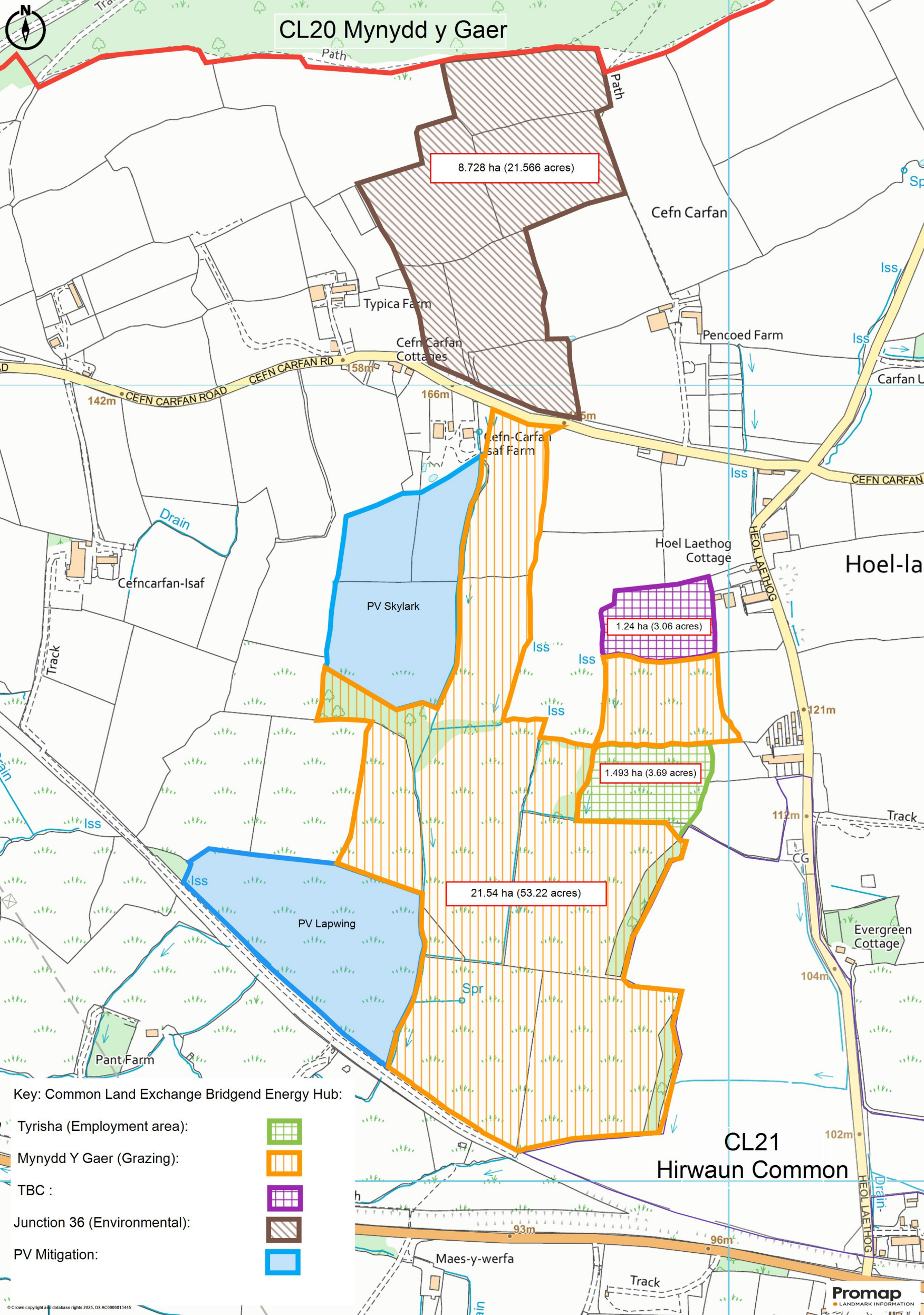


# CL20 Mynydd y Gaer



8.728 ha (21.566 acres)

1.24 ha (3.06 acres)

1.493 ha (3.69 acres)

21.54 ha (53.22 acres)

Key: Common Land Exchange Bridgend Energy Hub:

- Tyrisha (Employment area):
- Mynydd Y Gaer (Grazing):
- TBC :
- Junction 36 (Environmental):
- PV Mitigation:

- 
- 
- 
- 
- 

CL21  
Hirwaun Common



**Legend**

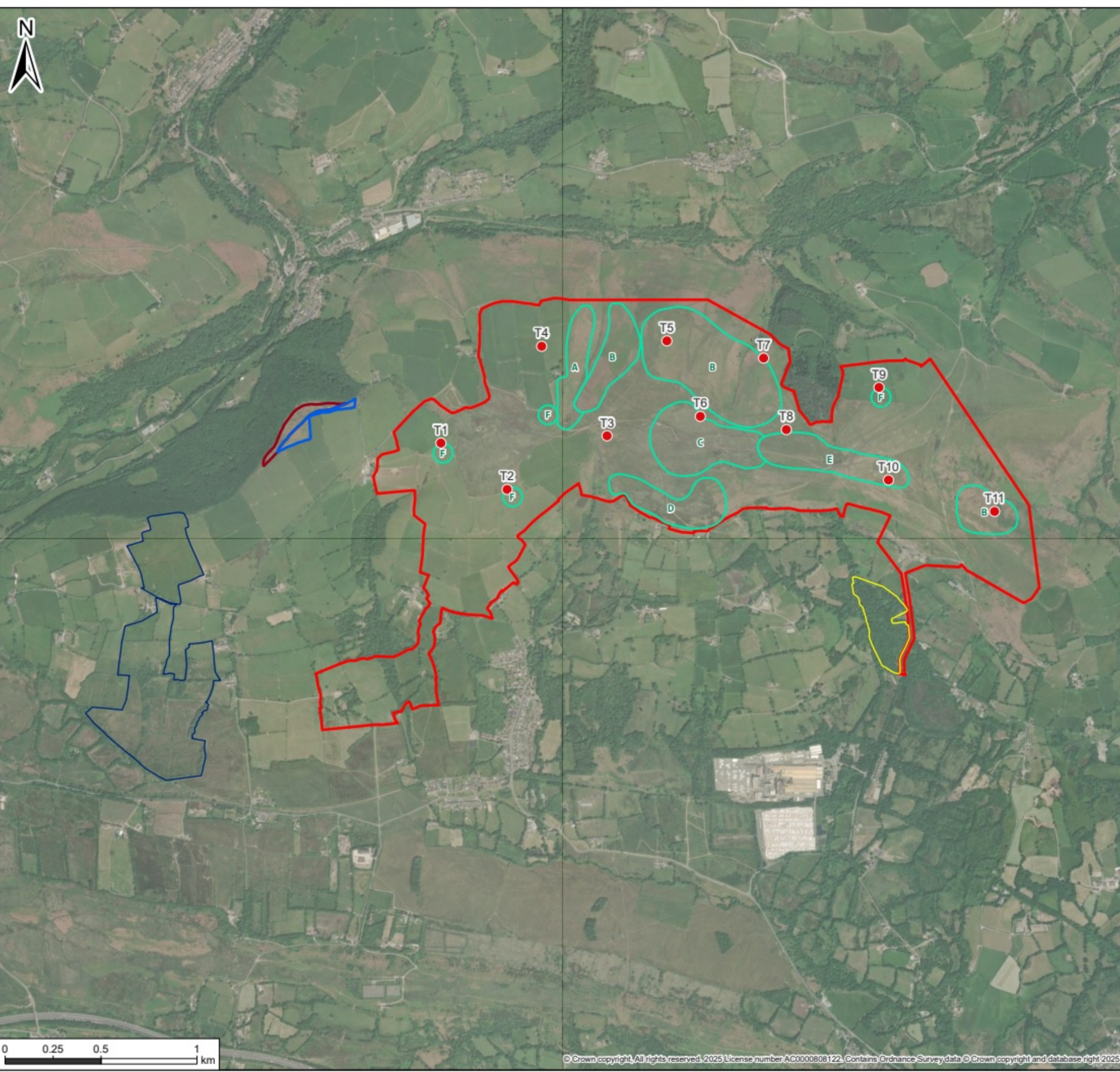
- Turbines
- Application Boundary
- Exchange Land
- Wern Tarw Woodland Enhancement

**Turbine Site**

- Biodiversity Strategy Compartments

**East of Blackmill Woodlands**

- Primary Bracken Management Area
- Secondary Bracken Management Area



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Project Name **Onshore Wind Farm at Mynydd Y Gaer**

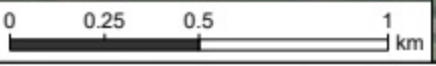
Drawing Title **Overview of Biodiversity Strategy Areas**

Figure Number **1**

Drawing Number **ECO01933-0031-02**

02	17/01/2025	FINAL	AC	LR
Rev	Date	Status	By	CB

Scale @ A3 **1:20,000** Plot Size **294 x 277 mm** Datum **OSGB 1936**



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**KEY PLAN**  
**COITY WALLIA COMMONS**  
**COUNTY OF GLAMORGAN**

If the purchaser certifies that this is a true copy of the original the Surveyor will be bound to register the same as a copy of the original.

THE SURVEYOR GENERAL OF THE DISTRICTS OF THE COUNTY OF GLAMORGAN



# Coity Wallia Commons Act 1976

## CHAPTER xxix

### ARRANGEMENT OF SECTIONS

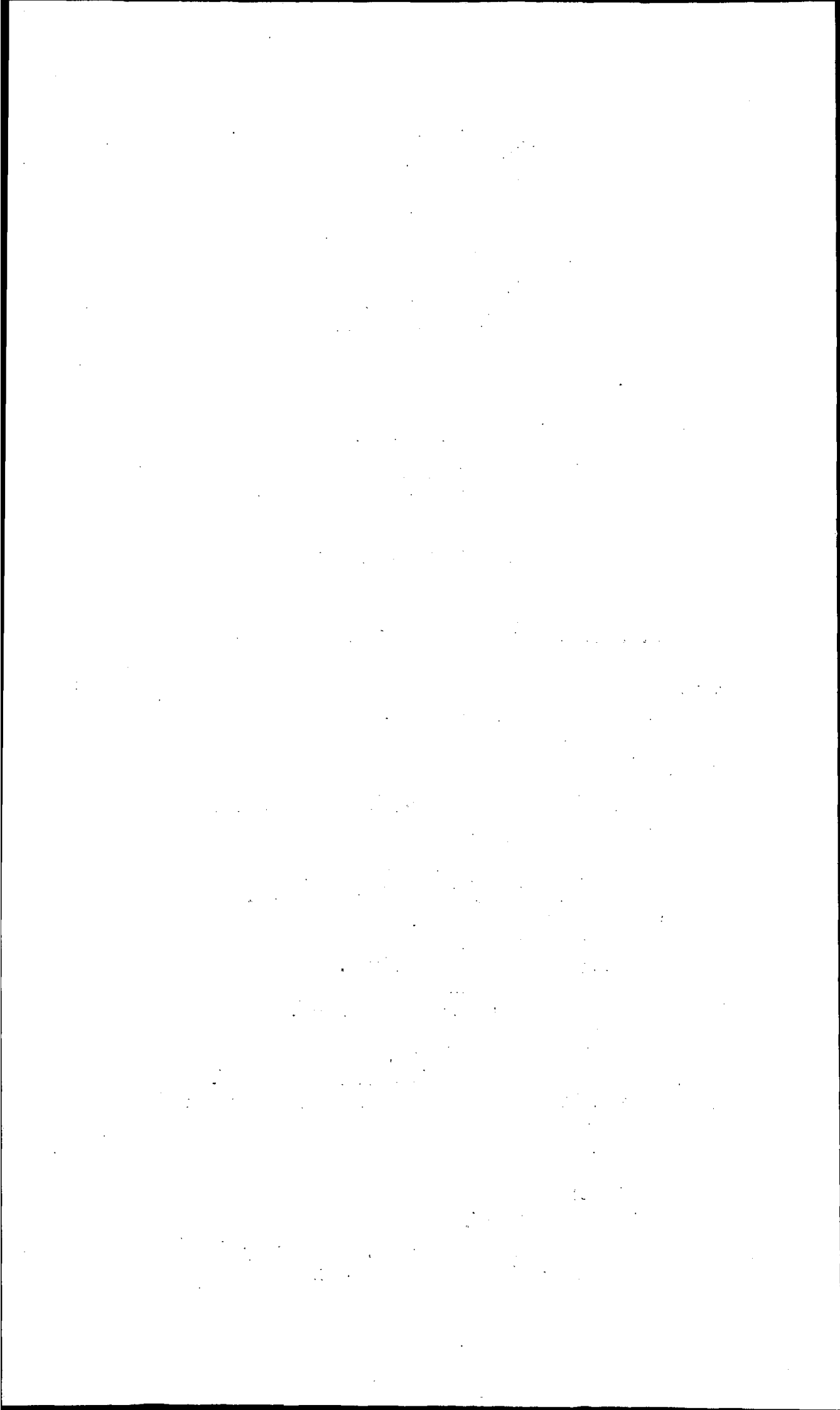
#### Section

1. Short title and commencement.
2. Interpretation.
3. Repeals, etc.
4. Altered constitution.
5. Appointment of six Conservators by commoners.
6. Power to let certain lands.
7. Car parks.
8. Access roads, garages, etc., to premises.
9. Area of land to be used for sections 7 and 8.
10. Exchange of common lands.
11. Fencing, cattle grids, etc.
12. Improving turf and protecting trees.
13. Protection of the commons.
14. Miscellaneous amendments of the award.
15. Legislation.
16. Inquiries by Secretary of State.
17. For protection of South Wales Electricity Board.
18. Saving rights of lords of manor, commoners, sporting rights, etc.
19. Costs of Act.

#### SCHEDULES:

Schedule 1—Repeal.

Schedule 2—Award of Benjamin Worthy Horne as amended and continuing in effect.



**ELIZABETH II**



**1976 CHAPTER xxix**

An Act to alter the constitution of, and to incorporate, the Conservators appointed for the management of the Coity Wallia Commons, to repeal and amend enactments relating to the Conservators and for the management of those commons and to confer further powers on the Conservators; and for other purposes.  
[26th October 1976]

**W**HEREAS the borough of Ogwr in the county of Mid Glamorgan is under the management and local government of the council of the borough of Ogwr (hereinafter respectively referred to as "the borough" and "the council"):

And whereas there are within the borough certain lands known as Cefn Hirgoed Common, Hirwaun Common, Ystad-y-Waun, Allt-y-Rhiw and Mynydd-y-Gaer (including the lands known as Bryn-y-garn, Tonfire, Tonbach and Waun Wen) and known collectively as Coity Wallia Commons (hereinafter referred to as "the commons") situate in the communities of Pencoed, Coychurch Higher, Saint Bride's Minor and Coity Higher; and all of the said lands are waste of the manor of Coity Wallia of which the trustees of the Dunraven Estate are the lords (hereinafter referred to as "the lords of the manor"):

1919 c. lxx.

And whereas in the year 1919 the Board of Agriculture and Fisheries in pursuance of the Inclosure Acts 1845 to 1899 issued a Provisional Order (hereinafter referred to as "the Order") for the regulation of the commons under the general management of the Conservators (hereinafter referred to as "the Conservators") thereunder appointed, and the Order was scheduled to and confirmed by the Commons Regulation (Coity Wallia) Provisional Order Confirmation Act 1919:

And whereas for the purposes of giving complete effect to the Order Benjamin Worthy Horne was appointed valuer and duly made in his award (hereinafter referred to as "the award") pursuant to the said Inclosure Acts 1845 to 1899 such provisions as the then Minister of Agriculture and Fisheries thought desirable and proper, who duly confirmed the award on 14th August, 1936:

And whereas the council pursuant to an undertaking, which as recited in the award was entered into originally by the Penybont Rural District Council, make contributions towards the maintenance or improvement of the commons or otherwise for the benefit of the inhabitants of the borough in relation to the commons as the Conservators from time to time require, the payment of such contributions being sanctioned under an order of the Minister of Health dated 23rd June, 1920:

And whereas it is expedient that the Order should be repealed and that the award should be continued and have full effect, subject to the alterations and additions specified in this Act and, in particular, that the constitution of the Conservators should be altered as by this Act provided:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the objects of this Act cannot be attained without the authority of Parliament:

1972 c. 70.

And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Local Government Act 1972 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title  
and com-  
mencement.

1.—(1) This Act may be cited as the Coity Wallia Commons Act 1976.

(2) Sections 3 (Repeals, etc.), 4 (Altered constitution) and 5 (Appointment of six Conservators by commoners) of this

Act and the Schedules to this Act shall come into operation on 1st April, 1977, and the remainder of this Act shall come into operation on its passing.

2.—(1) In this Act, except where the subject or context Interpretation. otherwise requires—

“ the award ” means the award made in relation to the commons by Benjamin Worthy Horne and sealed and confirmed by the Minister of Agriculture and Fisheries on 14th August, 1936;

“ the borough ” means the borough of Ogwr;

“ the commoners ” means the respective persons entitled to rights of common upon the commons and  
“ commoner ” means any one of the commoners;

“ the commons ” means such of the lands delineated on the map annexed to the award and otherwise as remain under the management of the Conservators and any lands added to those lands by the operation of section 10 (Exchange of common lands) of this Act;

“ the Conservators ” means the Conservators for the time being appointed under the award;

“ the council ” means the council of the borough;

“ land ” includes any estate or interest in land and land covered by water;

“ livestock ” means cattle, sheep, goats, pigs, horses or geese and includes any other animal in respect of which rights of common are registered under the Commons Registration Act 1965;

1965 c. 64.

“ the lords of the manor ” means the trustees of the Dunraven Estate or other the lords of the manor of Coity Wallia.

(2) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as applied, extended, amended or replaced by, or by virtue of, any subsequent enactment, including this Act.

3.—(1) The enactment mentioned in Schedule 1 to this Act is Repeals, etc. hereby repealed.

(2) Notwithstanding the repeal of the said enactment by subsection (1) of this section—

(a) so much of the award as is set out in Schedule 2 to this Act (incorporating amendments and modifications, including those made by this Act) shall, subject to the provisions of this Act, continue and have full effect;

(b) section 36 of the Commons Act 1876 shall continue to 1876 c. 56. apply to the commons; and



- (c) the council may continue to make contributions towards the maintenance of the commons and (subject to obtaining the like consents and sanctions as attached to the making of such contributions prior to the commencement of this Act) may from time to time increase the contributions to such amount as the council think fit.

Altered  
constitution.

4.—(1) On and after 1st April, 1977, for sub-paragraphs (a) and (b) of paragraph 2 of the award there shall be substituted the following paragraphs:—

“(a) The general management of the commons shall be vested in eighteen Conservators to be appointed from time to time by the persons and bodies following (hereinafter referred to separately as ‘the nominator’ and collectively as ‘the nominators’), that is to say:—

two by the lords of the manor;

two by the Ogwr Borough Council and being members of that council;

two by the Pencoed Community Council and being members of that council;

two by the Coychurch Higher Community Council and being members of that council;

two by the Saint Bride’s Minor Community Council and being members of that council;

two by the Coity Higher Community Council and being members of that council;

six by persons entitled to rights of common over the commons, and in manner prescribed by section 5 (Appointment of six Conservators by commoners) of the Coity Wallia Commons Act 1976.

(b) Notwithstanding anything in this award, any person who holds office as a Conservator immediately before 1st April, 1977, and whose period of office extends beyond that date shall (unless he shall previously die or resign or be removed from office) continue in office on and after that date until the expiry of the period of office for which he was appointed by the nominator concerned; and the appointments of the remaining Conservators to be appointed under paragraph (a) above in the year 1977 shall be made before 1st April, 1977, by the nominators who are concerned.”

(2) In sub-paragraph (f) of paragraph 2 of the award for the words from the beginning to the word “appointed” there shall be substituted the following words:—

“(f) Subject to sub-paragraph (b) above and except as hereinafter provided, each Conservator shall hold office for three years which period shall commence in the case of a Conservator hereafter appointed”.

(3) For sub-paragraph (q) of paragraph 2 of the award there shall be substituted the following paragraph:—

“(q) The Conservators shall be a body corporate with perpetual succession and a common seal; and the application of the seal of the Conservators shall be authenticated by the signatures of the chairman of the Conservators or some other Conservator authorised in that behalf and of such officer of the Conservators as shall be so authorised.”.

5.—(1) The following provisions of this section shall have effect for the appointment from time to time under paragraph 2 of the award of six Conservators by the commoners (in this section referred to as “commoner-Conservators”).

Appointment  
of six  
Conservators  
by  
commoners.

(2) If and so long as there is an association of commoners and reasonably appearing to the Conservators to be an association in effective existence, then appointments under this section shall be made by that association; but if it appears to the Conservators that such association has ceased to have an identifiable existence, or has refused or failed to appoint any one of the commoner-Conservators after being requested by the Conservators to do so, those appointments shall be made in manner following:—

- (a) not less than twenty-eight days before the intended appointment the Conservators shall cause notice thereof to be given by advertisement in a newspaper or newspapers circulating in the borough and of the intended holding of a meeting of commoners to make the appointment at a place in the borough, on a date and at a time (not earlier than five nor later than eight in the afternoon) specified in the notice;
- (b) a commoner may be nominated for appointment as a commoner-Conservator in writing either by the Conservators or by two other commoners and no nomination shall be valid if made after the expiry of fifteen minutes after the commencement of the meeting, or if not supported by written acceptance of nomination by the person nominated;
- (c) the clerk of the Conservators or, in the event of his inability to act, some other person appointed by the Conservators shall be the chairman of any meeting for the appointment of any commoner-Conservator under this section and, after examination and announcement of the nominations duly made, the chairman shall, if the nominations do not exceed the vacancies to be filled, declare the candidate or, as the case may be, candidates appointed as Conservators and, in any other case, shall cause an election by ballot of those present and voting to be held forthwith;

- (d) a declaration purporting to be signed by the chairman of the election of a candidate to fill a vacancy shall be evidence of the fact.

Power to  
let certain  
lands.

6.—(1) Notwithstanding any enactment or rule of law, the Conservators shall have power, with the consent of the Secretary of State but without other sanction or authority, on such terms and conditions as they think fit to let to any persons, or grant a licence to use, the land shown on the signed plan, as if—

- (a) the Conservators were the owners of that land; and  
(b) that land did not form part of the commons;

and during the term of any such letting or licence the rights of commoners with respect to the land the subject of the letting or licence and the rights of all persons respecting access to that land for recreation or otherwise, shall be suspended.

(2) The Conservators shall be deemed always to have had the powers of subsection (1) of this section.

(3) Any sums received by the Conservators in respect of any letting or licence granted under the powers of this section shall be expended by the Conservators either in the improvement of the commons or in defraying the expenses otherwise incurred by them in the execution of their powers and duties.

(4) In subsection (1) of this section “the signed plans” means the plans marked respectively “A”, “B” and “C”, of which copies have been signed by the Rt. Hon. Earl of Listowel, the chairman of the Committee of the House of Lords to whom the Bill for this Act was referred and deposited respectively at—

- (a) the office of the Clerk of the Parliaments, House of Lords;  
(b) the Private Bill Office of the House of Commons;  
(c) the Welsh Office; and  
(d) the office of the chief executive of the county council of Mid Glamorgan.

Car parks.

7.—(1) The Conservators may, without other sanction or authority, use any part of the commons for the provision of parking places for vehicles for use by persons resorting to the commons; and for that purpose may surface the same in such manner as they may think fit and construct and maintain such earth mounds, fences, kerbs, bollards and other physical boundaries (not exceeding 1 metre in height) as they may think necessary.

(2) The Conservators may make such charges for the use of parking places provided by them under this section, and may erect such devices for the collection of charges and controlling such use, as they may think fit.

(3) The Conservators may on such terms and conditions as they think fit (including conditions as to the payment or receipt of money) enter into arrangements with any other person for the provision by him of parking places and the doing by that person of anything which under the foregoing provisions of this section the Conservators are empowered to do.

8.—(1) The Conservators may on such terms and conditions as they think fit (including terms and conditions as to the provision and maintenance of cattle grids or other works) authorise in writing any person, without other sanction or authority, to construct and maintain and (if so stated in the authorisation) thereafter to alter or improve—

Access roads, garages, etc., to premises.

- (a) roads or ways affording vehicular or other access from any highway to dwellings existing at the passing of this Act being dwellings lying within or adjacent to any part of the commons and appearing to the Conservators to lack any such access which is satisfactory;
- (b) garages and forecourts thereto, respectively, appearing to the Conservators necessary for the accommodation of the motor and other vehicles of persons occupying such dwellings and in or on which there appears to the Conservators to be no reasonable alternative means of providing such accommodation;
- (c) roads or ways affording vehicular access from any highway to such garages.

(2) (a) Notwithstanding any enactment or rule of law, the Conservators shall have power, without other sanction or authority, on such terms and conditions as they think fit to let, or grant a licence to use, lands forming part of the commons and on which roads, ways or garages are authorised to be constructed pursuant to subsection (1) of this section; and during the term of any such letting or licence the rights of commoners with respect to the land the subject of the letting or licence and the rights of all persons respecting access to that land for recreation or otherwise, shall be suspended.

(b) Any sums received by the Conservators in respect of any letting or licence granted under the powers of paragraph (a) this subsection shall be expended by the Conservators either in the improvement of the commons or in defraying the expenses otherwise incurred by them in the execution of their powers and duties.

(3) The council may carry out any works which have been authorised by the Conservators to be carried out under subsection (1) of this section; and the council may in that connection enter into arrangements with any person authorised under that

subsection to carry out such works, including arrangements for the reimbursement in whole or in part of the council in carrying out the works.

Area of land to be used for sections 7 and 8.

9. Nothing in section 7 (Car parks) or section 8 (Access roads, garages, etc., to premises) of this Act shall authorise the use for the purposes of those sections of parts of the commons exceeding in aggregate 4 hectares or such greater area as the Secretary of State may from time to time in writing allow.

Exchange of common lands.

10.—(1) Subject to the consent of the Secretary of State and to the prior approval of a meeting of commoners (being convened by an association of commoners reasonably appearing to the Conservators to be in effective existence, or convened in the manner prescribed by subsection (2) (a) of section 5 (Appointment of six Conservators by commoners) of this Act) the Conservators may by resolution authorise the lords of the manor to exchange for land (in this section referred to as the “land disposed of”) forming part of the commons and owned by the lords of the manor other lands (in this section referred to as the “added land”) intended for addition to the commons and to be so owned.

(2) Upon the exchange of any land referred to in any resolution under subsection (1) of this section—

- (a) the land disposed of shall thereupon cease for all purposes to form part of the commons and shall be freed from all rights or obligations whatsoever attaching thereto in virtue of its having been common land; and
- (b) the added land shall be and become subject to all rights and obligations under any enactment or rule of law attaching to the land disposed of (including rights of common registered, whether provisionally or otherwise, under the Commons Registration Act 1965) as common land including the provisions of the award and of this Act, as if the added land had at all material times formed part of the commons.

1965 c. 64.

(3) Unless otherwise specified in the approval of a meeting of commoners and in the resolution of the Conservators respectively given or made under subsection (1) of this section there shall be included in each transfer of land disposed of a covenant on the part of the transferee for himself and his successors in title providing (in the absence of such a fence) for the erection of a stock proof fence along such of the boundaries of the land disposed of as abut on lands which from and after the exchange form part of the commons and for the maintenance of such fence at all times thereafter.

**11.—**(1) Notwithstanding any enactment or rule of law, the Conservators may in or upon any road or way within the commons (including, with the consent of the highway authority, any road or way being a highway), and on land forming part of the commons adjacent to such road or way, provide and maintain, alter, improve and remove cattle grids and associated by-passes, works and conveniences (hereafter in this section called "cattle grids") for preventing the straying of livestock from the commons and may erect and maintain fences at and about the boundaries of the commons and of the highways lying both within and near to those boundaries, but (as respects such fences) not so as to obstruct or interfere with any existing access or way from other land on to the commons otherwise than with the consent of the owner and occupier of such land. Fencing,  
cattle grids,  
etc.

(2) The provisions of subsections (2), (5) and (6) of section 87 and of sections 88, 89, 91, 93, 95, 96 and 97 of and Schedule 10 to the Highways Act 1959 shall with all necessary modifications apply with respect to the provision, maintenance, alteration, improvement or removal of cattle grids in or adjacent to a highway by the Conservators under subsection (1) of this section as if the Conservators were a highway authority; and, in the exercise of the powers of that subsection in relation to cattle grids serving any road, not being a highway, the Conservators shall provide by means of a gate or other works on or adjacent to the road or way facilities for the passage of animals. 1959 c 25.

(3) The Conservators may enter into arrangements—

- (a) with the highway authority for any highway within the commons for the carrying out by that authority on behalf of the Conservators of works for the provision and maintenance, alteration, improvement or removal of cattle grids under the powers of this subsection; or
- (b) with any person as respects the provision of fencing under the said powers.

**12.—**(1) Subject to the provisions of this section the Conservators may in or upon lands within the commons for the purpose of— Improving turf  
and protecting  
trees.

- (a) reseeding, improving or assisting the recovery of the surface and of any turf thereon;
- (b) for the protection of newly planted trees or groups of trees;

erect and maintain fences for enclosing and (save in so far as the Conservators may see fit to permit access) excluding livestock and persons from parts of the commons.

(2) The aggregate of the areas which are enclosed contemporaneously—

- (a) under the powers of this section shall not exceed one-twentieth of the whole area of the commons; and
- (b) under the powers of paragraph (b) of subsection (1) of this section shall not exceed 15 acres;

except with the approval first obtained of a meeting of commoners convened by an association of commoners reasonably appearing to the Conservators to be in effective existence, or of a meeting convened in the manner prescribed by subsection (2) (a) of section 5 (Appointment of six Conservators by commoners) of this Act.

(3) No part of the commons shall be so enclosed for the purposes of paragraph (a) of subsection (1) of this section for longer than two in any period of five years, nor for the purposes of paragraph (b) thereof in any one case for longer than a continuous period of twelve years.

(4) The Conservators may on such terms and conditions as they think fit authorise any other person to do anything (except with respect to cattle grids serving any highway) which the Conservators are empowered to do under the foregoing provisions of this section.

Protection of  
the commons.

13. The Conservators may take such steps for the protection of the commons against unlawful interference as could be taken by an owner in possession of land and may (without prejudice to any power exercisable apart from this section) institute proceedings for any offence committed in respect of the commons:

Provided that before in any case exercising the powers of this section the Conservators shall consult the lords of the manor.

Miscellaneous  
amendments  
of the award.

14.—(1) (a) For sub-paragraph (r) of paragraph 2 of the award there shall be substituted the following sub-paragraph—

“(r) The Conservators shall, as respects animals trespassing upon the Commons or found upon the Commons in contravention of any byelaw or regulation of the Conservators for the time being in force, have the like powers as are conferred on the occupier of land by section 7 of the Animals Act 1971 (which makes provision for the detention and sale of trespassing livestock)”.

1971 c. 22.

(b) In sub-paragraph (s) of that paragraph there shall be inserted after the word “assistance” the words “(whether or not involving the expenditure of money)”.

(2) (a) In sub-paragraph (a) (1) of paragraph 3 of the award there shall be substituted for the words "cattle and sheep" the words "livestock within the meaning of the Coity Wallia Commons Act 1976".

(b) For sub-paragraph (a) (2) of paragraph 3 of the award there shall be substituted the following sub-paragraph:—

"(2) To plant or to authorise other persons to plant trees on parts of the commons whether for shelter or otherwise and to fell or to authorise the felling of such trees; and in any other way to improve or add to the beauty of the commons."

(3) (a) In sub-paragraph (a) of paragraph 4 of the award the words "(subject to confirmation thereof in manner provided by the Commons Act 1876)" and sub-paragraph (a) (2) shall be omitted and there shall be inserted at the end of the sub-paragraph the following:—

"(5) Regulating or prohibiting the parking of vehicles on the commons or on such part thereof as may be specified in the byelaws;

(6) Requiring the marking of livestock grazed or kept on the commons in such reasonable manner and according to such reasonable prescriptions and conditions as may be specified in the byelaws.

All byelaws made by the Conservators shall be subject to the provisions contained in subsections (3) to (8) of section 236 and section 237 of the Local Government Act 1972 as if the Conservators were a local authority within the meaning of that section and the clerk to the Conservators were the proper officer (within the meaning of the said Act of 1972) of that local authority; but subject to the modifications that in the said section 237 for the references to sums of £20 and £5 there shall be substituted respectively references to sums of £100 and £10. The confirming authority for the purposes of the said section 236 shall be the Secretary of State."

(b) Nothing in paragraph (a) of this subsection shall affect the continuance in effect of the byelaws of the Conservators confirmed by the Secretary of State on 1st September, 1940, and byelaw 22 thereof (which relates to fines for offences) shall have effect as from the commencement of this section as if for the words "two pounds" there were substituted the words "one hundred pounds":

Provided that the amendment so made to the said byelaw 22 shall not have effect in relation to any offence committed before the commencement of this section.



(4) In sub-paragraph (1) of paragraph 5 of the award there shall be inserted after the word "games" the words "or as shall for the time being be appropriated under sections 6, 7, 8 or 10 (2) of the Coity Wallia Commons Act 1976 by way of letting or licence under the said section 6, as a car park under the said section 7, as access ways or for garages or forecourts under the said section 8 or for the recovery of the surface or the protection of trees under the said section 10 (2)".

(5) In sub-paragraph (2) of the said paragraph 5 for the words in parentheses there shall be substituted the words "(not greater in extent than twenty hectares in all)".

(6) Paragraphs 9, 11, 12, sub-paragraph (a) (2) of paragraph 13 and the Second Schedule shall be omitted.

(7) In sub-paragraph (2) of paragraph 14 the words "or which have been sold for the expenses of this Regulation" shall be omitted.

**Legislation.**

15. The Conservators may promote or oppose Bills in Parliament and may apply for, or oppose, applications for orders, byelaws, schemes or awards made under any Act:

Provided that a resolution of the Conservators to promote a Bill in Parliament shall be passed only if not less than three-quarters of the whole number of the Conservators vote in favour of such resolution.

**Inquiries by  
Secretary of  
State.**

16. The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the confirmation of any byelaw under this Act or under the award and section 250 of the Local Government Act 1972 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Conservators were a local authority.

1972 c. 70.

**For protection  
of South  
Wales  
Electricity  
Board.  
1882 c. 56.**

17.—(1) In this section—

"apparatus" means any electric line or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the board and includes any works constructed for the lodging therein of apparatus;

"the board" means the South Wales Electricity Board.

(2) Notwithstanding the letting of, or grant of a licence to use, any lands under the powers of section 6 (Power to let certain lands) or any part of the commons under the powers of section 8 (Access roads, garages, etc., to premises) or any exchange of land under

the powers of section 10 (Exchange of common lands) or the enclosure of any part of the commons under the powers of section 11 (Fencing, cattle grids, etc.) or section 12 (Improving turf and protecting trees) of this Act, the board shall have the same rights, including rights of access, in respect of any apparatus situate in, under, over or upon the said lands or commons that they enjoyed immediately before such letting, grant of licence, exchange or enclosure.

(3) In the exercise of the powers of section 7 (Car parks), section 8 (Access roads, garages, etc., to premises), section 11 (Fencing, cattle grids, etc.) or section 12 (Improving turf and protecting trees) of this Act the Conservators, the council or any person acting by arrangement with or on the authority of the Conservators shall not damage or injuriously affect apparatus or, without the consent of the board which shall not be unreasonably withheld, interfere with, surface or construct any works over, any apparatus; and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus.

(4) Any question or difference which may arise under this section shall be referred to and determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party, after giving notice in writing to the other party, by the President of the Institution of Civil Engineers.

18. Except as otherwise expressly provided in this Act, nothing in this Act shall affect prejudicially any of the rights mentioned in sub-paragraphs (1), (2) and (3) of paragraph 14 of the award and, subject to the exceptions and reservations therein mentioned, that paragraph shall with necessary modifications extend and apply with reference to this Act as it applies to the award but as if in the said sub-paragraph (2) there were inserted after the word "gardens" the words "or which are for the time being the subject of any letting or licence under the powers of section 6 or subsection (2) of section 8 of the Coity Wallia Commons Act 1976".

Saving rights  
of lords of  
manor,  
commoners,  
sporting  
rights, etc.

19. All costs, charges and expenses of and incidental to the preparing for, obtaining and passing of this Act, or otherwise in relation thereto, shall in the first instance be paid by the council but shall be repaid to them by the Conservators and in whole or in part may be so repaid out of the Conservators' revenue.

Costs of  
Act.

**SCHEDULES**

Section 3.

**SCHEDULE 1****REPEAL**

1919 c. lxx.

Commons Regulation (Coity Wallia) Provisional Order Confirmation Act 1919.

Section 3.

**SCHEDULE 2**

**AWARD OF BENJAMIN WORTHY HORNE AS AMENDED AND CONTINUING  
IN EFFECT**

Copy Award

TO ALL TO WHOM THESE PRESENTS SHALL COME I, BENJAMIN WORTHY HORNE, of 4, Lincoln's Inn Fields, in the County of London, Solicitor, SEND GREETING:

WHEREAS in the year 1919 the Board of Agriculture and Fisheries in pursuance of the Inclosure Acts 1845 to 1899 issued a Provisional Order (hereinafter referred to as "the Order") for the Regulation of certain lands known as Cefn Hirgoed Common Hirwaun Common Ystad-y-Waun Allt-y-Rhiw and Mynydd-y-Gaer and which lands include the lands known as Bryn-y-Garn Tonffre Tonbach and Waun Wen and are collectively known as Coity Wallia Commons (hereinafter referred to as "the Commons") situate in the Parishes of Pencoed Coychurch Higher Saint Bride's Minor and Coity Higher in the County of Glamorgan all of which said lands are waste of the Manor of Coity Wallia of which Manor the Dunraven Estates Company Limited (hereinafter called "the Lords of the Manor") claim to be Lords

AND WHEREAS the Order was confirmed by the Commons Regulation (Coity Wallia) Provisional Order Confirmation Act 1919 (9 and 10 Geo V. c. 70)

AND WHEREAS the Order recited that the Penybont Rural District Council had with the consent of the Council of the County of Glamorgan undertaken to contribute out of their funds towards the maintenance or improvement of the commons or otherwise for the benefit of the inhabitants of the district in relation to the Commons such amounts (hereinafter referred to as "special contributions") as the Conservators hereinafter appointed might from time to time require but not exceeding in any half-year the amount produced by a rate of one halfpenny in the pound levied for special expenses on the Parishes of Pencoed Coychurch Higher and Saint Bride's Minor and on such part of the Parish of Coity Higher as lies within the Manor of Coity Wallia

AND WHEREAS payment of such special contributions was sanctioned under an Order of the Minister of Health dated the 23rd day of June 1920

AND WHEREAS for the better regulation of the Commons the Order provided that certain powers could be exercised by the Conservators with the consent of the Lords of the Manor

AND WHEREAS the Lords of the Manor by a Deed Poll dated the 16th day of March 1927 consented to the exercise of the said powers

SCH. 2  
—cont.

AND WHEREAS by the Order it is among other things provided that for the purpose of giving complete effect thereto there should be inserted in the AWARD to be made in pursuance of the said Inclosure Acts such provisions not inconsistent with those Acts as the Board (now Minister) of Agriculture and Fisheries (hereinafter in this Preamble referred to as "the Minister" but otherwise referred to in the Order as the Secretary of State being the successor to the functions of the Minister under the Order) should think desirable and proper

AND WHEREAS I the said Benjamin Worthy Horne having been duly appointed the Valuer in the matter of the said Regulation and having made the declaration required by the said Inclosure Acts have duly held all necessary meetings and have drawn up and sent to the Minister my Report in the matter of the said Regulation with maps and have in all other respects complied with the provisions of the said Acts

AND WHEREAS all such objections as have been made to my said Report having been heard and all such enquiries having been made in relation thereto as the Minister has thought fit the Minister has authorised and directed me to cause to be drawn up and engrossed on parchment my AWARD in the matter of the said Regulation

1. NOW KNOW YE that in pursuance of the provisions of the said Acts and by virtue of the powers and authority in me vested I the said BENJAMIN WORTHY HORNE the Valuer as aforesaid do make and declare this to be my AWARD in the matter of the said Regulation and to this my AWARD I have annexed a map (in nine parts—with key plan) as required by the said Acts on which the Commons to be regulated are delineated by the colour green such map being taken from the Ordnance Survey maps on the scale of 1/2500 with the necessary additions thereto.

2. I DECLARE that for the IMPROVEMENT of the COMMONS the following provisions shall be in force:—

(a) The general management of the Commons shall be vested in eighteen Conservators to be appointed from time to time by the persons and bodies following (hereinafter referred to separately as "the nominator" and collectively as "the nominators"), that is to say:—

- two by the Lords of the Manor;
- two by the Ogwr Borough Council and being members of that council;
- two by the Pencoed Community Council and being members of that council;
- two by the Coychurch Higher Community Council and being members of that council;
- two by the St. Bride's Minor Community Council and being members of that Council;
- two by the Coity Higher Community Council and being members of that council;

SCH. 2  
—cont.

six by persons entitled to rights of common over the Commons, and in manner prescribed by section 5 (Appointment of six Conservators by commoners) of the Coity Wallia Commons Act 1976

(b) Notwithstanding anything in this AWARD, any person who holds office as a Conservator immediately before 1st April 1977, and whose period of office extends beyond that date shall (unless he shall previously die or resign or be removed from office) continue in office on and after that date until the expiry of the period of office for which he was appointed by the nominator concerned; and the appointments of the remaining Conservators to be appointed under paragraph (a) above in the year 1977 shall be made before the 1st April 1977 by the nominators who are concerned

*Clerk.* (c) The Conservators shall appoint a Clerk (hereinafter referred to as "the Clerk") to hold Office at the pleasure of the Conservators with or without remuneration except that if the Clerk is a Conservator he shall receive no remuneration

*Treasurer.* (d) The Conservators shall appoint a Treasurer without remuneration to hold Office at the pleasure of the Conservators

(e) Every appointment of a Conservator made hereafter shall be notified in writing by the nominator or where the nominator is a Council by the Clerk or Chairman of the Council to the Clerk and such notice shall be conclusive evidence of such appointment

*Conservators' period of office.* (f) Subject to sub-paragraph (b) above and except as hereinafter provided, each Conservator shall hold Office for three years which period shall commence in the case of a Conservator hereafter appointed from the date of his appointment and any Conservator shall be eligible for re-appointment: PROVIDED that a Conservator may at any time be removed from his Office by his nominator giving to the Clerk notice in writing of such removal

*Resignations.* (g) A Conservator may resign his Office at any time by giving to the Clerk notice in writing which shall specify the date when the resignation is to take effect

*Casual vacancies.* (h) Any casual vacancy caused by the resignation or death of a Conservator shall forthwith be notified in writing to the nominator by the Clerk and any casual vacancy caused by the removal resignation or death of a Conservator shall forthwith be filled by the nominator and if not so filled within two months after the sending of the notification or the receipt by the Clerk of the notice of removal from Office as the case may be the vacancy shall be filled by the Conservators on behalf of the nominator

(i) A Conservator appointed to fill a casual vacancy shall hold Office until the date when the Conservator whose office he fills would have ceased to hold his Office and no longer

- (j) The Conservators shall appoint a Chairman for such period as they consider desirable and he or the Conservator chosen by the Conservators present at any meeting to preside at such meeting in the absence of the Chairman shall have a second or casting vote SCH. 2  
—cont.  
Chairman.
- (k) The Conservators shall provide and maintain an Office for the transaction of their business Office, meetings.
- (l) The Conservators shall meet at least twice every year
- (m) Five shall form a quorum at all meetings of the Conservators Quorum.
- (n) The Conservators may frame rules for the conduct of their business
- (o) No action of the Conservators shall be invalidated by reason of any informality in the appointment of any Conservator or any vacancy in the number of Conservators
- (p) The Conservators may appoint a sufficient number of keepers and other persons to assist in the management and maintenance of the Commons as they think fit Keepers.
- (q) The Conservators shall be a body corporate with perpetual succession and a common seal; and the application of the seal of the Conservators shall be authenticated by the signatures of the chairman of the Conservators or some other Conservators authorised in that behalf and of such officer of the Conservators as shall be so authorised Body corporate
- (r) The Conservators shall, as respects animals trespassing upon the Commons or found upon the Commons in contravention of any byelaw or regulation of the Conservators for the time being in force, have the like powers as are conferred on the occupier of land by section 7 of the Animals Act 1971 (which makes provision for the detention and sale of trespassing livestock) Detention, etc.,  
of trespassing  
livestock.  
1971 c. 22.
- (s) The Conservators may in their absolute discretion for the protection of the Commons render assistance (whether or not involving the expenditure of money) to any Commoner in the maintenance of his rights of common. Assistance to  
Commoners.
- 3.—(a) The Conservators shall have power— Powers of  
management.
- (1) To drain manure and level the Commons where necessary for the purpose of improving the Commons for the pasturage of livestock within the meaning of the Coity Wallia Commons Act 1976 or the purposes of recreation
  - (2) To plant or to authorise other persons to plant trees on parts of the Commons whether for shelter or otherwise and to fell or to authorise the felling of such trees; and in any other way to improve or add to the beauty of the Commons
  - (3) To cut the bracken from time to time on any parts of the Commons (except the part or parts for the time being appropriated for the purpose of supplying bracken for the labouring

SCH. 2  
—cont.

poor as hereinafter provided) if and so far as such cutting is in the opinion of the Conservators expedient for the improvement of the pasturage: PROVIDED that there shall always be left a sufficient quantity of bracken to satisfy the lawful requirements of the Commoners and the Conservators may sell any bracken so cut and shall apply the proceeds of such sale in or towards the expenses of the execution of their powers and duties under the Order; and

- (4) Generally to manage the Commons and in particular to preserve maintain manage and protect the part of the Commons known as the Common Wood at Allt-y-Rhiw.

*Permits for  
special uses.*

(b) With the sanction of the Lords of the Manor already obtained by the hereinbefore recited Deed Poll of the 16th March 1927 and with the sanction of a meeting of the persons entitled to rights of common over the Commons and in the case of a general sanction subject to any limitation or condition imposed by the sanction the Conservators may if they think fit and on such terms and conditions as to payment or otherwise as they think fit permit on the Commons:—

- (1) The formation and use of one or more golf courses;
- (2) The formation and use of one or more rifle ranges;
- (3) The formation and use of one or more racecourses;
- (4) The formation and use of one or more aerodromes;
- (5) The holding of fairs shows circuses tournaments gymkhanas public or private meetings relating to religion politics or sport Eisteddfodau and other singing festivals or competitions or concerts and the erection pitching or fixing of any temporary booth stage or tent for any of the above-mentioned purposes;
- (6) The use of part of the Commons for temporary encampments of Territorial Forces Church Lads Brigades Scouts Girl Guides and similar organisations or of any other persons or bodies;
- (7) The erection of temporary buildings of a design and material to be approved by the Conservators and suitable for live stock to be fed upon the Commons:

PROVIDED that all sums received by the Conservators in respect of the grant of any such permits shall be expended by them either on the improvement of the Commons or in defraying the expenses otherwise incurred by the Conservators in the execution of their powers and duties.

(c) A meeting of the persons entitled to rights of common for the purpose of considering a proposal for any such sanction as aforesaid shall be held at such time and place and after such notification as the Conservators shall direct and at any such meeting a Conservator selected by the Conservators shall act as Chairman and a minute of any resolution of the meeting signed by the Chairman shall be sufficient evidence of the resolution having been passed by a majority of the persons present and entitled to vote.

4.—(a) The Conservators may make and from time to time alter or revoke byelaws and regulations for—

SCH. 2  
—cont.

(1) Preventing nuisances on the Commons or protecting them therefrom or for keeping order thereon;

Byelaws.

\* \* \* \* \*

(3) Regulating the exercise of any rights of common therein or thereon or of any rights or privileges granted to the labouring poor or other persons under or in pursuance of the Order; and

(4) Regulating the exercise of the privileges hereinafter reserved of access recreation and of playing of games on the Commons;

(5) Regulating or prohibiting the parking of vehicles on the Commons or on such part thereof as may be specified in the byelaws;

(6) Requiring the marking of livestock grazed or kept on the Commons in such reasonable manner and according to such reasonable prescriptions and conditions as may be specified in the byelaws.

All byelaws made by the Conservators shall be subject to the provisions contained in subsections (3) to (8) of section 236 and section 237 of the Local Government Act 1972 as if the Conservators were a local authority within the meaning of that section and the clerk to the Conservators were the proper officer (within the meaning of the said Act of 1972) of that local authority; but subject to the modifications that in the said section 237 for the references to sums of £20 and £5 there shall be substituted respectively references to sums of £100 and £10. The confirming authority for the purposes of the said section 236 shall be the Secretary of State. 1972 c. 70.

(b) All byelaws so confirmed shall be exhibited in legible characters in English on boards placed on the Commons the number and positions of such boards to be determined by the Conservators with due regard to the necessities of the case.

(c) The keepers appointed as aforesaid shall have power to enforce the observance of all such byelaws and regulations under the direction of the Conservators.

5. AND I DECLARE that in pursuance of the said Order and for the *Quarries, BENEFIT OF THE NEIGHBOURHOOD* the following provisions shall be in *recreation, &c.* force:—

There shall be reserved subject to such byelaws and regulations as may be made by the Conservators and confirmed as by law required—

(1) A right of free access at all times to the Commons (except such parts thereof as have been sold or set out for field gardens as hereinafter mentioned or as shall be appropriated hereunder for quarries or for the playing of games or as shall for the time being be appropriated under



SCH. 2  
—cont.

sections 6, 7, 8 or 10 (2) of the Coity Wallia Commons Act 1976 by way of letting or licence under the said section 6, as a car park under the said section 7, as access ways or for garages or forecourts under the said section 8 or for the recovery of the surface or the protection of trees under the said section 10 (2)) and a privilege of recreation by walking and riding and enjoying air and exercise thereon;

(2) A privilege of playing games on such parts (not greater in extent than twenty hectares in all) of the Commons as shall be convenient for the inhabitants of the neighbourhood in such situation and of such area in each case as the Conservators with the approval of the Secretary of State shall from time to time appoint and the Conservators may cause any such part or parts to be temporarily inclosed with posts and chains or other open fences provided that no part of the portions of Hirwaun Common and Mynydd-y-Gaer Common cross-hatched green on the map shall be reserved for playing games without the consent of the Lords of the Manor.

*Taking of stone  
and gravel.*

6. AND I DIRECT that the Conservators shall appropriate and set out quarries from time to time to the satisfaction of the Secretary of State for the getting of stone and gravel by the persons (including the Lords of the Manor and their tenants) entitled to rights of taking stone and gravel from the Commons for use in or upon the tenements to which such rights are appendant or appurtenant but not otherwise or for sale and the Conservators may cause any part of such quarries to be properly fenced so as to prevent injury to persons using the Commons or to horses cattle or other animals pastured thereon.

*Supply of  
bracken.*

7. AND I DECLARE that I hereby set out for the purpose of supplying bracken for the labouring poor of the Parishes of Pencoed Coychurch Higher Saint Bride's Minor and Coity Higher (other than persons entitled to rights of common for that purpose) such parts of the Commons growing bracken as lie between Heol Spencer and Pencoed and are not used for field gardens and any parts of Mynydd-y-Gaer growing bracken and the parts so set out may be marked out in such manner as the Conservators think fit but shall not be fenced or inclosed.

THIS appropriation shall not affect any right of common of pasture exercisable over the part or parts so appropriated. The said labouring poor of the said Parishes shall have the exclusive right to cut and take bracken from such part or parts appropriated as aforesaid for their own use on the lands or tenements in their own occupation but not for sale. The Conservators may from time to time with the consent of the Secretary of State alter the situation of any part or parts to be appropriated as aforesaid after having given such notice of the intended alteration as the Secretary of State shall direct.

*Field gardens.*

8. I DECLARE that I have also set out for the use of the labouring poor of the said Parishes the field gardens specified in the First Schedule hereto and shown on the said map by diagonal lines in colour blue.

\* \* \* \* \*

10. I DECLARE that the Conservators may set out make and maintain roadways bridleways and footpaths over the Commons as may in the opinion of the Conservators be necessary.

SCH. 2  
—cont.

*Power to set  
out  
roadways, &c.*

\* \* \* \* \*

13.—(a) I DIRECT that the expenses to be incurred by the Conservators from time to time in the execution of their powers and duties shall be defrayed out of any moneys that may be received by the Conservators in respect of—

*Defraying of  
expenses.*

(1) The sale of bracken as aforesaid;

\* \* \* \* \*

(3) Any money obtained for permits as hereinbefore mentioned;

(4) Any money that may be contributed for that purpose by any person or local authority or body of persons including the recovery of any special contributions as hereinbefore described; or

(5) Any compensation paid to the Conservators under this AWARD or under any statutory enactment.

(b) THE Conservators may defray out of the moneys received by them as aforesaid the reasonable expenses incurred by them in carrying out their duties other than those incurred by them in attending meetings of the Conservators held at their Offices.

14. I DECLARE that this AWARD except so far as is herein expressly provided is without prejudice to—

*Savings.*

(1) Any rights of the Commoners in or over the Commons; and

(2) Any rights of the Lords of the Manor in or over the soil of the Commons including the mines and minerals thereunder and all such rights may be exercised in the same manner and to the same extent and subject to the like liability (if any) to pay compensation as if this AWARD had not been made save and except that the said Lords shall not be entitled to enter for the purpose of opening working and winning such mines and minerals or any adjoining minerals on the surface of any parts of the Commons appointed for the playing of games or appropriated as quarries or set out as field gardens or which are for the time being the subject of any letting or licence under the powers of section 6 or subsection (2) of section 8 of the Coity Wallia Commons Act 1976 and that any such compensation shall be paid to the Conservators to be applied by them as aforesaid and the Conservators shall have power to sue for recover receive and give effectual receipts for such compensation; and

(3) Any rights of sporting or fishing over or on the Commons.

SCH. 2  
—cont.

## THE FIRST SCHEDULE

THE parts of the Commons set out for field gardens shown by diagonal lines in BLUE on the map.

Number on Map	Number of Part of Map	Parish	Boundaries	Acreage
1	1	St. Bride's Minor	N. Ty'n-y-coed Row S. Bryncethin Road ...	6.25
2	1	" "	E. Bryn-côch Road at Gwaun-gwaddod W. Boundary of Common ...	6.30
3	2	" "	E. Road to Pen-yr-heol W. Boundary of Common ...	5.37
4	3	Coity Higher ...	N. Footpath S.W. Parc-gwyllt-Fâch N.E. Reservoir ...	6.25
5	3	" "	N. Footpath E. Road S. Footpath and road ...	7.16
6	3	" "	N. Footpath W. Road S. Common boundary ...	11.45
7	3	" "	S. Pant-y-pyllau S.W. Footpath to Roman Camp	2.39
8	5	St. Bride's Minor and Coychurch Higher	E. Woodbine Terrace N. Railway S. Broad Street ...	11.90
9	6	Coychurch Higher	S.W. Road at Cornel-du-Mawr N. Boundary of Common ...	4.35
10	7	Pencoed ...	N. Ystad-y-Waun S.W. Maes-y-deri ...	3.35
11	7 8	" "	S. Pen-y-lan and Pen-y-lan-fach N. Footpath to Pen-Prisk ...	11.03
12	8	" "	S. Penbryn-cwm-Row E. Heol-y-cyw Road ...	1.65
			Total acres ...	77.45

IN TESTIMONY whereof I the said BENJAMIN WORTHY HORNE have to this my AWARD set my hand this 13th day of August One thousand nine hundred and thirty-six.

SCH. 2  
—cont.

(Signed) B. W. HORNE,  
*Valuer.*

IN WITNESS and CONFIRMATION whereof the Official Seal of the MINISTER OF AGRICULTURE AND FISHERIES is hereunto affixed this 14th day of August One thousand nine hundred and thirty-six.

(L.S.) (Signed) D. B. TOYE,  
*Assistant Secretary.*

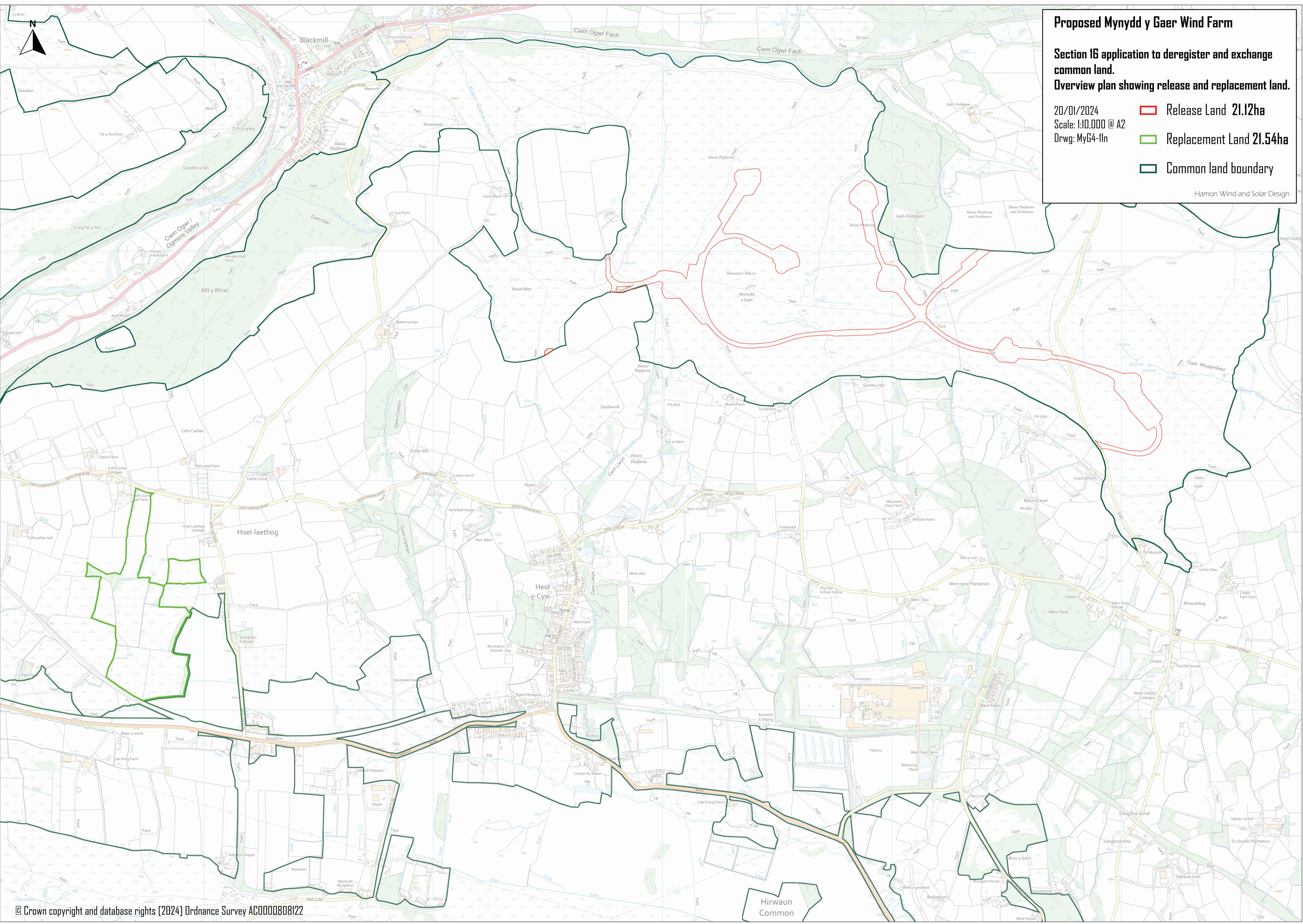
————— *so* —————  
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**Proposed Mynydd y Gaer Wind Farm**

**Section 16 application to deregister and exchange common land.**

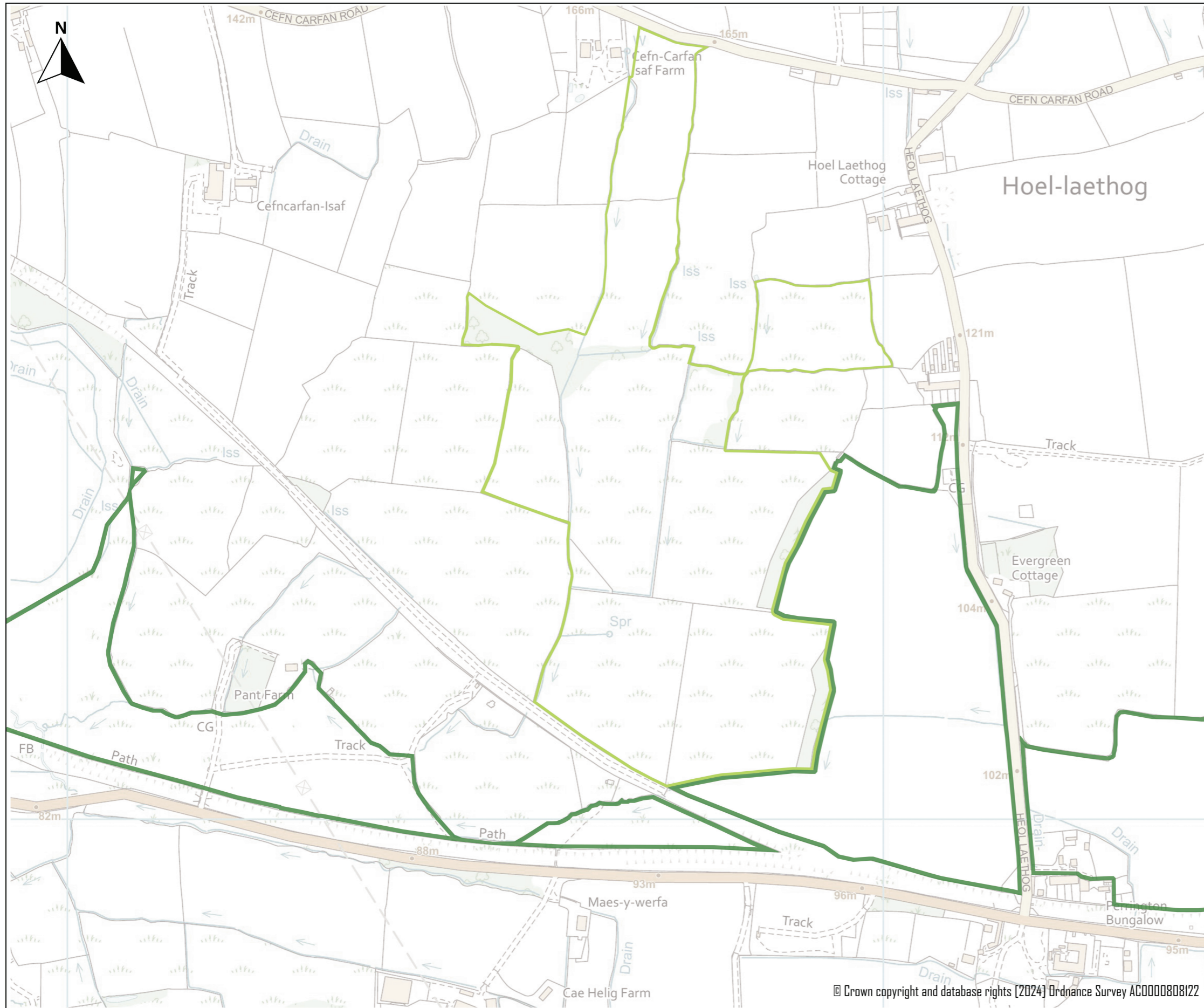
**Overview plan showing release and replacement land.**

20/01/2024  
 Scale: 1:10,000 @ A2  
 Drwg: MyG4-11n

▭ Release Land 21.12ha  
▭ Replacement Land 21.54ha  
▭ Common land boundary

Hamon Wind and Solar Design

Hirwaun Common



## PROPOSED MYNYDD Y GAER WIND FARM

### Exchange Land Plan

Area of land west of Heol Laethog being offered for replacement of common at Mynydd y Gaer.

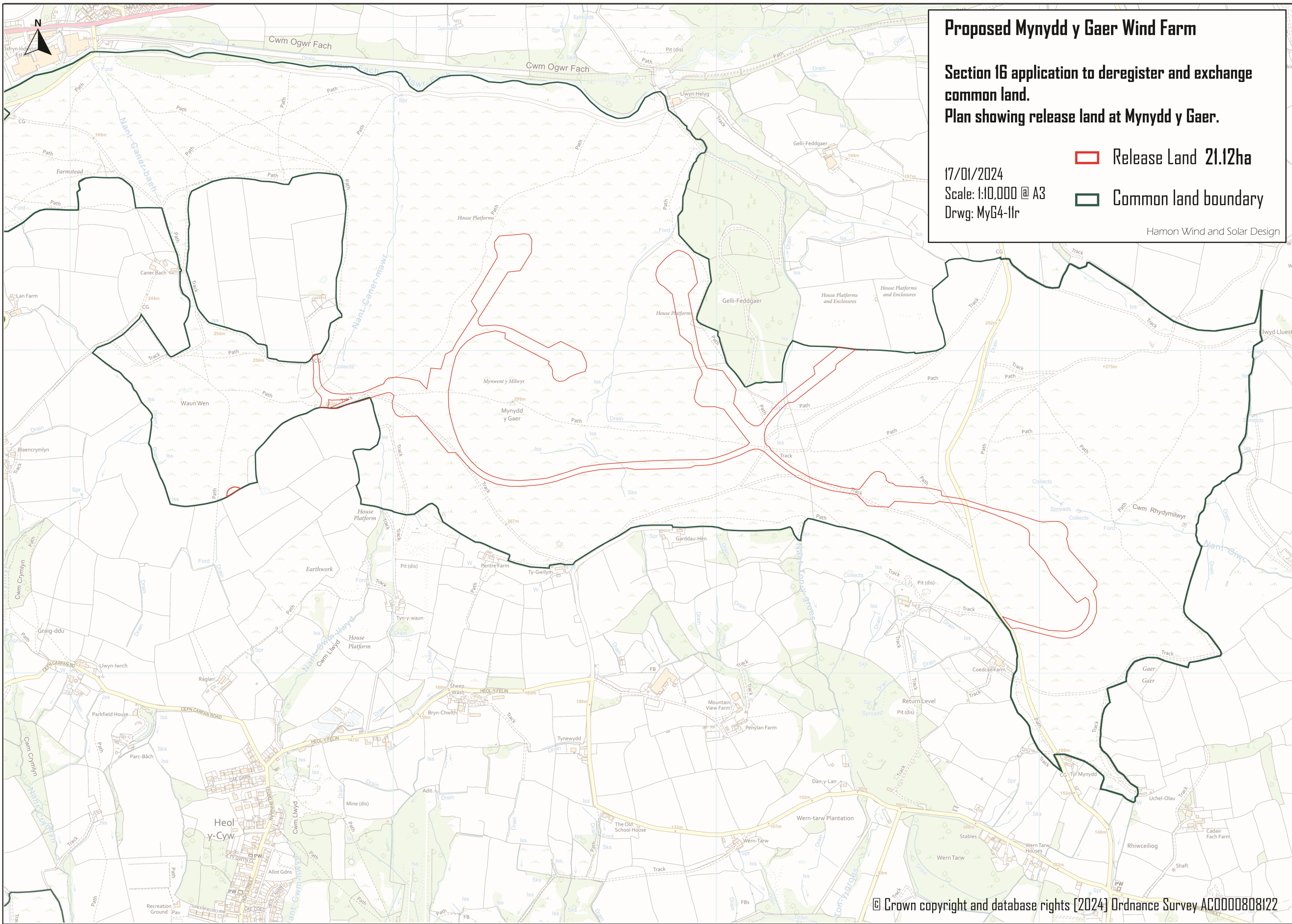
20/01/2024  
 Scale: 1:5,000 @ A3  
 Drwg: MyG4-11q

 Area available as replacement land: 21.54ha

 Common land boundary

# CENIN

Authored by: RAH Hamon Wind and Solar Design.



# Proposed Mynydd y Gaer Wind Farm

Section 16 application to deregister and exchange common land.  
Plan showing release land at Mynydd y Gaer.

17/01/2024

Scale: 1:10,000 @ A3

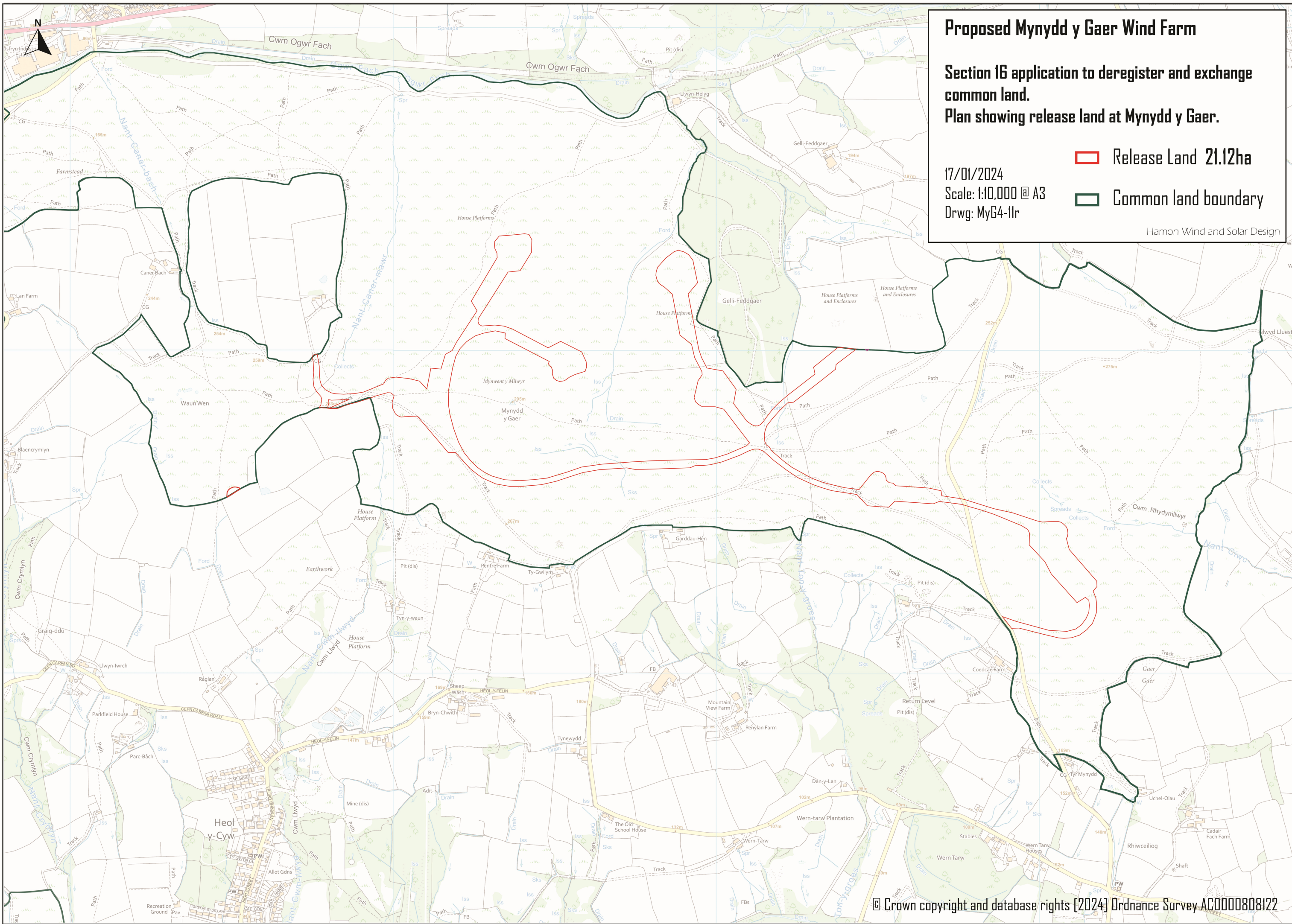
Drwg: MyG4-11r

 Release Land 21.12ha

 Common land boundary

Hamon Wind and Solar Design





# Proposed Mynydd y Gaer Wind Farm

Section 16 application to deregister and exchange common land.  
Plan showing release land at Mynydd y Gaer.

17/01/2024

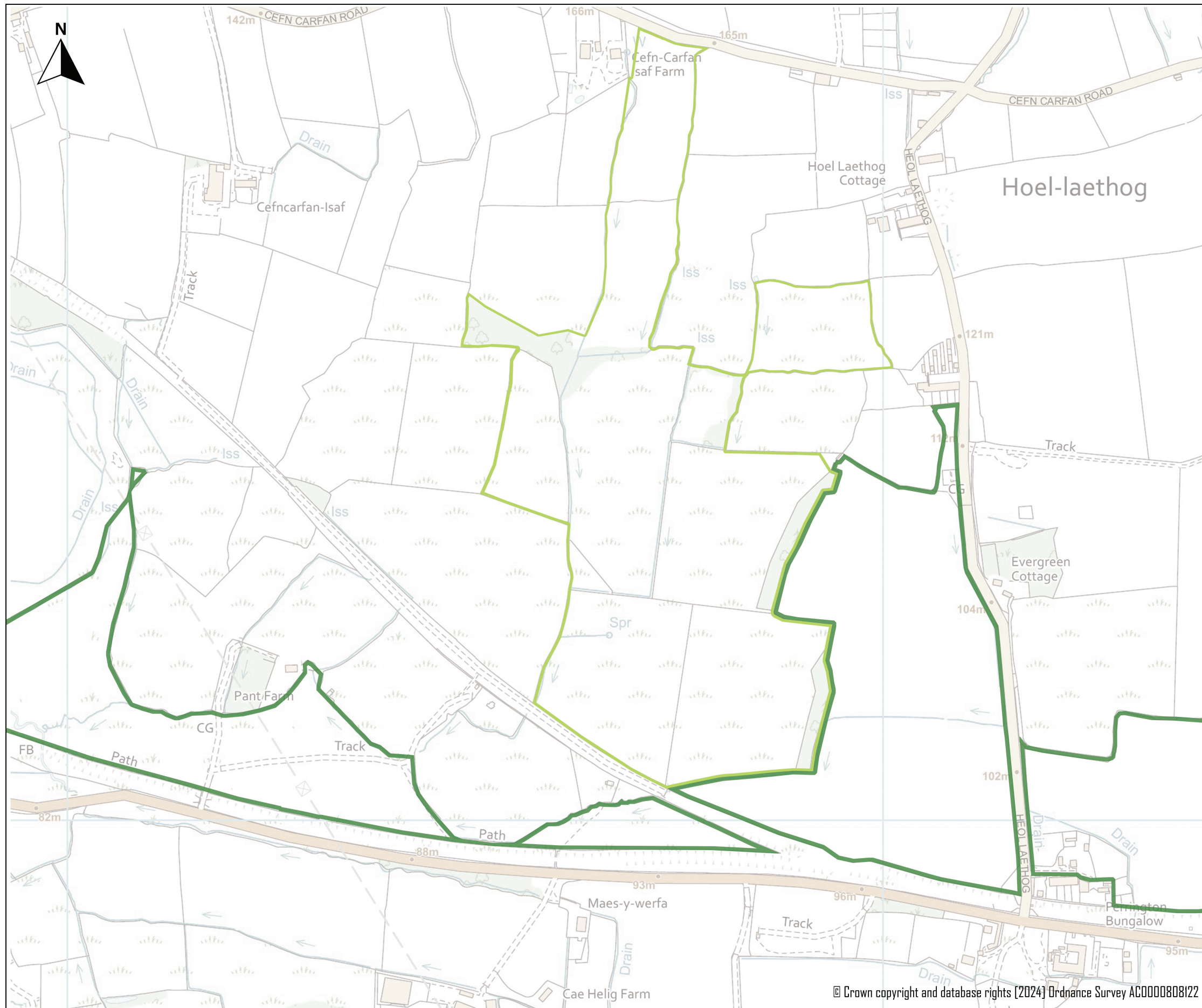
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 Release Land 21.12ha

 Common land boundary

Hamon Wind and Solar Design



## PROPOSED MYNYDD Y GAER WIND FARM

### Exchange Land Plan

Area of land west of Heol Laethog being offered for replacement of common at Mynydd y Gaer.

20/01/2024

Scale: 1:5,000 @ A3

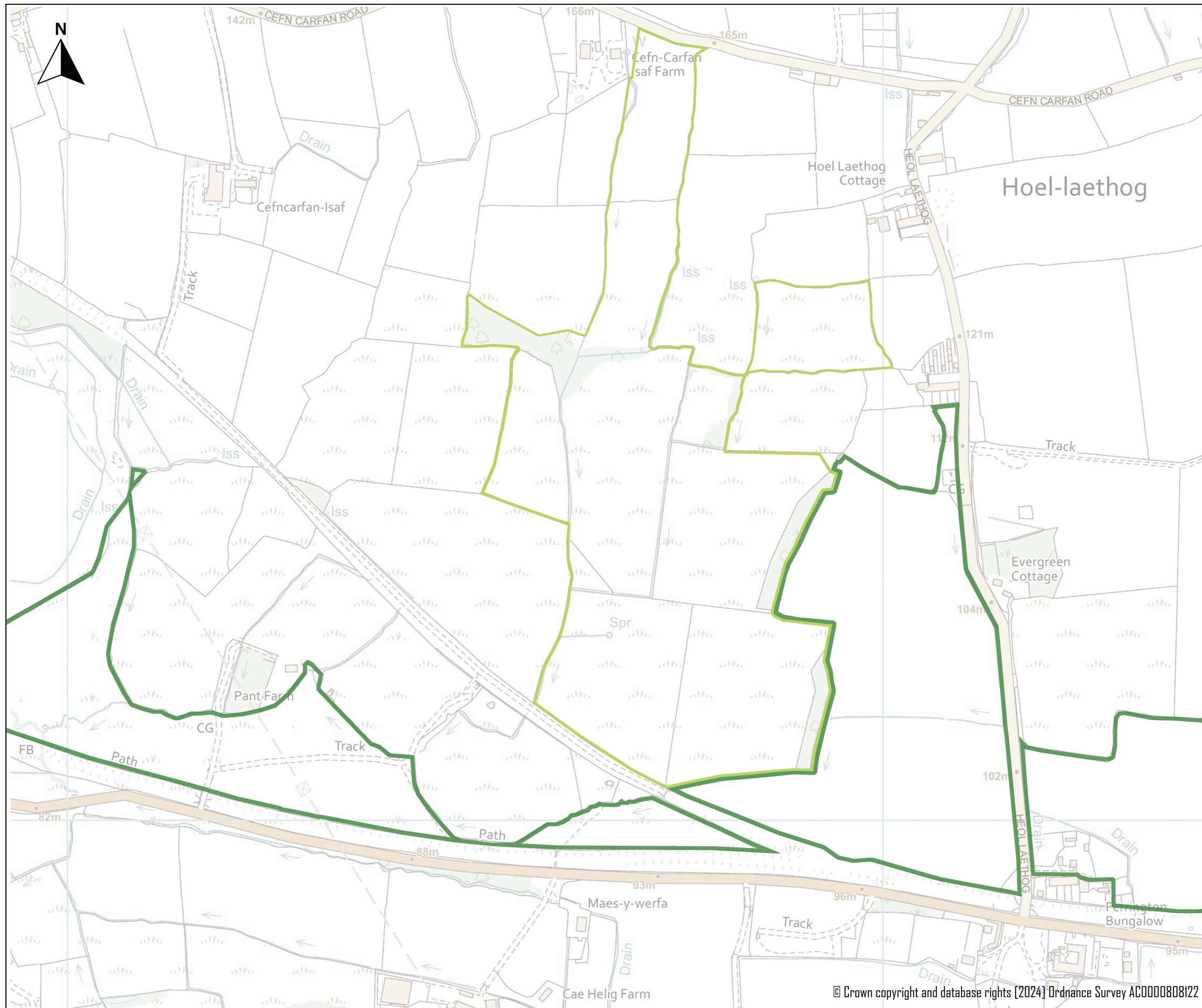
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Authored by: RAH Hamon Wind and Solar Design.



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20/01/2024

Scale: 1:5,000 @ A3

Drwg: MyG4-11q

 Area available as replacement land: 21.54ha

 Common land boundary

# CENIN

Authored by: RAH Hamon Wind and Solar Design.

# **Mynydd Y Gaer**

## **WIND FARM**



**PEDW Reference: DNS: 01773-Z5L1D0**

### **COMMON LAND REPORT**

**On behalf of :-**

**Cenin Renewables Limited**

**Parc Stormy, Stormydown, Bridgend, CF33 4RS**





CHARTERED SURVEYORS  
LAND & ESTATE AGENTS

TUDOR HOUSE COYCHURCH,  
BRIDGEND, CF35 5NS

WWW.FARMTRACK.CO.UK  
01656 650244

## **MYNYDD Y GAER WIND FARM**

**On behalf of:-**

**Cenin Renewables, Parc Stormy, Stormydown**

### **COMMON LAND REPORT**

**PEDW Reference: DNS/01773-Z5L1D0**

**ON**

**The suitability of land parcels for Proposed Inclusion into Mynydd Y Gaer (CL20) Common to replace land due be lost of Common land area as a result of the Mynydd Y Gaer Wind Farm on CL20.**

**And**

**The application pursuant to Section 38 of the Commons Act 2006 for consent for restricted works.**

**Farmtrack reference: FT/JL/CEN002/20 MYG**

**Reversion Number: 1**

**Dated: 27<sup>th</sup> January 2025**

**Signed:**

A handwritten signature in blue ink, appearing to read "Jeremy D Liley".

**Jeremy D Liley MRICS FAAV**

**Farmtrack Chartered Surveyors, Tudor House, Coychurch, CF35 5NS**

## **Index**

### **1. Introduction & Summary**

Instructions

Introduction

Qualifications

Executive Summary

### **2. The Legal Framework**

The Commons Act 2006

The DNS Regime

Welsh Government Guidance

### **3. The Application site**

Landowners

Land Occupiers

Inspection of the subject land and surrounding common land

The proposed development

Effects on Common areas

Hypothetical event of all Commoners exercising their grazing

Public Access

### **4. Suitability of the Replacement Land**

The Land

Topography and aspect

Drainage and soil

Flora and Fauna

The surround common

### **5. Conclusion**

## **Appendices**

- 1 Common boundary plan (CL20 Mynydd Y Gaer) (1 sheet extract) and (CL21 (Hirwaun common) (2 sheets extract)**
- 2 Infrastructure Wind Farm Layout Plan**
- 3 Bridgend Energy Hub – overview of exchange lands**
- 4 Plan of the Replacement Common Land**
- 5 Plans of permanent and temporary areas of Wind Farm scheme**
- 6 Plan of Section 38 works on Common**
- 7 Draft Biodiversity strategy details and Plan**
- 8 Schedule of Photographs**



## Part 1

### Instructions

- 1.1** Jeremy D Liley of Farmtrack Chartered Surveyors were instructed in 2020 to act for Cenin Renewables Limited (The “Applicant”) to Liaise with Coity Wallia Commoners Association (inc active graziers) as well as the Coity Wallia Board of Conservators, who manage several Commons, under the Coity Wallia Act 1976, over the proposed Development of National Significant (“DNS”) for the Mynydd Y Gaer Wind Farm (part of the Bridgend Energy Hub) and its impact on those with rights on Mynydd Y Gaer Common (CL20) (the “Common”).
- 1.2** The Proposed Development requires consent for an exchange of common land under section 16 of the Commons Act 2006 and for the undertaking of restricted works on the Common pursuant to section 38 of the Commons Act 2006. In accordance with the DNS regime applications for secondary consent will be submitted alongside the DNS application under sections 16 and 38 of the Commons Act 2006. I am aware that there is a specific statute that relates to this common known as the Coity Wallia Commons Act 1976. For the purposes of this report I am assuming that the appropriate secondary consent applications are made under the Commons Act 2006. References in this report to section 16 and to section 38 are references to those sections in the Commons Act 2006 and likewise where I need to refer to that Act I will refer to it as the 2006 Act.
- 1.3** This report considers:
- (a) What impact there would be on grazing rights and public access to the common land during construction and operation of the Proposed Development in terms of the maximum working area that will be used during construction and the post-construction footprint of the development.
  - (b) Before making an order under section 16 for an exchange of land, the Welsh Ministers must have regard to: (a) the interests of persons having rights in relation to, or occupying, the release land (and in particular persons exercising rights of common over it); (b) the interests of the neighbourhood; (c) the public interest; and (d) any other matter considered to be relevant. In cases where the release land is not more than 200 square metres, and no replacement land is being offered, the Welsh Ministers must have particular regard under the above criteria to the extent to which the absence of replacement land is prejudicial to the interests specified in (a) to (c) above. “Public interest” includes the public interest in nature conservation; landscape conservation; the protection of public rights of access to any area of land; and the protection of archaeological remains and features of historic interest;
  - (c) The type and quality of the existing common land that will be deregistered from the Common (the “Release Land”);
  - (d) The type and quality of the parcel of land to be provided by the Applicant in exchange for the land to be deregistered as Common (the “Replacement Land”);
  - (e) The way in which commoners and public will be able to use the Common following the exchange of common land;

- (f) Whether the proposed Replacement Land is suitable for inclusion within the Common in exchange for the Release Land and whether the Replacement Land would be detrimental to the interests of the commoners, landowners, and the public.

## **Introduction**

- 1.4** This report is prepared to accompany the secondary consent applications under sections 16 and section 38 pursuant to the DNS regime.
- 1.5** Part of the Proposed Development being 7 of a 11-wind turbine scheme, is on the CL20 Mynydd Y Gaer (MYG) Common, as are most of the access tracks, and infrastructure. MYG is an upland plateau, the ridge runs west to east, is prominent in the wider landscape.
- 1.6** The replacement land does not adjoin MYG Common (CL20), it is to the south (475m) it abuts another common that of Hirwaun Common (CL21), the proposed land is currently enclosed agricultural pasture used for grazing.
- 1.7** Mynydd Y Gaer Common is located north of M4 motorway and the settlements of Heol-y-Cyw, and Wern Tarw. The development is within the local authority administration area of Bridgend County Borough Council.

## **Qualifications**

- 1.8** Jeremy David Liley is a Chartered Surveyor and Chartered member of the Royal Institute of Chartered Surveyors (1237456) for over 12 years. A Fellow since 2012 of the Central Association of Agricultural Valuers.
- 1.9** Jeremy D Liley has been a Director of Farmtrack Limited since 2014. Working mainly in the South and West Wales area as a rural Land Agent, duties for numerous clients covering a wide spectrum associated with Agricultural Tenancies, Renewables, Compulsory Purchase schemes, Utilities and Mitigation land sales. Also, advice on Agricultural and Environmental matters for Landowners including those with Common land interests.
- 1.10** Jeremy D Liley is also a qualified Horticulturist, post qualification as a surveyor he has undertaken designing and creation of Native woodlands & implementation of Habitat management plans.

## **Executive Summary**

- 1.11** Secondary consent applications under sections 16 and 38 are being submitted as part of the DNS application for the Proposed Development. Consent under section 38 is required to carry out 'restricted works' on common land, namely; extending the current Taff Ely Ridgeway car park on MYG off Minffrwd Road with grasscrete for additional 20 parking spaces and the laying of a section of electricity cable to enable the Proposed Development to export electricity from the site to the south and beyond to National Grid Electricity Distribution network.

- 1.12 A separate section 16 application is also being submitted for the Release and Replacement Land required for the turbine bases, crane pads, new access tracks, drainage works, cable trenches, working areas, Sub-station and their micro-sitting areas.
- 1.13 There are approx. 200 valid Entries on the Common register, some within the same business ownership, and others where it is known that Entries have been split over the years and the revised entries have not been updated. Over the last 2 years, only 4 active graziers utilise the common for grazing of livestock (all of these are owned held rights), plus some fly grazed horses. Of the 200 or so Entries, most are classified as “Cottager rights” these being properties with under 10 acres of land at date of first registration.
- 1.14 The Common register states the size of the common (CL20) is a tract of about 1,065.50 acres called Allt-y-Rhiw, Waun Wen and Mynydd Y Gaer in the parish of Coychurch Higher and St Bridges Minor. Mynydd Y Gaer including Waun Wen common extends to approx. 378.12 Hectares (934 32 acres) of grazing extent. The number of Registered rights over the 3 commons of CL20 we are informed extend to over 8,000 (sheep), the grazing pro-rata for “Cottages” are 3 head of cattle, 9 sheep, 9 pigs 9 goats or 24 Geese pro rata. **Appendix 1 – CL 20: Registration Plan**
- 1.15 The area of Release Land to be de-registered amounts to approximately 21.12 Ha (of which is 4.01 Ha being the permanent structures of Turbine, bases, tracks and substations), it is anticipated that 5.67 Ha is required for allowance on micro siting of turbine basis, compounds and laydowns in construction phase while temporary land for batter cuts and stripping of roads cables at side of roads amount to 11.44 Ha. 21.54 Ha of Replacement Land is offered in exchange. This report considers the suitability of Replacement Land to ensure that there is no overall reduction in the level of common land, no detriment to the level of grazing available to the common land occupiers and no loss of public access to those utilising the Common as a result of the Proposed Development. The report also identifies any benefits or drawbacks of inclusion of exchange parcel of land to the Common.
- 1.16 For reasons set out in this report, it is considered that the proposed area of Replacement Land is wholly suitable. The grazing area to be provided is more than the area released from the Common. The grazing potential offered is the same as adjoining common areas (Hirwaun Common), which is a mix of restored former open cast land and upland permanent pasture. The location, topography being lowland southernly gently sloping in aspect of the Replacement Land does offer shelter for livestock for the prevailing winds, with established shelter belts and an area of grazed native woodland. The incorporation of the Replacement Land to the Common will provide some similar vegetation/ grazing as the existing common land. There is soft rush on most of the south section of Replacement land, as this is former opencast coal restored land, a management plan will commence prior to the scheme to reduce the rush.
- 1.17 As a result of the Proposed Development there will be no reduction in the Common land area available to all users and there will no be detrimental impact on the commoners, landowners or public. **Appendix 2 – The infrastructure layout**
- 1.18 Hirwaun common (CL21) which abuts the exchange land is grazed by mixed livestock, mainly sheep and ponies. The proposed replacement land has been grazed by mixed livestock of active graziers on CL21 for many years under various short term Agricultural tenancies.
- 1.19 Mynydd Y Gaer wind farm is one element of what Cenin`s Bridgend Energy Hub, which has 4 elements,; PV at Tynywaun (consented under PEDW); Employment site near Tyrisha (PAC stage as of February 2025 submitted to BCBC) which will be powered by the green energy

produced from the wind and/or Solar and the final element is a Travel Hub at Motorway Junction 36 Sarn, which is at early stages.

- 1.20 Dunraven Estates (Lord of the manor for CL20 and most of CL21) and Cenin long-term aim is to link up CL20 and CL21 with land exchanges proposed under the various elements of Bridgend Energy Hub. Future applications for exchange that are likely to be brought forward will focus on connecting the commons to enhance public access and habitat creation. **Appendix 3 – land parcels for exchange lands under the Bridgend Energy Hub.**
- 1.21 All boundaries of the replacement land, liability of maintenance of fences remains with the Dunraven Estates and not with any 3<sup>rd</sup> party adjoining landowners.
- 1.22 The replacement land will be available as common to use before any construction commences. A section of gateway and sparse hedgerow will be removed between two established shelter belts to open up to other areas of Hirwaun common.
- 1.23 As noted above, the Coity Wallia Commons Act 1976 (CWA 1976) also applies in relation to this common and that Act has its own exchange land provisions set out in section 10 of the CWA 1976. The Applicant however considers that the application for exchange is appropriately made pursuant to the provisions of the 2006 Act not least because the 2006 Act allows for engagement with the public Interest which is clearly appropriate for a scheme of this nature and this report focuses on the requirements of the 2006 Act in relation to both the application under section 16 and section 38.

## **Part 2 The Legal Framework**

### **The Commons Act 2006**

- 2.1 The Consent of Welsh Ministers is required for restricted works to be undertaken on common land in Wales pursuant to section 38.
- 2.2 An Application for consent to carry out ‘restricted works’ on common land can be made under section 38 (2) and (3) of the Commons Act 2006 as being works which have the effect of preventing or impeding access to or over or involve the resurfacing of common land. Further advice on the use of section 38 was provided by the Planning Inspectorate (now Planning and Environmental Decisions Wales (PEDW) in May 2013 in its advice entitled “Commons Act 2006: General Overview for Making an Application Under Section 16 and Section 38.”
- 2.3 An application for consent to deregister and exchange common land can be made under section 16 of the Commons Act 2006. The land to be deregistered becomes known as Release Land. Where the Release land is more than 200sqm, the section 16 application may include a proposal to offer Replacement Land for registration in exchange.
- 2.4 Sections 16(6) and 39(1) of the Commons Act 2006 set out criteria to which the Welsh Ministers may have regard when assessing an application.

### **The DNS Regime**

- 2.5 The Proposed Development constitutes a DNS under the Regulation 4A (1) of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016/53, as an onshore wind generating station with an installed generating capacity of 10 megawatts or more.

- 2.6** Pursuant to paragraph 12 and 13 of Schedule 1 to the 2016 Regulations, applications made under sections 16 and 38 of the Commons Act 2006 can be secondary consents for the purposes of the DNS regime such that the common land applications will be considered by Welsh Ministers as part of the wider DNS application.

### **Welsh Government Guidance**

- 2.7** The Welsh Government published guidance for the determination of common land applications in August 2014, entitled Common Land Consents Guidance (referred to as the Guidance”).

- 2.8** The Guidance explains that the Welsh Ministers and Planning Inspectorate Wales (Planning and Environmental Decisions Wales (PEDW) will follow the Guidance in processing and determining applications under section 16(1) and 38(1) of the Commons Act 2006.

- 2.9** Paragraphs 3.9.1 to 3.9.4 of the Guidance sets out matters relevant to the use of common land and that should be taken into account by the Welsh Ministers when determining an application under section 16 and/or section 38 of the Commons Act 2006:

- (a) the interests of persons having rights in relation to, or occupying the land (and in particular, persons exercising rights over common over it) including
- i. What effects the proposals have on ability of commoners or other rights holders (including the landowner) to exercise their rights?
  - ii. What alternatives have been explored that might reduce the impact of the proposals on the exercise of commoners’ rights?
  - iii. What effect the proposals will have on other rights holders such as those with access rights across the land?
- (b) the interests of the neighbourhood including:-
- i. Does the proposed replacement land or outcome intended by the proposed works add something that will positively benefit the neighbourhood?
  - ii. Does the loss of the release land or the construction of the works mean local people will be prevented from using the common in the way they are used to?
  - iii. Does the construction of the works or, in relation to any exchange, will removal of the release land from its status as common land interfere with future use and enjoyment of the land as a whole? Is it likely or possible that the release land could cease to be available as a means of access between other parts of the land as a whole?
- (c) the public interest including;
- i. What effects will the proposals have on those wishing to use the common for recreation and access?
  - ii. Are there potential benefits to nature conservation from carrying out the proposals? Does Natural Resources Wales or any other competent person agree to the assessment of any proposed benefits?
  - iii. In relation to any exchange, what will be the impact of the replacement land in relation to nature conservation compared with the release land? Does Natural Resources Wales or any other competent person agree with the assessment?
  - iv. What will be the impact on the landscape if the proposals proceed? Is the landscape in a specially designed area, such as a National Park or Area of Outstanding Natural Beauty? Will the impact include an adverse effect on the enjoyment of the remaining part of the common?

- v. Will the proposals help protect archaeological remains and features of historic interest?
- vi. How do the proposals fit into the historical context? and

(d) any other matter considered to be relevant.

I will seek to address each of these questions below.

- 2.10** Paragraph 4.12 of the Guidance provides that some works on common land, which do not benefit the common, have a potential underlying public benefit drawing on “works for the generation of sustainable energy (wind farms)” as an example.
- 2.11** Finally paragraph 4.13 of the Guidance sets out the Welsh Government’s considerations for sustainable energy generation schemes and advises applicants “applications for such infrastructure projects on common land are more likely to be successful under section 16 of the Commons Act, so that an exchange of land is proposed and can be taken into account.”

### **3 The Application Site**

- 3.1** The Proposed Development will require both temporary and permanent works to be completed on land within the Common as shown in the Planning Application Boundary Plan within **Appendix 2**. The total area included in the application as release land includes the land that is required temporarily and permanently. The Common register states the size of the common (CL20) is a tract of about 1,065.50 acres called Allt-y-Rhiw, Waun Wen and Mynydd Y Gaer in the parish of Coychurch Higher and St Brides Minor. Allt-y-Rhiw is a stock excluded SSSI native sessile oak woodland. Mynydd Y Gaer (MYG) including Waun Wen common extends to approx. 378.12 Hectares (934 32 acres). The Trig marker on the common is at 295m above sea level (ASL), the south side falls away to 190m ASL, the northern extend at valley bottom is 100m ASL. The common has for many years been split in two by a stock net wire fence for ease of the active graziers managing stock movements and gathering, this results in a pinch point on the common for all movement between the two areas of open common. The application Site is on land which forms a plateau north of the Settlements of Heol Y Cyw and Rhiwceiliog, within the administrative area of Bridgend County Borough Council; Pencoed town is situated approx. 3.5 to the south, while the Village of Blackmill and its settlement form’s part of the northern boundary extent. Bordering the common along the eastern, southern and western sides are various farms, small holdings, while the northern boundary is farm holdings, forestry plantations, and the river Ogwr Fach.
- 3.2** The Infrastructure Layout Plans of the Application Site, are detailed as **Appendix 2 & 5**, shows areas of land affected by section 16 application. The total area of common land required for provision of the Proposed Development amounts to approximately 21.12 Ha. This is the amount of common land that will be deregistered. In all it is anticipated 4.01 Ha area of common will be the extent permanently removed, the 5.67 Ha greater area needed for any micro siting of Turbines and temporary hardstanding, cabling at side of tracks and laydowns, while 11.44 Ha being the land temporary affected while the ground works for reshaping batter that are cut etc. The works on common in Section 38, for Cable trench extends to a further 650m<sup>2</sup>, approx. 105 m length of trenching for electricity cable and extending the existing Taff Ely Ridgeway Car Park by 20 spaces with grass-crete surface (re-seeded), overall 545m<sup>2</sup> as detailed on plans in **Appendix 6**.
- 3.3** It is proposed to offer land adjacent to another common as replacement land, that of CL21 (known as Hirwaun Common) in one area to replace the land which will be deregistered from

CL20. The area of replacement land is mostly registered with Rural Payments Wales field data, in all the land extending to 21.54 Ha (approx. 1.67 ha of grazed broadleaf woodland with two shelter stock excluded shelterbelts which amount to 0.74 ha) are within the parcels to be offered as replacement land. Of the proposed replacement land of 21.54 Ha approximately 20.80 Ha will be opened up as the grazing areas of the common plus 2 shelterbelts (0.74Ha), as shown on the Replacement Common Land Plans in **Appendix 4**.

- 3.4** The application for the proposed Wind farm provides for 7 of the 11 turbines plus access tracks and infrastructure to be situated on land that currently forms part of the common. That part of the Application site on the common is primarily sloping and constitutes a large open area on the plateau with the northern side a steep sided valley side. LANDIS indicates the soil on the flatter areas of common is - Soilscape ID16 – very acid loamy upland soils with a wet peaty surface, with a very low fertility. Habitat being grass moor and heather moor with flushes and bog communities in wetter parts. The remaining areas on the more sloping edges of the common have Soilscape ID13: Freely draining acid loamy soils over rocks. Habitat: steep acid upland pasture, dry heath and moor, bracken, gorse, and oak woodland. The flora and fauna of the common land area primarily comprises moorland and dry upland heathland grass species, a dry heath and dry heath/acid grassland Mosaic overall. There is some clean semi-improved grassland mainly to the eastern side of the proposed access onto the common.
- 3.5** Changes to farming practice under the 2004 Common Agricultural Policy (CAP reform) decoupled the link between the subsidies paid and the level of production. This is continued through successive Government farming support which has resulted in fewer livestock on the Common, with fewer graziers so an end to the detrimental impact of overgrazing. The majority of the Common and especially the proposed Application Site, it is currently grazed by a mix of livestock to a stocking density suitable for maintaining the current mixed habitat, albeit the bracken seems to be increasing over recent years looking at historical aerial imagery.
- 3.6** The Common has been subject to fly tipping, vandalism, including burning out of cars and problems with fly grazing. Bridgend County Borough Council officers, The Dunraven Estate and Officers of the Commoners Association have been trying to address a major issue on the common that of 4x4 damage. This is 4x4 vehicles damage caused by those who are using a byway across the common, however they seem to desire driving over wider areas which are habitat land (peat bogs) and causing extensive damage to open areas of the common. This is a destruction of a sensitive habitat, and an issue as the bare soil is not available/ suitable for livestock grazing or public open space. See photographs within appendix 8 of recent damage. After consultation with the commoners and the Conservators, the Applicant has also submitted a secondary consent application as part of the wider wind farm application to downgrade the by-way to stop motorised vehicular from using this route across the common (Application to be made as a secondary consent under section 247 TCPA 1990). During the construction phase, the sensitive damaged areas will be fenced out with plain wire to allow sheep grazing but deter other uses until its restored.
- 3.7** The Common forms part of wider number of commons which are administered under the Coity Wallia Commons Act 1976 This Act established the Coity Wallia Board of Conservators to take direct responsibility for the management of the commons and also established the Coity Wallia Commoners Association. Every registered common rights holder becomes a member of the Commoners Association.
- 3.8** The Common (CL20) extends to 1065.50 acres, part of which includes the stock excluded Allt-y-rhiw woodland (part of the wider Blackmill woodlands all SSSI), an extensive area of old coppice oak woodland and limited bracken on steep slopes. Waun Wen and Mynydd Y Gaer

making up the remaining areas of CL20 and are grazed. The common is grazed by sheep, cattle and horses, resulting in a diverse species rich vegetation and areas of unimproved acid grassland, marsh grassland, bracken, wet heather, dry heather/ acid grassland mosaic. Some areas of upland heathland, purple moor grass and rush pasture. Dry heath/ dry heath acid grassland habitats. Areas of scattered bracken dominate a vast area of common. Features of interest are soligenous and valley mire from the Cwm Caner Mawr SSSI.

- 3.9** The replacement land is within a single block of land contiguous to the Hirwaun Common (part of CL21). It should be noted that the long term aim of the Dunraven Estates is to link the two commons, to facilitate open access, not necessarily linked grazing lands as the Allt-y-rhiw woodland is stock excluded and is narrow corridor but to allow a link for recreational movements to open areas of CL20 and CL21. The Estate has started this process with an area on the plan (Appendix 3 – the exchange lands forming Bridgend Energy Hub) the green hatched area for Tyrisha Employment land has been submitted to PEDW as a standalone Section 16 application.
- 3.10** The Release Land is required for the permanent works which included 7 common locations for Turbines, basis, substations, and new tracks to an over 11 Turbine scheme in addition the temporary construction works such as compounds, track batters and cable trenches (within roadside).
- 3.11** The Release Land does not adjoin CL20, but that of CL21 (all managed by the Board of Conservators and grazed by the Coity Wallia Commoners Association); it has gated access to the south off Cefn Carfan Road and is west of Heol Laethog. The Hamlet of Heol Laethog abuts on its southern side Hirwaun Common, and the release land will be a continuation of the common.
- 3.12** The Release in terms of the flora and fauna is similar only on the upper area of land to be supported by the Release Land, the rest restored former opencast land. In general, the diversity of moorland and heathland species within the majority of the Common is increasing slowly because of reduced grazing over the years. MYG common was included by the Coity Wallia Commoners Association within the Commons Glastir Environmental scheme, which required a reduced stocking level, this level of stock reduction on all of its common continues under the current All Wales Habitat scheme (commons). The Stocking schedule being:

**Table 1 – Glastir (and its replacement scheme AWH commons)**

<b>Forward Stocking Schedule</b>		
<b>Date from</b>	<b>Date to</b>	<b>Maximum stocking Levels (livestock Units)</b>
1 <sup>st</sup> January	26 <sup>th</sup> February	99.00
27 <sup>th</sup> February	29 <sup>th</sup> March	109.00
30 <sup>th</sup> March	02 <sup>nd</sup> May	121.00
3 <sup>rd</sup> May	30 <sup>th</sup> June	159.00
1 <sup>st</sup> July	30 <sup>th</sup> September	191.00
1 <sup>st</sup> October	23 <sup>rd</sup> October	121.00
24 <sup>th</sup> October	4 <sup>th</sup> November	109.00
5 <sup>th</sup> November	31 <sup>st</sup> December	99.00

**Table 2: Conversion factor for stocking levels**

<b>Livestock</b>	<b>Livestock Unit (LU)</b>
Yearling	0.09



Ewe/Ram Lamb	0.09
Ewe with lamb at foot	0.15
Dry ewe (inc in-lamb ewes)	0.12
Rams	0.12
Cattle up to 6 months	0.0
Cattle over 24 months	1.0
Cattle 6-24 months	0.6
Horses	1.0
Ponies	0.5
Foals	0.0
Goats	0.15

**3.13** The Replacement Land adjoins common where many of the active graziers who have rights over CL20 and CL21 turn livestock out, and close to many “Cottagers” registered right holders.

### **Consultation**

**3.14** Since 2022 regular informal consultation has been conducted with the landowner’s Agent, Coity Wallia Board of Conservators and Coity Wallia Commoners Association. On the 30<sup>th</sup> October 2024, I had discussions with two masters of the Llangeinor and Pentyrch Hunt in relation to the use the commons for trail hunting and the impact the proposed turbines and road layouts may have to those authorised users. The masters did not see the proposed scheme as a distraction for equine users on the common, as could possibly open up areas for ease of access. They stated that when they hold days on existing wind farmland, these days attracted more horse riders than other localities where there are no tracks to follow as was a general observation. They also stated that when the trail lay close to existing wind turbines, they have never felt vulnerable on a horse due to the blade’s movements. While on one of my common inspections, I noted several people undertaking model aircraft flying on the common (included in one of the photographs attached as **Appendix 8**), I am informed by the Estates that they have no rights to use this land. They did comment that it would be a shame if they needed to move for the current spot to another locality, but they commented it was a suitable place for turbines and they need to go somewhere.

**3.15** On the 24<sup>th</sup> July 2024, attended a joint meeting of Coity Wallia Board of Conservation and Commoners Association officers along with Mr Martyn Popham from Cenin and Mr Julian Golunski Agent for the Dunraven Estates (The Freehold owners) at Heol y Cyw. The meeting’s purpose was to outline to the Commoners and Conservators, the proposed wind farm scheme and the wider Bridgend Energy Hub. I have attended other monthly meetings with the Commoners Association the last being 23<sup>rd</sup> November 2024, as well as Board of Conservators in 2023. There have been meetings separately with Commoners Association officers and active Graziers, so that a package can be offered to the Commoners for the proposed scheme. There have also been meetings with the Solicitor of the Commoners Association Mr Edward Harris and its officers to progress agreement as to the replacement land, the last one being 10<sup>th</sup> June 2024. Further meetings are scheduled in the coming weeks to seek agreement in principle to their support for the scheme.

**3.16** Cenin Renewables as the developer commenced engagement with Bridgend Country Borough Council and the community councils. There has also been engagement with the wider community as one would expect for an DNS application including an initial brochure drop in 2022, update brochure drops with specific extra information on the Bridgend Energy hub (BEH)

and the development on the common which was sent to 15,000 addresses. In January 2025 a further BEH update was sent to 15,000 addresses, pre-PAC brochure 15,0000 (pending postage) and “my view survey” went live end of 2024. There were 5 drop-in sessions at various community facilities around the borough during autumn 2023, those who attended were a mix of local residence and recreational users of the Common.

- 3.17** Formal consultation on the common land applications forms part of the DNS regime and responses in respect of the common applications will be considered in the Applicant’s Pre-Application Consultation Report, to be provided on submission to the DNS application.

### **Landowners**

- 3.18** The freehold ownership of the Commons, all CL20 and most of CL21 is held in the name of “The Dunraven Estates”, services of Notices FAO Julian Golunski, 7/8 Windsor Place, Cardiff, VF10 3SX. The replacement land is also held in the name of Dunraven Estates. That land is in fact held by Dunraven Estates Unlimited Company (“the company”) with same details as above for the service of Notices. I understand from Julian Golunski that the beneficial ownership of the land is vested in the Trustees and in the Company has the same beneficial ownership, and for the report simply shall refer to them both as the “Dunraven Estates. I am informed that if this exchange land application is approved and consented, the Dunraven Estates intends to transfer the ownership of the replacement land from the company to the Trustees so that all CL20 remains vested with the Trustees.
- 3.19** Agreements to lease areas of land required for the construction of wind farm and access to the turbines have been secured with the landowners.
- 3.20** Trustees of Dunraven Estates have been consulted on the Habitat Management Plan for works on the Common and replacement land.

### **Land Occupiers**

- 3.21** The Coity Wallia Commons Act 1976 established both the Coity Wallia Board of Conservators to manage the Common and the Coity Wallia Commoners Association be the registered commoners as the occupiers of the Common. The registered commoners of CL20 and CL21 are members of the Coity Wallia Commoners Association. There have been regular consultations conducted with the officers since 2022.
- 3.22** The Common Land Register, as updated by Bridgend County Borough Council, was inspected in Autumn 2024 and electronic scan copies of both CL20 and CL21 were received from the Council on the 29<sup>th</sup> October 2024. The latest entries of the Rights section (sheet 132) were Entry 270 & 271 date of entry 14/01/2013 apportioning Caner Bach Farmhouse and the Caner Bach farmland, Blackmill.
- 3.23** There are some 200 separate entry numbers for rights on the Common within the land Register section. Some entries are split but not updated and apportioned to increase the number with rights, however the number of holdings with rights extends approx. 200. The rights also extend to that of right to take bracken. The number of Registered rights over the 3 commons of CL20 we are informed extend to over 8,000 (sheep), the grazing pro-rata for “Cottagers” are 3 head of cattle, 9 sheep, 9 pigs 9 goats or 24 Geese pro rate. Appendix 1 – CL 20: Registration Plan. Comparing CL20 and CL21 registers there appear to be approx. 11 rights holders with only rights over CL20. Julian Golunski has informed me that the Dunraven Estates are prepared to

grant rights to these 11 registered holders over the wider CL21 should they desire, and that they will not use utilise any grazing or grant rights on CL20 so long as the current grazing level is maintained as adequate.

- 3.24** I have spoken with all 4 active graziers over stocking levels and they have been identified as being the main graziers over the last 2 years, all being registered rights in their name and have positively supported the proposed scheme. Over a longer historic period, there has been one other grazier (Mr Bleddyn Williams of Maendy Farm, Rhiwceilog) who has used borrowed rights on the common, last off turning yearlings out. The 4 graziers have land either owned or rented bordering the common and for ease of stock management and movements, they do not turn out livestock on CL21.
- 3.25** The regular graziers with flocks are David John, Hywel Williams, Charles Morgan and Philip Thomas. Apart from Phillip Thomas who grazes sheep and cattle, the remaining 3 mainly turn out sheep. All state they have had problems in the past with stock straying and the internal fence across the common has assisted with keeping stock close to the homesteads.
- 3.26** The active graziers are all undertaking the obligations to restrictive stocking levels as set out above under the Glastir rates (as detailed in Table 1 & 2 above) as continues with the All-Wales Habitat scheme, at no time does the common need to be of stock excluded. Also, the Coity Wallia Commons Biodiversity Enhancement projects funded by the Biffa Award in 2010 carried out works on common, to restore some priority habitat such as ponds, on site interpretation and way marker posts, as well as management operations within the SSSI Allt-y-rhiw woodland.
- 3.27** There are no set number of stock for any period of the year by the graziers, but generally in late Autumn/winter, there are around 1,000 ewes and up to 30-40 head of cattle on occasions which have some supplementary feeding to keep them segregated close to the respective holdings at times. The late spring/summer months the stocking decrease to approximately 500-600 ewes plus lambs, while it seems early September has the most ewes/sheep at around 1,400 these are then taken off to the homestead for breeding. The common is then only lightly grazed by yearlings and some breeding ewes. These stocking ratios are consistent over the last 3 years.
- 3.28** The area of the common where the works are proposed are grazed by all the active graziers. The internal divided stock fence will be removed as part of the construction, to assist with livestock movements on the common and new tracks.

### **Inspection**

- 3.29** The Common, including that which will form the Application Site and the adjacent Replacement Land, was inspected at various times and during all seasons between 2022 and Autumn 2024. The main active graziers have been individually visited on occasions and in varying seasons during the above period.
- 3.30** On every inspection of the common, there was livestock grazing the common, during my November 2024 inspection there was little stock on the common due to the ewes removed for breeding. The internal fence that was erected to assists with retaining grazier's livestock was noted to be a pinch point on crossing the common due to a limited access points within the fence line. There are natural water courses serving several areas of the common.
- 3.31** The Common, including the proposed Replacement Land was inspected on foot with details taken of the topography, aspect, physical features, grassland/heathland and species of flora and fauna. It was also noted that there are a number of benches and sign/ boards identifying features

/wildlife on the common. These I believe were funded as part of the Biffa Environmental Award scheme some years ago. Photographs taken during the various inspections are included in **Appendix 8**.

### **The Proposed Development**

- 3.32** The scheme is up to 11 Turbines, T 2, T 4 and T 5 are 180m tip, T 11 up to 230m tip and the remaining are at 198m tip (maximum tip height) with generation capacity of up to 75 Megawatt. There are only up to 7 turbines to be constructed on the Common.
- 3.33** The Common land will be used for associated infrastructure including access tracks, micro-siting areas, cable trenches and cabling, crane assembly areas, spoil storage bunds, a temporary construction compounds plus turbine substations.
- 3.34** The Applicant is requesting consent for the Proposed Development to be operational for 50 years after which time it will need to be decommissioned (or a further consent sought) Following decommissioning the turbine locations will be restored.
- 3.35** Once the Proposed Development is operational maintenance staff will periodically use the access tracks and turbine hard standings. Crane pads will remain in situ during the operational life of the scheme for use in the event of any requirement for replacement of turbines components. The tracks and crane pads will also be retained to remove equipment when the Proposed Development is decommissioned.
- 3.36** The proposed Replacement Land to be annexed to the Common under section 16 is suitable for inclusion within the common land area with immediate effect from commencement of works to provide common grazing and access land. The consideration of suitability of the Replacement Land within Part 3 of this report and the conclusion within Part 4 contains further details.
- 3.37** There were several alternatives explored that might reduce the impact of the proposals on the exercise of commoner's rights, alternative access being one. Another is avoiding sensitive areas such as peaty with the layout. During the consultation some of the graziers were asked what alternatives to the proposed construction plans would reduce any impact on their use of the Common.
- 3.38** The graziers have not considered removal of grazing livestock from the common to alternative grazing during the construction of the scheme and fencing off operational areas during construction works as they would prefer to keep grazing.
- 3.39** The consultation confirmed that some of the ewes are hefted, grazing on a restricted basis during the construction phase is considered a suitable alternative.
- 3.40** The graziers did not consider fencing off the whole of the construction areas to be required. The graziers considered the possibility of grazing animals being disturbed by works traffic as a minor adverse effect on the grazing pattern of livestock on the Common during construction works as the main access route crossed existing highway on the common.

### **Effect on Common areas.**

- 3.41** Approximately 21.12 Ha permanently removed from the common within the application area, albeit it is anticipated that only 4.01 Ha will be required post construction. The extra area

required to facilitate the construction phase and any micro siting of turbines. Total 21.12 Ha of land will de-registered from the Common because of the Proposed Development. Turbines are proposed along the ridge of the common west to east within the Common, there are three tracks off to service up to 4 turbines on 3<sup>rd</sup> party land. 4.01 Ha is required for the turbine footprint, new tracks, 5.67 Ha for temporary hard standings, laydowns and compounds. Land temporary required for reshaping the batters and cuts for the new tracks are to be restored as some as conditions allow, which is to before the scheme is completed. New tracks on common are within the area to be permanently removed as common.

- 3.42** The construction areas (i.e the turbine locations and active construction areas) will be fenced off during the works to a reasonable section at any one time. The access tracks linking the construction areas will be unfenced. The location of the works within the central part of the Common will allow unrestricted access for the livestock of the active graziers to the remaining Common with limited disturbance to normal grazing patterns. Horse riders and walker/ramblers will also be able to access the Common via existing bridleways, PROW or off the highway that cross the common; thus, the Proposed Development will have a limited effect on public/community use of the Common.
- 3.43** On completion of the construction works, the fences will be removed and there will be little or no disturbance to grazing livestock and public access as a result of the turbines being in place and the access trackways to the same being greened over and open to the Common as a whole.
- 3.44** Whilst the Common has been historically over grazed from looking at historic aerial imagery, changes in agricultural support (decoupling of headage payments) and farming practices since 1995 have generally resulted in common land and the Common being used on a less intensive basis by active graziers.
- 3.45** The south Eastern section of the Common where construction traffic will enter, is grazing by sheep, cattle and sheep by the active graziers, any restriction on use of this area of the Common as a result of the turbine construction works, will be minimal, as their gated access is some distance for the new access point.
- 3.46** There is a possibility that the construction works (proposed to be 24 months overall) and associated vehicle movements may disturb flocks that are sorted of hefted livestock in the eastern narrow width area of the Common. The consultation with the active graziers has been revealed that if hefted livestock from the west are affected by and become disturbed by the works, they may move further east as a result. This may have a “knock on” effect on the grazing pattern of the grazing livestock on the wider Common.
- 3.47** The parts of the Common in which the majority of the working areas are located are not overgrazed by livestock. This lack of density of livestock means that it is less likely that the grazing pattern of the Common will be disturbed by livestock moving away from the central common land area and it is unlikely that there will be a requirement to “shepherd” livestock by the active graziers of the Common to other locations.
- 3.48** As a result of the relatively small area of land being permanently removed from the Common and the lack of grazing pressure on the relevant northern area of the Common, there is unlikely to be any effect on the grazing potential and pattern of the active graziers as a result of the Proposed Development. The livestock current cross highways to graze all open areas of the common and for sources of natural water supplies.
- 3.49** Common land areas have been apportioned to registered rights for the purpose of Single Farm Payments (SFP) to registered commoners. This agricultural support payment is likely to be a key benefit that the majority of commoners of the Common will consider relevant to their

respective registered rights. Permanently out is 21.12 Ha, of which 4.20 Ha it is anticipated will be affected by the scheme, post construction. To maintain the SFP area of the Common, and the apportioned land area to each commoner's right, the same level of Replacement Land will be required. The land transfer proposed provides for approximately 21.54 Ha of Replacement Land thus ensuring that there is no change in the land area available to the commoners for SFP claims, including permanent features which are 0.78Ha of shelterbelts. The land to be removed is with Table 3 (below) which also identifies that there are significant ineligible areas to support SFP eligible areas.

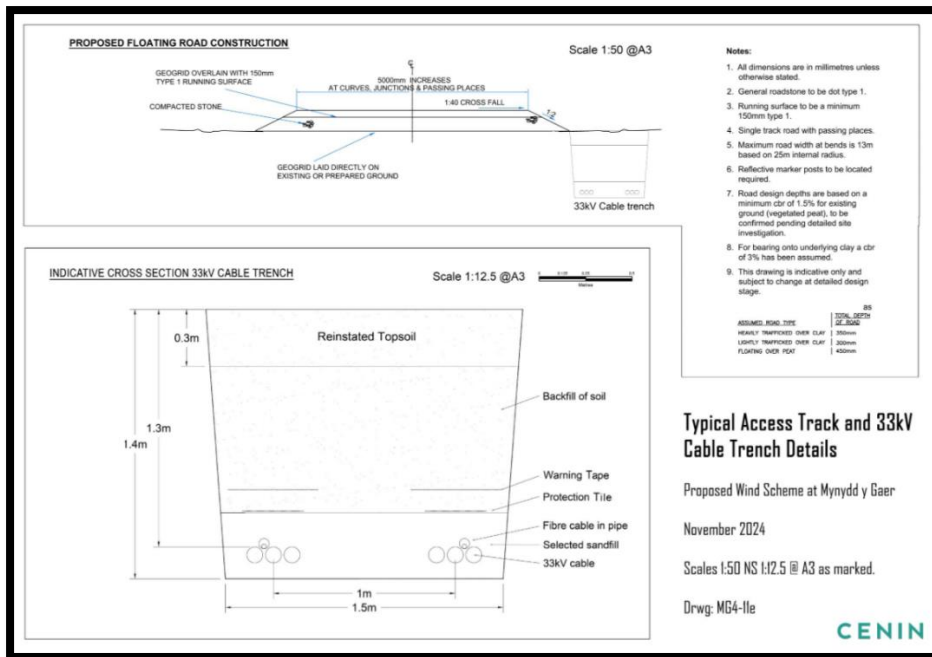
**Table3: MYG Rural Payments parcel data**

Grid Ref	Notes	Area Of MYG Common	Feature (Bracken scattered)	Feature ( Tracks – Ungrazed )	Feature (Roads)	Feature (woodland – Group)	River/ streams and ponds	Total ineligible Feature within parcel
SS9485 9160	MYG (West)	245.05 Ha	41.47 Ha	1.22 Ha	0.53 Ha	9.34 Ha (inc 5.17 Ha Allt-y-rhiw)	0.07 Ha	52.63 Ha
SS9785 0166	MYG (East)	133.07 Ha	21.03 Ha	0.07 Ha	0.78 Ha	0	0	21.88 Ha
<b>Total MYG</b>	<b>MYG</b>	<b>378.12 Ha (934.32 ac)</b>	<b>62.50 Ha</b>	<b>1.29 Ha</b>	<b>1.31 Ha</b>	<b>9.34 Ha</b>	<b>0.07 Ha</b>	<b>74.51Ha</b>

**3.50** The proposed Replacement Land would provide a greater area of available grazing capacity and increased public access land than the land permanently lost to the Common as a result of the Proposed Development.

**3.51** For works on common under section 38, this will have minimal impact on graziers and benefit those users who drive to the common. There is proposed to undertake 105m length of trenching cable from T10 to boundary. The road design (post construction) and trenching is as diagram 1 below:

**Diagram 1**



The Applicant also seeks consent as part of the section 38 application to extend the Taff Ely Ridgway car park to facilitate a further 20 parking spaces, over a 545m<sup>2</sup>, this will not be as the permanent surfaced as existing, but a grass-crete surface. That has no adverse impact on grazing and will be a benefit to those members of the public that wish to be able to park in order to gain access on to the common.

**3.52** Allt-y-rhiw woodland is within CL20, the Commoners Association have taken payments in the past under the SSSI agreement to maintain the woodland stock excluded. It's part of the Blackmill woodland Special Area of Conservation (SAC) as an international site of conservation importance, designated for its old sessile oak woods. Southern woodland edge is dense bracken. The proposed Biodiversity strategy considers this area and the wider Mynydd Y Gaer for objectives under a management plan proposed to be implemented to enhance and restore habitats for the benefit of Mynydd y Gaer and Allt-y-rhiw common, as well as other land used for the access.

The broad objectives on CL20 can be summarised as follows.

- i. Bracken Management/ Acid Grassland Restoration (turbine site)
- ii. Wet Heath Restoration (turbine site)
- iii. Invasive Non-Native Species Control and Management of Undesirable Species (turbine site)
- iv. Turf Translocation and Bristle Bent Dispersal (turbine site)

There is no proposal to introduce a grazing management for additional control of livestock rates.

**3.53** The Biodiversity strategy within the Application describes other habitats as being present within the Common and wider buffer areas. The management plan was detailed can be implemented as the completion of the constructions phase, the bracken management could be undertaken during prior to the scheme to enhance grazing areas for the livestock if required.

- 3.54** There are significant potential benefits to nature conservation and grazing areas through the management plan which measures include bracken control, scrub growth within a zone of the turbines and open grazing around. There are also works proposed on the replacement land within the report. It should be identified that the Commoners Association do undertake bracken management and rush topping as part of existing management aims on other commons.
- 3.55** Some extensive areas of land to the south of the common has in the past been used for non-agricultural use and industrial purposes over time, especially the former coal industry. There are a few brick air vent shafts on the southern boundary of the common.
- 3.56** There are public highways effecting the common, Minffrwd Road is a single width lane from Pencoed, Northwards towards Graig Las (connecting highways then to Glynogwr & Gilfach Goch communities). There is an unnamed lane serving the edge of Allt-y-rhiw woodland to the Blackmill area. The highways facilities provide access to several farmsteads enclosed by the common or adjoining properties. There are Byways and PROW that are from the southwest slopes, the Ogwr Ridgeway walk links from the southwest to the northeast directional cross the common.
- 3.57** The Common sits within the wider upland rural mosaic landscape, with smallholdings, enclosed pasture fields, woodland plantations and rough grazing. There are several operational windfarms to the east of the common, some turbines are close to the eastern boundary, in the wider landscape to the north are other wind farms.
- 3.58** Detailed surveys have identified a full list of known historic assets and their location. Just off the southeastern boundary of the common is a Roman fortress site (Cae Caradoc tumulus), earlier land use is represented by a pair of Bronze Age cairns on the summit. There are proposed trenching works as part of the data gathering, this works on common (section 38) to look at archaeology features has been submitted under secondary consents. The boundary between the Common and some of the adjacent agricultural holdings is commonly dry-stone wall often with a protective fence on the field side. The walls have become dilapidated in various locations and rely on the fence for stock proofing. The Proposed Development is designed such that the known archaeological remains identified are fully preserved in situ and protected from damage during construction or operation of the wind farm including historic boundaries.
- 3.59** The need for the proposed development is set out in the planning statement accompanying the DNS application. There are other secondary applications being submitted as part of the wider scheme, a Section 247 Application (TCPA) to down grade the byway (motorised vehicular only), due to the level of damage caused by 4x4 vehicular on the common to the peat sensitive areas.
- 3.60** I must consider the hypothetical situation of all commoners exercising their rights to graze the Common. As a result of the consultation process where most rights holders confirmed that those with land and livestock and are non-graziers do not intend to graze for animal welfare and livestock safety reasons the common.
- 3.61** The Coity Wallia Commons Act 1976 established the Coity Wallia Board of Conservators to manage the common, and they are able to manage levels of livestock being turned onto the common. The Coity Wallia Commoners Association have put the common into Environmental schemes where the primary aim was to limited stocking rates, for financial payments. The Hypothetical situation is unlikely to ever arise due to these management controls.
- 3.62** The 8,000 sheep rights or so over the whole of the 1050 acres illustrate that it would be impossible for the Common to sustain the level of stocking set out in terms of grazing capacity of the Common. This would be the case if there was no release of common land for the Proposed



Development. Whilst this situation illustrates the general over registration of rights of the common, the actual grazing situation on the Common, and the commons in general, is that less use is being made of the available grazing by active commoners compared to pre-1995 levels. This is confirmed by the fact that the majority of the common is under grazed.

- 3.63** My informal consultations have identified that the actual 4 graziers over the Common are only a small proportion of the stock levels and graziers. The active graziers are in fact rights holders with holdings in excess of those standard “Cottager” levels of rights. My periodic inspections of the various flocks within the Common to ascertain the actual number of livestock grazing the Common indicate that the actual use by the active graziers is in fact less than that indicated in the consultation process.

### **Public Access**

- 3.64** I am also instructed to consider the effect of the Proposed Development on access to the Common by the public and local community. The CROW Act 2000 provides rights of access for open air recreation to the public to areas defined as “access land,” which includes registered commons. Public access to the common land areas within the Application Site is provided by s193 of the Law of Property Act 1925 and also pursuant to bylaws made by the Conservators pursuant to the Commons Regulation (Coity Walia) Provisional Order Confirmation Act 1919 as appended to the 1976 Act.
- 3.65** It is proposed that the Replacement Land will be registered as common land and will be subject to the same rights of Public Access.. Access will be available to an area amount to 21.54 Ha in one location adjacent to that of Hirwaun Common. (CL21) The general Public currently have a right of access via a footpath across the upper section of land. The Replacement Land will increase the land available for public access and offsets the loss of the Release land, to an area adjoining common and close to a settlement where many property owners have grazing rights over both CL20 and CL21.
- 3.66** The Applicant is not proposing to increase any permanent features within the Replacement land. The Replacement land is gently sloping with a south facing aspect, much lower altitude than the Release land, on some areas similar with water retention so not be ideal for some walkers. The Release land will include tracks which will open up the common once construction is completed for using access tracks and existing highway to those wishing a gentler / easier walking experience on the Common.
- 3.67** The 7 Turbines within the common, tracks to all 11 turbine locations including some road junctions will be temporarily fenced out during the construction period in the interest of public safety and the safety of grazing livestock, but this will be minimised and undertaken on a rolling basis. Access tracks once constructed will be opened for ease of stock movements over the common. There will be no public access granted over turbine tracks which are off the common on privately owned farmland.
- 3.68** These fenced areas will not prevent access over the common or on PROW, thus allowing public access whether on foot or on horseback for recreation and amenity use to all other parts of the Common. The Eastern Highway is cross twice as detailed in layout by new tracks.
- 3.69** The new access tracks will provide enhanced access to the central part of the Common access on foot as a result of the difficult and uneven walking terrain associated with heathland habitat.

- 3.70** The main equine use of the Common is for amenity riding/hacking use on an informal basis. This is either on an individual rider and small group basis including from a number of local Livery Yards. The Llangeinor and Pentyrch Hunt uses the whole Common for trail hunting activities. The Public highway provides easy access onto the Common and regularly used by walkers, however it is evident that horse riders use areas of the Common, mainly flat areas for schooling/ training. Horse riders tend to avoid the steep northern peripheries of the Common and low lying wet boggy areas and the damaged by 4x4 areas.
- 3.71** Consultation with local horse riders has revealed that they are concerned horses being ridden may be spooked by the turbines, albeit there are turbines in close proximity of other bridleways close by. The British Horse Society (BHS) has provided written advice on Wind Turbines and Horses which provide guidance for planners and developers and confirms that there have been no formal trials to establish horses' response to turbines. The local representative of the BHS has attended a drop-in session and made comments on the possible impact of turbines near open areas of common. Our consultation with horse riders (primarily the hunt) using similar common land areas with established turbines has shown that once constructed the turbines have little effect on horses as long as the turbines are visible to them from a distance. The positioning of the turbines on the plateau will mean that they are visible from the majority of the Common, they are set off the Highway through the Common and should mean that there is no effect on use of the Highway by horse riders.
- 3.72** The access track will also facilitate inspection of livestock and shepherding of the common areas by the active graziers and will provide solid, dry riding terrain for horse riders following completion of the construction process.
- 3.73** The consultation process has identified significant historic 4 x 4 vehicular damage on sensitive wet peaty areas, these being those who have diverted off the byway to experience alternative ground conditions on the Common. There is existing, extensive damage caused by this illegal access by motor vehicles; both evident from onsite inspections and as identified in all consultations with active graziers and landowners Agent. Access by vehicles to areas of the Common is facilitated by the byway and frontage to public highways within the Common. There are certain further agricultural rights of access and residential rights of access over tracks on Common which may facilitate illegal vehicular use. There are little control measures along the byway to contain the 4x4 from diversions common land. There are excavated trenches and bunds along some parts of the highway for ease of stopping other vehicular movements on common land.
- 3.74** The Applicant has agreed to collaborate with landowners and the Commoners Association to investigate further measures which could discourage illegal vehicular access to the Common. In addition to the application for byway downgrade of motorised vehicular, other options discussed has been a use of Camera, barriers, and boulders but the application to downgrade has been supported by officers of the Commoners Association and by the active graziers to abate the incidence of undesirable vehicular access to the common land area.

#### **Part 4 – Suitability of the replacement land parcels.**

##### **The Replacement Land**

- 4.1 The Replacement Land proposed to be annexed to that of Hirwaun Common not Mynydd Y Gaer Common as seen on the Plans within Appendix 4 and is considered in detail below. The

Replacement Land comprises approximately 21.54 Ha in a single block, which will remain part of CL20.

- 4.2 The Replacement land is that of several permanent pasture fields, plus slithers of grazed native woodland and stock excluded shelter belts. Of the 21.54 Ha within the fields, it is recorded that there is 3 areas of grouped broadleaf woodland amounting to 1.67 Ha and 2 shelterbelts that are stock excluded amounting to 0.74Ha of features.
- 4.3 The replacement land has in the past been let under an agricultural tenancy to commoners who graze the adjoining Hirwaun Common and Cefn Hirgoed Common (CL21). The replacement land will remain included within CL20 of the registered Common. From consultation with the active graziers on Mynydd y Gaer, none of them graze CL21, albeit they have same rights as on CL20. The reasons given why they don't utilise grazing on CL21, is due mainly to livestock movements and Liver Fluke concerns as it is wetter ground. The replacement land to the south of Mynydd Y Gaer, is contiguous to Hirwaun Common, where there are a greater number of active graziers, those of "cottagers" with horses and ponies plus sheep making the general grazing regime. Livestock fence would be erected to stop livestock straying onto areas outside the common.
- 4.4 The Replacement Land provides similar habitat type of part of the release land, a more recreational used topography, albeit poorer drainage pasture, but ability to provide benefits to biodiversity. The land is currently divided into parcels of marshy grassland and unimproved pasture (nearest Cefn Carfan Road), by intact and defunct hedgerows and some open ditches. There is no proposed infrastructure within the Replacement Land and the whole of the Replacement Land area is available from the date the order is made.
- 4.5 The Replacement Land is similar topography and has a natural water supply (according to season) as part of Mynydd Y Gaer, Soilscape ID 13 Freely draining acid loamy soils over rock. It is by in large an extension of the Hirwaun Common that abuts to the south, which is restored soils mostly from open cast spoil. This is Marshy grassland with 90% of soft rush, some Himalayan Balsam along the water courses, these will form a management plan to control as part of the biodiversity plan for the scheme.
- 4.6 All fences and a section of poorly formed native hedgerow between the respective areas of Replacement Land and Hirwaun Common shall be removed to allow livestock to pass freely between the areas. New fences will be constructed to provide a boundary between the Replacement Land and the retained land of the Dunraven Estates or 3<sup>rd</sup> parties. The boundary fence of the new CL20 will remain the liability of the Dunraven Estates in perpetuity.
- 4.7 The Replacement Land area is immediately adjacent to Hirwaun Common with direct access to the same by livestock of those with rights over CL20 and CL21, and the general public. There is another parcel which abuts the common and replacement land as identified in appendix 3 which is to be proposed as common exchange (hatched in green) for the Tyrisha element of the Bridgend Energy Hub, which is at planning stage. This makes a more squared off block of common on consents of the replacements land applications (Tyrisha and MYG).
- 4.8 There will also be unrestricted access available for the public either on foot or on horseback from the Hirwaun Common to the Replacement Land area on removal of the fencing material between the respective land parcels, also via gated access off Cefn Carfan Road. There will be no requirement for stiles or gates etc within the replacement land.

## **Topography and Aspect**

- 4.9 The Replacement Land northern boundary is approx. 475m south of the Common and at a lower altitude, it's the same ridgeway, steeper land on the higher sections and gently sloping the lower areas. The local topography forming the upper Mynydd Y Gaer Mountains & Blackmill with steep valley sides North and south sides, valley bottoms as urban/Villages. The aspect of the replacement land is south facing, the land becomes more gentler sloping. The area has clusters of enclosed pasture fields, small holdings, former railway lines and settlements, albeit the wider landscape dominated by Hirwaun and Cefn Hirgoed Common which are part of CL21 and the Dunraven Estates.
- 4.10 There is some scattering of broadleaf woodland and shelter belts these to remain to provide excellent natural shelter from the prevailing Westerly winds for the livestock and a little canopy cover for shade for the replacement land at the existing Hirwaun common it adjoins on the east side.
- 4.11 The Replacement land would be difficult for disabled persons to freely use as public open space due to the holding soil structure on the south lands, which is the same as Hirwaun common. The boundary at Cefn Carfan has gated access. There are no historic tracks from the Mynydd Y Gaer common to the Replacement land (only highway), and no tracks within the Replacement land or over the adjoining Hirwaun common off the highway at Heol Laethog.

## **Drainage and Soils**

- 4.12 The drainage of the Replacement Land is largely governed by the topography and the soil structure. The Replacement Land is sloping and free draining on the higher pasture. The lower block being opencast spoil restored lands, which on restoration had drainage installed, to open ditches. There are proposed works on the replacement land within the biodiversity strategy management plan such as additional drainage where there are wetland features. Some waterlogged soils would remain to provide ephemeral wetland features that would increase habitat mosaics, and new opportunities for invertebrates, breeding birds.
- 4.13 The upper land soil type within Replacement land as detailed within LANDIS Soilscape is Soil ID 13 which is Freely draining acid loamy soils over rock. The lower block being Soilscape ID 24, restored soils mostly from opencast spoil; drains to stream network and sites suffer from compaction. Land appropriate to grass.
- 4.14 The Replacement Land (upper slope area) is similar the releases land, the lower block is however a direct extension to the adjacent Hirwaun Common in terms of drainage and soil.

## **Flora and Fauna**

- 4.15 The northern section of the replacement Land is that of Soilscape ID 13: Steep acid upland pasture which has been grazed by livestock of many years, so mostly unimproved permanent pasture, but reduced stocking will see reversion to bracken and heath. The south land being 90% soft rush, with certain areas of grasslands inundated, parcels divided by hedgerows planted as part of the restoration works. Appendix 7 identifies the proposals within the biodiversity

strategy to be agreed, but that of rush management (staggered over several years to prevent a rapid change in habitat) and invasive species control being the initial target works suggested.

- 4.16 The Replacement land flora on the south area is indistinguishable from the adjacent Hirwaun common with rush dominate grass cover grazing land. It is proposed to increase biodiversity on the Replacement land under the Habitat Mitigation Areas and retain the two shelter belts as stock excluded.
- 4.17 The management plan to be implemented prior to the construction to reduce the density of rush as this habitat holds little conservation interest and will allow stock to have increase vegetation to graze.

### **The Surrounding Common**

- 4.18 Mynydd Y Gaer including Allt-y- rhiw woodland has little adjoining land of similar vegetation due to the rich mosaic landscape of smallholdings, forestry and established farming enterprises with their adjoining lands are of improve pasture for winter fodder or that of rotation arable roots for feed. These lands being improved land and not suitable as exchange land criteria, therefore the Release land offered only slightly differs in flora and fauna to its adjoining Hirwaun common.
- 4.19 The Replacement to be included within the Common is almost identical in topography, drainage, and soil types to the respective adjacent Hirwaun Common with the aspect of a continuation of the adjacent Common into a larger more suitable block for mixed livestock grazing. The area of grazing and public amenity, along with utilisation by rights holders for claiming the current Single Farm Payment (SFP) is increased.
- 4.20 The replacement land can be immediately incorporated to offer grazing of common CL20 to be run with Hirwaun Common with no effect on the grazing pattern of livestock using the Mynydd Y Gaer Common. Most of the flora and fauna within the parcels of Replacement land immediately adjacent to the Common are identical to Hirwaun Common. The Mynydd Y Gaer graziers have confirmed they have rights over both commons, but do not graze Hirwaun common due to transport/movement issues and Hirwaun common more susceptible to Liver fluke in sheep and cattle due to the quality of herbage over wet ground.
- 4.21 It is the desire of the Dunraven Estates and Cenin as part of the Bridgend Energy Hub to link Mynydd Y Gaer and the Hirwaun and Cefn Hirgoed Commons for public access with a corridor north and south off Cefn Carfan road (see appendix 3). It is not intended to provide a corridor for livestock to graze freely due to the Cefn Carfan road and that Allt-y-rhiw woodland, but for public access. Speaking with active grazier, having the woodland stock excluded has eased shepherding and improving its habitats within. There are more active graziers on Hirwaun and Cefn Hirgoed common with mixed livestock than Mynydd Y Gaer.
- 4.22 Incorporation of the Replacement Land next to Hirwaun Common will provide for increased public access to areas of land previously inaccessible due to it being let agricultural land. There will be no stiles or gates between the Hirwaun Common and the Replacement Land (except around the shelter belts) which could be deemed a barrier to public access with existing boundary fence repositioned on new boundaries. Cefn Carfan Isaf Farmhouse is the closest dwelling to the proposed replacement land, for this reason a buffer strip has been facilitated

between propose common and its eastern garden boundary hedgerow. This strip of land will not be subject to common or open access.

- 4.23 As a result, it is considered that the various areas of land proposed is wholly suitable as Replacement Land, mainly for increased public access areas and areas for grazing is increased around settlements. While on Mynydd y Gaer for those walking, the existing tracks near turbines link up to new sections off highway for a circular route.

## **Part 5**

### **Conclusion**

- 5.1 In my opinion the Applicant has knowledge of the interests of the Commoners and how they exercise their grazing rights. They have sought to consult with registered graziers on the Common Land Register and with the officers of the Coity Wallia Commoners Association as well as the Board of Conservators to understand their views and any concerns, regarding the suitability of the Replacement Land to be provided in exchange.
- 5.2 The areas of Replacement land will remain as CL20, albeit inclusion abutting Hirwaun common CL21, the land provided exceeds the area of Release Land. The registered graziers on Mynydd Y Gaer will not be disadvantaged by the proposals, as they will benefit with proposal to reduce the density of bracken on the common which for Table 3 is approx. 62.50 Ha and permanent land out of common from Turbines, tracks and crane pads amounts to 4.01 Ha (9.91 acres) of an overall grazing area of 934.12 acres, which is just over 1% of common grazing land. There are currently significant areas unavailable to be grazed or used by the public due to extensive damage by 4x4 on sensitive peat areas, this will be address in the scheme construction phase.
- 5.3 The Commoners will have the same amount of land over which to graze their livestock as they currently enjoy, and they will still be able to continue to use the common as they currently do throughout the construction period. The Replacement Land will provide the increase level of common area available for SFP. The Common is under grazed, this resulting in increase of gorse, scrub and bracken increasing on the steeper areas. The grazing maximum livestock rates under the Glastir Advance and All Wales Habitat has facilitated the increase in ineligible grazing areas, for financial payments on an areas basis. This as well as stock excluded All-y-rhiw woodland payment under SSSI an agreement indicate that the Coity Wallia Board of Conservators and Coity Wallia Commoners Association are conscious of their social responsibility to increase a divers Habitat on the commons, rather than provide maximum grazing conditions for those with rights.
- 5.4 With regard to public access, access rights over the Replacement Land will be identical to the existing Common. The construction works will only require temporary fencing around turbine sites, compound and certain track locations and access will be available around these. The temporary hardstanding/ laydowns and compounds are only needed for the construction phase, this is 5.67 Ha and a further 11.44 Ha are areas of common which are only required during the initial ground works of construction of tracks, cable trenches (side of roads) being cut and fill areas. The removal of an overall 21.12 Ha against 21.54 Hectares is a net increase for the Coity Wallia Common land extent.
- 5.5 Replacement Land is provided to ensure that there is no detriment to the public or the commoners during construction or operation of the Proposed Development. A Biodiversity

management plan will be agreed with all affected parties, including the Commoners Association who undertake the rush and other habitat management works at present.

- 5.6** The Replacement land will strengthen and facilitate the link of CL20 and CL21 as designated as Common land in the overall Bridgend Energy Hub exchange land applications. The section 38 application for 105 m length of trench cable as well as the increase in car park (545m<sup>2</sup>) on the common overall 650m<sup>2</sup>, it will have an inconsequential; effect on public/ community use of the common. Fly tipping occurs at present, and costs of cleaning up will be part of the overall developer's commitment to the common for the life of the scheme due to the desired larger parking area.
- 5.7** The replacement land will compensate for the area lost to the common as a result of the development. Experience has shown elsewhere that sheep, cattle and horses will comfortably graze in the vicinity of turbines and will use the turbine bases as shelter. The access tracks will also assist stock movements by graziers. There will be some temporary disruption during the construction phase. The construction period is likely to last 24 months. Extensive consultation with active graziers will seek to ensure that temporary impacts are reduced as much as possible, with a co-operation agreement between active graziers and the developer. The development will be undertaken in sequential phases; fencing of the works will be kept to a minimum in relation to both the extent of the fencing and duration and suitable crossing points will be introduced to ensure that livestock will be able to move from one part of the common to the other if required.
- 5.8** The Coity Wallia Board of Conservators and Coity Wallia Commoners Association will continue to be consulted and comments or their support during PAC will be updated within this final report.
- 5.9** Dunraven Estates will remain liable for maintenance of all new common boundaries, against its own land and that of 3<sup>rd</sup> party owned land, section to be opened up no fence line proposed. The Dunraven Estates will grant rights to those on CL20 who do not have rights to CL21 if the desire. It is not the intention for the Board of Conservators to have any increased responsibilities due to the replacement land included as CL20.
- 5.10** I conclude that inclusion of the proposed Replacement Land to the Common would not be detrimental to the Mynydd Y Gaer Common, those using the Common for public access, horse riding, grazing livestock or claiming SFP.

Signed



Jeremy D Liley MRICS FAAV

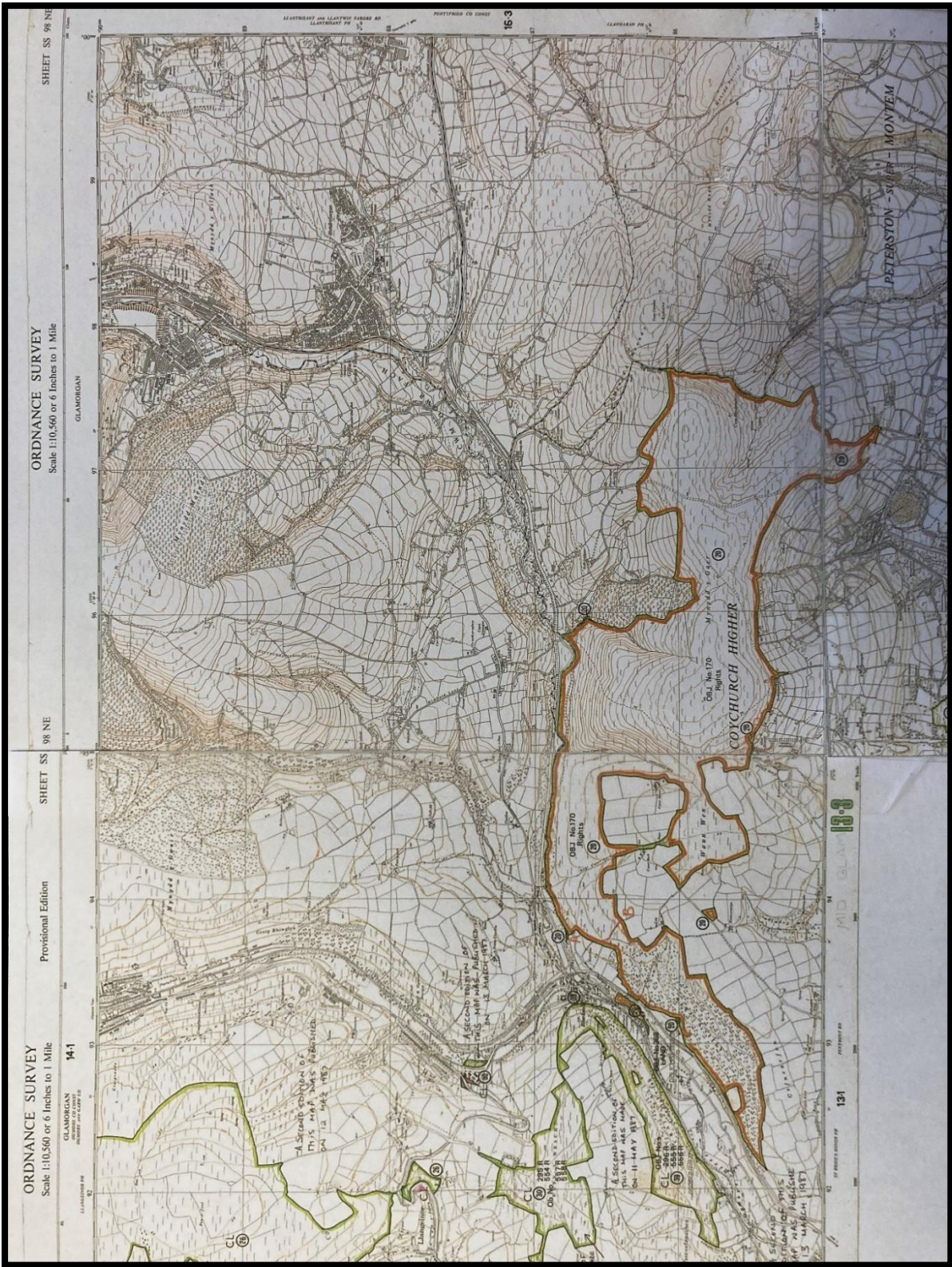
Farmtrack Chartered Surveyors,

Dated: 27<sup>th</sup> January 2025

























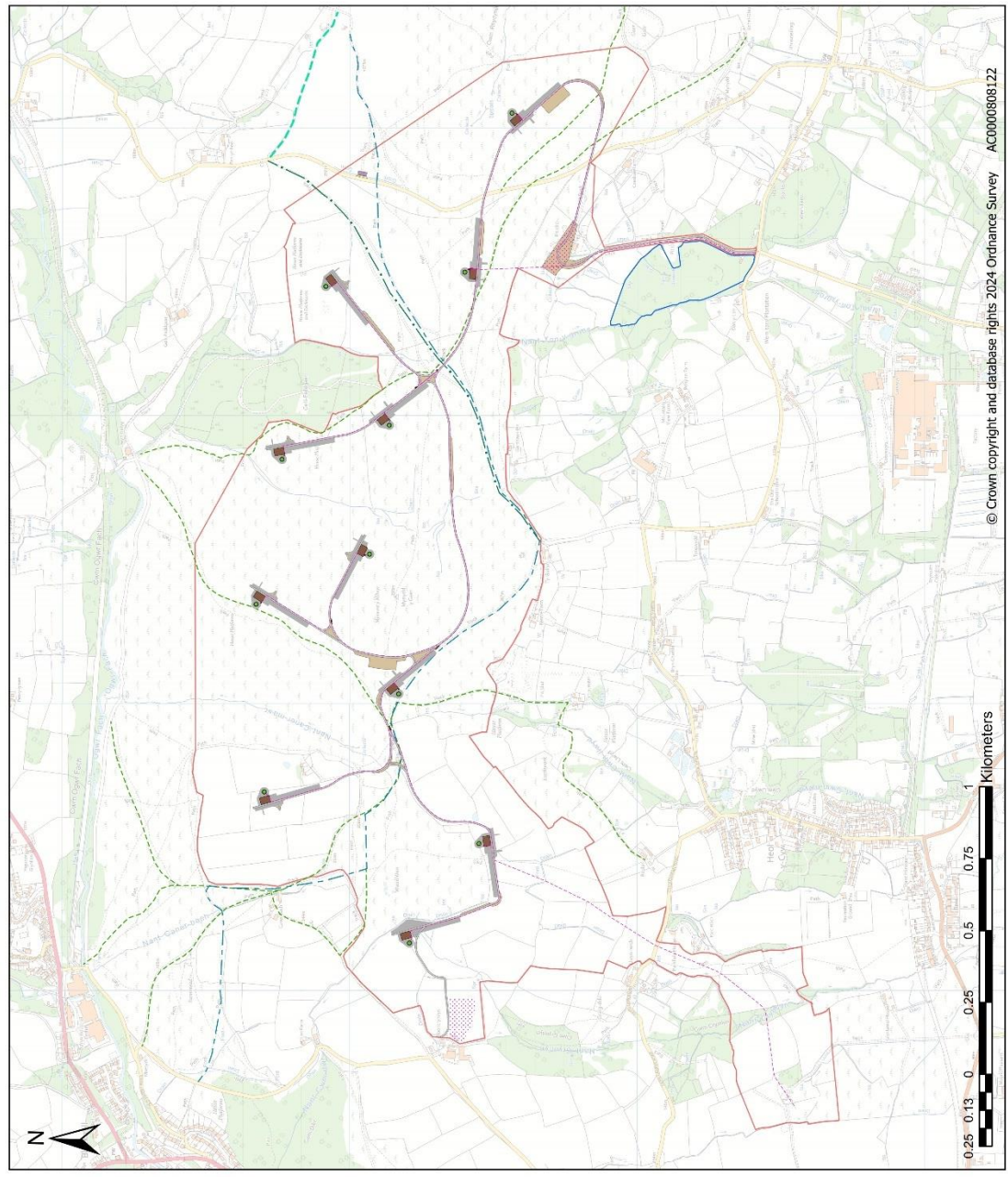
APPENDIX 2  
INFRASTRUCTURE LAYOUT PLAN

Proposed Mynydd y Gaer Wind Farm  
**Site Layout Plan**  
 15/1/2025  
 Scale 1:2,500 @ A3  
 Drwg: MyG4-1b

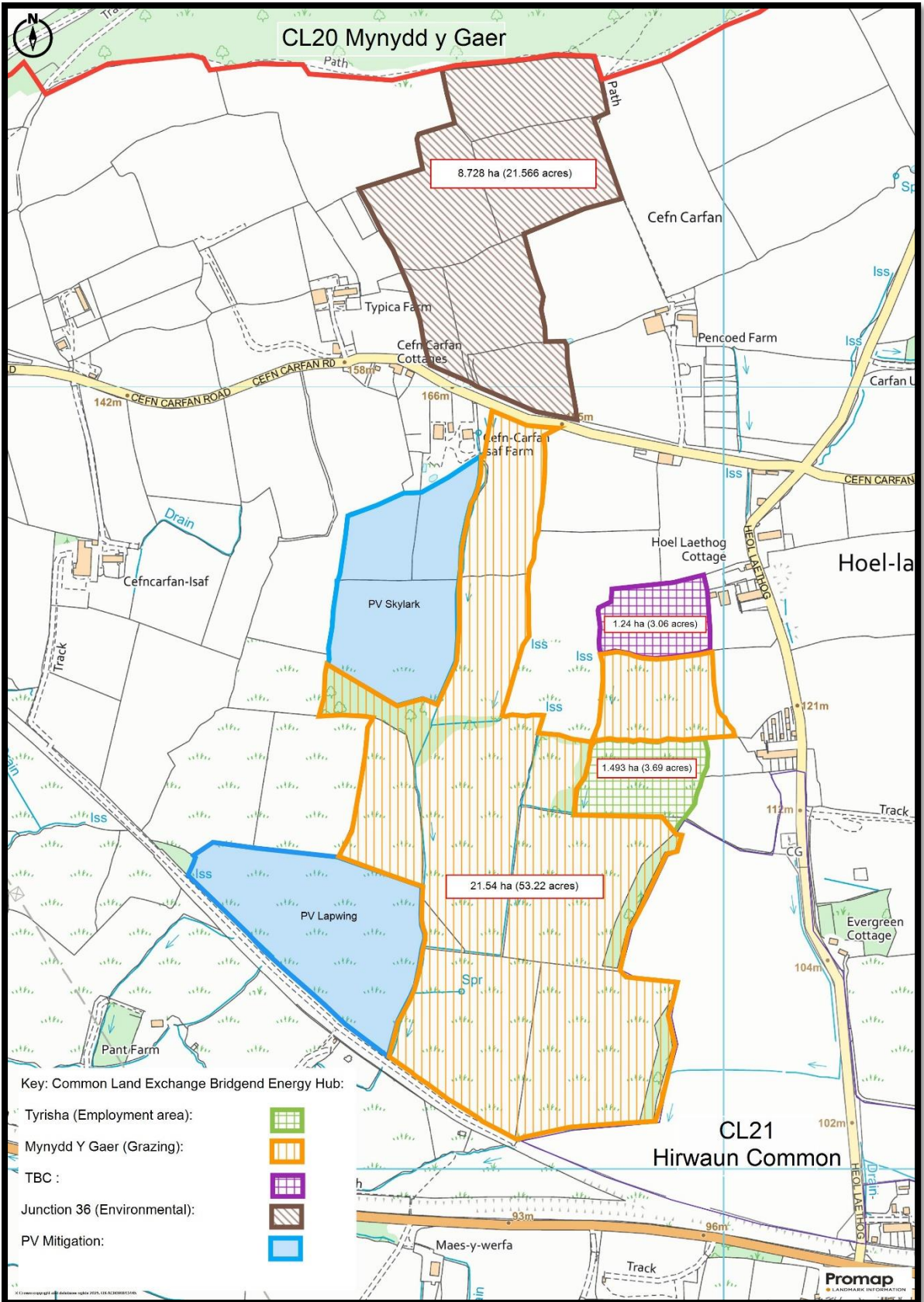
-  Red line
-  Turbine locations
-  Permanent electrical infrastructure
-  Access tracks 5m
-  Grid cable routes
-  Woodland enhancement area to be managed by Cenh
-  Permanent hardstandings
-  Temporary hardstandings
-  Temporary construction areas and holding bays
-  Borrow pits
-  Existing Ridgeway Walk
-  Existing public footpaths
-  Existing byway open to all traffic (BOAT). Proposed to be downgraded to a restricted byway
-  Existing bridleways
-  Existing parking to be expanded, improved and maintained
-  Grasscrete extension for recreational use for users of the common

**CENIN**

Drawn by: WAH, Hemon Wind and Solar Design.



BRIDGEND ENERGY HUB – OVERVIEW OF LAND USE



APPENDIX 4  
REPLACEMENT LAND

**PROPOSED MYNYDD Y GAER WIND FARM**

**Exchange Land Plan**

Area of land west of Heol Laethog being offered for replacement of common at Mynydd y Gaer.

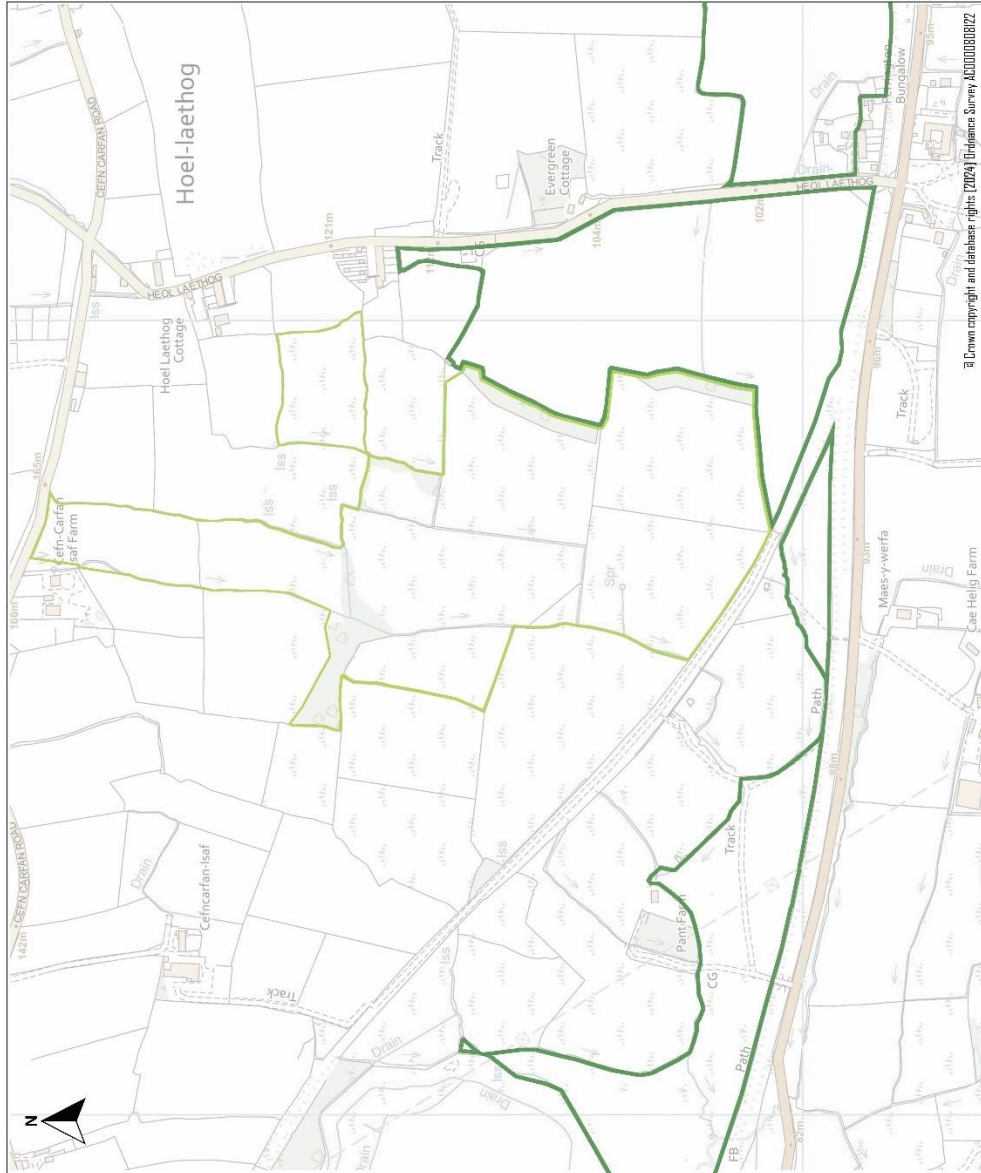
20/01/2024  
Scale: 1:5,000 @ A3  
Drwg: MYS4-1q

Area available as replacement land: 21.54ha

Common land boundary

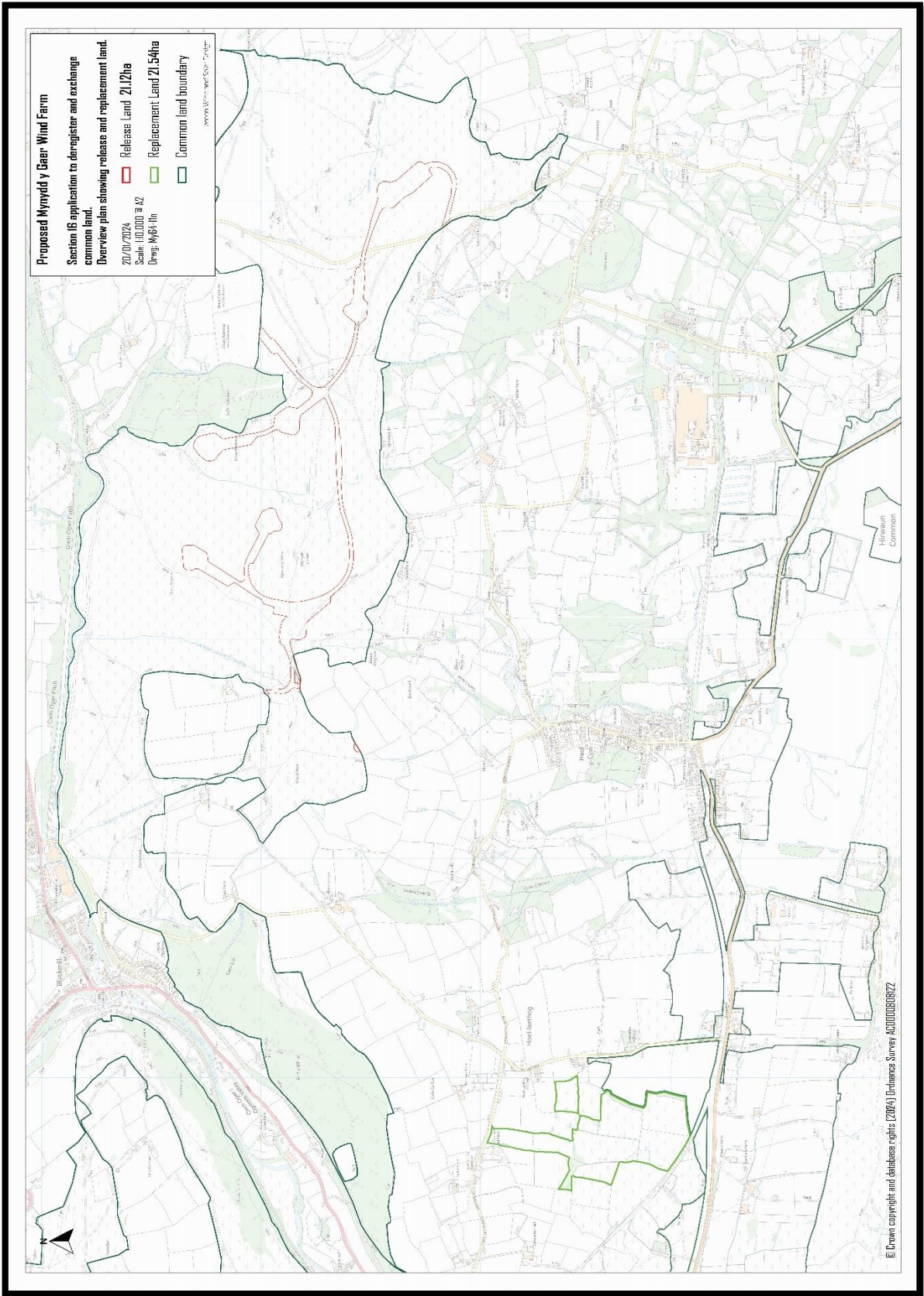
**CENIN**

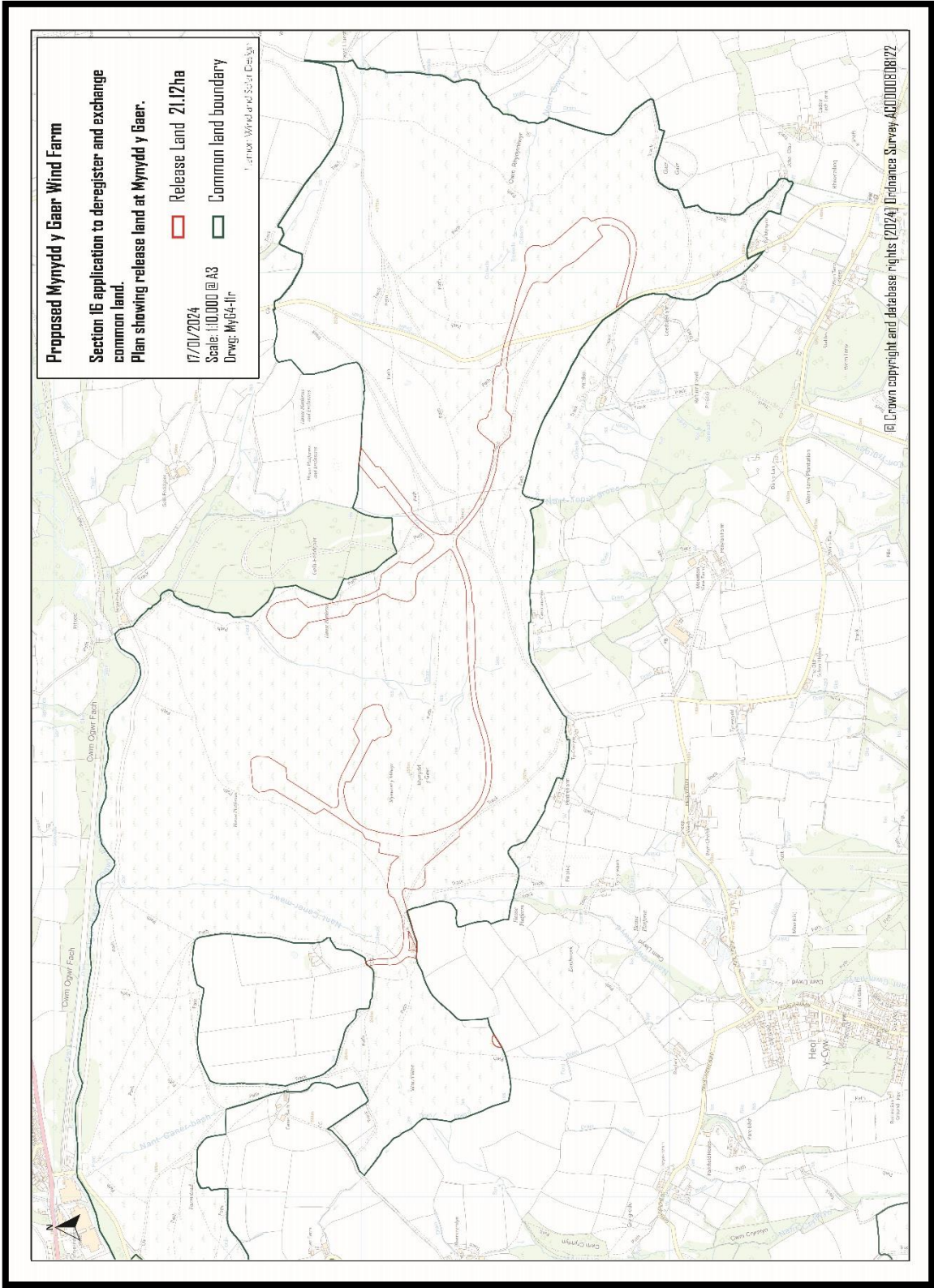
Author: RAH | [www.windenergydesign.com](http://www.windenergydesign.com)





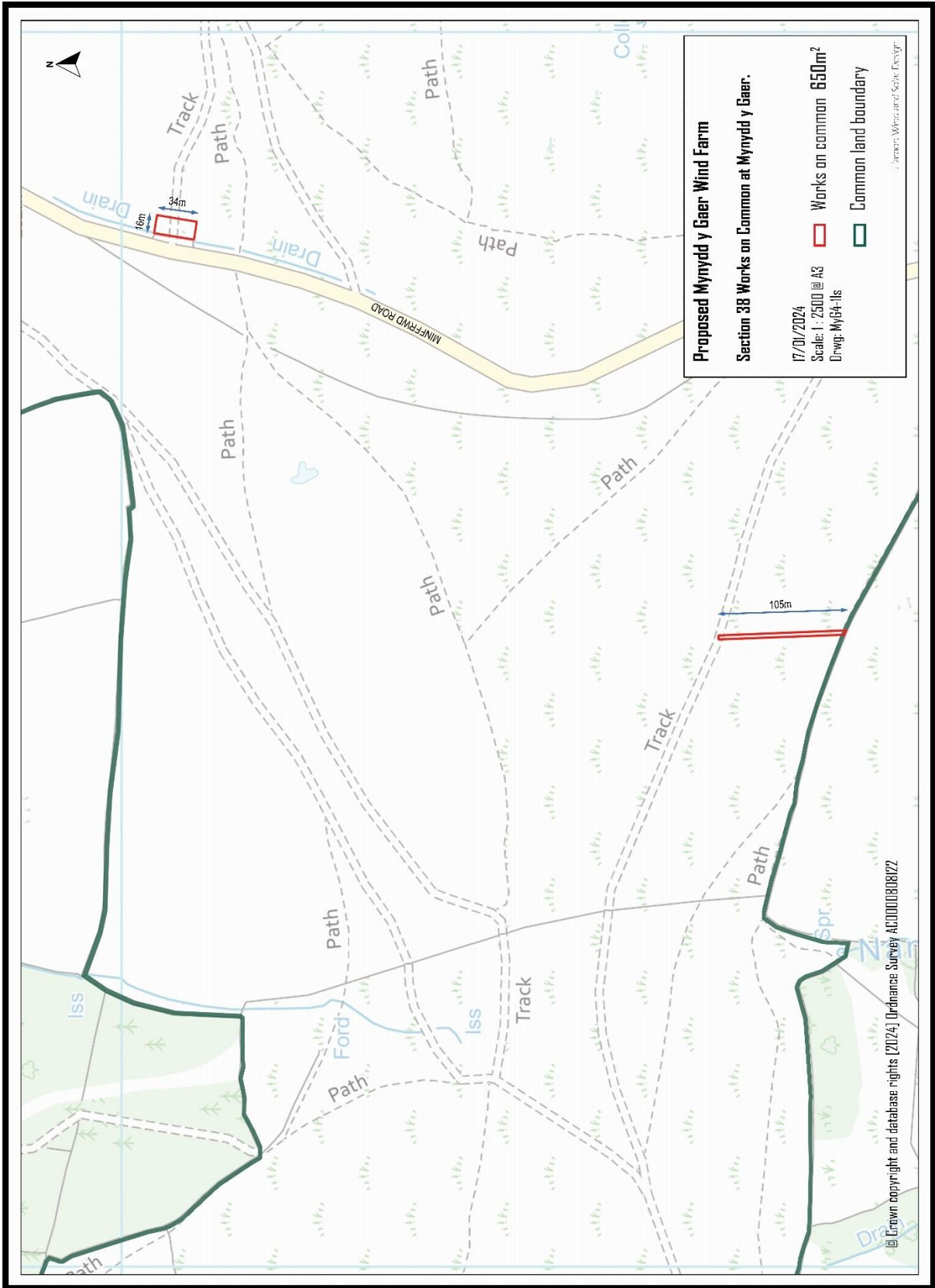
APPENDIX 5  
SECTION 16 RELEASE LAND PLAN





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APPENDIX 6  
SECTION 38 PLAN



APPENDIX 7  
BIODIVERSITY ACTION PLAN

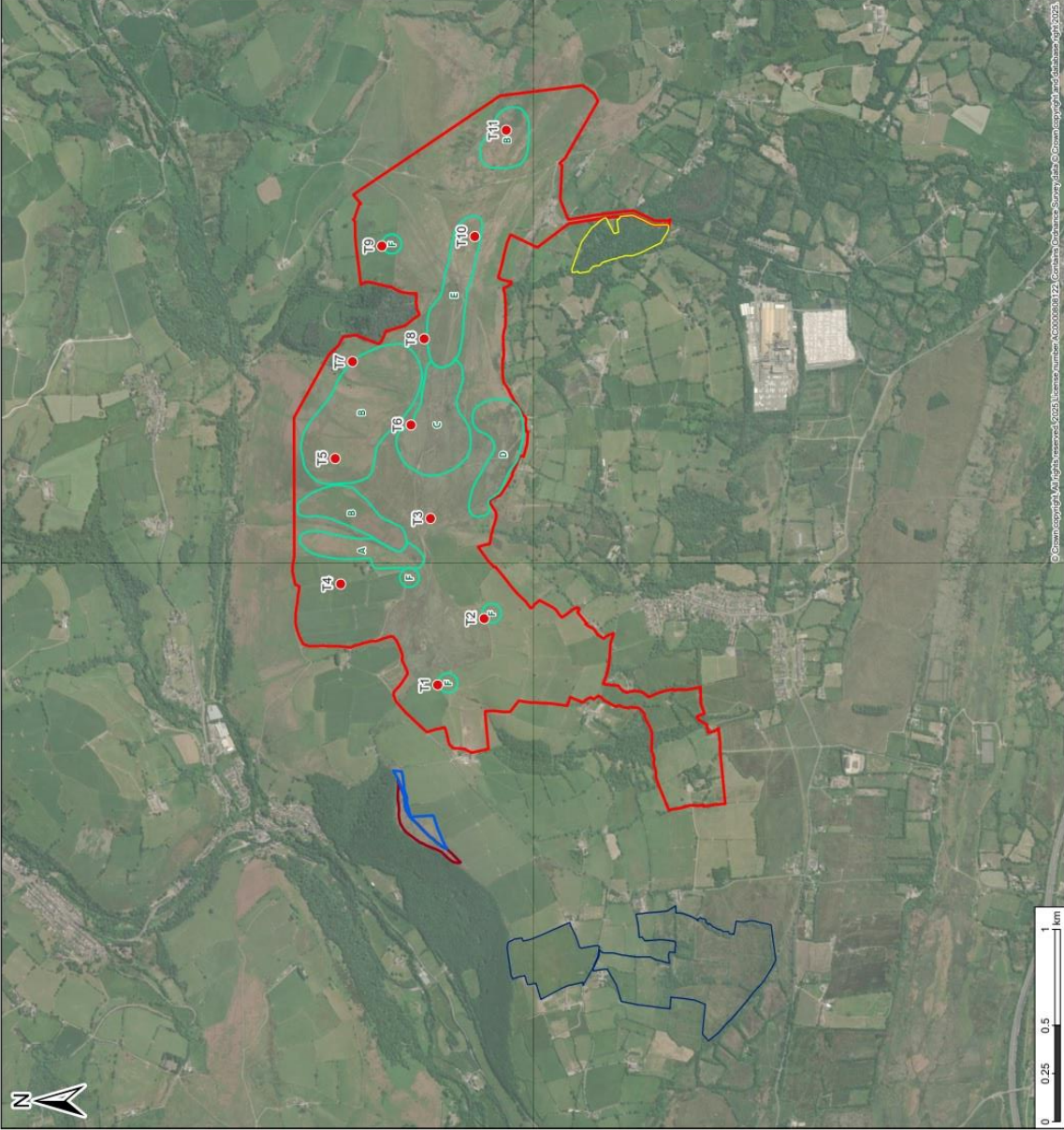
**Legend**

- Turbines
- Application Boundary
- Exchange Land
- Wern Tarw Woodland Enhancement
- Turbine Site**
- Biodiversity Strategy Compartments
- East of Blackmill Woodlands**
- Primary Bracken Management Area
- Secondary Bracken Management Area

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Project Name		Onshore Wind Farm at Mynydd Y Gaer	
Drawing Title		Overview of Biodiversity Strategy Areas	
Figure Number		1	
Drawing Number		ECO01933-0031-02	
02	17/01/2025	FINAL	AC LR
Rev	Date	Status	By CB
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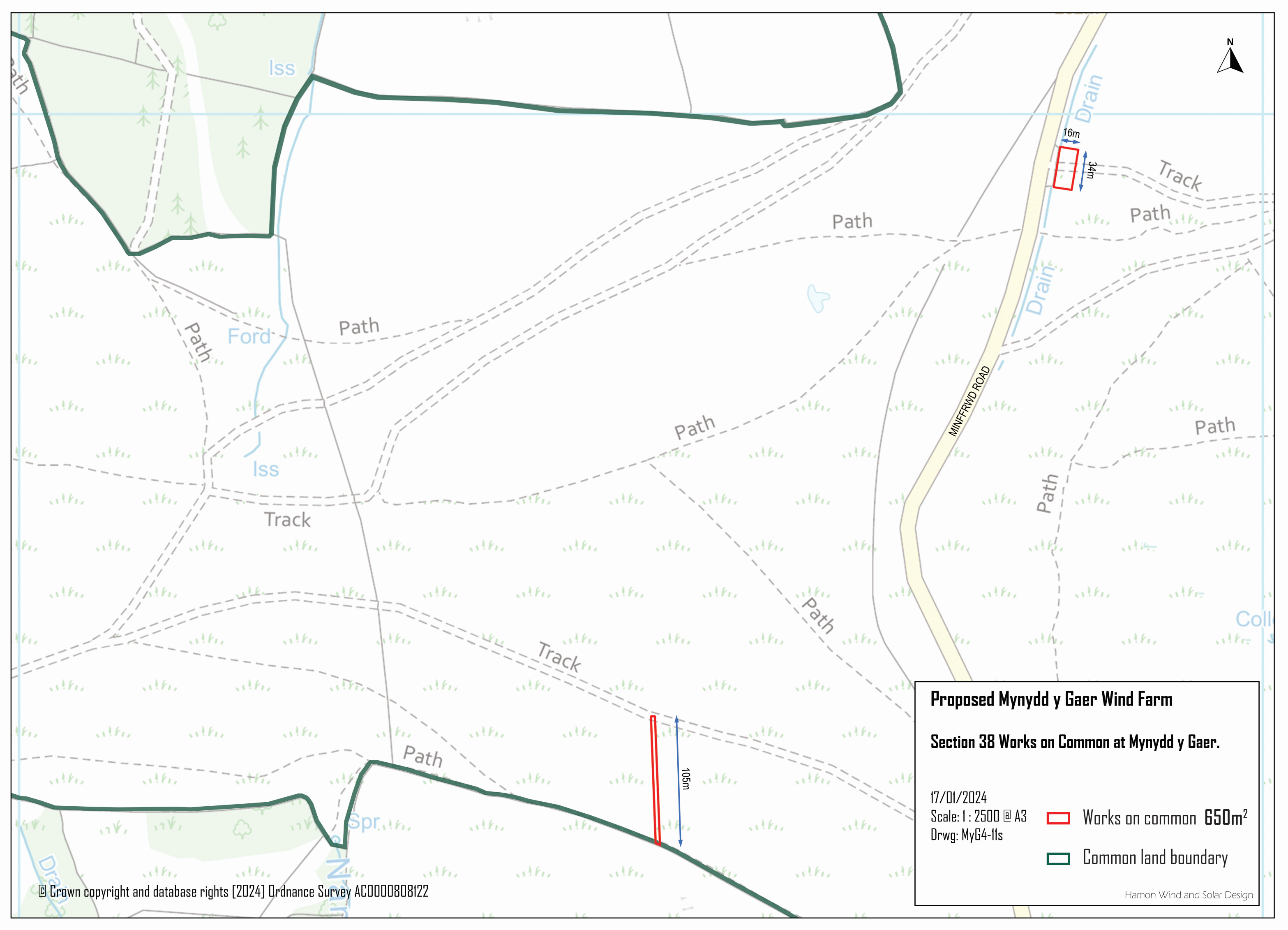


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APPENDIX 8  
PHOTOGRAPHS









**Proposed Mynydd y Gaer Wind Farm**

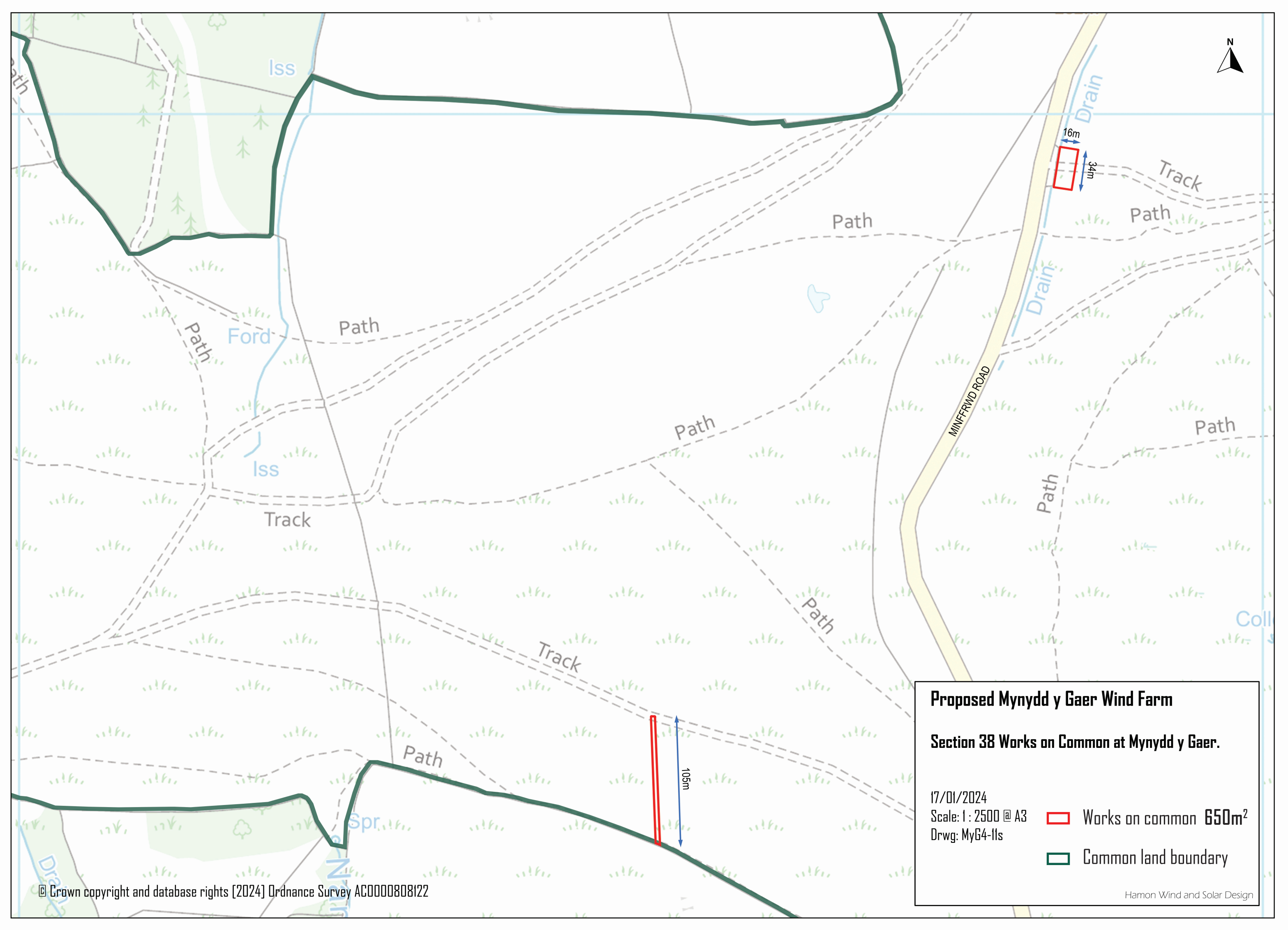
**Section 38 Works on Common at Mynydd y Gaer.**

17/01/2024  
Scale: 1 : 2500 @ A3  
Drwg: MyG4-11s

 Works on common **650m<sup>2</sup>**

 Common land boundary


Hamon Wind and Solar Design




**Proposed Mynydd y Gaer Wind Farm**

**Section 38 Works on Common at Mynydd y Gaer.**

17/01/2024  
Scale: 1 : 2500 @ A3  
Drwg: MyG4-11s

 Works on common **650m<sup>2</sup>**

 Common land boundary

Hamon Wind and Solar Design