Christopher Butler
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our ref: SO/2023/123043/09-L01
Your ref: EN070007

Date: 11 September 2023

Dear Mr Butler,

APPLICATION BY LIVERPOOL BAY CCS LIMITED FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE HYNET CARBON DIOXIDE PIPELINE SCHEME

ENVIRONMENT AGENCY DEADLINE 8 (12TH SEPTEMBER 2023) SUBMISSION

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECT – HYNET CARBON DIOXIDE PIPELINE

Thank you for the further opportunity to provide comments under Deadline 8 of the Hynet Carbon Dioxide Pipeline Scheme Development Consent Order (DCO) Examination.

Please see below the EA's closing statement on the Hynet Carbon Dioxide Pipeline Scheme Development Consent Order Examination.

Contaminated Land

The EA has been engaging with the Hynet Carbon Dioxide Pipeline project team in relation to contaminated land matters. We note the Applicant has submitted a Ground Investigation Technical Report [REP7-293] to address the matters raised by the EA. The primary aim of the report and approaches are to address land contamination (artificial and/or anthropogenic) and to either manage or reduce the impact from land contamination now and in the future. As a part of that, supported by the Part 2A legislation, is a concurrent need to ensure that no knew significant contaminant linkages are introduced as a result of the new development.

We acknowledge the position for the preliminary ground investigation work package has identified the wider, generic, conditions on site and that where access has been made available intrusive works have been identified for the ground conditions at that point where those points have been largely associated with the above ground infrastructure locations (AGI/BVS locations).

The EA accept that the majority of the pipeline passes through land that has no identified industrial land uses therefore the likelihood of significant anthropogenic contamination sources is low but this does not include the possibility of naturally occurring levels of contamination (as identified in the Gov.uk guidance on LCRM: LCRM: Stage 1 risk assessment - GOV.UK (www.gov.uk)). We would also draw the Examining Authority's attention to Paragraph 003 of the gov.uk 'Land affected by Contamination' Guidance: Land affected by contamination - GOV.UK (www.gov.uk). Further to this, there are agricultural land uses and uses not identified on historic maps

which may introduce raised concentrations of contamination, requiring further detailed assessment and remediation where necessary. We recognise these relevant risks could increase with works associated with the pipeline construction (i.e. dewatering; waste; soil and materials management plans).

The Ground Investigation Technical Report [REP7-293] establishes areas for targeted investigation for 'point sources' based on the existing site investigation work and does not include any additional technical information. Given the nature of the development we disagree with this approach as sources may be linear as well as in the form of point sources, especially where impacted (shallow) groundwater is found to be present. We recognise the references to the appropriate British Standard (BS5930:2015); British Standard 10175 (BS10175:2011); and the Land Contamination Risk Management (LCRM, 2023). However, these are abstracts from the larger and more detailed guidance documents that recognises the need to develop from the preliminary investigation stage an investigation that reflects the extent / parameters of the final development which is a linear feature of considerable length that impacts on multiple / varied environmental receptors and therefore, should be statistically relevant in terms of density and distribution.

The EA has highlighted to the Applicant that the investigation holes within 500m centres is not sufficient and there are sections of the development where there are only one or two sampling points located within the pipeline corridor. Therefore, whilst we acknowledge the Applicant has identified in the Technical Report [REP7-293] additional areas for investigation (plots 1-25; 4-12; 8-10 and 8-12 in the Land Plans [REP7-008]), the EA's position remains that additional ground investigation and assessment work wider to the plots identified is required to ensure a sufficient understanding of the site characterisation for the pipeline route and to demonstrate the risks to 'controlled waters' can be appropriately managed within the Order Limits. We advise to manage contamination under the 'unexpected contamination' approach is only appropriate when the site has been sufficiently investigated and an understanding of the site characteristics determines the site is low risk.

We advise under Register of Environmental Actions and Commitments (REAC) [REP7-237] ES ref. D-LS-020 and to some extent ES ref. D-LS-021, references are made to further investigation and assessment based on 'point sources' of contamination. As above, we disagree with this approach as sources may be linear as well as in the form of point sources. Therefore, adding further weight to the need for additional ground investigation to bridge information gaps and support an improved understanding of ground conditions along the linear length of the development.

We note the inclusion of DCO Requirement 9 within the Draft Development Consent Order(s) [REP7-013] [REP7-014]. We would advise the Examining Authority this does not sufficiently address the EA's concerns.

With regards to the Stanlow Manufacturing Complex, we note the Applicant has included under DCO Requirement 9 Part A [REP7-013] [REP7-014] a specific requirement for Land plots 3-11; 3-12; 3-13; 3-14 and 3-15 [REP7-008]. The proposed approach has been established due to the likely ground conditions and the permitting matters associated with the current site operator.

The EA has advised the Applicant previously and would raise to the Examining Authority, that under the Environmental Permitting regime, when surrendering a permit (or partial), the EA in its role as an environmental regulator would require the current permit holder to remediate contamination as a result of the activities under the

operational permit to a satisfactory state (based on the baseline information that may be present for the site) similar or identical to the time when the permit was issued. Therefore, this may differ greatly from the condition we would require land contamination to be addressed under the LCRM for the purposes of the end use of the development under the DCO. Under the DCO process when considering the Stanlow Manufacturing Complex, it will need to be demonstrated that contamination within the Order Limits has been sufficiently characterised and will be remediated sufficiently for the purposes of its end use. It is up to the Applicant to submit sufficient information through the DCO process and not for the EA to provide such confirmation, particularly given the above context with regards to the Environmental Permitting regime. Therefore, the EA consider (2) of DCO Requirement 9 inappropriate.

Further to the above, we do not agree with the focus on land plots 3-11, 3-12, 3-13, 3-14 and 3-15 [REP7-008] in this area. Having reviewed the Land Plans [REP7-008], we have identified further land parcels (3-04 to 3-10) within the Stanlow Manufacturing complex which will likely be impacted by historical contamination. We note the Applicant has not considered these Parcels within the Ground Investigation Technical Report [REP7-293]. Therefore, additional site investigation work and assessment would be expected to establish site conditions and determine whether remedial works are necessary in this area.

Whilst contamination issues at Stanlow may be considered complex, the EA does not consider it necessary to treat the Stanlow Manufacturing Complex separately to the wider pipeline development when considering the principles of managing contaminated land. A DCO Requirement requiring the submission and approval of site investigation / assessment work; and, where necessary, remediation strategy(s); validation plan(s) and subsequent verification prior to the commencement of development for each stage is considered appropriate from the EA's perspective.

We welcome the inclusion of Part C of DCO Requirement 9 [REP7-013] [REP7-014] relating to the management of 'unexpected contamination'. We advise, however, that any works in the event contamination is found at any time then works for that stage should stop in the first instance and reported to the relevant authority. Further to this, we advise that the determination of whether remedial works are required will be informed by the site investigation and assessment undertaken.

As in the EA's Deadline 4 response [REP4-279], the EA's position remains that the Applicant should submit a verification report to demonstrate remedial works have been successful.

The EA advise the Examining Authority that we are unable to agree that the risks to 'controlled waters' from the development will be appropriately managed without an appropriately worded DCO Requirement. The EA's position remains that additional site investigation and assessment is required to ensure the area within the Order Limits is conceptualised appropriately and, where necessary, remedial works are undertaken to ensure the protection of 'controlled waters'. We advise that the EA recognise that this can be undertaken in stages and recommend that any additional site investigation and assessment work informs the stages of the work intended to be submitted under DCO Requirement 3 to ensure contamination, where identified, is managed effectively [REP7-013] [REP7-014]. Therefore, we request consideration is given to the following DCO Requirement to ensure such works are undertaken and sufficient remediation / pollution control measures are established for submission and approval to the relevant authority, in consultation with the Environment Agency:

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9 (1) *– No stage of the authorised development is to commence until for that stage a remediation strategy or, if remediation is not required, a design statement to deal with the risks associated with contamination of the site has been submitted to and approved by the relevant authority, in consultation with the Environment Agency.*

(2) *No authorised development for each stage may commence until additional site investigation and risk assessment is undertaken of the risk to all receptors that may be affected, including those off-site, has been submitted and approved in writing by the relevant authority, in consultation with the Environment Agency.*

(3) *Where remediation is found to be necessary based on (2), no authorised development may commence for that stage, until an options appraisal and remediation strategy is submitted to and approved in writing by the relevant authority, in consultation with the Environment Agency, giving full details of:*

> ***(a)*** *remediation measures required to render the land fit for its intended purpose and how they are to be undertaken; and*
>
> ***(b)*** *a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy under subparagraph (a) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*
>
> ***(c)*** *construction measures to control or prevent the release or potential release of contamination as a result of the works.*

The scheme shall be implemented as approved. Any changes to these components require the written consent of the relevant authority, in consultation with the Environment Agency.

(4) *If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the relevant authority), for that stage, shall be carried out until an updated remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by the relevant authority, in consultation with the Environment Agency.* [or similar wording to Part C of DCO Requirement 9 including recognition of the EA's comments provided above]

We advise the Examining Authority that this matter has been highlighted as 'Not Agreed' under our Statement of Common Ground with the Applicant.

Water Framework Directive (WFD)

The EA has undertaken a review of the revised Water Framework Directive Assessment [REP7-174] to supersede the EA's Deadline 7 submission [REP7-309]

We welcome Table 5.15 which reviews HMWB mitigation measures assigned to the Gowy (Milton Brook to Mersey) water body and an associated assessment to demonstrate that the scheme will not prevent the delivery of these measures. Note the proposal to maintain the pipeline 1.2m below the bed level beneath the Gowy for up to 100m of the left bank floodplain, which should be considered a minimum depth subject to further information at the detailed design stage. The extent to which the pipeline is maintained at this depth as a minimum should be evidence based, taking into account

ground conditions of the area, and reviewed at detailed design in consultation with the EA. We welcome the additional assessment to inform an appropriate pipeline crossing depth to ensure the delivery of mitigation measure 'MMA We1075: remove obsolete structure' is not precluded. This assessment should be revisited at the detailed design to ensure conclusions are accurate, with the acknowledgement that topographic data may be required to support conclusions as it is noted that the assessment is currently based on LiDAR data.

We welcome the Applicant's intention, under Deadline 8, to submit a revised Outline Surface Water Management and Monitoring Plan and WFD Assessment where the Applicant intends to undertake a confirmatory review of the WFD Assessment to ensure the proposed development does not undermine WFD objectives; compromise delivery of HMWB WFD mitigation measures and a reassessment of the cumulative impacts.

Whilst the EA welcome this confirmatory review, the EA note this does not specifically address the concern raised with regards to channel and banks of open-cut crossings which '*will be reinstated to mimic baseline conditions as far as practicable*' within the REAC [REP7-237] (Es ref. D-BD-048). Given the scale of the proposals and numerous watercourse crossings, it is the EA's position that without further detail to clarify what the reinstatement works would entail, which will be established at the detailed design stage, and without a REAC measure to ensure mitigation / compensation is further considered at the detailed design stage in the event reinstatement is not feasible, that the EA has no assurance there will be no potential impact on the WFD status of water bodies achieving 'good status', particularly where cumulative impacts may occur. It is recognised that the Landscape and Ecological Management Plan is intended to encompass measures for the reinstatement and creation of habitats along riparian corridors. The EA have advised the Applicant that the preferred approach to address this matter is for the confirmatory review of the WFD Assessment should be used to inform the Landscape and Ecological Management Plan (as intended to be secured under a DCO Requirement).

We further note in the revision of the WFD Assessment intended to be submitted to the Examining Authority under Deadline 8 that there is a commitment to ensure Work Plan 57F (River Gowy) in the Outline Landscape and Ecological Management Plan [REP7-251], would not affect the achievement of WFD mitigation measures for the River Gowy. We advise that this will need to be reassessed at the detailed design stage. Engagement with the EA will be necessary with regards to proposals for Work Plan 57F.

Given the above, we advise the Examining Authority that this matter has been highlighted as 'Not Agreed' under our Statement of Common Ground with the Applicant.

In addition to the above, we recommend that all actions undertaken on a watercourse should be seeking to achieve alignment to the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 by both avoiding deterioration of status but also demonstrating how scheme proposals contribute to the delivery of WFD objectives. In line with this it is strongly recommended that opportunities to address the measures in place for physical modification (detailed in Table 5.12 of the WFD Assessment [REP7-174]) are sought as part of any habitat reinstatement, which would contribute to achieving the objectives of the RBMP.

Additional Matters

Outline Materials Management Plan [REP7-276]

We note that the document aligns with the high level requirements of the CL:aire Code of Practice Definition of Waste procedure and that many, if not all of the requirements will fall to the construction contractor for the project. We affirm that in order for the DoWCoP procedure to be acceptable then much greater information will be needed to fulfil the requirements associated with certainty of use, suitability for use and the fit-for-purpose standards. In reference to ES ref. D-LS-022 of the REAC [REP7-237], we acknowledge that where testing has been undertaken the concentrations have been compared to relevant Generic Assessment Criteria (GAC) (GAC for Public Open Space (Park) / GAC for 'controlled waters' but highlight that these are only generic values. There is no recognition of the need to undertake additional ground investigation with additional testing to inform materials management and re-use under the REAC. We note paragraph 2.1.5 recognises that a Construction Contractor(s) will undertake additional ground investigation works in relation to re-use of material at the detailed design stage.

Outline Waste Management Plan [REP5-018]

We acknowledge and agree that sustainability goals need to be paramount in all future developments to ensure that as much material is diverted away from landfill as possible and that excessive and unnecessary road movements (and through that carbon expenditure) are eliminated. In order to achieve these goals, it is important to identify, where possible, those materials which can be safely retained, where treatment or transformation is required to allow for retention or where material will need to be discarded and removed from site.

In order to achieve this position, we believe it is important for sufficient sampling to be enacted and necessary information gathered to support this assessment process and that where materials are retained a suitable assessment is made as to their suitability and low risk status. We would encourage early and thorough engagement with the relevant authority before the commencement of the development and throughout the development to ensure that necessary decisions are made, and the correct solutions implemented to safeguard public and environmental protection measures. We believe this is intrinsically linked to the Materials Management Plan, Soils Management Plan and Construction Environmental Management Plan as and when they are agreed and implemented.

Outline Dewatering Management Plan [REP7-287]

We welcome the revised Outline Dewatering Management Plan [REP7-287] submitted under Deadline 7. We advise that the Dewatering Management Plan at the detailed design stage should include a Water Features Survey over an area based on the hydrogeological conceptual understanding of the site and the anticipated dewatering rates. This may encompass an area greater than 500m radius as included in the report. It is important a Water Features Survey is carried out correctly to support any dewatering proposals; Ground Investigation Consent or abstraction licence applications. We would encourage early engagement with the EA to ensure that all features of interest are identified and investigated.

The Dewatering Management should also include an assessment of groundwater / surface water connectivity and the contribution the groundwater may be making to

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baseflow in the surface water (paragraph 3.4).

The principal mitigation measure for all groundwater dependant water features should be to design the dewatering system in such a manner as to minimise the impact on groundwater levels outside the site and to limit the radius of influence such that any receptors are not adversely impacted by the abstraction of groundwater. With specific regard to the proposals to provide discharges to groundwater dependent terrestrial ecosystems (GWDTEs) to increase groundwater levels, we advise the applicant that any proposals for such an activity will need to be accompanied by an appropriate risk assessment relative to the individual site and any designated features within that site.

For example, GWDTE's can often be dependent upon a specific water quality / water type that supports certain designated features or habitats. The discharge of water differing quality or quantity may have negative impacts on the ecology of the site of interest. The same water quality considerations are relevant for the prosed discharges to surface water to augment flows and to groundwater to support abstraction. These types of discharge may also require an Environmental Permit.

Outline Groundwater Management and Monitoring Plan [REP7-283]

We welcome the revised Groundwater Management and Monitoring Plan [REP7-283] submitted under Deadline 7.

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Should you have any queries on the contents of this letter, please do not hesitate to contact me.

Yours sincerely,

Ms Anne-Marie McLaughlin
Planning Advisor

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