



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref **EN010007**

FAO: Kay Sully
National Infrastructure Planning
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

10 April 2019

Dear Ms Sully,

EN010007 Wylfa Newydd Nuclear Power Station

Welsh Government (IP Number: 20011597) Deadline 9 Submission

1 Introduction

- 1.1.1 The Welsh Ministers (hereafter referred to as Welsh Government) formally registered on 10 August 2018 as an Interested Party to the Wylfa Newydd Nuclear Power Station Development Consent Order (DCO) Application, submitted by Horizon Nuclear Power (hereafter referred to as Horizon).

2 Responses to Examining Authority's Rule 17 Request issued 3 April 2019

- 2.1.1 The Examining Authority issued a Rule 17 Request for Further Information on 03 April 2019. **Appendix A** of this Deadline 9 submission sets out Welsh Government's responses to those relevant questions issued.

3 S135 Crown Land

- 3.1.1 Welsh Government is currently considering the request for Crown Land consent made by Horizon. It can be confirmed that a position will be issued in respect of this matter at Deadline 10 of the Examination (17 April 2019). Whilst not forming part of the land within the Development Consent Order limits Horizon Nuclear Power have also approached Welsh Government seeking to obtain a lease on land known as Tern Island. It is understood that the purpose of this lease would be to enable the provision of compensatory habitat if it is deemed necessary under the Habitat Regulations 2007. As Tern Island also constitutes Crown Land Welsh Government anticipates it will be able confirm its position to Horizon Nuclear Power on 17th April 2019.

4 Welsh Government Position on draft Development Consent Order (DCO)

- 4.1.1 Welsh Government has maintained a constructive dialogue with Horizon to close out any matters in the DCO Outstanding Issues Register (REP8-004) and detailed drafting points in the draft DCO.

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- 4.1.2 To provide clarity on Welsh Government's position, and in response to the Examining Authority's Rule 17 Request, please refer to **Appendix A** for further details on any outstanding areas of concern.

5 Welsh Government Position on draft S106 Agreement

- 5.1.1 Welsh Government have maintained a constructive dialogue with Horizon to close-out any outstanding matters relating to the draft S106 Agreement. As previously highlighted in Welsh Government's Deadline 8 Submission (REP8-071), there were two main areas where concerns remained outstanding:

- Schedule 4: Employments and Skills Service and Supply Chain; and
- Schedule 5: Worker Accommodation.

Schedule 4: Employments and Skills Service and Supply Chain

- 5.1.2 Welsh Government has devolved responsibility for Post-16 education and training and therefore has a key interest in ensuring a successful employment, training, and skills programme at Wylfa Newydd. Welsh Government welcomes Horizon's aspiration for home-based employment in the local area, and wants to maximise the employment of people who are new to the workforce, those who are unemployed, those who are economically inactive, and those who are under-employed. Welsh Government also wants to maximise the employment of residents in higher-quality roles, and not just in low quality roles on the Project.
- 5.1.3 Since Deadline 8, Welsh Government have received further commitments from Horizon in relation to Apprenticeship Schemes. The draft S106 Agreement sets out that the Developer shall use their reasonable endeavours to require its contractors and sub-contractors to target an average of 2.3% of the Workforce (taken as proportion of both manual and non-manual workforce on-site) for the Wylfa Newydd DCO Project. In addition, Horizon are also committing to providing a minimum of 200 apprenticeships during the construction period and early years of the operational phase of Wylfa Newydd, and an ongoing apprenticeship programme throughout the duration of the remaining operational period.
- 5.1.4 Welsh Government understand that an Expression of Interest Register for apprenticeships will be managed by Isle of Anglesey County Council, in combination with the Wylfa Newydd Employment and Skills Service. In addition, the Jobs and Skills Implementation Plan will set out targets/objectives for apprenticeships within the different sectors (and inclusion of KPI).
- 5.1.5 Welsh Government welcome the securing of this in-kind commitment from Horizon in the S106 agreement, and, in combination with the other proposed mitigation set out in Schedule 4 of the draft S106 Agreement, are, on balance, satisfied that the adverse impacts in relation to post-16 education skills and training can now be managed.

Schedule 5: Worker Accommodation

- 5.1.6 Through this Examination, Welsh Government has consistently raised significant concerns relation to impacts on the Welsh public purse from detrimental impacts with respect to housing and accommodation within the KSA. Welsh Government's evidence [REP2-367 & REP7-004] and the Joint Position Housing Paper [REP4-053] illustrates that there is insufficient supply in the KSA to meet the demands of the 7,000 non-home-based construction workers. Welsh Government acknowledges that the focus of the mitigation will be through the provision of a Worker Accommodation (Capacity Enhancement) Contribution to increase the number of bedspaces to meet a target of 1,650 new bed spaces across the KSA. Whilst in principle Welsh Government supports this measure, the delivery of this quantum will need to be achieved in a short space of time to ensure supply is available ahead of the peak construction workforce. If the programme is delayed or fails

to achieve an increase in supply, then there is a risk that there will be additional pressure on limited accommodation.

- 5.1.7 The increases in demand for limited accommodation will result in increased homelessness, the cost of which will fall on Local Authorities and Welsh Government to address. This resultant burden on the public purse is considered to be unacceptable and therefore greater provision should be made in relation to the Accommodation (Contingency) Fund.

Worker Accommodation (Capacity Enhancement) Contribution

- 5.1.8 The revised draft S106 Agreement has now amended the Worker Accommodation (Capacity Enhancement) Contribution split. Paragraph 7 of Schedule 5 now allocates the split as follows:

- £10.8m: Allocated to Isle of Anglesey County Council;
- £1.35m: Allocated to Gwynedd Council;
- £250,000: Allocated to Conwy County Borough Council; and
- £1.35m: Reserved contribution to be allocated by the WAMS Oversight Board.

- 5.1.9 Welsh Government understand that both Isle of Anglesey County Council and Gwynedd Council are agreed on this approach. Welsh Government therefore propose to make no further comments on the allocation of the Worker Accommodation (Capacity Enhancement) Contribution.

Accommodation (Contingency) Fund

- 5.1.10 Following recent discussions with Horizon, Welsh Government understand that Horizon have committed to increasing the Accommodation (Contingency) Fund to £2.25m. Whilst Welsh Government welcome this modest increase in the contingency, it is still considered to be insufficient. In relation to the Accommodation (Contingency) Fund, Welsh Government's position is clearly set out in our Deadline 7 submission [REP7-004].
- 5.1.11 Welsh Government understand that IACC, as the host planning authority and signatory to the S106, are content with the provisions now set out in the final draft S106 that is due to be submitted by Horizon at Deadline 9.

6 Welsh Government Position on Control Documents

Phasing Strategy

- 6.1.1 Welsh Government set out in Deadline 7 [Appendix B - REP7-004] our concerns in relation to the triggers for the final phase (and number of bedspaces to be provided) in relation to the Temporary Worker Accommodation (TWA) delivery targets. Following recent discussions with Horizon, Welsh Government understand that Horizon will be amending the triggers for delivering the TWA and will be providing an updated Phasing Strategy at Deadline 9.
- 6.1.2 During discussions with Horizon on 02 April 2019, Horizon indicated that they will commit to delivering a further 500 bedspaces before non-home-based worker numbers hits 6,000, with a further 500 when non-home-based workers hit 6,700. It is understood that the revised position in the Phasing Strategy (being submitted at Deadline 9) will now be:
- 1,500 bedspaces – prior to exceeding 2,200 NHBW
 - 1,500 bedspaces – prior to exceeding 4,200 NHBW
 - 500 bedspaces – prior to exceeding 6,000 NHBW
 - 500 bedspaces – prior to exceeding 6,700 NHBW

7 DCO Marine Enforcement Authority

- 7.1.1 Through review of the DCO, Welsh Government wish to raise that the discharging authority for works beyond Mean High Water Spring (MHWS) is Natural Resources Wales (NRW).
- 7.1.2 However, the joint paper agreeing this (page 33 of REP7-014) has identified that enforcement activity would fall to the Welsh Minsters (as it currently does in respect of Marine Licence). This is because the extent of the Local Planning Authorities control does not extend below Mean Low Water Springs (MLWS). As the DCO is currently drafted, it does not clearly set out who would deal with any breach of the DCO below MLWS.
- 7.1.3 It does appear that the enforcement function is silent in the latest draft of the DCO (Revision 5.0, REP8-029).

Yours sincerely,

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Appendix A: Welsh Government Responses to Rule 17 Request issued by Examining Authority on 3 April 2019.

Appendix A

**Welsh Government Responses to Rule 17 Request issued by Examining Authority
on 3 April 2019.**

WYLFA NEWYDD NUCLEAR POWER STATION

Responses to Rule 17 Request Issued 3 April 2019

DEADLINE 9 – 10 APRIL 2019



Question Number	Examining Authority's Question	Welsh Government Response
R17.2.0	Do IPs wish to respond to the matters raised in REP8-004 DCO Outstanding Issues Register	<p>Welsh Government have reviewed the DCO Outstanding Issues Register (REP8-004) and wish to raise the following comments:</p> <p>Paragraph 1.3.37 – 1.3.38</p> <ul style="list-style-type: none">Welsh Government note Horizon's response about there being no Abnormal Indivisible Loads (AILS) associated with Work No 12. In light of this, Welsh Government would suggest whether this approach should be formally secured through a suitable DCO Requirement, for the avoidance of any doubt in the future. <p>Paragraph 1.3.63</p> <ul style="list-style-type: none">Welsh Government request that Horizon confirm that the modelling of the capacity of Junction 4 at Dalar Hir was based on 1,900 daily vehicle movements. It is understood through discussions with Horizon's Transport Consultants, that the capacity was assessed on 1,000 daily vehicle movements, as 900 spaces had been allocated as long stay parking. If the junction capacity has not been assessed, then Welsh Government considers it is reasonable and necessary to amend Requirement PR5 to provide certainty as to this split of daily commuter spaces and long stay parking. <p>Paragraph 1.3.85 – 1.3.87</p> <ul style="list-style-type: none">Schedule 19 – Appeal Body: Welsh Government stands behind the position it has set on this matter throughout the DCO Examination. It is critical that DCOs in Wales fully respect the Devolution Settlement and as this appeal function relates to Welsh Local Planning Authorities' in the discharge of conditions, it is wholly appropriate that in this instance the appellate authority should be Welsh Ministers. Welsh Government requests that the Examining Authority support and suggest a positive amendment to the text that replaces references to the Secretary of State to Welsh Ministers. In addition, paragraph 11 of Schedule 19 makes reference to Communities and Local Government Circular 03/2009 – this was withdrawn on the 7 March 2014. Welsh Government would suggest that the most appropriate reference, in the context of a Welsh DCO, should be to the TCPA (Referred Applications and Appeals Procedure) (Wales) Regulations 2017. <p>Horizon have included in the Outstanding Issues Register, a copy of the Joint Position Paper on working on the intertidal area. This paper identifies at Point 4 that both the Welsh Government and IACC consider that Welsh Ministers should be the appeal body for <i>any</i> refusal under a Requirement.</p> <p>Paragraph 1.2.12 – 1.2.13</p> <p>Article 2 – Restriction on maintenance works</p> <ul style="list-style-type: none">Welsh Government stand by the position it has set out at Deadline 5 and 7 and throughout the ISHs, regarding the maximum parameters assessed as part of the ES. We do not propose to raise this matter any further.



Question Number	Examining Authority's Question	Welsh Government Response
		<p>Paragraph 1.3.27</p> <ul style="list-style-type: none">• Enforceability of WMS – The Welsh Government has nothing further to add on this matter and refers to the position set out in our Deadline 5 submission [REP5-080]. <p>Paragraph 1.3.32</p> <ul style="list-style-type: none">• Welsh Government wish to highlight that Progress Power Station is located in Suffolk, and is therefore is not a Welsh DCO. Horizon's reference to other DCO's would appear to place reliance on model provisions as providing precedent, rather than considering the type and nature of the development being consented. <p>Paragraph 1.3.51 – 1.3.52</p> <ul style="list-style-type: none">• WND A Archaeological mitigation scheme - Please see response to R17.2.21 and R17.4.2 <p>Paragraph 1.3.72</p> <ul style="list-style-type: none">• Welsh Government welcome the commitment to provide Construction Traffic Management Plans (CTMPs).
R17.2.8	<p>Article 5 – Effect of the Order on the Site Preparation Permission</p> <p>The Applicant explains why in its view it would not be appropriate to alter the definition of SPC Works [REP8-004 DCO Outstanding Issues Register]</p> <ol style="list-style-type: none">a) Is IACC as the discharging/enforcing authority, content with this drafting?b) If not, why not and what alternative drafting would IACC propose?	<p>We note that Question R17.2.8 has been aimed at Welsh Government, amongst other Interested Parties. Welsh Government do not wish to make any further representations on Article 5.</p>



Question Number	Examining Authority's Question	Welsh Government Response
R17.2.11	<p>Article 9 – Consent to transfer the benefit of the Order</p> <p>An amendment to Article 9 is proposed by the Applicant:</p> <p><i>(4) Unless otherwise approved by the Secretary of State, the transferee approved under paragraph (1) is required to put in place at the time of the transfer an equivalent guarantee or alternative form of security to that in place at the time of the transfer under article 83 of this Order.</i></p> <ul style="list-style-type: none">a) What would prevent the 'alternative' being less robust than the 'equivalent form of security'?b) Who would decide whether an 'alternative' form was satisfactory?c) What is to stop the 'alternative' being less robust?d) There appears to be no limitations on what an alternative could be. Who would decide whether the alternative is satisfactory?e) Would the drafting set out below provide greater clarity? <p>9. [...] (4) Unless otherwise approved by the Secretary of State, the transferee approved under paragraph (1) is required to put in place at the time of the transfer a guarantee or form of security equivalent to that in place at the time of the transfer under Article 83 of this Order.</p>	<p>We note that Question R17.2.8 has been aimed at Welsh Government, amongst other Interested Parties. Welsh Government do not wish to make any further representations on Article 9.</p>



Question Number	Examining Authority's Question	Welsh Government Response
R17.2.20	<p>Schedule 3 – Requirements</p> <p>In response to discussions, a number of changes have been made to the requirements in the dDCO at Deadline 8. [REP8-010-Summary table of amendments to the DCO]</p> <ul style="list-style-type: none">a) Are parties' content with the drafting as set out at Deadline 8?b) If not, provide an explanation of why not.c) If appropriate, provide an alternative form of words for consideration, or signpost where previous drafting has been provided.	<p>Any comments Welsh Government wish to raise in respect of Schedule 3 – Requirements, has been covered in the response to R17.2.0 (please see above).</p>
R17.2.21	<p>SPC8 Archaeological written scheme of investigation</p> <p>Should SPC8 refer to the requirement for an Archaeological Mitigation Scheme as well as an Archaeological Written Scheme of Investigation? If so, provide revised wording and if not, explain why not? Welsh Government may wish to comment.</p>	<p>Welsh Government has previously requested (Appendix E, REP7-004) (and still maintain) that the drafting includes reference to an "Archaeological Mitigation Scheme" (including phasing triggers and timetable) in addition to a Written Scheme of Investigation and that such WSI shall update and build upon the existing WSI. This will assist for clarity in view of the potential for change of personnel, the length of time since the existing WSI was produced and the significant features and areas identified. A mitigation scheme is required as the WSI will relate more to methodology. This approach will ensure consistency with Requirement WN1 which refers to both an Archaeological Mitigation Scheme and WSI.</p> <ul style="list-style-type: none">A) No development shall take place within the area (Plans submitted in response to R17.4.2] until the applicant or their agent or their successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the application and approved in writing by the local planning authority, in consultation with Cadw.B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).C) Commissioning of Unit 2 shall not take place until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.



Question Number	Examining Authority's Question	Welsh Government Response
R17.4.2	<p>a) Provide a key to the plans provided in respect of:</p> <ul style="list-style-type: none">i. Summary plan identifying the location of the three nationally important archaeological sites within the WNDA; andii. Summary plan identifying the location of the three nationally important archaeological sites in relation to the Project Design. <p>b) In the light of the Archaeology Site Summary Reports and Plans submitted at D8, is there any further action that should be taken to ensure the nationally important archaeological sites are adequately investigated and recorded in accordance with the Written Schemes of Investigation submitted to Isle of Anglesey County Council (IACC), GAPS, and Cadw, in June 2017 and August 2018 and best practice?</p> <p>c) Is there an intention to schedule these sites and, if so, what are the implications for the Wylfa Newydd project and any consequential changes to the DCO? Para. 3.1.7 [REP7-004]</p>	<p>a) Please see Annex 1 which provides plans and maps showing the location of the three nationally important archaeological sites within the WNDA.</p> <p>b) Cadw consider that further actions are required. Currently the sites have been excavated but the Written Scheme of Investigations (WSIs) and best practice dictate that the remains recovered now require appropriate processing, analysis, examination, reporting, dissemination and archiving. These points have previously been highlighted through Welsh Government / Cadw representations to the Examination (REP7-005), and through discussions with Horizon.</p> <p>c) Cadw will be considering the areas highlighted in the plans for designation. Cadw have carried out an exercise which has concluded that it seems likely that these areas will meet the criteria for designation. Should these areas be designated, this will provide a defined boundary within which the archaeological remains would be legally protected from damage or disturbance. Should the development proceed, then the developer would have to obtain Scheduled Monument Consent from Welsh Government / Cadw to undertake further excavation work. This consent is a devolved matter and would be determined by Cadw on behalf of the Welsh Ministers.</p> <p>Cadw's consideration only relates to the three sites of high archaeological value identified in the plans. However, this does not cover the whole of the WNDA and therefore and it is considered necessary and appropriate for the DCO to include suitably worded Requirement (see above) in relation to archaeological provisions for the remainder of the WNDA.</p>



Question Number	Examining Authority's Question	Welsh Government Response
R17.4.4	<p>In relation to the following topics, which appear not to have been agreed with WG; provide a status update and explanation about how any outstanding disagreements could be resolved:</p> <ul style="list-style-type: none">a) The potential direct effects of overshadowing on the Cestyll Garden because of the revised design to the Power Station and supporting earthworks.b) Removing and reinstating the Kitchen Garden in order to mitigate and enhance a designated heritage asset of national importance.c) The approach to the proposed conservation management Plan around the Essential Setting of Cestyll Garden and the adequacy of the funding to be made available in the DCO Sec. 106 Agreement.	<ul style="list-style-type: none">a) WG110 in SoCG with Welsh Government (REP8-017) – sets out Cadw/Welsh Government's concerns in relation to this ongoing matter. Cadw have not been included for consultation within Requirement WN9, and WN11 has not been amended to include “(k) Site of Former Cestyll Kitchen Garden.” There is now an agreed commitment to undertake landscaping works and a deliver Conservation Management Plan, therefore the potential impact from the supporting earthworks can be considered in determining the final planting and layout, in looking to mitigate the impacts.b) and c) Welsh Government can confirm that they are now satisfied with the overall package of mitigation being provided for the Kitchen Garden and Valley Garden.

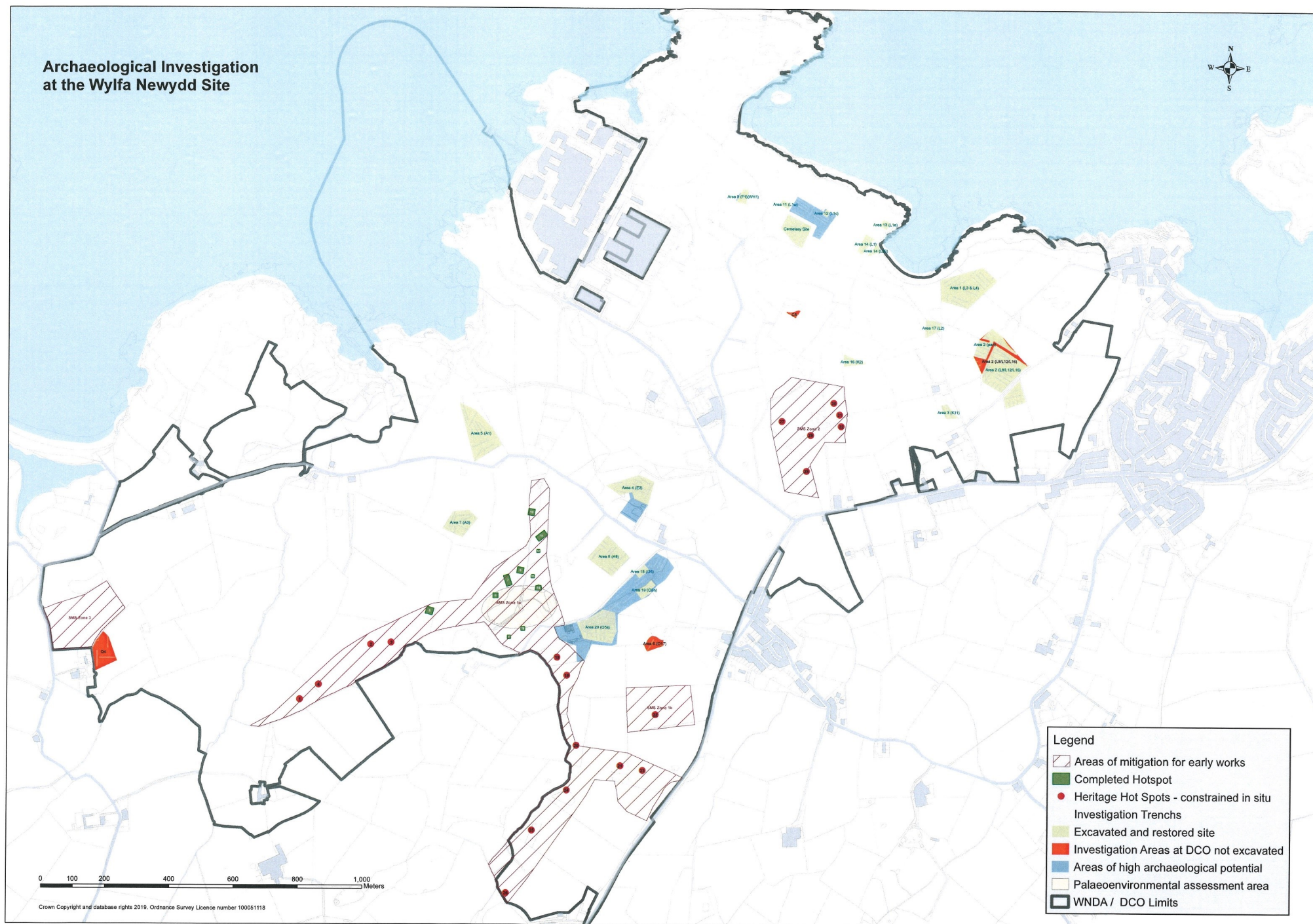


Llywodraeth Cymru
Welsh Government

Annex 1

Plans and maps showing Nationally Important Archaeological Sites within the Wylfa Newydd Development Area (R17.4.2)

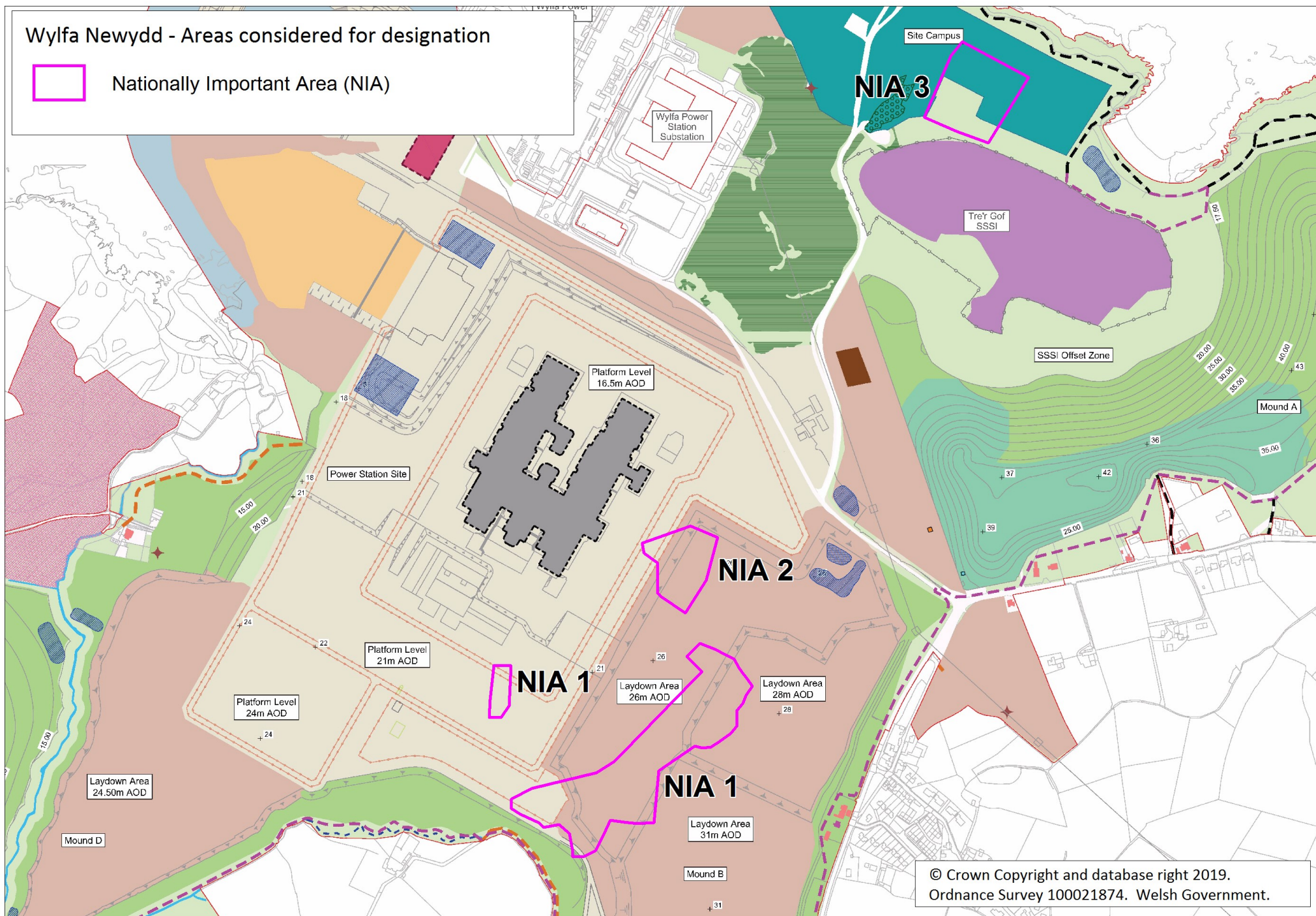
Archaeological Investigation at the Wylfa Newydd Site



Wylfa Newydd - Areas considered for designation



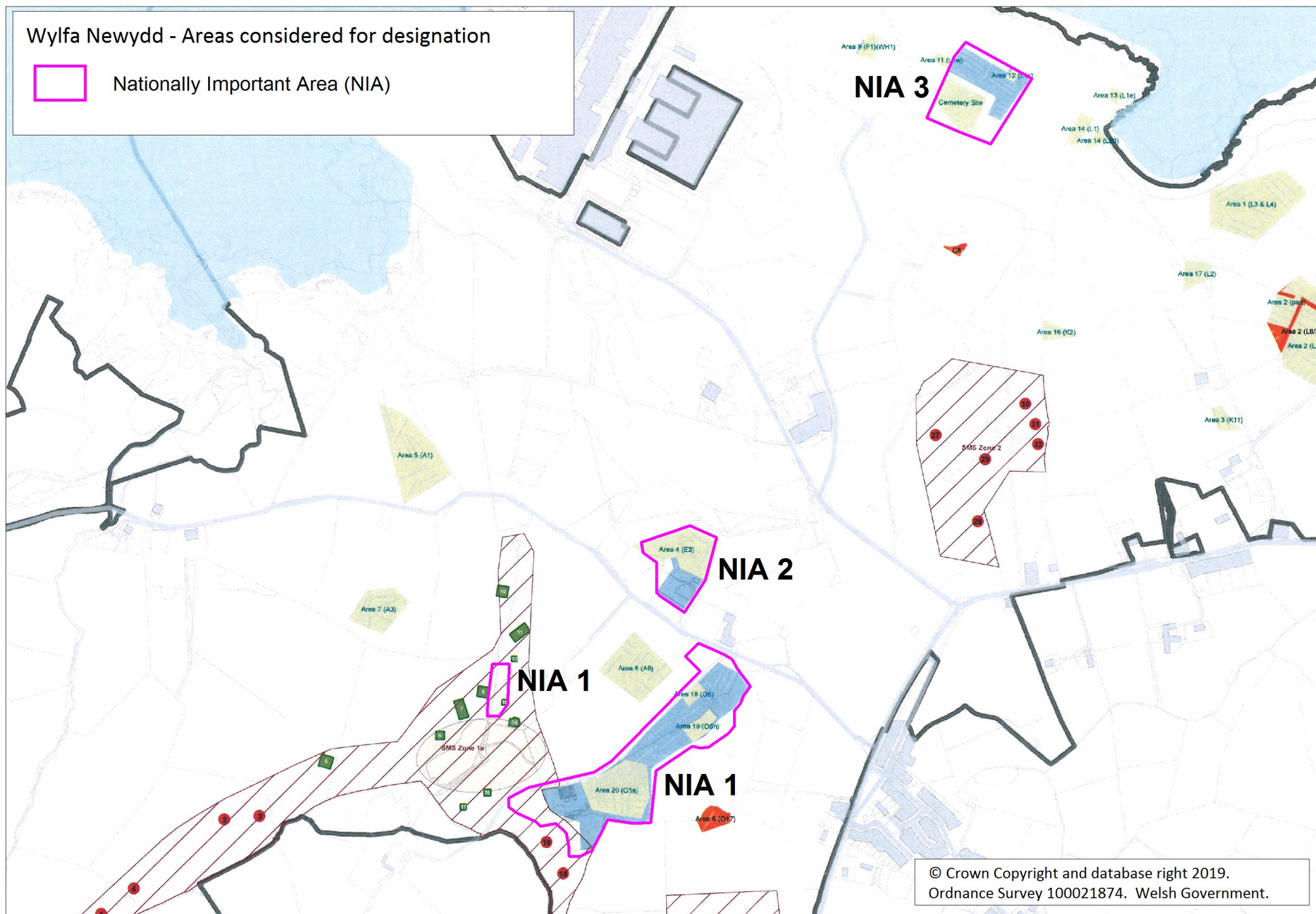
Nationally Important Area (NIA)



Wylfa Newydd - Areas considered for designation



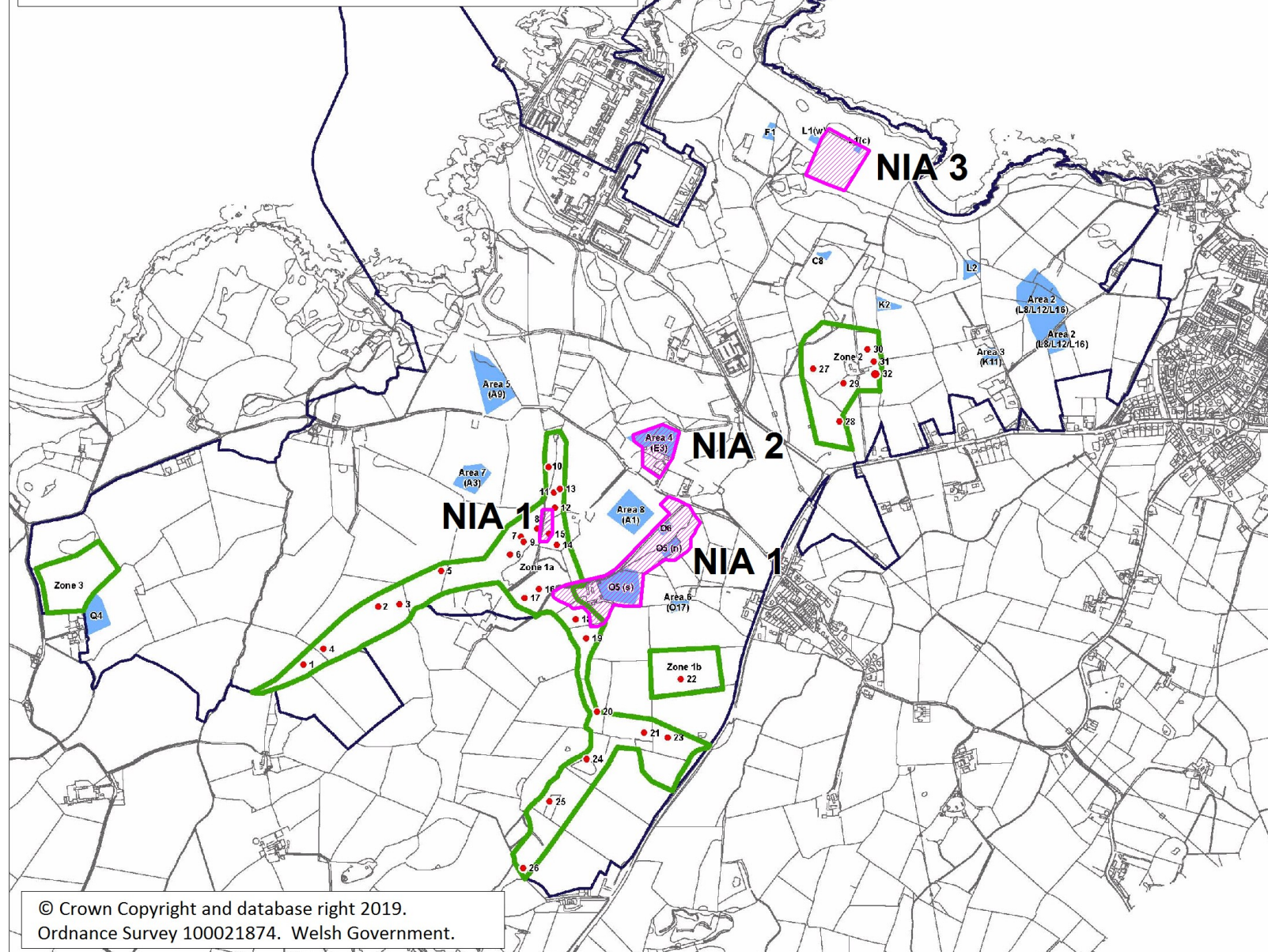
Nationally Important Area (NIA)



Wylfa Newydd - Areas considered for designation



Nationally Important Area (NIA)



Legend

-  Wylfa Newydd Development Area
-  Excavation Area
-  Strip Map Sample Area
-  Hotspot



0	JUNE 17	Initial issue	AD	IT	EB
Rev	Date	Purpose of revision	Drawn	Checked	Rev'd

HORIZON
NUCLEAR POWER

Project

WYLFA NEWYDD PROJECT
ARCHAEOLOGICAL WSI TECHNICAL UPDATE

FIGURE 6
SELECTED EXCAVATION AREAS, STRIP MAP AND
SAMPLE AREAS SHOWING HOTSPOTS WITHIN THEM

Scale (g) A2	1:12,500	DO NOT SCALE
Jacobs No.	60PC8077	