

## REGULATION 22 RESPONSE BY WEST CUMBRIA MINING IN RESPONSE TO REGULATION 22 REQUEST BY THE PLANNING INSPECTOR

PINS Ref: APP/H0900/V/21/3271069

LPA Ref: 4/17/9007

DATE OF INQUIRY 7th September 2021

SITE ADDRESS - Former Marchon Site, Kells, Whitehaven,  
Cumbria

APPLICANT West Cumbria Mining

LOCAL PLANNING AUTHORITY Cumbria County Council

### DESCRIPTION OF THE DEVELOPMENT

The development of:

- a new underground metallurgical coal mine and associated development including: the refurbishment of two existing drifts leading to two new underground drifts; coal storage and processing buildings; office and change building; access road; ventilation, power and water infrastructure; security fencing; lighting; outfall to sea; surface water management system and landscaping at the former Marchon site (High Road) Whitehaven;
- a new coal loading facility and railway sidings linked to the Cumbrian Coast Railway Line with adjoining office / welfare facilities; extension of railway underpass; security fencing; lighting; landscaping; construction of a temporary development compound, and associated permanent access on land off Mirehouse Road, Pow Beck Valley, south of Whitehaven;
- a new underground coal conveyor to connect the coal processing buildings with the coal loading facility

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## 1. Introduction

West Cumbria Mining (WCM) has submitted an application to Cumbria County Council (CCC) for planning permission to build a new underground metallurgical coal mine near Whitehaven. Coal will be mined and moved via an underground conveyor to new processing and storage buildings on the old Marchon site near Whitehaven. Processed coal will then be transported via a buried conveyor to a new rail siding in the Pow Beck valley for loading onto trains for transporting to our shipping port and UK steel makers. The new mine, new buildings and the rail sidings will be called Woodhouse Colliery.

The application was submitted to the Council on 31st May 2017. The application was approved by the CCC DC&R Committee on 19th March 2019, again on 30th October 2019 and for a third time on 2nd October 2020. On 11 March 2021 the Secretary of State “called in” the project and a Public Inquiry is scheduled for 7th September 2021.

During the course of preparing for the Public Inquiry at the case management conference on 7th June 2021 the inspector identified areas where he felt a Regulation 22 Notice was required. He subsequently issued the Regulation 22 notice to WCM to provide the additional information to satisfy the inspector.

The Regulation 22 notice was issued to WCM on 30th June 2021. This requires WCM to provide additional details on the following points: -

- A revision of the likely significant cumulative impact should CCC have identified any new developments that would impact the cumulative impact assessment.
- A revision to the expected peak construction period.
- A revision of the traffic modelling if CCC have identified any new developments that would impact the modelling.
- Assessment of vibration impacts and mitigation during Operation.
- A revised GHG assessment of the project in the context of the 6th carbon budget.
- A description of the mitigations proposed where reptiles have been identified.
- Correction to a discrepancy the physical characteristics of the onshore mining area in the EIA.
- An updated Non Technical Summary.

This is WCMs response to the Regulation 22 notice.

In addition, WCM have taken the opportunity to describe the proposed mitigation to avoid destruction of Ancient Woodland (Condition 28), and a Biodiversity Net Gain assessment.

## 2. Regulation 22 Notice



Environmental Services  
Central Operations  
Temple Quay House  
2 The Square  
Bristol, BS1 6PN

Customer Services: 0303 444 5000  
e-mail: [Environmentalservices@planninginspectorate.gov.uk](mailto:Environmentalservices@planninginspectorate.gov.uk)

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Mr Kamran Hyder

Your Ref:

**Sent by email:**

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mark.kirkbride@westcumbriamining.com;  
kevin.murphy@westcumbriamining.com.

Our Ref: APP/H0900/V/21/3271069

Date: 30 June 2021

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Dear Mr Hyder,

**TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017 ('THE 2017 EIA REGULATIONS')**

**Application by: West Cumbria Mining Ltd**

**Site Address: Former Marchon Site, Kells, Whitehaven**

We refer to the above application, which was called-in for determination by the Secretary of State and commenced on 25 March 2021.

Pursuant to Regulation 76(2)(a) of the 2017 EIA Regulations, the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) ('the 2011 EIA Regulations') continue to apply in the context of this application.

The development proposed consists of an existing surface mine entrance for a new underground metallurgical (coking) coal mine and associated surface development. By virtue of Regulation 4 of the 2011 EIA Regulations the development proposed is EIA development.

The content of the Environmental Statement (ES) accompanying the planning application that is the subject of the call-in has been considered, having regard to Regulation 2(1) and Schedule 4 of the 2011 EIA Regulations.

Following examination of the ES, including all updates and addenda to date, the Secretary of State notifies you by this letter, pursuant to Regulation 22 of the 2011 EIA Regulations, that, to comply with Schedule 4 of those regulations (Information for inclusion in environmental statements) the Applicant is required to supply the following further information:

- It was agreed at the Case Management Conference that Cumbria County Council would advise the Applicant of any new other development that has come forward (subsequent to the other development included in the cumulative effects

assessment presented in the ES) which needs to be assessed cumulatively with the application proposals. If any such new development is identified by the Council, an updated description of likely significant cumulative effects should be provided;

- With regards to the description of the forecasting methods used to assess the effects on the environment, traffic modelling used to inform the ES assessments was based on the year 2019 as 'peak construction'. A new peak construction period should be identified and traffic reprofiled taking into account any new other development (as per the point above) that needs to be factored into the traffic modelling. The worst-case assessment of likely significant effects presented in relevant ES chapters should be updated to reflect the updated traffic modelling;
- A description of activities during operation of the development which may result in vibration (including underground blasting, where relevant) should be provided. An assessment of likely significant effects resulting from operational vibration, taking into account how the impact may vary depending on the baseline conditions and the method of excavating material, should also be provided along with a description of the forecasting methods used to assess the effects from operational vibration on the environment and sensitive receptors;
- Based on the outcome of the operational vibration assessment, a description of measures envisaged to prevent, reduce or offset any significant adverse effects on the environment and sensitive receptors as a result of operational vibration should be provided, where relevant;
- The Carbon Budget Order 2021 secures the carbon budget for 2033-2037 (the Sixth Carbon Budget). The Applicant's Greenhouse Gas Emissions assessment (ES Chapter 19) (provided in the ES Addendum, April 2020) is based on the Third, Fourth and Fifth Carbon Budgets. The operational life of the Proposed Development (c. 50 years) would extend into the Sixth Carbon Budget period (2033-2037). Therefore, the assessment of likely significant effects presented in ES Chapter 19 (Greenhouse Gas Emissions) should be updated to consider the Sixth Carbon Budget;
- Based on the outcome of the updated Greenhouse Gas Emissions assessment, an updated description of measures envisaged to prevent, reduce or offset any significant adverse effects on the environment as a result of greenhouse gas emissions should be provided, where relevant;
- An updated Phase 1 habitat survey completed in March 2020 (provided with the ES Addendum in April 2020) explained that a small reptile population had now been confirmed in the north of the Main Mine Site and that "*robust mitigation measures*" would be implemented, to ensure this population is safeguarded during the construction phase of the development. A description of the measures envisaged to prevent, reduce or offset any significant adverse effects on reptiles should be provided, along with an updated description of likely significant effects;
- With regards to the description of the physical characteristics of the onshore mining area, this is described in Chapter 5 of the 2018 ES as being 302ha in size, while Chapter 1 of the 2018 ES describes it as being 187ha in size. The correct

size of the onshore mining area, as well as the total site area for the application proposals, should be confirmed; and

- A revised non-technical summary (NTS) incorporating all of the elements referred to above.

We would draw your attention to court cases which have stressed the need for all the relevant environmental information in an ES to be comprehensive and easily accessible.

You can access Regulation 22 of the 2011 EIA Regulations at the following direct link: <http://www.legislation.gov.uk/ukxi/2011/1824/regulation/22/made>

Although it is not a statutory requirement, in the interests of transparency and openness the Applicant may wish to publicise the availability of the further information in accordance with Regulations 22(3), 22(4) and 22(8) of the 2011 EIA Regulations. Please can you advise the local planning authority if the further information is publicised.

We would be grateful if you could inform us, **within 2 weeks** of the date of this letter, how long you anticipate it will take to prepare this further information, so that an expected submission date can be identified. Please send your response for the attention of the Environmental Services Team using the contact details at the head of this letter.

The Applicant's position regarding the judgement R (Finch) v Surrey County Council [2020] EWHC 3566 (the Finch judgement) and its approach to the Greenhouse Gas Emissions assessment presented in ES Chapter 19 is noted. The Finch judgement is currently subject to an appeal to the Court of Appeal. The Applicant is advised that should the legal position established in the Finch judgement change during the course of the Inquiry, there may be a need to request further information on the environmental effects from the use of the coal originating from the development. This may result in the Inquiry being adjourned for the parties to consider this matter further and to submit any necessary evidence.

A copy of this letter has been sent to Cumbria County Council and the Rule 6 parties (Friends of the Earth and Richard Buxton Solicitors for SLACC).

Yours sincerely

*Stephen Normington*

**Stephen Normington**  
**Inspector**  
**(Signed with the authority of the Secretary of State)**

Cc:  
Cumbria County Council – Paul Haggin; Erin Shearer  
Friends of the Earth – Niall Toru  
Richard Buxton Solicitors for SLACC - Matthew McFeeley

*Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is:*  
<https://acp.planninginspectorate.gov.uk/>

## 3. Regulation 22 – Cumulative Impacts

### 3.1 Introduction – Regulation 22 requirement

It was agreed at the Case Management Conference that Cumbria County Council (CCC) would advise the Applicant of any new other development that has come forward (subsequent to the other development included in the cumulative effects assessment presented in the ES) which needs to be assessed cumulatively with the application proposals. If any such new development is identified by the Council, an updated description of likely significant cumulative effects should be provided.

On 1<sup>st</sup> July 2021 CCC sent the following information to WCM and the Inspector:

*“On the matter of further development since October 2020, Copeland BC have confirmed that only development of any significance is the approval of a reserved matters application for 335 houses on the opposite side of the road from the main mine entrance. The outline permission for 400+ dwellings was granted permission in 2013 and was I believe taken into account when we made our decision to grant permission for the Mine. (see attached). We will include reference to this in the Statement of Common Ground.”*

On 9<sup>th</sup> July 2021 CCC clarified this statement to read “since 2018”.

This development was already included in the cumulative impact assessment previously carried out – see extract from WCM’s Environmental Statement below.

### 3.2 Changes since application made

At the time of the EIA submission to CCC, a topic-by-topic cumulative impact assessment was carried out by WCM incorporating the known projects in development or in planning at that time. The list of developments that were included in the cumulative impact assessments were agreed with Cumbria County Council.

Of the six projects identified in Chapter 2 of the ES, paragraph 2.5.8 as having a possible cumulative impact, two are no longer being brought forward (Moorside and associated National Grid work) and the Sellafield projects are in fact decreasing rather than increasing their activities. The United Utilities pipeline project is now completed. As confirmed by CBC and CCC no new projects have come forward in the area in the interim.

### 3.3 Conclusion

There are no new developments that have come forward (subsequent to the other development included in the cumulative effects assessment presented in the ES) which need to be assessed cumulatively with the application proposals.

## 4. Reg 22 – Transport Modelling

### 4.1 Introduction – Reg 22 requirement

With regards to the description of the forecasting methods used to assess the effects on the environment, traffic modelling used to inform the ES assessments was based on the year 2019 as ‘peak construction’. A new peak construction period should be identified and traffic reprofiled taking

into account any new other development (as per the point above) that needs to be factored into the traffic modelling. The worst-case assessment of likely significant effects presented in relevant ES chapters should be updated to reflect the updated traffic modelling.

#### 4.2 Revised peak construction

Peak construction at Woodhouse Colliery is expected to be 3 years after granting of planning permission, on the assumption that permission will be granted in 2022 this is therefore considered to be 2025.

#### 4.3 Changes since application made

At the time of the EIA submission to CCC, a transport modelling exercise was carried out by CCC incorporating the known projects in development or in planning at that time.

The primary inputs to this model were the then proposed NuGen project which would have seen a construction workforce of some 10,000 and the then current workforce of over 10,000 at Sellafield.

The model did not highlight any significant issues in terms of traffic and resulted in two minor Section 106 obligations.

#### **Highways Contribution 1**

the sum of £155,000 (one hundred and fifty five thousand pounds) to be used towards traffic calming measures including any or all of the following:

- (a) consultation and legal advertisement for Traffic Regulation Orders and traffic calming features
- (b) Installation of 4 x uncontrolled pedestrian points with dropped kerbs, central refuges and "KEEP LEFT" bollards;
- (c) Traffic calming features and general signage;
- (d) Revised and enhanced road markings and textured surfacing in key locations;
- (e) Design, audit and commissioning overheads; and
- (f) Contingency to be utilised within locations to be identified within a 1.5 mile buffer of the main mine site boundary including potential for works on High Road Woodhouse Road, Ennerdale Terrace, Rydal Ave and Lakeland Ave

#### **Highways Contribution 2**

The sum of £68,327 (sixty eight thousand three hundred and twenty seven pounds) as a contribution towards improvements to the Mirehouse Road / St Bees Road junction and the Mirehouse Road / rail load facility access road junction including street lighting and other improvements

Since that time the NuGen project has been abandoned and Sellafield have begun a significant reduction in staff numbers – over 20% to date, in addition the UU pipeline project has been completed.

Furthermore, Whitehaven has suffered significant levels of redundancy as a result of the Covid pandemic and a proportional decrease in traffic numbers should be expected.

#### 4.4 Conclusion

The original modelling undertaken took a worst case scenario approach and did not identify

significant issues. The confirmation at 3 above that no new significant projects have emerged and the changes since that time have significantly reduced the cumulative impact on traffic.

On 6<sup>th</sup> July 2021 WCM commissioned CCC to repeat the modelling undertaken to reflect the revised peak construction date, the resultant addendum transport assessment is included at Attachment A.

This concluded that the development will not have any material impacts in the normal operation of the road network.

## 5. Reg 22 – Vibration

### 5.1 Introduction – Reg 22 requirement

A description of activities during operation of the development which may result in vibration (including underground blasting, where relevant) should be provided. An assessment of likely significant effects resulting from operational vibration, taking into account how the impact may vary depending on the baseline conditions and the method of excavating material, should also be provided along with a description of the forecasting methods used to assess the effects from operational vibration on the environment and sensitive receptors.

Based on the outcome of the operational vibration assessment, a description of measures envisaged to prevent, reduce or offset any significant adverse effects on the environment and sensitive receptors as a result of operational vibration should be provided, where relevant.

### 5.2 Reg 22 Response

In 2018 Chapter 14 of the ES assessed the impacts of Noise and Vibration during Construction, Operation and Decommissioning of the mine and concluded no significant impacts. This was accepted by the CCC planning team and no concerns were raised at the March 2019 DC&R Committee who approved the project.

A review of the chapter was carried out as part of the revision to the project considered at the October 2020 Committee, again there were no concerns raised by CCC or the DC&R Committee on the grounds of Noise and / or vibration.

For the avoidance of doubt the proposal does not include blasting.

In July 2021 WCM commissioned an assessment of likely significant effects resulting from operational vibration, in accordance with the Regulation 22 request. This assessment concluded that there would be no significant adverse impacts as a result of the operation of the Colliery. This assessment is to be found at Attachment B.

## 6. Reg 22 – GHG Assessment

### 6.1 Introduction – Reg 22 Requirement

The Carbon Budget Order 2021 secures the carbon budget for 2033-2037 (the Sixth Carbon Budget). The Applicant's Greenhouse Gas Emissions assessment (ES Chapter 19) (provided in the ES Addendum, April 2020) is based on the Third, Fourth and Fifth Carbon Budgets. The operational life of the Proposed Development (c. 50 years) would extend into the Sixth Carbon Budget period (2033-

2037). Therefore, the assessment of likely significant effects presented in ES Chapter 19 (Greenhouse Gas Emissions) should be updated to consider the Sixth Carbon Budget.

Based on the outcome of the updated Greenhouse Gas Emissions assessment, an updated description of measures envisaged to prevent, reduce or offset any significant adverse effects on the environment as a result of greenhouse gas emissions should be provided, where relevant.

## 6.2 Reg 22 Response

The revised GHG Assessment and the proposed mitigation approach requested has been incorporated in an updated revision of Chapter 19 of the ES and is included as Attachment C.

## 7. Reg 22 – Ecology

### 7.1 Introduction – Reg 22 Requirement

An updated Phase 1 habitat survey completed in March 2020 (provided with the ES Addendum in April 2020) explained that a small reptile population had now been confirmed in the north of the Main Mine Site and that “robust mitigation measures” would be implemented, to ensure this population is safeguarded during the construction phase of the development. A description of the measures envisaged to prevent, reduce or offset any significant adverse effects on reptiles should be provided, along with an updated description of likely significant effects.

### 7.2 2021 Reptile Surveys and Results: summary

Reptile surveys were repeated in 2021 to ensure that the most up-to-date data is used to inform the mitigation strategy for reptiles.

eDNA techniques were used for water samples in the ponds at the Marchon site, Main Band Colliery site and Wood End, and the use of reptile tiles on the Marchon site and the Main Band Colliery site.

Desk studies were also undertaken, including requests made to the Cumbria Biological Records Centre (in May 2021), a search for ponds within 500m of the site (in accordance with government guidance on great crested newt surveys and mitigation for development projects <https://www.gov.uk/guidance/great-crested-newts-surveys-and-mitigation-for-development-projects>), and a search made of ecological data submitted in support of other recent planning applications within a 2km search area.

Full information on all ecological surveys undertaken are provided in BSG Ecology (2021) *Cumbria Metallurgical Coal Project: Ecology Survey Update Report*, August 2021, see Attachment E Part 1.

**Great Crested Newt** – all eDNA samples for ponds returned negative results, suggesting that this species is likely to be absent from all ponds surveyed.

**Slow Worm** - Main Mine site: a small population of slow worm is present on the Main Mine Site.

**Common Lizard** - a small population of Common Lizard is present on the Main Mine site. A single adult Common Lizard was found on the Main Band Colliery site in 2021.

No other reptile species were recorded during the survey work.

## 7.4 Reptile Mitigation

Based on the results of the reptile survey works, BSG Ecology have produced a Method Statement (see Attachment D) which sets out a description of the measures envisaged to prevent, reduce or offset any significant adverse effects on reptiles, along with an updated description of likely significant effects.

## 8. Regulation 22 – Area of Mining

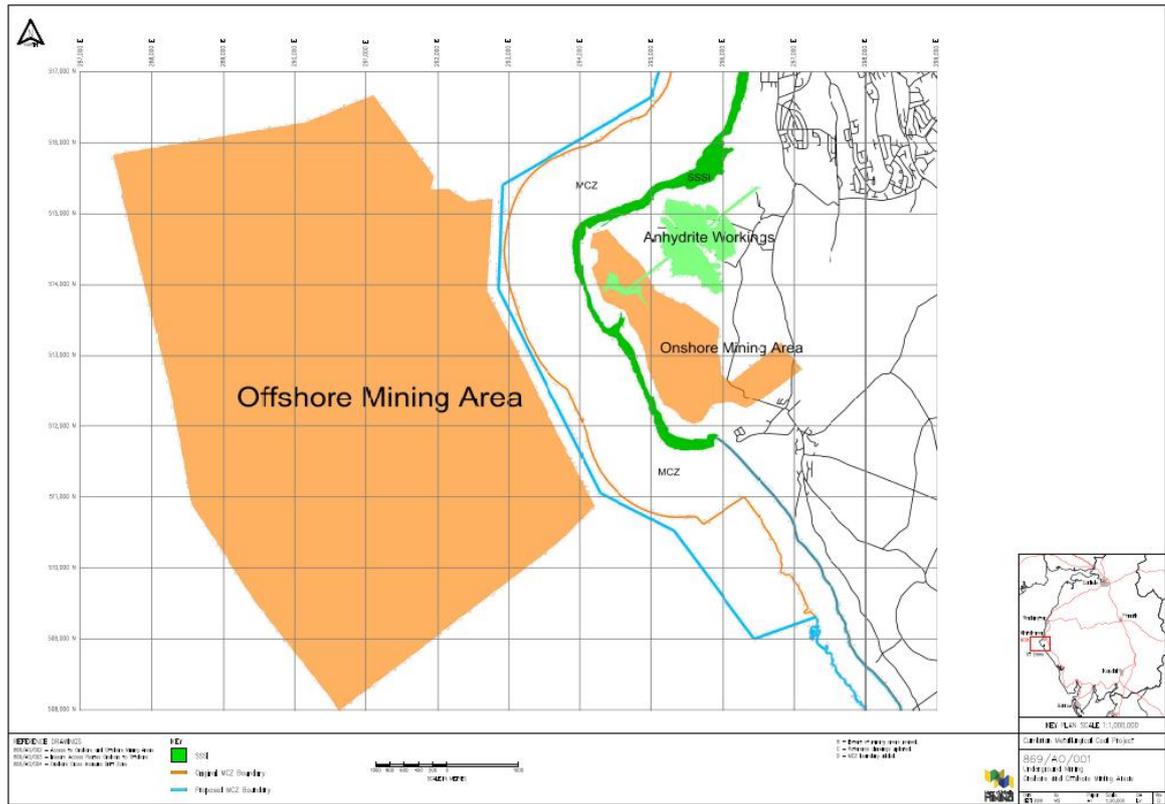
### 8.1 Introduction – Regulation 22 Requirement

With regards to the description of the physical characteristics of the onshore mining area, this is described in Chapter 5 of the 2018 ES as being 302ha in size, while Chapter 1 of the 2018 ES describes it as being 187ha in size. The correct size of the onshore mining area, as well as the total site area for the application proposals, should be confirmed.

### 8.2 WCM's Response

WCM can confirm that the total red line boundary area is 570ha – Drawing 869/AP/001 Rev F (reproduced below) shows the total red line boundary area.





The figures previously provided in Chapters 1 and 5 for the onshore mining area are different because the figures were calculated at different stages of the application. Chapter 5 was updated after the original submission date of May 2017, following requests for further information from Cumbria County Council. As part of these updates, WCM’s mining engineers had updated their proposed mine plan in relation to the onshore mining area. Whilst the figure in Chapter 5 was updated, unfortunately the figure in Chapter 1 was not updated, by omission.

All of the onshore mining area is incorporated in the red line boundary of the planning application.

## 9. Reg 22 – Non Technical Summary

### 9.1 Introduction – Reg 22 Requirement

A revised non-technical summary (NTS) incorporating all of the elements referred to.

### 9.1 Reg 22 Response

A revised NTS is included at Attachment F.

## 10. Installation of Buried Conveyor and Ancient Woodland Impacts

### 10.1 Introduction

In the original application Environmental Statement Chapter 5 (Project Description) contained an appendix which described the proposed Method Statement for the installation of the buried conveyor system between the Main Mine Site and the Rail Loading Facility (Chapter 5 Appendix A). This Method explained a “cut and cover” technique throughout the length of the conveyor route. The Method Statement at that time additionally specifically referred to the proposed crossings at

Bellhouse Gill and Roska Park Woods which were also proposed to be “cut and cover”, with the consequential loss of a number of trees which would need to be removed in order to install the conveyor system. This was reflected and commented on at a number of places in the ES Chapter 11 on Ecology.

It is now proposed to reduce the impact upon these woodland areas by using an alternative technique to install the buried conveyor beneath the woodland. This technique, known as ‘pipe jacking’ is a form of tunnelling, which negates the need to disturb the trees, flora and soils of the woodland. Either side of each of the woodland areas, an access (or ‘launch’) shaft will be created, into which the tunnelling equipment (known as a tunnelling shield) is placed. The tunnelling shield is pushed forward via a series of hydraulic rams, with the ground being excavated by a machine placed within the shield. As the shield moves forward, pre-cast concrete rings are installed behind the shield, to form the outer lining of the buried conveyor structure.

This method is widely used in the construction industry, for crossings beneath rivers, roads, rail lines and other critical pieces of infrastructure and environmental features which cannot be disturbed. It is used to install utilities services, and similar methods are used for underground rail lines and road tunnels.

In the three previous Committee recommendations to approve the application, three planning conditions were proposed by Cumbria County Council in relation to protection of the woodland areas as a result of the previously proposed cut and cover technique. A nearby area (Benhow Wood) of compensation tree planting was identified by WCM, and this is referenced in Condition 29 of the October 2020 Committee Report.

It is now proposed that, due to the fact that the Roska Park and Bellhouse Gill woodland areas will not be disturbed as a result of the use of pipejacking beneath them, these conditions be removed. However, WCM propose to undertake dialogue with the Council to amend planning condition 46 (Habitat Management Scheme) of the October 2020 Committee Report in order to retain the proposed tree planting in Benhow Wood as part of ecological enhancement works.

This Section of the Regulation 22 response includes an assessment by WCM’s appointed ecologists of the impacts of the proposed change in technique for installing the buried conveyor beneath Roska Park and Bellhouse Gill woods.

In coming to their conclusions, WCM’s appointed ecologists have had detailed discussions with specialist hydrogeologists and civil engineers who are experts in pipe jacking.

## 10.2 Pipe Jacking Method Statement

WCM in conjunction with its ecological and hydrogeological advisors and civil engineering contractors have identified the possible hydrogeological conditions and potential impacts upon ecological features at the Roska Park and Bellhouse Gill woodland crossing points.

A Pipe Jacking Design Assessment and Method Statement have been developed as a result of these discussions, with the primary focus being avoidance of impact to the hydrogeology and the woodland. WCM’s appointed ecologists, BSG, have reviewed the proposed change in installation method beneath the Roska Park and Bellhouse Gill woods, and assessed the impact upon the

ecology of these areas. The results of their review and assessment are included at Attachment G. Attachment G presents the relevant information as follows:

- Attachment G part 1 outlines the hydrogeological scenarios considered.
- Attachment G part 2 is confirmation from WCM's preferred contractor that the scenarios are consistent with a pipejacking solution.
- Attachment G part 3 Pipe Jacking Design Assessment and Method Statement which replaces Sections 2 and 5 of Appendix A of Chapter 5 (Project Description).
- Attachment G part 4 provides the assessment of Ecological Impact.

As a consequence of the details at Attachment G the references to the removal of trees on the route of the buried conveyor in Chapter 11 (Ecology) of the ES are no longer relevant. In all other respects the original Ecology chapter of the ES in relation to the buried conveyor element of the project remains unchanged.

### 10.3 Other Potential Environmental Impacts

WCM has considered whether there is potential to a change in environmental impacts including noise and dust impacts as a result of the change in methodology to pipe jacking beneath the woodland areas. It is concluded that the method change for these temporary construction works will not result in any additional impacts upon the nearest sensitive receptors.

## 11. Biodiversity Net Gain

### 11.1 Introduction

The NPPF (2021) sets out in paragraph 174, 179 and 180 the government expectation that development should deliver a measurable gain in biodiversity value. At the time of the publication of the ES there was no requirement to prepare a measured biodiversity gain assessment (metric). However, the preferred options draft for the Copeland Local Plan policy N2PO seeks the delivery of biodiversity net gain and draft condition 8 proposed to be attached to the planning consent for the development requires the Habitat Management Plan to demonstrate a net gain will be achieved. In addition, the need to prepare a biodiversity gain assessment is a key requirement of the Environment Bill currently passing through parliament which is expected to be passed into law in the near future. The Bill sets a mandatory requirement for development to deliver biodiversity gain and establishes a minimum gain of 10% above the baseline value of the site.

In response to draft condition 8 BSG Ecology was commissioned by West Cumbria Mining to undertake a biodiversity gain assessment using the DEFRA 3.0 metric to determine if the delivery of biodiversity net gain is likely without the need for additional offsite compensation by West Cumbria mining or a financial contribution to enable net gain to be delivered elsewhere by a third party.

### 11.2 Assessment

The initial biodiversity gain assessment has been on based the plans submitted with the planning application and a series of reasonable assumptions discussed with West Cumbria Mining about the range, extent and timing of delivery of habitats the landscaping scheme can deliver. These will subsequently be refined through the approval of the detailed landscape design a key objective of which will be to ensure a minimum 10% net gain is delivered. The initial biodiversity net gain

assessment (Attachment E part 2) indicates that the proposed development will deliver a net gain of greater than 10 % over the lifetime of the project above the current baseline value of the site. The ability to achieve a net gain will result in an overall positive benefit for biodiversity value for the site arising from the proposed development.

## 12. Scalegill Hall

### 12.1 Introduction

In relation to heritage impacts the October 2020 planning committee report noted that the effect upon Scalegill Hall was “moderate adverse”.

In July 2021 WCM instructed Headland Archaeology to carry out a review of the Heritage Chapter of the ES to ensure that its conclusions remained up-to-date and robust. As part of this review, it was identified that the significance of the identified impact on Scalegill Hall may be less than the “Moderate adverse at most” impact that had previously been identified in the ES.

### 12.2 Scalegill Hall Heritage Assessment

The report at Attachment H was prepared following a visit to Scalegill Hall by representatives of Headland Archaeology. The report notes that the setting makes a minor contribution towards the heritage significance of the hall. The hall is located within a modern farming landscape containing historic features in the forms of field boundaries, pockets of woodland, dispersed settlement and farmhouses and tracks. It is dominated by the adjacent A595 which effectively cuts it off from the landscape to the west within which the proposed development (the RLF being the closest element of the proposals) will be situated.

As is noted in the attached report, the WCM proposals, including the RLF and MMS will not intrude into any of the views of the hall from within the complex, adjacent to it or from longer distances. The note concludes that the WCM proposals will not have an impact on the components or values which constitute the heritage significance of Scalegill Hall during enabling, construction, use or completed use of the proposed scheme.

Therefore following this detailed review of the impact on the setting of Scalegill Hall, it is considered that there will be no harm to the significance of this designated heritage asset.

Attachment A – Transport Assessment

Attachment B – Noise and Vibration Assessment Review

Attachment C – Revised ES Chapter 19

Attachment D – Mitigation Method Statement

Attachment E – Reptile Surveys and Biodiversity Net Gain

Attachment F – Non Technical Summary

Attachment G – Pipe Jacking Design and Method Statement

Attachment H – Scalegill Hall Heritage Assessment