

Report Control

Project:	East Pit
Client:	NDAC Ltd
Reference:	23.8000
File Origin:	Environmental Statement Compliance Statement
Primary Author	OD
Checked By:	SB

<i>Issue</i>	<i>Date</i>	<i>Status</i>	<i>Checked By</i>

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1. INTRODUCTION

- 1.1 This Environmental Statement (ES) Compliance Statement has been prepared by Boyer on behalf of NDAC Ltd in support of an application made under section 73 of the Town and Country Planning Act 1990 to allow a minor material amendment to the permitted development.

- 1.2 NDAC Ltd is applying to vary condition 86 of Planning Permission P2018/0636 at its site at East Pit, seeking the:

“Section 73 application to vary condition No. 86 pursuant of planning permission ref. P2018/0636 (leisure development) to allow an extension of time for the submission of a reserved matters application to be submitted within three years from the date of this decision”.

- 1.3 The development is located at East Pit, Tairgwaith, between the villages of Cwmllynfell to the East, Rhosamman and Brynamman to the North and Gwaun Cae Gurwen and Tairgwaith to the west. The site covers approximately 585 Ha.

- 1.4 The Site benefits from Outline Planning Permission (P2012/1073) approved in June 2015. The proposed development constituted EIA development under Schedule 2 of the Town and County Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017 (as amended) falling under the definition of development that is likely to have a significant effect on the environment by virtue of its nature, size or location.

- 1.5 Outline Planning Permission (P2012/1073) granted consent for:

“Matters of Outline with all matters reserved: leisure facilities to include: a 120-bedroom hotel (Use Class C1); 78 holiday lodges (Class C3) of 2, 3 and 4 bed-units; a campsite (Sui Generis) of 6.35ha. with facilities block of 210m2 and Visitors Centre (Class D1) of 300m2; dive centre with ancillary dive centre shop (Class D2) of 1630m2; all to include appropriate parking provision, recreational open space, internal access routes, services and drainage provision; and associated works including access, footpaths, cycle routes and bridleways, landscaping and layout details; Matters of Detail (as set out in the application at Annex 1: Mineral Extraction and Processing) the proposed north eastern extension to East Pit East Revised for the purposes of coal extraction along with the completion of coaling at the existing site and the retention of associated ancillary development and Gwaun-Cae-Gurwen Railhead together with the development of a Country Park and recreational lake”.

- 1.6 Subsequently, in March 2022, a Section 73 Application granted permission for:

“Variation of Conditions 1, 2, 18 and 82 attached to planning permission reference P2012/1073 to extend coaling operations until 31st May 2019; to extend the period for removal of coal stocks until 1st March 2020; to extend the use of the GCG Railpad until 1st March 2020 and extend the time period for the submission of the final proposed buttress to be placed against the eastern high wall until 1st March 2019 (amended from 31st October 2018)”.

- 1.7 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. This application seeks to Vary Condition 86 of planning permission P2018/0636.
- 1.8 The development, as a whole, remains unchanged and the reason for varying the above condition is to allow sufficient time for the first Reserved Matters Application to be prepared and submitted in-line with what was originally envisaged.
- 1.9 The Environmental Statement that was submitted in support of the Outline Planning Application (P2012/1073) included the following technical chapters:
- Geology
 - Geotechnics
 - Landscape
 - Air Quality
 - Socio Economic & Health
 - Noise
 - Blasting
 - Traffic
 - Nature Conservation
 - Water Environment
 - Cultural Heritage
 - Cumulative Impact
- 1.10 By assessing the proposed variation sought against each of the technical chapters, this Compliance Statement demonstrates that the extension to the timeframe for the first RMA application to be submitted does not alter the assessment of the original Environmental Statement and the magnitude of residual effects for each of the technical chapters remains the same. Any mitigation associated with the original Environmental Statement (across both the construction and operational phases) therefore remains appropriate and proportionate.
- 1.11 The conclusions of the original Environmental Statement therefore remain fully valid.
- 1.12 This Environmental Statement Compliance Report (ESCR) is available to view online at Neath Port Talbot Council's website and direct from Boyer. Copies of the Report are available to view online free of charge via the Council's planning register or can be purchased from Boyer and are available either in hard copy at a cost of £15 or electronically for £5. A copy of the Original Environmental Statement under application reference P2012/1073 is available to view online free of charge via the Council's planning register or Boyer can print a hard copy at a cost of £150 or electronically for £50. To obtain a copy of the ES or ESCR, please contact Boyer Cardiff at admin@boyerplanning.co.uk. Please note that a charge will also be made to cover the cost of postage.
- 1.13 This Statement addresses each ES technical chapter in turn.

2. BACKGROUND

Site Description

- 2.1 The By way of background, the Section 73 Application (ref. P2018/0636) was granted permission 3rd March 2022 for the:

“Variation of Conditions 1, 2, 18 and 82 attached to planning permission reference P2012/1073 to extend coaling operations until 31st May 2019; to extend the period for removal of coal stocks until 1st March 2020; to extend the use of the GCG Railpad until 1st March 2020 and extend the time period for the submission of the final proposed buttress to be placed against the eastern high wall until 1st March 2019 (amended from 31st October 2018)”.

The following Conditions have been discharged under the most recent s73 (app ref. P2018/0636) (REVISION NUMBER 4, issued on 03/03/2022) are:

- **Cond 82:** Final proposed buttress to be placed against the high walls,
 - **Cond 69b and 74:** (Nature Conservation Steering Committee / Biodiversity Action Plan) and 74 (Aftercare Scheme) of Planning permission P2018/0636 (Revised Cond. 74 Details Received December 2020 - Bridleways)
 - **Cond 69:** A (Written Scheme for the setting up and running of a Nature Conservation Steering Committee)
 - **Cond 58 and 62:** Surface water and groundwater monitoring programme (58) and monitoring of abandoned mine water discharges (62).
- 2.2 The amendment sought via the application seeks the variation of Condition 86 to extend the timeframe for the submission of the first Reserved Matters Approval (RMA) Application to be made to the Local Planning Authority (LPA) for a further 36 months.
- 2.3 The reason for the variation sought is to allow sufficient timeframe for the Applicant to collate the supporting information required to support the first RMA Application. The conditions to be submitted concurrently with the RMA are set out overleaf for ease of reference:

- **Condition 91:** Prior to Submission of RMA: phased development areas together with strategic infrastructure phases
 - **Condition 92:** Submitted with RMA: update/progress statement to the Design and Access Statement
 - **Condition 96:** Submitted with RMA: phasing approach for the development reflecting the car parking requirement
 - **Condition 97:** Submitted with RMA: details of the existing and proposed ground levels and finished floor level
 - **Condition 98:** Submitted with RMA: site investigation report to establish if any ground precautions
 - **Condition 107:** Submitted with RMA: hydraulic modelling assessment
 - **Condition 109:** Submitted with RMA: Waste Management Plan
 - **Condition 112:** Submitted with RMA: external materials, finishes and permanent and temporary means of enclosure
 - **Condition 113:** Submitted with RMA: CEMP
 - **Condition 116:** Submitted with RMA: Traffic Capacity Assessment
 - **Condition 117:** Submitted with RMA: scheme of internal road layouts
 - **Condition 119:** Submitted with RMA: Travel Plan
 - **Condition 124:** Submitted with RMA: Landscape Management and Maintenance Plan (LMMP)
 - **Condition 126:** Submitted with RMA: Ecological Impact Assessment
 - **Condition 127:** Submitted with RMA: Ecological and Enhancement Receptor Area
 - **Condition 128:** Submitted with RMA: Detailed design specification to avoid or minimise damage to surrounding habitats
 - **Condition 130:** Submitted with RMA: Assessment for Contamination
- 2.4 The supporting information required to accompany the first RMA still ongoing and given the extensive nature of the investigations, reports and information required, it is considered that an extension of 36 months is reasonable. This, coupled with the recent change in Applicant for the site, alongside wider economic delays have further hindered the preparation of the first RMA. However, the Applicant is keen to progress the first RMA application and a submission is forthcoming by or before the 31st March 2026.

Current Wording of Condition 86

“Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of the final completion of restoration of the site or before the 31st March 2023 whichever is the sooner”.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

Proposed Revised Wording of Condition 86

~~“Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of the final completion of restoration of the site or before the 31st 2023 whichever is the sooner”~~ within three years from the date of this decision”

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

3. ES CHAPTERS AND ASSESSMENT

- 3.1 This section outlines the technical chapters that were included in the Environmental Statement in the initial Outline Planning permission and how the changes proposed subject to this Section 73 has affected or not altered their outcome.

Geology and Geotechnics

- 3.2 As part of the 2018 Section 73 Application (P2018/0636), an Environmental Statement Addendum was approved, providing a detailed Geotechnical assessment was carried out as part of the Original Environmental Statement (OES) and concluded that:

“Large scale movement of the wall or sections of it towards the west is not expected to occur. Should any movements occur it is not likely that any disturbance beyond the easternmost surface position of the fault will arise...

It is proposed to revise the operational method in the zone close to the Cwmllynfell Fault to strike cut rather than the dip cut method which is adopted on the current site; this will reduce the period of time that the sidewall is exposed....

The final restoration proposal is to buttress the excavation sidewall The buttress will provide an acceptable long term restoration feature.”

- 3.3 Since this time, condition 82 has been approved pursuant of application ref. P2019/5588. On restoration the final design of the buttress (condition 82) has ensured the long term stability of the eastern wall. As such, there is a considered betterment in terms of geology and geotechnics.
- 3.4 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Landscape and Visual Impact

- 3.5 The extension of time proposals will have no additional effects on the LVIA as operations are continuing in-line with the original proposals. Any changes to working methods are contained at depth within the existing Void. Therefore, the conclusions in the OES remain unchanged and the proposal to extend the time period for condition 86 is acceptable in Landscape and Visual Impact terms.
- 3.6 A number of rights of way based on the 1954 parish map are currently suspended under various orders, these suspensions will remain in place until restoration has been completed.
- 3.7 There will be no delay in the completion of restoration therefore the Rights of Way will not be suspended any longer than is currently the case. The proposal to extend the period of time for condition 86 will have no further detrimental effect of Rights of Way.
- 3.8 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Air Quality

- 3.9 A full assessment of the effects on Air Quality was carried out as part of the OES.
- 3.10 As suggested by the OES and as part of the Planning Conditions for the current Planning Permission a Dust and Air Quality Monitoring and Management Action Plan has been put in place to monitor and manage dust at the site.
- 3.11 The monitoring data confirms that the mitigation measures that are in place through the DMMAP set out under as a condition of the current Planning permission are ensuring that Air Quality Standards are not been breached and amenity is not being affected as a result of the extraction operations.
- 3.12 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Socio Economic & Health Impact

- 3.13 A full Socio Economic and Health Impact Assessment was carried out as part of the OES.
- 3.14 The proposal to extend the time limit for condition 86 have no material effect on the conclusions reached in the OES and therefore is acceptable in terms of Socio Economic and Health Impact.
- 3.15 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Traffic

- 3.16 A full traffic assessment was carried out as part of the OES.
- 3.17 As there is no longer coal be extracted the number of vehicle movements per day has significantly reduced.
- 3.18 Due to a reduction in numbers no further assessment is deemed necessary. The current controls on times when HGV movements, together with routing and management covered by the Coal Transportation Plan (CTP) submitted as a requirement of the Planning Permission will continue to ensure that traffic from the site has an acceptable impact on the highway network.
- 3.19 The reduction in daily movements of traffic from the site will further reduce the impact on the network
- 3.20 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Noise

- 3.21 A full noise assessment for each phase of the operation was carried out as part of the OES.

- 3.22 Whilst an assessment was made as part of the original submission in 2012 an updated assessment was carried out by SLR on behalf of Celtic Energy Ltd and submitted in March 2015.
- 3.23 The controls in place under the NMMA are controlling noise within the consented limits. As extraction works have now concluded, the noise limits are far lower than those already recorded and as such it is the conclusion of this assessment that noise level predictions reached as part of the OES remain valid and for an extension of time to the period of condition 86 will remain at acceptable levels.
- 3.24 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Blasting

- 3.25 The OES contains a detailed assessment of the likely effects of blasting as a result of the extraction operations at site.
- 3.26 Blasting operations have since ceased and therefore impact in terms of amenity are considered to be a betterment.
- 3.27 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Nature Conservation

- 3.28 As the extension of time to condition 86 requires no further disturbance to habitats or species, there is no need to assess this aspect of the development further and the conclusions reached in the OES are still valid.
- 3.29 Therefore, in terms of impact on Nature Conservation the proposal is acceptable.
- 3.30 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

Water Environment

- 3.31 As part of the OES detailed assessments were carried out in relation to the Water Environment.
- 3.32 There will be no change to the Mining Activities during the extension of time for condition 86 therefore the assessments made for the OES remain valid and in terms of the Water Environment the proposal.

Cultural Heritage

- 3.33 The OES shows the findings of a desk study and impact assessment of condition 86 and restoration on Cultural Heritage in the area.
- 3.34 The extension of time sought to condition 86 will have no further effect on Cultural Heritage Assets. The proposal to extend the time period is acceptable in Cultural Heritage Terms.
- 3.35 The variations sought through this Section 73, therefore, do not alter the validity of the Environmental Assessment and the Environmental Assessment continues to present a worst-case realistic scenario.

4. CONSIDERATION OF CUMULATIVE DEVELOPMENT

- 4.1 A requirement of the EIA Regulations is to assess cumulative effects. Cumulative effects are generally considered to arise from the combination of effects from the Proposed Development and from other committed schemes in the vicinity, acting together to generate levels of effects.
- 4.2 The OES considers the Cumulative Impact of the current permitted development. No similar developments have taken place in the vicinity since permission was granted in June 2015 and due to the short term nature of the proposal the conclusions reached in the OES are still valid
- 4.3 In terms of cumulative impact, the proposal to extend the time limit of condition 86 is considered acceptable.

5. SUMMARY AND CONCLUSION

- 5.1 This Environmental Statement Compliance Statement has been prepared by Boyer on behalf of NDAC Ltd.
- 5.2 The purpose of this Compliance Statement is to ensure that the proposed development at East Pit is being delivered in accordance with the approved Outline Permission. Where there are variations, these are stated, and an assessment has been undertaken to demonstrate that the variations undertaken do not alter the validity of the magnitude of residual effect set out within the original Environmental Assessment
- 5.3 The minor material amendment application submitted under section 73 of the TCPA seeks to vary Condition 86 of Outline Planning Application P2018/0636. The amendment sought to Condition 86 of Planning Permission seeks the:
- “Section 73 application to vary condition No. 86 pursuant of planning permission ref. P2018/0636 (leisure development) to allow an extension of time for the submission of a reserved matters application to be submitted within three years from the date of this decision”.*
- 5.4 Following a review of each ES Chapter that was originally assessed in the Outline Application, it has been concluded that the variations sought do not alter the validity of the Environmental Assessment.

