

## **Submissions Received After the Close of the Examination**

**TR030002**

### **York Potash Harbour Facilities**

Submissions received during Recommendation	
Number	Name
001	Nick Thorne
002	Nigel Nichol
003	Sirius Minerals
004	Eversheds

**From:** [TRANSPORTANDWORKSACT](#)  
**To:** [REDACTED]  
**Subject:** RE: Sirius Minerals / York Potash

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Dear Mr Thorne

Your email (below) to 10 Downing Street has been passed to this Department as our Minister will be determining the York Potash Harbour Facilities development consent order application.

There will NOT be a decision by 5 May, not least because it is well-established that central Government does not issue sensitive local decisions in the run-up to local elections. There is a statutory deadline in the Planning Act 2008 of issuing a decision within three months of receiving the Planning Inspectorate Examiner's Report, and that duration reflects the amount of work required by a determining department after receiving the report. You should therefore expect a decision much nearer to 20 July, when that deadline falls.

Yours sincerely

Robert Fox  
Transport and Works Act Orders Unit  
Department for Transport  
1/14-18, Great Minster House  
33 Horseferry Road,  
London, SW1P 4DR

-----  
[REDACTED] Date Sent: 21 Apr 16 14:23  
Subject: Sirius Minerals / York Potash

The Planning Inspectorate yesterday sent its recommendation on the proposed port facilities and underground conveyor for this massively important project to the Secretary of State. It would be good if he could reach an early and positive decision, allowing the project to be financed and go ahead. As you will know, the mine is to have a c100 year life, and bring significant employment to the North East, boost the balance of payments and pay substantial taxes on expected annual profits in the region of £1bn. Positive news before 5 May would help counter some of the recent bad news re steel etc, and be positive in terms of the Northern Powerhouse. Go Conservatives!

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**From:** [REDACTED]  
**To:** [REDACTED]  
**Subject:** York Potash harbour planning decision.  
**Date:** 16 May 2016 11:23:55

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Dear Sir,

I am writing to ask the office of the Rt Hon SoS for Transport, Patrick McLoughlin, on the expected timeframe for a decision to be made on the York Potash projects Teesside Harbour to be made.

I understand the planning inspectorates' letter of recommendation was sent to the Rt Hon Secretary on 20th April and has a 3 month time limit for any decision to be made.

Is it feasible the Rt Hon Secretary will reach and release his conclusion on this project (which offers spectacular growth of employment in the Teesside and North Yorkshire areas) earlier than the full 3 month term allowed?

I am particularly interested in seeing the passing of this application and see a return of prosperity to these areas.

I thank you in advance of your reply and look forward to receiving such.

Yours Sincerely,  
Nigel Nichol.

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**Caroline O'Neill**

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**From:** Caroline O'Neill  
**Sent:** 01 June 2016 10:21  
**To:** [REDACTED]  
**Subject:** York Potash harbour planning decision

**Categories:** Egress Switch: Unencrypted

Dear Mr Nicol

**Ministerial approval for Development Consent Order for York Potash Harbour**

Thank you for your e-mail of 16 May to the Secretary of State about the timing of a decision on this scheme. I have been asked to reply as this Unit is responsible for advising Transport Ministers on determining development consent order applications.

As you recognise, we are under a statutory obligation to issue a decision within three months of receiving the Examining Authority's report and recommendations from the Planning Inspectorate. We always aim to issue decisions as soon as reasonably possible commensurate with ensuring that the terms of the decision are robust to minimise the risk of subsequent legal challenge. A challenge would be of course be likely to cause significant delay to the applicants being able to implement the scheme.

Yours sincerely  
Caroline O'Neill

 **Department for Transport**

Caroline O'Neill  
Miss, Transport and Works Act Orders Unit, Legal  
Service, Department for Transport,  
1/14-18, Great Minster House,  
33 Horseferry Road, London, SW1P 4DR  
[REDACTED]

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Sirius Minerals Plc  
7 – 10 Manor Court | Manor Garth  
Scarborough | YO11 3TU  
United Kingdom  
[Redacted]

**BY EMAIL AND POST**  
**Commercially confidential**

The Rt Hon Patrick McLoughlin MP  
Secretary of State for Transport  
Department for Transport  
Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

20 May 2016

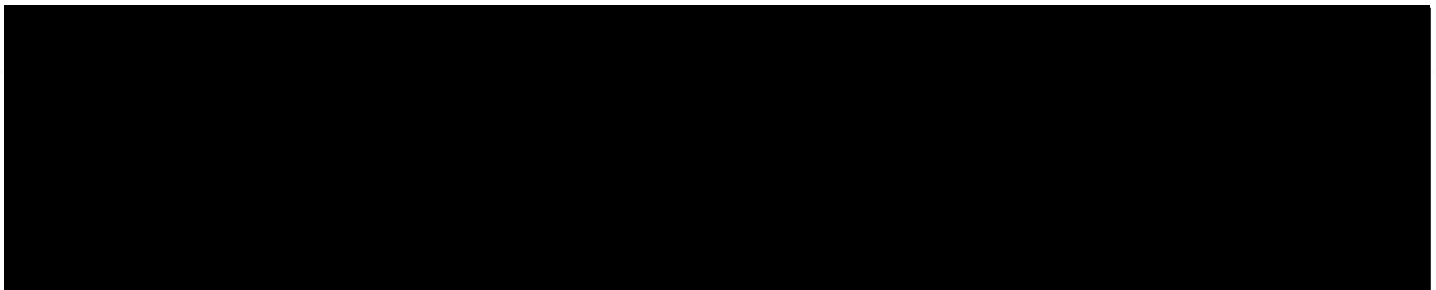
*Dear Secretary of State,*

**Re: York Potash Harbour Facilities – DCO application**

As you will be aware, the above application is with you for consideration following an inspector's recommendation, with a decision due to be made by the department by 21 July.

Naturally we hope that you look favourably on the application and understand that due process has to be followed. However, I am writing to respectfully request whether the final determination may be prioritised? I set out the reasons below.

The York Potash Project is a proposal to build a state-of-the-art new polyhalite mine near Whitby. It will create over 1,000 direct jobs and thousands more indirectly and during the construction period. It can add over £2 billion to UK GDP in full production. Having secured planning permissions for the mine, mineral transport system and materials handling facility last year, the Company is currently embarking on the financing phase of the project. This is no mean feat in the current financial climate – our capital funding requirement is \$3.56 billion, split over two stages.



The lack of a decision on the Harbour Facilities appears to be holding back investment decisions relating to our Project, therefore delaying the delivery of the many economic benefits it can make to both the region and the country. It is for this reason that we are asking if the decision can be prioritised – and naturally we believe that we have put forward a very comprehensive and uncontroversial application that can be approved. We are in no

way being critical of the process or department, but are keen to stress that an early and positive decision can help expedite the Project's benefits to the economy.

We have raised this issue with Robert Goodwill MP – our local representative – who has suggested I write to you. We have, of course, always known that he will not be involved in the decision making process for this application.

Yours sincerely,



Gareth Edmunds  
External Affairs Director



## Department for Transport

Mr Gareth Edmunds  
External Affairs Director  
Sirius Minerals Plc  
7-10 Manor Court  
Manor Garth  
Scarborough  
YO11 3TU

Caroline O'Neill  
TWA ORDERS UNIT  
LEGAL SERVICE  
DEPARTMENT FOR TRANSPORT  
ZONE 1/14 -18  
GREAT MINSTER HOUSE  
33 HORSEFERRY ROAD  
LONDON  
SW1P 4DR  
DIRECT LINE: [REDACTED]  
FAX: 020 7944 9637  
transportandworksact@dft.gsi.gov.uk

Web Site: [www.dft.gov.uk](http://www.dft.gov.uk)

Our Ref: TWA/8/1/18

1 June 2016

Dear Mr Edmunds,

### **Ministerial approval of Development Consent Order for York Potash Harbour Facilities**

Thank you for your letter of 20 May 2016 to the Secretary of State. I have been asked to reply as this Unit is responsible for advising Transport Ministers on determining development consent order applications.

We note your desire for a decision on this case to be prioritised so that funding can be secured to enable the project to be implemented.

As you recognise, we are under a statutory obligation to issue a decision within three months of receiving the Examining Authority's report and recommendations from the Planning Inspectorate. We always aim to issue decisions as soon as reasonably possible commensurate with ensuring that the terms of the decision are robust to minimise the risk of subsequent legal challenge. A challenge would of course be likely to cause significant delay

Yours sincerely,

Caroline O'Neill



## Department for Transport

Eversheds LLP  
One Wood Street  
LONDON  
EC2V 7WS

for the attention of Morag Thomson  
Partner, Planning and Infrastructure Consenting

**by post and email:**  
**[moragthomson@eversheds.com](mailto:moragthomson@eversheds.com)**

Dear Ms Thomson,

### **PLANNING ACT 2008: THE PROPOSED YORK POTASH HARBOUR FACILITIES ORDER**

You will be aware that we are considering the Examining Authority's report and recommendations in respect of your client's application for the above proposed Development Consent Order. I am writing in relation to some concerns that have been identified about whether the Development Consent Obligation ("DCOb") which was submitted during the examination of this application fully complies with the requirements of the Town and Country Planning Act 1990 ("TCPA"). This letter is sent without prejudice to the Secretary of State's determination of your client's application, and nothing in this letter should be taken to imply what that decision will be.

We have been considering the terms of the DCOb dated 19 October 2015 (Document 7.4B / REP4-062), to which your client, the Homes and Communities Agency, and Redcar and Cleveland Borough Council ("RCBC") were signatories, against the requirements of section 106 of the TCPA. We have noted, in particular, the requirement in section 106(9)(aa) that a planning obligation may not be entered into except by an instrument executed as a deed which, "if the obligation is a development consent obligation, contains a statement to that effect". The DCOb does not explicitly contain such a statement. Although the document is entitled "Development Consent Obligation" it also contains a heading, "Operative Provisions" on the second page. We consider that the statement required by section 106(9)(aa) would need to appear within the operative provisions if it is to be regarded as part of the deed, but it does not. Instead, it identifies the obligations only as planning obligations (at paragraph 2.1). While a development consent obligation is a type of planning obligation, we consider that such a statement is insufficient to satisfy the requirement of section 106(9)(aa).

We recognise that, if the decision is to make the above Order, your client would have a vested interest in the terms of the DCOb being carried out. It is therefore highly likely that despite the above deficiency both your client and the local planning authority would consider

Robert Fox  
Transport and Works Act Orders Unit  
Department for Transport  
Zone 1/14  
Great Minster House  
33 Horseferry Road  
LONDON  
SW1P 4DR

Direct Line: [REDACTED]  
Fax: 020-7944 9637  
Email: [robert.fox@dft.gov.uk](mailto:robert.fox@dft.gov.uk)

Web Site: [www.gov.uk/dft/twa](http://www.gov.uk/dft/twa)

Our Ref: TWA 8/1/18  
Your Ref: HUTTONL\212082-000007

9 June 2016

themselves to be bound by the DCOB and would comply with the obligations. That said, we consider that if your clients wish to rely on the DCOB as part of their case it is important that the requirements of the TCPA are complied with.

The second point on the DCOB concerns section 106(9)(d) which requires the deed to identify the local planning authority ("LPA") by whom the obligation is enforceable. The DCOB confirms that the obligation is enforceable by RCBC, but does not explicitly define them as the LPA for the purposes of the DCOB, or that the obligation is enforceable by RCBC *in its capacity as the LPA*. While dealing with the section 106(9)(aa) issue referred to above, we consider that it would be sensible also to put beyond doubt compliance with section 106(9)(d) by addressing this drafting point.

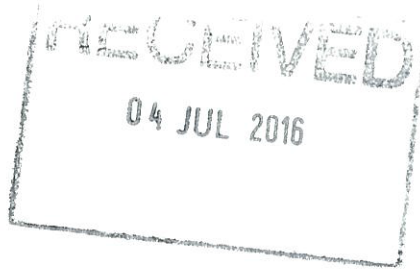
In view of the statutory deadline of 20 July for the Secretary of State to issue a determination of your client's application, please could you respond substantively to this letter as soon as possible and no later than **23 June 2016** indicating how you and your client intend to take these matters forward. We will need to receive well before the 20 July deadline for the decision on your client's application any amending documentation that you wish to be taken into account.

Please note that this letter and your reply will be published on the Planning Inspectorate website when the decision is issued.

I am sending copies of this letter to RCBC and the Homes and Communities Agency

Yours sincerely,

**Robert Fox**



**Eversheds LLP**  
One Wood Street  
London  
EC2V 7WS  
United Kingdom

T: +44 20 7497 9797  
F: +44 20 7919 4919  
DX 154280 Cheapside 8

eversheds.com

Robert J Fox  
Transport and Works Act Orders Unit  
Department for Transport  
Zone 1/14 - 18 Great Minister House  
33 Horseferry Road  
London  
SW1P 4DR

**Date:** 30 June 2016

**Your ref:**

**Our ref:** THOMSOMO\1-1

**Direct:** [REDACTED]

**Email:** moragthomson@eversheds.com

**By email:** [REDACTED]

Dear Robert,

**Planning Act 2008: The Proposed York Potash Harbour Facilities Order**

Further to your letter of the 9<sup>th</sup> June 2016 and subsequent emails, please find enclosed a completed original of a replacement Development Consent Obligation dated 27<sup>th</sup> June 2016.

I would be grateful if you would acknowledge receipt.

Yours sincerely

**Morag Thomson**  
*Partner*  
Eversheds LLP

Enc.

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**Dated:** 27 JUNE 2016

- (1) The Council of the Borough of Redcar and Cleveland
- (2) The Homes and Communities Agency
- (3) York Potash Processing & Ports Limited

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**Development Consent Obligation**

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Made pursuant to Section 106 Town and Country Planning Act 1990 relating to York Potash Harbour Facilities



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THIS AGREEMENT is made on

27 JUNE

2016

**BETWEEN**

- (1) **THE COUNCIL OF THE BOROUGH OF REDCAR AND CLEVELAND** of Redcar and Cleveland House, Kirkleatham Street, Redcar, Yorkshire TS10 1RT ("RCBC");
- (2) **THE HOMES AND COMMUNITIES AGENCY** Arpley House 110 Birchwood Boulevard Warrington WA3 7QH ("the Owner"); and
- (3) **YORK POTASH PROCESSING AND PORTS LIMITED** (Company Registration Number 08270855) whose registered office is situate at 3<sup>rd</sup> Floor Greener House, 66-68 Haymarket, London, SW1Y 4RF ("YPPPL")

**BACKGROUND**

- (A) The Developer submitted the Application to obtain authorisation for the Development in the form of the DCO and the Application was accepted by the Planning Inspectorate under section 55 of the 2008 Act on 21 April 2015.
- (B) The Owner is the registered proprietor of the Obligation Land.
- (C) YPPPL has an option to purchase the Obligation Land.
- (D) The Developer intends to construct and operate the Development authorised by the DCO.
- (E) The Owner and YPPPL have entered into this Agreement in order to ensure that the Development is subject to obligations which bind the Obligation Land and are planning obligations for the purposes of the Section 106 of the 1990 Act.

**OPERATIVE PROVISIONS**

**1. Definitions and Interpretation**

- 1.1 In this Agreement the following expressions shall have the following meanings:-

<b>"the 1990 Act"</b>	the Town & Country Planning Act 1990;
<b>"the 2008 Act"</b>	the Planning Act 2008;
<b>"Application"</b>	the application made pursuant to section 37 of the 2008 Act for the DCO to authorise the Development;
<b>"Biodiversity Offsetting Contribution"</b>	the sum payable pursuant to paragraph 6. of Schedule 1;

**"Commencement  
Development"**

of the earliest date on which any of the material operations (as defined by Section 56(4) of the 1990 Act) pursuant to the implementation of the Development is begun save that irrespective of the provisions of Section 56(4) of the 1990 Act none of the following operations shall constitute a material operation for the purposes of constituting Commencement of Development:-

- (a) trial holes or other operations to establish the ground conditions, site survey work, or works of remediation;
- (b) archaeological investigations;
- (c) any works of demolition or site clearance;
- (d) any structural planting or landscaping works;
- (e) ecological or nature conservation works associated with the Development;
- (f) construction of boundary fencing or hoardings;
- (g) construction of access or highway works (including drainage and media);
- (h) any other preparatory works agreed in writing with RCBC; and

"Commence Development" and "Commenced Development" shall be construed accordingly;

**"Community  
Environmental  
Contribution"**

the sums payable pursuant to paragraph 1. of Schedule 1;

**"Community  
Environmental Purposes"**

the carrying out of schemes within the Borough of Redcar for the purposes of enhancing the environment;

**"DCO"**

the development consent order to be made under the 2008 Act pursuant to the Application;

**"Developer"**

York Potash Limited (Company Registration Number 07251600);

<b>"Development"</b>	the works described in Schedule 1 of the DCO;
<b>"Foxrush Farm"</b>	the woodland area and car park known as Foxrush Farm;
<b>"Foxrush Farm Car Park Contribution"</b>	the sum payable pursuant to paragraph 3. of Schedule 1;
<b>"Foxrush Farm Drainage Contribution"</b>	means the sum payable pursuant to paragraph 2. of Schedule 1;
<b>"Gateway Contribution"</b>	the sum payable pursuant to paragraph 4. of Schedule 1;
<b>"Obligation Land"</b>	the land shown coloured blue on the Plan registered at the Land Registry under title numbers CE216413 and CE169990;
<b>"Index Linked"</b>	means adjusted in accordance with clause 2.17;
<b>"Plan"</b>	the plan attached hereto and marked as such;
<b>"Portrack Marsh Contribution"</b>	the sum payable pursuant to paragraph 5. of Schedule 1;
<b>"Portrack Marsh Expenditure"</b>	expenditure comprising the cost of the Portrack Marsh Habitat Improvements including the cost of obtaining any necessary consents for such works and the cost of designing, supervising and carrying out the works;
<b>"Portrack Marsh Habitat Improvements"</b>	works to create intertidal habitat at Portrack Marsh Nature Reserve by up to 8 hectares;
<b>"Tees Estuary Habitat Strategy"</b>	a strategy to identify the habitat protection and enhancement opportunities and priorities in the Tees Valley Estuary; to be produced by the Tees Valley Local Nature Partnership;
<b>"Tees Valley Local Nature Partnership"</b>	the Tees Valley wide partnership comprising environmental organisations, local authorities and government agencies in response to the Natural Environment White Paper 2011 and recognised by the Government in 2012.



Notes:

*Handwritten signature*

*Handwritten signature*

24/7812 d



Dunn, Isla Road, Perth, PH2 7HF  
Tel: 01738 621121 Fax: 01738 630904  
www.bellingram.co.uk  
enquiries@bellingram.co.uk

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Client

York Potash Ltd

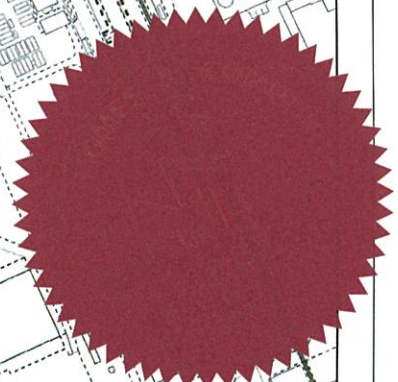
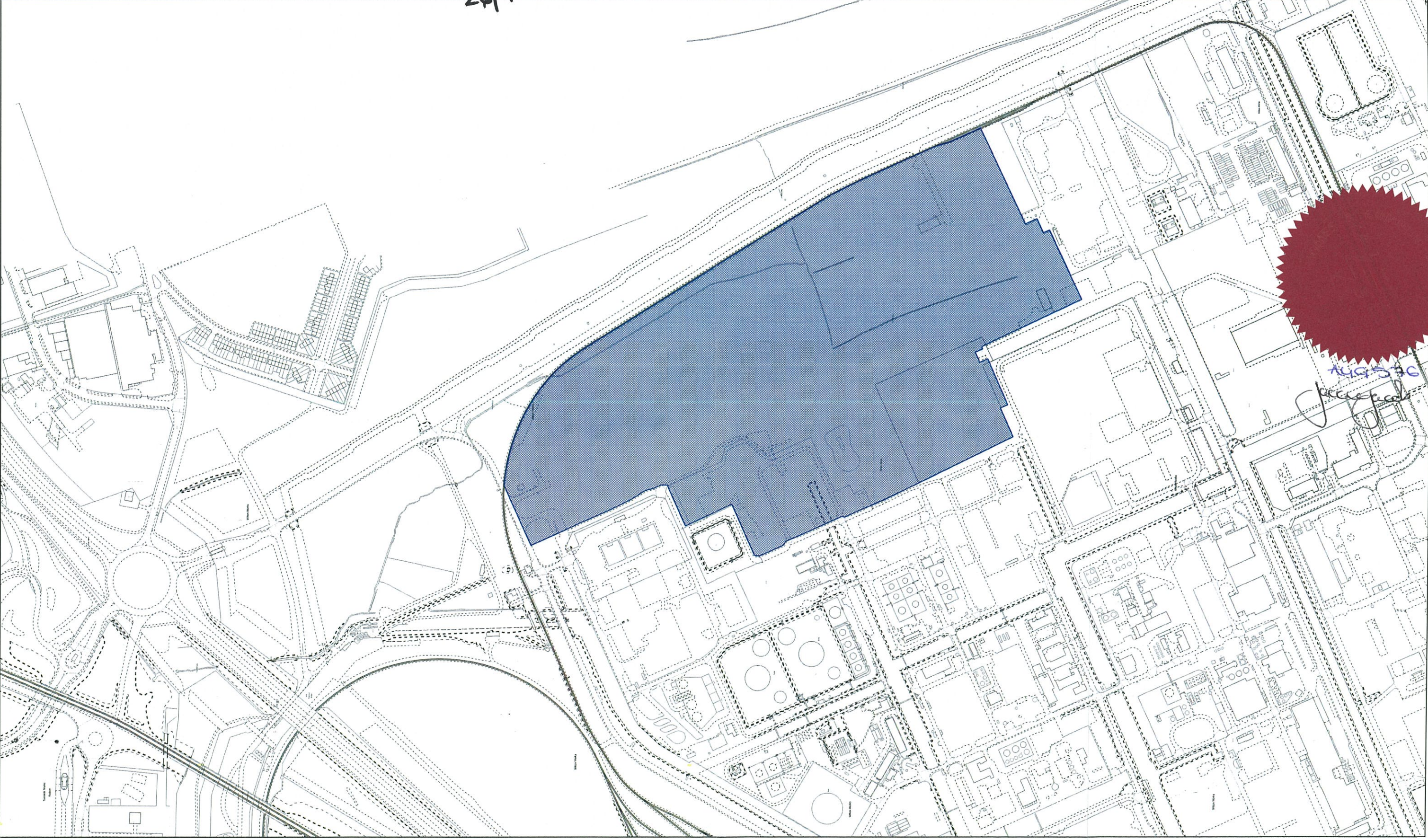
Job title

Wilton Works

Section 106 Plan (Mine/  
MTS)

Scale at A3: 1:5,000

Plan No: Y5135-0102M-WIL-1 Rev 0



449536



1.2 The expressions "RCBC" "the Owner" and YPPPL shall where the context so admits include its respective successors and assigns and in the case of RCBC the successors to its statutory functions.

1.3 References in this Agreement to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending consolidating or replacing them respectively from time to time and for the time being in force.

1.4 Words in this Agreement importing the singular meaning shall where the context so admits include the plural meaning and vice versa.

1.5 Words in this Agreement of the masculine gender shall include the feminine and neuter genders and vice versa and words denoting natural persons shall include corporations and vice versa.

1.6 Where in this Agreement reference is made to a Clause or Schedule such reference (unless the context otherwise requires) is a reference to a Clause or Schedule of this Agreement.

## 2. **General Provisions**

### *Statutory Authority*

2.1 The obligations in clauses 3 and 4 of this Agreement are development consent obligations and are planning obligations and are made pursuant to S106 of the 1990 Act as amended by S174 of the 2008 Act.

2.2 The obligations in clause 3 and Schedule 1 of this Agreement bind the Obligation Land and are enforceable by RCBC in its capacity as a local planning authority for the area in which the Development is to be carried out.

### *Liability*

2.3 The parties hereto agree that no person shall be liable for breach or non-performance of any covenant contained in this Agreement after he shall have parted with all his interest in the Obligation Land or the part of it in respect of which such breach or non-performance occurs but without prejudice to liability for any subsisting breach prior to parting with such interest.

2.4 YPPPL has the benefit of option agreements dated 1 March 2013 and 2 October 2014 to purchase the Obligation Land and signifies its consent to the Obligation Land being bound by the terms of this Agreement and for the avoidance of doubt YPPPL shall not be liable in respect of any obligations made on behalf of the Owner herein unless and until it takes possession of any part of the Obligation Land.

2.5 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Obligation Land in accordance with a planning permission granted (whether or not on

appeal) after the date of this Agreement in respect of which development this Agreement will not apply.

#### *Contingencies*

- 2.6 The obligations contained in Clause 3 and Schedule 1 to this Agreement shall take effect only on the Commencement of Development.
- 2.7 In the event of the DCO being quashed, cancelled, revoked or expiring prior to Commencement of Development the obligations under this Agreement shall cease absolutely and RCBC shall procure that any entry referring to this Agreement in the Register of Local Land Charges shall be removed forthwith.

#### *Determination by Expert*

- 2.8 Notwithstanding any specific provision in this Agreement in the event of any dispute between the parties concerning this Agreement including any dispute as to whether or not an obligation has been performed or matter to be agreed under any of the provisions of this Agreement the matter may at the written option of any relevant party (notice of which shall be given to the other party or parties) be referred to such expert as they may agree or (in default of agreement within 20 working days of the date of giving of the notice) appointed by the Chairman for the time being of the Planning and Environment Bar Association whose appointment shall be conducted on the following terms:
- 2.8.1 The person to be appointed pursuant to Clause 2.8 shall if possible be a person having fifteen years or more relevant post-qualification experience of the issue in dispute and projects comprising works of the scale and nature of the Development and of the particular issue in dispute.
- 2.8.2 The reference to the expert shall be on terms that:
- 2.8.2.1 the expert shall afford the parties to the dispute an opportunity to make representations to him/her in writing and if he/she so directs to make submissions on one another's representation;
- 2.8.2.2 the expert shall be able to stipulate periods of time for the making of such submissions and representations;
- 2.8.2.3 the expert shall be bound to have regard to the said submissions and representations;
- 2.8.2.4 the expert shall have the power to award the costs of the determination in favour of either party at the expense of the other in the event that the expert shall consider that the said other party



has acted unreasonably and the extent of the costs awarded shall reflect the extent and effect of said unreasonable behaviour;

2.8.2.5 the expert shall be limited in his findings to the proposals put by either party or a proposal falling between both of them; and

2.8.2.6 the findings of the expert shall save in the case of manifest material error be final and binding on the parties save that the parties retain the right to refer to the Courts on a matter of law.

#### *Time Periods*

2.9 It is agreed between the parties that any of the periods specified in the Agreement may be extended by mutual agreement in writing between the parties SAVE THAT any party to this Agreement who requires time to be of the essence in respect of any period extended shall serve notice on any other relevant party stating that time is of the essence in relation to any time period so extended.

#### *Notices*

2.10 The service of notices and communications pursuant to this Agreement shall be sent to the addressee at the address stated in this Agreement or at such other address as the addressee shall have notified to the others in writing.

2.11 Notices and communications under this Agreement may be sent by personal delivery or by First Class Post (recorded delivery) and any notice or communication sent by First Class Post (recorded delivery) and correctly addressed shall be conclusively deemed to have been received by the addressee on the second business day following the date of posting.

#### *Exclusion of the Contracts (Rights of Third Parties) Act 1999*

2.12 Nothing herein contained or implied shall give or be construed as giving rights, privileges, powers or enforceability other than to the specific parties executing this document and their successors (if any) as defined herein and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise therefrom are expressly excluded to the intent that no third party within the meaning of that Act shall have any rights of enforcement in respect of any matter herein contained.

#### *Void Provisions*

2.13 If any provision of this Agreement is declared by any judicial or other competent authority to be void voidable illegal or otherwise unenforceable the remaining provisions of this Agreement shall continue in full force and effect and the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality provided that any party may seek the consent of the other or others to the termination of

this Agreement on such terms as may in all the circumstances be reasonable if the effect of the forgoing provisions would be to defeat the original intention of the parties.

*No Fetter of Discretion*

- 2.14 Save as permitted by law nothing contained or implied in this Agreement shall prejudice or affect the rights powers duties and obligations of RCBC in their rights powers duties and obligations under all public and private statutes bylaws and regulations which may be as fully and effectually exercised as if RCBC were not a party to this Agreement.

*Effect of any Waiver*

- 2.15 No waiver (whether express or implied) by RCBC of any breach or default by the Owner in performing or observing any of the terms or conditions of this Agreement shall constitute a continuing waiver and no such waiver shall prevent RCBC from enforcing any of the said terms or conditions or from acting upon any subsequent breach or default in respect thereof by the Owner.

*General Requirement to Co-operate*

- 2.16 Without prejudice to its statutory duties RCBC and the Owner shall all act in good faith and shall co-operate with each other to facilitate the discharge and performance of the obligations of the other contained within this Agreement within the timescales specified.

*Indexation*

- 2.17 Where payments are identified as being Index Linked in this Agreement then such sums shall be adjusted by applying the All Items Retail Prices Index as published by the Office of National Statistics (or any successor thereof) including any applicable local or regional waiting from date of this Agreement to the date of payment.

*Interest*

- 2.18 Where any payment or part payment which the parties hereto are obliged to pay or repay pursuant to the provisions of this Agreement is not paid on the date upon which the obligation to make such a payment falls due then interest at 4% above the base rate of HSBC Bank Plc from time to time calculated on a daily basis shall be added to the outstanding balance of the payment from the date on which the payment or part payment became due until the date of receipt of the payment or part payment.

*Previous Agreement*

- 2.19 The parties hereto agree that this Agreement shall supercede and replace the agreement dated 19 October 2015 made between the parties hereto which shall on completion of this Agreement be of no further effect



3. **THE OWNER'S PLANNING OBLIGATIONS**

- 3.1 The Owner covenants with RCBC to comply with the obligations contained in Schedule 1.

4. **RCBC'S COVENANTS**

- 4.1 RCBC covenant with the Owner to comply with the obligations set out in Schedule 2.

**SCHEDULE 1**

**Community Environmental Fund**

1. To pay the Community Environmental Fund Contribution to RCBC as follows:
- 1.1 TEN THOUSAND POUNDS Index Linked within 28 days of the Commencement of Development; and
- 1.2 TEN THOUSAND POUNDS Index Linked on the first, second, third and fourth anniversary of the Commencement of Development.

**Foxrush Farm Drainage Contribution**

2. To pay the sum of FIVE THOUSAND POUNDS Index Linked to RCBC within 28 days of the Commencement of Development

**Foxrush Farm Car Park Contribution**

3. To pay the sum of THIRTY THOUSAND POUNDS Index Linked to RCBC within 28 days of the Commencement of Development

**Gateway Contribution**

4. To pay the sum of TWO HUNDRED AND FIFTEEN THOUSAND POUNDS to RCBC within 28 days of the Commencement of Development or receipt from RCBC of details of the purposes to which the monies are to be put whichever is the later which purposes shall accord with the purposes set out in paragraph 1.4 of Schedule 2

**Portrack Marsh Contribution**

5. To make available a maximum of TWO HUNDRED THOUSAND POUNDS to RCBC (for onward payment to the Tees Valley Wildlife Trust in accordance with paragraph 1.5 of Schedule 2) within 28 days of the Commencement of Development or receipt by YPPPL from the Tees

Valley Wildlife Trust of notice that any Portrack Marsh Expenditure is about to be incurred whichever is the later

**Biodiversity Offsetting Contribution**

6. To pay of FIFTY THOUSAND POUNDS to RCBC (for onward payment to the Tees Valley Local Nature Partnership in accordance with paragraph 1.6 of Schedule 2) within 28 days of the Commencement of Development or receipt by YPPPL from the Tees Valley Local Nature Partnership of the commencement of the production of the Tees Estuary Habitat Strategy whichever is the later

## **SCHEDULE 2**

1. RCBC covenants with the Owner as follows:
  - 1.1 To use the Community Environmental Contribution for the Community Environmental Purposes and for no other purposes whatsoever.
  - 1.2 To use the Foxrush Farm Drainage Contribution for the purposes of drainage works on Foxrush Farm and for no other purposes whatsoever.
  - 1.3 To use the Foxrush Farm Car Park Contribution for the purposes of re-surfacing and extending the Foxrush Farm car park and for no other purposes whatsoever
  - 1.4 To use the Gateway Contribution to fund enhancements to the public realm and landscaping in the vicinity of Dormanstown and/or improvements along the corridor of the A1085, being a gateway to Redcar and for no other purposes whatsoever.
  - 1.5 To pay the Portrack Marsh Contribution to the Tees Valley Wildlife Trust for the Portrack Marsh Habitat Improvements.
  - 1.6 To pay the Biodiversity Offsetting Contribution to the Tees Valley Local Nature Partnership for the purpose of funding the production and implementation of the Tees Estuary Habitat Strategy.
  - 1.7 To repay to the Owner any unexpended monies paid to RCBC pursuant to paragraphs 1 to 4 in Schedule 1 along with interest thereon at the expiration of 5 years from the date of payment such payment to be made within two months of the expiry of the aforesaid 5 year period in respect of which period time shall be of the essence.
  - 1.8 To provide full and precise details of the expenditure of all monies paid pursuant to paragraphs 1, 2, 3 and 4 of Schedule 1 to RCBC for the use of RCBC to the Owner which details shall be provided to the Owner within 28 days following receipt of a request for the same from the Owner and provided that no more than 4 requests shall be made in any calendar year.

IN WITNESS whereof the parties hereto have executed this Agreement as a Deed on the date first above written

THE COMMON SEAL OF **THE COUNCIL  
OF THE BOROUGH OF REDCAR AND  
CLEVELAND** was hereunto affixed

)  
)  
)

in the presence of: -

[Redacted Signature]

Authorised Signatory



26/7812d

THE COMMON SEAL OF **THE HOMES  
AND COMMUNITIES AGENCY**  
was hereunto affixed in the presence of: -

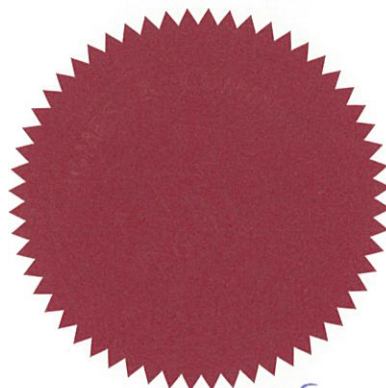
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Authorised Signatory

[Redacted Signature]

Print Name:

Jackie Jacob  
Executive Director  
Programmes



A49576.

SIGNED AS A DEED on behalf of  
**YORK POTASH PROCESSING & PORTS  
LIMITED** by two directors or one director  
and its company secretary

)  
)  
)  
)

Director

[Redacted Signature]

Director/Secretary

[Redacted Signature]