

Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Liverpool Bay CCS Limited

Application reference no: CML2350

Sandycroft, River Dee

Trenchless crossing of the River Dee

24 April 2024

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1 OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided to grant the marine licence sought by the Application subject to the conditions set out in Annex 1.

This decision document:

- explains how the application has been determined, having regard to the relevant legal framework outlined in section 4;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the Application;
- provides a record of the decision-making process; and
- sets out the reasons for any conditions imposed in connection with any marine licence granted pursuant to the Application.

2 APPLICATION DETAILS

2.1 The Application

Applicant Name and Address	The Applicant is the company set out below: Company name: Liverpool Bay CCS Limited Company number: 13194018 Address: Eni House, 10 Ebury Bridge Road, London, SW1W 8PZ
Application Reference Number	CML2350
Date Application was duly made	15 September 2023
Proposal[s] covered by the application	HyNet Newbuild Carbon Dioxide Pipeline – Trenchless crossing of the River Dee (the Project)
Licensable marine activities	Approximately 75 m in length bored section of a new pipeline to transport carbon dioxide installed using a trenchless crossing technique to a minimum depth of 8 m below the riverbed of the River Dee. Trenchless technique will be either Horizontal Directional Drilling (HDD) or micro-tunnelling, between the Mean High Water Springs mark on each bank. (the Proposed Activities)
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	CML2350 updated application form

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	CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application – Environment Report
	CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application – HRA Report
	CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application - OCEMP
	CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application - REAC
	CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application – WFD Report
	CML2350 - PA2301 EIA2017 intent to defer Reg10
	CML2350 - PA2212 - HyNet Carbon Dioxide Pipeline DCO-Marine Licence Application - Attachments Combined
	CML2350 - Technical Note

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3 APPLICATION PROCEDURE

3.1 The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on **15 September 2023**. This means we considered it was in the correct form and contained sufficient information for us to begin our determination, but not that it necessarily contained all the information we needed to complete that determination, and the documents considered may therefore include documents provided after the Application was first made.

3.2 Documents Considered

In reaching its decision, NRW has considered the documents listed in section 1 of this decision document along with such other information provided by the Applicant or received by consultees as NRW considered relevant.

3.3 Commercial Confidentiality

The Applicant made no claim that any information forming part of the Application was subject to commercial confidentiality and we have not received any information in relation to the Application that appears to be commercially confidential.

3.4 Publicity and advertising

As required by s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act), notice was given to Flintshire Local Authority on 05 October 2023.

As required by s. 68 of the 2009 Act NRW has required the Applicant to publish notice of the Application.

Public notice advertising the Project was placed in Daily Post on 02 October 2023. The application documents were made available to the public via the public register ([Public register - Customer Portal \(naturalresources.wales\)](#)) and they could also be requested from Natural Resources Wales Marine Licensing Team, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

The public were given a period of 28 days from the date of the Public Notice to provide comments on the application.

No public responses were received in response to the Public Notice.

4 CONSULTATION

4.1 Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 05 October 2023, due to their particular expertise. These bodies were consulted for a period of 28 days. Those bodies have responded to the consultation an 'Y' can be found in the response received column, those who did not respond to consultation an 'N' can be found in the response received column:

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Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate / Swangrove Estate	Y	17 October 2023
NRW	Y	7 November 2023 and 6 December 2023
MoD - Safeguarding Defence	Y	06 October 2023
Maritime & Coastguard Agency (MCA)	N	31 October 2023
Trinity House (TH)	N	03 November 2023
Royal Yachting Association	Y	17 October 2023
Local Biodiversity Officer (Flintshire County Council)	N	
Local Planning Authority (Flintshire County Council)	N	
Local Harbour Authority (Dee Conservancy)	Y	19 October 2023 (additional comment 31 October 2023)
Local Harbour Authority (Port of Mostyn)	Y	18 October 2023
Welsh Fisherman Association	N	
National Federation of Fishermen's Organisations (NFFO)	N	
Royal Society for the Protection of Birds (RSPB)	N	
WG Marine and Fisheries Division/WG Marine Enforcement Officers	Y	18 October 2023

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Cadw	Y	17 October 2023
Welsh Archaeological Trusts (Clwyd-Powys Archaeological Trust)	Y	05 October 2023 (confirmation issues closed 01 November 2023)
Royal Commission on the Ancient and Historical Monuments of Wales	Y	18 October 2023
Chamber of Shipping	N	
NERL Safeguarding	N	
IFCA (North West)	Y	27 October 2023
Airbus (consulted on 19 October 2023)	N	

Consultees who did not provide a response were assumed to have no comment.

NRW has had regard to all consultation responses received in making its decision. Where these have impacted on NRW's decision making, this has been noted in the relevant paragraph in section 4 of this decision document.

5 ENVIRONMENTAL IMPACT ASSESSMENT

Council Directive 2011/92/EU (as amended) on the assessment of the effects of certain public and private projects on the environment ("the EIA Directive") aims to protect the environment and the quality of life by ensuring that projects which are likely to have significant environmental effects by virtue of their nature, size or location are subject to an environmental impact assessment (EIA) before permission is granted.

The Marine Works (Environmental Impact Assessment) Regulations 2007 ("the Regulations") transpose the EIA Directive in Wales and England for marine licence applications.

NRW has determined, pursuant to regulation 10(1)(b) of the Regulations, that an EIA is not required in respect of the Application on the basis that NRW is satisfied that assessment of any significant effects on the environment of the Project has been carried out by another consenting authority, the Secretary of State, as part of the determination process for a Development Consent Order under the Planning Act 2008. NRW considers that such assessment is sufficient to meet the requirements of UK law that implements the EIA Directive in relation to the Project and is satisfied that the information incorporated in that assessment and consent is up to date at the time of this decision.

NRW also considers that granting a marine licence for the Project would be compatible with Secretary of State measures to comply with UK law in implementing the EIA Directive.

NRW's decision takes into account the following factors:

- a)** The conclusions of the Secretary of State's (SoS) assessment which considered, based on the overall planning balance, that the public benefits associated with the Proposed Development outweigh the harm identified (main points summarised below), and that development consent should therefore be granted;
- b)** relevant conditions attached to the consent by the Secretary of State which relate to the likely significant environmental effects of the Project on the environment;
- c)** any features of the Project and any measures envisaged in order to avoid, prevent, reduce and, if possible, offset likely significant adverse effects of the Project on the environment;
- d)** any monitoring measures considered appropriate by the Secretary of State in relation to the Project;
- e)** any comments of the other consenting authority relating to the regulated activity.

In particular, NRW is satisfied that the SoS has had regard to: the British Energy Security Strategy (of 7 April 2022) and the steps to achieve Net Zero by 2050; the updated National Planning Policy Framework (December 2023); the relevant Welsh policy, in particular the updated Planning Policy Wales (February 2024) and associated Technical Advice Notes; the Local Impact Reports by Cheshire West and Chester Council (CWCC) and Flintshire County Councils (FCC), and to all other matters which are considered to be important and relevant to the SoS's decision.

The Secretary of State decision covered the entirety of the project which consists of:

- Newbuild carbon dioxide pipeline: Ince Above Ground Installation (AGI) to Stanlow AGI Pipeline - 4km section; Stanlow AGI to Flint AGI Pipeline - 32km section and; Flint AGI to Flint Connection Pipeline - 0.4km section;

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- Repurposed 24km of existing natural gas pipeline to transport carbon dioxide from the Flint Connection to the Point of Ayr Terminal, Point of Ayr;
- Four AGIs- Ince, Stanlow, Northop Hall and Flint;
- Six Block Valve Stations (BVSs) - three located along the new Stanlow AGI to Flint AGI Pipeline and three located along the existing Flint connection to Point of Ayr Terminal Pipeline;
- Other above ground infrastructure, including cathodic protection transformer rectifier cabinets and pipeline marker posts;
- Utility connection infrastructure, including power utilities and fibre optic cable, and
- Temporary ancillary works integral to the construction of the carbon dioxide pipeline, including construction compounds and temporary access tracks.

The marine licensable activities associated with the Proposed Development relate to approximately 75 m in length bored section of pipe installed below the riverbed between the MHWS mark on each bank.

A summary of the SoS decision is below:

The Need Case for the Development and Assessment of Alternatives

The Secretary of State agrees with the Examining Authority (ExA) in concluding that alternatives have been properly considered and that there are very special and very exceptional circumstances to justify harm to the openness of the Green Belt and Green Wedge. The SoS has added the mitigation of the visual impact of the Project with a requirement to the DCO to increase the planting aftercare period to 25 years, the lifetime of the Proposed Development.

Biodiversity, Ecology and Nature Conservation

The Applicant acknowledged that the loss of trees will be required to facilitate the construction of the Proposed Development. The Applicant's Arboricultural Impact Assessment Report indicated that no ancient woodland loss was proposed, and that for all ancient and veteran tree locations, trenchless construction methods would be used and secured in the OCEMP. The ExA found that by applying a 15m buffer zone to ancient woodland, the Applicant was broadly in line with the content of National Planning Policy Guidance. However, acknowledging national policy for Wales and England recognises that ancient woodland is irreplaceable, the ExA found that any potential risk to the health of the ancient woodland carried great negative weight in the planning balance. The SoS notes that Biodiversity Net Gain provision is not mandatory for the Project (accepted for examination prior commencement date of the relevant provisions of the Environment Act 2021, of 2025) and considers that the Applicant's continuous engagement with CWCC and FCC to identify appropriate offset locations to BNG offsetting means it is very likely that it will be delivered. Therefore, the SoS concludes that, overall, all biodiversity, ecology and nature conservation considerations carry a minor negative weight in the planning balance.

Cultural Heritage

The Applicant acknowledges there will be a moderate adverse effect on non-designated assets, possibly Bronze Age funerary remains in Flintshire. The SoS agrees with the ExA that the pipeline route has been designed to avoid and minimise, as far as reasonably possible, all heritage assets. The SoS notes that trial trenching in additional consultation with CPAT will occur with a second phase

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of trenching post consent and requirements for archaeological watching where this second phase trenching is not possible.

Noise and Vibration

The SoS considers that there will be significant noise disruption on certain residential areas during construction, and agrees with the ExA that noise during construction carries great negative weight but also considers that this disruption will be short lived and only during specific periods.

Socio-Economic Effects (Including Human Health)/ Agricultural Land Use/ Mineral Working Implications/ And Overall Cumulative Effects

The Applicant considered a range of factors on human health from construction and operation, including air quality, noise, physical activity and employment opportunities and understands that the Project is likely to have, at some locations, a significant adverse effect on human health during construction due to evening and nighttime working for up to four weeks as well as some impact to users of some Public Rights of Way during construction. The ExA agreed that some localised moderate or significant adverse effects will exist, even post mitigation, during the construction period due to noise or other temporary construction activity but considers that appropriate and adequate mitigation would be secured in the DCO to control risks from accidents, safety or security matters. However, the ExA accepted there are bigger picture socio-economic positive impacts associated with the Proposed Development and the wider HyNet Project which in the ExA view offers a generational opportunity to deliver extensive decarbonisation of the economy and generate very great economic benefits regionally and UK wide.

The ExA considers also that the final Construction Environmental Mitigation Plan ("CEMP") will manage the risk of damage to soil structure as far as possible and that the detailed design would take into consideration the location of *best and more versatile agricultural land* to reduce impacts to and/or avoid these areas wherever possible, although there will be some inevitable loss. The ExA concluded that there were no significant adverse effects to Mineral Safeguarding Areas to count against the Proposed Development. The ExA also concluded that there would be no significant cumulative effects for any aspect of the Proposed Development.

The SoS is in agreement with the ExA in that there will be significant adverse impacts on human health during the construction of the Proposed Development and concludes that this impact will be temporary. The SoS agrees with the ExA that there are no significant effects from risk of accidents and disasters, safety or security matters; that careful station of the Project and the CEMP will reduce to minor any impacts on agricultural land; that no adverse effects exist on mineral workings, and agrees with the conclusions of the ExA on cumulative effects.

Habitats Regulation Assessment

The SoS has considered the available information, including the mitigation measures proposed by the Applicant, is satisfied that an Adverse Effect on Site Integrity on the identified protected sites can be excluded beyond reasonable scientific doubt, subject to the secured mitigation measures.

6 BASIS FOR OUR DECISION

In determining this application, including the terms on which it was granted, and the conditions attached to it, NRW has had regard to the factors set out in section 4 below in accordance with the 2009 Act.

Under the 2009 Act NRW is required to have regard to the following:

- the need to protect the environment (see sub-section 4.1);
- the need to protect human health (see sub-section 4.2);
- the need to prevent interference with legitimate uses of the sea (see sub-section 4.3);
- in the case of an application for a licence to authorise construction, alteration or improvement of works within the UK marine licensing area, the effects of any use intended to be made of the works in question when constructed, altered or improved (considered, if relevant in sub-sections 4.1 to 4.5 below);
- any representations which it has received from any person having an interest in the outcome of the application (summarised in section 3 and where relevant considered in sub-sections 4.1 to 4.5 below); and
- such other matters as it thinks relevant (see sub-section 4.5 below).

6.1 The need to protect the environment:

The reference to the “environment” includes the local and global environment; the natural environment; and, by virtue of section 115(2) of the 2009 Act, any site of historic or archaeological interest. The natural environment may include the physical, chemical and biological state of the sea, the seabed and the seashore, and the ecosystems within it, or those that are directly or indirectly affected by an activity, whether within the marine licensing area or otherwise.

In considering the need to protect the environment we have considered the relevant environmental legislation set out below.

6.1.1 Water Framework Directive, Groundwater Directive and Water Environment Regulations

(a) The legal framework

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (Water Environment Regulations) implement the requirements of the Water Framework Directive (WFD) (Directive 2000/60/EC) which requires consideration as to whether that proposals for development may cause deterioration or prevent a water body from achieving ‘good status’. Proposals likely to cause deterioration or prevent a waterbody from achieving good status should be rejected, unless derogation procedures have been applied.

Under the Water Environment Regulations, NRW must exercise its relevant functions to ensure compliance with the requirements of the WFD, the Environmental Quality Standards Directive (Directive 2008/105/EC) and the Groundwater Directive (Directive 2006/118/EEC).

(b) Factors relevant to our determination

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NRW has considered the potential effect of the Proposed Activities on the following WFD waterbodies:

- Transitional - Dee (N. Wales) (GB531106708200)
- Groundwater - Dee Carboniferous Coal Measures (GB41102G204800)
- Groundwater - Dee Permo-Triassic Sandstone (GB41101G202400)

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. Following advice received from NRW A, a scoping assessment was carried out.

Based on this assessment, it is considered that the Proposed Activities when considered alone and in-combination, will not pose a risk to deterioration in the status of any of the above listed waterbodies or jeopardise their attainment of good surface water status when undertaken in accordance with the standard and appropriate conditions including conditions which requires the licence holder to work in line with the Construction Environmental Management Plan (CEMP) and the Register of Environmental Actions and Commitments (REAC) (condition reference 3.18 and 3.19 of Annex 1).

6.1.2 Biodiversity and resilience of ecosystems duty

(a) The legal framework

Section 6 of the **Environment Wales Act 2016** requires that we seek to maintain and enhance biodiversity in the exercise of our functions, and in so doing promote the resilience of ecosystems, in a manner that is consistent with the proper exercise of our functions.

(b) Factors relevant to our determination

NRW is satisfied that in this case, we have taken into account and had due regard to this duty in so far as it is consistent with the function of determining an application for a Marine Licence under the Marine and Coastal Access Act 2009.

6.1.3 European Protected Sites and Ramsar Sites

(a) The legal framework

European sites are those designated under the Conservation of Habitats and Species Regulations 2017 (**Habitats Regulations 2017**) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (**Offshore Habitats Regulations 2017**) as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 require that any Project that is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or Projects) must be subject to an appropriate assessment. NRW undertakes a Habitats Regulation Assessment (HRA) to establish whether an appropriate assessment is required.

In addition, NRW must exercise its functions under the 2009 Act so as to secure compliance with the requirements of the relevant European Directives. NRW also has a duty under the Habitats Regulations 2017 to support wild birds by protecting habitats and avoiding pollution.

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A Ramsar site is a wetland which has been designated under the Ramsar Convention. The Ramsar Convention does not place specific legal requirements on its parties (though Ramsar sites are often SSSIs or SPAs, considered below), however Ramsar status is considered by NRW as matter of policy in its decision making.

(b) Factors relevant to our determination

The Project is located in/may affect the following European Protected Sites.

- River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid SAC (Proposed Development crosses the European Site; River Dee).
- The Dee Estuary SPA (approximately 3.9 km to the north).

A Habitats Regulations Assessment of the Proposed Activities has been undertaken, and NRW (as Statutory Nature Conservation Body) consulted on the HRA.

Reg 67(2) provides that a competent authority is not required to assess any implications of a plan or project which would be more appropriately assessed under Reg 63(1) or Reg 65(2) by another competent authority. The landward works of the Project fall outside the marine licensable area and are accordingly assessed as part of the HRA assessment carried out under the determination for a Development Consent Order (DCO). Therefore, NRW relies upon Regulation 67(2) in limiting the HRA carried out in respect of the project for the Marine Licence application determination to only the marine elements (those seaward of MHWS) with the non-marine aspects of the Project being more appropriately assessed in the HRA by the Secretary of State, as competent authority.

After considering the following impacts at the Appropriate assessment stage:

- Air quality for all features of the River Dee SAC
- Light disturbance for passage redshank, wintering redshank, assemblage of regularly occurring waterbirds features of the River Dee SPA and salmon, lampreys, and bullhead features of the River Dee SPA
- Entrapment mortality for otters of the River Dee SAC

It has been ascertained that the proposal, when considered alone, will not adversely affect the integrity of any Natura 2000 sites. Further details are described within the Habitats Regulations Assessment.

The mitigation measures that are considered necessary in order to conclude that the licensable marine activities would not lead to an adverse effect include;

- Requirements for the licence holder to work in line with a Construction Environment Management Plan (condition 3.18 of Annex 1)
- Requirements to adhere to mitigation detailed within the Register of Environmental Actions and Commitments (REAC). (condition 3.19 of Annex 1)

NRW is therefore satisfied that the Proposed Activities, either alone or in combination with other plans or projects, will not adversely affect the integrity of European Site(s) when undertaken in accordance with appropriate conditions securing the mitigation above.

6.1.4 European Protected Species

(a) The legal framework

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 also confer protection on certain designated species (European Protected Species). A licence (EPS licence) must be obtained in order, whether deliberately or accidentally, to capture, kill, disturb or injure such a species, damage or destroy their breeding or resting places or obstruct access to their resting or sheltering places.

(b) Factors relevant to our determination

NRW considers that no protected species are likely to be impacted by the Project.

Any determination made as part of this decision are without prejudice to the consideration NRW is required to give an EPS licence application as the body with a statutory responsibility for its determination and do not constrain or bind NRW in exercising this function. Should an application for an EPS licence in relation to the Project be made it will be determined by NRW based on all the relevant information available to NRW at that time.

6.1.5 Marine Conservation Zones

(a) The legal framework

Marine Conservation Zones were established under the 2009 Act to protect nationally important, rare or threatened habitats and species. The only currently designated MCZ in Wales is Skomer Island.

Under the 2009 Act, NRW must exercise its functions in the manner which it considers best furthers the conservation objectives stated for any Marine Conservation Zone or, where that is not possible, in the manner which it considers least hinders the achievement of those objectives.

(b) Factors relevant to our determination

NRW is satisfied that there is no significant risk of the Proposed Activities on the Skomer Marine Conservation Zone .

6.1.6 Sites of Special Scientific Interest (SSSIs)

(a) The legal framework

Sites of Special Scientific Interest are designated under the Wildlife and Countryside Act 1981 (**1981 Act**) and protected by law to conserve their wildlife or geology. NRW must take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which an SSSI is of special scientific interest.

(b) Factors relevant to our determination

NRW has considered the impact of the Project on the following sites:

- River Dee SSSI

NRW is satisfied that the Proposed Activities do not have the potential to significantly impact on River Dee SSSI when undertaken in accordance with appropriate conditions; i.e., conditions 3.18 and 3.19 as detailed in Annex 1 which requires the licence holder to work in line with the Construction

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Environmental Management Plan (CEMP) and the Register of Environmental Actions and Commitments (REAC).

Therefore, NRW is satisfied that the Proposed Activities are not operations likely to damage the SSSI and that the method statement proposed as part of the Application appropriately addresses any risks arising from the Proposed Activities.

6.1.7 The Waste (England and Wales) Regulations 2011

(a) The legal framework

The Waste (England and Wales) Regulations 2011 (as amended) establish a legal framework for treating waste. This is designed to protect the environment and human health by emphasising the importance of proper waste management, recovery and recycling techniques to reduce pressure on resources and improve their use. Waste generated by a project or activity must in general terms be dealt with in an environmentally friendly way. To achieve this the Regulations describe a waste hierarchy which gives an order of preference for how waste is dealt with (prevention, re-use, recovery for other purposes such as energy, and finally disposal).

(b) Factors relevant to our determination

NRW is satisfied that the Proposed Activities meet the requirements of the Waste (England and Wales) Regulations 2011 (as amended) when undertaken in accordance with appropriate conditions; i.e., conditions 3.18 and 3.19 detailed in Annex 1, which requires the licence holder to work in line with the Construction Environmental Management Plan (CEMP) and the Register of Environmental Actions and Commitments (REAC).

6.1.8 Other matters in considered relevant to the need to protect the environment

Flood Risk

NRW Flood Risk team indicated that a Flood Risk Activity Permit (FRAP) was not needed provided that the marine licence controls that siting of the entry and exit pits are located at least 16m away from tidal watercourses and any defences on a tidal watercourse. NRW is satisfied that the activity will be conducted in line with the parameters stated in the Environmental Report (*CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application – Environment Report*, submitted the 01 September 2023). However, NRW has also included an advisory note in the cover letter to the marine licence informing the licence holder of the possible need of a FRAP if these parameters change.

NRW Flood Risk team also indicated that the mud ponds should be suitably decommissioned so that they do not pose any risks during the pipeline operational phases. This has been included as an advisory note to the marine licence as it falls outside the marine licensable area.

Biosecurity

NRW A indicated that they would like to review the Biosecurity Risk Assessment prior to commencement of the activity. However, it was agreed that relevant biosecurity measures to licensable activities can be included as part of the CEMP which will require approval prior to commencement. Biosecurity Measures relate to the parts of the Project outside the marine licensable area will be adequately controlled through the Development Consent Order.

Hydrology and geosciences

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NRW A also raised issues with regards to the hydrology and geosciences assessments particularly in relation to the lack of information regarding the nature of the sediments within which the HDD or micro-tunnelling. The applicant produced further information in form of a Technical Note (CML2350 - Technical Note on the 08 January 2024), following which NRW A were satisfied that concerns raised surrounding the assessment had been resolved.

Air Quality

NRW A concluded with relation to air quality that the development should not pose risks to humans, sensitive habitats and species in terms of dust impacts provided the mitigation measures in the Dust Management Plan (DMP), which is part of the CEMP, are adhered to. NRW are satisfied that concerns relating to air quality have been appropriately addressed and adherence to CEMP can be controlled through licence conditions.

Decommissioning

Although the decommissioning of the project is included in the DCO, it is unknown at this stage if the pipeline under the river Dee will be removed, as this would require significant excavation and temporary hydraulic control of the Dee. Regardless, NRW considers that the requirement to decommission are appropriately controlled through the associated Development Consent Order for the project specifically Requirement 20 of the DCO that requires a Decommissioning Environmental Management Plan (condition 20 of the DCO) to be submitted for approval. Where it to be necessary the decommissioning the sections of the pipeline seaward of Mean High Water Spring, a separate marine licence will be required prior to works commencing. Therefore, NRW is satisfied, in agreement with the applicant, that the duration of the marine licence should be such to accommodate the construction of the pipeline only.

Further advisories from NRW A in relation to lighting, bats and dust management were received and passed to the applicant as advisory notes to the marine licence in order to support the production of the CEMP.

Historic Environment

The Welsh Archaeological Trust (Clwyd-Powys Archaeological Trust) requested further information on any potential non-designated archaeological sites that have been identified in the vicinity of the works. The applicant provided further information on the 31 October 2023 confirming that there is no evidence of non-designated sites at the crossing, entrance or exit points. The WAT confirmed on 01 November 2023 that they were satisfied with the information provided and that the issue was considered resolved and no restrictions required.

6.1.9 Conclusion of our considerations under the need to protect the environment

In summary, having considered the need to protect the environment, NRW does not consider that any impacts of the Project on the environment (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the application provided that the Proposed Activities are implemented in accordance with the conditions set out in Annex 1.

6.2 The need to protect human health

NRW A concluded in relation to air quality that the development should not pose risks to humans, sensitive habitats and species in terms of dust impacts provided the mitigation measures in the Dust Management Plan (DMP), which is part of the CEMP, are adhered to. NRW consider that adherence to the CEMP can be secured through licence conditions.

6.2.1 Conclusion of our considerations under the need to protect human health

In summary, having considered the need to protect human health, NRW does not consider that any impacts of the Project (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the application.

6.3 The need to prevent interference with legitimate uses of the sea

Legitimate uses of the sea include (but are not limited to): navigation (including taking any steps for the purpose of navigational safety); fishing; mineral extraction; and amenity use.

The MCA indicated that the navigation authority is Cheshire West and Chester City. However, the Dee Conservancy clarified that they were the correct navigation authority for the area. The Dee Conservancy raised concerns with regards to a new pipeline crossing the Dee and the need of a formal easement to ensure no impediment to their statutory duties as Harbour Authority and Local Lighthouse Authority for the Dee. However, NRW has agreed with the Dee Conservancy that the need for an easement is best controlled through the Development Consent Order. NRW has reminded the applicant that the marine licence does not absolve the licence holder from this requirement through an advisory note included in the cover letter. As the Dee Conservancy is the relevant navigation authority, NRW consider it appropriate to include specific notifications of commencement/completion (condition 3.1.4, 3.6.3 in Annex 1) to the Dee Conservancy.

Port of Mostyn indicated the need to consult directly with Airbus in Sandycroft who has their barge berth adjacent to the application site. NRW consulted with airbus on 10 October 2023 and no response was received.

6.3.1 Conclusion of our considerations regarding the need to prevent interference with legitimate uses of the sea

In summary, having considered the need to protect interference with legitimate uses of the sea, NRW does not consider that any impacts of the Project (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the application provided that the Proposed Activities are implemented in accordance with the conditions set out in Annex 1.

6.3.2 Marine Policy Documents

(a) The Legal framework

NRW is required to take its decision in accordance with the appropriate marine policy documents unless relevant considerations indicate otherwise.

UK Marine Policy Statement 2011 (MPS)

The MPS is the framework for preparing Marine Plans and taking decisions affecting the marine environment.

Welsh National Marine Plan (WNMP)

The WMNP is the Marine Plan for the Welsh inshore region and the Welsh offshore region and sets out the Welsh Government's policies for and in connection with the sustainable development of this area.

(b) Our determination

UK Marine Policy Statement 2011

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This decision has been taken in accordance with marine policy as set out in the UK Marine Policy Statement 2011

Welsh National Marine Plan

This decision has been taken in accordance with marine policy as set out in the Welsh National Marine Plan. For example, the Project will allow for sustainable economic growth (ECON_01) by providing infrastructure to enable 4.5 million tonnes per annum CO₂ from industrial emitters in the North-West of England and Wales for permanent geological storage in depleted offshore oil and gas reservoirs, helping sustain employment in these sectors within the region. By conducting a trenchless crossing of the River Dee in line with its conditions (the REAC and CEMP 3.18 and 3.19 in Annex 1) will minimise the risk of causing pollution in the marine environment (SOC_03). Finally, as said above, the Project is directly linked with the reduction of emissions (SOC_10) from a number of industrial emitters in the North-West of England and Wales for permanent geological storage contributing to the adaptation and/or mitigation to climate change (SOC_11).

6.4 Other matters NRW thinks relevant**6.4.1 Well-being of Future Generations (Wales) Act 2015****(a) The legal framework**

In making its decision, NRW is required to take all reasonable steps to meet its published well-being objectives, which are designed to maximise NRW's contribution to achieving each of the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015. NRW must also act in accordance with the principles of sustainable development.

(b) Our determination

NRW has taken into account its well-being objectives and is satisfied that its decision is consistent with meeting those objectives.

NRW is also satisfied that its decision is consistent with the sustainable development principle i.e., seeking to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

6.4.2 Sustainable management of natural resources**(a) The legal framework**

NRW's general purpose is to pursue the sustainable management of natural resources in relation to Wales and applying the principles of sustainable management of natural resources as set out in section 4 of the Environment (Wales) Act 2016 so far as consistent with the proper exercise of its functions.

(b) Our determination

NRW is satisfied that this decision, when implemented in accordance with the attached conditions, is consistent with its general purpose of pursuing the sustainable management of natural resources in relation to Wales, and applying the principles of sustainable management of natural resources.

7 CONCLUSIONS AND RECOMMENDATIONS

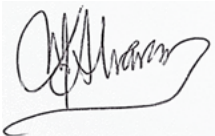
Based on all the information available, and having regard to all relevant considerations including consultation responses, NRW's decision is to grant the marine licence sought by the Application. We have reached this decision having had regard to the relevant legal framework outlined in section 4 and

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have also explained in section 4 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

Conditions have been attached to the Marine Licence as set out in Annex 1. The reason for the inclusion of each condition is set out with the conditions.

AUTHORISATION

Report by: Maria Alvarez Position: Lead Specialist Permitting Officer	Date: 09 April 2024	Signed: 
Authorised by: Emmer Litt Position: Permitting Team Leader	Date: 24 April 2024	Signed: 

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ANNEX 1

Conditions imposed and reasons for those conditions

Note: Condition numbers used below reflect the condition numbers used in the licence.

CONDITIONS

Notification and Inspection

3.1 Notification of Commencement

3.1.1 The Licence Holder must notify the Licensing Authority no less than **10 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

Reason: To ensure the Licensing Authority are aware of the commencement of Licensed Activities.

3.1.2 The Licence Holder must notify Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) no less than 10 days before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

Reason: To ensure the Marine Enforcement Officers are aware of the commencement of Licensed Activities.

3.1.3 The Licence Holder must ensure that local mariners and fishermen's organisations are made fully aware of the Licensed Activities through local notices to mariners **10 days** prior to the commencement of the Licensed Activities.

Reason: To minimise interference with other sea users and ensure other vessels in the vicinity can safely plan and conduct their passage.

3.1.4 The Licence Holder must notify the Dee Conservancy at harbourmaster@deeconservancy.org no less than **10 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

Reason: To ensure the Dee Conservancy as Harbour Authority and Local Lighthouse Authority are aware of the commencement of Licensed Activities.

3.2 Notification of Vessels and/or Vehicles

3.2.1 The Licence Holder must ensure that the details of the vessels and/or vehicles utilised to undertake the Licensed Activities are submitted to the Licensing Authority and Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) at least **24 hours** prior to the commencement of the Licensed Activities.

Reason: To ensure that the Licensing Authority are made aware, in a timely manner, of the vessels and/or vehicles operating under this licence to enable the Licensing Authority to comply with the reporting obligations in the Marine Licensing (Register of Licensing Information (Wales) Regulations 2011 as amended.

3.3 Notification of Agents/Contractors/Sub-contractors

3.3.1 The Licence Holder must ensure that details of any agent(s), contractor(s) or sub-contractor(s) utilised to undertake the Licensed Activities are submitted to the Licensing Authority at least **24 hours** prior to the commencement of Licensed Activities.

Reason: To ensure that the Licensing Authority are made aware, in a timely manner, of the agent(s), contractor(s) or sub-contractor(s) operating under this licence and in order to enable the Licensing Authority to comply with the reporting obligations in the Marine Licensing (Register of Licensing Information (Wales) Regulations 2011 as amended.

3.4 Notification of HM Coastguard

The Licence Holder must ensure that HM Coastguard is made aware of the Licensed Activities at least **24 hours** prior to commencement by contacting The National Maritime Operations Centre at **zone32@hmcg.gov.uk**.

Reason: To ensure the safety of navigation.

3.5 Inspection of Licensed Activities

The Licence Holder must allow Marine Enforcement Officers or any other person authorised by the Licensing Authority to inspect the Works at any reasonable time.

Reason: To allow for inspection of the Licensed Activities to check compliance with the Licence.

3.6 Notification of Completion

3.6.1 The Licence Holder must notify the Licensing Authority within **10 days** of completion of the Licensed Activities.

Reason: To ensure the Licensing Authority are aware of the completion of Licensed Activities.

3.6.2 The Licence Holder must notify Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) within **10 days** of completion of the Licensed Activities.

Reason: To ensure the Marine Enforcement Officers are aware of the completion of Licensed Activities.

3.6.3 The Licence Holder must notify the Dee Conservancy at **harbourmaster@deeconservancy.org** within **10 days** of completion of the Licensed Activities.

Reason: To ensure the Dee Conservancy as Harbour Authority and Local Lighthouse Authority are aware of the completion of Licensed Activities.

3.7 Accident or Emergency

3.7.1 If, by reason of force majeure any substances or articles are deposited otherwise than as permitted as part of the Licensed Activities or in the Licensed Area full details of the circumstances shall be notified to the Licensing Authority within **48 hours** of the incident occurring.

Reason: To allow the Licensing Authority to take appropriate action to ensure the appropriate removal of the unlicensed deposit.

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3.7.2 If it is necessary for the Licence Holder to recover or remove any equipment, plant or machinery used to undertake the Licensed Activities that have been dropped as a result of an accident or emergency, the Licence Holder is permitted to do so provided that the methodology for such recovery or removal has been approved by the Licensing Authority.

Reason: To allow for the recovery of objects that have been accidentally dropped when carrying out the Licensed Activities.

3.8 Distribution of Copies of this Licence

The Licence Holder is required to ensure that a copy of this Licence is given to:

- All agents, contractors and subcontractors whose names have been provided to the Licensing Authority under condition 3.3 and
- The Masters of any vessels and transport managers responsible for the vehicles employed in accordance with this Licence whose details have been submitted to the Licensing Authority under condition 3.2.

Reason: To ensure that all agent(s), contractor(s), sub-contractor(s) and vessel Masters are aware of their obligations under the conditions established within this Licence to ensure compliance with the conditions.

3.9 Inspection of Documents

Copies of this Licence shall be made available at the following locations:

- at the address of the Licence Holder specified in section 1.2;
- at any site office, located at or adjacent to the Licensed Area, used by the Licence Holder or its agent(s), contractor(s) or sub-contractor(s) responsible for the loading transportation or deposit of any substances or articles permitted as part of the Licensed Activities;
- on board each vessel or vehicle carrying out Licensed Activities.

The documents referred to in this Condition shall be available at all reasonable times for inspection by officers appropriately authorised by the Licensing Authority and authorised Marine Enforcement Officers at the locations stated in that paragraph.

Reason: To ensure that all agent(s), contractor(s), sub-contractor(s) and vessel Masters may access the details of this Licence at all times and to ensure that the details of this Licence are available for inspection when required.

Vessels, Plant and Equipment

3.10 Notified Contractors, Vessels and/or Vehicles only to Carry out Licensed Activities

Only those agent(s), contractor(s), sub-contractor(s), vessels and/or vehicles whose details have been notified to the Licensing Authority may operate under the terms of this Licence. Any changes must be notified to and be approved by the Licensing Authority in writing prior to any such agent, contractor, subcontractors or vehicles carrying out any Licensed Activities pursuant to or otherwise operating under this Licence.

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Reason: To ensure that the Licensing Authority are made aware, in a timely manner, of the agent(s), contractor(s), sub-contractor(s) operating under this Licence to enable the Licensing Authority to comply with the reporting obligations in the Marine Licensing (Register of Licensing Information (Wales) Regulations 2011 as amended.

3.11 Refuelling of Plant and Equipment

The Licence Holder must ensure that plant, vehicles and machinery are not refuelled on the foreshore or in the sea.

Reason: To minimise the risk of fuels/other contaminants entering the marine environment.

3.12 Equipment, Structures and Access

The Licence Holder must ensure that all equipment, temporary structures, access tracks, waste and/or debris associated with the Licensed Activities are removed on completion of the Licensed activities.

Reason: To minimise impacts on the marine environment and other users of the sea/seabed.

Safety

3.13 Removal of Deposited Material

If the Licensing Authority considers it necessary or advisable for the safety of navigation, the Licence Holder must remove any deposit specified by the Licensing Authority or Marine Enforcement Officers within one month of notice being given by the Licensing Authority, and shall not replace such material until the Licensing Authority has given its written approval.

Reason: To ensure that any material which may pose a hazard to safe navigation has been removed.

Pollution control

3.14 Pollution Prevention

The Licence Holder must ensure that pollution prevention best practice is adhered to at all times. Any incidents must be reported to the Licensing Authority as soon as possible using the hotline number **0300 065 3000**.

Reason: To minimise the risk of pollution incidents and to ensure the timely report of such incidents to enable the Licensing Authority to take action as appropriate.

3.15 Spillage of Pollutants

The Licence Holder must employ bunding, storage facilities and spill kits to contain and prevent the release of fuel, oils and chemicals associated with the plant, refuelling and construction equipment into the marine environment. Secondary containment must be used with a capacity of **no less than 110%** of the container's storage capacity.

Reason: To minimise the risk of fuels/other contaminants entering the marine environment.

3.16 Prevention of Disposal of Man-made Debris

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The Licence Holder must ensure that all reasonable precautions are taken to prevent the disposal of man-made debris to the marine environment. Such material must be removed immediately and be disposed of appropriately. If it is not possible to prevent manmade debris from entering the marine environment during the Licensed Activities, the Licensed Activities must cease immediately.

Reason: To minimise the amount of man-made materials disposed of at sea.

3.17 Cleanliness of Equipment

The Licence Holder must ensure that equipment, machinery and PPE are washed with freshwater and/or thoroughly airdried before deployment and before moving between locations.

Reason: To minimise the risk of spread of invasive non-native species.

Activity-specific Conditions**3.18 Construction Environmental Management Plan (CEMP)**

3.18.1 The Licence Holder must submit a final CEMP in line with outline CEMP (CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application - OCEMP submitted 01 September 2023) to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Works may be undertaken prior to written approval from the Licensing Authority.

3.18.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.18.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

Reason: To minimise the risk of impact to the marine environment.

3.19 Register of Environmental Actions and Commitments (REAC)

The Licence Holder must implement any actions outlined in the CML2350 - PA2212 - HyNet CO2 Pipeline DCO-Marine Licence Application – REAC (submitted 01 September 2023). The REAC must be available for inspection at all reasonable times at the locations detailed in section 1.2 by the Licensing Authority and/or Marine Enforcement Officers.

Reason: To minimise the risk of impact to the marine environment.