

Application by Liverpool Bay CCS Limited for an Order Granting Development Consent for the HyNet Carbon Dioxide Pipeline Project.

The Examining Authority's third round of written questions and requests for information (ExQ3) Issued on 15 August 2023

The following table sets out the Examining Authority's (ExA's) written questions and requests for information – ExQ3. If necessary, further written questions may be issued under Rule 17 of the Infrastructure Planning (Examination) Procedure Rules 2010.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe C to the Rule 6 letter of 20 February 2023. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 3 (indicating that it is from ExQ3) and then has an issue number and a question number. For example, the first question on General and Cross-topic matters is identified as Q3.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact hynetco2pipeline@planninginspectorate.gov.uk and include **HyNet Carbon Dioxide Pipeline** in the subject line of your email.

A number of Deadlines have past and Additional Submissions received, including Change Requests. These may already address some of the questions set out below. Should that be the case, the ExA does not consider that question needs to be answered in full, rather the ExA would ask the response to that question signposts exactly where the answer/ information has already been provided (ie Document Title, Applicant's Document Reference Number, Planning Inspectorates Reference Number, Paragraph number, Table number, Etc.)

Responses are due by Deadline (DL) 7: Tuesday 5 September 2023.

Abbreviations used:

AGI	Above Ground Installation	ExQ3	ExA's Third Written Questions
BNG	Biodiversity Net Gain	HRAR	Habitats Regulations Assessment Report
BVS	Block Valve Station	HSE	Health and Safety Executive
CO₂	Carbon Dioxide	FCC	Flintshire County Council
CWCC	Cheshire West and Chester Council	IPs	Interested Parties
DCO	Development Consent Order	NRW	Natural Resources Wales
DL	Deadline	REAC	Register of Environmental Actions and Commitments
EA	Environment Agency	SoS	Secretary of State
EIA	Environmental Impact Assessment	SoCG	Statement of Common Ground
ES	Environmental Statement	WFD	Water Framework Directive
ExA	Examining Authority		

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

<https://C/infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN070007/EN070007-001186-HyNet%20Carbon%20Dioxide%20Pipeline%20Bilingual%20Examination%20Library.pdf>.

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg Q3.1.1 – refers to question 1 in this table.

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ExQ3	Question to:	Question:
1. General and Cross-topic Questions		
Q3.1.1	<i>Information</i> Applicant	<ul style="list-style-type: none"> • With limited time remaining in the Examination, the ExA notes the Applicant has not submitted a significant number of completed Statements of Common Ground (SoCG). Please advise when the outstanding SoCG are to be progressed and submitted complete into the Examination?
Q3.1.2	<i>Information</i> Applicant Welsh Government	<ul style="list-style-type: none"> • It is stated in Chapter 2 of the Environmental Statement (ES) that the Development Consent Order (DCO) regime in Wales does not allow for items to be classed as Associated Development and be included in a DCO. • In that context the Applicant outlines an area of disagreement with the Welsh Government on whether Block Valve Stations (BVSs) as Associated Development can be secured and included in the DCO. Accordingly, the Applicant has also sought a twin track approach to securing such associated development should the terms of the DCO not be able to cover those specific elements in dispute. • Given the area of disagreement evident for BVSs what are the specific reasons the Above Ground Installations (AGIs) development can be included in Associated Development (if needed to) within the DCO in the Applicant's view? • Does the Welsh Government concur with the Applicant's position on AGIs within the DCO relative to the umbrella of Associated Development?
Q3.1.3	<i>Information</i> Natural Resources Wales (NRW) Flintshire County Council (FCC) Welsh Government IPs	<ul style="list-style-type: none"> • NRW is understood by the ExA to have established a previous Creative Nature Partnership (linked with the Arts Council of Wales). Is that nature partnership link still currently active and being implemented through live projects? • NRW is anticipated to be supporting of the aims contained within the Wellbeing of Future Generations Act which establishes a duty on public bodies to improve the environmental, cultural, economic, physical, and mental wellbeing of the people of Wales. • In your view would environmental considerations towards nature and the water environment also form part of the cultural expectations indicated in the Act? • The ExA is seeking a greater understanding of any cultural aspects/ implications the DCO scheme would result in, through inviting NRW or the Welsh Government or any other IPs to make whatever comments are deemed to be appropriate when considering the definitions and terminology applicable within the Act.

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		<ul style="list-style-type: none"> Do you think the Applicant has done enough to meet the cultural expectations triggered by the scheme?
<p>2. Assessment of Alternatives</p>		
<p>Q3.2.1</p> <p><i>Information – alternatives/ ancient woodland & New Bridge Farm</i></p> <p>Applicant FCC Cheshire West and Chester Council (CWCC) NRW Woodland Trust IPs</p>		<ul style="list-style-type: none"> For the avoidance of direct impacts upon an existing slurry tank at New Bridge Farm referred to in DL4 submissions notes that two options of the Stanlow AGI to Flint AGI Pipeline indicative alignment have been considered separately. Both require the same extension of the Newbuild Infrastructure Boundary to the North-West and West, towards the Ancient Woodland south of Holywell Road. The two proposed design options being: <ul style="list-style-type: none"> PS02a – Removal of the slurry tank at New Bridge Farm and the pipeline would be constructed outside of the 15m Ancient Woodland buffer within the indicative alignment of the Stanlow AGI to Flint AGI Pipeline. PS02b – Retention of the slurry tank at New Bridge Farm in its current location with the pipeline being constructed further North-West and West than the indicative alignment of the Stanlow AGI to Flint AGI Pipeline. It would remain outside of the Ancient Woodland itself, but work would be required within 15m of the Ancient Woodland. <p>Applicant</p> <ul style="list-style-type: none"> Having regard to proposed option PS02b, explain what specific work would be needed within the Ancient Woodland 15m buffer. How far would such work intrude into the buffer? Would any mitigation be utilised to offset any anticipated intrusion? And is the potential impact accurately reflected in updated tree impact information supporting the application? If so, please signpost that. What is the Applicant’s present position on its most favoured option? Is the Applicant’s favoured position expected to be subject to further change? <p>IPs</p> <ul style="list-style-type: none"> Please make whatever comments you consider necessary.
<p>Q3.2.2</p> <p><i>Information – alternatives/ veteran trees & Backford Brook</i></p> <p>Applicant</p>		<ul style="list-style-type: none"> Having regard to the alternatives possible to reduce impacts on veteran trees at Backford Brook referred to in the Applicant’s responses to DL4. The ExA notes:- Option 1 crosses Backford Brook and the nearby veteran trees via a trenchless crossing. This would require a minimum of 75 metres trenchless crossing length to avoid the veteran trees and 120 metres to avoid all trees and maintain a safe distance

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	<p>FCC CWCC NRW Woodland Trust IPs</p>	<p><i>from the nearby existing buried utilities. To reduce construction and maintenance risks, trenchless crossings should be minimised in quantity and length, as such they should only be used where no practical alternative engineering solution exists.</i></p> <ul style="list-style-type: none"> • <i>Option 2 extends the Newbuild Infrastructure Boundary to the North which would increase the pipeline corridor width to reduce impacts on veteran trees west of Backford Brook. Further tree surveys of this area were undertaken in January 2023 and the indicative alignment of the Stanlow AGI to Flint AGI Pipeline has been realigned to aid the avoidance of the removal of veteran trees at this location, subject to detailed design. This option avoids four veteran trees in comparison to Revision A of the ES and is considered the Applicant's preferred option presently.</i> • Can the Applicant further explain its reasons for its preferred Option relative to veteran tree protection and minimising loss or damage. • Which Option would be least harmful to trees? Would Option 1 result in less harm to veteran trees than Option 2? Explain how. • Is Option 1 now a fall-back position for the Applicant? If so, explain why. • What is the current position of the Applicant for being able to successfully implement Options 1 or 2 given the Environmental Impact Assessment (EIA) is ultimately intended to find the least harmful environmental outcome? <p>IPs</p> <ul style="list-style-type: none"> • Please make whatever comments you consider necessary.
Q3.2.3	<p><i>Alternatives - Alltami Brook</i></p> <p>NRW FCC Welsh Government IPs</p>	<ul style="list-style-type: none"> • Rerouting south of the A55 is not considered a viable option by the Applicant due to the presence of Ancient Woodland and a clay quarry. Moreover, avoiding the Alltami Brook is not a feasible option in the Applicant's view for the pipeline route. The trenchless options were considered high risk and high cost due to the presence of coal workings, rugged topography, and potential to encounter polluted mine-water. The open trench method, whilst having significant construction impacts, would avoid the long-term public safety risk and visual impacts associated with a pipeline bridge and would result in minimal long-term changes to flow associated with the installation of a culvert. • Do NRW and IPs agree with the Applicant's position? if not state why not.

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Q3.2.4	<p><i>Alternatives - Alltami Brook</i></p> <p>NRW</p> <p>FCC</p> <p>IPs</p>	<ul style="list-style-type: none"> • Given NRW's position that the open trenched method proposed by the Applicant is not Water Framework Directive (WFD) compliant (which the Applicant does not agree with), a further design option is possible which would utilise an embedded pipe bridge solution. • Should the Secretary of State not accept the conclusions of the WFD assessment presented and determine that derogation cannot be applied, an alternative option is included in the application by the Applicant on a without prejudice basis. <p>NRW</p> <ul style="list-style-type: none"> • Would the embedded pipe option be a feasible alternative solution to overcome your concerns? Explain the reasons why or why not. • Can the Applicant's supporting derogation case be successfully applied? <p>IPs</p> <ul style="list-style-type: none"> • Please make whatever comments you deem to be necessary.
Q3.2.5	<p><i>Alternatives - Alltami Brook</i></p> <p>NRW</p> <p>IPs</p>	<ul style="list-style-type: none"> • ES Chapter 4 Paragraph 4.5.64 sets out the alternative methods considered for crossing Alltami Brook. An open trench method of construction remains the Applicant's preferred option for crossing Alltami Brook. Yet, this would still have significant temporary impacts on the watercourse. • The ExA notes that mitigation measures are proposed reducing overall working width and width of the trench, as well as micro siting to the least sensitive section of the riverbed as outlined in Table 4.8 and detailed in the Register of Environmental Actions and Commitments (REAC). <p>NRW</p> <ul style="list-style-type: none"> • Why would the temporary effects of the open cut method from a WFD perspective be unacceptable following any mitigation which could be applied? • In particular why would grout filling of any sandstone cracks (as mitigation) be unsuitable in your view if the Applicant is applying modern day construction materials, techniques and standards? • Is there any other mitigation NRW would recommend for the open cut method should it be accepted as being WFD compliant? • What is NRW's crossing method preference based on what is presently submitted and known? Explain why such method(s) would be the preferable option in your view based on the information currently available relative to any uncertainty.

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		<ul style="list-style-type: none"> • Would the submission of further information make any of the other options feasible from a water resource protection perspective? If so, what information would achieve that and for which other crossing options do they relate to? • NRW is invited to set out its approach to achieving an optimal outcome to the crossing details in dispute alongside the optimal riparian improvements which could be secured. <p>IPs</p> <ul style="list-style-type: none"> • Please make whatever comments you deem to be necessary.
<p>3. Air Quality and Emissions</p>		
<p>Q3.3.1</p>	<p><i>Information</i> Applicant</p>	<ul style="list-style-type: none"> • The ExA notes the expected security and maintenance inspection routines detailed in ES Chapter 3 Table 3.4. • With respect to those, how long would the temporary venting structure(s) described in the application material be erected for? • What are the maximum dimensions of those structure(s)? And would they be subject to any further change bearing in mind any forthcoming environmental legislation? • Clarify if there would be a single removable venting structure used for all relevant locations in need of venting or several structures utilised at any given time. • Explain how the temporary venting structure(s) would be transported to and from the locations required and explain how they would be subsequently removed from all DCO land. • What measures (inclusive of large vehicle routing) would be employed to minimise disruption to third parties during transportation of the venting structures and associated equipment? • How are such measures formalised in the DCO?
<p>Q3.3.2</p>	<p><i>Information</i> Applicant</p>	<ul style="list-style-type: none"> • Of the Carbon Dioxide (CO₂) expected to be released during any routine maintenance venting exercise (or similar visits) what is the maximum volume of CO₂ expected to be released? If it is a range of values, please give the range. Indicate the range or value per each individual venting exercise release period and how long it would last for. Please also indicate the value/ range for multiple venting periods combined per annum (or otherwise). • How can the Applicant's expected volume calculations for expected CO₂ release be relied upon as being accurate during venting?

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		<ul style="list-style-type: none"> • What provision is to be made to ensure no further CO₂ other than that declared would escape via venting maintenance at a future point?
4. Biodiversity, Ecology and Natural Environment		
Q3.4.1	Applicant	<ul style="list-style-type: none"> • The Well-being of Future Generations (Wales) Act 2015 does not feature in the list of legislation given in the Biodiversity of the ES. • The ExA is seeking clarification from the Applicant to ensure that the terms of the Act are fully considered in the assessment of the DCO development and any subsequent mitigation measures potentially imposed. • Can the Applicant confirm/ clarify how the terms of the Act have been applied in all biodiversity mitigation to date? • Would the Applicant’s confirmation/ clarification also extend to all of the water course crossing options and mitigation subject to WFD assessment?
5. Climate Change		
Q3.5.1	<i>Information – future soil management</i> Applicant FCC CWCC IPs	<ul style="list-style-type: none"> • Further clarify how the development would successfully mitigate against the probable shrinking and cracking of soils within the DCO application area during operation of the scheme? • What are the known consequences of inadequate mitigation? For example, would existing soil carbon sequestration be significantly reduced in affected land areas? • Would any new hedgerow reinforcement currently anticipated boost soil carbon sequestration through the strengthening of existing microbial/ fungal networks? If so, what are the optimal locations for new or reinforced hedgerows relative to the DCO scheme?
6. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations		
Q3.6.1	<i>Review</i> Applicant	<ul style="list-style-type: none"> • The ExA notes the Order Limits surrounding the Stanlow AGI are not drawn tightly around the related Work Nos (See Works Nos. 7, 9, 9A and 10). However, the Land Plans show the Applicant is seeking the permanent acquisition of rights over that land (land outside the Work Nos., but within the Order Limits at this location). Please explain fully why the Applicant is seeking the permanent acquisition of rights over this land to be included within the DCO, and why the Land Plans in these locations do not reflect the limits of the Works Nos. specified above.

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Q3.6.2	<i>Information</i> National Highways	<ul style="list-style-type: none"> • Please provide a full and considered response to the 'Applicants comments on submissions made at Deadline 5 - Appendix A' [REP6-035].
Q3.6.3	<i>Clarification</i> Applicant	<ul style="list-style-type: none"> • With regard to Plot Number 17-02, the ExA would seek clarification in regard to the applicant's arguments concerning the installation of the drainage works. On the one hand the Applicant appears to be claiming that the installation will be carried out using TP powers (please see para 6.19 of REP4-264), but on the other hand it cites s.132(3) of the PA2008. Please could the applicant clarify which it intends to rely upon and why? <p>Additionally, the ExA would point out that s.132(3) would appear to undermine the Applicant's own arguments that subsoil is not open space. Please respond?</p>
Q3.6.4	<i>Clarification</i> Applicant	<ul style="list-style-type: none"> • The applicant's argument that the subsurface is not open space and that s.131 PA2008 does not apply to the proposed CA of the subsurface for either the pipeline or the drainage works is noted. It argues this is due to: <ul style="list-style-type: none"> - It is not used for the purposes of recreation and therefore does not fall within the definition of "open space" as "<i>there is no proposed acquisition of or interference with the open space which s.131 protects</i>"; and - In any event strata of land can be separable from a legal point of view with, for example, subsoil and/ or airspace being separable from the surface of the land in question. In other words, the fact that the surface of plot 17-02 is open space does not mean that the subsurface can be separated from it from a legal point of view. <p>Section 131 (12) and 132(12) of the PA2008 are clear that "Open space" has the same meaning as in s.19 of the Acquisition of Land Act 1981. S.19(4) defines "open space" as "<i>any land laid out as a public garden, or used for the purposes of public recreation....</i>". On the facts, it is clear that plot 17-02 does comprise or include "open space" within this definition. However, neither the PA2008 nor the Acquisition of Land Act 1981 specifically confirm whether "open space" includes some/ all of the subsoil below or airspace above. Equally, the ExA has been unable to locate any caselaw on the point.</p> <p>The ExA can see arguments either way.</p>

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		<p>In support of the applicant’s position are the facts that the subsurface of plot 17-02 is not used “for the purposes of public recreation” and the fact that from a land law point of view it is indeed possible to separate ownership of land from ownership of the subsoil beneath it (for example for subterranean mining).</p> <p>However, on the other hand there is a general presumption in land law (helpfully summarised by the Supreme Court in <u>London Borough of Southwark and another v Transport for London [2018] UKSC 63</u>) that “<i>A basic feature of the conveyance or transfer of freehold land by reference to an identified surface area is that, unless the context or the language of the grant otherwise requires or provides (eg by a reservation of minerals), its effect is to vest in the transferee not only the surface of the ground, but the subsoil down (at least in theory) to the centre of the earth and the air space up (at least in theory) into the heavens. Viewed in the vertical plane, the transferee acquires ownership not only of the slice on the surface but of the whole of the space above it, and the ground below.</i>” .</p> <p>In other words, land and the relevant subsoil are only separated for legal purposes in certain specified circumstances and as there are none evident here, this would suggest that the subsoil to plot 17-02 is also “open space”. If so, the ExA is of the informal view that Special Parliamentary Procedure would apply to the proposed CA of the subsurface unless any of the exemptions in s.131 apply.</p> <p>In the light of this why should the ExA accept the applicant’s view that the subsoil of plot 17-02 is not open space and the Special Parliamentary Procedure in s.131 of the PA 2008 is not relevant when considering the proposed CA of the subsoil for the pipeline (and also for the underground drain)?</p>
Q3.6.5	<p><i>Clarification</i> Applicant</p>	<ul style="list-style-type: none"> • In relation to the CA of rights over plot 17-02 (the imposition of the restrictive covenant), the applicant is relying on an exemption from Special Parliamentary Procedure under s.132(3). However, some of the elements of the proposed restrictive covenant sought could potentially have an adverse impact on the users of the open space, including the prohibition on future tree planting which appear to undermine the exemption sought. (ie How can it be argued that <i>the order land ,when burdened with</i>

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		<i>the order right, will be no less advantageous than it was before to the..."</i> persons listed. Please respond?
Q3.6.6	<i>Clarification</i> Applicant	<ul style="list-style-type: none"> If CA of rights are sought, the ExA is unclear why plot 17-02 is not listed in Schedule 8 (Land in which only New Rights etc., may be acquired). Please clarify?
7. Cultural Heritage and the Historic Environment		
Q3.7.1	<i>Clarification.</i> Cadw, Historic England, CWCC, FCC and Clwyd Powys Archaeological Trust	<ul style="list-style-type: none"> In the light of the Applicant's Archaeological Evaluation Report [REP4-267], can IP's confirm that they are satisfied with the Applicant's proposed mitigations, as set out in table 5.1 of that document?
8. Design and Layout		
Q3.8.1	<i>Alltami Brook</i> IPs FCC	<ul style="list-style-type: none"> Are IPs satisfied with the design implications of the Applicant's options for the Alltami Brook embedded bridged crossing design brought around by the change requests? Does FCC have any comments in relation to the application of green wedge policy to the embedded pipe bridge crossing? Would that option be compliant with local policy? Please make whatever comments you deem to be appropriate.
9. Environmental Impact Assessment/ Environmental Statement		
Q3.9.1	<i>Water Resources/ crossings</i> NRW IPs	<ul style="list-style-type: none"> The Applicant considers, via its Options Appraisal [REP3-039], that the assessment for the embedded pipe bridge option referred to in the Examination (on a without prejudice basis) demonstrates it is not significantly better in environmental terms, and therefore derogation for the trenched crossing should be granted. Do parties agree or disagree? Please provide a fully detailed response.
10. Flood Risk, Hydrology, Water Resources and Contamination		
Q3.10.1	<i>Water Resources</i> NRW Environment Agency (EA) FCC CWCC	<ul style="list-style-type: none"> The Applicant's WFD Assessment (Appendix 18.3, Volume III) (updated at DL4) has screened for both the potential construction and operational impacts of the DCO Proposed Development upon WFD water bodies for main rivers, canals, ordinary watercourses, transitional waterbodies, and objectives from the North-West and Dee River Basin Management Plans (RBMP) and groundwater resources. This includes identifying likely risks to biodiversity, the biological, physio-chemical and hydro-morphological quality of WFD water bodies (including River Dee, River Gowy, Stanney Mill Brook, Shropshire Union Canal, Finchetts Gutter, Sandycroft Drain, Wepre

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	<p>Welsh Government IPs</p>	<p>Brook), nearby ordinary watercourses and groundwater quality, and the likely ability of good-practice methods to manage risks associated with pollutants typically experienced during the construction and operational phase.</p> <ul style="list-style-type: none"> • Are there any shortcomings in the Applicant’s WFD Assessment remaining? If so, explain/ clarify what those specific shortcomings are. • Outline any remaining areas of disagreement with the conclusions of the Applicant’s WFD Assessment giving your full/ specific reasons as to why disagreement remains.
<p>Q3.10.2</p>	<p><i>Water Resources</i> NRW EA FCC CWCC Welsh Government IPs</p>	<ul style="list-style-type: none"> • In your overall view would the Applicant’s development proposal meet the requirements of the WFD with its preferred crossing method? If not, is the alternative crossing proposed by the Applicant considered to be feasible in terms of meeting the requirements of the WFD? If not, please state why not. • If one or both crossing methods be considered not to be compliant, please comment as to how the Applicant would be able to make the scheme WFD compliant.
<p>Q3.10.3</p>	<p><i>Water Resources – Alltami Brook</i> NRW FCC Welsh Government IPs</p>	<ul style="list-style-type: none"> • Do you have any areas of disagreement with the findings of the Applicant’s Without Prejudice WFD Derogation Case for Alltami Brook Crossing [REP5-016] submitted at DL5? • If so, please specify what specific areas of disagreement remain and the reasons.
<p>Q3.10.4</p>	<p><i>Water Resources – Alltami Brook</i> IPs</p>	<ul style="list-style-type: none"> • Do you disagree with any conclusion contained in the Applicant’s document entitled Hydrogeological Impact Appraisal of Open Cut Crossing - Alltami Brook [REP5-014]? If so, please state what is disagreed with and why.
<p>Q3.10.5</p>	<p><i>Water Resources</i> Applicant</p>	<ul style="list-style-type: none"> • The EA at DL4 noted the commitment, under the REAC [REP2-017], to reinstate all channel and banks <i>'to mimic baseline conditions as far as practicable to ensure more natural bank forms and in-channel features and morphological diversity'</i> (ES ref. D-BD-048) impacted by the proposed construction of the pipeline. • The EA advise, in the event it is found not to be possible/ practicable to reinstate habitats to former conditions, compensatory measures must be sought within the same

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		<p>WFD water body. The ExA requests this is acknowledged within the REAC [REP6-006]. Accordingly, can that additional provision be committed to and demonstrated as being secured in the REAC?</p>
Q3.10.6	<p><i>Water Resources</i> Applicant</p>	<ul style="list-style-type: none"> • The ExA notes the overall aim of the WFD is to enhance the status of all water bodies and their ecosystems. In line with this, it is strongly recommended that the Applicant seeks opportunities for enhancement, where practicable and in addition to those already outlined, where trenched crossings are proposed on watercourses. • Thus, all relevant mitigation measures and enhancement proposals should be documented within the WFD assessment, including how the proposed measures contribute to the objectives of the North-West RBMP. Can the Applicant signpost or further evidence this information?
Q3.10.7	<p><i>Water Resources</i> Applicant</p>	<ul style="list-style-type: none"> • The EA note there is an aspiration for the restoration of the River Gowy to be delivered as one of the WFD mitigation measures under the North-West RBMP. The Applicant must make suitable provisions and actions to support and alter the pipeline route/ depth to ensure any potential future works on the River Gowy are achievable. Can the Applicant clarify how it would fulfil this commitment through DCO provisions?
Q3.10.8	<p><i>Water Resources / Ground Investigation/ Contamination</i> Applicant</p>	<ul style="list-style-type: none"> • The EA advise that they require the majority of the intrusive ground investigation and assessment work to be carried out prior to the detailed designed stage to ensure such information on local environmental conditions is fully understood and to assist in informing the detailed design stage of the project. Without such information in detail, the EA state it is unable to advise on a number of environmental issues ranging from, but not limited to: risk; appropriate pipeline layout (inc. depth) groundwater and surface protection; waste and soils management; and contamination, including possible remediation solutions. • The Applicant is requested to further justify its approach to dealing with these uncertainties alongside the specific wording of the Requirements applicable.
<p>11. Habitats Regulations Assessment</p>		
Q3.11.1	<p>Applicant</p>	<ul style="list-style-type: none"> • Can the Applicant confirm whether the conclusions of the submitted Habitats Regulations Assessment Report (HRAR) [APP-226] updated at DL4 [REP4-243] would be altered further owing to any further change(s) being considered within the Examination? If it is to be altered, please provide an update.

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ExQ3	Question to:	Question:
		<ul style="list-style-type: none"> The ExA notes, following the submission of the draft SoCG with NRW [REP6-028], received at DL6, the Applicant may have issued an updated draft HRAR to NRW that has addressed their concerns about GCN dispersal distances. However, an updated HRAR that reflects this does not appear to have been entered into the Examination. Can the Applicant clarify and provide an update to the HRAR, as required?
12. Landscape and Visual		
Q3.12.1	<p><i>Alltami Brook</i></p> <p>NRW</p> <p>FCC</p> <p>IPs</p>	<ul style="list-style-type: none"> Are IPs satisfied in regard to the landscape and visual impacts of the alternative option related to the crossing of the Alltami Brook (ie the embedded pipe crossing proposal), which has been entered into the Examination for consideration. Do NRW, FCC or IPs have a view on whether the Applicant has fully considered this option and proposed suitable mitigation in relation to it, where appropriate?
13. Mineral Resources		
Q3.13.1	N/A	<ul style="list-style-type: none"> No further comments at this stage.
14. Noise and Vibration		
Q3.14.1	N/A	<ul style="list-style-type: none"> No further questions at this stage.
15. Planning Policy		
Q3.15.1	Applicant	<ul style="list-style-type: none"> ES Chapter 9 Paragraph 9.2.43 states '<i>It should be noted that the FCC Local Development Plan 2015-2030 was adopted on 24 January 2023. The following current draft policies of relevance in assessing the DCO Proposed Development include:-</i> <ul style="list-style-type: none"> - STR13: Natural and Built Environment, Green Networks and Infrastructure; - EN6: Sites of Biodiversity and Geodiversity Importance - EN7: Development Affecting Trees, Woodlands and Hedgerows - EN11: Green Wedges' The ExA takes the inclusion of the word 'draft' to be an error. For clarification does the Applicant agree the policies are no longer draft?
16. Socio-economic Effects, Including Population and Human Health		
Q3.16.1	N/A	<ul style="list-style-type: none"> No further questions at this stage.
17. Transportation and Traffic		

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ExQ3	Question to:	Question:
Q3.17.1	N/A	<ul style="list-style-type: none"> No further questions at this stage.
18. Waste Management		
Q3.18.1	N/A	<ul style="list-style-type: none"> No further questions at this stage.
19. Draft Development Consent Order		
Q3.19.1	<i>Protective Provisions</i> Applicant	<ul style="list-style-type: none"> Please provide an update in relation to discussions concerning all Protective Provisions which are not yet agreed with the relevant IPs.
Q3.19.2	<i>Protective Provisions/ Water Resources</i> Applicant EA NRW	<ul style="list-style-type: none"> Clarify the protective provisions available (for construction and operation) for the EA and NRW which will ensure the development will not jeopardise the attainment of 'good status' in future under the WFD. EA and NRW please state specifically any additional DCO inclusion(s) needed to achieve the above aim.
Q3.19.3	<i>Requirement 4</i> NRW EA IPs Applicant	<ul style="list-style-type: none"> The ExA notes the Applicant's preference for a trenched crossing of Alltami Brook alongside flexibility to implement an embedded pipe bridge crossing should the ExA, or the Secretary of State (SoS), disagree with the applicant's preferred crossing option. Are IPs satisfied with the current wording of Requirement 4 detailed in the Applicant's draft DCO [REP4-008] to facilitate different Alltami Brook crossings? If you are not satisfied with the wording of Requirement 4, please set out the wording you wish to be included. Can the Applicant further justify the wording of Requirement 4 in the event the ExA or the SoS were to find either of the options tabled for the Alltami Brook crossing to be unsuitable. In such circumstances how does the present draft DCO allow an unsuitable crossing option to be negated/ discounted by the recommendation/ decision maker without a further recommended DCO being consulted upon? In the event that the Applicant's current preferred options for the Alltami Brook crossing be found unsuitable, the ExA requests the Applicant provide an alternate draft DCO that only includes the alternative option (ie the embedded pipe bridge crossing).
Q3.19.4	<i>Requirement 9</i> Applicant	<ul style="list-style-type: none"> Draft DCO [CR3-008] Requirement 9(5) includes provision for the submission of a verification report following completion of works. However, as currently worded, the

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ExQ3	Question to:	Question:
		<p>verification report would not need approval in writing by the relevant Planning Authority. Please review and amend, as necessary.</p>
Q3.19.5	<p><i>Requirement 16</i> Applicant</p>	<ul style="list-style-type: none"> • The Applicant’s stated intention is to mimic baseline conditions ‘as far as practicable’ where proposed works impacts channels and banks. • The EA request provisions are included in the REAC to ensure: <ul style="list-style-type: none"> ○ where reinstatement to baseline condition is not ‘practicable’; and ○ where ‘such other condition’, as in the current wording of DCO Requirement 16, is implemented, <p>that compensatory measures for watercourses/ flood defence structures, impacted by proposed trenched crossings, may be necessary and are secured. The ExA takes the view this approach would be reasonable.</p> • Can the Applicant: <ul style="list-style-type: none"> ○ Confirm the inclusion of the above in the REAC. ○ Provide further clarity on the definition of ‘such other condition’ and confirm what compensatory measures will be considered in the event reinstatement to baseline conditions is found not to be feasible; ○ Confirm that where trenched crossings on watercourses are proposed, enhancements will be provided, where possible, as part of the reinstatement proposals. ○ Provide details of how the above measures are to be secured by the draft DCO.
Q3.19.6	<p><i>Requirement 18</i> Applicant</p>	<ul style="list-style-type: none"> • The Decommissioning Environmental Management Plan, as detailed in Requirement 18, should be supported by a WFD Assessment, where necessary, to demonstrate decommissioning proposals are WFD compliant and would not result in a detriment to WFD classification or hinder objectives to attain ‘good status’. Can the Applicant confirm its agreement to that approach and amend the Requirement, as appropriate?
<p>20. Other</p>		

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ExQ3	Question to:	Question:
Q3.20.1	<i>Information</i> Applicant/ Welsh Government	<ul style="list-style-type: none">• The Infrastructure (Wales) Bill was published on 12 June 2023. What implications, if any, arise from the introduction of this Bill and its passage through the Senedd in regard to the ExAs consideration of this DCO Application or by the SoS thereafter? Please provide a fully reasoned response.• Reference to The Historic Environment (Wales) Act 2016 contained within the ES at Chapter 8 (Cultural Heritage) is noted. However, the ExA notes The Historic Environment (Wales) Act 2023 received Royal Assent on 14 June 2023. Whilst this Act will not come into force until supporting secondary legislation has been made, what implications, if any, arise from this Act in regard to the ExAs consideration of this DCO Application? Please provide a fully reasoned response.• The ExA notes consultation has begun on Wales's first statutory national strategy on soundscapes, which retains and refines the core messages of the Noise and Soundscape Action Plan 2018-2023. It also highlights developments in planning policy and guidance and the potential for a new Technical Advice Note (TAN) 11, together with related soundscape design guidance, which may result in a requirement for noise and soundscape design statements. What implications, if any, arise from this consultation document in regard to the ExAs consideration of this DCO Application? Please provide a fully reasoned response.
Q3.20.2	<i>Information</i> Applicant/ NRW	<ul style="list-style-type: none">• The ExA notes that the Marine Licence (ML) application was withdrawn at the request of NRW, with a view to it being resubmitted once the information originally presented is in an acceptable form to it. Please update the ExA with regard to progress on the ML, when the ML Application is to be resubmitted and when it is anticipated the ML may be issued.
Q3.20.3	<i>Information</i> Applicant/ CWCC/ Rostons Ltd	<ul style="list-style-type: none">• REP5-045 (Rostons Ltd) refer to the following submissions to CWCC: 22/04248 (EIA Screening); and 23/01234 (Pre-App). Please could the IPs listed provide an update in relation to these submissions, including their current status, as well as providing copies of relevant letters, documents and/ or decisions issued in regard to these submissions by CWCC. If it is not possible to supply these items, please explain why.
Q3.20.4	<i>Safety</i> Health and Safety Executive (HSE)	<ul style="list-style-type: none">• No response to ExQ1 Q1.20.2 or Q1.20.3 or ExQ2 Q2.20.2 has been received from the HSE. The ExA invites it to respond now. Additionally, the ExA would ask whether the HSE intends to designate the Proposed Development as a Major Accident Hazard

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ExQ3	Question to:	Question:
		Pipeline, or similar designation, which would generate a consultation zone with associated land use restrictions?