



Wylfa Newydd Project

Letter to PINS - Hearing action points from DCO ISH

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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National Infrastructure Planning
Temple Quay House
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13 November 2018

DCRM Ref. No: HNP-HZDCO-PAC-LET-00011

Dear Kay

**Wylfa Newydd Project: Hearing Action Points arising from the draft Development Consent Order
Hearing held at Anglesey Showground on 24 October 2018**

1. This letter sets out Horizon Nuclear Power Wylfa Limited's ("Horizon") response to action items allocated to the Applicant in the "Action Points from the Development Consent Order hearing Wednesday 24 October 2018" published by the Examining Authority on 5 November 2018 ("Action Points").

Actions 2, 4, 11, 12 and 18: Requested changes to the draft DCO

2. The Action Points identified five actions (2, 4, 11, 12 and 18) which require Horizon to propose amendments to the current drafting of the draft Development Consent Order ("DCO"). An updated draft DCO (Revision 2.0 – WN0902-CLC-PAC-REP-00004), following the DCO Issue Specific Hearing ("ISH") on 24 October 2018, has been submitted to the Examining Authority for Deadline 1 which responds to each of these actions. A track changed version of the draft DCO has also been provided to demonstrate the changes between the original draft DCO (Revision 1.0; APP-029) and the updated version.
3. Please refer to the DCO Amendment Table (Revision 2.0; WN0902-HZDCO-PAC-REP-00006) for further details of the amendments that have been made to the draft DCO; however, in summary:
 - (a) Action 2 has been addressed through amendments to Part 3 – Land Plans of Schedule 2 (Approved Plans);

- (b) Action 4 has been addressed through the insertion of a new definition of “subsoil” in article 2;
 - (c) Actions 11 and 12 have been addressed through amendments to article 76, the insertion of a new Schedule 18 (Certified Documents) and consequential amendments to control document and plan definitions; and
 - (d) Action 18 has been addressed through a new interpretation clause within Schedule 3 and clarification within the respective parameter tables where heights are to be measured from a specific level.
- 4. Additional amendments have also been made to the draft DCO in response to concerns or questions raised at the DCO ISH or in the Supplementary Agenda for the Issue Specific Hearing for the draft Development Consent Order (EV-00). These are all set out in the DCO Amendment Table (Revision 2.0).
 - 5. In addition to the table, the updated DCO is supported by an amended Explanatory Memorandum (Revision 3.0) which reflects these changes and also provides further clarifications to issues or questions raised at the DCO ISH or in the Supplementary Agenda.

Action 3: Applicant to liaise with Welsh Government and others in relation to site clearance

- 6. A meeting was held between Horizon and the Welsh Government on 8 November 2018 on the site preparation and clearance (“SPC”) proposals (sought to be permitted under a planning permission pursuant to the Town and Country Planning Act 1990 (“TCPA”). The aim of the meeting was to provide the Welsh Government with a strategic overview of the TCPA SPC works and associated section 106 agreement, and the alignment between the TCPA SPC works and the draft DCO (including the DCO section 106 agreement). For the avoidance of doubt, at no point were any matters of merit discussed in relation to either the TCPA SPC application or associated section 106 agreement.
- 7. The outcomes of this meeting were:
 - (a) The Welsh Government acknowledged that the broad structure of the SPC section 106 agreement mirrors the content of the DCO section 106 agreement, where relevant.
 - (b) The Welsh Government accepted that terms within the DCO section 106 agreement and the SPC section 106 agreement still secured the SPC funding in the event that the DCO progresses. Going forward, the Welsh Government would like visibility over matters including which clauses of the SPC section 106 agreement could be superseded by the DCO section 106 agreement (if any). The Welsh Government will provide separate comments on the draft DCO section 106 agreement.
 - (c) The Welsh Government requested further clarification on the transitional arrangements between SPC and DCO.
- 8. Horizon is working to provide further clarification on the matters raised at paragraphs 7(b) and 7(c) and will continue to engage with the Welsh Government to ensure it is apprised of progress on the SPC proposals.

Action 6: Provide an update on discussions with Felin Honeybees

9. Following the concerns raised by Mrs Katie Hayward (the owner of Felin Honeybees) at the Open Floor Hearing on 26th October 2018, Horizon is preparing to seek further engagement with Mrs Hayward.
10. It is currently intended that this would be a meeting between Mrs Hayward, her representative (Rhun ap Iorweth, a local Welsh Assembly politician representing Anglesey), and representatives from Horizon. It is intended that this will occur in the coming weeks.

Action 7: Applicant to provide a technical note on their approach to compulsory Acquisition outside the “power island” in relation to long term after use

11. This technical note (WN0902-HZDCO-PAC-REP-00005) has been prepared and submitted separately to the Examining Authority for Deadline 1.

Action 9: Discussion is to take place between the Applicant and Cemaes Harbour Committee to explain the powers that the application is taking in regard to Article 43 of the 1847 Act

12. At the DCO ISH, Mr Roger Dobson (as the chair of the Cemaes Harbour Committee) queried how the Marine Off-Loading Facility would be managed and if Horizon was seeking harbour enforcement powers and powers to direct vessels as part of the draft DCO.
13. In response to Mr Dobson, Counsel for Horizon (Michael Humphries QC), noted that article 43 of the draft DCO applies various sections from the Harbours Act 1864 (including the power to appoint a harbour master; competent harbour authority under the Pilotage Act and provide directions) and specific articles giving power to give directions. During the adjournment, Michael Humphries QC had further discussions on the scope and implications of these powers with Mr Dobson.
14. Following the DCO ISH, Horizon has contacted Mr Dobson to confirm whether he would like to meet to discuss any concerns or questions further. A copy of this letter is attached as **Appendix 1**.

Action 13: Does the Landscape and Habitat Management Strategy provide sufficient control given that it is a control document under Article 76

15. In respect of comments on article 76 of the draft DCO, Teresa Hughes, on behalf of North Wales Wildlife Trust, noted at the DCO ISH that only two sections of the Landscape Habitat and Management Strategy ("LHMS") (APP-424 and APP-425) are to be secured through the Requirements in the draft DCO and this needs to be made clearer within article 76 of the draft DCO.
16. Ms Hughes is correct that it is only the principles in Chapter 4 and 7 that are secured through the Requirements in Schedule 3 (i.e. Requirement WN9). The reason for this is that it is the principles that will ensure that Horizon safeguards or creates the key landscape and habitat features within the WNDA during the construction and operation of the Wylfa Newydd DCO Project. The remainder of the LHMS only serves to provide background information and illustrative design

proposals to demonstrate landscape and habitats could be delivered in accordance with the principles.

17. Horizon considers that the LHMS does provide sufficient control as a number of Requirements relating to landscaping and habitats require that detailed landscape designs or management schemes **must** be prepared in accordance with the principles in the LHMS. This requires detailed schemes as follows:

Requirement and Scheme	Content of Scheme	Trigger
WN9: Final landscape and habitat management scheme for the WNDA	<p>Must be prepared in accordance with the overarching and operational principles in Chapter 4 of the LHMS and the Wylfa Newydd Development Area Retention Plans.</p> <p>Must include details of:</p> <ul style="list-style-type: none"> • proposed planting; • permanent ground levels; • areas of permanent mounding and associated landscaping; • public access and recreational facilities • proposed watercourse diversions and permanent drainage designs; and • details of any existing landscapes (wetland, woodland, grassland, trees) to be retained; and details of any habitat created or enhanced. 	<p>12 months prior to Unit 2 being commissioned.</p> <p>Final landscaping and habitat works must be carried out in accordance with the approved scheme.</p>
WN11: Landscape and Habitat Management Schemes	<p>Must be prepared in accordance with the management principles in Chapter 7 of the LHMS.</p> <p>Must include management and maintenance measures relating to the specific habitat and landscape works for the following habitat and landscape works:</p> <ul style="list-style-type: none"> • existing habitats associated with watercourse diversions; • newly-created habitats and land returned to sympathetic agricultural use; • drainage channels and ponds; • Tre'r Gof SSSI; • Cae Gwyn SSSI /Great Crested Newt Receptor Site (relating to the small portion which will be owned by the undertaker when option land is purchased); • Wylfa Head (including the coastal strip which extends towards Cemaes); • woodland designed by Dame Sylvia Crowe for the Existing Power Station; 	<p>Prior to completion of the habitat and landscape works under Requirement WN8 (construction Landscaping) and WN9 (Final landscaping and habitat scheme).</p> <p>Management must be carried out in accordance with the approved scheme.</p>

Requirement and Scheme	Content of Scheme	Trigger
	<ul style="list-style-type: none"> retained ancient woodland; and development buffer zones (around watercourses and designated sites); and Wildlife structures (e.g. bat barns) and associated planting/buffers. 	
WN12: Notable Wildlife Enhancement Area (Management Scheme)	<p>Must be prepared in accordance with the management principles in Chapter 7 of the LHMS.</p> <p>Must include details of the management and maintenance of the Notable Wildlife Enhancement Area and the monitoring of such measures.</p>	<p>Within 12 months of the authorised development commencing.</p> <p>Management must be carried out in accordance with the approved scheme.</p>
WN13: Reptile Receptor Site (Management Scheme)	<p>Must be prepared in accordance with the management principles in Chapter 7 of the LHMS.</p> <p>Must include details of the management and maintenance of the Reptile Receptor Site and the monitoring of such measures.</p>	<p>Within 12 months of the authorised development commencing.</p> <p>Management must be carried out in accordance with the approved scheme.</p>
WN14: Great Crested Newt Receptor Site	<p>Must be prepared in accordance with the management principles in Chapter 7 of the LHMS.</p> <p>Must include details of the management and maintenance of the Great Crested Newt Receptor Site and the monitoring of such measures.</p>	<p>Within 12 months of the authorised development commencing.</p> <p>Management must be carried out in accordance with the approved scheme.</p>

18. The reason the LHMS has taken a principles-based approach, rather than providing detailed designs or schemes is that, at this stage, it is not possible to identify what the final landscape scheme will look like for operation or what types of management arrangements are required for created habitat. With the exception of Requirements WN12 to 14, details of the other requirements can only be prepared in the later stages of construction. In every case, Horizon must submit all plans and schemes to IACC for approval and then undertake any works or management in accordance with the approved plan or scheme.
19. Horizon has proposed that the whole of the LHMS is certified as a control document; rather than just the two chapters referred to and secured by the Requirements. It does not consider that this will cause confusion as the Requirements clearly identify the chapters relating to the principles (see summary table above).

Action 15: Applicant and WG to meet to discuss what has and has not been devolved under the devolution settlement and to advise the Examining Authority of the outcome

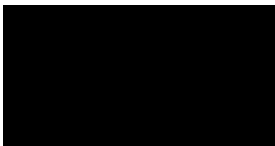
20. At the DCO ISH, the Welsh Government raised concerns around the draft DCO's approach to the devolution arrangements, particularly in respect of article 22 (discharge of water) and Schedule 18 (Procedure for approvals, consents and appeals) of the draft DCO.
21. In light of these concerns, Horizon wrote to the Welsh Government on 2 November 2018 seeking confirmation of the Welsh Government's understanding of the devolution position in relation to nuclear installations.
22. Upon receipt of the Welsh Government's confirmation, Horizon proposes to have further discussions in order to ensure any required amendments, as set out in the Welsh Government's note dated 23 October 2018 (EV-00), are incorporated into the updated draft DCO submitted at Deadline 2 (4 December 2018).

Actions 21, 22: Updates required at Deadlines 2 and 4

23. Horizon acknowledges the Examining Authority's request for Horizon to provide updates on the status of Protective Provisions and other consents, licences and agreements at Deadlines 2 (4 December 2018) and 4 (17 January 2019).
24. Horizon will continue to progress these matters with the relevant parties and provide updates at the specified deadlines.

Action 23: Signed section 106 agreement required at Deadline 5

25. Horizon wrote to the Examining Authority, via its case officer, on [12] November 2018 noting the challenges to providing a signed DCO section 106 agreement at Deadline 5, and noting that the Rule 8 set different deadlines to those stated in this Action Letter. Horizon's [12] November letter requested directions permitting submission of a finalised agreement at Deadline 8, and a signed agreement at Deadline 10. That request was made with the support of the Welsh Government and IACC.
26. A summary paper of the current status of negotiations (WN0902-HZDCO-PAC-REP-00001) in respect of the section 106 agreement has been submitted separately to the Examining Authority for Deadline 1. In addition, a summary paper on the TCPA SPC planning permission and associated section 106 agreement (WN0902-HZDCO-PAC-REP-00002) has also been submitted.



Kieran Somers

Head of Planning

Appendix 1 – LETTER TO ROGER DOBSON



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Roger Dobson
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9 November 2018

DCRM Ref. No: **HNP-HZDCO-PAC-LET-00010**

Dear Mr Dobson

Wylfa Newydd Project – Invitation to discuss matters of interest to the Cemaes Harbour Committee

At the recent Issue Specific Hearing for the Development Consent Order ('DCO') application made by Horizon Nuclear Power Wylfa Limited ('Horizon') for the Wylfa Newydd Project, you raised queries (noting your capacity as the chair of the Cemaes Harbour Committee) on the management of the Marine Off-loading Facility and scope of the harbour enforcement powers and powers to direct vessels that Horizon is seeking as part of the draft DCO.

Following a brief response on these matters by Michael Humphries QC (Counsel for Horizon) during the hearing, and Mr Humphries QC's subsequent discussions with you during the adjournment, we wanted to offer a meeting with you and the Cemaes Harbour Committee to further discuss any remaining questions or concerns you may have in respect of these matters.

If you wish to take up the offer of a further discussion with us on these matters, please contact me at the address provided below.

Thank you for your continued interest in the Wylfa Newydd Project.



Kieran Somers
Head of Planning