HyNet North West

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

Sigr	
Mart	
Director	
on behalf of Liverpool Bay CCS Limited	
Date: 8 September 2023	

Signed

Roger

Senior Surveyor on behalf of Network Rail England and Wales Date: 08/09/2023

TABLE OF CONTENTS

1.	INTR	ODUCTION	.4
	1.1.	Purpose of this document	.4
	1.2.	The DCO Proposed Development	.4
2.		ORD OF ENGAGEMENT	
3.	ISSU	ES	13

TABLES

Table 2-1 – Record of Engagement in relation to the Proposed Development	7
Table 3-1 – Engagement, ES & Other Application Documents	14
Table 3-2 – Issues related to Design and Assets	14
Table 3-3 – Issues related to Property	15
Table 3-4 – Issues related to the DCO Proposed Development - Draft DCO (including	
requirements to the draft DCO)	16

1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1. This 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 SoCG, the Applicant and NR will jointly be referred to as the 'Parties'.
- 1.1.3. The purpose of this 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 SoCG records the consultation undertaken with NR by the Applicant. **Chapter 3** of this 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 consolidated Environmental Statement (ES) [REP7-036], submitted at Deadline 7.

1.3. Terminology

1.3.1. 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.

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.

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

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

e requirements.

the DCO Proposed Development. These AGIs) and Emergency Shutdown Valves

equired consents for the rail crossings.

the various crossing points. NR advised ing. NR advised the Applicant in order to consultation would first be required and form. The Applicant requested the forms

for all UTXs on the Hynet DCO Project drogen Project).

across both Hynet Projects

med this to NR whilst also providing an

		Discussions and Outcomes
		NR was advised that a technical note demonstrating compliance (use of BVS, A crossing standards is under preparation.
03/11/2022	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	UTX Crossing Technical Note and progress of the DCO application
		Discussions and Outcomes
		The Applicant provided an update regarding the acceptance of the DCO application
08/11/2022	Email correspondence between NR and the	Key Topics
	Applicant	UTX Crossing Technical Note
		Discussions and Outcomes
		The Applicant shared the updated UTX Crossing Technical Note with NR.
01/12/2022	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	Geotechnical Investigation (GI) & Crossings technique
		Discussions and Outcomes
		All four crossings were discussed in detail with respect to GI and crossings method
		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	Key Topics
	Applicant	General project update
		Status of the compliance note
		NR technical documents
		Site visit
		Discussion and Outcomes
		The Applicant provided a project overview, DCO status, proposed pipeline r suggested that it will be requiring GI south of the 20" pipeline rail crossing. acknowledged by the Applicant.
		The Applicant enquired on typical NR timeline for crossings design review, consen documents received to date in minutes of meeting will be sent. NR to advise on f
		- NR-L2-CIV-177
		- NR-L1-CIV-094

, AGIs and ESDVs for isolation) with NR ation by the Planning Inspectorate. thodology route and overview of GI works. NR ng. The requirement for GI works was ents and approval. A List of NR technical further applicable documents.

		- NR/L2/CIV/044
		- NR/L1/CIV/0063
		- NR-L2-RSE-02009
		 NRPJA Seminar Paper Planning, Design and Construction of unde management
02/02/2023	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	General project update
		Status of the compliance note
		Statement of Common Ground (SoCG) and Protective Provisions
		Site visit
		• AOB
		Discussions and Outcomes
		The Applicant provided an overview of the current status of the DCO applic Provisions.
		A separate meeting is to be organised once a draft of SoCG has been sent to document, BAPA. This typically comes through the Town Planning team of NR documents can be shared to establish consensus.
		The Applicant informed that the SMI forms and associated plans were sent to Nasked to share all information so they can follow up with the Property Team.
02/02/2023	Email correspondence between NR and the Applicant	The Applicant shared the SMI forms and associated plans with the NR Asset I These were originally shared by the Applicant with the NR Property team in Aug
08/03/2023	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	 Project Update Status of the compliance note Site Visit SoCG
		Discussions and Outcomes
		The Applicant provided an overview of the current status of the DCO application been reviewed by NR and considered satisfactory and a derogation letter will be 20 April 2023. The Applicant advised that an SoCG will be shared with NR by the
17/03/2023	Email correspondence between NR and the Applicant	The Applicant shared the Rule 6 letter which was published by the Planning Ins 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 coordinate the Protective Provisions with Burges Salmon.

dertrack crossings and associated risk

lication, the draft SoCG and Protective

to NR. NR advised they have a similar R. The Applicant advised a draft of both

NR Property Team in August 2022. NR

et Protection - Project Interface Manager. ugust 2022 through WSP.

tion. The Technical compliance note has be issued. A Site Walkover is planned for the end of March.

nspectorate recently on their website and

ir solicitor with the Applicant so they can

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	 Project Update Status of the compliance note SoCG and Protective Provisions NR Property Interface Site Visit Discussions and Outcomes The Applicant shared the draft SoCG on screen and discussed content of the SoC
20/04/2023	Joint Site visit between the Applicant and NR	NR the latest version of the draft SoCG will be shared with feedback from NR exp Key Topics Joint Site Visit Discussions and Outcomes All crossings were visited by the Applicant with NR and the Applicant explained railway crossings.
04/05/2023	Microsoft Teams meeting between NR and the Applicant	
01/06/2023	Microsoft Teams meeting between NR and the Applicant	 Key Topics BAPA Protective Provisions SoCG Discussions and Outcomes The Applicant shared the SoCG on screen. NR asked if the Order Limits could The Applicant explained this is a worst-case scenario and can be refined at a late design stage commences. NR requested that the Applicant provide them with a where the Order Limits can be made narrower than the standard 100m.

oCG with NR. The Applicant also advised expected ahead of Deadline 1 (April 17th).

ned the crossing strategy/methods for the

ered by one Basic APA (BAPA) or more team.

nce (EMI) and whether this is relevant to gal team.

nt to send draft to NR for review.

Ild be reduced down from 100m corridor. ater stage in the project when the detailed any known obstacles around NR assets

		NR to review the SoCG tables in Chapter 3 on Land Interests, Property and A updated SoCG ahead of Deadline 4 for review and comment.
06/07/2023	Microsoft Teams meeting between NR and the Applicant	 Key Topics Asset crossing locations & Order Limits SoCG
		Discussions and Outcomes
		The Applicant advised they intend to submit the SoCG for Deadline 6 (18 July Property Team next week.
		NR asset managers have concerns over the 100m Order limit corridor. The App asset crossing locations and any known constraints. The Applicant confirmed the required to avoid restricting the Construction Contractor at detailed design stage summary /screengrab of the crossings to show overlap with other known utilities the the information provided is still indicative and not final at this stage.
		Trial holes and GI would be done once Construction Contractor on board in 2024
10/08/2023	Microsoft Teams meeting between NR and the Applicant	Key Topics Protective Provisions SoCG
		Discussions and Outcomes
		The Applicant sent updated Protective Provisions and Framework Agreement t being made on these.
		The Applicant shared the SoCG on screen and discussed each of the outstand have requested that the final SoCG is provided by Deadline 7 (5 September). The to NR to review and sign. A further meeting has been set up between NR and 16.08.23 to discuss the technical clearance requirements and boundaries of support NR asset crossings.
16/08/2023	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	Technical Clearances, BAPA and APA
		Discussions and Outcomes
		 Discussion centred on clarity that the application was for a BAPA w commencement of detailed design. NR have been discussing items internally and at the moment the inf stage of the process providing detailed discussions are held once the Applicant have indicated that we will have further discussions as need
23/08/2023	Microsoft Teams meeting between NR and the Applicant	Key Topics Technical Clearances

Assets. The Applicant will send NR an

ly). Follow up call may be required with

pplicant gave an overview of each of the the flexibility of the 100m corridor is still ge. The Applicant can provide NR with a s / constraints, although it was noted that

24.

t to NR on 9 August – good progress is

anding items. The Planning Inspectorate he Applicant will send the updated SoCG and the Applicant's design engineers on of the construction corridors needed, to

which will become an APA prior to the

information provided is sufficient for this e Contractor is onboard for the project. eded with NR.

		Discussions and Outcomes
		NR advised that the consultation on Technical Clearances will need to be re-run d 2-week window for stakeholders to respond). NR will aim to issue the Framew examination (20 September).
		Applicant to provide a summary statement of the pipeline specification (e.g. diam pipe operating pressure) external constraints on 100m Order Limits corridor, benc Limits flexibility is in place (aim to provide by 25.08.23). The Applicant will set up
30/08/2023	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	Outstanding SoCG items
		Discussions and Outcomes
		NR advised that the remaining 3 Technical Clearance application requests have a until 13.09.23 to respond. The Applicant confirmed that Protective Provisions ha to NR. Further discussions are due to take place on the draft lease/Heads of Terr
07/09/2023	Microsoft Teams meeting between NR and the	Key Topics
	Applicant	Outstanding SoCG items
		Discussions and Outcomes
		The Applicant shared the SoCG on screen and the Parties discussed the outs Applicant agreed they would draft some holding text for Item 3.1.2 on Land Use. getting the Property Agreement and Framework Agreement in place by the close of over the SoCG to NR for final signature.
i		1

n due to 6-month shelf life (approximately ework Agreement ahead of the close of

ameter, anticipated depth beneath track, enefits to both NR and project that Order up another meeting on 30.08.23

e been submitted and stakeholders have have been agreed and will send through erms.

utstanding items under discussion. The se. NR advised they are working towards se of examination. The Applicant will send

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 &	Conter Application Documents
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Ref.	Description of Matter	Current Position	Status
Engageme	nt		
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.	Agreed
		NR has been formally consulted on the application as required by the Planning Act 2008.	
Land			
NR 3.1.2	Land Use	The Parties are seeking to determine, where relevant, land rights and use.	Under Discussion
		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.	
		The Applicant and NR are continuing to engage positively over a Basic Asset Protection Agreement and voluntary commercial property agreement as referenced in Table 3-4 (Item NR 3.4.3) which will give sufficient protection to both parties' assets and will remove the need for Compulsory Acquisition Powers to be exercised. Those agreements are being progressed. The Parties have not identified any in-principle impediment to those agreements being completed and they continue to work through the process. The Parties will continue to progress these agreements with a view to them being completed as soon as practicable.	
Other appli	ication documents		
NR 3.1.4	Other application documents	NR agrees that its interests are correctly reflected in the Book of Reference [REP7-025].	Agreed

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.	Agreed
		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.	

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 adj 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 Applicant to enter into an Asset Protection Agreement (APA) to ensure the appropriate and necessary technical and safety requirements for working on or near NR's operational railway are applied to the DCO Proposed Deve Applicant is agreeable in principle to entering into an APA but requires to review the standard terms for that before
		NR has provided the Applicant with its required Protective Provisions and draft of the required Framework Agreement the direct interface that the DCO has with the operational railway. The Framework Agreement will append the BA (once completed), the Protective Provisions, the Clearance Conditions and the Property Agreement. The Applican reviewing these documents and will provide comments in due course. The Applicant will continue to engage with Protective Provisions and protection of assets.
		A Basic Asset Protection Agreement ('BAPA') has been agreed. The BAPA shall be appended to the Framewo together with an APA once it has been completed.
		NR confirmed to the Applicant on 10 August 2023 that they would require the Agreement to be in the form of a However, in advance of commencing detailed design (and subsequent implementation), an APA would need to be confirmed the APA would supersede the BAPA.
		NR will aim to issue the Framework Agreement ahead of the close of examination (20 September).

Table 3-3 – Issues related to Property

Ref.	Description of Matter	Current Position	Status
NR 3.3.1	NR Internal Consultation (Technical Clearance)	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.	
		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.	
		To date one Technical Clearance application and four business clearances have been fully approved by NR. There is one technical clearance application that has been approved, there are currently three Technical Clearance applications still to be approved. NR advised that the consultation on Technical Clearances will need to be re-run (requiring approximately a 2-week window for its Route Asset Manager stakeholders to respond).	
		NR advised that the Technical Clearance requests have been submitted for the remaining three applications and stakeholder responses are anticipated to be received by 13 September 2023.	
		This SoCG item will remain under discussion until this has been resolved. This process is continuing as normal as of Deadline 8.	

djacent to NR's	Agreed
so requires the al, engineering velopment. The ore confirming.	
nent to manage BAPA, the APA cant is currently h NR regarding	
ork Agreement	
a BAPA initially. be in place. NR	

Ref.	Description of Matter	Current Position	Status
NR 3.4.1	Draft DCO Articles	NR does not object in principle to the DCO Proposed Development.	Under Discussion
		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 [REP7-013] 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.	
		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.	
		As of Deadline 8, NR maintains its objection, NR will only withdraw its objection upon completion of the Framework Agreement with the appended Protective Provisions.	
NR 3.4.2	Protective Provisions	A set of draft Protective Provisions was circulated by Network Rail and following discussions between Network Rail and the Applicant it was confirmed on 30 August 2023 that the Protective Provisions were now agreed between the parties. Network Rail will require the Applicant to append the agreed Protective Provisions to the Framework Agreement.	
NR 3.4.3	Property Agreement	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.	Under Discussion
NR 3.4.4	Framework Agreement	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.	Under Discussion
		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 (once completed), the Property Agreement and Network Rail's Clearance Conditions.	