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05/09/23

Dear Sir/Madam,

**PIBLINELL CARBON DEUOCSID HYNET ARFAETHEDIG / PROPOSED HYNET
CARBON DIOXIDE PIPELINE**

RE: NATURAL RESOURCES WALES' DEADLINE 7 SUBMISSION

This letter comprises Natural Resources Wales (NRW)'s responses to the following documents:

- i. The Examining Authority's Report on the Implications for European Sites [OD-008] – see Annex A;
- ii. The Examining Authority's third round of written questions and requests for information (ExQ3) [PD-027] – see Annex B.

The comments provided in this submission comprise NRW's response as a Statutory Party under the Planning Act 2008 and Infrastructure Planning (Interested Parties) Regulations 2015 and as an 'interested party' under s102(1) of the Planning Act 2008.

Our comments are made without prejudice to any further comments NRW may wish to make in relation to this application and examination whether in relation to the ES, provisions of the draft DCO and its Requirements, SoCG or other evidence and documents provided by Liverpool Bay CCS Ltd. and their consultants ('the Applicant'), the Examining Authority or other interested parties.

In addition to being an interested party under the Planning Act 2008, NRW exercises functions under legislation as detailed in the cover letter of NRW's Deadline 1 Written Representations [REP1-071].

Please do not hesitate to contact Chris Jones should you require further advice or information regarding these representations.

Yours sincerely,

Chris Jones

**Uwch Gynghorydd – Cynllunio Datblygu / Senior Advisor – Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales**

[CONTINUED]

ANNEX A: NRW response to the Examining Authority's Report on the Implications for European Sites [OD-008]

- 1.1 NRW has reviewed the Examining Authority's Report on the Implications for European Sites [OD-008] where relevant to Wales. The following sites have been considered:
 - River Dee and Bala Lake/Afon Dyfrdwy a Llyn Tegid Special Area of Conservation (SAC)
 - Deeside and Buckley Newt Sites SAC
 - Halkyn Mountain/Mynydd Helygain SAC
 - Dee Estuary/Aber Dyfrdwy SAC/Special Protection Area/Ramsar site
 - Alyn Valley Woods/Coedwigoedd Dyffryn Alun SAC
- 1.2 NRW concurs with the assessment of effects associated with the above sites.
- 1.3 In response to question reference ID 2 (Table 4.1 of the RIES), NRW concurs with the Applicant's revised assessment criteria and conclusions based on their consideration of the 1.6km Great Crested Newt (GCN) dispersal distance.
- 1.4 Table 4.1 of the RIES refers to the Deeside and Buckley Newt Sites SAC only. However, the 1.6km GCN dispersal distance also applies to the Halkyn Mountain/Mynydd Helygain SAC, for which GCN are a feature. NRW advises that the conclusions of the assessment will remain the same when a revised dispersal distance of 1.6km is considered for this site.
- 1.5 NRW has no further comments to make regarding the RIES.

Annex B: NRW responses to the Examining Authority's third round of written questions and requests for information (ExQ3) [PD-027]

ANNEX B – RESPONSES TO EXAMINING AUTHORITY’S QUESTIONS (ROUND 3)

Please find below NRW’s responses (right hand column) to the Examining Authority’s third round of questions:

Reference	Respondent:	Question:	NRW Response:
1. General and Cross Topic Questions			
Q3.1.3	Natural Resources Wales (NRW) Flintshire County Council (FCC) Welsh Government IPs	<p><i>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?</i></p> <p><i>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.</i></p> <p><i>In your view would environmental considerations towards nature and the water environment also form part of the cultural expectations indicated in the Act?</i></p> <p><i>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</i></p>	<p>NRW confirms that the memorandum of understanding between NRW and the Arts Council of Wales is still currently active and live projects are being implemented. This supports the cultural link to the environment.</p> <p>Projects are being implemented across Wales such as Round 2 of Future Wales Fellowship with applications being sought in August 2023 for eight artists to explore the theme of “connection to nature” across Wales, the Dyffryn Dyfodol collaboration with creative people in July 2023, and in 2022 a peatland exhibition and artwork in Tregaron which was developed with local people to visualise local peat bog restoration.</p> <p>The Area Statement for North-east Wales is hosted on NRW’s website and is a material consideration for planning matters. NRW led engagement events to develop this Area Statement and from these it was clear that putting communities at the heart of the Area Statement process had a great deal of support from a</p>

		<p><i>considering the definitions and terminology applicable within the Act.</i></p> <p><i>Do you think the Applicant has done enough to meet the cultural expectations triggered by the scheme?</i></p>	<p>wide range of stakeholders. Broadening the depth of involvement at a local level is key to delivering the opportunities in the Area Statement. There was support for nature-based solutions, renewable energy, well-being, language, and culture, together with developing opportunities for outdoor tourism. These 'sub-themes' are entwined across all five themes of the Area Statements.</p> <p>Flintshire County Council and Wales Council for Voluntary Action, with Welsh Government Coastal Capacity Funding have enabled community groups and local organisations to be part of a series of films capturing Flintshire's coastal wildlife and community.</p> <p>The films cover a range of topics: Regeneration; Eat Well Cookery; Innovation; Activity and Volunteering; Short Supply Chains; Using the Dee; Well Fed; Wildlife; and History.</p> <p>The films highlight the importance of sustainable fishing, and NRW and RNLI Flint also feature in the films, outlining the importance of protecting, and using the Dee Estuary safely.</p> <p>NRW is satisfied that its advice is consistent with its general purpose of pursuing the sustainable management of natural resources in relation to Wales and applying the principles of sustainable management of natural resources. In particular, NRW acknowledges that the principles of sustainable management include taking account of all relevant</p>
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			evidence and gathering evidence in respect of uncertainties, and taking account of the short-, medium- and long-term consequences of actions. NRW further acknowledges that it is an objective of sustainable management to maintain and enhance the resilience of ecosystems and the benefits they provide and, in so doing meet the needs of present generations of people without compromising the ability of future generations to meet their needs and contribute to the achievement of the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015.
2. Assessment of Alternatives			
Q3.2.1	Applicant FCC Cheshire West and Chester Council (CWCC) NRW Woodland Trust IPs	<i>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:</i> <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 	NRW has previously referred the Applicant to its website for standing advice regarding development proposals affecting ancient woodland and advised that they consider this in addition to liaising with the relevant LPA's (Flintshire County Council) ecologist. NRW has no further comments regarding this matter.

		<p><i>Woodland itself, but work would be required within 15m of the Ancient Woodland.</i></p> <p><i>Applicant:</i></p> <ul style="list-style-type: none"> • <i>Having regard to proposed option PS02b, explain what specific work would be needed within the Ancient Woodland 15m buffer.</i> • <i>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.</i> • <i>What is the Applicant's present position on its most favoured option?</i> • <i>Is the Applicant's favoured position expected to be subject to further change?</i> <p><i>IPs:</i></p> <p><i>Please make whatever comments you consider necessary.</i></p>	
Q3.2.2	<p>Applicant</p> <p>FCC</p> <p>CWCC</p> <p>NRW</p> <p>Woodland Trust</p> <p>IPs</p>	<p><i>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:</i></p> <ul style="list-style-type: none"> • <i>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 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</i> 	<p>NRW notes that Backford Brook is located in England and therefore defers to the relevant English IPs for comment on this matter.</p>

	<p><i>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> <ul style="list-style-type: none"><i>• Can the Applicant further explain its reasons for its preferred Option relative to veteran tree protection and minimising loss or damage.</i><i>• Which Option would be least harmful to trees? Would Option 1 result in less harm to veteran trees than Option 2? Explain how.</i><i>• Is Option 1 now a fall-back position for the Applicant? If so, explain why.</i><i>• 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?</i> <p><i>IPs: Please make whatever comments you consider necessary.</i></p>	
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Q3.2.3	NRW FCC Welsh Government IPs	<p><i>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.</i></p> <p><i>• Do NRW and IPs agree with the Applicant's position? if not state why not.</i></p>	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue.</p> <p>NRW does not agree with the Applicant's position about the open trench method and considers that this method would result in permanent changes to the bedrock at this location. NRW advises that, in the absence of ground investigation information and assurance about the long-term maintenance of the grout filling, NRW does not have confidence in the Applicant's conclusion that there would be "<i>minimal long-term changes to flow</i>" at this location.</p> <p>Accordingly, NRW advises that there may be deterioration of the Wepre Brook water body. The ExA and SoS should only grant consent if satisfied that the provisions of the WFD / Regulations are satisfied. Therefore, in light of the fact that there may be a deterioration in status of the water body in respect of the open trench proposal, the Applicant must satisfy the derogation provisions. To date, in NRW's view, the Applicant has not done so.</p> <p>The reference to a culvert in the ExA's question appears to be erroneous – NRW understands that the Applicant's preferred open trench option involves excavating the bedrock and burying the pipeline at this location, rather than installing a culvert.</p>
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			Please refer to NRW's Deadline 6A Representation (REP6A-024) for our detailed comments regarding this matter.
Q3.2.4	NRW FCC IPs	<p><i>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.</i></p> <ul style="list-style-type: none"> <i>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.</i> <p><i>NRW:</i></p> <ul style="list-style-type: none"> <i>Would the embedded pipe option be a feasible alternative solution to overcome your concerns? Explain the reasons why or why not.</i> <i>Can the Applicant's supporting derogation case be successfully applied?</i> <p><i>IPs:</i></p> <ul style="list-style-type: none"> <i>Please make whatever comments you deem to be necessary.</i> 	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue.</p> <p>The Applicant has presented an alternative Alltami Brook crossing option (embedded pipe bridge) which, based on the information provided, would appear to be compliant with the WFD/Regulations and accordingly would not appear to NRW to need a derogation.</p> <p>NRW advises that the evidence provided by the Applicant in support of its WFD derogation case for its preferred open trench option is insufficient/inadequate to enable the ExA to conclude that a WFD derogation case can be made.</p>
Q3.2.5	NRW IPs	<p><i>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</i></p>	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue, particularly NRW's Deadline 6A Representation (REP6A-024).</p>

	<p>would still have significant temporary impacts on the watercourse.</p> <p>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> <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. • 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? 	<p>NRW notes that the Examining Authority's question refers to the "temporary" impacts of the Applicant's proposed open trench crossing of Alltami Brook. However, NRW advises that this proposal for excavation of the bedrock beneath Alltami Brook would result in a permanent, physical change to the watercourse.</p> <p>NRW considers there is inadequate evidence to demonstrate that a WFD derogation case can be made. NRW does not agree that the beneficial objectives served by the proposed modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option.</p> <p>The Applicant has presented an alternative crossing option (embedded pipe bridge) which would not appear to need a derogation and has failed to provide evidence to satisfy NRW that this would not be a significantly better environmental option.</p>
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5. Climate Change			
Q3.5.1	Applicant FCC CWCC IPs	<ul style="list-style-type: none"> • <i>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?</i> • <i>What are the known consequences of inadequate mitigation? For example, would existing soil carbon sequestration be significantly reduced in affected land areas?</i> • <i>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?</i> 	<p>NRW is not aware that there is any significant net soil carbon sequestration within the DCO application area.</p> <p>The planting of new hedgerows around the development would provide some marginal benefits in terms of additional carbon sequestration within the hedgerow and the below ground biomass but is unlikely to have a significant effect on the strengthening of existing microbial/fungal networks within the DCO application area.</p>
8. Design and Layout			
Q3.8.1	IPs FCC	<ul style="list-style-type: none"> • <i>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?</i> 	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue.</p>

		<ul style="list-style-type: none"> • 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. 	NRW has no objection to the Applicant's alternative embedded bridged crossing option for Alltami Brook.
9. Environmental Impact Assessment/ Environmental Statement			
Q3.9.1	NRW IPs	<i>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.</i>	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue, particularly NRW's Deadline 6A Representation (REP6A-024).</p> <p>NRW disagrees with the Applicant's conclusion. NRW considers there is inadequate evidence to demonstrate that a WFD derogation case can be made. NRW does not agree that the beneficial objectives served by the proposed modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option.</p>
10. Flood Risk, Hydrology, Water Resources and Contamination			
Q3.10.1	NRW Environment Agency (EA)	<i>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,</i>	The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue.

	<p>FCC</p> <p>CWCC</p> <p>Welsh Government</p> <p>IPs</p>	<p><i>transitional waterbodies, and objectives from the North-West and Dee River Basin Management Plans (RBMP) and groundwater resources.</i></p> <p><i>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 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.</i></p> <ul style="list-style-type: none"> • <i>Are there any shortcomings in the Applicant's WFD Assessment remaining? If so, explain/ clarify what those specific shortcomings are.</i> • <i>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.</i> 	<p>NRW disagrees with the conclusions of the Applicant's WFD compliance assessment. NRW considers that there may be deterioration of Wepre Brook water body, as a result of the proposed open-cut crossing of Alltami Brook. This is because there is a risk that excavating bedrock for the proposed Alltami Brook open-cut crossing could create a pathway for surface water to be lost to the ground/contaminated mine workings; this could cause water courses to dry up downstream.</p> <p>NRW considers there is inadequate evidence to demonstrate that a WFD derogation case can be made. NRW does not agree that the beneficial objectives served by the proposed open cut/trenched modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option.</p>
Q3.10.2	<p>NRW</p> <p>EA</p> <p>FCC</p> <p>CWCC</p>	<ul style="list-style-type: none"> • <i>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.</i> 	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue, particularly NRW's Deadline 6A Representation (REP6A-024).</p> <p>NRW considers that there may be deterioration of Wepre Brook water body, as a result of the proposed open-cut crossing of Alltami Brook. This is because</p>

	<p>Welsh Government IPs</p>	<p>• <i>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.</i></p>	<p>there is a risk that excavating bedrock for the proposed Alltami Brook open-cut crossing could create a pathway for surface water to be lost to the ground/contaminated mine workings; this could cause water courses to dry up downstream.</p> <p>NRW considers there is inadequate evidence to demonstrate that a WFD derogation case can be made. NRW does not agree that the beneficial objectives served by the proposed open cut/trenched modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option.</p> <p>The Applicant has submitted an alternative crossing option (embedded pipe bridge). NRW has provided advice to the ExA about this [CR2RR-002]. In summary, based on the information provided, NRW considers that such an option would not result in deterioration in the status of the Wepre Brook water body and on that basis, would likely be compliant with the Water Framework Directive and Regulations. Therefore, NRW considers that a derogation under the respective provisions would not be required.</p>
<p>Q3.10.3</p>	<p>NRW FCC Welsh Government</p>	<p>• <i>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?</i></p>	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue, particularly NRW's Deadline 6A Representation (REP6A-024).</p>

	IPs	<ul style="list-style-type: none"> • <i>If so, please specify what specific areas of disagreement remain and the reasons.</i> 	<p>NRW considers there is inadequate evidence to demonstrate that a WFD derogation case can be made. NRW does not agree that the beneficial objectives served by the proposed open cut/trenched modifications to the Wepre Brook water body cannot, for reasons of technical feasibility or disproportionate cost, be achieved by other means, which are a significantly better environmental option.</p> <p>The Applicant has presented an alternative crossing option (embedded pipe bridge) which would not appear to need a derogation and has failed to provide evidence to satisfy NRW that this would not be a significantly better environmental option.</p>
Q3.10.4	IPs	<ul style="list-style-type: none"> • <i>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.</i> 	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue, particularly NRW's Deadline 6 Representation (REP6-049).</p> <p>NRW acknowledges that the Applicant has developed a conceptual model for the site of the Alltami Brook crossing. NRW advises that the geology of the Alltami Brook crossing location is complex. NRW does not agree with the Applicant's conclusion that there is a consistent bedrock groundwater contribution to the Alltami Brook in all locations (an upwards hydraulic gradient). In the absence of site-specific ground investigation data, NRW does not have confidence in the Applicant's conclusions.</p>

12. Landscape and Visual			
Q3.12.1	NRW FCC IPs	<ul style="list-style-type: none"> • <i>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?</i> 	NRW is not in a position to advise regarding local landscape and visual impacts. The relevant LPAs are better placed to advise on this matter.
19. Draft Development Consent Order			
Q3.19.2	Applicant EA NRW	<ul style="list-style-type: none"> • <i>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.</i> • <i>EA and NRW please state specifically any additional DCO inclusion(s) needed to achieve the above aim.</i> 	With regard to the Wepre Brook water body, NRW has not been provided with evidence of the existence of appropriate mitigation measures (whether by protective provisions or otherwise) to rule out deterioration and to overcome the requirement of a derogation.
Q3.19.3	NRW EA IPs Applicant	<ul style="list-style-type: none"> • <i>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.</i> • <i>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?</i> 	<p>The ExA should refer to NRW's previous advice and representations, which comprehensively address this issue.</p> <p>Regarding the wording of Requirement 4, NRW shares the ExA's concerns on the inclusion of provisions for the open cut trenching method at Alltami Brook. NRW considers that there may be deterioration of Wepre Brook water body as a result of such an approach. On that basis, a Development Consent Order should only be granted if a WFD</p>

		<ul style="list-style-type: none"> • <i>If you are not satisfied with the wording of Requirement 4, please set out the wording you wish to be included.</i> • <i>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?</i> • <i>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).</i> 	<p>derogation case can be made. NRW considers that the evidence submitted in support of a derogation is inadequate. Accordingly, the DCO should not include provisions for the open cut trenching at Alltami Brook. The Applicant should, as the ExA has recommended, provide an updated draft DCO for consideration which only includes reference to the embedded pipe bridge crossing.</p> <p>The ExA should also ensure that references to work plans are consistent insofar as they provide only for the embedded pipe bridge method in respect of Alltami Brook.</p> <p>However, if the ExA is minded to accept the Applicant's proposed approach in respect of the DCO so as to refer to a conditional or optional approach to the Alltami Brook crossing, NRW notes that there does not appear to be any reference to the 'ground investigation' work that is proposed to be completed to inform the detailed design of the Applicant's preferred open-cut Alltami Brook crossing option. NRW notes that Requirement 4 includes a 'geomorphological assessment' (sub-paragraphs 5 and 6) and advises that the ground investigation work should be explicitly referred to.</p>
Q3.20.2	Applicant/ NRW	<ul style="list-style-type: none"> • <i>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</i> 	<p>On the 21 June 2023, the Applicant withdrew its Marine Licence application for the works proposed under the River Dee. NRW confirms that the application was resubmitted on the 01 September</p>

		<i>ML, when the ML Application is to be resubmitted and when it is anticipated the ML may be issued.</i>	2023 and will now conduct its verification checks on the submitted information.
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