

North York Moors National Park Authority  
The Old Vicarage  
Bondgate  
Helmsley  
York  
YO62 5BP

**Date:** 1 December 2021

**Our ref:** 50303/18/JG/JCx/20450618v3

**Your ref:** NYM/2019/0764/MEIA

Dear Sir / Madam

## **NYM/2019/0764/MEIA: Comments to Members on behalf of Anglo American Woodsmith Ltd**

On behalf of our client, Anglo American Woodsmith Ltd, we have reviewed the officer report in respect of application ref. NYM/2019/0764/MEIA which is to be considered by the North York Moors National Park Authority planning committee on 2 December.

Following our review of the report, we would be grateful if you could bring the following matters to the attention of the planning committee:

### **Environmental Impact Assessment Baseline**

Throughout the various written representations of Anglo American in respect of this application, Anglo American has agreed with planning officers that the appropriate baseline position for the Environmental Impact Assessment should be that of a restored, greenfield site. This is consistent with the Scoping Opinion that was issued by NYMNPA in August 2017. We note that Members are reminded of this throughout the committee report as part of officers' assessment of the application. Prior to any determination of the application, we would urge the National Park Authority to consider whether the individual assessments of environmental effects included within the Environmental Statement (and subsequent updates) provided by the applicant truly reflects this requirement and thus, that the conclusions reached by officers on the acceptability of the declared environmental effects (with mitigation/compensation) are robust.

It is noted that a single Scoping Opinion was issued. The application proposals evolved significantly from the point of the initial, Scoping Opinion being provided. Anglo American would ask that the National Park Authority confirm that, in the context of paragraph 1.4.4 of the committee report, all stakeholders were satisfied that the scope of the Environmental Impact Assessment as finally submitted was appropriate.

### **Restoration Bond**

The committee report states how, in contrast to the Woodsmith Project, a restoration bond is not considered to be necessary in the case of the Boulby scheme (please refer to paras 21.6.4 – 21.6.6).

Whilst the committee report points to assurances by the applicant that a reclamation provision amounting to £9,821,000 is available amongst their current funds, it is far from prudent for the NYMNPA not to have an accurate understanding of potential reclamation costs and the extent to which the currently available funds (and for which there is no guarantee that these will be available in the future) are likely to be sufficient or not. Indeed, at para 21.6.9 of the committee report, it is noted that “*officers are not in a position to judge whether this amount would be adequate to fully meet all liabilities for site restoration*”.

By contrast, Anglo American is obliged to review their restoration bond provisions on an annual basis. This reflects the significance that the NYMNPA gives this matter and should hold equal weight in respect of the Boulby scheme.

### **Extent of S106 Obligations**

The Woodsmith Project was subject to a number of S106 obligations, relating to its perceived impacts, which included the following financial contributions:

- Whitby Tourism Contribution
- Welcome to Yorkshire Contribution
- York Potash Undergraduate Programme
- Visit England Contribution
- Visit Britain Contribution
- Tourism Contribution
- Signage Tourism Contribution
- Scarborough BC Local Opportunities Contribution
- Principal Core Policy D Contributions to landscape and ecology
- NYMNPA Tourism Contribution 1) construction phase; 2) operational phase
- Noise mitigation contribution
- Monitoring Contribution 1) initial; 2) ongoing
- Local Business Tourism Contribution
- Landscape and Ecology Compensation Contribution
- Geological Data Contribution
- Archaeological Data Contribution.

In the case of the Boulby scheme, we note that the financial contributions being sought are grouped together into broad obligation categories, with no further detail provided as to the purpose or intended beneficiary of the proposed financial contributions. For the sake of transparency, we trust that Members will want to seek further clarity on this in order to ensure that the requested contributions are appropriate and also that none have been missed.

Furthermore, we note that some of the obligations which were identified as relevant to the Woodsmith Project, do not appear to have been applied to the Boulby scheme in a consistent manner. For example, in respect of Core Policy D payments (now ENV8) a maximum payment of £80,000 pa is proposed in relation to the Boulby scheme. This is in contrast to the Woodsmith Project, where an equivalent payment of £675,000 pa was deemed to be applicable. It is unclear as to how the former amount has been calculated and why such a smaller amount (in comparison to the Woodsmith Project) is considered to be justified.

We also note an absence of any proposed S106 obligations relating to support for employment and training within the local community. In the case of the Woodsmith Project, for example, there is an obligation for Anglo American to pay £40,000 pa to support people into employment (referred to as “Scarborough Employment Opportunities”). It is unclear why an equivalent payment is not applicable here.

Given NYMNPA’s duty to be consistent in its decision making, we request that Members seek further clarification on these points prior to the determination of the application.

### **Compensatory Payments**

In a number of cases, the compensatory payments (e.g. in respect of landscape harm) are proposed to decrease as and when buildings are removed from site or reduced in scale. The S106 agreement will need to ensure, however, that compensatory payments continue to endure where buildings are not decommissioned as anticipated.

The removal of processing activities on site by 2027 should also be made subject of the S106 Agreement rather than a planning condition which could, more easily, be removed or amended by the applicant in the future. This would also allow for compensatory payments to be made should processing activities not cease at Boulby, acknowledging the fact that NYMNPA has no control over CPL’s ability to deliver an off-site processing facility.

### **Concluding Remarks**

The matters identified in this letter follow a detailed review of the officer report in respect of application NYM/2019/0764/MEIA. It also follows Anglo American having provided more detailed, technical responses to the CPL’s submission prior to it being presented to the planning committee.

We trust that Members will be made aware of these matters at the earliest opportunity so that they can be fully taken into account in their determination of the application.

Yours faithfully

**Justin Gartland**  
Chairman

Copy – Anglo American Woodsmith Ltd