality modelling of the effluent dispersal from the outfall in Tees Bay. This is in response to relevant representations from the Environment Agency and Natural England. The modelling report will be submitted at Deadline 5 and the significance assessment in Chapter 9 of the ES [APP-091] updated as appropriate." The modelling report has been drafted and is being discussed with the Environment Agency and Natural England prior to finalisation and submission at Deadline 5. Should the results of the modelling report change the significance assessment reported in Chapter 9 of the ES [APP-091], an update to this assessment will also be submitted at Deadline 5.

17.6 Updated Response to Northumbrian Water Limited's (NWL) WR [REP3-012]

17.6.1 The Applicants wish to clarify that the operational demand of raw water for the Proposed Development was incorrectly referenced from Chapter 9 for the ES as 82M l/d (pg70 – Water Supply/Water Discharge Capacity/Wastewater treatment of REP3-012).

17.6.2 The Applicants have since confirmed to NWL that the likely peak operational demand for raw water is 32M l/d. At this time the construction and decommissioning volumes have not been determined but the Applicants confirm that they will be significantly lower than operational demand. Through regular technical meetings with NWL, the Applicants will continue to work with NWL to ensure that adequate water supply is available for the Proposed Development.

17.7 Update on Applicants Comments on Local Impact Reports [REP2-059]

- 17.7.1 In response to item 2 of Table 2-1, the Applicants committed to providing further analysis in relation to the Kirkleatham Lane signals at Deadline 4. This further analysis has been submitted at Deadline 4 (Document Ref. 9.16).