

Wylfa Newydd Project

Development Consent Order Section 106

Agreement Status Note

PINS Reference Number: EN010007

November 2018

Revision 1.0

Examination Deadline 1

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

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1 Status Note on the DCO section 106 agreement

1.1 Introduction

- 1.1.1 This note provides an update to the Examining Authority on the current draft terms and status of the section 106 agreement in relation to the Development Consent Order (DCO s.106 agreement) circulated by Horizon Nuclear Power Wylfa Limited (Horizon).
- 1.1.2 A draft of the DCO s.106 agreement (the "First Draft Agreement") was circulated to the Isle of Anglesey County Council (IACC) and the Welsh Government on 26 October 2018. An overview of the heads of terms and emerging obligations is set out in the table at paragraph 1.3 below.
- 1.1.3 IACC and the Welsh Government are in the process of providing comments on the First Draft Agreement. As such the information in this note represents what has been proposed by Horizon. The DCO s.106 agreement will be revised following receipt of the IACC and the Welsh Government comments. An outline proposal for regular engagement, including reporting to the Examining Authority, is set out at paragraph 1.5 below.

1.2 Structure of the s.106 DCO agreement

- 1.2.1 Horizon has proposed that the detailed obligations in the current draft of the DCO s.106 agreement cover the topic areas outlined below and comprise a mix of financial and non-financial obligations. The financial terms of the draft DCO s.106 agreement include payments for capacity enhancement, annual payments, and contingency funds.
- 1.2.2 Payments are generally structured as payable directly to IACC, however some limited payments are proposed directly to a third party, as noted below. Horizon has proposed that third parties who are due to receive payments directly under the DCO s.106 agreement must enter into a short form 'Deed of Covenant' with Horizon to ensure that the monies are spent in accordance with the DCO s.106 agreement to ensure effective mitigation.
- 1.2.3 The front end of the DCO s.106 agreement which contains more 'boilerplate' provisions for how the agreement will operate is structured as far as possible to align with that of the draft section 106 agreement for the Site Preparation and Clearance planning permission (SPC s.106 agreement), in order to build continuity.
- 1.2.4 In terms of the relationship with the SPC s.106 agreement, both agreements currently anticipate that the DCO s.106 agreement would operate alongside the SPC s.106 agreement rather than replace it. This means that the SPC s.106 agreement would continue to cover the SPC works whether those are undertaken pursuant to the SPC permission or DCO.

1.3 Summary of DCO s.106 agreement obligations

1.3.1 The table below summarises the obligations as set out in the First Draft Agreement. The First Draft Agreement did not include the quantum of the financial contributions as these remain under development; this enabled earlier provision of the First Draft Agreement while enabling the parties to see the proposed structure and timing for contributions.

1.3.2 Please note this only reflects obligations proposed to be secured by the DCO s.106 agreement and does not reflect matters secured by DCO requirement.

1.3.3 Paragraph references in the "topic" column (shown in square brackets) are references to the relevant section of the Planning Statement (APP-406/Application Number 8.1), to demonstrate how those heads of terms have developed into the First Draft Agreement. Where no paragraph references are given, the head of term is in addition to those set out in the Planning Statement.

Table 1-1 Heads of Terms and Emerging Obligations

Sch	Topic	Financial	Non-financial
1	Welsh language [7.4.17 to 7.4.37]	<ul style="list-style-type: none"> Contributions for Welsh language education resilience Funding an IACC Welsh language officer and a community translation service 	<ul style="list-style-type: none"> Employ a Welsh Language and Culture Coordinator Maintain the internal Welsh Language Management Group Maintain its Polisi Iaith Gymraeg/Welsh Language Policy Use the Welsh language skills competency framework and assessment tool Promote career opportunities at the Wylfa Newydd Project Typically notify all external vacancies to the Wylfa Newydd Employment and Skills Service (WNESS) Where vacancies are advertised outside of the WNESS including by sub-contractors these will be advertised in Welsh and English Disseminate its Welsh Language Policy and related materials to contractors prior to them commencing work

Sch	Topic	Financial	Non-financial
			<ul style="list-style-type: none"> Provide the Welsh language materials to the Workforce attending site induction Include Welsh language information requirements as an agenda item for all relevant contractor meetings Maintain its existing programme of education support Circulate welcome packs to Workforce Dependents who move to the KSA Collect data on Workforce Dependents through the Workforce Accommodation Management Service Complete an evaluation of the impact of the Wylfa Newydd Project on the Welsh language in the KSA Report to the Welsh Language and Culture Sub-Group
2	Leisure [7.4.68]	Contributions for upgrades to existing indoor and outdoor leisure facilities	
3	Tourism [7.4.61 - 7.4.65]	<ul style="list-style-type: none"> Annual resilience contributions to market Anglesey as a tourism destination Funding of an IACC tourism officer Monitoring contributions to the Welsh Government A tourism contingency fund – open to Gwynedd and Conwy 	Use reasonable endeavours to obtain a planning permission for a Visitor and Media Reception Centre from operation.
4	Employment and Skills and Supply Chain	<ul style="list-style-type: none"> Providing a Skills Fund Funding two IACC economic development 	<ul style="list-style-type: none"> Supporting the Wylfa Newydd Employment and Skills Service (WNESS)

Sch	Topic	Financial	Non-financial
	[7.4.50 to 7.4.55 and 7.4.57/7.4.58 and 7.4.73 – 7.4.83]	officers	<ul style="list-style-type: none"> • Complying with (and updating at set points) the Jobs and Skills Implementation Plan (to be appended) • Operate and maintain the Supply Chain Portal in accordance with the Supply Chain Action Plan (to be appended) to engage the local supply chain and maximise local employment opportunities • Report to the Jobs and Skills Sub-Group
5	Accommodation [7.4.59/7.4.60]	<ul style="list-style-type: none"> • A capacity enhancement contribution to increase the supply of residential units • Annual contributions for IACC to manage impacts • Funding between two and three IACC accommodation officers (increasing and decreasing as numbers peak then fall) • An accommodation contingency fund 	<ul style="list-style-type: none"> • Establish the Workforce Accommodation Management Service (WAMS) • Work with the Council to establish the WAMS Oversight Board. • Open the Worker Accommodation Portal • Monitor (a) local accommodation capacity and displacement and (b) the Workforces' accommodation choices and provide this data to the Accommodation, Tourism and Leisure Sub-Group
6	Education [7.4.56]	<ul style="list-style-type: none"> • A contribution to IACC for teacher training • An education contingency fund – open to Gwynedd and Conwy 	Monitor the numbers of Workforce Children as part of the operation of the WAMS and provide such data to the Jobs and Skills Sub-Group
7	Transport	<ul style="list-style-type: none"> • Annual contributions • Funding an IACC Transport Officer • A transport contingency fund 	Provide results of the transport monitoring undertaken pursuant to the WN CoCP to the Transport Sub-Group

Sch	Topic	Financial	Non-financial
8	Health and Wellbeing [7.4.38/7.4.39]	<ul style="list-style-type: none"> A range of payments to Betsi Cadwaladr University Health Board for impacts on NHS services incusing referrals, use (before and after provision of the site campus medical facility), and dependent's use. Pharmacy contributions A health contingency fund 	Commitments for dentistry provision
9	Emergency Services (fire, ambulance and police) [7.4.49]	Payments to the emergency services for resilience building	
10	Construction Noise Mitigation [7.4.12/7.4.13]	Payments to IACC to allocate for sound insulation mitigation at a local school and local church	
11	Environment and Historic Heritage [7.4.11]	<ul style="list-style-type: none"> Two funds from which applications can be made for (a) ecological enhancement projects and (b) Cemlyn Lagoon resilience projects Part-funding of a NWWT tern warden Part-funding of an IACC ecological officer A payment to the NDA for it to deliver a management plan for Cestyll Gardens 	
12	Community Fund [7.4.66-7.4.68]	A fund from which applications can be made by communities to build social, economic and environmental resilience in the community	Input into publication of a report on the allocation of the Community Fund

Sch	Topic	Financial	Non-financial
13	Public Rights of Way [7.4.15/7.4.16]	<ul style="list-style-type: none"> Contributions for provision of new PROW and for upgrading existing PRoW Contributions for maintenance of PROW Payments towards signage and publicising the permanent diversion of the Copper Trail cycle route 	
14	Community Involvement Officers [7.4.40/7.4.41]	Funding an IACC Community Involvement Officer	Employing a Community Involvement Officer to work with the IACC Community Involvement Officer
15	Implementation and Monitoring	Funding IACC monitoring for (a) contribution and (b) the operational life of the Project (60 years)	
15	IACC service level agreement [7.4.84]	Funding IACC capacity to engage in and manage the Project for the Construction Period	
16	WNMPOP Operation and Terms of Reference and Release and Reporting on Contingency Funds		[See para 4 below]

1.4 Role of WNMPOP and its sub-groups

- 1.4.1 The First Draft Agreement as proposed by Horizon includes a number of topic based contingency funds that will be available if/when significant adverse effects arise as a result of the Wylfa Newydd Project.
- 1.4.2 In addition, there is the general Community Fund for more intangible and residual purposes, which will need a method of allocation.
- 1.4.3 To facilitate the distribution of these contingency funds, Horizon has proposed to establish, with IACC and number of key stakeholders, a panel (with a working title of the "Wylfa Newydd Major Permissions Oversight Panel" or "WNMPOP").
- 1.4.4 Horizon envisages that the principal purpose(s) of the WNMPOP would be:
 - to provide a forum for resolving strategic planning matters relating to the Wylfa Newydd Project; and
- 1.4.5 to act as the decision-maker in relation to the release and targeting of certain contingency funds to be secured through the DCO s.106 agreement, principally the Housing, Tourism and Community Funds.
- 1.4.6 The WNMPOP would have eight topic focused sub-groups that report to it on planning-related matters. These sub-groups would focus on issues at a more detailed level and recommend specific mitigation proposals to the WNMPOP. The WNMPOP would then consider mitigation proposals and would have the ability to direct Horizon to pay monies or perform other mitigation. The First Draft Agreement obliges Horizon to perform the WNMPOP's direction.
- 1.4.7 Core membership of the WNMPOP (1 representative from each) is proposed to include:
 - IACC representative;
 - Community Liaison Group representative;
 - Welsh Government representative; and
 - Horizon representative.
- 1.4.8 Other parties (such as Natural Resources Wales, the emergency services, and Betsi Cadwaladr University Health Board) could be invited to sessions as needed.
- 1.4.9 Horizon is undertaking further work on governance of the WNMPOP, including making proposals regarding the appointment of a chair.

1.5 Engagement

1.5.1 Subject to any revised directions being issued to establish a later deadline by which the parties should have a signed DCO s.106 agreement in place (as requested by Horizon's letter to the Examining Authority dated 9 November 2018), Horizon is developing a programme of engagement which it intends to agree with IACC and Welsh Government, which would see:¹

- First Draft Agreement issued on 26 October 2018. *This has already been issued.*
- Comments back on the First Draft Agreement from IACC and Welsh Government² in the week commencing **12 November 2018**.
 - Horizon to attend planned Welsh Government/Team Wales meeting end of November 2018.
- Horizon to process comments and issue a Second Draft Agreement to IACC and Welsh Government by **30 November 2018**.
- Provision of Second Draft Agreement to the Examining Authority **18 December 2018** (Deadline 3)³, along with a DCO s.106 agreement status update paper summarising the key outstanding issues – see paragraph 1.6 of this letter.
- Comments back on the Second Draft Agreement from IACC and Welsh Government/Team Wales on **21 December 2018**.
- Horizon to process comments, including updates following the 7 January week of hearings, and issue a Third Draft Agreement to IACC and Welsh Government by **16 January 2019**.
 - Horizon, IACC and Welsh Government meeting during week commencing **21 January 2019**.
- Comments back on the Third Draft Agreement from IACC and Welsh Government on **30 January 2019**.
- Horizon to process comments and issue a Fourth Draft Agreement to IACC and Welsh Government, and into examination, by **12 February 2019** (Deadline 5). Accompanying this, a further DCO s.106 status update paper summarising the key outstanding issues – see paragraph 1.6 of this letter.
- Comments back on the Fourth Draft Agreement from IACC/Welsh Government on **26 February 2019**.

¹ With further interim contacts and meetings to occur on an ad hoc basis.

² With the Welsh Government liaising with Team Wales. Team Wales comprises key public-sector bodies (and North Wales Police by invitation) bound by the objectives of the Well-being of Future Generations (Wales) Act 2015 to work in an integrated and collaborative manner to consider the social, economic and environmental issues that may arise from the construction and operation of the Wylfa Newydd Project.

³ Per the Rule 8 Letter.

- Horizon to process comments, including updates following the 4 March week of hearings, and issue a Fifth Draft Agreement to IACC and Welsh Government by **15 March 2019**.
 - Horizon, IACC and Welsh Government meeting on **19 March 2019**.
- A finalised s.106 agreement by **25 March 2019** (Deadline 8).
- A signed s.106 agreement by **17 April 2019** (Deadline 10).

1.6 Accompanying s.106 Status Update Papers

1.6.1 To assist the Examining Authority in understanding progress on the DCO s.106 agreement, it is proposed that Horizon would provide a status update paper alongside the draft of the DCO s.106 agreement provided into examination at Deadlines 3 and 5. That DCO s.106 agreement status update paper would identify the key outstanding matters to be agreed in tabular form as follows:

Table 1-2 Key outstanding issues

	Topic	Applicant Position	IACC Position	WG Position	Actions/next steps
1.	Clause [●]: [Title]				
2.	Sch [●]: [Title] [para x]				
3.	Sch [●]: [Title] [para x]				