

DRAFT BIODIVERSITY NET GAIN (BNG) STRATEGY UPDATE

HyNet Carbon Dioxide Pipeline DCO

Planning Act 2008

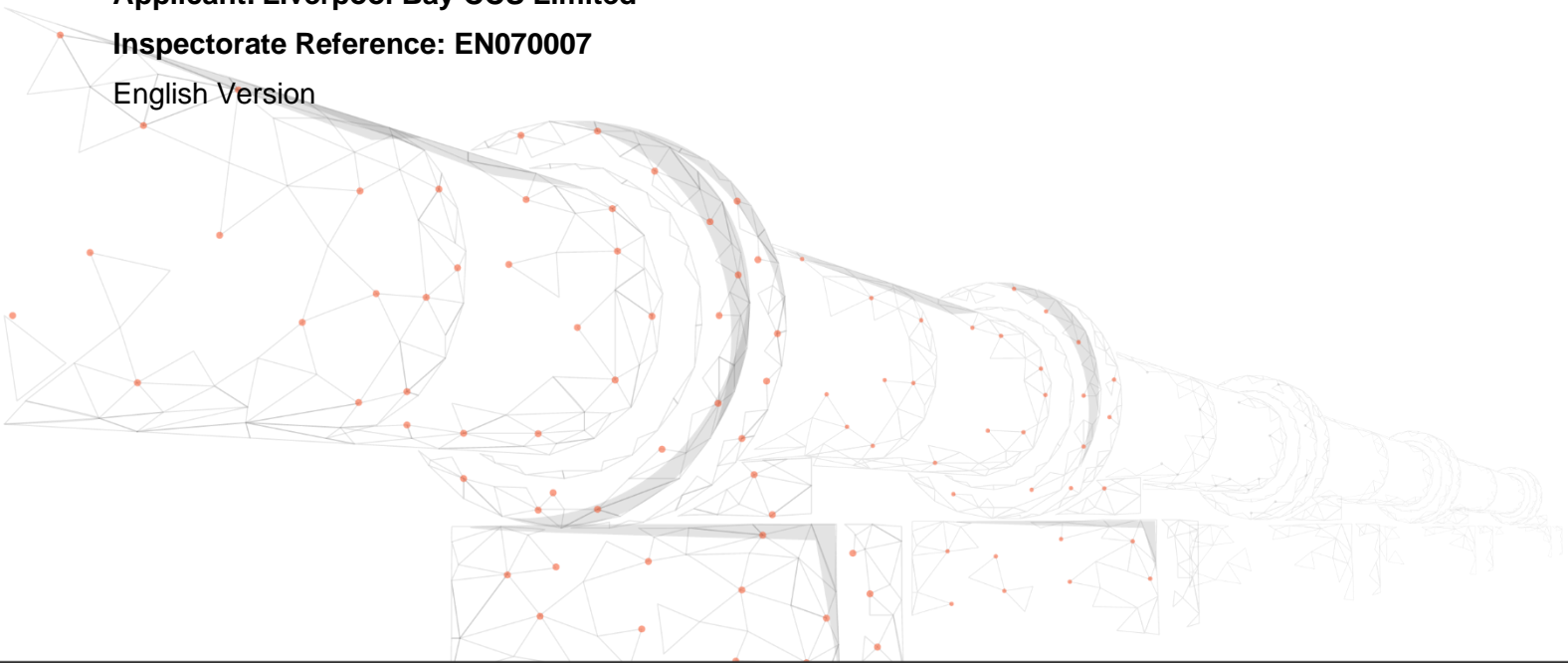
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TABLE OF CONTENTS

1. INTRODUCTION.....	3
1.1. Purpose of this document.....	3
1.2. The DCO Proposed Development.....	Error! Bookmark not defined.
1.3. Terminology	Error! Bookmark not defined.
2. RECORD OF ENGAGEMENT	6
3. ISSUES	ERROR! BOOKMARK NOT DEFINED.

TABLES

Table 2-1 – Record of Engagement in relation to the DCO Proposed Development	10
Table 3-1 – Engagement, ES & Other Application Documents	Error! Bookmark not defined.
Table 3-13 – Issues related to the DCO Proposed Development - Draft DCO (including requirements to the draft DCO)	Error! Bookmark not defined.

1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This document has been prepared by Liverpool Bay CCS Limited ('the Applicant') for the purpose of capturing strategic updates on its proposals for Biodiversity Net Gain ('BNG' as it is referred to in England) or Biodiversity Net Benefit ('' as it is referred to in Wales). For the purposes of this document and other references the term BNG is used to cover both definitions.
- 1.1.2. The purpose of this document is to update the Examining Authority (ExA) in respect of BNG related to the Development Consent Order (DCO) Proposed Development.
- 1.1.3. **Chapter 1** sets out the Applicant's BNG proposals as these have been developed during the pre-application and early Examination phases. **Chapter 2** of this document records the consultation undertaken by the Applicant with key external stakeholders. **Chapter 3** of this document sets out the further work being undertaken.

1.2. THE APPLICANT'S BNG POSITION

- 1.2.1. Nationally Significant Infrastructure Projects ('NSIP') are not currently statutorily required to assess or implement BNG in England or deliver a set level of quantified benefit in Wales. BNG is often used in Wales to demonstrate compliance with the Environment (Wales) Act 2016 by showing that there is an overall benefit to biodiversity.
- 1.2.2. The Applicant notes that there is no statutory obligation under the Environment Act 2021 to provide BNG as part of this Application. Therefore, while the Applicant believes delivery of BNG is desirable, the 10% provision (mandated by the Environment Act 2021 for non-DCO schemes) threshold does not apply and any positive gain is a benefit and accords with policy.
- 1.2.3. The Applicant agrees that BNG enhancements for are important and consequently has engaged with a number of key parties in the area to identify means to deliver the 1% BNG targeted for England and the 1% BNG targeted for Wales (calculated and managed separately), these would be delivered via priority habitat enhancement for both England and Wales. The Applicant has been in discussion with Cheshire West and Chester Council (CWCC) and Flintshire County Council (FCC) on the provision of enhancements and / or creation of priority habitats – as described in Chapter 3 of this document. Discussions have also been held with a number of wildlife trusts on the provision of long-term management of these habitats, as summarised in Chapter 3 of this document. In addition to this, where achievement of BNG targets is not achievable in this manner, discussions are in progress with

landowners located on or adjacent to the pipeline route regarding the long-term provision of ecological enhancement of their land.

- 1.2.4. Despite this, and having regard to various policy objectives, the Applicant has considered what level of BNG is both feasible and proportionate in the context of the nature of the DCO Proposed Development and has chosen to seek to provide gains of a minimum of 1% in Priority Habitats.. This target has been chosen on the basis of the effects on biodiversity resulting from the DCO Proposed Development, which are predominantly associated with the construction phase and are broadly temporary, short term, and localised in nature. Given the constraints of the Order Limits, opportunities to achieve net gain within that area are limited. This is particularly the case given that the majority of the land used in construction will be reinstated to agricultural use. As affected land predominantly comprises discrete sections of arable and grazing pasture fields, it is not appropriate to create BNG provision within these areas. This is because to do so would result in 'islands' of habitat sporadically located within working arable fields, with reduced value for connectivity, difficulties in on-going management and adverse effects on farming businesses post construction.
- 1.2.5. It is not currently possible to compulsorily purchase land for the purposes of BNG. Land required for this must be voluntarily acquired.
- 1.2.6. Whilst the Applicant's endeavours to establish net gains of 1% are still ongoing, the absence of mandatory net gain for NSIPs to date means the wider habitat banking and offsetting market has not yet matured. Therefore, there are difficulties associated with the sourcing of sites and schemes which are suitably robust to evidence required net gains for Priority Habitats.
- 1.2.7. Outside of the BNG provision the Applicant has committed to the creation of additional woodland planting mitigation areas, for which compulsory acquisition powers can be used, within the Newbuild Infrastructure Boundary (see Woodland and Individual Tree Mitigation of Section 9.10 of Chapter 9 – Biodiversity **[AS-025]**), which are not being counted towards the target of 1% BNG. Furthermore, the DCO Proposed Development has entered into the Great Crested Newt District Level Licensing (DLL) scheme, which provides financial contributions towards the creation of ponds within the borough of Cheshire West and Chester, the provision of which far exceeds ponds lost through construction. These ponds are targeted in strategic opportunity areas, which ensure the favourable conservation status of Great Crested Newts is maintained and enhanced, providing wider biodiversity and environmental benefits. Ponds associated with DLL are not included in any measurement towards the BNG target, despite latest Natural England (NE) guidance stating protected species mitigation/compensation can be used as part of the mix of net

gain. Therefore, these ponds are likely to create a higher net gain in Priority Habitat than will be reported by the Applicant.

- 1.2.8. The Applicant has committed to achieving BNG for Priority Habitats, following the industry good practice principles for BNG developed by CIEEM, CIRIA and IEMA, as well as the latest (at the time of first assessment) Biodiversity Metric guidance and user guide information. This aligns with Planning Policy Wales 10 which sets out that development “...*must provide a net benefit for biodiversity*”. This policy responds to the Section 6 Duty of the Environment (Wales) Act (2016) that requires public authorities to “...*seek to maintain and enhance biodiversity...and in so doing promote the resilience of ecosystems*”.
- 1.2.9. The Applicant is in discussion with CWCC regarding the ability of the Applicant to buy units within BNG schemes managed, in part, by the Mersey Forest programme. Technical and commercial discussion to secure this is underway. During this discussion CWCC have confirmed they are able to provide BNG provision for 4 out of 4 habitats:
- Native Species Rich Hedgerow with trees – locations to be determined and provision secured through agreement with CWCC.
 - Lowland Mixed Deciduous Woodland – locations to be determined and provision secured through agreement with CWCC.
 - Ponds (priority habitat) - locations to be determined and provision secured through agreement with CWCC.
 - Coastal Floodplain Grazing Marsh – locations to be determined and provision secured through agreement with CWCC.
 - The Applicant is in discussion with FCC and whilst a scheme is still to be formalised, FCC has identified to the Applicant that 3 out of 4 of the priority habitats could be provided by FCC on its sites or through supplementing one of its programmes. Native Species Rich Hedgerow with trees – locations to be determined and provision secured through agreement with FCC.
 - Rivers – locations to be determined and provision secured through agreement with FCC.
 - Ponds (priority habitat) - location to be determined and provision secured through agreement with FCC.
 - Lowland Mixed Deciduous Woodland – **discussions currently ongoing.**
- 1.2.10. The Applicant is engaged in discussion with landowners and trusts regarding the remaining habitat (lowland mixed deciduous woodland) within Wales.
- 1.2.11. The combination of the programme of work with FCC and private landowners / wildlife trusts would achieve the 1% targeted for Wales.

2. BNG TECHNICAL UPDATE

2.1. METRIC UPDATES

- 2.1.1. A number of technical updates in the way the BNG metrics were calculated are in the process of being updated and are expected to be submitted at Deadline 3.
- 2.1.2. This update is based on a review of several elements of the previous BNG assessment against the latest available information associated with the DCO Proposed Development, including:
- Review of desk study data, including publicly accessible data sources.
 - Review of assumptions around construction in relation to avoidance of existing priority habitat within the baseline.
 - Review of the GIS datasets and associated biodiversity metric 3.1's, in which a number of errata have been identified which change the values recorded in Table 3-2 and Table 3-4 of the Biodiversity Net Gain Assessment [**APP-231**].
- 2.1.3. The rationale for any significant changes has been given in the sections below and are discussed in Table 3-2 and Table 3-4 of the Biodiversity Net Gain Assessment [**APP-231**]. These tables will be updated in the next revision of this report and submitted at Deadline 3.
- 2.1.4. England – Woodlands Priority Habitat; significant decrease in units required to be created.
- To remain consistent with the impact assessment within the 2022 ES and the REAC [**REP1-015 and CR1-109**], we have incorporated the assumption that woodland adjacent to the East bank of the River Gowy will be retained, as the Applicant is not planning to affect this woodland. The BNG assessment now recognises the increased retention of woodland, reducing the required offset amount.
- 2.1.5. England & Wales – Hedgerow Priority Habitat; significant decrease in units required to be created.
- There is a significant estimated reduction in hedgerows impact. This is partly due to the reduction in the Order Limits which has reduced the overall total hedgerows length and (on the assumption of a maximum of 15 m per hedgerow loss and reinstatement has also reduced the overall total predicted impacts.
- The Applicant has also identified a drafting error that led to hedgerows being double counted in terms of the length assumed to be lost. Therefore, the Applicant is reviewing the hedgerow data for both England and Wales to ensure all hedgerows are correctly accounted for in the predicted loss and associated offsetting requirements. This will reduce the overall hedgerow compensation

required. The updated calculations will be included within an update BNG assessment report submitted at Deadline 3.

2.1.6. England – Rivers Priority Habitat; removal of required units.

This is due to a change in the way the Applicant determined whether or not a river is a priority habitat, associated with clarity that has been provided by NE in the context of existing ambiguity regarding what constitutes a priority river habitat relevant to BNG.

The classification of priority habitat for rivers and streams has been reviewed following general consultation with NE. Following the guidance in UKBAP Priority Habitat Descriptions for Rivers (UK Biodiversity Action Plan (UKBAP) (JNCC BRIG, 2008)), the priority habitat is defined by either the presence of one species from criterion level A or C, or six species from criterion level B. It was identified that only the River Dee has six criterion level B species, and no watercourses have criterion level A or C species present. The details of how these changes to priority river habitat classification impact the associated calculations will be provided in the updated BNG assessment report to be delivered for Deadline 3.

2.1.7. England – Coastal floodplain and Grazing Marsh (CFGM) Priority Habitat; creation of category.

The CFGM inclusion now reflects a second review of the desk study data associated with the updated assessment. This habitat type is not determined through botanical or habitat based field survey alone, but rather local hydrological conditions, whereby areas of grassland are subject to frequent, periodic inundation (with either fresh or brackish water). Therefore, whilst a field survey can establish a certain type of grassland, the desk study can indicate presence of this Priority Habitat due to the known hydrology. It is also important to note that the public desk study data for Priority Habitat is not necessarily wholly accurate and therefore can be superseded by more detailed data (for example through field survey data or local data on hydrology where relevant).

Following the second review of desk study data, the Applicant has reviewed ditch networks across the Order Limits and considered the prevailing habitat present and vegetation structure (i.e. removed areas of scrub or worked arable farmland from consideration), and applied CFGM habitat status where this aligns the CFGM HPI dataset. From this review, it has been concluded that some of this land should be classified as CFGM. On this basis some of these areas have been included within the metric as this habitat type (as per best practice guidance), despite the underlying grassland habitat type (as determined through field survey) remaining unchanged. As CFGM is a category within the biodiversity metric, these areas of land have now been inputted as this category and therefore any residual losses means compensation will be sought aligned to good practice principles.

- 2.1.8. Wales – Woodlands Priority Habitat; increase in units required to be created.
- The change in woodland has occurred due to two factors. Firstly, an area of woodland previously identified as Ancient Woodland (AW) has been downgraded to priority woodland, due to it not being covered by the public inventory and lacking AW indicators. This meant that, where the parcel initially was excluded from the BNG calculations (as per best practice guidance), it is now included within the calculations, changing the overall amount of lowland mixed deciduous woodland within the biodiversity metric.
- Secondly, a review of construction impacts on areas of lowland mixed deciduous woodland has been made with a BNG expert and members of the construction team. This has led to a number of small alterations to areas of retained habitat, which has resulted in small changes to the required offsetting amounts to achieve a minimum 1% net gain in this habitat type.
- 2.1.9. Wales – Hedgerow Priority Habitat; decrease in units required to be created.
- There is a significant estimated reduction in hedgerows impact. This is due to the same factors as for England outlined above, including the reduction in the Order Limits as well as the ‘mirroring’ erratum associated with the GIS shapefiles.
- 2.1.10. Wales – Rivers Priority Habitat; decrease in units required to be created.
- The total length of priority river habitat in the Welsh section of the Order Limits has reduced, due to the fact the Applicant has applied the same methodology (as detailed in 2.1.6 above), around how to categorise priority river habitat. This has also allowed the Applicant to scope certain watercourses out of the assessment for Wales.
- Within Wales, there are just two affected watercourses which meet priority status (Dee (Main River) and Broughton Brook). As both are proposed as trenchless crossings, there is no impact to biodiversity units predicted in the metric.

3. RECORD OF ENGAGEMENT

- 3.1.1. This chapter provides a summary of the engagement undertaken to date between the Applicant and key stakeholders in relation to the BNG strategy for the DCO Proposed Development.

Table 3-1 – Record of Engagement in relation to BNG / provision for the DCO Proposed Development

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
24/01/2023	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Introduction. ▪ Project Overview – requirement of BNG in England. ▪ Discussion of whether CWCC and their Mersey forest programme could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Confirmation that CWCC’s programme could support the areas identified in Table 3-2 in [APP-231]. ▪ Discussion of overarching commercial structure to put an English BNG programme in place.
24/01/2023	Flintshire County Council	In person meeting between CWCC and the Applicant, at Wepre Forest Visitor Centre	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Introduction. ▪ Project Overview – requirement of BNG in Wales. ▪ Discussion of whether FCC and ongoing programmes could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Discussion of general concepts, including that FCC would be in a position to support the project in Wales. Confirmation that this would be for 3 out of 4 areas identified in Table 3-4 in [APP-231]. ▪ FCC would not be in a position to support the creation of Woodland Priority Habitats.
07/03/23	Flintshire County Council	Teams meeting between FCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Updates. ▪ Further discussion of FCC concepts to support BNG creation. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Further discussion regarding FCC being able to support 3 out of 4 areas identified in Table 3-4 in [APP-231]. ▪ Although FCC would not be in a position to support the creation of Woodland Priority Habitats, they directed the Applicant to engage with four trusts that are active in the area: <ul style="list-style-type: none"> ▪ The Woodlands Trust;

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
			<ul style="list-style-type: none"> ▪ The North Wales Wildlife Trust; ▪ Groundwork North Wales; and ▪ The Amphibian and Reptile Conservation Trust,
17/03/23	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ Project Update. ▪ Discussion and follow-up on commercial template. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ CWCC committed to send commercial template for Applicant review. ▪ CWCC and the Applicant agreed to plan a technical specialist meeting.
19/03/23	Cheshire West and Cheshire Council	Email correspondence between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ Standard commercial template document received by the Applicant. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Commercial discussions initiated (no further comment in this document).
21/03/23	The North Wales Wildlife (NWW Trust)	Teams meeting between the NWW Trust and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Introduction. ▪ Project Overview – requirement of woodland BNG in Wales in particular. ▪ Discussion of whether the NWW Trust could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Confirmation that the NWW Trust would be interested in supporting the project in a maintenance role if suitable land areas were identified via private landowner discussions. ▪ Once suitable areas have been identified, the Applicant will approach the NWW Trust again to discuss any proposal.
23/03/23	The Amphibian and Reptile Conservation (ARC Trust)	Teams meeting between the ARC Trust and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Introduction. ▪ Project Overview – requirement of woodland BNG in Wales in particular. ▪ Discussion of whether ARC Trust could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Confirmation that solely woodland habitat was not of primary interest to the ARC Trust (due to their focus on amphibians / reptiles) but could be

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
			<p>interested in a forward maintenance role if there was a 'mosaic' type habitat setup, which include ponds / river habitat.</p> <ul style="list-style-type: none"> ▪ The Applicant notes this, and will update the ARC Trust if appropriate.
24/03/23	Groundwork North Wales	Teams meeting between Groundwork North Wales and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Introduction. ▪ Project Overview – requirement of woodland BNG in Wales in particular. ▪ Discussion of whether Groundwork North Wales could support the project. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Confirmation that Groundwork North Wales would be interested in supporting the project in a maintenance role if suitable land areas were identified via private landowner discussions. ▪ Once suitable areas have been identified, the Applicant will approach Groundworks North Wales again to discuss any proposal.
05/04/23	Cheshire West and Cheshire Council	Teams meeting between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Updates. ▪ Technical Specialist Introduction. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ Kick-off meeting to discuss technical areas of interest which could be used for BNG in England. ▪ Overview of process required by the Applicant to support the DCO proposal. ▪ Warning that a potential update in metric, might mean that a new priority habitat would be added to the project requirements; Coastal Floodplain and Grazing Marsh. Discussion held on ideas for suitable locations.
19/04/23	The Woodlands Trust	Teams meeting between the Woodlands Trust and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ Held as part of a wider project impact meeting. ▪ Project Overview – requirement of woodland BNG in Wales in particular. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ The Woodland Trust's estates may be interested in supporting the project in potentially a number of roles. ▪ However, the status of the Woodlands Trust as an objector to the scheme to the scheme may present a barrier. This was to be picked up in communication with the Woodlands Trust's Real Estate team.

Date	Stakeholder	Form of Correspondence	Key Topics Discussed and Key Outcomes
			<ul style="list-style-type: none"> ▪ The Applicant committed to follow-up with a project introduction.
26/04/23	The Woodlands Trust	Email correspondence between CWCC and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ General Project Introduction. ▪ Project Overview – requirement of woodland in Wales in particular. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ The Applicant sent project details to the Woodland Trust for their review. ▪ The Applicant will follow-up and seek a meeting to discuss further.
03/05/23	Flintshire County Council	Teams meeting between Flintshire County Council and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> ▪ Update on calculations and offsetting requirements ▪ More detailed discussions over parameters of the required offsetting, proposed approach and mechanisms of delivery. <p>Discussions and Outcomes</p> <ul style="list-style-type: none"> ▪ FCC were to liaise internally and with landowners (where deemed necessary) to identify specific locations for offsetting related to ponds, river and hedgerows.

4. FUTURE PLAN

- 4.1.1. The Applicant is seeking to finalise a deliverable plan with key stakeholders prior to the submission of the BNG Assessment Report at Deadline 5.
- 4.1.2. As part of this programme, the Applicant will be carrying out activities including the following tasks:
- Identification of landowners for BNG for Welsh Woodland.
 - Confirmation of English and Welsh sites for other required habitat offsets.
 - Initial data check of baseline via a desktop study.
 - Review and checking of third-party survey data.
 - Agree format of legal agreements to secure ongoing management of BNG.
 - Undertake final assessment based upon agreed habitat enhancement / creation interventions and outline long-term management.