

Response to the Secretary of State's letter dated 24th September 2026

Comment from Stakeholder to Secretary of State	Applicant's Comments on the Stakeholder Response
Environment Agency	
Ques.9 The Environment Agency is requested to confirm whether the environmental permit (or any other consent, licence or permit that the Environment Agency may grant for the Proposed Development) would impose, or could impose, any restriction on the annual operating hours of the Proposed Development. Q.9 Response: The applicant has not applied for any restrictions on annual operating hours. However, as we have not yet completed our determination of the environmental permit application, we cannot confirm at this stage whether we would need to consider any restrictions in the operating hours.	The Applicant welcomes the confirmation that the Environment Agency will, as part of its determination of the environmental permit application, consider whether restrictions on operating hours are appropriate. The Applicant considers the response supports the case put forward by the Applicant that no further Requirement is necessary, proportionate or appropriate for inclusion in the Development Consent Order.
Ques.11. The Applicant and Environment Agency are therefore requested to explain whether there is any regulatory, consenting or other mechanism that would trigger the deployment of carbon dioxide capture and compression infrastructure during the operational life of the Proposed Development. Where such a mechanism exists, the Applicant should identify circumstances in which it would apply and explain what further consents or approvals would be required, including the relationship, if any, with The Keadby 3 (Carbon Capture Equipped Gas Fired Generating Station) Order 2022.	The Applicant agrees, and confirms this understanding is reflected in its response dated 18 September 2026 to the Secretary of State's consultation.

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Q.11 Response: The applicant has not applied for carbon capture as part of the environmental permit application. We can only determine the application that is presented to us, and we do not have any regulatory mechanism to require carbon capture to be fitted. Based on the environmental permit application, we understand that the Proposed Development is located on the same footprint as that of the Keadby 3 CCGT with carbon capture power station and that only one of these activities will be progressed and the permit varied or surrendered for the other proposal as applicable. Therefore, there is no relationship between the two proposed developments.	
Ques.12. The Environment Agency is also requested to comment on the sufficiency of the Applicant's Carbon Capture Readiness Statement [APP-160] including the Applicant's technical and economic feasibility assessments and the suitability of the space set aside on the site for carbon dioxide capture and compression infrastructure should the Proposed Development need to run on natural gas for any length of time during its operation. Q.12 Response: We do not consider that the Applicant's Carbon Capture Readiness Statement includes all the information required and, therefore, we consider that the Statement is not sufficient. However, the Applicant has provided a voluntary Decarbonisation Readiness report as part of the	The Applicant confirms this aligns with its response to the Secretary of State dated 18 September 2026. In particular, the Applicant is progressing with an environmental permit application on the basis of the hydrogen decarbonisation readiness route, rather than the carbon capture approach. In line with the Environment Agency's guidance, there will be a process for keeping the specific decarbonisation route under review and the process allows for a transition between hydrogen and carbon capture as appropriate. The Applicant understands the Environment Agency's comments about the submitted Carbon Capture Readiness Statement relate to the standard required for a permit application. The Applicant confirms that the statement prepared for the DCO Application conforms to the precedent and legal requirements for DCO applications. The Environment

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environmental permit application based on the conversion to hydrogen route. On completion of our determination, should we decide to grant the environmental permit, Decarbonisation Readiness conditions will be included in the environmental permit. This means that any conditions within the DCO relating to Carbon Capture Readiness under the Carbon Capture Readiness (Electricity Generating Stations) Regulations 2013 will cease to have effect.	Agency has confirmed this by email to the Applicant on 1 October 2026.
Ques.13. The Secretary of State notes that ES Chapter 8 Air Quality [REP3-011] and Appendix 8B Air Quality Operational Assessment [REP3-017 – 8B.2.11] considers that ‘Selective Catalytic Reduction’ (“SCR”) may be required to ensure NOx emissions are compliant with the relevant emissions limits. The Applicant and the Environment Agency are requested to identify how the trigger for the installation and operation of SCR is secured. If no such mechanism is currently secured, the Applicant should provide without-prejudice proposed drafting for a DCO requirement that would secure the implementation of SCR where necessary to achieve compliance with the relevant emission limits. Q.13 Response: Should we decide to grant the environmental permit on completion of our determination, we will include conditions in the environmental permit relating to SCR such as including an emission limit value and monitoring requirements for ammonia for emissions to air, based on the assumption that SCR will be fitted. However, the requirement for SCR will be determined by whether the	The Applicant welcomes the response, and considers the response supports the case put forward by the Applicant that no further Requirement is necessary, proportionate or appropriate for inclusion in the Development Consent Order. The Applicant notes the Environment Agency has advised on 6th October 2026 that it is consulting with Natural England in relation to the air quality aspects of the Permit application. The Applicant considers this provides further assurance that the Secretary of State can rely on the Permitting process.

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large combustion plant, when operating on natural gas, hydrogen, or a blend of the two fuels, can meet the oxides of nitrogen emission limits specified in the environmental permit. This is a decision for the operator to make.	
PD Ports	
3. PD Ports have engaged in discussions with the Applicant to resolve material outstanding points with the purpose of entering into, or agreeing heads of terms to secure, an agreement for access and services through the PD Ports site, waterway and PD Ports services. The parties held 'all parties' meetings in May and August 2026. Whilst progress was made between the parties in agreeing heads of terms to enter into a voluntary land agreement, a formal agreement has yet to be reached.	<u><i>Status of Ongoing Negotiations</i></u> The Applicant agrees that progress has been made. However, the Applicant is disappointed that a number of points appear to have been raised following the end of the examination, and these matters have protracted the negotiations between the Parties.
5. The lack of progress to resolve these material outstanding points leaves PD Ports exposed, as the DCO, if granted, will significantly interfere with the rights of operations of PD Ports at the PD Ports site and will adversely affect the continued safe and efficient operation of PD Ports. [...] 7. In light of the significant impact the Proposed Development will have on PD Ports operations and the PD Ports site, PD Ports respectfully seeks that the set of protective provisions be included in the DCO to protect the safe and efficient operation of the PD Ports Site (the	<u><i>The Applicant's position on why Protective Provisions are unnecessary</i></u> The Applicant's position is that there is no persuasive argument or case that Protective Provisions (PPs) are required. The starting point is that PPs should only be included where they are necessary to protect the undertaking of statutory undertakers or other bodies which may be subject to identifiable harm arising from a development. The Applicant notes the Guidance published by the Ministry of Housing, Communities and Local Government (July 2026), which clearly emphasises the need for PPs to be proportionate to

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"Protective Provisions"). Protective provisions sought in respect of the land and operations at the PD Ports Site undertaken by PD Ports must reflect the use of this land and the extent of the interference as a result of the Proposed Development. [...] 13. For the avoidance of doubt, PD Ports consider that the Protective Provisions are required and consequently request that these be included in the DCO as attached. PD Ports no longer remains confident that a commercial agreement will be forthcoming with the Applicant. The Protective provisions are requested to be included in the DCO to protect PD Ports' land, infrastructure, and operations. PD Ports remains concerned that without a voluntary agreement, the Proposed Development and authorisation of the exercise of the DCO's acquisition powers will significantly interfere with the safe and efficient operation of the PD Ports site.	the circumstances of the development. Furthermore, they <i>"should not simply negate the principal provisions of the DCO and thereby become an impediment to implementation of the project"</i>. For the reasons explained below, the PPs sought by PD Ports would have precisely that effect. PD Ports' submission proceeds largely on the basis that PPs are required because the draft DCO (dDCO) contains powers of compulsory acquisition and temporary possession. However, the existence of those powers does not itself justify the need for bespoke PPs. The relevant question is whether the exercise of those powers gives rise to a realistic prospect of serious detriment to PD Ports' undertaking. PD Ports' submission does not identify any specific operational consequence that demonstrates such detriment will arise. Instead, it relies upon mere assertion that the proposed development "will significantly interfere" with PD Ports' operations, without explaining how that interference would occur in practice having regard to the limited nature of the Applicant's proposed use of PD Ports' land and facilities. Furthermore, PD Ports' submission seems to proceed on the assumption that the Applicant will exercise its powers in a manner that will exclude PD Ports from relevant land and materially disrupt its operations. However, no evidence is provided to explain why such an outcome is realistically anticipated having regard to the limited nature of the

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	proposed development's interaction with PD Ports' land and the safeguards contained within the dDCO. Throughout the Examination, the Applicant has repeatedly explained that construction activities associated with the unloading of materials will be undertaken within Railway Wharf, which is already under the Applicant's control. The Applicant requires only limited use of a single mooring bollard on the PD Ports wharf (as an additional mooring point to provide support while the boats are moored) and does not propose substantial works to PD Ports' operational infrastructure. All but two of the plots in which PD Ports has an interest are identified for temporary possession and use only and are not therefore subject to compulsory acquisition. Only Plots 3-127 (258m² of public highway and verge to the west of the Wharf) and 3-194 (55m² of unnamed drain and grassland west of Trent Side) are plots over which rights are sought. Despite those explanations, PD Ports has continued to advance substantially the same assertions regarding operational impacts without identifying any specific activity, infrastructure or operational function that would suffer serious detriment, or engaging substantively with the safeguards already contained within the dDCO. Nor has PD Ports sought to engage collaboratively with the Applicant's explanations in order to identify any specific residual concerns or to

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	demonstrate why the protections already secured through the dDCO would be insufficient. Accordingly, PD Ports has not clearly identified any specific gap in the protection afforded by the dDCO that would necessitate the inclusion of bespoke PPs.
8. As a matter of law, if the DCO remains as currently drafted the Applicant will have power to take temporary possession of the land. The Applicant will also have the right, consequent on the taking of temporary possession, to exclude other users, inclusive of PD Ports. There is no limitation to this and there is nothing in the wording of the DCO that suggests that the term "possession" as used in the DCO carries other than its normal meaning. This will have a significant impact on PD Ports and the safe and efficient operation of the PD Ports site. 10. All reasonable alternatives to such acquisition must be explored and exhausted. The burden rests firmly on the Applicant. This includes modifying the scheme to minimise land acquisition and making genuine attempts to acquire land by agreement. Land Agreements have not been agreed with the Applicant.	The case for land use powers over PD Ports' land This is a misunderstanding of the Applicant's position, and the requirements in relation to compulsory acquisition. The Applicant has identified the clear basis for the inclusion of the land, and why it is necessary for the Proposed Development. In particular, as noted above, only Plots 3-127 (258m² of public highway and verge to the west of the Wharf) and 3-194 (55m² of unnamed drain and grassland west of Trent Side) are plots over which rights are sought, and which would therefore be subject to compulsory acquisition. The former is necessary in connection with Work No. 5 (cooling water abstraction), for the creation of new rights in respect of the public highway, and the latter is necessary for Work No. 10, for the creation of a landscaping and planting area. The Applicant does not accept that the creation and exercise of these rights for these purposes would have a significant impact on PD Ports' operations.
11. It is submitted that the Applicant has not been demonstrated that the full extent of the land area identified for the temporary haulage route is necessary and proportionate to its requirements (Doc ref: 2.3 V1, Work Plans, Work No. 9D). By its own admission, the Applicant has not undertaken the full assessments required to	

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establish the land required and does not intend to do so for some time. Therefore, it is submitted that the test under the Planning Act 2008 is not and cannot be met, in the current circumstances. It would be unlawful to grant these rights in the current form, without the Protective Provisions as requested by PD Ports.	In relation to the power to take temporary possession over the other plots, Article 31 (temporary use of land for carrying out the authorised development) of the draft DCO imposes limits on how long the Applicant may remain in possession of temporary possession plots and requires the Applicant to remove all temporary works and restore the temporary possession plots to the reasonable satisfaction of its owners before giving up possession of the land. Importantly, Article 31(6) requires the Applicant to pay compensation to the owners and occupiers of land of which temporary possession is taken for any loss or damage arising from the exercise of the DCO powers. There is no reason why the Applicant would maximise its exposure to pay compensation by affecting PD Ports' operations. "Possession" must be seen in the context of both the Applicant seeking to minimise interference (by not seeking a permanent right or outright acquisition), and also within the clear terms of Article 26(7) which expressly permits ongoing activities where such possession is taken. It is not therefore necessary for protective provisions to be added to the DCO for PD Ports to be entitled to compensation for any loss or damage that may occur due to the Proposed Development. The Applicant has considered reasonable alternatives, but would highlight that PD Ports has identified no alternative in this context.

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	The Railway Wharf is owned by the Applicant and has previously been used to facilitate the delivery of Abnormal Indivisible Loads (AILs) associated with the construction of Keadby 2 Power Station. It is also proposed to serve the Keadby CCS Power Station project. The nearest alternative facilities are the PD Ports wharf immediately south of the canal lock and the Althorpe Wharf, located approximately 1.4 kilometres to the south. It is expected that both would require strengthening works and other infrastructure upgrades before they could accommodate AIL deliveries. In addition, owing to the weight restriction on the canal swing bridge, onward road transport from either wharf to the construction site would need to utilise the A18 via North Pilfrey Bridge or the longer route through Ealand. Further information on these routes is provided in Section 3 of the Outline Construction Traffic Management Plan (REP1-024). In contrast to the established Railway Wharf route, use of either alternative wharf would be expected to result in materially greater use of the local highway network and increased disruption to local communities and road users. The Railway Wharf therefore represents the most direct, operationally proven and least disruptive route for the delivery of AILs to the Proposed Development.

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	The Applicant does not accept that the temporary possession land sought for Work No. 9D is unnecessary or disproportionate. The extent of land identified is near identical to that previously secured and examined through the Keadby CCS Power Station DCO. The Keadby 2 Power Station construction in 2020 used this same route through the PD Ports land. No compulsory acquisition of PD Ports land was required and access arrangements were delivered through agreement with PD Ports. Experience gained from the delivery of AILs during the Keadby 2 Power Station construction programme demonstrates that the actual route used occupied only a proportion of the wider area secured. Video of those deliveries shows that only limited areas of the PD Ports yard were required for vehicle movements. However, the area required for temporary possession must necessarily be larger than the swept path of any individual load in order to accommodate the as yet unknown size / shape / weight of loads, contractor requirements, vehicle selection, operational flexibility, manoeuvring requirements, safety clearances, traffic management measures and contingencies associated with detailed logistics planning.

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	The Applicant has therefore identified a temporary possession area that reflects prior experience and the extent of land previously accepted through the Keadby CCS Power Station DCO. The fact that detailed haulage assessments will continue to be refined through the detailed design stage does not prevent the Applicant from demonstrating at this stage that the rights sought are required and proportionate. The Planning Act 2008 does not require every detailed operational assessment to be complete before powers can be sought; rather, it requires a reasonable justification for the extent of land included within the Order limits. It is important to reiterate that temporary possession of land does not amount to the compulsory acquisition of that land for the purposes of the Planning Act 2008. The Applicant does not agree with PD Ports' assertion that it would be unlawful to grant the powers sought by the Applicant without the protective provisions requested by PD Ports. The Applicant has, based on the stage of design development, identified the land necessary. It is correct that as part of the detailed design, further information will become available, as is the typical course of almost any DCO application. That does not suggest that the Applicant has not robustly demonstrated a compelling case for the

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	land use powers sought. That is a fundamental misunderstanding of the design development process.
12. In the interests of reaching agreement, PD Ports has reviewed the Applicant's comments on the Protective Provisions and accepted a number of the proposed changes. Further draft Protective Provisions including such changes for inclusion in the DCO are appended to this letter as Appendix 1, with a tracked version against the Applicant's proposed provisions dated June 2026, as Appendix 2.	<i>Why PD Ports' proposed Protective Provisions are disproportionate and unnecessary</i> The Applicant's position remains that bespoke protective provisions in favour of PD Ports are neither necessary nor justified. Notwithstanding that position, the PPs sought by PD Ports go significantly beyond what is reasonably required to protect any legitimate operational interest. PD Ports' latest amendments, particularly to paragraphs 105 and 108-110, further expand those provisions. In relation to paragraph 105, the Applicant's drafting required the undertaker to minimise, so far as reasonably practicable, any disruption to PD Ports' operations. PD Ports' amendment instead prohibits the undertaker from exercising its powers in a manner which "<i>hinders or prevents</i>" PD Ports' operations or access to the PD Ports site without PD Ports' prior written consent. This introduces a separate approval regime governing the exercise of powers already authorised by the DCO. The trigger for that consent is both vague and broad and activities that may be said to hinder operations could be numerous.
14. The DCO powers provide the following security for PD Ports: - Ensure that the Applicants exercise of the powers granted under the DCO, for example, compulsory acquisition, temporary possession, site and wharf access, and street works do not interfere with apparatus, operations and access vital to the commercial operations at PD Ports site. - Protect operational continuity and safety by requiring works to be planned and carried out so they do not disrupt the current commercial shipping and land arrangements at PD Ports site. - Require notice, information and approval by PD Ports before specified works commence, often including plans, method statements and programmes to ensure works authorised under the DCO to enable the Proposed	

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Development do not interfere with the safe and efficient operations of the PD Ports site. • Preserve access and services at PD Ports site, including replacement access or apparatus before existing facilities are removed or interrupted. • Allocate costs and liability, requiring the Applicant to fund protective works, stevedoring services, reimburse costs and indemnify PD Ports for specified losses or damage. • Balance the private interests of the Applicant and PD Ports to enable the nationally significant project to proceed while limiting unnecessary harm to PD Ports as a statutory undertaker,³ infrastructure operators and landowner. • Provide dispute-resolution machinery, commonly through arbitration. ³ As noted in the Consultation Report at Appendix 9A (Doc Ref 5.1.2).	• Similarly, the amendments to paragraphs 108-110 materially alter the effect of those provisions. Under the Applicant's drafting, the authorised development could proceed subject to compliance with any reasonable requirements specified by PD Ports. Under PD Ports' revised drafting, however, no activities may commence until the relevant works details have been approved by PD Ports. In effect, the exercise of powers authorised by the DCO becomes contingent upon obtaining PD Ports' prior approval. • Whilst PD Ports' approvals may not be unreasonably withheld or delayed, PD Ports would nevertheless be entitled to impose requirements directed at matters such as operational viability, access and the avoidance of commercial losses. These concepts are broad and inherently subjective. The practical effect of the amendments is therefore to confer on PD Ports a substantial degree of control over whether, when and how authorised works may be carried out, creating uncertainty in the implementation of the authorised development. The Applicant also strongly objects and questions the legitimacy of the amendments to paragraph 111. The proposed amendment would require the undertaker to pay “a

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	<i>cost agreed with PD Ports</i>” for the daily use of the PD Ports site and PD Ports services in consequence of the construction of the authorised development. The Applicant respectfully submits that this is not the purpose of PPs. This provision seeks to use the DCO to secure a commercial revenue stream for PD Ports and to strengthen its negotiating position in respect of matters that should be the subject of private agreement between the parties. Furthermore, the proposed amendment requires payment but provides no mechanism for determining that cost where agreement cannot be reached. The provision therefore has the potential to create dispute and delay whilst providing no objective basis upon which the undertaker's obligations can be assessed. If the Secretary of State considers that Protective Provisions are necessary, the Applicant would note that its without prejudice Protective Provisions secure: • An express requirement to minimise land interference; • An express requirement for the Applicant to have regard to reasonable requests from PD Ports relating to safety, operational viability, the avoidance of commercial losses and access; • A requirement for any alternative apparatus to be approved by PD Ports and constructed and operational to PD Ports’ reasonable satisfaction before any existing apparatus can be removed or interfered with;

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	• The provision of alternative access if the exercise of the DCO powers affects existing accesses used by PD Ports; • A requirement to submit details of any proposed work or activity on the PD Ports site to PD Ports no less than 28 days in advance; • A requirement for the Applicant to carry out work / activity on the PD Ports site in accordance with the submitted details and in accordance with such reasonable requirements as PD Ports may specify within 28 days of receipt of the notice of the work / activity in question; • A requirement for the Applicant to pay PD Ports' reasonable costs and expenses incurred in connection with the removal of apparatus, the provision of alternative apparatus and the review of works details pursuant to the protective provisions; • An indemnity in PD Ports' favour which applies if there is any material damage or interruption to PD Ports' operations as a result of the authorised development; • A requirement for both parties to act in good faith and to use reasonable endeavours to co-operate with and provide assistance to each other; and • An arbitration clause to deal with any differences or disputes that may arise. The Applicant considers these provisions to be more than sufficient to address the concerns raised by PD Ports.
4. The following material issues remain outstanding and therefore it has not been possible to finalise the relevant	For completeness, in relation to each of these matters:

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agreement. The parties have been unable to align on matters which PD Ports consider to be fundamental to an acceptable commercial agreement to ensure the continued safe and efficient operation of PD Ports and its operations, including: 4.1. Extent of the access area through PD Ports Properties Limited land; 4.2. The sum and basis of the liability cap and related insurance; and 4.3. The scope of retained CA powers despite entry into a voluntary agreement.	• The maximum extent of the access area through PD Ports Properties Limited land is as set out in the DCO application documents. For the reasons stated above, it is in the Applicant's interests to minimise this as far as possible. • For the reasons set out previously and reiterated above, the Applicant does not consider insurance to be necessary. The Applicant's liability to PD Ports under the draft DCO is not subject to a specific cap (e.g. under Article 31(6)). • For the reasons set out previously and reiterated above, the CA powers sought by the Applicant are appropriate, proportionate and justified. The Applicant has satisfied all the legal requirements for the powers to be granted in the DCO.