

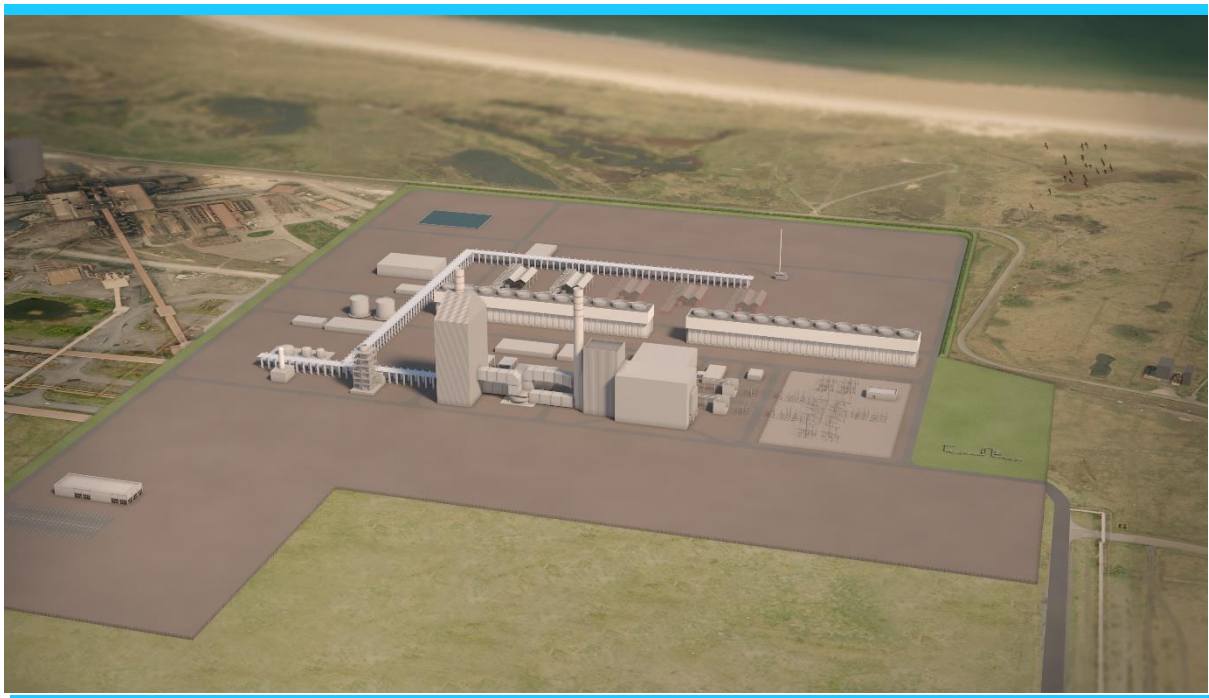
# Net Zero Teesside Project

Planning Inspectorate Reference: EN010103

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: 8.19 – Statement of Common Ground with CF Fertilisers UK Limited



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

Date: ~~May~~ November 2022

## DOCUMENT HISTORY

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## GLOSSARY

<b>Abbreviation</b>	<b>Description</b>
Applicants	Together NZT Power and NZNS Storage
Application (or DCO Application)	The application for a DCO made to the SoS under Section 37 of PA 2008 in respect of the Proposed Development, required pursuant to Section 31 of the PA 2008 because the Proposed Development is a NSIP under Section 14(1)(a) and Section 15 of PA 2008 by virtue of being an onshore generating station in England or Wales of electrical capacity of more than 50 megawatts, and which does not generate electricity from wind, and by the Section 35 Direction
BEIS	Department for Business, Energy, and Industrial Strategy
CCP	Carbon capture plant
CFL	CF Fertilisers UK Limited
DCO	A Development Consent Order made by the relevant Secretary of State pursuant to the PA 2008 to authorise a NSIP. A DCO can incorporate or remove the need for a range of consents which would otherwise be required for a development. A DCO can also include powers of compulsory acquisition
ES	Environmental Statement, documenting the findings of the EIA
ExA	Examining Authority
Land Plans	The plans showing the land that is required for the Proposed Development, and the land over which interests or rights in land are sought as part of the Order

NSIP	Nationally Significant Infrastructure Project that must be authorised by the making of a DCO under PA 2008
NZT Power	Net Zero Teesside Power Limited
NZNS Storage	Net Zero North Sea Storage Limited
NZT	Net Zero Teesside - the name of the Proposed Development.
Order	The Net Zero Teesside Order, being the DCO that would be made by the Secretary of State authorising the Proposed Development, a draft of which has been submitted as part of the Application
Order Land	The land which is required for, or is required to facilitate, or is incidental to, or is affected by, the Proposed Development and over which powers of compulsory acquisition are sought in the Order
Order Limits	The limits of the land to which the Application relates and shown on the Land Plans and Works Plans within which the Proposed Development must be carried out and which is required for its construction and operation
PA 2008	The Planning Act 2008 which is the legislation in relation to applications for NSIPs, including preapplication consultation and publicity, the examination of applications and decision making by the Secretary of State
PCC Site	Power, Capture and Compression Site - the part of the Site that will accommodate the Electricity Generating Station, along with the CCP and high-pressure compressor station
PPs	Protective Provisions
Proposed Development (or Project)	The development to which the Application relates and which requires a DCO, and as set out in Schedule 1 to the Order
Requirements	The 'requirements' at Schedule 2 to the Order that, amongst other matters, are intended to control the final details of the Proposed Development as to be constructed and to control its operation, amongst other matters to ensure that it accords with the EIA and does not result in unacceptable impacts
Site (or Proposed Development Site)	The land corresponding to the Order Limits which is required for the construction and operation of the Proposed Development
SoCG	Statement of Common Ground

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SoS	The Secretary of State - the decision maker for DCO applications and head of Government department. In this case the SoS for the Department for Business, Energy, and Industrial Strategy
Work No.	Work number, a component of the Proposed Development, described at Schedule 1 to the Order
Works Plans	Plans showing the numbered works referred to at Schedule 1 to the Order and which together make up the Proposed Development

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## 1.0 INTRODUCTION

### 1.1 Overview

1.1.1 This Statement of Common Ground (Document Ref. 8.19) has been prepared by Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited (the 'Applicants') in conjunction with CFL in respect of the Net Zero Teesside Project (the 'Proposed Development').

1.1.2 The SoCG sets out the matters of agreement between the Applicants and CFL and also explains those matters which, at the time of writing, remain unresolved between the parties.

1.1.3 The agreements to date have been reached through consultation and continuing discussions between the parties, including interface meetings and regular face to face discussions.

~~1.1.4~~

### 1.2 CF Fertilisers UK Limited Interests

#### 1.2.1 Land North of Belasis Avenue

1.2.2 Freehold interest in agricultural land and pipeline corridor North of Belasis Avenue and either side of Nelson Avenue.

#### ~~1.2.21.3~~ Pipe Bridge South of Belasis Avenue

1.3.1 A Deed of Grant of Easement is held by CF Fertilisers for the pipe bridge crossing adjoining landowners to the south of Belasis Avenue. The landowners comprise of Sembcorp Utilities (UK) Limited, Network Rail Infrastructure Limited, Suez Recycling and Recovery UK Ltd and NPL Waste Management Limited.

### ~~1.31.4~~ The Purpose and Structure of this Document

~~1.3.11.4.1~~ The purpose of this document is to summarise the ~~agreements~~areas of agreement reached between the parties on matters relevant to the Examination of the Application and to assist the Examining Authority ('ExA'). It also explains the matters which remain unresolved at the time of writing, but which both parties are working positively toward resolving. ~~As such, it is expected that further iterations of the SoCG will be submitted to the ExA throughout the Examination and~~ prior to the end of examination and to the making of any Development Consent Order ('DCO'/'DCO') for the Proposed Development.

~~1.3.21.4.2~~ The SoCG has been prepared with regard to the guidance in 'Planning Act 2008: examination of application for development consent' (Department for Communities and Local Government, March 2015).

~~1.3.31.4.3~~ The SoCG is structured as follows:

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- Section 2 – sets out consultation and related discussions held between the Applicants and CFL.
  - Section 3 – sets out the matters discussed and agreed to date.
  - Section 4 – sets out matters to be agreed and the proposed way forward.

## 2.0 SUMMARY OF CONSULTATION AND DISCUSSIONS

### 2.1 Overview

2.1.1 This section provides a summary of how the Applicants have consulted CFL on the Proposed Development and also sets out the discussions that have taken place between the parties.

### 2.2 Consultation

2.2.1 **Table 2.1** (below) provides a summary of how the Applicants have consulted CFL and how CFL have responded to that consultation.

**Table 2.1: Summary of Consultation**

Consultation Stage/Date	CFL Response
Stage 1 Consultation (non-statutory) – 2 <sup>nd</sup> October to 19 <sup>th</sup> November 2019	N/A
Stage 2 Consultation (statutory) – 7 <sup>th</sup> July to 18 <sup>th</sup> September 2020	N/A
Section 42 Update Consultation – 8 <sup>th</sup> December 2020 to 25 <sup>th</sup> January 2021 (further targeted consultations held 12 <sup>th</sup> February to 16 <sup>th</sup> March 2021 & 26 <sup>th</sup> March to 3 <sup>rd</sup> May 2021)	CFL stated their support for the Proposed Development and noted that they would be a beneficiary of the gathering network.  CFL highlighted concerns with the impact the Proposed Development could have on their project to install a new pipeline from Seal Sands to their Billingham site. CFL’s intention would be to work with the Applicant so both projects could proceed and requested Protective Provisions within the DCO to enable installation of their new pipeline.
Consultation on proposed changes to DCO Application – 10 <sup>th</sup> March to 14 <sup>th</sup> April 2022	N/A

### 2.3 Discussions

2.3.1 A summary of the discussions that have taken place between the parties is set out in **Table 2.2**. Where appropriate, email follow-up has taken place to provide each party with information to support the progression of discussions.

**Table 2.2: Summary of Discussions**

Meeting Date	Meeting Type	Topics Discussed
December 2020	Teams Meeting	Introduction meeting



May 2021	Site meeting	Site visit to review main route
September 2021	Teams call	HoTs negotiations
September 2021	Teams Call	HoTs negotiations
October 2021	Interface meeting	Meeting to gain alignment between the parties around key aspects of the Proposed Development (Key agreements, Land, Design, Schedule)
November 2021	Interface meeting	Meeting to gain alignment between the parties around key aspects of the Proposed Development (Key agreements, Land, Design, Schedule)
February 2022	Interface meeting	Meeting (following email exchanges) to align on key points of contact regards agreements and the timeline for those
February 2022	Pre-consultation meeting	Meeting to brief CF on proposed changes to the DCO application ahead of consultation, its timeline, and agree future engagement
March 2022	Pre-consultation meeting	Follow on meeting between parties to brief on main points of the upcoming change consultation
April 2022	Phone Call	HoTs and PPs discussion with CFL's solicitors.
May 2022	Teams Meeting	<del>(Cancelled)</del> —HoTs and PPs negotiations
<del>May</del> October 2022	Teams Meeting	<del>HoTs</del> <u>Catch up on progress of legal documentation and PPs negotiations.</u>
<u>November 2022</u>	<u>Scheduled Teams Meeting</u>	<u>To discuss progression of legal documentation and PPs.</u>

## 3.0 MATTERS AGREED

### 3.1 Overview

3.1.1 This section sets out the matters agreed between the parties.

### 3.2 Principle of the Proposed Development

3.2.1 The parties agree that there is an urgent need for the Proposed Development in order to provide low carbon electricity and the means to decarbonise ~~other existing and proposed emitters in industry within~~ Teesside, ~~including CFL.~~

3.2.2 CFL does not object to the principle of the various elements of the Proposed Development. CFL are progressing their application to BEIS to be a part of the Phase 2 cluster sequencing for the East Coast Cluster and Net Zero Teesside. CFL will be a beneficiary and emitter to NZT's CO2 Gathering Network. CFL are supportive of the Applicants' Proposed Development which would assist in the achievement of their environmental goals.

### 3.3 Heads of Terms

~~3.2.13.3.1~~ 3.3.1 The Applicants and CFL have agreed Heads of Terms for land agreements in July 2022. The Applicants have prepared draft legal agreements based on these terms and shared these with CFL's representatives for review. Both parties will continue to progress the legal agreements to conclusion.

### ~~3.3.4~~ 3.3.4 Exercise of Compulsory Acquisition Rights

~~3.3.13.4.1~~ 3.3.4.1 The Applicants confirm that if a voluntary agreement is reached it will not exercise compulsory acquisition powers in relation to the option area unless CFL were in breach of the agreement or in respect of third party interests or restrictions within the option area. CFL confirm that they are content with that position.

### ~~3.4~~ 3.4 Protective Provisions and Side Agreement

~~3.4.1~~ 3.4.1 ~~The parties are progressing protective provisions and a side agreement. Negotiations are at an advanced stage and parties are confident of reaching agreement on terms that provide the appropriate protection for CFL's operations and apparatus (existing and proposed) during the course of the Examination.~~

### ~~3.5~~ 3.5 Cluster Sequencing Phase 2.

~~3.5.1~~ 3.5.1 ~~CFL are applying to BEIS to be a part of the Phase 2 cluster sequencing for the East Coast Cluster and Net Zero Teesside. CFL will be a beneficiary and emitter into NZT's CO2 Gathering Network. In their January 2021 response to the Stage 3a Consultation, CFL stated that they were supportive of the Applicants' Proposed Development which would assist in the achievement of their environmental goals.~~

### ~~3.6.3.5~~ 3.6.3.5 Proposed and Existing CFL Assets

~~3.6.13.5.1~~ 3.6.3.5.1 The Applicants are aware of CFL's proposal to construct a Natural Gas Pipeline to service their plant. In Q4 2021 the ~~Applicant~~Applicants commissioned a study and report (undertaken by Px Engineering) and provided it to CFL to establish any

interface points which may occur between CFL's pipeline and the Applicants' CO2 Gathering Network.

~~3.6.2 — Protections of proposed and existing infrastructure are being offered as part of the Protective Provisions and voluntary Option Agreement for a Deed of Grant of Easement discussions.~~

~~3.6.3 — Protective Provisions will provide for co-operation between the parties in relation to their respective operations and potential interactions.~~

3.5.2 CFL agree that any positioning and routing of the CO2 Gathering Network pipeline will be subject to the Applicants' detailed design and that the routing will not be fixed prior to this. The Applicants confirm that they are committed to working with CFL to agreeing a mutually appropriate routing of the pipeline through technical and engineering input.

3.5.3 The Applicants need to be able to amend the routing of their pipeline as the design process progresses. Protective provisions are the mechanism to achieve this process of co-operation and approvals.

### **3.7.3.6 Decommissioning**

~~3.7.13.6.1~~ 3.7.13.6.1 The Applicants have confirmed their position in relation to decommissioning and the parties agree that matters will be addressed in the voluntary agreements. If the Applicants wish to abandon the apparatus, the Applicants will serve written notice on CFL, decommission, and remove the ~~Apparatus~~ apparatus and make it safe in accordance with all statutory requirements. The parties agree that removal of the Apparatus will be subject to there being no physical encumbrances more onerous than at the time of construction. Following decommissioning any equipment remaining on the land shall become the property of CFL and the Applicants shall have no further liability in respect of it.

~~3.7.2 — Following decommissioning any equipment remaining on the land shall become the property of CFL and The Applicant shall have no further liability in respect of it.~~

### **3.8 — Change Request**

~~3.6.2~~ 3.6.2 CFL agree with and support the change request, submitted to the Examining Authority on 28<sup>th</sup> April 2022, in relation to their land holding as it represents an overall reduction in the rights being sought over their land. Following submissions by CFL [RR-018 & REP3-019] on Requirement 32 in Schedule 2 of the draft DCO, the Applicants made amendments to the draft DCO submitted at Deadline 2 [REP2-002] and Deadline 4 [REP4-002], in line with CFL's representations. CFL accept the finalised wording for Requirement 32 in Schedule 2 of the draft DCO.

### **3.7 Protective Provisions**

~~3.8.13.7.1~~ 3.8.13.7.1 The Applicants and CFL have agreed the form of protective provisions. The agreed set of protective provisions are included in the finalised DCO submitted by the Applicants at Deadline 12.



## 4.0 MATTERS TO BE AGREED

### 4.1 Overview

4.1.1 This section sets out matters to be agreed between the parties and the proposed way forward.

### ~~4.2 Approval of Routing and Flexibility~~

~~4.1.2 CFL confirm that any positioning and routing of the CO2 Gathering Network pipeline needs to be subject to their consent and approval.~~ Legal Documentation

~~4.1.3 The Applicants and CFL continue to discuss the progression of the legal documentation being an Option for a Deed of Grant of Easement and The Deed of Easement~~

~~4.1.4 The Applicants wish to conclude these documents as soon as practically possible. CFL have expressed that they are not able to conclude these agreements until Q1 2023 as they believe there is no urgency to do so and wish to concentrate their efforts on concluding the Protective Provisions.~~

~~4.2.11.1.1 The Applicants confirm that they are committed to working with CFL to agreeing a mutually appropriate routing of the pipeline through technical and engineering input. Design work will be undertaken through the Applicants' FEED but the design will not be fixed until circa mid-late 2023.~~

~~4.2.21.1.1 The Applicants need to be able to amend the routing of their pipeline as the design process progresses. Protective provisions are the mechanism to achieve this process of co-operation and approvals.~~

### 4.3 Option Period

~~4.3.1 The Applicants and CFL are discussing the potential option period, with that proposed by CFL considered by the Applicants to be too short. In relation to this issue the Applicants have confirmed that they do not wish to restrict all CFL's operations within the Option Area, but that some level of control over operations that would prejudice the rights that the Applicants are seeking to acquire under the Option and Easement is required.~~

### 4.4 Other Commercial Matters

~~4.4.1 CFL has indicated that it has concerns with some of the proposed commercial provisions, including the indemnity. These matters remain under discussion by the parties.~~