HORIZON NUCLEAR POWER

WYLFA NEWYDD

ENERGY WORKING FOR BRITAIN

Wylfa Newydd Project

Horizon's Comments on Stakeholders Responses to the ExA's Request for Further Information

PINS Reference Number: EN010007

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Examination Deadline 10

Planning Act 2008
Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Horizon Internal DCRM Number: WN0902-HZDCO-PAC-REP-00391

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1 Introduction

Purpose of Statement

This statement provides Horizon's comments to stakeholder responses to the request for further information made by the Examining Authority on 3 April 2019 in accordance with the Planning Act 2008 (as amended) Section 89 and The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) and Rule 17.

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Rule 17 Letter Question: 17.2.0 - Do IPs wish to respond to the matters raised in REP8-004 DCO Outstanding issues Register		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
Welsh Government	Welsh Government have reviewed the DCO Outstanding Issues Register (REP8-004) and wish to raise the following comments: **Paragraph 1.3.37 – 1.3.38** 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. **Paragraph 1.3.63** 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	**Paragraph 1.3.37 – 1.3.38** Horizon does not consider that a requirement is necessary as there are no AILs associated with Work No.12; however, if the ExA were minded to include one it would have no practical implications for Horizon. **Paragraph 1.3.63** Horizon's Transport Consultants did not advise that the capacity was assessed on 1,000 daily vehicle Movements. The capacity of junction 4 of the A55 was assessed assuming full use of all 1,900 parking spaces proposed. The modelling of the junction has been undertaken for the peak traffic periods as agreed with IACC. These show relatively low flows owing to the Wylfa Newydd DCO Project and significant spare capacity through Junction 4 of the A55 with the maximum Ratio of Flow to Capacity (RFC) value of only 25% in any modelled scenario. This is because of low background traffic and the fact that the shift timings have been set to avoid peak traffic periods. Therefore, there is no justification for further amendment to Requirement PR5. **Paragraph 1.3.85 – 1.3.87 (Appellate Body)** Horizon's position remains as set out in paragraphs 1.3.85 – 1.3.87 of the Outstanding Issues Register [REP8-004] and as stated at the Issue Specific Hearings. This is a matter for the Secretary of State to determine. **Paragraph 1.2.12 – 1.2.13 (Maintain)** Horizon's position on "maintain" remains as set out in paragraphs 1.2.12 – 1.2.13 in the Outstanding Issues Register [REP8-004].

	Requirement PR5 to provide certainty as to this split of daily commuter spaces and long stay parking. **Paragraph 1.3.85 – 1.3.87** 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. Horizon have included in the Outstanding Issues Register, a copy of the Joint Position Paper on working on the intertidal area. This	**Paragraph 1.3.27 (WMS)** Horizon's position on the enforceability of the WMS remains as set out in paragraphs 1.3.27 in the Outstanding Issues Register [REP8-004]. Due to human rights and employment law issues, Horizon is unable to amend the language of the principles any further. **Paragraph 1.3.32 (notice of final commissioning and cessation)** Regardless of Progress Power not being a Welsh DCO, these DCOs are all power station projects and therefore Horizon considers that reference to them as precedent is appropriate.

	paper identifies at Point 4 that both the Welsh Government and IACC consider that Welsh Ministers should be the appeal body for *any* refusal under a Requirement. **Paragraph 1.2.12 – 1.2.13** Article 2 – Restriction on maintenance works • 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. **Paragraph 1.3.27** • 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]. **Paragraph 1.3.32** • 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.	

Rule 17 Letter Question: 17.2.6 - Article 2 - Interpretation (c) What is the process by which the Applicant is to be consulted on the contents of a Memorandum of Understanding between the parties in respect of the arrangements for the 'discharging authority'? [REP8-004] DCO Outstanding Issues Register]		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
IACC	There is no intention to consult the Applicant on this agreement, and the Applicant has never been told that there was. The Applicant has inserted this provision without discussion of it with the IACC. The discharging authority proposal should not and cannot be subject to the undertaker being a party to such an agreement. It is noted that Horizon originally suggested a split of responsibilities between NRW and IACC and that is the position the parties have arrived at following discussion between them. The working arrangements between two public sector bodies are not the undertaker's concern. The MoU is a purely administrative arrangement which does not need to be controlled by the DCO and which the Applicant has no proper role in. The draft MoU under discussion between the parties simply sets out how and when they will share information, when meetings are required, key points of contact and how concerns are escalated. The parties are	Paragraph 1(4) was inserted in to the Deadline 8 version of the DCO to reflect the intentions of the joint paper submitted by Welsh Government, IACC and NRW. The reason it was drafted as "as agreed between the undertaker, IACC and NRW" was due to the potential implications the relationship between IACC and NRW has for Horizon's ability to discharge requirements and construct, maintain and operate the Wylfa Newydd DCO Project in accordance with the Order. For this reason, Horizon sought to be involved in the MOU to ensure that any potential areas where there could be conflict (and therefore affect the ability for Horizon to construct the Wylfa Newydd DCO Project) were addressed. As noted by IACC, Horizon is already a party to the current MOU between NRW and IACC in respect of their engagement in the DCO process. Horizon notes that developer involvement in administrative MOUs with statutory authorities is precedented in other DCOs (see the MOU for the Thames Water Utilities Limited (Thames Tideway Tunnel) Development Consent Order) which set out an engagement protocol for the river authorities and the process and programme for providing information in relation to the proposed works. (As noted in response to NRW's Deadline 9 submission [REP9-037] it is not unlawful for a statutory instrument to refer to agreements between statutory bodies – see Horizon's Responses to Other Matters raised at Deadline 9 document submitted at Deadline 10). Horizon is not aware there is a draft MOU currently under discussion as IACC advised in an email dated 22 March 2019 that it is "not intended to progress that agreement at this stage but will however be progressed in a timely manner as the

	entirely capable of agreeing these processes and undertaking their functions without the Applicant's input. The IACC and NRW already have in place between them a MoU that sets out how they are working together on the Wylfa project, this new MoU will follow on from that existing agreement to any post consent phase. A draft MoU (which does not and will not) include HNP is already under discussion between IACC and NRW and will be finalised if the DCO is granted. There is no role for the Applicant in that process and the attempt to make itself a party is inappropriate and entirely rejected. The IACC objects to the insertion of the new paragraph 4 in Schedule 19 and requests that the Examining Authority delete this.	project progresses." For this reason, there is little certainty for Horizon on timing or content of this future MOU which it is dependent on when constructing the Wylfa Newydd DCO Project. For the above reasons, Horizon does not consider its position of requesting involvement to be inappropriate. Nevertheless, Horizon would be comfortable to remove its proposed involvement in the agreement; provided the other wording it proposed in R17.2.6 on the scope and timing for that agreement was included within the granted DCO [REP9-006]. This wording would address Horizon's concerns, namely by ensuring there is timeframe for agreeing this MOU and establishing minimum requirements for that MOU. For ease, Horizon would propose the following amendments to the wording proposed in [REP9-006]: ***1.****(4) Prior to the commencement of any Work which has more than one discharging authority, ~~the undertaker will provide~~ IACC and NRW will enter into a ~~with a draft~~ memorandum of understanding ~~for comment~~ which will contain the following minimum requirements:* *a) the co-operation and collaboration between the IACC and NRW in the approval of discharge applications for the intertidal area or works which extend over the MHWS and the achievement of their respective statutory duties;* *b) the consultation process that will be followed between the discharging authority and the marine works consultee;* *c) the mechanisms and timeframes for resolving any inconsistencies between approvals to be granted by IACC or NRW or any differences of opinion;* *d) opportunities for IACC and NRW to collaborate, share information and conjoin reviews of information, inspections and approvals in respect of discharge applications where possible; and*

		e) the notification process to the undertaker in respect of approvals made by IACC and NRW. *(5) The parties will seek to agree the memorandum of understanding provided under paragraph (1) within 30 working days of the first notice being served under paragraph 1(1) of this Schedule and provide a copy of the agreed memorandum of understanding to the undertaker for information.* ~~*(3) If after using reasonable endeavours the parties are unable to agree a memorandum of understanding under paragraph (2), the terms of the memorandum of understanding will be determined in accordance with article 77 (Arbitration) within [30] working days.*~~ This wording has been inserted into the final draft DCO submitted at Deadline 10.

Rule 17 Letter Question: 17.2.6 - Article 2 - Interpretation (c) What is the process by which the Applicant is to be consulted on the contents of a Memorandum of Understanding between the parties in respect of the arrangements for the 'discharging authority'? [REP8-004] DCO Outstanding Issues Register]		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
NRW	Notwithstanding our objection to the inclusion of clause 1 (4) to Schedule 19, as outlined in section 3.1.10 – 3.1.13 of our deadline 9 response, we consider that the Memorandum of Understanding will be an agreement between NRW, IACC and if necessary, Welsh Government. We do not consider that the Applicant would be a party within the Memorandum of Understanding and do not consider it appropriate for a timescale or mechanism for obtaining agreement to be identified.	See response above to IACC in respect of R17.2.6.

Rule 17 Letter Question: 17.2.7 Article 2 - Interpretation / Schedule 19 A new clause has been added by the Applicant to Schedule 19: (4) Where an application is made in relation to a Work that has more than one discharging authority, the discharge of those applications will be managed in accordance with a memorandum of understanding agreed between the undertaker, IACC and NRW. [REP8-004 DCO Outstanding issues Register] If agreement cannot be reached between the parties, should provision be made for an arbitration mechanism to take effect?		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
IACC	As set out at 17.2.6, the IACC objects to the Applicant being a party to this MoU. This is proposed entirely as an administrative agreement which sets out how the public authorities will interact – it is not a matter which requires to be or should be controlled through the DCO. There is no realistic prospect of IACC and NRW failing to reach agreement given that there is already a MoU in place between them for the DCO stage (which the Applicant is not a party to) and that a draft MoU for the post-consent phase has already been drafted and discussed and no principle issues of disagreement have been identified. The only reason why an MoU would be likely not to be agreed in short course is if the Applicant was included. Arbitration would be inappropriate as that could result in a process which is unacceptable to one of the public authorities being imposed on them.	See response above to IACC in respect of R17.2.6.

Rule 17 Letter Question: 17.2.7 Article 2 - Interpretation / Schedule 19 A new clause has been added by the Applicant to Schedule 19: (4) Where an application is made in relation to a Work that has more than one discharging authority, the discharge of those applications will be managed in accordance with a memorandum of understanding agreed between the undertaker, IACC and NRW. [REP8-004 DCO Outstanding issues Register] If agreement cannot be reached between the parties, should provision be made for an arbitration mechanism to take effect?		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
NRW	We have interpreted this question to be regarding the inclusion of an Arbitration Clause, in the instance that the discharging authorities do not agree with the discharging of a requirement. Notwithstanding our objection to the inclusion of clause 4 to Schedule 19, as outlined in section 3.1.10 – 3.1.13 of our deadline 9 response, we do not consider it appropriate to include an arbitration mechanism. We would have serious concerns regarding the referral of regulatory decisions to an independent arbitration process. In any event, the appeal mechanisms with the Development Consent Order, or Judicial Review should provide recourse to the Applicant.	See response above to IACC in respect of R17.2.6.

Rule 17 Letter Question: 17.2.9 Article 9 – Consent to transfer the benefit of the Order (c) Does Magnox/NDA have any further comment on the Applicants D8 response at para 1.2.24? [REP8-004 DCO Outstanding Issues Register] (d) Would inclusion of the proposed amendment to Article 9 as proposed by Magnox/NDA be another consideration which could impinge upon the SoS's discretion to approve a transfer?		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
NDA	1. At the outset, the NDA refers the ExA to the key contextual points noted at paragraphs 1.2.1 to 1.2.3 above, and in particular to the nature of the NDA's and Magnox's respective interests and obligations at the Wylfa A Nuclear Site. The NDA is the entity with underlying statutory responsibility for decommissioning the Wylfa A Nuclear Site, whereas Magnox is the entity with day-to-day responsibility for carrying out decommissioning activities at the Wylfa A Nuclear Site in a manner which is compliant with the relevant regulatory regimes. 2. The NDA's overriding priority during this Examination, and indeed throughout all of its commercial discussions with the Applicant, has been to ensure that its ability to carry out its statutory functions and responsibilities in respect of the Wylfa A Nuclear Site are not adversely affected by the proposed construction and operation of the Wylfa Newydd Nuclear Generating Station, and	**Object to any restriction on the transfer of the Order** Horizon notes that the NDA has now changed its position from its Deadline 7 submission [REP7-019] and is seeking the power to consent to the transfer of the Order under article 9. As the ExA is aware, in its Deadline 7 submission, NDA was seeking that article 9 was amended to make any transfer subject to requirement that: *"the transferee or leesee (as applicable)* ***must first enter into a nuclear site licensees' co-operation agreement*** *with NDA and Magnox, unless NDA, Magnox and the undertaker agree otherwise".* In its Deadline 9 submission [REP9-040], NDA is now seeking that the paragraph 29 in Schedule 15 (which provided that the undertaker must enter into the co-operation agreement before it can exercise any powers) to provide that: "**The undertaker must not transfer or grant** to another person any or all of the **benefits of the provisions of this Order** under Article 9 (Consent to transfer benefit of Order) which relates to or affects all or any part of the NDA Site **without the consent of the NDA** (such consent not to be unreasonably withheld or delayed)"

	indeed that the ability of Magnox to carry out decommissioning activities in a safe, secure and environmentally sound manner remains similarly unhindered. The existing Co-operation Agreement between the NDA, Magnox and the Applicant is designed to achieve this, but also to ensure that operations on the Wylfa A Nuclear Site do not adversely affect the ability of the Applicant to construct and operate the Wylfa Newydd Nuclear Generating Station in a regulatory-compliant manner. 3. The Applicant's assertion at paragraph 1.2.22 of REP8-004 that "this matter relates to private land interests" is a fundamental misconception and misunderstanding of the legal interests that the NDA is seeking to protect, and indeed of the nature of a Cooperation Agreement. 4. In the context of the NDA's proposed amendments to Article 9 of the draft DCO, the NDA's primary objective is to ensure that, should the Applicant seek to transfer the benefit of the DCO to a third party, the proposed transferee/lessee will work closely with both the NDA and Magnox to ensure that the proposed construction and operation of the Wylfa Newydd Nuclear Generating Station	The practical implications of this revised drafting is that NDA is no longer seeking to prevent transfer unless a co-operation agreement is entered into; they are now seeking to restrict any transfer of the Order unless NDA provides its consent to the proposed transferee/lessee (regardless of whether the Secretary of State considers that the transferee/lessee is appropriate). Horizon is gravely concerned about the implications of this amendment in that it would effectively provide NDA with a ransom position in respect of a matter that is already adequately dealt with (see comments below), has no statutory basis and also seeks to fetter the Secretary of State's discretion on who should have the benefit of the Order under article 9 by providing a third party with the power to vet who is an appropriate transferee/lessee. Such an amendment would have significant implications for the funding of the Wylfa Newydd DCO Project and the ability for Horizon to transfer the Order to a new undertaker given the uncertainty of the ability to obtain consent from an independent third party. NDA states at paragraph 11 that the requirement for pre-approval does not fetter the SoS's discretion under article 9; however, Horizon vehemently disagrees. The proposed wording provided by NDA provides NDA with a pre-approval right to vet any proposed transferee/lessee and effectively would prevent the undertaker applying to the Secretary of State under article 9 if the NDA refused to consent to the transfer. It is not clear to Horizon why the NDA thinks it is appropriate to seek to control the ability to transfer of the Order to a third party by seeking an approval right before the undertaker can request the Secretary of State to exercise his or her powers under article 9 of the Order. This approach effectively usurps the Secretary of State's discretion to determine who is an appropriate transferee/lessee for the purposes of the Order and there is no statutory basis for the NDA to take this role

	is carried out in a manner which does not prejudice or adversely affect the ability of the NDA or Magnox to satisfy their respective responsibilities and duties at the Wylfa A Nuclear Site. 5. The drafting solution proposed by the Applicant in paragraph 1.2.22 of REP8-044 (and which is in paragraph 29 of Part 3 of Schedule 15 of the draft DCO (REP8-029)) does not provide this required comfort or effect, for the following two principal reasons: 5.1 firstly, given that there is already a Co-operation Agreement in place between the NDA, Magnox and the Applicant, the wording does not in fact create a substantive restriction on the Applicant's ability to transfer the benefit of the DCO to a third party. The Applicant's proposed drafting does not expressly require with sufficient clarity and certainty that the benefit of the DCO can only be transferred after a Co-operation Agreement (or terms of equivalent effect) has been concluded between the NDA, Magnox and the proposed transferee/lessee. As such, the proposed drafting fails to afford the necessary protections to the NDA or Magnox, or indeed to potential future owners/operators of the Wylfa Newydd Nuclear Generating Station; and	from the Secretary of State. It is for the Secretary of State to determine the appropriateness of a transferee/lessee – not appropriate for an independent third party to have a veto right over any transfer. **Adequate protections provided through the current drafting of the DCO** As set out in paragraphs 1.2.20 – 1.2.25 in the of the Outstanding Issues Register [REP8-004], Horizon considers that the current drafting of the DCO already provides the protections that NDA is seeking and provides those protections in a more appropriate way: • NDA has stated that its primary objective is to ensure that any proposed transferee/lessee negotiates a co-operation agreement with the NDA and Magnox and to ensure that its ability to carry out its statutory functions and responsibilities are not affected (noting that the existing co-operation agreement adequately protects its interests). Horizon notes that NDA's statutory functions and responsibilities are also protected through the Energy Act 2008. • As set out in article 37 (Statutory undertakers), Horizon's ability to acquire land, acquire rights or impose restrictive covenants, extinguish or suspend rights, or construct the authorised development under the DCO **is subject to the protective provisions** in Schedule 15 of the Order. • Paragraph 29 of Schedule 15 **prevents the exercise of any powers over NDA land** (both land it owns and land it has an interest in) **until a cooperation agreement for that land is in place.** There is therefore no need to restrict the transfer of the Order itself, as the restriction in paragraph 29 effectively nullifies any powers that a transferee/lessee may have over the NDA land until the agreement has been entered into. • Horizon considers that article 37 and paragraph 29 of Schedule 15 adequately and appropriately meets both of NDA's concerns as the undertaker cannot exercise any powers on NDA Land unless and until a co-operation agreement for that land (which NDA has stated is an appropriate mechanism to protect its

	5.2 secondly, the proposed drafting is much too closely conditional upon the undertaker exercising powers on the NDA's land, and as such does not address the plausible situation whereby powers are to be exercised on non-NDA land but in a manner which may nonetheless affect the NDA's land. 6. The NDA has expressed the above concerns to the Applicant on several occasions, maintaining its position set out in its letter dated 1 March 2019 (REP7-019). When the Applicant resisted on the basis that it did not wish to refer to the Co-operation Agreement in Article 9, the NDA suggested a compromise position in order to proactively resolve the matter which moved the NDA's proposed wording in Article 9(2) (as set out in REP7-019) to the Protective Provisions, but on the basis that Article 9 was made subject to the NDA's Protective Provisions. The NDA did not receive a formal response from the Applicant to this compromise. 7. The NDA does not feel able to accept the drafting put forward by the Applicant at paragraph 29 of Part 3 of Schedule 15 of the draft DCO (REP8-029) for the reasons expressed above. However, in order to assist the ExA, and in continuing the proactive	functions) has been agreed. Horizon cannot understand why this is not sufficient for NDA. Horizon has never been opposed to ensuring that any proposed transferee/lessee enters into a co-operation agreement with NDA. What it has been opposed to is NDA seeking to prevent the transfer of the Order unless that agreement has been entered into. Horizon considers that the wording currently within the draft DCO provides the NDA with the protections and certainty it is seeking – but the transfer of the Order cannot be contingent on the co-operation agreement being in place. What can be contingent on the co-operation agreement being in place is the exercise of any powers under the Order in relation to NDA's land and that is provided for under article 37 and paragraph 29 of Schedule 19. Horizon has sought at length to resolve this issue with the NDA but NDA's solicitors have advised that it is not willing to consider any alternative mechanism to resolving this issue, other than through the amendments to article 9. At paragraph 3 of its Deadline 9 submission, NDA states that Horizon rejected a "compromise" it put forward; however, this was not a compromise (as set out in [REP7-019]), the proposed amendment still sought to restrict the transfer of the Order which Horizon had clearly indicated was unacceptable. In turn, NDA has not provided any clear justifications to Horizon during its correspondence why the protective provisions and article 37 did not provide sufficient security.

	approach to resolution that the NDA has been seeking, the NDA would be prepared to accept the following approach: 7.1 Article 9(1) to be amended (in red) as follows: 9.-(1) Subject to paragraph 29 of Part 3 of Schedule 15, the undertaker may, with the consent of the Secretary of State 7.2 Paragraph 29 of Part 3 of Schedule 15 to be amended as follows: Delete current paragraph and replace with: 29. The undertaker must not transfer or grant to another person any or all of the benefits of the provisions of this Order under Article 9 (Consent to transfer benefit of Order) which relates to or affects all or any part of the NDA Site without the consent of the NDA (such consent not to be unreasonably withheld or delayed). 8. The suggested drafting above now contains a simple 'consent' mechanism, whereby the benefit of the DCO relating to or affecting NDA land must not be transferred to a third party without the prior consent of the NDA. This drafting has been crafted so that it is broadly aligned with similar DCO drafting whereby the consent of statutory undertakers (such as, for example, National Grid, Network Rail or the Environment Agency) is required before DCO	

	powers are exercised in a manner which may affect their apparatus. 9. Given that the NDA is the entity with underlying statutory responsibility for decommissioning and cleaning-up the Wylfa A Nuclear Site, the NDA's suggestion is that only the consent of the NDA would be required in this context. As such, the drafting suggested at paragraph 7.2 above would be included only in the Protective Provisions in favour of the NDA, and need not also be included in the Protective Provisions in favour of Magnox. Magnox supports and endorses this proposed approach. 10. The suggested drafting above also no longer contains reference to the "site licensees' co-operation agreement" which, on reflection, does not need to be expressly noted in the DCO. As such, the question of whether the NDA requires a Co-operation Agreement to be put in place with the prospective transferee/lessee before issuing its consent will depend on the nature of the powers being transferred and which plots of land are affected, as well as the identity of the proposed transferee/lessee, which the NDA would examine at the relevant time.	

	11. It would then be for the Applicant to provide the Secretary of State with the necessary evidence of the NDA's consent when making its application under Article 9(1). The NDA's proposed drafting does not 'impinge' on the Secretary of State's discretion to approve a transfer under Article 9(1) - it simply requires the Applicant to provide evidence of the NDA's consent before the Secretary of State determines how to exercise his/her discretion under Article 9(1).	

Rule 17 Letter Question: 17.2.10 Article 9 – Consent to transfer the benefit of the Order The Applicant proposes a bespoke clause in the protective provisions with NDA as follows: 29. The undertaker must not exercise any power under this Order on any part of the NDA Site, unless the undertaker has entered into a cooperation agreement with NDA and Magnox to facilitate the decommissioning and delicensing of the NSL Site and fulfilment of any statutory requirements. [REP8-004-DCO Outstanding Issues Register] (a)What is meant by the term "cooperation agreement"; what would it ordinarily include and should the term be defined? (b)Is the purpose of a cooperation agreement accurately represented by the wording "facilitate decommissioning and delicensing of the NSL Site"? (c) Is it clear to all parties what a "cooperation agreement" is? (d)Would arbitration come into effect if there was a stalemate over negotiations?		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
NDA	1. As noted above in respect of NDA's response to ExA Question R17.2.9, the NDA does not accept the Applicant's proposed wording for the reasons expressed above. The NDA has put forward a further compromise position which is based on a common approach to the prior consent of statutory undertakers in Protective Provisions, and which removes the need to refer expressly in the DCO to the "site licensees' cooperation agreement". 2. **In respect of the ExA's question R17.2.10(a) above,** the term "Co-operation Agreement" refers to a contractual arrangement that is entered into between	Please refer to Horizon's response to R17.2.10 submitted at Deadline 9 [REP9-006] and Horizon's comments in response to NDA's response to R17.2.9, above. Horizon is deeply concerned by the amendments being sought by NDA to article 9. In respect of NDA's comments on R17.2.10(b), reference to the "facilitate decommissioning and delicensing" came directly from the Co-operation Agreement (clause 2: principles of co-operation). In its response to R17.2.10, Horizon has expanded the wording in paragraph 29 to capture the other matters referred to in clause 2 and reflect the mutual benefit of the co-operation agreement for the parties. Horizon agrees with NDA's comment that the co-operation agreement would fall subject to the arbitration article if there was no agreement reached.

	adjacent nuclear sites, installations or facilities. In the context of NDA having statutory responsibility for the decommissioning and cleaning-up of one of the adjacent nuclear sites, installations or facilities, a Co-operation Agreement is ordinarily concluded by the NDA, and the holders of the nuclear site licences for each of the respective nuclear sites. 3. The overarching purpose of a Co-operation Agreement is to promote and encourage co-operation between two adjacent nuclear sites, installations or facilities, for the purposes of ensuring continued compliance by both sites with all relevant nuclear regulations and relevant environmental regulations, and to facilitate the smooth operation of activities (whether operational or decommissioning) on the respective nuclear sites. Where activities carried out have a bearing on the nuclear safety of the other site (such as, for example, operational safety, operating procedures, environmental monitoring, and emergency preparedness arrangements), the parties to a Co-operation Agreement ordinarily commit to co-operate with the adjacent site in order to ensure that safety is not risked or compromised on either site, and that no action is taken on either site which would, or would	

	be likely to, cause a failure by the adjacent site to comply with its regulatory responsibilities and duties. 4. **In respect of the ExA's question R17.2.10(b)** above, the Applicant's assertion that the purpose of a Co-operation Agreement is to "facilitate decommissioning and delicensing [of the NSL Site]" is inaccurate and wholly misunderstands the purpose and objectives of a Co-operation Agreement. 5. As noted above, and indeed as the NDA has emphasised to the Applicant on several occasions, a Co-operation Agreement is designed fundamentally to be of mutual benefit to both adjacent nuclear sites and to ensure the safety of potentially interlinked site operations. As such, while it is necessarily the case that a Co-operation Agreement has the effect of protecting and safeguarding the interests of the NDA and its ability to safely carry out its statutory functions and responsibilities, it is not the case that a Co-operation Agreement is an agreement which solely and unilaterally protects the interests of NDA – a Co-operation Agreement is of equal benefit to both the NDA (and Magnox) and the operator of the Wylfa Newydd Nuclear Generating Station.	

	6. In respect of the ExA's question R17.2.10(c) above, it should be noted that while there is no formal legislative requirement for adjacent nuclear sites, installations or facilities to enter into a contractual equivalent of a Co-operation Agreement, the practice of doing so is very much considered 'industry standard'. In addition, the principle of co-operation between adjacent nuclear licensed sites is endorsed in regulatory guidance of the ONR. The ONR's Safety Assessment Principles for Nuclear Facilities2, for example, provides as follows: 6.1 "In some locations there are multiple sites, governed by different licensees, i.e. there are neighbouring sites. In this circumstance, ONR expects licensees and others in control of major nuclear hazards to co-operate with one another so that the overall risks in the location, taking into account all neighbouring sites, are kept as low as reasonably practicable"3 ; and 6.2 "Where neighbouring sites, which may be under the control of different dutyholders, share common systems or have the potential for interactions, there should be co-operation between them in developing safety cases and emergency arrangements. Formal	

	mechanisms should be established and demonstrated to be working effectively"4. 7. **In respect of the ExA's question R17.2.10(d) above**, the NDA confirms its understanding that Article 78 (Arbitration) of the DCO would apply to Part 3 of Schedule 15 of the draft DCO (REP8-029)	

Rule 17 Letter Question: 17.2.17 Schedule 1 – Other Associated Development (c) "expedient" – Can the Applicant provide any examples of judicial authority (in other contexts) which would give some indication of the limits which might be applied to the term "expedient". [REP8- 004 DCO Outstanding Issues Register] (c) IACC may wish to comment.		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
IACC	The IACC continues to submit that 'expedient' should be deleted from item (p) as it introduces a level of uncertainty and creates a significant risk to enforceability.	Horizon's position is set out in response to R17.2.17 submitted at Deadline 9 [REP9-006] and notes that "expedient" is a standard term used within DCOs.

Rule 17 Letter Question: R17.2.20 - Schedule 3 – Requirements 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] (d)Are parties' content with the drafting as set out at Deadline 8? (e) If not, provide an explanation of why not. (f) If appropriate, provide an alternative form of words for consideration, or signpost where previous drafting has been provided.		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
NWWT	**WN8 Construction Landscape scheme** (d) NWWT are not content with the drafting of the Requirement WN8 and the new sub-clause WN8[A], although we welcome the separation between construction and operational landscape phases of the proposal. (e) As a result of the proposed open ended and unspecified Requirement it is NWWT's view that there is not sufficient control for IACC to achieve the timely delivery of a construction landscape scheme, nor that would be of a suitably high standard and in keeping with the local landscape and other requirements of the Wylfa Newydd scheme, such as visual screening or ecological mitigation. The following standard landscape condition elements do not appear to be included in the requirement:	As set out in other deadline submissions, Horizon does not consider that it is appropriate to require it to submit a construction landscaping scheme given the nature of construction and how landscaping will change throughout construction. It is important to note that the landscaping throughout construction must be in accordance with the principles in section 4 of the LHMS [REP8-069] as well as the Wylfa Newydd CoCP and Main Power Station Site sub-CoCP which provides the necessary controls to ensure that landscaping is appropriate and mitigates anticipated effects.

	- (e)i. Timing & Phasing WN8 does not include any timescales for when the construction landscape design and specification should be submitted for approval. It does not appear to require the submission or agreement of an implementation timetable. (e)ii. Design & Specification WN8 does not require any submission of details of construction landscaping for approval by IACC, such as design layout, species specification, numbers, provenance (local) and location etc. (e)iii. Establishment & Failures WN8 does not include a clause to require replacement/remediation of failed planting/seeding. Given how long the construction is this is a necessary element of the Requirement, as is exemplified by its inclusion in the Site Campus' landscape establishment clause (see WN23). (f)i. A new first sub-clause to WN8(1) should be framed to control the submission of details through the construction phase. It is suggested that '12 months prior to commencement of construction IACC should	

	be supplied with and agree a 'construction landscape plan' which identifies the parcels and areas of landscape that will be created during the Construction phase. The construction landscape plan should be accompanied by a phasing timetable which identifies how long prior to each parcel's creation the design and specification details would be submitted to IACC for approval'. (f)i. Implementation of each identified parcel of the construction landscape should be specified to be in the first growing season following the creation of that particular landscape parcel. (f)ii. The wording from WN9(2) a – i should be used and replicated within a clause to WN8, with minor adjustment to indicate that it is construction landscape. (f)iii. The wording of WN23(4) and WN23(5) should be transposed into new clauses for WN8 to ensure appropriate construction landscape establishment for the entirety of the construction period. Alternatively, WN9(5) and WN9(6) utilise the standard 5year landscape establishment condition period.	

NWWT	**WN8[A] Construction landscape and habitat management schemes.** (d) NWWT do not agree with the framing of the new sub-clause WN8[A], although we welcome the separation between construction and operational landscape phases of the proposal. (e) In NWWT's view WN8[A](1) Does not provide the necessary control for IACC or ensure timely delivery and implementation of management schemes. As identified in NWWT's [REP7-015], for ISH Wednesday 6 March, a number of existing habitats of biodiversity value will be retained (and protected) during construction. There is a need to ensure that these habitats have effective and consistent management prior to and during construction. Some of the retained habitats need to be in optimum ecological condition in order to contribute to mitigation (eg Arfordir Mynydd y Wylfa Wildlife Site for chough and reptile, Dame Sylvia Crowe's Mound for red squirrel and adder etc), as habitats currently available and used will be lost/damaged during construction. Therefore, there will be a smaller area of habitat available for use. For other areas there is a statutory obligation on the owner to manage the site (eg Tre'r Goff SSSI). It is NWWT's	Horizon considers that the triggers provided in WN8[A] (renumbered as Requirement WN11 in the final draft DCO submitted at Deadline 10) are appropriate and have been agreed with IACC following substantive discussions. It is appropriate that management schemes are in place prior to the completion of those construction works. In addition, Requirement WN8 (renumbered as Requirement WN10 in the final DCO submitted at Deadline 10) requires Horizon, in undertaking any landscaping during construction to act in accordance with the principles in section 4 of the LHMS [REP8-069] as well as the Wylfa Newydd CoCP and Main Power Station Site sub-CoCP. The principles in the LHMS specifically identify the Arfordir Mynydd y Wylfa – Trwyn Penrhyn Wildlife Site, areas of ancient woodland, Tre'r Gof and Dame Sylvia Crowe woodland as areas that are to be retained and managed.

	opinion, that these sites should be managed on a continuous basis from Site Preparation and Clearance (work no 12). If the ExA does not consider this to be feasible, then management schemes must be agreed and implemented from the commencement of construction to ensure effective delivery of committed elements of mitigation and/or to maintain carrying capacity. (f) WN8[A](1) should be adjusted to provide a clear time trigger for submission. This should state '12 months prior to commencement of construction, landscape and habitat management schemes will be submitted to IACC (in consultation with NRW) for the management of (d) Tre'r Gof SSSI, (f) that part of Arfordir Mynydd y Wylfa within Order Limits, (g) woodland designed by Dame Sylvia Crowe, and (h) retained ancient woodland'. This trigger timing would be consistent with that used for management of the Notable Wildlife Enhancement Area (WN12) and Reptile Receptor Site (WN13). For the remainder of the newly created construction landscape parcels (eg (a – c), (e) and (i)) IACC would be able to suggest a suitable trigger for example, 'within 12 months of the approval of a construction landscape parcel's detailed scheme as	

	identified under WN8(1) [the suggested new subclause] the management scheme for that parcel will be submitted for approval to IACC'. This should allow sufficient time to agree the scheme during the landscape establishment period.	
NWWT	**WN19 Site Campus detailed design approval - WN19(1)** WN19(1) the list of features for which approval will be sought should also include detailed drainage and lighting schemes. See NWWT [REP7-015] for reasoned justification	**WN19 Site Campus detailed design approval - WN19(1)** Drainage details for the Site Campus will be provided through the Overarching Construction Drainage Scheme (Requirement WN1) and the phased construction drainage plans (Requirement WN1[A] (renumbered as WN2 in the final DCO submitted at Deadline 10).
NWWT	**WN23 Site Decommissioning Scheme clause - WN23(2)(b)** (d) NWWT do not agree with the framing of the restoration clause (WN23(2)(b). (e) The clause is badly worded and consequently does not make sense. The inclusion of "aim to enhance biodiversity" does not identify the current value of the site or the role that the site has in mitigation for loss of chough foraging habitat, drainage patterns to Tre'r Gof SSSI or loss/damage of existing species rich semi-improved grassland habitats and/or unimproved	Horizon has proposed that Requirement WN23 (renumbered as Requirement WN27 in the final DCO submitted at Deadline 10) is amended to remove reference to "aim to enhance". The requirement now provides that the undertaker must include, as part of its decommissioning scheme, proposals to restore the site in accordance with the principles in the LHMS which will provide details of how the biodiversity of the site will be enhanced through the use of appropriate agricultural practices. Horizon considers this adequately addresses NWWT's concerns. (f) It is not necessary to refer to the LHMS and the management scheme to be submitted under WN8[A] and WN11 as these apply during construction and operation of the Wylfa Newydd DCO Project – not post-decommissioning.

	coastal grassland habitats (NWWT [REP2-349] and [REP5-075] along with Horizon DCO submissions [APP-181], [REP3-046], [APP-174] and [APP-175] for species/habitats and [APP-127 and [APP-158] for hydrology). This is not taking into account the fungi resource in the existing soil structure which is irreplaceable. (f) As suggested in NWWT [REP7-015] the most appropriate wording for the restoration objectives for this part of the WNDA is 'restoration for the purposes of amenity (biodiversity), in line with the principles of Chapter 4 of the LHMS'. The clause could be clarified further to include '….and the management scheme to be submitted under WN8[A] and WN11 will be in accordance with the principles of Chapter 7 of the LHMS and will not exclude the use of appropriate agricultural management techniques'.	

Rule 17 Letter Question: 17.2.21 - SPC8 Archaeological written scheme of investigation 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.		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
WELSH GOVERNMENT	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. 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	Horizon's position remains as set out in response to R17.2.21 submitted at Deadline 9 [REP9-006].

	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.	

Rule 17 Letter Question: 17.2.22 WN1 [A] Phased construction drainage plans and WN1 [B] Phased construction lighting plans: (d)Provide an explanation for these additions as they do not appear to be explained within REP8- Summary Table of Amendments to the DCO. (e)Is IACC content that this would allow revisions to the plans to be made provided they are submitted for information two months in advance of the change, and are compatible with the relevant overarching scheme? (f) Should any changes be submitted for approval by IACC? (g)Should work be prevented from being carried out unless approval is given by the local planning authority?		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
IACC	(d) – (e) The IACC is content with the drafting of the requirements. (f) Yes (g) Yes, work should be prevented from being carried out unless approval is given	(f)/(g) Horizon's response remains as set out in paragraph 1.3.54 in the Outstanding Issues Register [REP8-004] and in response to R17.2.22 submitted at Deadline 9 [REP9-006].

Rule 17 Letter Question: 17.2.27 Schedule 15 – Protective Provisions (c) Confirm which matters remain unresolved with regard to the protective provisions that should be included within Schedule 15. (d) Provide your final position in relation to those matters or, confirm in which Examination document your final position in relation to those matters can be found.		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
NDA	NDA Response 1. In respect of the Protective Provisions contained in the Applicant's draft DCO submitted at Deadline 8, the NDA confirms as follows: 1.1 the Protective Provisions contained in Part 3 of Schedule 15 of the draft DCO are agreed, save for paragraph 29 (Co-operation); 1.2 Paragraph 29 of the Protective Provisions contained in Part 3 of Schedule 15 of the draft DCO is not agreed for the reasons set out in the NDA's response to the ExA's question R17.2.10 above. 2. In respect of Paragraph 29, the NDA makes the following suggestion as its final position: 2.1 Article 9(1) of the draft DCO to be amended as follows: 9.-(1) Subject to paragraph 29 of Part 3 of Schedule 15, the undertaker may, with the consent of the	Please refer to Horizon's comments on NDA's response to R17.2.9 and R17.2.10 [REP9-006]. In respect of the proposed amendments to paragraph 29 of the protective provisions, Horizon considers the amendments it proposed in response to R17.2.9 to be more appropriate. Horizon notes that NDA has now changed its position from just wanting a co-operation agreement in place prior to the transfer under Article 9 to now wanting to consent to any transfer before the Secretary of State can exercise his or her discretion under article 9. As set out above in response to R17.2.9, Horizon considers this suggestion is completely inappropriate.

	Secretary of State 2.2 Paragraph 29 of Part 3 of Schedule 15 to be amended as follows: Delete current paragraph and replace with: 29. The undertaker must not transfer or grant to another person any or all of the benefits of the provisions of this Order under Article 9 (Consent to transfer benefit of Order) which relates to or affects all or any part of the NDA Site without the consent of the NDA (such consent not to be unreasonably withheld or delayed).	

Rule 17 Letter Question: 17.4.2
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?
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]

Interested Party	Stakeholder's Response to Rule 17 Letter Question	Horizon's Response to Stakeholder's Response to Rule 17 Letter Question
Welsh Government	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. 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	**Response to (b)** Horizon's update in respect of the ongoing archaeological post-excavation works was reported into examination at Deadline 7 via the Horizon covering letter and in response to R17.4.1 [REP9-006]. Horizon can confirm that all of the excavated finds have now been securely stored and processing works have now commenced. Updates have been provided to IACC on this basis and Horizon are committed to updating IACCC regularly as these works progress. All works will be undertaken in accordance with recognised Chartered Institute for Archaeologists (CifA) standards and guidance. **Response to (c)** The impacts of the Wylfa Newydd DCO Project on the three nationally important archaeological sites within the WNDA identified in Annex 1 of the WG response [REP9-029] have been fully assessed in the Environmental Statement and Environmental Statement Addendum [REP8-005]. In addition, Horizon would highlight that all three of these sites have already been subject to excavation works as agreed with the WG and IACC and undertaken under the supervision of the IACC. The results of these excavations were reported into Examination at Deadline 8 in the Archaeology Site Summary Reports [REP8-015]

	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 Minsters. 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.	and assessed in the ES Addendum which specifically recognised the heritage significance of the identified archaeological remains are of schedulable quality. Mitigation comprising of archaeological excavations (already undertaken) and post-excavation assessment is secured by the WNDA Archaeological Mitigation Strategy secured by Requirement WN1 in the Order which is applicable to the whole of the WNDA area. Given that the archaeological remains applicable to the sites identified by WG would be entirely removed during construction and the remains are recognised to be of schedulable quality, the significance of residual effects on these archaeological remains would be moderate adverse and therefore significant and substantial. In these circumstances, paragraph 5.8.4 and 5.8.5 of the Overarching National Policy Statement for Energy EN-1 (NPS EN-1) states that where there are heritage assets with archaeological interest that are not currently designated as scheduled monuments, but which are demonstrably of equivalent significance, these heritage assets should be considered subject to the same policy considerations that apply to designated heritage assets. The policy considerations for designated heritage assets are contained in paragraph 5.8.15 of NPS EN-1 which states that any harmful impacts on the significance of designated heritage assets should be weighed against the public benefits of development, recognising that the greater the harm to the significance of the heritage assets the greater the justification will be any loss. Where the application would lead to substantial harm or total loss of significance of a designated heritage asset the decision maker should 'refuse consent unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss of harm'.

		In this regard the substantial harm to the three archaeological sites identified by WG would be necessary to deliver the substantial public benefits of the Power Station. The substantial harm and loss identified to the three archaeological sites would therefore be compliant with paragraph 5.8.15 of NPS EN-1 as it is necessary to achieve the substantial public benefits of the Power Station as set out in Section 2 of the Planning Statement [APP-406].

Rule 17 Letter Question: 17.5.3 Provide an explanation, update and any further evidence in relation to Items IACC 0228 and IACC 0249 in the SOCG with IACC [REP8-019], as matters not agreed in respect of Landscape and Visual Amenity, making particular reference to the Guidelines for Landscape and Visual Impact Assessment (GLVIA3).		
Interested Party	**Stakeholder's Response to Rule 17 Letter Question**	**Horizon's Response to Stakeholder's Response to Rule 17 Letter Question**
IACC	IACC maintains its position regarding the level of detail that has been provided in the visual assessment for receptors in the communities of Cemaes and Tregele and, in particular with the omission from the visual assessment of residential visual receptors at properties that are sited outside of the four included communities but close to or on the boundary of the WNDA. IACC acknowledges that, as set out in SoCG ID 0253 and 0258, its understanding of visual effects upon residents in Cemaes and Tregele, especially for the construction period, has been improved by HNP's Deadline 6 submissions (REP6-016, REP6-018 and REP6-019). The Deadline 6 submissions are of less help in furthering IACC's understanding of effects upon the residential visual receptors at properties that are sited outside of the four included	The IACC have responded on one Statement of Common Ground (SoCG) issue [REF8-019], IACC 0228; regarding residential visual assessment, which can be sub-divided as follows: • IACC opinion on the level of detail provided for the community views assessment in chapter D10 of the DCO ES [APP-129] and the supplementary community views assessment (appendix D10-A of the ES Addendum) [REP6-016]; and • residential visual receptors at properties sited outside the four main communities, but close to the WNDA. Horizon has already responded to these issues in its response to the Examining Authority Rule 17 letter question R17.5.3, submitted at Deadline 9 [REP9-006]; Therefore, in the interests of brevity, this response specifically addresses any new comments raised in the IACC Deadline 9 submission [REP9-031]. **Reference to GLVIA3** IACC quotes extracts from the Guidelines for Landscape and Visual Impact Assessment, Third Edition (Landscape Institute and Institute of Environmental Management and Assessment, 2013) (GLVIA3). However, the quotes provided are

	communities. IACC estimates that 20 residential properties fall within this group. The IACC acknowledges the need for visual assessments to utilise professional judgement in determining the manner in which visual receptors are identified and sub-divided within a visual assessment. However, the IACC consider that the GLVIA requires that the baseline division of visual receptors has to allow the visual assessment to comprehensively identify the full potential range of significant visual effects and the commensurate identification of the full range of embedded, best practice and additional mitigation measures which require to be adopted for construction, operation and decommissioning periods. Key references in GLVIA3 which support IACC's approach include: • Paragraph 6.1 on the scope of a visual assessment states that "The concern here is with assessments of how the surroundings of individuals or small groups of people may be specifically affected by changes in the content and character of views as a result of the change …". This demonstrates that visual assessment should, where appropriate, be undertaken at the scale of individual or	misleading because they do not relate specifically to residential visual amenity as explained below: • **Paragraph 6.1**: This paragraph provides a general introduction to chapter 6, Assessment of visual effects. It does not relate specifically to residential visual amenity, as implied by the IACC response. Residential visual amenity is discussed separately later in chapter 6 of GLVIA3. GLVIA3 also recommends the use of representative viewpoints in paragraph 6.19 *"to represent the experience of different types of visual receptor, where larger numbers of viewpoints cannot all be included individually and where the significant effects are unlikely to differ…"* as mentioned in paragraph 17.4.27 of the Horizon response to the IACC Local Impact Report [REP3-004]. • **Paragraph 6.3:** Again, this paragraph does not relate specifically to residential visual amenity and is not prescriptive (i.e. "…where possible it can be useful to…"). The IACC response therefore oversteps what can be inferred from this GLVIA3 extract, in reaching their conclusion on what the guidance suggests should be included in assessment. • **Paragraph 6.15**: This paragraph also does not relate specifically to residential visual amenity. However, the visual impact assessment in chapter D10 of the ES [APP-129)], including assessment of community views, is consistent with the guidance in paragraph 6.15 of GLVIA3, as the assessment at each representative viewpoint has considered the number of viewers who would be likely to be affected as previously explained in in paragraphs 17.4.24 and 17.4.25 of Horizon's response to the IACC Local Impact Report [REP3-004]. • **Paragraph 6.4**: This paragraph makes a general point regarding iterative design and Horizon confirm that baseline data has been regularly updated over a

	small groups of visual receptors. IACC considers that the scale and proximity of the WNDA proposals to the communities of Cemaes and Tregele and the group of residential visu15al receptors at properties that are sited outside of the four included communities, requires that finer grain of receptor identification is required in Cemaes and Tregele. IACC also considers that residential visual receptors at properties that are sited outside of the four included communities require to be included in the visual assessment, possibly grouped together using geographical criteria and/or proximity to major components of the proposed development e.g. all properties on the northern side of A5025 in close proximity to Mound A. • Paragraph 6.3 on establishing the visual baseline provides support to the provision of indicative or comparative numbers of the different groups of visual receptors sustaining significant effects: *"where possible it can be useful to establish the approximate or relative number of different groups of people who will be affected by the changes in views or visual amenity, at the same time recognising that assessing visual effects is not a quantitative process."* Further support is	number of years as the Wylfa Newydd DCO Project has evolved and to take account of pre-application consultation with key stakeholders, including IACC. **Level of detail for community views assessment** While the IACC continue to disagree on IACC 0228 in the SoCG regarding residential visual assessment, Horizon notes that IACC acknowledge in their Deadline 9 response to R17.5.3 [REP9-031] that *"IACC has reviewed the agreed relevant S106 obligations against the likely outcome had the visual assessment adopted the more fine grained approach that IACC has been advocating and …* ***concludes that whilst the visual assessment would have provided a more detailed understanding of the distribution of and numbers of several groups of visual receptors who will sustain significant adverse visual effects, the net result would not have been to require any additional funding for off-site planting and/or other screening works*** *to have been made available in the S106 obligation."* (Horizon emphasis.) As explained in previous responses (Horizon's response to IACC Local Impact Report [REP3-004] and Horizon's response to IACC response to FWQ7.0.1 [REP3-005]), Horizon has sought to adopt a proportionate approach to assessment in accordance with GLIVA3, which states in the introduction that *"it is especially important (a) to note the need for proportionality, (b) to focus on likely significant adverse or positive effects, (c) to focus on what is likely to be important to the competent authority's decision".* Horizon has not therefore undertaken additional levels of assessment (as sought by IACC), where doing so would not add notably to the assessment findings. Horizon also wish to note that the supplementary community views assessment submitted at Deadline 6 (appendix D10-A of the ES Addendum) [REP6-016],

	provided in paragraph 6.15 which states that *"Where possible an estimate should be made of the numbers of the different types of people who might be affected in each case. Where no firm data are data this may simply need to be a relative judgement, for example noting comparatively few people in one place compared with many in another."* IACC that, in line with this, the visual assessment should have sought to sub-divide the communities of Cemaes and Tregele (and possibly Llanfairynghornwy but not Llanfechell) to facilitate a more detailed assessment of the relative proportion of properties of each community at which it is likely that residents will sustain significant adverse visual effects for construction and operation periods. Such an assessment would be over and above that provided by the use of viewpoint assessment to inform the visual assessment for these community receptors (especially given that the original visual assessment only used one viewpoint in Tregele and three viewpoints in Cemaes). Likewise paragraphs 6.3 and 6.15 support the IACC's stance that the visual assessment for the Wales Coast Path, Copper Trail and in particular the PRoW network in the	provides additional characterisation of the nature and extent of views from the two closest communities (Tregele and Cemaes) in paragraphs 1.2.2 to 1.2.9. **Residential visual receptors outside the main communities** Horizon has nothing further to add to its response to the Examining Authority Rule 17 letter question R17.5.3, submitted at Deadline 9 [REP9-006], on this issue. **Impact on PRoW users** The IACC Deadline 9 response introduces another issue not covered by issues IACC 0228 and IACC 0249 in the SOCG, namely the visual impact assessment for users of the Wales Coast Path, Copper Trail and the wider PRoW network (IACC 0253 in the SoCG). However, the status of IACC SoCG issue 0253 is 'agreed'. For clarity, Horizon confirms that it has already provided a response to this issue in its Deadline 3 response to the IACC Local Impact Report [REP3-004] and notes that the IACC have not responded to the explanation provided. Horizon also wishes to note that the claim in IACC's Deadline 9 response to R17.5.3, that GLVIA 3 paragraphs 6.3 and 6.15 support IACC's stance on the basis of assessment for the Wales Coast Path, Copper Trail and PRoW users is not correct. No such specific conclusion can be drawn from these GLVIA3 paragraphs. **Landscape fabric** Finally, with regard to IACC 0249 in the SoCG (the assessment of landscape fabric), Horizon is pleased to note that IACC do not cite this SoCG item in their Deadline 9 response as a remaining area of disagreement.

	study area should have sub-divided the routes and networks to provide a more detailed understanding over and above that provided by the reliance upon viewpoint assessment. • IACC consider that GLVIA3 supports the requests made following the production of the community based assessments for the finer subdivision of the communities of Cemaes and Tregele and the inclusion of residential visual receptors at properties that are sited outside of the four included communities as well as the sub-division of recreational visual receptors using promoted trails and the PRoW network. IACC contend that as the iterative design process for the components of the WNDA developed, especially regarding elements of the construction period such as the formation of landform mounds, the use of cranes and landscape boundary treatments, IACC's request for the sub-division of large groups of visual receptors and the inclusion of residential visual receptors at properties that are sited outside of the four included communities has been in accordance with the approach advocated in GLVIA3 paragraph 6.4.	

	IACC accordingly concludes that the 'not agreed' status for SoCG ID 0228 in the latest version of SoCG (REP8-029) must remain. IACC also takes into account the contents of SoCG ID items 0253 and 0258 in SoCG (REP8-019) with regard to the aforementioned groups of visual receptors and the need to secure provision of funding for off-site additional mitigation measures to potentially reduce significant adverse visual effects. Taking these three items together, IACC is satisfied that the provisions that are now agreed within the S106, particularly the funding to be provided for screen planting and/or fencing within the curtilages of residential properties within the four communities and at properties that are sited outside these communities, provides the optimal mechanism for potentially reducing some of the agreed significant adverse visual effects for the construction and operation periods. IACC has reviewed the agreed relevant S106 obligations against the likely outcome had the visual assessment adopted the more fine grained approach that IACC has been advocating and requesting since early 2018. IACC concludes that whilst the visual assessment would have provided a more	

	detailed understanding of the distribution of and numbers of several groups of visual receptors who will sustain significant adverse visual effects, the net result would not have been to require any additional funding for off-site planting and/or other screening works to have been made available in the S106 obligation. Consequently IACC is content with the 'agreed' status contained in SoCG (REP8-019) for SoCG ID items 0253 and 0258.	