

## **NOTIFICATION OF INTENTION TO SUBMIT A CHANGE REQUEST (2)**

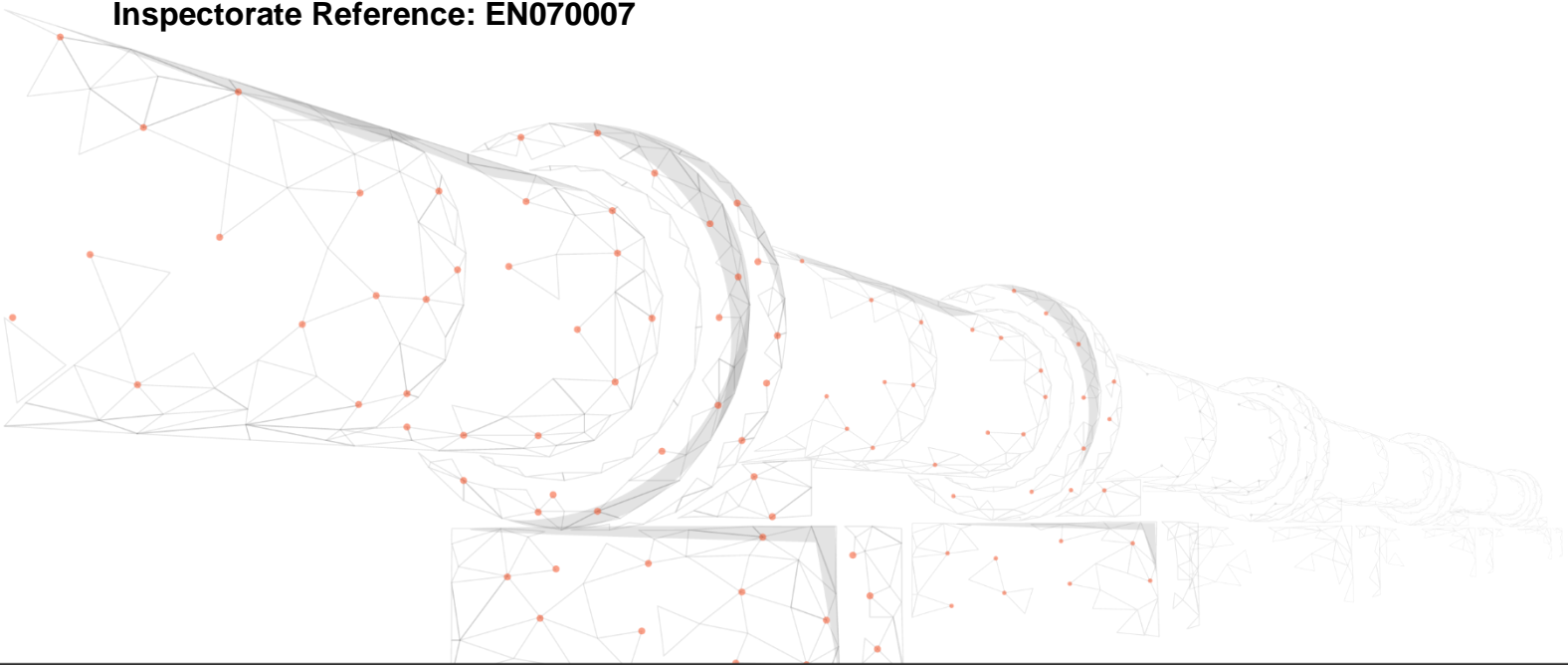
### **HyNet Carbon Dioxide Pipeline**

**Planning Act 2008**

**Document Reference Number: D.7.20**

**Applicant: Liverpool Bay CCS Ltd**

**Inspectorate Reference: EN070007**



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Dear Mr Stephens,

**EN070007 HyNet Carbon Dioxide Pipeline – Notification of Intention to Submit a Change Request (Change Request 2)**

This letter is a notification of the Applicant’s intention to submit a change request for the attention of the Examining Authority (‘ExA’) (referred to as ‘Change Request 2’).

This is a further Change Request to that submitted by the Applicant on 27 March 2023 (now referred to as ‘Change Request 1’) and accepted into the Examination by the ExA on 24 April 2023, for which this letter provides an updated schedule for consultation in accordance with the relevant Compulsory Acquisition Regulations.

**Change Request 1**

As part of the Procedural Decision to accept Change Request 1 **[PD-016]**, published on 24 April 2023, the Applicant notes the following request from the ExA:

*“The ExA requests that this [the Applicant’s obligations under Regulations 7, 8 and 9] is carried out in accordance with the timescales contained within the Applicant’s ‘Notification of Intention to Submit a Change Request’ letter **[AS-060]** received on 23 March 2023 with the first CA Regulations notifications and notices arriving or published no later than **24 April 2023.**”*

The timetable in the Notification of Intention to Submit a Change Request **[AS-060]** was proposed for an accelerated scenario whereby the Procedural Decision was received earlier than 24 April 2023. Following receipt of the Procedural Decision on 24 April 2023, and further to discussion with the Inspectorate Case Team, it is proposed that an amendment to this timetable is made to ensure the Applicant’s duties under the relevant Regulations are complied with and that consultees have sufficient time to consider and respond to Change Request 1. The Applicant notes that the first newspaper notices were published on 04 May 2023, being the first available publication date following receipt of the Procedural Decision.

The amended timetable proposed for consultation on Change Request 1 is below:

- Consultation will run between 05 May and 14 June 2023. Consultation will run until 14 June to allow for two consecutive weeks of newspaper notices as required by the Infrastructure Planning (Compulsory Acquisition) Regulations 2010;
- Consultation Report submitted to the Inspectorate on 28 June (between Examination Deadlines 4 and 5); and
- Issues relating to the changes could be raised by Interested Parties in the hearings scheduled for week commencing 07 August, and further questions could be included in EXQ3 scheduled for issue on 15 August (this has not changed from the original timetable in the Notification of Intention to Submit a Change Request **[AS-060]**).

The Applicant notes the requirement to complete statutory processes before the close of Examination and believes that this amendment to the timetable does not impact on this.

In the Procedural Decision **[PD-016]** on the Applicant's request to make changes to the Applicant's application, the ExA asked for "*Consolidated versions of the relevant ES chapters and appendices that incorporate the changes set out in the Applicant's 2023 ES Addendum Change Request 1 and the ES Addendum Change Request 1 – Appendix A Technical Appendices Addendum (Rev A) in the interests of accessibility and clarity. The consolidated versions should be submitted in clean and track change versions.*". The Applicant suggests finalisation of the changes to the ES should not be made until after consultation has been undertaken so that regard can be had to any responses received when finalising that update.

Additionally, it is the view of the Applicant, in light of its notification to submit Change Request 2, that providing an updated ES now could cause confusion to Interested Parties as another addendum is in preparation and if the change is accepted, further amendments will be required. Instead, the Applicant proposes that this task is undertaken following the Procedural Decision (and, if accepted, consultation) on Change Request 2.

## **Change Request 2**

Change Request 2 consists of one change to the Order Limits and one additional design option. It has been prepared to respond to ongoing consultation with landowners and Interested Parties.

Taken together, the proposed changes would result in variations to the land subject to compulsory acquisition and rights over the land, including changes to the Order Limits. The Applicant is accordingly adopting the approach that it is likely that statutory consultation under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 will be required.

This Notification of Intention to Submit a Change Request 2 (document reference **D.7.20**) includes: a summary of the proposed changes in **Section 2** below, consideration of the

environmental impact in **Section 3**; the Applicant's proposed approach to consultation in **Section 4**; and the Applicant's view as to how this could be accommodated within the Examination timetable in **Section 5**.

## 1. Introduction

The Applicant's application for a Development Consent Order ('DCO') was submitted on 03 October 2022 and was accepted for Examination on 31 October 2022 ('DCO Application'). Since that time, the Applicant has continued to engage with Interested Parties with a view to addressing their comments and agreeing common ground, while also continuing with project development and design refinement.

This letter accordingly notifies the ExA that the Applicant is preparing, and intends to submit, a change request and provides a summary of the scope of the proposed request.

The Applicant is undertaking an additional Environmental Impact Assessment ('EIA') of both changes proposed within Change Request 2. An explanation of the work undertaken is set out in **Section 2** below. The purpose of this is to ensure that the environmental impacts of those proposed changes have been appropriately assessed with any likely significant environmental effects identified, and to satisfy the requirements of the Infrastructure Planning (EIA) Regulations 2017 (as amended) (the 'EIA Regulations').

The Applicant anticipates the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 Regulation 4 will apply to the changes sought and consultation under those regulations will be required ('Regulation 4 consultation').

The proposed changes are not individually or collectively so substantial or different in character as to be a different project.

## 2. Proposed Changes

**Change 1: The provision of additional optionality for the Alltami Brook crossing at Work No. 43, consisting of an alternative option for an embedded pipe bridge. This will act as an alternative to the Applicant's preferred trenched crossing of Alltami Brook (Applicant's reference PS25)**

The Applicant has engaged with National Resources Wales ('NRW') regarding the pipeline crossing at Alltami Brook (Work No. 43).

The Applicant's preferred approach for the crossing of Alltami Brook is a trenched crossing. However, despite extensive conversations with NRW, there is a risk that agreement on this approach may not be possible before the close of Examination.

The contention lies in whether the preferred approach is Water Framework Directive ('WFD') compliant or not. The Applicant considers that the preferred approach is WFD compliant and has set out its approach in the Water Framework Directive Assessment

**[APP-165]**, including examples of the acceptability of this approach in other Nationally Significant Infrastructure Projects. As such, it is the Applicant's view that this approach does not require a derogation from the WFD.

The Applicant will continue to engage with NRW to reach agreement on this matter. However, given the finite time within the Examination to continue these discussions and the possibility for additional surveys and modelling being required to reach agreement, this may not be possible by the close of Examination.

Therefore, without prejudice to the Applicant's view outlined above, Change 1 (Applicant's reference PS25) will be sought as an option should the Secretary of State take the view that the preferred option is not WFD compliant and that derogation does not support the preferred option.

The embedded pipe bridge option would require land take of the surface of land currently shown on the land plans for sub-surface acquisition only. The Applicant notes that this does not bring additional land into compulsory acquisition but only changes the categorisation of acquisition sought. The Applicant considers, however, that it is fair and reasonable to consult on that change given the potential increase in interference with landowners' rights.

The use of an embedded pipe bridge would also require the permanent diversion of a public right of way around the support of the bridge structure.

**Change 2: The addition and removal of land to the Order Limits at Work No. 34 to optimise temporary construction access near Chester Road East so as to minimise impacts on 2 Sisters Food Group (Applicant's reference PS26).**

Since the submission of the DCO Application, the Applicant has continued its engagement with the 2 Sisters Food Group regarding access to their site for the construction of the DCO Proposed Development.

Following this engagement with 2 Sisters Food Group, the Applicant has decided to seek to amend the Order Limits in two locations at their site to enable greater compatibility between the continued operation of their business and the construction of the DCO Proposed Development.

The first change is for the addition of land to the Order Limits to include an additional length of an existing maintenance track to the north/north-east of Chester Road East. The change will optimise temporary construction access between the 2 Sisters Food Group carpark and the construction area to be used to execute the trenchless crossings under Chester Road East. The addition of this land will also reduce the construction impact on an existing earth bund within the 2 Sisters Food Group site.

The second change consists of the removal of land from the Order Limits which currently includes a lorry turning circle for the operation of the 2 Sisters Food Group factory. The removal of this land will provide certainty to 2 Sisters Food Group that the Applicant does not intend to use this land for the construction of the DCO Proposed Development and will

remove all land rights and compulsory acquisition powers in respect of such land from the DCO.

### **3. Environmental Impact Assessment**

The Applicant is undertaking further work to assess how the proposed changes would affect the environmental assessments reported in the DCO Application and the subsequent ES Addendum submitted as part of Change Request 1 and the extent to which these would be different as a result of the proposed changes described in **Section 3**.

An ES was submitted to the Planning Inspectorate in October 2022 as part of a DCO Application (PINS reference: EN070007) for the HyNet Carbon Dioxide Pipeline development (hereafter referred to as the 'DCO Proposed Development'). The ES sets out the findings of the full EIA that was carried out for the scheme. This submitted ES is referred to as the '2022 ES'. A number of confirmatory environmental surveys completed following the finalisation of the ES in September 2022 were submitted and accepted by the ExA as part of the Applicant's Section 51 advice response on 14 March 2023.

Furthermore, the Applicant has produced a 2023 ES Addendum Change Request 1 [**CR1-124**] which was submitted to update the findings of the 2022 ES in response to Change Request 1. Following the acceptance of Change Request 1 into the Examination by the ExA on 24 April 2023, the 2022 ES along with the 2023 ES Addendum Change Request 1 now form the environmental assessment position for the DCO Proposed Development and these form the baseline for the further work carried out to assess the changes in Change Request 2.

The Applicant intends to submit a 2023 ES Addendum Change Request 2, to be submitted with the change request to update the findings of the 2022 ES along with the 2023 ES Addendum Change Request 1, in response to the proposed changes to the DCO Proposed Development as part of Change Request 2.

The 2023 ES Addendum Change Request 2 will demonstrate that the environmental impacts of the proposed changes have been appropriately assessed with any likely significant environmental effects identified.

The Applicant will also provide updates to documents submitted as part of the DCO Application that would be affected by Change Request 2.

### **4. Consultation**

Advice Note Sixteen clarifies that an Applicant who intends to make a request for a change to a DCO application is expected to consult all those prescribed in the Planning Act 2008 under section 42(a) to (d) who would be affected by the proposed change (giving a minimum of 28 days). Applicants are also recommended to consider whether wider

consultation is required to enable affected persons to make representations on the changes to the application.

The changes proposed by the Applicant in Change Request 2 have arisen following consultation and having regard to the feedback from stakeholders. The Applicant therefore considers that consultation on the proposed changes in advance of submission is unnecessary as the changes requested are a result of the responses provided to previous consultation and subsequent engagement with Interested Parties.

The Applicant is preparing Supplementary Environmental Information (SEI) (2023 ES Addendum Change Request 2) to support the proposed change request. The Applicant notes that there is no statutory requirement to consult on or publicise this SEI under EIA Regulations and that this is noted in Advice Note Sixteen.

However, it is anticipated that consultation under the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 is required. Therefore, should the ExA consider that consultation on the SEI is required or desirable, the Applicant suggests that this could be undertaken at the same time as the compulsory acquisition consultation. It is therefore considered that no prejudice would be caused to any party by undertaking the SEI consultation in this way.

## **5. Examination Timetable Impact - Next Steps**

In light of the above, the Applicant has been considering the appropriate approach to bringing forward the proposed changes in the context of the requirements of CA Regulations, the Planning Act 2008: Guidance for the examination of applications for development consent (DCLG), and the Planning Inspectorate's Advice Note Sixteen.

As requested in the guidance, the Applicant has provided below an explanation of how this request can be accommodated within the Examination timetable. The Applicant has assumed that the ExA uses the maximum of 28 days to consider whether to accept this request.

The Applicant acknowledges that any proposed change is ultimately a decision for the ExA.

The Applicant proposes the following next steps and programme:

- Change request to be submitted on 26 May 2023;
- ExA has 28 days to decide whether to accept: decision by 23 June (between Deadlines 3 and 4, although an earlier decision would be appreciated if possible, as the end of the consultation period would better align with the existing examination timetable);
- If accepted, the Applicant would carry out a consultation between 26 June and 04 August (assuming newspaper publication deadlines can be met for week commencing 26 June), and to allow for two consecutive weeks of

newspaper notices as required by the Infrastructure Planning (Compulsory Acquisition) Regulations 2010;

- Consultation report would be submitted during week commencing 07 August (between Deadlines 6 and 7); and
- Issues related to the changes could be raised by Interested Parties in the hearings scheduled for the week commencing 07 August, and further questions could be included in EXQ3 scheduled for issue on 15 August.

Yours sincerely,

**Martin Currie**

Director

Liverpool Bay CCS Ltd