

DRAFT STATEMENT OF COMMON GROUND WITH NETWORK RAIL (ENGLAND AND WALES)

HyNet Carbon Dioxide Pipeline DCO

Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010 - Rule 8(1)(c)

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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Liverpool Bay CCS Limited and (2) Network Rail England and Wales

Signed

[NAME]

[POSITION]

on behalf of Liverpool Bay CCS Limited

Date: **[DATE]**

Signed

[NAME]

[POSITION]

on behalf of Network Rail England and Wales

Date: **[DATE]**

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1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This draft Statement of Common Ground (SoCG) has been prepared by Liverpool Bay CCS Limited ('the Applicant') and Network Rail (NR).
- 1.1.2. For the purpose of this draft SoCG, the Applicant and NR will jointly be referred to as the 'Parties'.
- 1.1.3. The purpose of this draft SoCG is to set out the agreement that has been reached between the Parties in respect of a number of matters related to the Development Consent Order (DCO) Proposed Development. It also lists any points on which discussions are ongoing. SoCGs are an established means in the DCO planning process of allowing all Parties to identify and focus on specific issues that may need to be addressed during the examination.
- 1.1.4. **Chapter 2** of this draft SoCG records the consultation undertaken with NR by the Applicant. **Chapter 3** of this draft SoCG sets out the areas of agreement in relation to the above matters, and any areas of ongoing discussion between the Parties.

1.2. THE DCO PROPOSED DEVELOPMENT

- 1.2.1. HyNet (the Project) is an innovative low carbon hydrogen and carbon capture, transport and storage project that will unlock a low carbon economy for the North West of England and North Wales and put the region at the forefront of the UK's drive to Net-Zero. The detail of the project and the DCO Proposed Development can be found in the main DCO documentation. The DCO Proposed Development and this SoCG relate to the onshore CO₂ pipeline element of HyNet only. Other elements of HyNet are subject to separate consenting processes and are not addressed here.
- 1.2.2. The DCO Proposed Development impacts NR primarily as a railway infrastructure provider and landowner.
- 1.2.3. The Applicant has identified the following plots in which NR hold an interest:
1-23, 14-24, 14-29, 17-12, 19-04, 19-04c, 9-21, 9-23, 9-24, 9-25
- 1.2.4. A full description of the DCO Proposed Development is detailed in Chapter 3 of the Environmental Statement (ES) **[APP-055]**.
- 1.2.5. A full description of the DCO Proposed Development is detailed in Chapter 3 of the consolidated Environmental Statement (ES) **[REP4-029]**, submitted at Deadline 4. On the 12 July 2023, the ExA accepted the Applicant's Change Request 3, subsequently the description of the development will be updated in accordance with Change Request 3 Environmental Technical Note **[CR3-019]**, towards the end of the Examination. Terminology

1.2.6. In the Issues tables in **Chapter 3** of this draft SoCG, 'Agreed' and 'Not Agreed' indicates a final position, and 'Under Discussion' indicates where these points will be the subject of on-going discussion wherever possible to resolve or refine, the extent of disagreement between the Parties.

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2. RECORD OF ENGAGEMENT

2.1.1. This Chapter provides a summary of the engagement to date between the Applicant and NR in relation to the DCO Proposed Development.

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Table 2-1 – Record of Engagement in relation to the Proposed Development

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
07/04/2022	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <p>Proposed Hynet Pipeline interface with existing NR assets</p> <p>Discussions and Outcomes</p> <p>A meeting was held to review the HyNet CO₂ Pipeline route and Isolation Valve requirements.</p>
08/04/2022	Email correspondence between NR and the Applicant	<p>Key Topics</p> <p>Email discussing the applicability of standards to the above ground elements of the DCO Proposed Development. These elements include Block Valve Stations (BVS), Above Ground Installations (AGIs) and Emergency Shutdown Valves (ESDV) for isolation.</p>
24/05/2022	Microsoft Teams meeting between the Applicant and NR	<p>Key Topics</p> <p>Initial meeting between the Applicant and NR's property team to discuss the required consents for the rail crossings.</p> <p>Discussions and Outcomes</p> <p>The Applicant provided a general overview of the project to NR and discussed the various crossing points. NR advised that an Asset Protection Agreement would be required to cover each crossing. NR advised the Applicant in order to progress with negotiations for an Asset Protection Agreement, an internal consultation would first be required and requested the Applicant to complete a Schedule of Minimum Information (SMI) form. The Applicant requested the forms to be sent to them so they could review and complete.</p> <p>Further to the call NR sent the Applicant the SMI for review.</p>
07/07/2022	Microsoft Teams meeting and email correspondence between NR and the Applicant	<p>Key Topics</p> <p>Undertrack Crossing (UTXs) on the Hynet Project</p> <p>Discussions and Outcomes</p> <p>NR considered that 1 BAPA (Basic Asset Protection Agreement) is required for all UTXs on the Hynet DCO Project (i.e.the CO₂ pipeline which is the DCO Proposed Development + CADENT Hydrogen Project).</p> <p>It was therefore agreed that the UTX derogation for isolation valves be shared across both Hynet Projects</p>
05/09/2022	Email correspondence between NR and the Applicant	<p>Key Topics</p> <p>Completed SMI form completed and returned to NR.</p> <p>Discussions and Outcomes</p> <p>After an internal review process, the Applicant completed the SMI and returned this to NR whilst also providing an undertaking for associated costs. NR to review and advise on next steps.</p>
06/10/2022	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <p>UTX Crossing Technical Note</p>

		<p>Discussions and Outcomes</p> <p>NR was advised that a technical note demonstrating compliance (use of BVS, AGIs and ESDVs for isolation) with NR crossing standards is under preparation.</p>
03/11/2022	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <p>UTX Crossing Technical Note and progress of the DCO application</p> <p>Discussions and Outcomes</p> <p>The Applicant provided an update regarding the acceptance of the DCO application by the Planning Inspectorate.</p>
08/11/2022	Email correspondence between NR and the Applicant	<p>Key Topics</p> <p>UTX Crossing Technical Note</p> <p>Discussions and Outcomes</p> <p>The Applicant shared the updated UTX Crossing Technical Note with NR.</p>
01/12/2022	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <p>Geotechnical Investigation (GI) & Crossings technique</p> <p>Discussions and Outcomes</p> <p>All four crossings were discussed in detail with respect to GI and crossings methodology</p> <ol style="list-style-type: none"> 1. 20" crossings near Ince & Elton Station 2. 36" crossing Near Mollington 3. 36" crossing Near Sandycroft 4. 36" crossing Near Aston
05/01/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • General project update • Status of the compliance note • NR technical documents • Site visit <p>Discussion and Outcomes</p> <p>The Applicant provided a project overview, DCO status, proposed pipeline route and overview of GI works. NR suggested that it will be requiring GI south of the 20" pipeline rail crossing. The requirement for GI works was acknowledged by the Applicant.</p> <p>The Applicant enquired on typical NR timeline for crossings design review, consents and approval. A List of NR technical documents received to date in minutes of meeting will be sent. NR to advise on further applicable documents.</p> <ul style="list-style-type: none"> - NR-L2-CIV-177 - NR-L1-CIV-094

		<ul style="list-style-type: none"> - NR/L2/CIV/044 - NR/L1/CIV/0063 - NR-L2-RSE-02009 - NRPJA Seminar Paper Planning, Design and Construction of undertrack crossings and associated risk management
02/02/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • General project update • Status of the compliance note • Statement of Common Ground (SoCG) and Protective Provisions • Site visit • AOB <p>Discussions and Outcomes</p> <p>The Applicant provided an overview of the current status of the DCO application, the draft SoCG and Protective Provisions.</p> <p>A separate meeting is to be organised once a draft of SoCG has been sent to NR. NR advised they have a similar document, BAPA. This typically comes through the Town Planning team of NR. The Applicant advised a draft of both documents can be shared to establish consensus.</p> <p>The Applicant informed that the SMI forms and associated plans were sent to NR Property Team in August 2022. NR asked to share all information so they can follow up with the Property Team.</p>
02/02/2023	Email correspondence between NR and the Applicant	The Applicant shared the SMI forms and associated plans with the NR Asset Protection - Project Interface Manager. These were originally shared by the Applicant with the NR Property team in August 2022 through WSP.
08/03/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Project Update • Status of the compliance note • Site Visit • SoCG <p>Discussions and Outcomes</p> <p>The Applicant provided an overview of the current status of the DCO application. The Technical compliance note has been reviewed by NR and considered satisfactory and a derogation letter will be issued. A Site Walkover is planned for 20 April 2023. The Applicant advised that an SoCG will be shared with NR by the end of March.</p>
17/03/2023	Email correspondence between NR and the Applicant	The Applicant shared the Rule 6 letter which was published by the Planning Inspectorate recently on their website and confirms that an SoCG with NR would be required.
20/03/2023	Email correspondence between NR and the Applicant	The NR Asset Protection - Project Interface Manager shared the details of their solicitor with the Applicant so they can coordinate the Protective Provisions with Burges Salmon.

30/03/2023	Email correspondence between NR and the Applicant	The Applicant shared a first draft of the SoCG with NR for their review.
06/04/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Project Update • Status of the compliance note • SoCG and Protective Provisions • NR Property Interface • Site Visit <p>Discussions and Outcomes</p> <p>The Applicant shared the draft SoCG on screen and discussed content of the SoCG with NR. The Applicant also advised NR the latest version of the draft SoCG will be shared with feedback from NR expected ahead of Deadline 1 (April 17th).</p>
20/04/2023	Joint Site visit between the Applicant and NR	<p>Key Topics</p> <p>Joint Site Visit</p> <p>Discussions and Outcomes</p> <p>All crossings were visited by the Applicant with NR and the Applicant explained the crossing strategy/methods for the railway crossings.</p>
04/05/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Asset Protection Agreement (APA) • Protective Provisions • SoCG <p>Discussions and Outcomes</p> <p>Discussion on the four HyNet crossing areas and whether these can be covered by one Basic APA (BAPA) or more detailed APA for protective works - NR will get an update from their clearance team.</p> <p>Protective Provisions – discussion on inclusion of Electro Magnetic Interference (EMI) and whether this is relevant to NR interfaces. The Applicant will continue to progress discussions with NR legal team.</p> <p>SoCG shared with NR on screen with updates for Deadline 2 and the Applicant to send draft to NR for review.</p>
01/06/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • BAPA • Protective Provisions • SoCG <p>Discussions and Outcomes</p> <p>The Applicant shared the SoCG on screen. NR asked if the Order Limits could be reduced down from 100m corridor. The Applicant explained this is a worst-case scenario and can be refined at a later stage in the project when the detailed design stage commences. NR requested that the Applicant provide them with any known obstacles around NR assets where the Order Limits can be made narrower than the standard 100m.</p>

		NR to review the SoCG tables in Chapter 3 on Land Interests, Property and Assets. The Applicant will send NR an updated SoCG ahead of Deadline 4 for review and comment.
06/07/2023	Microsoft Teams meeting between NR and the Applicant	<p>Key Topics</p> <ul style="list-style-type: none"> • Asset crossing locations & Order Limits • SoCG <p>Discussions and Outcomes</p> <p>The Applicant advised they intend to submit the SoCG for Deadline 6 (18 July). Follow up call may be required with Property Team next week.</p> <p>NR asset managers have concerns over the 100m Order limit corridor. The Applicant gave an overview of each of the asset crossing locations and any known constraints. The Applicant confirmed the flexibility of the 100m corridor is still required to avoid restricting the Construction Contractor at detailed design stage. The Applicant can provide NR with a summary /screengrab of the crossings to show overlap with other known utilities / constraints, although it was noted that the information provided is still indicative and not final at this stage.</p> <p>Trial holes and GI would be done once Construction Contractor on board in 2024.</p>

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3. ISSUES

3.1.1. This chapter sets out the areas of agreement in relation to specific issues relating to the DCO Proposed Development, and any areas of ongoing discussion between the Parties. The topics discussed between the Applicant and NR are as follows:

- Engagement & Other Application Documents;
- Design and Assets;
- Property, and
- Issues related to the DCO Proposed Development - Draft DCO (including requirements to the draft DCO).

Table 3-1 – Engagement, ES & Other Application Documents

Ref.	Description of Matter	Current Position	Status
Engagement			
NR 3.1.1	Engagement	The Parties agree that engagement has been ongoing in the pre-application period (as set out in the record of engagement) and the Applicant has sought to bring forward a design which has had regard to NR's views. NR has been formally consulted on the application as required by the Planning Act 2008.	Agreed
Land			
NR 3.1.2	Land Use	The Parties are seeking to determine, where relevant, land rights and use. NR recognises that the DCO Proposed Development requires the use of subsoil under and other rights over NR's operational railway. However, NR requires the necessary subsoil rights or other rights to be acquired through voluntary agreement rather than through the exercise of compulsory acquisition powers. NR has stated that any use of the operational railway must only be permitted in accordance with the statutory requirements imposed on NR as the operator of the railway network. In addition, any acquisition of rights over the operational railway must be subject to NR's land clearance process, which is imposed on NR by its Network Licence, which includes internal consultation with railway stakeholders and the ORR. The Parties will seek agreement where required.	Under Discussion
Other application documents			
NR 3.1.4	Other application documents	NR agrees that its interests are correctly reflected in the Book of Reference [REP3-014].	Agreed

Table 3-2 – Issues related to Design and Assets

Ref.	Description of Matter	Current Position	Status
NR 3.2.1	NR Requirements	NR have requested that the Applicant submit a derogation request to remove a requirement (Section 9.3 of NR/L2/CIV/044) for Isolation Valves either side of a pipeline rail crossing. The Applicant has submitted a crossing compliance note for isolation valves, which has been accepted and confirmed by NR that a sufficient risk assessment has been carried out to cover not installing isolation valves in close proximity to either side of the railway. However, NR requested to provide a properly documented Emergency Management Plan. The Applicant updated NR that the Emergency Management Plan/Procedure is still being developed and will be shared upon completion.	Agreed
NR 3.2.2	NR Assets	NR has raised that its assets detailed in Work Nos. 4, 24, 24A, 25, 31B, 32, 38 and 43 relate to works on or adjacent to NR's existing operational railway and railway infrastructure. NR confirmed that in addition to protective provisions for the benefit of NR being included in the Order, NR also requires the Applicant to enter into an asset protection agreement (APA) to ensure the appropriate and necessary technical, engineering	Under Discussion

		<p>and safety requirements for working on or near NR's operational railway are applied to the DCO Proposed Development. The Applicant is agreeable in principle to entering into an APA but requires to review the standard terms for that before confirming.</p> <p>NR has provided the Applicant with its required Protective Provisions and draft of the required Framework Agreement to manage the direct interface that the DCO has with the operational railway. The Framework Agreement will contain amongst other things, the APA, agreed form of Protective Provisions and any property agreement which may be required. The Applicant is currently reviewing these documents and will provide comments in due course. The Applicant will continue to engage with NR regarding Protective Provisions and protection of assets.</p> <p>A Basic Asset Protection Agreement ('BAPA') has been agreed and Network Rail are considering whether an APA is also required.</p> <p>The BAPA shall be appended to the Framework Agreement together with an APA if it is also required.</p>	
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Table 3-3 – Issues related to Property

Ref.	Description of Matter	Current Position	Status
NR 3.3.1	NR Internal Consultation	<p>The Applicant has completed the Schedule of Minimum Information and returned this to NR on 5 September 2022. The Applicant is awaiting feedback on this to progress voluntary negotiations with NR.</p> <p>The Schedule of Minimum information provides information on the DCO Proposed Development such as engineering details, location etc, this information is required to be submitted together with the clearance applications as part of the clearance application submission process, Network Rail do not therefore provide feedback on the Schedule of Minimum Information.</p> <p>To date only one Technical Clearance application has been fully approved, there are currently four Technical Clearance applications still not yet approved.</p>	Under Discussion

Table 3-4 – Issues related to the DCO Proposed Development - Draft DCO (including requirements to the draft DCO)

Ref.	Description of Matter	Current Position	Status
NR 3.4.1	Draft DCO Articles	<p>NR does not object in principle to the DCO Proposed Development.</p> <p>NR does object to powers contained in articles 19, 21, 22, 24, 26, 27, 28, 29, 31, 33, 34, 35 and 39 of the draft DCO [REP3-005] authorising the Applicant to compulsorily acquire land, rights in or over land, or temporarily use land which NR relies upon for the carrying out of its statutory undertaking. NR does not believe this to be justified or necessary and will strongly resist acquisition of land and rights which are to be retained in order for NR to carry out its undertaking.</p> <p>Network Rail maintains its objection to the compulsory acquisition powers authorised by the Order, and while the compulsory purchase provisions will not be removed from the Order, paragraph 4 of Network Rail's Protective Provisions contain clauses which state that the Applicant must not use compulsory acquisition powers conferred by the Order with Network Rail's consent. The Protective Provisions will apply to the Applicant in relation to Network Rail's land and interests and will be ultimately governed by the Framework Agreement.</p>	Under Discussion

NR 3.4.2	Protective Provisions	<p>A set of draft Protective Provisions has been circulated by NR and is currently in negotiation between the parties.</p> <p>Network Rail and the Applicant have been in discussions in relation to the Protective Provisions. The Applicant is willing to include Protective Provisions for the benefit of Network Rail but the Protective Provisions have not yet been agreed between the parties.</p> <p>The latest draft of the Protective Provisions was sent from NR's solicitors Eversheds Sutherland to the Applicant's Solicitors on Tuesday 4th July and the Applicant's solicitors raised a query by email on Thursday 6th July. On Friday 14th July Eversheds Sutherland provided their response, and the Applicant's Solicitors are reviewing. Network Rail will require the Applicant to append the Protective Provisions to the Framework Agreement.</p>	Under Discussion
NR 3.4.3	Property Agreement	<p>Network Rail and the Applicant have agreed that the Property Agreement will take the form of a lease of subsurface. The form of the Property Agreement is currently being negotiated between Network Rail and the Applicant and will be appended to the Framework Agreement.</p>	Under Discussion
NR 3.4.4	Framework Agreement	<p>Network Rail and the Applicant are in advanced stages of negotiating a Framework Agreement to regulate certain aspects of the relationship between Network Rail and the Applicant in relation to the delivery of the Proposed DCO Development. The Framework Agreement will set out various obligations on the parties should the DCO be made.</p> <p>It is Network Rail's position that it will not withdraw its objection until the Framework Agreement has been completed, and that Framework Agreement must append the following documents: Network Rail's Protective Provisions, the Basic Asset Protection Agreement, any Asset Protection Agreement, the Property Agreement and Network Rail's Clearance Conditions.</p>	Under Discussion