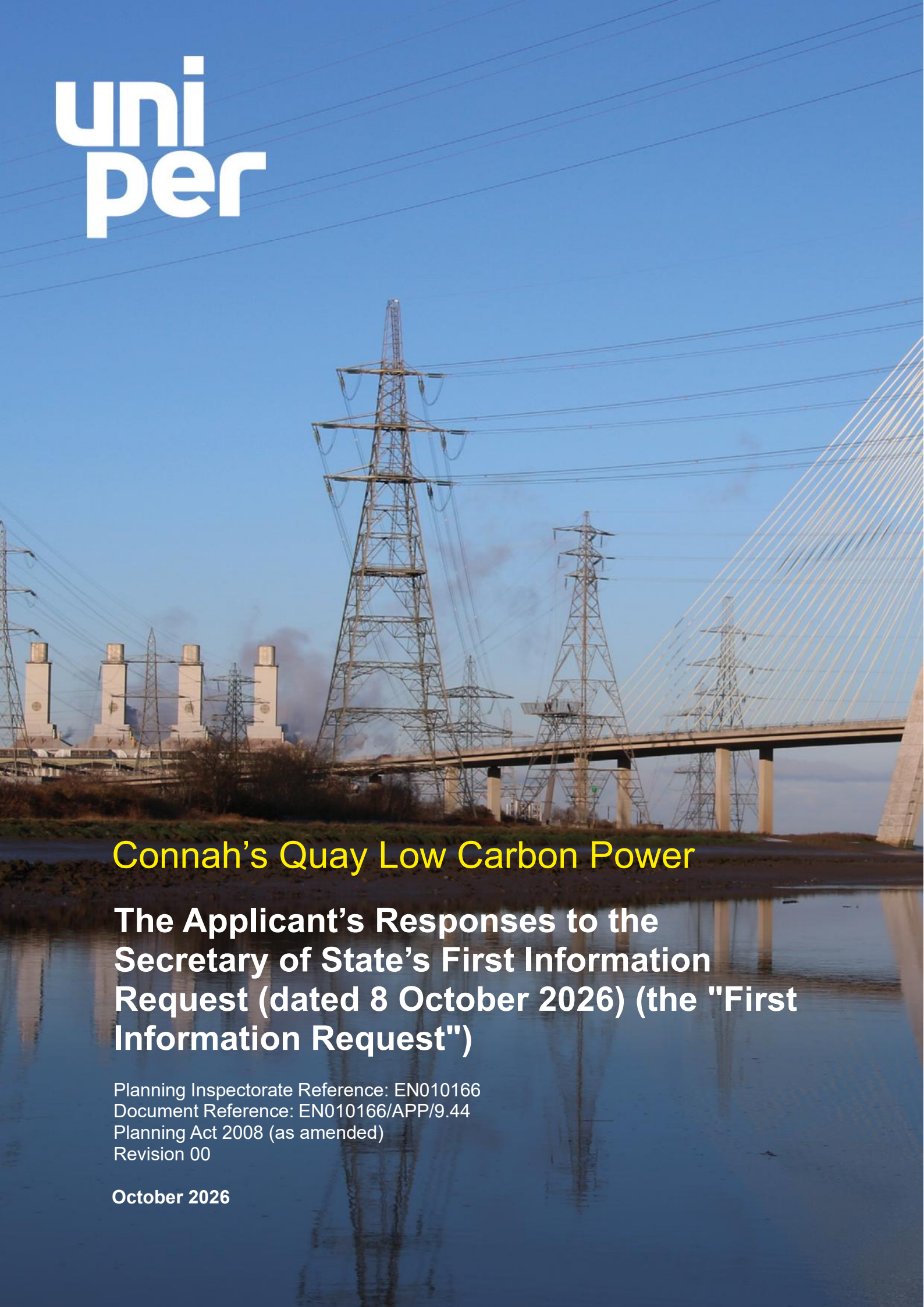


Connah’s Quay Low Carbon Power

The Applicant’s Responses to the Secretary of State’s First Information Request (dated 8 October 2026) (the "First Information Request")

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Prepared for:
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Prepared by:
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1. Introduction

1.1 Overview

1.1.0 This document has been prepared on behalf of Uniper UK Limited (Applicant) in connection with the application (Application) that has been submitted to the Secretary of State (the SoS) for the Department for Energy Security and Net Zero (DESNZ) for a Development Consent Order (a DCO) under Section 37 of the Planning Act 2008 (PA 2008) in respect of the Connah's Quay Low Carbon Power Project.

1.1.1 The Application was submitted to the SoS on 5th August 2025 and accepted for examination on 28th August 2025. Following the completion of the Examination on 9th June 2026, the Examining Authority (ExA) submitted a Report and Recommendation in respect of its findings and conclusions on the above application to the SoS on 9th September 2026. In accordance with section 107 of the PA 2008, the SoS has three months from that date to determine the application.

1.2 Purpose of this Document

1.2.0 This document provides the comments of the Applicant in response to the First Information Request made by the SoS, which was issued on 8 October 2026. This document contains tables which include the reference number for each relevant question in the SoS's First Information Request and the Applicant's responses to each of those questions.

1.2.1 Where mitigation or controls are discussed that would ultimately be secured through the **Draft DCO (EN010166/APP/3.1)**, the Applicant has referred to the latest version of the relevant securing document, as this is the version to be secured. Where issues were addressed in the DCO application submission or during the examination, references are provided to those assigned in the examination library (e.g. APP-XXX, REPX-XXX, CR1-XXX). Where a matter is being addressed in a document being submitted in response to the First Information Request, the document reference is provided (e.g. EN010166/APP/X.X).

Table 1: Habitat Regulations Assessment

Reference	Topic	Question	Question to	Applicant's Response
3	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that Natural England ("NE") provides its final views on the potential impacts of atmospheric pollution from construction activities on English units of affected European sites, raised in RR-026, REP3-051, REP4-072 and unresolved in REP7-028.	NE	Not addressed to the Applicant.
4	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that NE provides its views on the further information on operational stack ammonia emissions submitted by the Applicant [REP6-088] at deadline 6.	NE	The Applicant provided Natural England with a copy of the **Consideration of Additional Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45)** report on 12 October 2026 to inform their response on this matter.
5	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that NE provides its final views on the potential for the Proposed Development to affect features of the Dee Estuary Special Protection Area ("SPA") and Ramsar site through impacts to bird flight lines from barriers to movement, as discussed in the Applicant's submission REP3-059.	NE	Not addressed to the Applicant.
6	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that Natural Resources Wales ("NRW") provides its views on the potential for noise disturbance from barge movements to affect the Dee Estuary	NRW	**Barge movements and disturbance of Dee Estuary SPA/Ramsar** The Applicant notes that within item 3.13 of Table 2 of the **Final Statement of Common Ground between Uniper UK Limited and Natural**

Reference	Topic	Question	Question to	Applicant's Response
		SPA and Ramsar site in response to the Applicant's submission REP7-037.		**Resources Wales [REP7-027]** matters relating to Noise and visual disturbance of interest features of the Dee Estuary Special Protection Area (SPA)/Ramsar site/Site of Special Scientific Interest (SSSI) during construction/demolition are considered to be agreed between the Applicant and NRW. The Applicant understands that in NRW's response to the SoS's RfI, queries will be raised by NRW relating to barge and vessel movements, including vessel numbers and types, port activities, shipping routes, associated traffic movements, and potential disturbance effects on qualifying ecological receptors. In this regard, the Applicant confirms that for the purposes of the traffic and transport assessment presented in **Chapter 10: Traffic and Transport (EN010166/APP/6.2.10)**, all construction deliveries have been assumed to arrive at the Main Development Area via the public road network, with HGVs routed via the A548 and Kelsterton Road. This represents a worst case for the road network. Any deliveries made via Connah's Quay North (CQN) jetty would reduce the number of HGVs travelling to the Main Development Area by road from elsewhere.

Reference	Topic	Question	Question to	Applicant's Response
				Use of CQN jetty is anticipated principally for the delivery of large plant and modules, including AILs. The Applicant set out its position on barge movements in its response to comment A1.3 in **Applicant's Response to Deadline 6 Submissions [REP7-037],** which stated: '*The precise number and size of barges cannot be confirmed until a contractor is appointed but, for the purposes of the environmental impact assessment, assumptions have been made using similar experience, of up to 30 two-way vessel movements across a 12-month period per Train in order to deliver supplies for the Proposed Development (this would be split across the three ports available for Abnormal Indivisible Load (AIL) deliveries depending on the demands of the AIL to be delivered to the Main Development Area). On each occasion the barge is expected to be present at the Quay for a few days, subject to the final navigational risk assessment*'. The final CEMP(s) will set out the number, type and anticipated pattern of movements of all barge movements to and from CQN jetty associated with the Proposed Development. At A.1.18 in **Applicant's Response to Deadline 6 Submissions [REP7-037]**, the Applicant

Reference	Topic	Question	Question to	Applicant's Response
				explained that the anticipated barge movements represent a small and temporary increase relative to existing commercial and recreational vessel activity within the Dee Estuary, would be intermittent and constrained by tidal windows, and would follow established navigation routes, such that no new or unusual disturbance pathways would be introduced. Noise and visual disturbance from barges would be comparable in character, duration and scale to existing vessel movements. The Applicant concluded that: '*Vessel movement and loading / unloading activities would be limited in number, short in duration and similar to existing activities. On this basis, any incremental change in noise would not give rise to a likely significant effect on the qualifying features of the Dee Estuary SPA and Ramsar site.*' The Applicant maintains this position. It also notes that NRW, in its Deadline 6 submission **[REP6-098]**, stated that it did not foresee barge movements as likely to give rise to an AEoI. With regard to barges resulting in disturbance at Liverpool Bay SPA, there is no reason to assume that any barges facilitating construction of Connah's Quay would depart from the main shipping channels.

Reference	Topic	Question	Question to	Applicant's Response
				Vehicle movements from Connah's Quay North and Shotton Lagoons and Reedbeds SSSI The Applicant notes that NRW proposes to raise a new issue, that of potential traffic disturbance of the nesting terns at Shotton Lagoons & Reedbeds SSSI which lies north of the Tata Steel site on a road that may be used by traffic from Connah's Quay North to access the strategic road network. It should be noted that this has not been raised at any point during this DCO process (from pre-application including scoping through to conclusion of the examination). If this was considered by NRW to be a concern, it is unclear why it was not raised at an earlier date. Up to 30 AIL arrivals and 30 departures per Train are anticipated across all three delivery points (Port of Mostyn, CQN and Ellesmere Port) over a 12-month period per Train. As a worst case, all of these could use the CQN route. AILs would be transported on special purpose modularised transporter units (SPMTs) or similar, at low speed and under escort. Some HGV movements between the jetty and the Main Development Area may also be required, for example for loads arriving by vessel that do not require AIL transport. The number and timing of

Reference	Topic	Question	Question to	Applicant's Response
				these movements depend on the delivery strategy and the split between delivery points, which will be confirmed at detailed design. Given this is an existing road, the professional opinion of the Applicant's ecologists is that the vehicle movements associated with the Proposed Development would not materially change the disturbance exposure of the nesting terns. The detailed CTMP(s) will set out the number, type and anticipated pattern of movements of all road vehicle movements to and from CQN jetty through the Shotton Lagoons and Reedbeds SSSI associated with the Proposed Development.
7	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that NRW provides its views on how these barge movements could impact benthic habitats in the River Dee and Bala Lake Special Area of Conservation ("SAC") in response to the Applicant's submission REP7-037.	NRW	Not addressed to the Applicant.
8	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that the Applicant provides an updated in-combination assessment to include the additional projects of the Knauf Mineral Rock Wool Facility and the Arrow Bio Water Recycling Facility. This should address points raised by NE [REP7-041]	Applicant	The Applicant has prepared an updated in combination assessment for the additional projects noted by NRW in their Deadline 5 submission [**REP5-069**], which include Knauf Mineral Rock Wool Facility and the Arrow Bio Water Recycling Facility. This assessment is provided in the **Consideration of Additional**

Reference	Topic	Question	Question to	Applicant's Response
		and NRW [REP7-042] related to this matter.		**Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45)** report. The assessment concludes that, for designated ecological sites, the magnitude of the process contribution from the Proposed Development (i.e. the added concentration caused directly by the Proposed Development) on nitrogen deposition rates remains unchanged from the values reported in Environmental Statement (ES) **Chapter 8: Air Quality [REP4-017]**, **Chapter 11: Terrestrial and Aquatic Ecology [REP6-019]**, **RIHRA [REP7-019]** and the **Notice of a proposed without prejudice HRA derogation in Wales [REP7-032]**. However, despite the modelled outputs from the Proposed Development remaining unchanged, the extent of the in combination area increased from 445 hectares (ha) (as reported throughout examination) to 2,372 ha. In light of the conclusions of the updated in combination assessment **(EN010166/APP/9.45)** on the extent of the in combination effect, whilst the contribution of the Proposed Development has not changed, the Applicant has revisited the calculation for the saltmarsh management contribution included in the **Deed of Unilateral Undertaking of Development Consent Obligations ('First Unilateral Undertaking') [REP7-040]**. The updated calculation is presented in Appendix C of the **Consideration of**

Reference	Topic	Question	Question to	Applicant's Response
				Additional Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45) report and results in an increase in the saltmarsh management contribution. The Applicant has secured the additional amount of the contribution through the **Second Deed of Unilateral Undertaking of Development Consent Obligations ('Second Unilateral Undertaking') (EN010166/APP/9.48)**. The **Report to Inform Habitats Regulations Assessment** (**RIHRA**) **(EN010166/APP/6.12)** and **Notice of a proposed without prejudice HRA derogation in Wales (EN010166/APP/9.2)** have been updated to reflect the findings of the **Consideration of Additional Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45)** report.
9	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that NE provides its final views on the area of Atlantic salt meadow affected by nitrogen deposition in the Applicant's in-combination assessment of LSE, as discussed in REP6-088 and marked as unresolved in REP7-029.	NE	The Applicant provided NE with a copy of the **Consideration of Additional Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45)** report on 12 October 2026 to inform their response on this matter related to the in-combination air quality assessment
10	Conclusions on Likely Significant Effects (LSE)	The Secretary of State requests that NE provides its final views on the point sources for ammonia included in the Applicant's in-combination assessment	NE	

Reference	Topic	Question	Question to	Applicant's Response
		of likely significant effects, as discussed in REP6-088 and marked as unresolved in REP7-029.		
11	Impacts on Atlantic salt meadow	The Secretary of State invites NRW and Flintshire County Council ("FCC") to provide any final comments on the latest outline Saltmarsh Implementation and Monitoring Plan ("oSIMP") [REP7-023] including on the potential for the proposed measures to compensate for the impacts of habitat loss on Atlantic salt meadow and any suggested amendments.	NRW, FCC	The Applicant understands that in NRW's response to the SoS's RfI, NRW will request amendments to the **Outline Saltmarsh Implementation and Monitoring Plan (EN010166/APP/6.16)**. The Applicant has updated paragraphs 2.1.1 within the **Outline Saltmarsh Implementation and Monitoring Plan (EN010166/APP/6.16)** to address the comments provided by NRW in their SoS's RfI submission regarding any alternative drainage strategy only to be taken forward if it resulted in less, or no, permanent or temporary loss of saltmarsh. With regard to NRWs point that 'Section 3.2 should include details of the elevations within the tidal frame for the proposed saltmarsh creation area, as we understand that groundworks will be required to render the site suitable for tidal inundation' the Applicant considers this is adequately covered under Section 6 of the oSIMP.
12	Impacts on Atlantic salt meadow	The Secretary of State requests that the Applicant provides a revised oSIMP that specifies any additional management measures needed to mitigate any potential effects from nitrogen deposition	Applicant	The Applicant has updated paragraphs 7.1.1 and 7.1.2 of the **Outline Saltmarsh Implementation and Monitoring Plan (EN010166/APP/6.16)** to clarify that no additional measures beyond those already identified in Section 7.3 and 7.5 of the

Reference	Topic	Question	Question to	Applicant's Response
		on the Saltmarsh Creation Area ("SCA") during operation of the Proposed Development. It should also address any outstanding comments from NRW [REP7-042] provided in relation to the Applicant's response to RIES Q.36.		oSIMP are required. Management of the developing and mature saltmarsh will inherently ensure that any competitive plant species are controlled, and the intensity of such management will be adjusted as necessary throughout the duration of management. This will ensure that the saltmarsh develops with appropriate botanical structure and diversity notwithstanding other factors such as elevated background nitrogen deposition or the small increase in nitrogen deposition that may result from the Proposed Development. This is because the main role of nitrogen (from atmosphere or other sources) is as a source of fertilisation. Fertilisation of any sward stimulates growth of more competitive plant species (particularly some grasses), which out-compete less competitive species and smother their growth thus potentially limiting botanical diversity. However, this is prevented by management to control the dominance of such species, which is already a key element of the oSIMP. Since more competitive species always need management to ensure they do not outcompete other species (irrespective of the specific nitrogen deposition rates) no additional management measures will be required to address any impact of the small

Reference	Topic	Question	Question to	Applicant's Response
				increase in nitrogen deposition that would arise from the Proposed Development. In addition, the Applicant has also updated paragraphs 2.1.1 and 8.1.4 within the **Outline Saltmarsh Implementation and Monitoring Plan (EN010166/APP/6.16)** to address the comments provided by NRW in the submission at Deadline 7 [**REP7-042]**.
13	Impacts on Atlantic salt meadow	The Secretary of State requests the Applicant, NRW and NE provide their views on proposed drafting for Part 2 to Schedule 16 of the draft Development Consent Order ("DCO") (provided at Annex A below) including in respect of steering group membership, the content and discharge of the oSIMP, the maintenance period of the compensation measure, and the monitoring and reporting process.	Applicant, NRW, NE	The Applicant has updated the **Draft Development Consent Order (EN010166/APP/3.1)** and the **Outline Saltmarsh Implementation and Monitoring Plan (EN010166/APP/6.16)** in response to the proposed drafting provided by the SoS. The Applicant's proposed drafting contains the following amendments from that proposed by the SoS: (i) The measure to be provided has been defined as the "mitigation measure" rather than the "compensation measure". The Applicant's position remains that these measures are mitigation rather than compensation. (ii) Updates have been made to clarify the role of the steering group as a consultation body, with the Secretary of State as the determining body. These include clarifying that the signed steering group agreement

Reference	Topic	Question	Question to	Applicant's Response
				log will be used to record consultation, rather than providing an approval mechanism and clarifying the role of the steering group where adaptive management measures become necessary. (iii) Updating the reference to the "decommissioning" of the maintenance of the mitigation measure to the cessation of such maintenance. (iv) Updating the document used as the reference for the environmental assessment for varying the approved SIMP from the oSIMP (which does not contain such assessment of environmental effects) to the environmental statement.
14	Impacts on Atlantic salt meadow	The Secretary of State requests that the Applicant provides further details on saltmarsh soil storage and reinstatement alongside the results of the scarce plant survey conducted in the areas of temporary and permanent loss of Atlantic salt meadow, as advised by NRW [REP4-062].	Applicant	As the detailed design of the Proposed Surface Water Outfall is not yet progressed, further information on the methods of saltmarsh soil storage and reinstatement are not yet developed. Table 1 of the **Framework CEMP (EN010166/APP/6.5)** identifies that for the relevant stage of the Proposed Development, the CEMP must include a Saltmarsh Method Statement providing details on methods of soil stockpiling and the suitability of using turves, and setting out the proposed approach to monitoring

Reference	Topic	Question	Question to	Applicant's Response
				saltmarsh recovery. Requirement 4 provides that no stage of the authorised development may commence until a CEMP for that stage, which must be in general accordance with the **Framework CEMP (EN010166/APP/6.5)**, has been submitted to and approved by the relevant planning authority. The Applicant undertook an updated National Vegetation Classification (NVC) survey of the Proposed Surface Water Outfall Area on 17 August 2026. The survey is provided as **2026 NVC Survey Report (EN010166/APP/9.46)** and demonstrates that the extent of saltmarsh in the Surface Water Outfall Area is approximately 585 m^2, a reduction from the 650 m^2 reported through examination on a precautionary basis.
15	Impacts on Atlantic salt meadow	The Secretary of State notes NRW's advice [REP4-091] that the Applicant has made no changes to the predicted area of affected Atlantic salt meadow following the proposed change to stack heights that will lead to a reduction in the individual and in-combination nitrogen deposition process contribution from the proposed development. NRW is requested to confirm it is content with this approach.	NRW	The Applicant has reviewed the information presented in relation to the air quality modelling associated with the change to the stack heights (and the other process related changes) introduced as part of the **Change Application Report [CR1-118]**. This review concluded that the updated results of modelling were presented correctly in the updated **RIHRA [CR1-105]** submitted alongside the Change Application with regards to the maximum Proposed Development alone and in combination contributions. However, in error, no changes were made to the predicted

Reference	Topic	Question	Question to	Applicant's Response
				area of affected Atlantic salt meadow. The Applicant can confirm that the correct area affected by the Proposed Development alone, that should have been included in the updated **RIHRA [CR1-105]**, is 53.8 ha. This is a reduction from the previously reported 245ha. The correct area is now included in the updated **RIHRA (EN010166/APP/6.12)** and **Notice of a proposed without prejudice HRA derogation in Wales (EN010166/APP/9.2)** along with the updated in combination area identified in the **Consideration of Additional Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45)** report. It is important to note that as the updated area is smaller than the previously reported area, therefore there are no implications on the assessments presented in the **ES (EN010166/APP/6.2)** or RHIRA **(EN010166/APP/6.12)**. As noted in the **Consideration of Additional Emerging Schemes Identified by Natural Resources Wales (EN010166/APP/9.45)** report the Saltmarsh Management Contribution has been revised to reflect the contribution of the Proposed Development in light of the conclusions of the updated in combination assessment.
16	Impacts on Atlantic salt meadow	The Secretary of State requests NRW and FCC to provide their final positions on the Saltmarsh Management	NRW, FCC	The Applicant has been in discussion with FCC and NRW on the content of the Nitrogen Management Plan. NRW has confirmed that it is

Reference	Topic	Question	Question to	Applicant's Response
		Contribution and Nitrogen Management Plan including on the potential for the proposed measures to compensate for the impacts of increased nitrogen deposition on Atlantic salt meadow, the suitability of proposed monitoring arrangements and any recommended amendments.		"broadly satisfied in principle that the proposed outline saltmarsh creation measures could compensate for the loss of Atlantic salt meadow habitat" (**Natural Resources Wales, Response to the Secretary of State's Request for Information, 28 October 2026, Annex A, response to Question 11**). An initial draft was shared with both FCC and NRW for comment following a discussion on the measures likely to be achievable within the extent of the Saltmarsh Management Contribution. The Applicant has considered the feedback from NRW in the **Outline Nitrogen Management Plan (EN01066/APP/9.47)**. The **Outline Nitrogen Management Plan (EN01066/APP/9.47)** provides an overview of the management measures and monitoring techniques that must be considered in the preparation of the Nitrogen Management Plan. It is important to note that not all of the management measures and monitoring techniques must be applied in any given year during the operation of the Proposed Development, however the Nitrogen Management Plan will identify how to best deliver these over the 30 year period within the Saltmarsh Management Contribution. NRW provided advice to the Applicant (via email dated comments of 25 September 2026) regarding the skeleton Nitrogen Management
17	Impacts on Atlantic salt meadow	Without prejudice to her final decision, the Secretary of State requests that the Applicant provides a Deed of Development Consent Obligations signed by all relevant parties to effectively secure its proposed compensation measures for the impacts of increased nitrogen deposition on Atlantic salt meadow. If a signed Deed is not yet available, the Secretary of State requests that the Applicant submits a draft Deed of Development Consent Obligations accompanied by an in-principal letter of support from FCC along with an update as to the status of negotiations to date and detailed proposals for completion of the Deed. The Applicant should provide a draft Nitrogen Management Plan to support these Deeds. Should neither option be	Applicant; FCC	

Reference	Topic	Question	Question to	Applicant's Response
		considered possible the Applicant and FCC are requested to explain why not.		Plan which was discussed at the meeting on 10 September 2026. This advice has since been taken into account in the **Outline Nitrogen Management Plan (EN010166/APP/9.47)**. In particular, cord grass management is no longer proposed; the Saltmarsh Management Contribution is directed to Wepre Embankment as a whole, consistent with NRW's advice that the other saltmarsh management areas have no obvious management needs; the management measures comprise control of Sea couch and Common couch, mowing and scarification; monitoring will collect the species cover, sward height and bare ground data recommended by NRW; and a Saltmarsh Management Steering Group (with representatives from the undertaker, NRW and FCC invited to participate in this group) will be established, as NRW recommended. Remaining matters of detail, including the timing of interventions and the monitoring regime, will be consulted on with the Steering Group in preparing the Nitrogen Management Plan. The **Outline Nitrogen Management Plan (EN010166/APP/9.47)** is, by design, an outline document. Consistent with the approach taken on other DCOs, and with the Applicant's other outline plans for the Proposed Development, it sets out the framework within which the detailed Nitrogen Management Plan will be prepared rather than

Reference	Topic	Question	Question to	Applicant's Response
				final management prescriptions. The **Outline Nitrogen Management Plan (EN010166/APP/9.47)**, together with the **First** and **Second Unilateral Undertakings ([REP7-040] and EN010166/APP/9.48)**, secures the matters that need to be fixed at this stage: the location and extent of the Saltmarsh Management Area, the scale of the Saltmarsh Management Contribution, the objectives of management, the range of management measures and monitoring parameters, and the governance arrangements through the Saltmarsh Management Steering Group. Part 3 of Schedule 16 to the draft DCO requires the Nitrogen Management Plan to be prepared in general accordance with the **Outline Nitrogen Management Plan (EN010166/APP/9.47)** and prescribes the details it must contain. The detailed Nitrogen Management Plan will be informed by an updated baseline and developed in consultation with the Saltmarsh Management Steering Group, including success criteria and triggers for adaptive management, before being submitted for approval prior to the operation of Work No. 1(a) or (b). The Applicant understands that in NRW's response to the SoS's RfI, NRW will request that the financial contribution is able to accommodate inflation. The Applicant confirms that the Saltmarsh Management Contribution and the

Reference	Topic	Question	Question to	Applicant's Response
				Supplementary Saltmarsh Management Contribution are Index Linked from the date of the deed to the date of payment. Further, the Second Unilateral Undertaking secures the payment of Saltmarsh Indexation Payments on each fifth anniversary of the date on which Work No 1(a) or (b) is first operated during the 30-year period commencing on that date up to a maximum liability of £24,705.47, which provides a 10% contingency.
18	Impacts on Atlantic salt meadow	In addition, and on a without prejudice basis, the Applicant is requested to provide a draft DCO schedule and an outline Compensation Implementation and Monitoring Plan to cover its proposed compensation measures for the impacts of increased nitrogen deposition on Atlantic salt meadow. This should include the following: Proof of the Applicant's funds and a relevant funding schedule to be agreed with FCC. • Details as to how the proposed compensatory measures would provide optimal conditions. • Details on why the sites are ecologically suitable for the proposed compensation.	Applicant	The Applicant's response to Question 18 is provided in **Appendix 1** of this document.

Reference	Topic	Question	Question to	Applicant's Response
		• Implementation timetables and programmes. • Details as to any consents, licences, and approvals needed for implementation. • Ongoing management and maintenance of the compensation measures and sites. • Details of access and biosecurity of the compensation sites. • Further detail on the methodology for baseline and ongoing post implementation monitoring of the compensatory measures. • Details of the success criteria, including thresholds for determining compensation success and the trigger thresholds for adaptive management measures. • Details of the annual reporting process to the Secretary of State and environmental data sharing. • Explicit consideration of the management measures required to mitigate any potential indirect effects from nitrogen deposition during operation of the proposed development on other qualifying features of the Aber Dyfrdwy/ Dee Estuary SAC, SPA and Ramsar site.		

Reference	Topic	Question	Question to	Applicant's Response
19	Impacts to Functionally Linked Land (FLL)	The Secretary of State notes the request for updated ornithology survey data by NE in REP6-097 that includes data from Deeside Naturalist Society ("DNS"). She also notes the Applicant's response to RIES Q.15 [REP6-088] which explains that this data does not cover the Order limits. NRW's comments on RIES Q.15 [REP7-042] acknowledge the confirmation regarding the DNS data and suggests that having considered the information in Appendix 11D: Ornithology Technical Appendix [REP6-029] NRW is now satisfied with the baseline ornithology data provided by the Applicant.	NE	Not addressed to the Applicant.
20	Impacts to Functionally Linked Land (FLL)	NRW is requested to provide its final position on this matter and confirm if the baseline ornithology data is now adequacy for it to rule out functional linkage between the main development area and the Dee Estuary SPA and Ramsar site for all features except Curlew. NRW should provide its final conclusions regarding adverse effects on the integrity of the Dee Estuary SPA and Ramsar site.	NRW	The Applicant notes that in NRW's **Comments on any comments received on the RIES [REP7-042]**, in response to RQ.15, NRW noted that the clarification provided by the Applicant satisfied their concerns regarding the bird survey data provided.
21	Impacts to Functionally	Noting NRWs position in REP6-097, NE is invited to confirm if those data resolve	NE	Not addressed to the Applicant.

Reference	Topic	Question	Question to	Applicant's Response
	Linked Land (FLL)	its concerns regarding FLL and adverse effects on the integrity of the Dee Estuary SPA and Ramsar.		
22	Impacts to Functionally Linked Land (FLL)	The Applicant is requested to confirm the DNS data does not cover the Order limits. The Applicant is also requested to present detailed and summary versions of the Aspect Ecology data (along with any other ornithology data collected as part of the management plan for the existing Connahs Quay Power Station) both spatially and in tabular form, to differentiate between counts inside (on the development fields) and outside (in compartments 1 and 2) the Order limits. If possible, BTO WeBS data from core sector 69426 should also be presented in the same format. This information is required to further inform the Secretary of State's appropriate assessment of the impacts to the Aber Dyfrdwy/Dee Estuary SPA and Ramsar site and assist her in establishing which qualifying ornithological features may be present within the Order limits in significant numbers (i.e. exceeding 1% of the SPA/Ramsar population) and consequently whether mitigation and/or	Applicant	The Applicant can confirm that the DNS data does not cover the Order limits. The Aspect Ecology datasets have already been provided by the Applicant at Deadline 5 in the **Further Information on Wetland Bird Count Data Report [REP5-065]**. In summary this data demonstrates that the only species recorded in numbers exceeding 1% of the relevant Dee Estuary SPA population within the Order limits was Curlew. No other species was recorded in numbers that exceed 1% of the relevant Dee Estuary SPA population. Outside of the Order limits, the adjacent compartments of the Connah's Quay Nature Reserve do regularly support important concentrations of a variety of qualifying bird species. This is demonstrated by both the Applicant's own surveys (e.g., see Annex E: British Trust for Ornithology Core Count Data, Table E-1 of **Appendix 11-D: Ornithology Baseline Survey and Information Report [REP4-032]**, for the Applicant's survey count sector '69426') and the wider WeBS core count data (e.g., see Annex F: Summary wetland Bird Count Data of **Appendix 11- D: Ornithology Baseline Survey and Information Report**

Reference	Topic	Question	Question to	Applicant's Response
		compensation for those qualifying features is necessary.		**[REP4-032]**, for the WeBS core count sector '69426'). These areas are all within the Dee Estuary SPA / Ramsar site and have been assessed, as appropriate, as part of the assessments of the designated sites complex themselves. No further mitigation and / or compensation is therefore considered necessary for any qualifying features.
23	Impacts to Functionally Linked Land (FLL)	Relatedly, the Applicant is requested to update its Report to Inform Habitats Regulations Assessment ("RIHRA") to provide explicit consideration of all qualifying ornithology features of the Aber Dyfrdwy/Dee Estuary SPA and Ramsar site. This should include a definition of 'regular use' in relation to functional linkage, preferably in agreement with NRW and NE. Where any of the data indicate a feature has been observed using the Order limits in significant number on any occasion this should be highlighted and clearly addressed in consideration of LSE and site integrity. The updated RIHRA should clearly specify for each feature whether the Applicant considers there is LSE. For each feature where there is LSE the Applicant should identify and assess the	Applicant	Notwithstanding the above response to question 22, the Applicant has updated **RIHRA (EN010166/APP/6.12)** to include additional clarification on qualifying ornithology features of the Aber Dyfrdwy/Dee Estuary SPA and Ramsar site as requested. This includes an extract from **Further Information on Wetland Bird Count Data [REP5-065]** which demonstrates that only five species for which the SPA/Ramsar is designated were recorded within the Order limits: dunlin, oystercatcher, curlew, shelduck and redshank. The information provided demonstrates that only Curlew were found at populations above 1% of the SPA population. The other four species were not recorded on any occasion in numbers that exceed 1% of the relevant Dee Estuary SPA population and therefore, no further definition of 'regular use' in relation to these species is considered necessary.

Reference	Topic	Question	Question to	Applicant's Response
		impacts to this feature in the appropriate assessment.		
24	Impacts to Functionally Linked Land (FLL)	Where, following the updates to the baseline ornithology data and RIHRA requested above, the Applicant cannot rule out impacts to SPA features that utilise the Order limits in numbers exceeding 1% of the SPA population, the Applicant is requested to submit an updated 'without prejudice' derogations case in respect of those features, including any relevant outline plans.	Applicant	As explained in response to question 22 the only species recorded in numbers exceeding 1% of the relevant Dee Estuary SPA population within the Order limits was Curlew. This is supported by information provided in the **Further Information on Wetland Bird Count Data Report [REP5-065]**. No threshold for frequency of use was adopted for the HRA; any instance where more than 1% of the SPA/Ramsar population were recorded during surveys was used in the HRA, even if only recorded once. The approach used is conservative and treats infrequent use with the same importance as regular use. As no other species were recorded in numbers that exceed 1% of the relevant Dee Estuary SPA population, there is no necessity to include in the HRA a definition of 'regular use' in relation to functional linkage.
25	Impacts to Functionally Linked Land (FLL)	The Secretary of State requests that NRW, NE and FCC provide their final views on the proposed compensation measures at Gronant Fields, including on the potential for the proposed measure to compensate for impacts to curlew from the loss of FLL, whether the proposals conflict with other conservation objectives at the site and	NRW, NE, FCC	Not addressed to the Applicant.

Reference	Topic	Question	Question to	Applicant's Response
		whether NRW it is satisfied with the updated definition of 'in perpetuity' in the updated oCIMP [REP7-021].		
26	Impacts to Functionally Linked Land (FLL)	The Secretary of State requests the Applicant, NRW and NE provide their views on proposed drafting for Part 1 to Schedule 16 of the draft DCO (provided at Annex B below).	Applicant, NRW, NE	The Applicant has updated the **Draft Development Consent Order (EN010166/APP/3.1)** and the **Outline Curlew Implementation and Monitoring Plan (EN010166/APP/6.13)** in response to the proposed drafting provided by the SoS. The Applicant's proposed drafting contains the following amendments from that proposed by the SoS: (i) The measure to be provided has been defined as the "mitigation measure" rather than the "compensation measure". The Applicant's position remains that these measures are mitigation rather than compensation. (ii) Updates have been made to clarify the role of the steering group as a consultation body, with the Secretary of State as the determining body. These include clarifying that the signed steering group agreement log will be used to record consultation, rather than providing an approval mechanism and clarifying the role of the steering group where adaptive management measures become necessary.

Reference	Topic	Question	Question to	Applicant's Response
				(iii) Updating the reference to the "decommissioning" of the maintenance of the mitigation measure to the cessation of such maintenance. (iv) Updating the document used as the reference for the environmental assessment for varying the approved SIMP from the oCIMP (which does not contain such assessment of environmental effects) to the environmental statement.
27	Impacts on old sessile oak woods with Ilex and Blechnum	The Secretary of State requests that the Applicant provides an updated 'without prejudice' derogation case to include the increased nitrogen deposition effect on the old sessile oak woods of the Deeside and Buckley Newt Sites SAC. This should include consideration of alternatives, Imperative Reasons of Overriding Public Interest and details of proposed compensatory measures.	Applicant	The Applicant has updated the **Notice of a proposed without prejudice HRA derogation in Wales (EN010166/APP/9.2)** to include the air quality assessment in relation to the Deeside and Buckley Newt Sites SAC.
28	Impacts on old sessile oak woods with Ilex and Blechnum	Without prejudice to her final decision, the Secretary of State requests that the Applicant provides a Deed of Development Consent Obligations signed by all relevant parties to effectively secure its proposed compensation measures for the impacts	Applicant	The Applicant's response to Questions 28 and 29 is provided in **Appendix 2** of this document. In relation to the request for a draft Nitrogen Management Plan, Appendix 1: Breakdown of Costs of the **First Unilateral Undertaking [REP7-039]** presents the management plan for

Reference	Topic	Question	Question to	Applicant's Response
		of increased nitrogen deposition on old sessile oak woods. If a signed Deed is not yet available, the Secretary of State requests that the Applicant submits a draft Deed of Development Consent Obligations accompanied by an in-principal letter of support from FCC along with an update as to the status of negotiations to date and detailed proposals for completion of the Deed. If a signed Deed is not yet available, the Secretary of State requests that the Applicant submits a draft Deed of Development Consent Obligations accompanied by an in-principal letter of support from FCC along with an update as to the status of negotiations to date and detailed proposals for completion of the Deed. The Applicant should provide a draft Nitrogen Management Plan to support these Deeds. Should neither option be considered possible the Applicant and FCC are requested to explain why not.		the SAC Management Contribution. This has been developed by FCC and has been agreed with NRW. No further amendments are proposed to this plan.
29	Impacts on old sessile oak woods with Ilex and Blechnum	"In addition, and on a without prejudice basis, the Applicant is requested to provide a draft DCO schedule and an outline Compensation Implementation and Monitoring Plan to cover its	Applicant	The Applicant's response to Questions 28 and 29 is provided in **Appendix 2** of this document.

Reference	Topic	Question	Question to	Applicant's Response
		proposed compensation measures for the impacts of increased nitrogen deposition on Oak woodland. This should include the following: • Proof of the applicant's funds and a relevant funding schedule to be agreed with FCC. • Details as to how the proposed compensatory measures would provide optimal conditions. • Details of the measures/ activities to be undertaken with the financial contribution including implementation timetables and programmes. • Details as to any consents, licences, and approvals needed for implementation. • Ongoing management and maintenance of the compensation measures and sites. • Details of access and biosecurity of the compensation sites. • Further detail on the methodology for baseline and ongoing post implementation monitoring of the compensatory measures. • Details of the success criteria, including thresholds for determining compensation		

Reference	Topic	Question	Question to	Applicant's Response
		success and the trigger thresholds for adaptive management measures. • Details of the annual reporting process to the Secretary of State and environmental data sharing.		
30	Invasive Non-native Species (INNS)	The Secretary of State notes the Applicant's commitment in the Framework Construction Environment Management Plan [REP7-013] to provide an updated Invasive Species Management Plan prior to construction activities. The Applicant is requested to highlight the mechanism that will secure this commitment.	Applicant	As demonstrated in the **Commitments Register (EN010166/APP/6.10)**, Requirement 4 provides that no stage of the authorised development may commence until a CEMP for that stage, which must be in general accordance with the **Framework CEMP (EN010166/APP/6.5)**, has been submitted to and approved by the relevant planning authority. The Framework CEMP states: "*An Invasive Species Management Plan (ISMP) survey would be updated prior to construction to determine the current location and extent of plant Invasive Non-Native Species (INNS), and to inform specification of the ISMP. If determined as necessary through this survey and after consideration of other available plant and animal INNS data, an ISMP would be prepared to accompany the final CEMP(s) and would be discussed with relevant stakeholders. This is to be included within the final CEMP(s).*"

Reference	Topic	Question	Question to	Applicant's Response
31	Noise and visual disturbance	The Secretary of State notes that the responses of birds to noise and visual disturbance will be monitored during construction. The Applicant is requested to provide an updated framework Construction Environmental Management Plan which sets out clearly defined trigger thresholds for noise disturbance to ornithology features of the Aber Dyfrdwy/Dee Estuary SPA and Ramsar site and presents an outline adaptive management process should these be exceeded.	Applicant	The Applicant has updated the **Framework CEMP (EN010166/APP/6.5)** and the **Commitments Register (EN010166/APP/6.10)** to include a new commitment [General - 54] setting out noise monitoring and an adaptive management process for the ornithology features of the Dee Estuary during construction. The updated documents are submitted alongside this response. The new commitment reads as follows: "During construction, monitoring will be undertaken within the Dee Estuary SPA/Ramsar/SSSI between September and March inclusive, to quantify noise levels from construction activities during this period and to confirm that the acoustic fencing is functioning as required. If monitoring indicates that noise levels exceed 60 dB, the ECoW will review the findings to determine whether the exceedance is work-related and, if so, check adherence to Best Practicable Means and the integrity of the acoustic fencing."
32	Waterborne pollution	The Secretary of State requests that the Applicant updates the RIHRA to provide further information on and assessment of waterborne pollution to qualifying features of European sites. This should include an assessment of the polluting	Applicant	Paragraph 4.2.2 of **Chapter 4: The Proposed Development [CR1-024]** explains that the Proposed Development would repurpose the purge ponds, cooling water abstraction and discharge infrastructure and, where possible, other existing infrastructure from the existing

Reference	Topic	Question	Question to	Applicant's Response
		substances, the potential concentration (the credible worst-case scenario) of those substances at the point of impact, the effects on water quality, and the impacts of those effects on the identified and relevant qualifying habitats or features. This should also include detail of any mitigations.		Connah's Quay Power Station (as shown on the **Existing Station Shared Infrastructure Drawing (EN010166/APP/7.10)**. On this basis the Proposed Development would discharge through the existing discharge infrastructure under the existing permit held by the Applicant. It should be noted that given the operating constraints of the existing discharge infrastructure, that it is not possible for both the existing Connah's Quay Power Station and the Proposed Development to operate at full capacity at the same time. Therefore, no increase in the consented cooling water abstraction or discharge is required. As noted in the **Applicant's Closing Statement [REP7-038]**, during operation of the Proposed Development, the Applicant has committed to adhering to the limits set out in the abstraction and discharge environmental permits held for the location. On the basis that the existing permit would not have been granted if it was having an adverse effect on receiving water quality, it is appropriate to assume that discharges within the parameters of existing permits are acceptable, and this is a matter which will be controlled by the separate regulatory process under the environmental permit in any event. For this reason the Applicant does not consider it necessary to provide further information to demonstrate that there would be no adverse

Reference	Topic	Question	Question to	Applicant's Response
				effects on the integrity of the relevant European sites.
33	Additional matters	The Secretary of State requests that NRW provides its views on the Applicant's final approach [CR1-020, CR1-118, REP4-017, and REP6-025] to determining both HRA and Environmental Impact Assessment impacts from atmospheric pollution, including greenhouse gases, following Change Request 4 to reduce stack heights.	NRW	The Applicant has provided a response to this above at question 15.
34	Additional matters	NRW, NE and FCC are invited to provide any additional comments on the Notice of a proposed without prejudice HRA derogation in Wales [REP7-032] and including the proposed compensation measures and any related outline plans or draft documents.	NRW, NE, FCC	Not addressed to the Applicant.
35	Additional matters	The Secretary of State invites NE and NRW to provide comment on any other outstanding HRA matters related deadline 7 submissions.	NE, NRW	Not addressed to the Applicant.

Table 2: Environmental Impact Assessment

Reference	Topic	Question	Question to	Applicant's Response
36	Implications of HRA updates	The Applicant is requested to provide commentary on any implications to its EIA as a result of the responses to the above HRA questioning. Without prejudice to the Secretary of State's decision, this should consider the scenario where the Saltmarsh Creation Area, Gronant Fields measures, Saltmarsh Management Contribution and financial contribution for management at Deeside and Buckley Newts SAC (or equivalent measures), are taken forward as compensation not mitigation.	Applicant	For the reasons set out in the responses provided in **Table 1** to questions 8, 14 and 22, the Applicant can confirm that there are no implications on the Environmental Impact Assessment (EIA) and no changes are needed to the **ES (EN010166/APP/6.2)**. In the EIA context, compensation is the final stage of the mitigation hierarchy and is encompassed within the definition of 'additional mitigation'[1]. As described in **Chapter 2: Assessment Methodology [APP-040]**, each effect of the Proposed Development is assigned a significance (in accordance with the topic specific methodology) following the consideration of both embedded and any additional mitigation measures. On this basis the residual effects would remain as described within the **ES (EN010166/APP/6.2)**.
37	Traffic and Transport	The Secretary of State requests that the Applicant provides its views in response to FCC's comments in respect of traffic and transport in the final Statement of Common Ground [REP7-025] regarding its assessment methodology, assessment	Applicant	**Assessment Methodology** The Applicant acknowledges FCC's recognition that the Traffic and Transport assessment has been undertaken in accordance with the relevant Institute of Environmental Management and

[1] The Institute of Sustainability and Environmental Professional (ISEP) defines additional mitigation as "*Mitigation measures that are identified as being required, to avoid, prevent, reduce or, if possible, offset significant environmental effects that have been identified through the technical assessments within the Environmental Statement/EIA Report*." ISEP (2024), Implementing the Mitigation Hierarchy from Concept to Construction.

Reference	Topic	Question	Question to	Applicant's Response
		outcomes, and residual effects after mitigation. This should include reference to the modelling, impacts, and proposed efficacy of mitigation for receptors on Kelsterton Road, particularly. Updated plans should be provided where appropriate.		Assessment (IEMA)[2] guidance[3]. In addition to this, FCC has previously acknowledged, under Ref. 6.15 of the **Final Statement of Common Ground between Uniper and FCC [REP7-025]**, the nature of Kelsterton Road in its function as the primary access to the existing Connah's Quay Power Station. FCC has also acknowledged **Chapter 10 Traffic and Transport [APP-048]** presents a robust worst-case assessment, including consideration of the simultaneous construction scenario, to sufficiently account for the most significant construction peak, in terms of construction workers and Heavy Goods Vehicle (HGV) movements. The forecast construction traffic is robust and comprises scenarios and activities that are not likely to coincide, this would mean that the forecast construction traffic impact is higher than that which would be experienced. **Junction Capacity Modelling** The Applicant acknowledges FCC's concerns regarding the absence of junction capacity modelling on Kelsterton Road. At present, the Applicant is not aware of an existing capacity constraint along Kelsterton Road that would dictate the need for junction capacity modelling to be undertaken, particularly when this would relate

[2] The Institute of Environmental Management Assessment (IEMA) has changed its name to the Institute of Sustainability and Environmental Professionals (ISEP).
[3] IEMA, 2023; Institute of Environmental Management and Assessment (IEMA) Guidelines on: Environmental Assessment of Traffic and Movement, July 2023

Reference	Topic	Question	Question to	Applicant's Response
				to a temporary construction impact, as opposed to a permanent forecast increase in traffic relating to operation of the Proposed Development. The industry standard approach to junction capacity modelling would typically include an assessment of permanent development impact during assessed or identified local highway network morning and evening peak hours. As set out with the submissions, the hours of construction specified and secured within the **Framework Construction Traffic Management Plan (CTMP) [REP7-015]** are 10 hour working days between the hours of 08:00-18:00, this specifically serves to reduce the level of impact experienced during locally sensitive peak hours. Applying professional judgement, this has been considered to further negate the anticipated level of impact caused by temporary construction traffic along Kelsterton Road, during the periods that would typically experience the largest levels of daily traffic. Notwithstanding this, the Applicant will engage further with FCC as part of future consultation on the detailed CTMP, in order to understand the specific, location-based concerns regarding the operating capacity of Kelsterton Road and how these can be sufficiently addressed through management measures.

Reference	Topic	Question	Question to	Applicant's Response
				Whilst it is acknowledged that FCC has concerns relating to the level of construction traffic along Kelsterton Road, the Applicant understands that the assessment of operational traffic impact has been agreed and resolved (Ref. 6.16 of the **Final Statement of Common Ground between Uniper and FCC [REP7-025]**). **Mitigation and its Efficacy** The Applicant considers that at this stage, sufficient detail has been provided with regard to traffic management measures, which have been set out to provide a management framework to be developed by the Principal Contractor, as part of a detailed CTMP. Quantitatively, this includes monitoring of HGV arrivals and departures in order to ensure the assessed level of construction traffic along Kelsterton Road is not excessively exceeded. Further to this, more detailed monitoring / mitigation has been set out, including the use of a vehicle booking system, or similar, which would serve to manage heavy vehicle deliveries throughout the day, through scheduling of specific time slots for arrivals and ensuring the total vehicles per day is not excessively exceeded. As a worst case, which as explained above, will not likely be the case, the peak HGV flows are 120 vehicles in and 120 vehicles out over a 10 hour working day. This could be considered as an average of 12 vehicles in and

Reference	Topic	Question	Question to	Applicant's Response
				12 vehicles out in an hour or 1 HGV in and 1 HGV out every five minutes. These measures are considered to be proportionate to the scale of temporary impact, as identified within the Traffic and Transport assessment. The Applicant acknowledges FCC's position, regarding the narrative surrounding the three candidate Abnormal Indivisible Load (AIL) routes, and how these will be assessed further through a decision-making process. The Applicant has previously set out information regarding the intended methodology to be applied at the detailed design stage, at which point, there will be further information relating to the final scale and number of indivisible loads, enabling localised impacts to be re-examined and an appropriate route selection process to take place, which will seek to minimise disruption to the local highway network. This will also enable the provision of a detailed AIL risk assessment and method statement to be produced and submitted to the relevant authorities, for approval. The Applicant considers that the above tasks, which are to be undertaken at the detailed design stage, will provide sufficient assurance to stakeholders, and will follow the necessary protocol required for AIL deliveries including all necessary consultations. **Emergency Access**

Reference	Topic	Question	Question to	Applicant's Response
				The Applicant acknowledges FCC's position and request regarding the emergency access proposal for the alternative site access route via the B1529. The Applicant confirms that further detail regarding the emergency access protocol, including the specific circumstances for use, anticipated vehicle types and traffic management arrangements, as well as the process for reporting these instances to the Local Highway Authority, will be addressed through, and included within, the detailed CTMP. This detailed CTMP will be produced by the appointed contractor at the detailed design stage and will build upon the principles of the commitments that are now set out in the **Framework CTMP (EN010166/APP/6.5)**.
38	Net Benefit for Biodiversity (NBB)	The Applicant, FCC and NRW are requested to provide their final positions on the NBB provision including on any potential conflicts with the 'without prejudice' compensation proposals at Gronant Fields and other habitat creation/biodiversity requirements.	Applicant, FCC, NRW	The Applicant's final position on NBB is set out in paragraphs 2.3.76 to 2.3.87 of the **Applicant's Closing Statement [REP7-038].** In summary, the Applicant considers the Proposed Development aligns with the objectives of Planning Policy Wales (PPW) 12 and provides a secured framework through which an NBB would be delivered and maintained over the lifetime of the Proposed Development. As explained in the **Green Infrastructure Statement [REP6-046],** the **Off-site Net Benefit for Biodiversity and Green**

Reference	Topic	Question	Question to	Applicant's Response
				Infrastructure Strategy (EN010166/APP/6.14) outlines how the combination of measures included within the **Outline Curlew Implementation and Monitoring Plan (EN010166/APP/6.4)** and **Off-site Net Benefit for Biodiversity and Green Infrastructure Strategy (EN010166/APP/6.14)** secure habitat creation and enhancement measures that exceed the minimum requirements of PPW 12 and would result in a NBB. The **Outline Curlew Implementation and Monitoring Plan (EN010166/APP/6.13)** includes provision of measures related to enhancement of 26 ha of wet grassland to offset the majority of grassland loss within the Main Development Area, whilst the **Off-site Net Benefit for Biodiversity and Green Infrastructure Strategy (EN010166/APP/6.14)** outlines how the remaining 1.8 ha shortfall in the delivery of on-site habitat creation (0.42 ha of woodland, 3 individual trees and 1.38 ha of scrub) could be delivered in the remaining 30.30 ha of the Gronant Fields site. Whilst the **Off-site Net Benefit for Biodiversity and Green Infrastructure Strategy (EN010166/APP/6.14)** requires further consultation to be undertaken with FCC and Denbighshire County Council to finalise the approach to off-site delivery, and the practicality

Reference	Topic	Question	Question to	Applicant's Response
				of delivering both an NBB and the additional curlew mitigation, the Applicant considers there is no conflict between the delivery of NBB and curlew mitigation at Gronant Fields.

Table 3: Land Rights and Related Matters

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
39	Land rights and related matters	"The Crown Estate, The National Assembly for Wales, the Ministry of Defence, and the Applicant are requested to provide updates on the status of negotiations regarding the section 135 consent sought by the Applicant in relation to the following plots detailed in REP6-004 and REP6-013: • Land plots 7/3, 7/4, 7/5, 7/6, 7/22 relating to the Flint AGI site, in which the Ministry of Defence has a third-party interest. • Land plot 6/3 a section of public highway in which The National Assembly for Wales is the freeholder and the applicant is seeking Compulsory Acquisition ("CA") subsurface rights. • Numerous land plots in the King's Most Excellent Majesty in Right of His Crown for which a range of land rights are sought ranging from CA of land, CA of rights and Temporary Possession of land.	The Crown Estate, National Assembly for Wales, MoD, Applicant	The Applicant has continued its engagement with the Ministry of Defence, with regular contact between May and October 2026, seeking feedback and consent. The Applicant understands that the Ministry of Defence has carried out further title investigation in respect of its interest and believes that this no longer exists. However, given the age of the interest, it is not possible for this to be concluded definitively and so a consent will be required for completeness. The Applicant understands that the Ministry of Defence agrees with the wording of Article 42 of the **Draft DCO (EN010166/APP/3.1)** and so expects to reach agreement with the Ministry of Defence shortly. The Welsh Government issued its consent on 29 May 2026 (**EN010166/APP/9.49)**. The Government of Wales Act 2006 transferred the property, rights and liabilities of the National Assembly for Wales (including plot 6/3) to the Welsh Government who therefore now own and manage the land. The Crown Estate issued its consent on 22 October 2026 and a copy of the same was

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
				submitted to the Planning Inspectorate on that date.
40	Land rights and related matters	Please advise whether agreement is expected to be reached and confirm when the consent is expected to be granted if so.	The Crown Estate, National Assembly for Wales, MoD, Applicant	The Applicant understands that the Ministry of Defence agrees with the wording of Article 42 of the **Draft DCO (EN010166/APP/3.1)** and so expects to reach agreement with the Ministry of Defence shortly.
41	Land rights and related matters	"The Applicant is requested to provide an update on the status of negotiations in relation to the voluntary agreements for the following affected persons: • Trustees of J.A. Thomas Deceased (Ann Louise Ratcliffe, Carole Jan Petryszyn, Geoffrey Alun Ratcliffe) • Frances Jones, Glyn Jones, Kevin Glyn Jones • Essity UK Limited • Flintshire County Council • Tata Steel UK Limited • Unknown Land plots: Numerous	Applicant	**Trustees of J.A. Thomas Deceased** In August 2026, Liverpool Bay CCS Ltd.'s (LBCCS) agent (WSP) held further meetings with the agent representing Trustees of J.A. Thomas. This was followed by WSP issuing terms of the agreement in October 2026. **Frances Jones, Glyn Jones, Kevin Glyn Jones** In August 2026, WSP undertook further engagement and meetings with the agent representing Frances Jones, Glyn Jones and Kevin Glyn Jones. In September 2026 a Heads of Terms agreement was signed by both parties. **Essity UK Limited** In October 2026, further attempts to contact Essity UK Limited were made by WSP including

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
				issuing high level terms of the proposed agreement by email. **<u>Flintshire County Council</u>** While no recent contact has been undertaken, the affected party has previously engaged with the Applicant and responded to correspondence. The Applicant will continue to seek to progress discussions where appropriate. **Tata Steel UK Limited** Negotiations with Tata Steel UK Limited have continued since the close of the Examination and are ongoing. Documents are well progressed for an option to lease that would provide for the Applicant's use of the Tata land. The Applicant hopes to be able to provide a further update shortly. **<u>Unknown Land Plots</u>** The Applicant has not identified any further landowners in respect of the numerous Unknown Land plots.
42	Land rights and related matters	"The Applicant and the following statutory undertakers are requested to provide an update on the status of negotiations in relation to its protective provisions, including any updates to drafting of protective provisions:	Applicant, Network Rail, NGET, NGT, Tata Steel,	**<u>Network Rail Infrastructure Limited</u>** For all of the reasons set out in the **Applicant's Statement in respect of section 127 and 138 Planning Act 2008 – Statutory Undertakers' Land [REP6-089]** the Applicant is confident that there is no serious detriment caused to National

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
		• Network Rail Infrastructure Limited • National Grid Electricity Transmission PLC • National Gas Transmission PLC • Tata Steel Uk Limited • Royal Mail Group Limited • SP Energy Networks • EirGrid Interconnector Designated Activity Company	Royal Mail, SPEN, EirGrid	Gas by the provisions included in the draft DCO. Notwithstanding this, the Applicant has continued to engage productively with Network Rail since the close of the examination and remains in active negotiations. The Applicant is close to agreement with Network Rail on the outstanding matters and expects to be able to provide an update to the Secretary of State shortly **National Grid Electricity Transmission PLC** For all of the reasons set out in the **Applicant's Statement in respect of section 127 and 138 Planning Act 2008 – Statutory Undertakers' Land [REP6-089]** the Applicant is confident that there is no serious detriment caused to National Grid by the provisions included in the draft DCO. Despite further engagement with National Grid following the end of the Examination, agreement has not been reached between the parties. **National Gas Transmission PLC** For all of the reasons set out in the **Applicant's Statement in respect of section 127 and 138 Planning Act 2008 – Statutory Undertakers' Land [REP6-089]** the Applicant is confident that there is no serious detriment caused to National Gas by the provisions included in the draft DCO. Notwithstanding this, the Applicant has

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
				continued to engage productively with National Gas since the close of the examination and remains in active negotiations. The Applicant is close to agreement with National Gas on the outstanding matters and expects to be able to provide an update to the Secretary of State shortly. **Tata Steel UK Limited** The Applicant's position remains as set out in **CQLCP Applicant's Response to Deadline 6 Submissions [REP7-037]**. The Applicant does not consider protective provisions are necessary or appropriate in this instance. This is a commercial matter regarding the use of the Jetty. Tata Steel UK Limited does not have a statutory undertaking. Allowing a private party that does not qualify as a statutory undertaker for the purposes of the PA 2008 to potentially impede delivery of this NSIP through the terms of protective provisions it proposes would be disproportionate to the potential for temporary effects whilst such necessary powers are exercised. **Royal Mail Group Limited** The Applicant has updated the Framework CTMP **(EN010166/APP/6.6)** to address the requests in respect of road closures and

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
				diversions made in Royal Mail's submission at Deadline 3 **[REP3-087]**. The traffic and transport assessment presented in **Chapter 10: Traffic and Transport [APP-048]** is based on traffic data which includes projected traffic levels from other committed developments and is therefore inherently cumulative. The Applicant has not received any further correspondence from Royal Mail Group Limited since its Deadline 3 submission. **SP Energy Networks** The Applicant and SP Energy Networks have signed a final Statement of Common Ground **(EN010166/APP/8.8)** confirming that the protective provisions benefiting SP Manweb are agreed. **EirGrid Interconnector Designated Activity Company** In June and July 2026, the Applicant responded to queries from EirGrid Interconnector Designated Activity Company ("**EirGrid**") to explain the Part 1 protective provisions. On 28 October 2026, the Applicant received notice

Reference	Topic	Source Document Text	Addressed to	Applicant's Response
				from EirGrid that they wish to negotiate bespoke protective provisions. For all of the reasons set out in the **Applicant's Statement in respect of section 127 and 138 Planning Act 2008 – Statutory Undertakers' Land [REP6-089]** the Applicant is confident that there is no serious detriment caused to EirGrid by the provisions included in the draft DCO. However, the Applicant intends to discuss the protective provisions further to understand its concerns.

Appendix 1 Response to Question 18

HERBERT SMITH FREEHILLS KRAMER

APPENDIX 1 RESPONSE TO QUESTION 18

EXPLANATION OF THE APPLICANT'S REVISED APPROACH TO SECURING 'COMPENSATION'[1]ATLANTIC SALT MEADOWS

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1. BACKGROUND

1.1 As explained in the **RIHRA (EN010166/APP/6.12)**, the Applicant has concluded that no adverse effect on the integrity ("**AEoI**") of any protected Habitats sites would arise, alone or in combination with other plans or projects, as a result of atmospheric nitrogen deposition caused by the Connah's Quay Low Carbon Project ("**Proposed Development**"). This conclusion is based on the secured payment of financial contributions to:

1.1.1 enhanced management of the saltmarsh at Dee Estuary SAC/SPA/Ramsar to improve the health and quality of Atlantic salt meadows within the SAC/SPA/Ramsar site beyond that which would otherwise be achieved by existing management thus rendering the saltmarsh within the Dee Estuary more resilient to other pressures such as atmospheric nitrogen deposition; and

1.1.2 enhanced management that may be required at Deeside and Buckley Newt Sites SAC to address the small amount of additional nitrogen deposition which may impact old sessile oak woods due to the Proposed Development.

1.2 This Response paper addresses the SoS's Question 18, which concerns how 'compensation measures' are secured for the impact of nitrogen on Atlantic salt meadows.

1.3 A separate Response paper has been prepared to respond to the **Secretary of State's Questions 28 and 29 (Appendix 2)** which concern how compensation measures are secured in relation to the impact of nitrogen on old oak sessile woods.

1.4 For the avoidance of doubt, the Applicant's view remains that the proposed measures constitute mitigation rather than compensation (see the **Applicant's Legal Submissions on Mitigation vs Compensation (EN010166/9.23)**). We use the term 'compensation' in this Response as this is the term used by the SoS in the letter of 8 October 2026, however, per the Applicant's examination submissions our position is that such measures are mitigation rather than compensation.

1.5 We would like to draw the SoS's attention to the fact that the Applicant executed a Deed of Unilateral Undertaking Development Consent Obligations dated 8 June 2026 **(EN010166/APP/9.42) ("First Unilateral Undertaking")**. As explained in the Applicant's **Deadline 7 Cover Letter [REP7-001],** the Applicant had been unable to agree with Flintshire County Council ("FCC") the terms of a bilateral agreement. Therefore, the Applicant entered into the First Unilateral Undertaking to secure the financial contributions towards both: (i) the enhanced management of the saltmarsh at Dee Estuary SAC/SPA/Ramsar to address nitrogen deposition on the Atlantic salt meadows (addressed in this Response to Questions 18) and (ii) the enhanced management of the Deeside and Buckley Newt Sites SAC to address nitrogen deposition on the old sessile oak woods (see separate Response to Questions 28 and 29).

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[1] We use the term 'compensation' as this is the term used by the Secretary of State in the letter of 8 October 2026, however, per the Applicant's examination submissions our position is that such measures are mitigation rather than compensation.

1.6 In the **Applicant's Deadline 7 Cover Letter [REP7-001]**, the Applicant explained that these financial commitments would need to be twinned with a new article 52, which imposed commitments on FCC to apply the monies received under the First Unilateral Undertaking for the purpose of mitigating both impacts of nitrogen deposition.

1.7 In responding to the SoS's Questions 18 below, we explain how the First Unilateral Undertaking and the proposed article 52 were intended to secure all necessary compensation for nitrogen deposition on Atlantic salt meadows, but why an additional unilateral undertaking has now been executed and why changes are also requested to the draft article 52.

1.8 The Applicant recognizes the need to address the increased nitrogen deposition on Atlantic salt meadows that will arise through the operation of its proposed Connah's Quay Low Carbon Power Project.

1.9 FCC already owns, and is under an existing duty to ecologically manage, the Atlantic salt meadows comprised within the Saltmarsh Management Area over which the Applicant proposes enhanced management measures.

1.10 During the Examination, the Applicant offered the SoS a mechanism through which the Project could be consented with assurance that increased nitrogen deposition on the Atlantic salt meadow would be managed. That mechanism is described in section 2 below as "The Applicant's Approach to Date". It comprised (i) a unilateral undertaking for payment of a contribution to FCC of £135,315 ("**First Unilateral Undertaking**"); and (ii) an article in the Draft Development Consent Order (**"DCO"**) (article 52) requiring FCC to apply those funds for management of the Saltmarsh Management Area in accordance with a Nitrogen Management Plan which would be drawn up by the Applicant and submitted to and approved by FCC after consultation with Natural Resources Wales.

1.11 Following the close of the examination, the SoS has issued a number of questions to the Applicant and other participants. In Question 18, the SoS asks the Applicant to provide "*a draft DCO schedule*" to address the "*proposed compensation measures for the increased nitrogen deposition on Atlantic salt meadow*." Although Question 18 does not refer to the First Unilateral Undertaking, the Applicant notes that this undertaking is relevant to the matters raised in that question.

1.12 In any event, matters have now moved on, and the Applicant is now proposing a revised mechanism which:

1.12.1 meets the SoS's request for a draft schedule to the DCO dealing with compensation for nitrogen deposition on the Atlantic salt meadows. The Applicant offers the SoS a new draft Schedule 16 Part 3 to achieve this;

1.12.2 requires any Nitrogen Management Plan that the undertaker submits to FCC pursuant to the First Unilateral Undertaking to be in general accordance with the requirements set out in new Schedule 16 Part 3 of the DCO. The Applicant proposes a modification to draft article 52 of the DCO to achieve this;

1.12.3 supplements the First Unilateral Undertaking with a new unilateral undertaking executed by the Applicant on 29 October 2026 ("**Second Unilateral Undertaking**") **(EN010166/APP/9.48)** (which requires a top-up compensation payment of £111,739.68 for the same nitrogen management purposes for which £135,315 is payable under the First Unilateral Undertaking. This top-up payment is offered to address in-combination impacts of nitrogen deposition on the Atlantic saltmarsh which have been identified following execution of the First Unilateral Undertaking (i.e. Enfinium Parc Adfer Energy Recovery Facility ("**ERF**") Carbon Capture, Deeside Power Station, Knauf Mineral Rock Wool Facility and Arrow Anaerobic Digestion ("AD") Plant); and

1.12.4 requires FCC to carry out the management measures themselves, unless a lease, licence or other appropriate land right or interest has been entered into over the Saltmarsh Management Area, in which case the undertaker is empowered to use the funds which would otherwise be payable under the First

and Second Unilateral Undertakings to carry out the management measures themselves. The Applicant proposes modification to draft article 52 of the DCO to achieve this.

1.13 The Applicant has discussed the proposed revised mechanism set out above with FCC and understands that FCC does not object to the scenario in which the undertaker uses the funds which would otherwise be payable under the First and Second Unilateral Undertakings to carry out the management measures themselves on FCC's land. In any event, however, there is precedent for the principle of imposing a duty on a party who has not agreed to the imposition of that duty in the form of the Powergen4 case. In this case, a highway authority did not wish to enter into a section 278 agreement which would require it to carry out highway works. The court concluded that it was unreasonable and unlawful for the highway authority to refuse to complete the works because its objections (which related to road safety) had been fully heard and discounted by the Planning Inspectorate when granting the planning permission. We consider that a similar principle applies in this case. The SoS has the legal power to impose a duty on FCC and it would be appropriate for the SoS to exercise her powers to do so.

1.14 It should be noted that our proposed drafting of article 52 also caters for the possibility that alternative arrangements can be agreed with FCC after the DCO is granted, such that the undertaker carries out the management measures rather than FCC pursuant to a lease, licence or other appropriate land right or interest which would be granted by FCC to the undertaker.

1.15 Section 2 of this note provides more details of the approach put forward by the Applicant by the end of the DCO examination in respect of compensation for nitrogen deposition on the Atlantic salt meadows.

1.16 Section 3 sets out in more detail the limbs of the Applicant's Revised Approach outlined in paragraph 1.12 above.

2. THE APPLICANT'S APPROACH TO DATE

2.1 To date, the Applicant's proposal for the management of the Saltmarsh Management Area to address the Proposed Development's nitrogen deposition on the Atlantic salt meadow in the absence of agreement of a bilateral agreement with FCC has been a combination of:

2.1.1 the Applicant executing a unilateral undertaking under section 106 of the Town and Country Planning Act 1990 ("**TCPA 1990**") on 8 June 2026 (the First Unilateral Undertaking). In this undertaking, the Applicant commits (clause 4) to not operate the Project until it: (i) has submitted and obtained approval from FCC for a Nitrogen Management Plan (the nature of this plan is set out broadly in the definitions in clause 1.1 of the First Unilateral Undertaking); and (ii) paid the Saltmarsh Management Contribution (of £135,315 Index Linked) to FCC, for the purpose of managing areas of saltmarsh over a 30-year period in accordance with the approved Nitrogen Management Plan; and

2.1.2 the following DCO drafting (Article 52(3)), which places a duty on FCC to use the Saltmarsh Management Contribution in accordance with the approved plan:

"(3) Upon receipt of the Saltmarsh Management Contribution and approval of the Nitrogen Management Plan by Flintshire County Council, Flintshire County Council shall use the Saltmarsh Management Contribution for the Saltmarsh Management Purpose and for no other purpose".

2.2 NOTE FOR INFORMATION ONLY (OAK WOODLAND – NITROGEN COMPENSATION): Clause 4 of the First Unilateral Undertaking and the related paragraphs of article 52 of the DCO (article 52(1)) provide for the payment by the Applicant to FCC of a "SAC Management Contribution" which FCC is to use for the purpose of managing an area of oak woodland within the Deeside and Buckley Newt Sites Special Area of Conservation (**"SAC"**). In emails between the Applicant's solicitor and FCC's solicitor, the scope of the obligations relating to the payment and use of the contribution to manage these oak woodlands was agreed. Had it not been for the fact that the parties had not yet reached

agreement regarding the receipt and use of the Saltmarsh Management Contribution during the Examination, a bilateral s106 agreement might have been entered into, without need for article 52. However, given that a unilateral undertaking and related DCO article was considered by the Applicant the best way to deal with the Saltmarsh Management Contribution, the same securing mechanism was used to deal with the SAC Management Contribution. See the **Applicant's Response to Questions 28 and 29** for more information on the Applicant's approach to dealing with impacts of nitrogen on the affected oak woodland, which is not otherwise addressed in this response to Question 18.

3. THE APPLICANT'S REVISED APPROACH

3.1 Second Unilateral Undertaking Provides a Top-Up Payment

3.2 The First Unilateral Undertaking secures payment by the Applicant to FCC of a contribution of £135,315 for nitrogen management of the Atlantic salt meadows.

3.3 However, the Applicant's subsequent assessment of in-combination impacts of nitrogen deposition with other projects (Enfinium Parc Adfer ERF Carbon Capture, Deeside Power Station, Knauf Mineral Rock Wool Facility and Arrow AD Plant) suggests that a further payment of £111,739.68 ("Supplemental Saltmarsh Management Contribution") is necessary. The Applicant has therefore executed the Second Unilateral Undertaking pursuant to section 106 TCPA to top up the First Unilateral Undertaking payment for this purpose.

3.4 New Schedule 16 Part 3: Nitrogen Management Measures

3.5 In response to the SoS's request in Question 18, the Applicant has drafted a new Schedule 16 Part 3 which is included in the updated draft DCO provided with this submission. Part 3 of Schedule 16 provides details of the content of the Nitrogen Management Plan that must be submitted to FCC for approval pursuant to clause 4 of the First Unilateral Undertaking. The terms of that plan reflect as far as possible the drafting preferences of the SoS in the revised versions of Schedule 16 Parts 1 (Saltmarsh Implementation and Monitoring Plan) and 2 (Curlew Implementation and Monitoring Plan).

3.6 Modification to Draft Article 52 of the DCO

3.7 The Applicant proposes the changes in red to the current draft article 52 of the DCO that the Applicant put forward in its **Deadline 7 Cover Letter [REP7-001]**. These changes would enable FCC in future to agree that the undertaker will be given access to the Saltmarsh Management Area to carry out the management measures itself using the funds that would otherwise be payable to FCC to carry out these measures. This option is included to enable FCC to play a purely passive role if they prefer to:

3.7.1 Procedure for Habitat Mitigation

52. — (1) Upon receipt of the SAC Management Contribution, Flintshire County Council shall use the SAC Management Contribution for the SAC Management Purpose and for no other purpose[2].

(2) Any Nitrogen Management Plan submitted by the undertaker for approval by Flintshire County Council pursuant to the first unilateral undertaking must be in general accordance with the requirements set out in Schedule 16 Part 3 of this Order.

(3) Flintshire County Council's approval of the Nitrogen Management Plan and any variations to the Nitrogen Management Plan pursuant to Schedule 16 Part 3 of this Order shall not be unreasonably withheld or delayed.

(4) Subject to paragraph (5), upon receipt by Flintshire County Council of the Saltmarsh Management Contribution, the Supplemental Saltmarsh Management

[2] This element of article 52 relates to the oak woodland management to address nitrogen deposits. See Responses to Questions 28 and 29 for commentary on this aspect of the compensation measures.

Contribution, and any Saltmarsh Indexation Payment and approval of the Nitrogen Management Plan by Flintshire County Council, Flintshire County Council shall use these contributions for the Saltmarsh Management Purpose and for no other purpose, unless otherwise agreed in writing by the Secretary of State.

(5) Flintshire County Council shall not be required to comply with paragraph (4) where, prior to the operation of Work No 1(a) or (b):

(a) Flintshire County Council has approved the Nitrogen Management Plan;

(b) Flintshire County Council and the undertaker have entered into a Saltmarsh Management Area Lease;

(c) where the undertaker has paid the Saltmarsh Management Contribution or the Supplemental Saltmarsh Management Contribution or any Saltmarsh Indexation Payment, Flintshire County Council has repaid the same to the undertaker; and

(d) where the undertaker has not paid the Saltmarsh Management Contribution or the Supplemental Saltmarsh Management Contribution or any Saltmarsh Indexation Payment, Flintshire County Council has committed not to enforce payment of the same.

(6) Where paragraph (5) applies, the undertaker shall use the Saltmarsh Management Contribution, and the Supplemental Saltmarsh Management Contribution and any Saltmarsh Indexation Payment for the Saltmarsh Management Purpose.

3.7.2 **New Definitions to be Included Within Article 2 (Interpretation) for the Purpose of Article 52:**

"first unilateral undertaking" means the Deed of Unilateral Undertaking Development Consent Obligations dated 8 June 2026 which is certified as such by the Secretary of State for the purposes of this Order in accordance with article 45 (certification of plans, etc.) and includes any modifications which are agreed with the Secretary of State;

"Flintshire County Council" means Flintshire County Council of Ty Dewi Sant, St David's Park, Ewloe, Flintshire CH5 3FF and includes any successor in function to Flintshire County Council;

"Nitrogen Management Plan" has the same meaning as set out in the first unilateral undertaking;

"SAC Management Contribution" has the same meaning as set out in the first unilateral undertaking[3]*;*

"SAC Management Purpose" has the same meaning as set out in the first unilateral undertaking[4]*;*

"Saltmarsh Indexation Payment" has the same meaning as set out in the second unilateral undertaking;

"Saltmarsh Management Area Lease" has the same meaning as set out in the second unilateral undertaking;

[3] This definition to relevant only to compensation for nitrogen deposition affecting the oak woodland of the SAC (not the Atlantic Saltmarsh) – dealt with in response to Secretary of State Questions 28 and 29, but included in this response for completeness as it is used in article 52.

[4] This definition to relevant only to compensation for nitrogen deposition affecting the oak woodland of the SAC (not the Atlantic Saltmarsh) – dealt with in response to Secretary of State Questions 28 and 29, but included in this response for completeness as it is used in article 52

"Saltmarsh Management Contribution" has the same meaning as set out in the first unilateral undertaking;

"Saltmarsh Management Purpose" has the same meaning as set out in the first unilateral undertaking;

"second unilateral undertaking" means the Deed of Unilateral Undertaking Development Consent Obligations dated 29 October 2026 which is certified as such by the Secretary of State for the purposes of this Order in accordance with article 45 (certification of plans, etc.) and includes any modifications which are agreed with the Secretary of State;

"Supplemental Saltmarsh Management Contribution" has the same meaning as set out in the second unilateral undertaking;

4. RESPONSE TO SPECIFIC BULLET POINTS IN QUESTION 18

4.1 The following responses are provided in respect of each of the bullet point matters set out in Question 18 in respect of the proposed compensation measures for the impact of the increased nitrogen deposition on Atlantic salt meadows:

4.2 (i) Proof of Funds and Funding of FCC

4.2.1 The Applicant has submitted a **Funding Statement (EN010166/APP/4.4)** which estimates that the cost of the Proposed Development is £8 billion, describes the Applicant's source of funding and confirms that the Applicant has the ability to procure the financial resources necessary to fund the works to be authorized by the DCO being sought. This includes the financial commitments secured by the First Unilateral Undertaking and Second Unilateral Undertaking for the Saltmarsh Management Purpose, which together amount to £247,054.68 (i.e. approximately 0.003% of the total project cost).

4.2.2 In accordance with the First Unilateral Undertaking and the Second Unilateral Undertaking, the Applicant will not be able to operate Work No. 1(a) or (b) until these financial contributions have been paid. Therefore, there is no scenario in which "harm" to the Habitats sites would have occurred and then the Applicant was unable to make the required payments.

4.3 (ii) How Compensation Measures Would Provide Optimal Conditions

4.3.1 The 'compensation' measures (i.e. enhanced management of existing saltmarsh) are not intended to achieve 'optimal conditions'. This would only be relevant if traditional compensation, i.e. new saltmarsh creation, was involved. Rather, they are intended to address the small increase in nitrogen deposition expected from the Proposed Development by increasing management to counteract the growth of more competitive species, such that such plants do not outcompete the more desirable and less competitive components of the sward, and by improving sward health and resilience making it generally less susceptible to other negative pressures.

4.3.2 Management measures will thus be defined to improve the health and quality of saltmarsh beyond that which would otherwise be achieved by existing required management, rendering the saltmarsh within the Dee Estuary more resilient to other pressures such as atmospheric nitrogen deposition.

4.4 (iii) Why the Sites are Ecologically Suitable for the Proposed Compensation

4.4.1 The SAC Area already comprises Atlantic salt meadow entirely located within the Dee Estuary Special Area of Conservation. The SAC Area is therefore representative of habitats that will experience increased nitrogen deposition as a result of the Proposed Development and has potential for management to be enhanced to improve health and resilience of the saltmarsh present.

4.4.2 Parts of the SAC Area have been surveyed in recent years by NRW. Of particular note, in 2022 the Dee River Marshes were subject to a National Vegetation Classification ("NVC") survey. This survey demonstrated "*The vegetation here is relatively uniform comprising mostly SM13a Puccinellia maritima salt-marsh community, Puccinellia maritima sub-community and SM16a Festuca rubra salt-marsh community, Puccinellia maritima sub-community. These are often in linear strips along the river front and relate to artificial banks and depressions (excavated to create the banks) that lie riverward of the main flood bank. These have dammed former creeks leading to these silting-up and becoming isolated pools within the saltmarsh. The margins of these can mirror the vegetation bands fronting the marsh, with SM13b Puccinellia maritima salt-marsh community, Glaux maritima sub-community and SM16c Festuca rubra salt-marsh community, Festuca rubra-Glaux maritima sub-community with the raised banks being composed of MG1a Arrhenatherum elatius grassland, Festuca rubra sub-community and SM28 Elymus repens salt-marsh community representing the drier conditions."*

4.4.3 The presence of these communities indicates that the diversity and condition of the saltmarsh could be improved through measures such as mowing coarse grasses or grazing, which are consistent with the enhancement measures identified by NRW in its **Deadline 6 submission [REP6-098].** The SAC Area is therefore well suited to delivering additional management that would increase the resilience of the saltmarsh to nitrogen deposition.

4.5 **(iv) Implementation Timetables and Programmes**

4.5.1 The Saltmarsh Management Purpose requires the management of areas of saltmarsh over a 30-year period commencing on the date on which Work No. 1(a) or (b) is first operated in accordance with the approved Nitrogen Management Plan (i.e. a plan to mitigate the nitrogen deposition impacts of the Proposed Development on the Atlantic salt meadows within the Dee Estuary SAC).

4.5.2 In accordance with the definition of "Nitrogen Management Plan" in clause 1.1 of the First Unilateral Undertaking, the Nitrogen Management Plan must include timings of management schedules for that 30-year period.

4.6 **(v) Consents etc Needed for Implementation**

4.6.1 As the works relate to land management activities in Dee Estuary / Aber Afon Dyfrdwy SSSI, approvals under section 28 of the Wildlife and Countryside Act 1981 will be required from NRW prior to their implementation. As the activities proposed are limited to surveys and habitat management no other consents, licenses or approvals are necessary.

4.7 **(vi) Ongoing Management and Maintenance**

4.7.1 The SoS has requested that the Nitrogen Management Plan include details of the ongoing management and maintenance of the compensation measures and sites. The issue of ongoing management and maintenance is most relevant when traditional compensation (i.e. delivering a new area of saltmarsh) is proposed.

4.7.2 In this case, the saltmarsh measures are, inherently, ongoing management measures over the 30-year operational lifetime of the Proposed Development. Following the cessation of operation of the Proposed Development the impact that the measures are mitigating will no longer occur and therefore the increased management burden will be removed.

4.8 **(vii) Access and Biosecurity**

4.8.1 The measures being deployed do not require any specific access and biodiversity controls. The existing access routes and biosecurity controls deployed by FCC will continue to be used.

4.9 **(viii) Methodology for Baseline and Ongoing Post Implementation Monitoring**

4.9.1 As requested by the SoS, Part 3 Schedule 16 of the draft DCO confirms that the Nitrogen Management Plan must include (amongst other things) details of ongoing monitoring and reporting of the effectiveness of the measures including adaptive management measures and thresholds used to trigger any adaptive management. It goes on to state that if the undertaker, or on receipt of a monitoring report, FCC, determines that the measures have been ineffective at meeting the aims and objectives of the Nitrogen Management Plan, the undertaker must consult the saltmarsh management steering group on any adaptive management measures to address this and submit its proposals to FCC for approval.

4.9.2 Baseline and ongoing monitoring is envisaged to comprise NVC surveys and plot monitoring and will record the following information:

(A) Species diversity:

% cover of each species within the quadrats

(B) Sward height:

% cover of sward height

where there is a varied sward height, split and assess % cover of up to 3 sward heights within a quadrat

(C) Bare ground/mud:

% cover.

4.10 **(ix) Success Criteria**

4.10.1 The success criteria for the habitat management activities is the increased resilience of the Atlantic salt meadow communities through targeted management interventions.

4.10.2 This will be demonstrated by recording:

(A) Decreased areas of Common couch and Sea couch grass communities present across this area; and

(B) increased diversity for both upper and lower marsh communities. Of particular conservation interest in this area is Bupleurum tenuissimum (Slender Hare's ear) which has decreased significantly in recent years.

4.11 **(x) Annual Reporting Process to the Secretary of State and Environmental Data Sharing**

4.11.1 Part 3 Schedule 16 of the draft DCO states that unless otherwise agreed with the SoS, the results of any monitoring required pursuant to the Nitrogen Management Plan must be made publicly available and submitted at least annually as a report to the SoS, FCC and members of the saltmarsh management steering group. It goes on to state that if the undertaker, or on receipt of a monitoring report, FCC, determines that the measures have been ineffective at meeting the aims and objectives of the Nitrogen Management Plan, the undertaker must consult the saltmarsh management steering group on any adaptive management measures to address this and submit its proposals to FCC for approval.

4.12 **(xi) Consideration of management measures to mitigate potential indirect effects from nitrogen deposition during operation of the proposed development on other qualifying features of the Aber Dyfrdwy/ Dee Estuary SAC, SPA and Ramsar site**

4.12.1 There are no indirect effects from nitrogen deposition during operation of the Proposed Development on other qualifying features of the Aber Dyfrdwy/ Dee Estuary SAC, SPA and Ramsar site required.

4.12.2 The only indirect effect would be a potential negative impact on roosting habitat structure for the non-breeding birds of the SPA and Ramsar site. This would only take place if the nitrogen deposition resulted in a slight increase in growth of more competitive grasses and these changed the habitat structure. The nitrogen deposition from the Proposed Development is small and existing background deposition rates are already high. Therefore, any change as a result of the Proposed Development could only be slight**.**

4.12.3 The enhanced management secured will ensure that the structure of the habitat for SPA/Ramsar birds will be maintained in a suitable state or even improved.

5. ALTERNATIVE DISCHARGING AUTHORITY MECHANISM

5.1 As explained above, Article 52 and Schedule 16 Part 3 of the Draft DCO secure the reciprocal obligations on FCC in respect of (amongst other things) the approval of the Nitrogen Management Plan.

5.2 FCC is the relevant local planning authority and owns, and is under an existing duty to ecologically manage, the Atlantic salt meadows comprised within the Saltmarsh Management Area over which the Applicant proposes enhanced management measures. It is therefore considered that FCC is the appropriate determining body to approve the Nitrogen Management Plan.

5.3 However, in the event that the SoS alternatively wishes to be the determining authority for the Nitrogen Management Plan, as she is in respect of the equivalent provisions in Schedule 16 Part 1 and Schedule 16 Part 2 of the Draft DCO, the Applicant requests that the SoS takes the following steps:

5.3.1 The SoS should include a statement in the decision letter that clause 4.1.1 of the First Unilateral Undertaking did not constitute a reason for the granting of the DCO (thereby releasing the obligation in accordance with clause 3.4 of the First Unilateral Undertaking). The rest of the First Unilateral Undertaking, as well as the Second Unilateral Undertaking, would remain in place to secure the payment of the Saltmarsh Management Contribution and the Supplemental Saltmarsh Management Contribution.

5.3.2 The SoS should amend Article 52 and Schedule 16 Part 3 in the DCO as set out below:

5.4 **Revised Article 52, paragraphs (2) onwards**

(2) No stage of Work No. 1(a) or (b) may become operational until a Nitrogen Management Plan that is in general accordance with the requirements set out in Schedule 16 Part 3 of this Order has been submitted to and approved by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority for the area in which the mitigation measure is to be delivered.

(3) Subject to paragraph (4), upon receipt by Flintshire County Council of the Saltmarsh Management Contribution, the Supplemental Saltmarsh Management Contribution, and any Saltmarsh Indexation Payment and approval by the Secretary of State of the Nitrogen Management Plan, Flintshire County Council shall use these contributions for the Saltmarsh Management Purpose and for no other purpose, unless otherwise agreed in writing by the Secretary of State.

(4) Flintshire County Council shall not be required to comply with paragraph (3) where, prior to the operation of Work No. 1(a) or (b):

(a) Flintshire County Council and the undertaker have entered into a Saltmarsh Management Area Lease;

(b) where the undertaker has paid the Saltmarsh Management Contribution or the Supplemental Saltmarsh Management Contribution or any Saltmarsh Indexation Payment, Flintshire County Council has repaid the same to the undertaker; and

(c) where the undertaker has not paid the Saltmarsh Management Contribution or the Supplemental Saltmarsh Management Contribution or any Saltmarsh Indexation Payment, Flintshire County Council has committed not to enforce payment of the same.

(5) Where paragraph (4) applies, the undertaker shall use the Saltmarsh Management Contribution, the Supplemental Saltmarsh Management Contribution and any Saltmarsh Indexation Payment for the Saltmarsh Management Purpose

5.5 **Revised Schedule 16 Part 3, paragraph 12(4):**

(4) The SMSG must be consulted on the proposed Nitrogen Management Plan to be approved pursuant to article 52 (procedure for habitat management) prior to the submission to the Secretary of State.

5.6 **Revised Schedule 16 Part 3, paragraphs 14 and 15:**

14. Unless otherwise agreed with the Secretary of State—

(a) the party with responsibility for the use of the Saltmarsh Management Contribution and the Supplemental Saltmarsh Management Contribution for the Saltmarsh Management Purpose pursuant to article 52 (procedure for habitat management) must make the results of any monitoring required pursuant to the Nitrogen Management Plan publicly available and submit them at least annually as a report to the Secretary of State, Flintshire County Council and members of the SMSG; and

(b) if the undertaker, or on receipt of a monitoring report, the Secretary of State, determines that the mitigation measure delivered has been ineffective at meeting the aims and objectives of the Nitrogen Management Plan, the undertaker must consult the SMSG on any adaptive management measures to address this and submit its proposals to the Secretary of State for approval.

15. The Nitrogen Management Plan approved under article 52 (procedure for habitat management) includes any amendments that may subsequently be approved in writing by the Secretary of State. Any amendments to or variations of the approved Nitrogen Management Plan must be in general accordance with the outline NMP and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the environmental statement.

Herbert Smith Freehills Kramer LLP

Appendix 2 Response to Questions 28 and 29

HERBERT SMITH FREEHILLS KRAMER

APPENDIX 2 RESPONSE TO QUESTIONS 28 AND 29

EXPLANATION OF THE APPLICANT'S APPROACH TO SECURING 'COMPENSATION' FOR NITROGEN DEPOSITION ON OLD SESSILE OAK WOODS

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1. BACKGROUND

As explained in the **RIHRA (EN010166/APP/6.12)**, the Applicant has concluded that no AEoI of any protected Habitats sites would arise, alone or in combination with other plans or projects, as a result of atmospheric nitrogen deposition caused by the Connah's Quay Low Carbon Project ("**Proposed Development**"). This conclusion is based on the secured payment of financial contributions to:

1.1.1 enhanced management of the saltmarsh at Dee Estuary SAC/SPA/Ramsar to improve the health and quality of Atlantic salt meadows within the SAC/SPA/Ramsar site beyond that would otherwise be achieved by existing management thus rendering the saltmarsh within the Dee Estuary more resilient to other pressures such as atmospheric nitrogen deposition; and

1.1.2 enhanced management that may be required at Deeside and Buckley Newt Sites SAC to address the small amount of additional nitrogen deposition which may impact old sessile oak woods due to the Proposed Development.

1.2 This Response addresses the SoS's **Questions 28** and **29**, which concern how compensation measures are secured for the impact of nitrogen on oak woods.

1.3 A separate Response paper has been prepared to respond to the SoS's Question 18 which concern how compensation measures are secured in relation to the impact of nitrogen on Atlantic salt meadows.

For the avoidance of doubt, the Applicant's view remains that the proposed measures constitute mitigation rather than compensation (see the **Applicant's Legal Submissions on Mitigation vs Compensation (EN010166/9.23)**). We use the term 'compensation' in this Response as this is the term used by the SoS in the letter of 8 October 2026, however, per the Applicant's examination submissions our position is that such measures are mitigation rather than compensation.

1.4 We would like to draw the SoS's attention to the fact that the Applicant executed a Deed of Unilateral Undertaking Development Consent Obligations dated 8 June 2026 **(EN010166/APP/9.42) ("First Unilateral Undertaking")**. As explained in the Applicant's **Deadline 7 Cover Letter [REP7-001]**, the Applicant has been unable to agree with FCC("FCC") the terms of a bilateral agreement. Therefore, the Applicant entered into the Unilateral Undertaking to secure the financial contributions towards both: (i) the enhanced management of the saltmarsh at Dee Estuary SAC/SPA/Ramsar to address nitrogen deposition on the Atlantic salt meadows (see **Appendix 1: Response to Question 18** for further details) and (ii) the enhanced management of the Deeside and Buckley Newt Sites SAC to address nitrogen deposition on the old sessile oak woods (addressed in this **Appendix 2: Response to Question 28 and 29**).

1.5 In the **Applicant's Deadline 7 Cover Letter [REP7-001],** the Applicant explained that these financial commitments would need to be twinned with a new article 52, which imposed commitments on FCC to apply the monies received under the First Unilateral Undertaking for the purpose of mitigating both impacts of nitrogen deposition.

1.6 In responding to the SoS's Questions 28 and 29 below, we explain how the First Unilateral Undertaking and the proposed article 52 would secure the necessary compensation.

2. THE SECRETARY OF STATE'S REQUEST FOR A DEED OF DEVELOPMENT CONSENT OBLIGATIONS (QUESTION 28)

2.1 The SoS has suggested in Question 28 that the Applicant:

2.1.1 "provides a Deed of Development Consent Obligations signed by all relevant parties to effectively secure its proposed compensation measures for the impacts of nitrogen deposition on old sessile oak woods"

and has requested that:

2.1.2 "If a signed Deed is not yet available, the Secretary of State requests that the Applicant submits a draft Deed of Development Consent Obligations accompanied by an in-principal letter of support from FCC along with an update as to the status of negotiations to date and detailed proposals for completion of the Deed. The Applicant should provide a draft Nitrogen Management Plan to support these Deeds. Should neither option be considered possible the Applicant and FCC are requested to explain why not."

2.2 The Applicant's view is that the First Unilateral Undertaking, combined with the proposed article 52, appropriately secure the required measures for the old oak sessile woods. Details of both are provided below.

3. THE FIRST UNILATERAL UNDERTAKING

Pursuant to clause 4.1 of the **First Unilateral Undertaking**, the Applicant must not operate Work No. 1(a) or (b) (which are the works the operation of which could otherwise give rise to the harm that is being mitigated against) until it has: "4.1.2 paid to FCC the SAC Management Contribution".

3.1 The "SAC Management Contribution" is defined in the First Unilateral Undertaking as being "£64,543 Index Linked to be paid by Uniper to Flintshire County Council pursuant to clause 4.1 of this Unilateral towards the cost of carrying out the SAC Management Purpose."

3.2 The "SAC Management Purpose" is defined as: "(unless otherwise agreed in writing by Uniper and Flintshire County Council, in consultation with Natural Resources Wales) the purpose of providing enhanced management within the SAC Area of oak woodland over a 30 year period commencing on the Operation Date, such enhanced management to include (without limitation):

"a) monitoring, managing and controlling dominant species in the understory of the SAC Area, for example cherry laurel, which are generating a monoculture in their immediate surroundings and supressing ground flora which inhibits the development of a rich and diverse ecosystem;

b) good woodland stewardship and enhancement of the SAC Area's structural complexity;

c) measures to improve ground flora, fungal and lichen diversity;

d) managing the aquatic and bankside environment within the woodland to support the population of Great Crested Newts in the SAC Area including measures to control dominant vegetation, for example Lemna sp., in and around ponds to support the amphibian assemblages; and

e) monitoring through regular phase 1 mapping with quadrat point sampling, as further described in the Breakdown of Works;"

3.3 The "Breakdown of Works" is set out in Annex 1 of the First Unilateral Undertaking. Under the heading "Background" the Breakdown of Works explains that: "*The adverse effect on integrity (AEOI) would not be the increase in N deposition itself, but the resulting botanical effects, such as excessive growth of understorey, a shift in botanical composition of the*

ground-flora, or increased sensitivity to natural stress." Under the heading "Mitigation", the types of measures intended to be implemented are set out in more detail as follows:

> *"The proposed mitigation solution is to introduce habitat management, or enhancement habitat management on-site to counteract the small increase in management burden*
>
> *Flintshire County Council will monitor, manage and control specific dominant species in the understorey e.g. cherry laurel which are generating a monoculture in their immediate surroundings and suppressing ground flora which inhibits the development of a rich and diverse ecosystem. Through good woodland stewardship, and enhancement of the site's structural complexity the impact of additional nitrogen can be mitigated and ground flora, fungal and lichen diversity improved from the current baseline.*
>
> *Areas of focus will also include the aquatic and bankside environment within the woodland to support the population of Great Crested Newts. Measures to control dominant vegetation such as Lemna sp. in and around ponds will support the amphibian assemblages.*
>
> *Habitat changes over the term will be monitored through regular phase 1 mapping with quadrat point sampling."*

4. ARTICLE 52 OF THE DEVELOPMENT CONSENT ORDER

4.1 The Applicant understands that FCC is content to accept and apply the SAC Management Contribution provided to them pursuant to the First Unilateral Undertaking for the SAC Management Purposes as defined in the First Unilateral Undertaking. Had this been the only measure required, a bilateral deed might have been entered into with FCC.

4.2 However, as explained further in our Response to Question 18, FCC has not been willing to accept an equivalent obligation to carry out saltmarsh management measures. For this reason, the Applicant has had no alternative but to execute a unilateral deed to cover both measures.

A unilateral deed cannot, of course, compel any party who has not executed it to carry out actions. For this reason, as explained in our **Deadline 7 Cover Letter [REP7-001]**, we requested that the SoS include a new article 52 in the DCO, as set out below.

> ***"Procedure for habitat mitigation***
>
> *52. — (1) Upon receipt of the SAC Management Contribution, Flintshire County Council shall use the SAC Management Contribution for the SAC Management Purpose and for no other purpose.*

4.3 In the Applicant's Response to Question 18, the Secretary of State is requested to make some changes to the version of article 52 above and to the related definitions in the DCO. However, none of those proposed changes affect article 52(1) or the mechanism described above for addressing impacts of nitrogen deposition on old oak sessile woods.

4.4 As mentioned above, we do not believe that FCC has concerns about applying the funds provided under the First Unilateral Undertaking to manage the relevant woodland.

5. THE SECRETARY OF STATE'S REQUEST FOR A DRAFT DCO SCHEDULE (QUESTION 29)

5.1 The SoS has asked at Question 29: *"In addition, and on a without prejudice basis, the Applicant is requested to provide a draft DCO schedule and an outline Compensation Implementation and Monitoring Plan to cover its proposed compensation measures for the impacts of increased nitrogen deposition on Oak woodland."*

5.2 We consider that the First Unilateral Undertaking combined with article 52(1) as explained in sections 2 to 4 above is sufficient to provide the necessary compensation measures.

5.3 In the **Applicant's Response to ExQ1 (EN010166/APP/9.16)**, the Applicant explained (at Q6.24) why development consent obligations provide an appropriate mechanism for

securing financial contributions and that the use of such obligations is supported by national policy (EN-1) and guidance (PPG) and is precedented (e.g. Longfield Solar Farm). FCC confirmed in its **Response Submitted at Deadline 3 (EN010166/REP3-060)** (at Q6.26) that "*the relevant mitigation could in principle be secured by means of a Section 106 Agreement*".

5.4 It should also be noted that having executed the First Unilateral Undertaking, the Applicant cannot in any event rescind it. Therefore, if the SoS wished the Applicant to expand on the detail of the SAC management provisions in the First Unilateral Undertaking, this would need to be done via either a further unilateral undertaking or a DCO Schedule which is mindful of the terms of the First Unilateral Undertaking and builds upon its provisions. However, our view is that this would be disproportionate and unnecessary. We hope that the SoS shares this view after noting how Clause 4 of the First Unilateral Undertaking and article 52 of the DCO work together to secure the necessary measures, and considering the further information provided in section 6 below.

6. RESPONSES TO THE BULLET POINTS IN QUESTION 29

6.1 The SoS has suggested that the Applicant provides a draft compensation plan to address the increased nitrogen deposition on old sessile oak woods, and that such a plan should include details covering the bullets points set out in Question 29.

6.2 For the reasons set out above, we do not consider that any further mechanism is needed to secure this compensation. However, we provide information in relation to each of the bullet points below.

6.3 **Proof of the applicant's funds and a relevant funding schedule to be agreed with FCC**

The Applicant has submitted a Funding Statement (EN010166/APP/4.4) which estimates that the cost of the Proposed Development is £8 billion, describes the Applicant's source of funding and confirms that the Applicant has the ability to procure the financial resources necessary to fund the works to be authorised by the DCO being sought. This includes the financial commitments secured by the Unilateral Undertaking for the SAC Management Purposes, being £64,543 (i.e. approximately 0.0008% of the total project cost).

6.3.1 In accordance with the Unilateral Undertaking, the Applicant will not be able to operate Work No. 1(a) or (b) until this financial contribution has been paid. Therefore, there is no scenario in which "harm" to the oak woods would have occurred and then the Applicant was unable to make the required payments.

6.4 **Details as to how the proposed compensatory measures would provide optimal conditions**

The increased nitrogen deposition is anticipated to result in a small increase management burden at the SAC.

Therefore, the proposed compensation solution is to introduce habitat management, or enhancement habitat management, on-site to counteract this. FCC will monitor, manage and control specific dominant species in the understorey e.g. cherry laurel which are generating a monoculture in their immediate surroundings and suppressing ground flora which inhibits the development of a rich and diverse ecosystem.

Through good woodland stewardship and enhancement of the site's structural complexity the impact of additional nitrogen can be mitigated and ground flora, fungal and lichen diversity improved from the current baseline.

Areas of focus will also include the aquatic and bankside environment within the woodland to support the population of Great Crested Newts. Measures to control dominant

vegetation such as Lemna sp. in and around ponds will support the amphibian assemblages.

6.5 **Details of the measures/ activities to be undertaken with the financial contribution including implementation timetables and programmes**

We refer the SoS to the sections above which outline the measures and activities to be undertaken using the SAC Management Contribution. The Breakdown of Works in Annex 1 to the First Unilateral Undertaking also provides information on the timetabling of work for woodland management, aquatic management and monitoring activities over the 30 year period and by reference to months of the year.

6.6 **Details as to any consents, licences, and approvals needed for implementation**

Any works managing or removing vegetation in ponds with great crested newts may require licences, unless the works are undertaken outside the great crested newt breeding season, when they are dispersed from their breeding ponds. No other additional consents, licences or approvals are envisaged to be necessary for implementation.

6.7 **Ongoing management and maintenance of the compensation measures and sites**

This is not a case where an applicant is creating new habitat, but rather committing to fund enhanced management of existing protected habitat already under FCC's ownership and control. The "compensation measures" in this case are themselves ongoing management and maintenance measures in relation to the Deeside and Buckley Newt Sites SAC, for the thirty year operational lifetime of the Proposed Development.

Following the cessation of operation of the Proposed Development the impact that the measures are mitigating will no longer occur and therefore the increased management burden will be removed.

6.8 **Details of access and biosecurity of the compensation sites**

The measures to be deployed do not require any specific access and biosecurity controls. The existing access routes and biosecurity controls deployed by FCC will continue to be used.

6.9 **Further detail on the methodology for baseline and ongoing post implementation monitoring of the compensatory measures**

The First Unilateral Undertaking includes monitoring as part of the defined "SAC Management Purpose" for which the "SAC management Contribution" is to be used. This specifically includes: *"(a) monitoring [..] dominant species in the understory of the SAC Area, for example laurel, which are generating a monoculture in their immediate surroundings and suppressing ground flora which inhibit the development of rich and diverse ecosystems"; and "(e) monitoring through regular phase 1 mapping of quadrat point sampling."* The Breakdown of Works in Annex 1 to the First Unilateral Undertaking provides details of how the £24,500 allocated to monitoring activities is expected to breakdown across the 30 year period.

Monitoring activities will comprise Phase 1 habitat surveys and point sampling within the SAC Area across 15 quadrats. These monitoring activities are to be undertaken between June and August in the following years after the first operation of the Proposed Development.

(A) Year 1;

(B) Year 5;

(C) Year 10;

(D) Year 20; and

(E) Year 30.

6.9.2 No monitoring of aquatic habitats is proposed.

6.10 **Details of the success criteria, including thresholds for determining compensation success and the trigger thresholds for adaptive management measures**

6.10.1 The success criteria for the habitat management activities are to not record a significant increase in frequency of negative indicators such as nettle, cleavers or bramble throughout the SAC Area over the operation life of the Proposed Development.

6.11 **Details of the annual reporting process to the Secretary of State and environmental data sharing.**

6.11.1 The Applicant had not considered it necessary or proportionate to provide for annual reports to be submitted to the SoS in relation to what is (by any measure) a very limited potential impact on the old oak sessile woods of the relevant SAC. We respectfully suggest that the SoS may not wish to set this precedent or she may become overwhelmed with annual data in due course from nationally significant infrastructure projects. The time and cost to the public purse of employing officials to consider such information will not in most cases be worthwhile we suggest. However, if the SoS wishes to provide for this in respect of the Proposed Development, then article 52 would need to be expanded to place an obligation on FCC to do so (given that FCC rather than the Applicant will be carrying out the management activities and annual monitoring).

6.11.2 The drafting of such a provision, to be included as a sub-paragraph to the version of article 52 requested in the Applicant's Response to Question 18, might be worded as follows:

"Unless otherwise agreed in writing by the Secretary of State, the results of any monitoring carried out by Flintshire County Council in fulfilling its duty under paragraph [52](1) in relation to the SAC Management Purpose must be submitted by Flintshire County Council annually to the Secretary of State."

Herbert Smith Freehills Kramer LLP

Abbreviations

Abbreviation	Term
AEoI	Adverse Effect on Integrity
AGI	Above Ground Installation
AIL	Abnormal Indivisible Load
CR	Change Request
dB	Decibel
DCO	Development Consent Order
DESNZ	Department for Energy Security and Net Zero
DNS	Deeside Naturalist Society
EIA	Environmental Impact Assessment
ERF	Energy Recovery Facility
ES	Environmental Statement
ExA	Examining Authority
FCC	Flintshire County Council
FLL	Functionally Linked Land
IEMA	Institute of Environmental Management and Assessment
INNS	Invasive Non-native Species
ISMP	Invasive Species Management Plan
LBCCS	Liverpool Bay CCS Limited
LSE	Likely Significant Effects
m2	Square metres
NBB	Net Benefit for Biodiversity
NE	Natural England
NGET	National Grid Electricity Transmission plc
NGT	National Gas Transmission plc
NRW	Natural Resources Wales
NSIP	Nationally Significant Infrastructure Project
NVC	National Vegetation Classification
oCIMP	Outline Curlew Implementation and Monitoring Plan
oSIMP	Outline Saltmarsh Implementation and Monitoring Plan
PA 2008	Planning Act 2008
PPG	Planning Practice Guidance
PPW	Planning Policy Wales
REP	Examination library code for Representations/submissions (e.g., REPx-xxx)
RIHRA	Report to Inform Habitats Regulations Assessment
SAC	Special Area of Conservation
SCA	Saltmarsh Creation Area

Abbreviation	Term
SoS	Secretary of State
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
TCPA	Town and Country Planning Act 1990
WeBS	Wetland Bird Survey
WSP	WSP (consultancy)