



**Mr Gareth Leigh,  
Pennaeth Cynllunio'r Seilwaith Ynni  
Head, Energy Infrastructure Planning,  
Yr Adran Busnes, Ynni a Strategaeth Ddiwydiannol  
Department for Business, Energy and Industrial  
Strategy**

Annwyl Mr Leigh,

**Cais gan Horizon Nuclear Power Limited am  
Orchymyn yn Rhoi Caniatâd Datblygu i Atomfa  
Arfaethedig Wylfa Newydd, Ynys Môn**

**Sylwadau ar yr ymatebion i ymgynghoriad yr  
Ysgrifennydd Gwladol**

Yn dilyn eich llythyr dyddiedig 24eg Ionawr 2020 yn gofyn am sylwadau ar yr ymatebion a gyflwynwyd gan bartion gyda diddordeb i ymgynghoriad yr Ysgrifennydd Gwladol amgaeaf ymateb Cyngor Sir Ynys Môn (CSYM).

Mae CYSM yn parhau i fod yn gwbl ymrwymedig i'w Rhaglen Ynys Ynni. Mae Wylfa Newydd yn parhau i fod yn rhan annatod o'r weledigaeth hon i roi Ynys Môn ar flaen y gad yn y sector ynni carbon isel sydd â'r potensial ar gyfer cyfleoedd cyflogaeth sylweddol a manteision economaidd trawsnewidiol yn y rhanbarth.

Dear Mr Leigh.

**Application by Horizon Nuclear Power Limited for  
an Order Granting Development Consent for the  
proposed Wylfa Newydd Nuclear Power Station,  
Isle of Anglesey**

**Representation on the responses to the Secretary  
of State's consultation**

Further to your letter dated 24<sup>th</sup> January 2020 requesting a representation on the responses presented by interested parties to the Secretary of State's consultation please find attached the Isle of Anglesey County Council's (IACC) response.

The IACC remains fully committed to its Energy Island Programme. Wylfa Newydd continues to be an integral part of this vision to put Anglesey at the forefront of the low carbon energy sector that has the potential for significant employment opportunities and transformational economic benefits in the region.

Yn gywir / Yours sincerely,

**Dylan J. Williams  
Dirprwy Brif Weithredwr / Deputy Chief Executive**

Reference	Request for update/further information	IACC comments and draft response for January 2020 submission
1	<p>There are a number of other licenses and consents that the Applicant must obtain before it can construct and operate the Development (in the event consent is granted). The Secretary of State is aware that during the examination, the Applicant's parent company, Hitachi Limited, announced in January 2019 that it was suspending the project and withdrawing funding for the Development. Subsequently, the Applicant withdrew its applications for various licences and other consents required for the Development. Under the relevant National Policy Statements (EN-1 and EN-6), applicants are required to demonstrate that processes are in place to meet relevant requirements of permitting and other consenting regimes to facilitate the Secretary of State's decision making. In particular Part 4.10 of EN-1 explains that the Secretary of State should work closely with regulators and paragraph 4.10.3 makes clear that the Secretary of State should work on the assumption that environmental regulation will be properly applied and enforced, so she should act to complement but not duplicate environmental regulation. However, paragraph 4.10.8 says that the Secretary of State "should not refuse consent on the basis of pollution impacts unless it has good reason to believe that any relevant necessary operational pollution control permits or licences or other consents will not subsequently be granted.</p>	
2	<p>The Secretary of State requests the <b>Applicant</b> demonstrates how it will manage certain environmental and other impacts that would normally be controlled through a licence or other consent in light of the withdrawal of its applications for such licences and consents. In particular, the Secretary of State asks the <b>Applicant</b> to provide:</p> <ul style="list-style-type: none"> <li>• an updated version of the document "Other Consents and Licences", last submitted at deadline 6 of the examination;</li> <li>• information that will demonstrate how it will manage impacts that would be controlled through an Operational Combustion Installation permit. The Secretary of State also requests the <b>Applicant</b> and <b>Natural Resources Wales ("NRW")</b> confirms if agreement on whether the Applicant's modelling of nitrogen deposition and acidification of vegetation has been reached and has considered the worst-case scenario; and</li> <li>• information demonstrating how it will manage impacts that would be controlled through Marine Licences. In particular, how a Marine Mammal Mitigation Plan, a marine invasive non-native species plan and any European Protected Species licences will be secured.</li> </ul>	
3	<p>The Secretary of State also invites comments from NRW, Office for Nuclear Regulation, Isle of Anglesey County Council ("IACC"), the Health and Safety Executive, Welsh Water and any other consenting or licencing body on any risks or impediments to the management of impacts that may result from the withdrawal by the Applicant of the licence and/or permit applications.</p>	<p>The IACC confirms that it has now had the opportunity to review the updated document 'Wylfa Newydd Project – Other Consents and Licences' that has forms Appendix 1 of HNPs submission.</p> <p>In relation to the permits and consents that are provided by the IACC, the Council is satisfied with the confirmation that HNP will seek consent for all the permits and consents that are required to operate the Wylfa Newydd DCO project in due course. The Council is also satisfied that these permits and consents can include the appropriate and necessary controls to address the impacts of the Wylfa Newydd DCO Project, including controls to manage impacts on the environment.</p> <p>The IACC confirms that it will continue to engage proactively with HNP in relation to those permits and consents that are provided by the Council.</p> <p>The IACC also notes the confirmation from HNP that it will continue to work with NRW and all other relevant regulatory regulators to successfully progress such applications in a timely manner.</p>
4	<p><b>Representations of the Government of the Republic of Ireland under the Espoo Convention</b></p> <p>On 15 February 2019 the Government of the Republic of Ireland responded to notification of the proposed development under the Espoo Convention (Examination Library reference AS-0153) (<a href="#">Link</a>).</p> <p>The Secretary of State notes that this response was received during the examination and that many of the matters raised in it have been examined.</p> <p>However the Secretary of State requests comments on the response from the Applicant and all interested parties, particularly NRW and the Welsh Government.</p>	

5	Note that there is no no.5 in the English version – note that there is in the Welsh version and that the Welsh and English version in terms of numbering are out of sync.	
6	<p><b><i>Imperative Reasons of Overriding Public Interest</i></b> The parties put provisional submissions to the Examination in relation to grounds for a derogation under Article 6(4) of the Habitats Directive in relation to possible disturbance impacts on the tern qualifying features of the Anglesey tern Special Protection Area (“SPA”) from the Development. The Applicant, in consultation with NRW and other Interested Parties as necessary, is invited to provide evidence as to:</p> <ul style="list-style-type: none"> <li>• whether there are any feasible alternative solutions for delivery of the overall objective of the plan which will be less damaging to the integrity of the site;</li> <li>• any imperative reasons of overriding public interest for the plan or project to proceed;</li> <li>• the compensatory measures proposed to ensure that the overall coherence of the network of Natura 2000 sites is protected and how these will be secured.</li> </ul>	
7	<p><b><i>Ecological Mitigation Sites</i></b> The Secretary of State notes that the Applicant has proposed a number of habitat creation and enhancement works as compensation for any potential effects from the Development. The Secretary of State is aware that concerns were raised by a number of Interested Parties regarding the length of the lease of land for wildlife enhancement and reptile translocation and the management of these mitigation sites beyond 2032 when the Applicant’s leases expire. The Secretary of State requests the Applicant to confirm whether any further steps have been taken to secure the rights to these mitigation sites once the lease expires, and what, if any, measures it has taken to ensure benefits beyond the 15-year lease period. The Secretary of State also invites comments from NRW, IACC and the North Wales Wildlife Trust (“NWWT”) on this issue.</p>	The IACC confirms that it has no further comments.
8	<p><b><i>Mitigation of Onshore Construction on Sandwich Tern</i></b></p> <p><b><i>Noise</i></b></p> <p>The Secretary of State notes that at the end of the examination, NRW’s concerns regarding the practicality of measuring and enforcing noise levels on the construction site and concerns on how wind and weather conditions would be taken into account to implement noise controls had not been addressed. The Secretary of State requests the Applicant and NRW to confirm whether agreement has been reached following the close of the examination. If agreement has not been reached, the Secretary of State requests that the Applicant, with agreement from NRW, provides a plan to measure and control construction noise levels, (taking into account all atmospheric conditions) or explain why this is not appropriate or cannot be agreed.</p>	
9	<p><b><i>Visual Disturbance</i></b></p> <p>The Secretary of State is aware that concerns were raised by environmental Non-Governmental Organisations (“eNGOs”) on the lack of mitigation of visual disturbance west of the Afon Cafnan given the scale of the work in the Mound E construction area. To address these concerns, the Secretary of State understands that the Applicant confirmed that it would include a control in its Main Power Station Site Code of Construction Practice (“MPSSCoCP”). The Secretary of State requests the <b>Applicant</b> to confirm whether the MPSSCoCP has been updated, with agreement from NRW and interested eNGOs, to reference the agreed control measure. If agreement has not been reached, the Secretary of State requests that the <b>Applicant</b>, with agreement from <b>NRW</b> and the relevant <b>eNGOs</b> provides an updated MPSSCoCP which includes visual disturbance controls.</p>	

10	<p><b><i>Disturbance from Recreational Users</i></b></p> <p>The Secretary of State is aware that during the examination, NRW and eNGOs queried whether there was sufficient detail in the Workforce Management Strategy (“WFMS”) to manage visitor behaviour so as to avoid disturbance to terns, and that NRW and the eNGOs’ concerns had not been addressed by the end of the examination. The Secretary of State requests the <b>Applicant</b>, <b>NRW</b> and <b>eNGOs</b> to confirm whether agreement on this issue has been reached following the close of the examination. If agreement has not been reached, the Secretary of State requests that the <b>Applicant</b>, with agreement from <b>NRW</b> and the relevant <b>eNGOs</b> provides an updated WFMS which manages visitor behaviour so as to avoid disturbance to terns or explain why this is not appropriate or cannot be agreed.</p>	
11	<p><b><i>Dee Estuary SPA</i></b></p> <p>The Secretary of State notes that NRW advised that if the Sandwich tern abandoned the colony at Cemlyn Bay, this could impact the passage population of Sandwich tern in the Dee Estuary SPA and therefore lead to an AEol on the SPA. The Secretary of State requests that the <b>Applicant</b>, in consultation with <b>NRW</b>, addresses NRW’s concerns over connectivity between the Cemlyn Bay SPA and the Dee Estuary SPA, or shows how compensatory measures for the Anglesey Terns SPA would impact the Dee Estuary SPA.</p>	
12	<p><b><i>Landscape and Habitat Management Strategy</i></b></p> <p>The Secretary of State notes that in response to concerns regarding the provision of habitats creation areas, the Applicant revised the area figures for coarse sward and close-sward grasslands in Table 4.1 on page 61 of the Landscape and Habitat Management Strategy (“LHMS”). However, the Secretary of State notes that the figures in the text of section 6.5 on page 110 of the LHMS have not been updated. To avoid any doubt in the provisions that the Applicant has made for a net gain in habitat, the Secretary of State requests the <b>Applicant</b> to confirm that it has updated the text in section 6.5 with the updated figures in Table 4.1.</p>	
13	<p><b><i>Sites of Special Scientific Interest (“SSSI”) Network</i></b></p> <p>Paragraph 5.3.11 of National Policy Statement (“NPS”) EN- 1 (Overarching National Policy Statement for Energy) states that <i>“(w)here a proposed development on land within or outside an SSSI is likely to have an adverse effect on an SSSI (either individually or in combination with other developments), development consent should not normally be granted. Where an adverse effect, after mitigation, on the site’s notified special interest features is likely, an exception should only be made where the benefits (including need) of the development at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of SSSIs”</i>.</p>	
14	<p>The Environmental Statement and the parties’ submissions point to potential impacts on three SSSIs. The Secretary of State requests the <b>Applicant</b> and any <b>Interested Party</b> to provide further information on how the potential impacts on the Tre'r Gof, Cae Gwyn and Cemlyn Bay SSSIs would affect the broader national network of SSSIs.</p>	
15	<p><b><i>Water Framework Directive Mitigation</i></b></p> <p>The Secretary of State is aware that during the examination, NRW advised that there was a risk of deterioration of the Ynys Môn Secondary groundwater body and the Skerries coastal water body but that a reasonable case has been made that all practical steps will be taken to mitigate the adverse impacts. The Secretary of State notes that NRW said that this mitigation could be secured by the development consent order. The Secretary of State requests <b>NRW</b> and the <b>Applicant</b> to confirm whether appropriate mitigation has been secured.</p>	

16	<p><b><i>Derogation</i></b></p> <p>The Secretary of State notes that during the examination, no views were expressed as to whether the wider benefits of the Development to the environment and to society, outweigh the benefits of achieving the Water Framework Directive objectives, and invites views from the <b>Applicant</b> and any <b>Interested Parties</b> on this point.</p>	
17	<p><b><i>Flooding</i></b></p> <p><b><i>Flood risk – Exception test</i></b></p> <p>The Secretary of State notes that while the Development will largely be located in Flood Zone A areas, some of the marine works and parts of the A5025 offline highway improvement works would be located in Flood Zone C areas. EN-1 states that the Exception Test should be applied where infrastructure projects are located in Flood Zone C areas. For the Exception Test to be passed:</p> <ul style="list-style-type: none"> <li>• it must be demonstrated that the project provides wider sustainability benefits to the community that outweigh flood risk;</li> <li>• the project should be on developable, previously developed land or, if it is not on previously developed land, that there are no reasonable alternative sites on developable previously developed land subject to any exceptions set out in the technology-specific NPSs; and</li> <li>• a flood risk assessment must demonstrate that the project will be safe, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.</li> </ul> <p>The Secretary of State requests the <b>IACC and NRW</b> to confirm whether the Development will not increase flood risk elsewhere, or whether the Applicant has demonstrated that flood risk can be mitigated to an acceptable level.</p>	The IACC confirms that it has no further comments.
18	<p><b><i>A5025 Off-line Highways Improvements – TAN15</i></b></p> <p>The Secretary of State notes that the Applicant accepted that there would be increased flood risk impacts at the Afon Alaw viaduct.</p> <p>NRW advised that “the Secretary of State will need to consider the scheme in the context of non-compliance with TAN15 at this specific location, with or without landowner agreement” (see below). The Secretary of State invites comments from the <b>Applicant</b> and any <b>Interested Parties</b> in relation to the application of TAN15 to this element of the A5025 Off-line Highways Improvements.</p>	The IACC confirms that it has no further comments.
19	<p><b><i>A5025 Off-line Highways Improvements – compensatory storage</i></b></p> <p>In relation to the flood risk at the Afon Alaw viaduct, the Secretary of State notes that during the examination, the Applicant said that it was pursuing a legal agreement with a landowner at Llanfachraeth to allow flooding from section 3 of the A5025 on private land.</p> <p>The Secretary of State requests the <b>Applicant</b> to confirm whether an agreement with the landowner has been reached.</p>	The IACC notes HNPs response and in particular the confirmation that formal negotiations with the landowner will resume at the appropriate time following the restart of the Wylfa Newydd DCO Project.

20	<p><b>Ecological Compensation Sites</b></p> <p>The Secretary of State notes that NRW expressed concern with the environmental impacts of fen creation works within the SSSI compensation sites and advised that a backwater analysis of the compensation sites be undertaken. The Secretary of State is aware that NRW proposed the following additional text for inclusion in the LHMS to secure backwater analysis:</p> <p><i>Drainage modifications will be informed by a suitable analysis (backwater assessment impacts or similar) which will consider the flood risk impacts to 3rd parties from the works. The detailed drainage design should demonstrate no increase in flood risks to 3rd parties due to the compensation site works</i></p> <p>The Secretary of State is aware that the Applicant included the suggested text in its LHMS but added the term “significant” to the increase of flood risks. NRW requested this text be removed or a definition be provided as to what would constitute a “significant increase” of flood risks. The Secretary of State notes that the Applicant responded at the end of the examination to explain the term “significant”, but that NRW was not able to respond. The Secretary of State requests <b>NRW</b> to confirm whether it is satisfied with the explanation provided by the Applicant.</p>	
21	<p><b>Dalar Hir Park and Ride</b></p> <p>The Secretary of State is aware of the concerns raised by IACC regarding the risk of flooding at the Dalar Hir Park and Ride and that the IACC raised the risk of debris from the upstream Nant Dalar Hir could result in the spine road/car parks being inundated. The Secretary of State notes that the Applicant did not address IACC’s concerns and that IACC did not raise it again as an issue by the end of the examination. The Secretary of State requests confirmation from <b>IACC</b> as to whether this issue remains a concern and if so, whether it wishes to suggest any mitigation measures.</p>	<p>As confirmed in its December 2019 submission, the IACC is satisfied that HNP has resolved its concerns with regards to the risk of flooding at Dalar Hir Park and Ride.</p>
22	<p><b>Archaeology</b></p> <p>The Secretary of State notes that during the examination and following the announcement that Hitachi Limited was withdrawing its funding for the Development, the Applicant ceased all intrusive archaeological work in and around the Development site and stated that it would not adhere to the written scheme of investigation (“WSI”) that it had agreed with IACC, Gwynedd Archaeological Planning Service (“GAPS”) and Cadw. The Secretary of State also notes that later in the examination, the Applicant stated that it was working to achieve full post-excavation assessment and analysis of the archaeological finds in and around the Development site in accordance with best practice guidance by the end of October 2019. The Secretary of State requests an update from the <b>Applicant</b> on the progress of these works. The Secretary of State also requests a response from <b>Welsh Government (“WG”), IACC, Cadw and GAPS</b> as to whether they are of the view that post excavation archaeological investigations have been or will be completed in a satisfactory manner.</p>	<p>The IACC confirms that following further engagement and negotiation between the Council/GAPS and HNP, WG/CADW, a voluntary contractual agreement has been agreed between all parties. The Agreement is entered between HNP and the IACC. The IACC is satisfied that this Agreement documents HNP’s commitment to completing the Phase 1 Works of processing and stabilising the excavated materials and to agree the scope of the subsequent Phase 2 Works which are then to be completed in accordance with the terms of the Agreement so as to honour the commitments made in the Written Scheme of Investigations.</p>
23/24	<p><b>Schedulable monuments</b></p> <p>The Secretary of State is aware that a number of archaeological assets of high value or of national importance are located in or around the Development site, and that during the examination WG stated that it is considering scheduling some of these archaeological assets to avoid any substantial harm being caused to them. The Secretary of State understands that at the end of the Examination there were six such sites that were agreed to be of schedulable quality.</p> <p>NPS EN-1 states that heritage assets that have not been designated as a scheduled monument but have yet to be formally assessed for designation, or have assessed as capable of being designated but have not yet been designated, must be subject to the same considerations as those that apply to designated heritage sites. NPS EN-1 also states that any harm to, or loss of, designated assets should be “wholly exceptional”. The Secretary of State asks the <b>Applicant</b> to:</p> <ul style="list-style-type: none"> <li>• confirm the current state of those six sites;</li> </ul>	<p>The IACC confirms that following further engagement and negotiation between the Council/GAPS and HNP, WG/CADW, a voluntary contractual agreement has been agreed between all parties. The Agreement is entered between HNP and the IACC. The IACC is satisfied that this Agreement documents HNP’s commitment to completing the Phase 1 Works of processing and stabilising the excavated materials and to agree the scope of the subsequent Phase 2 Works which are then to be completed in accordance with the terms of the Agreement so as to honour the commitments made in the Written Scheme of Investigations.</p>

	<ul style="list-style-type: none"> <li>provide details of the features of these sites that make them schedulable quality;</li> <li>confirm the basis for the assertion that substantial harm to such assets can be avoided by archaeological excavation, reporting, etc; and</li> <li>provide evidence to demonstrate how the harm to or loss of the high value archaeological assets or archaeological assets of national importance in and around the Development site is “wholly exceptional”.</li> </ul> <p>The Secretary of State also invites views from <b>WG, Cadw, IACC and GAPS</b>.</p>	
25	<p><b>Requirement SCP8 Archaeological Written Scheme of Investigation</b></p> <p>The Secretary of State is aware that during the examination, WG requested an amendment to requirement SCP8 to require an approved Archaeological Mitigation Scheme to be in place prior to work commencing on site clearance and preparation works so that it is in line with the approach proposed for other works during the construction phase. The Secretary of State notes that the wording suggested by the WG was resisted by the Applicant on the basis that an Archaeological Mitigation Scheme, in addition to the Archaeological Written Scheme of Investigation it had agreed with IACC, was not necessary due to the scale and non-intrusive nature of the site clearance and preparation works. The Secretary of State requests comments from both the <b>Applicant</b> and the <b>WG</b> on the following text:</p> <p><i>1) No development shall take place within the WNDA area 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 and approved in writing by IACC, in consultation with Cadw.</i>  <i>2) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (1).</i>  <i>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 (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.</i> This is dealt with at PW9.</p>	<p>The IACC confirms that following further engagement between the WG, IACC and HNP that the following amended wording has been agreed between all parties for draft DCO requirement SCP8;</p> <p><b>SPC8 Archaeological mitigation scheme and written scheme of investigation</b></p> <p>(1) <i>Subject to paragraph (4) no part of Work No. 12 may commence on the WNDA until an archaeological mitigation scheme has been submitted to and approved by IACC in consultation with Cadw.</i></p> <p>(2) <i>The archaeological mitigation scheme must:</i></p> <p>(a) <i>Identify those areas of the WNDA on which there are archaeological remains, historic buildings and historic landscapes to the extent such areas have not been excavated ("archaeological areas");</i></p> <p>(b) <i>Be prepared in general accordance with sections 12 of the Wylfa Newydd CoCP and the Main Power Station Site Sub-CoCP;</i></p> <p>(c) <i>Identify works comprised in Work No.12 that may damage an archaeological area ("relevant works");</i></p> <p>(d) <i>Identify measures, processes and controls to be followed in undertaking the relevant works within an archaeological area to avoid such damage when undertaking Work No.12; and</i></p> <p>(e) <i>require written scheme of investigation(s) to be prepared as appropriate for the identified archaeological areas.</i></p> <p>(3) <i>Construction of Work No. 12 must be undertaken in accordance with the archaeological mitigation scheme and written scheme of investigation approved under paragraph (1) and (2)(e) and any written scheme of investigation must be fully implemented as approved, unless otherwise approved by IACC in consultation with Cadw.</i></p> <p>(4) <i>Work No. 12 may commence prior to the approval of the archaeological mitigation scheme referred to in paragraph (1) where the undertaker has submitted to IACC and IACC has approved (in consultation with Cadw):</i></p> <p>(a) <i>a plan of the WNDA identifying areas which are known not be an archaeological area ("excluded areas"); and</i></p> <p>(b) <i>a statement confirming how commencement on the excluded areas will not adversely impact any archaeological area and detailing the works that may be undertaken on the relevant excluded area(s).</i></p> <p>(2) <i>No works may be carried out beyond the relevant excluded areas and all works must be in accordance with the statement approved under paragraph 4(1)(b).</i></p>
26	<p><b>Turning Head</b></p> <p>The Secretary of State is aware that towards the end of the examination, IACC requested an alternative turning head adjacent to the Development to replace the existing vehicular turning area which would be lost as a consequence of the Development's proposed access road junction, and that the Examining Authority did not have the opportunity to examine this matter in detail.</p>	<p>As confirmed in its submission in December 2019, the IACC through further engagement with HNP has agreed amended wording for requirement OH11 of the draft DCO and therefore IACC's concerns have now been resolved.</p>
27	<p>The Secretary of State invites views from the <b>Applicant</b> on IACC's proposed amendment to requirement WN1(3) in Schedule 3 of the draft development consent order below:</p> <p><i>(h) A scheme for the provision of a vehicle turning head which will form part of the public highway at the layby adjacent to access to the WNDA, which scheme must include the details of the design of the turning head, details of when this will be delivered, together with an explanation of how this will be dedicated as public highway, how it will be classified and what traffic regulation measures (including any applicable speed limits or waiting</i></p>	

	<p><i>restrictions) will be put in place over the turning head prior to it opening for use for by the public.</i></p> <p>If the proposed amendment to requirement WN1 is not acceptable, the Secretary of State invites the <b>Applicant</b> and <b>IACC</b> to agree wording that addresses IACC's concerns and provide it to the Secretary of State for her consideration.</p>	
28	<p><b><i>Fly Parking</i></b></p> <p>The Secretary of State notes that concerns regarding the potential for fly parking were raised by IACC, Gwynedd County Council and Conwy County Borough Council. The Secretary of State is aware that at the end of examination, IACC considered that the measures proposed to deal with fly parking were deficient, and it requested further provision in the Workforce Management Strategy ("WKMS") setting out the action the Applicant will take in confirmed instances of fly parking, and also requested an update to the Code of Construction Practice ("CoCP") to make clear that upon receipt of an initial complaint, investigation and any appropriate disciplinary action is to be identified and implemented within 5 days. The IACC also requested that all incidents and investigations be reported to the IACC. The Secretary of State requests the <b>Applicant</b> to confirm whether the WKMS and CoCP have been updated to address IACC's concerns.</p>	The IACC confirms that it has no further comments.
29	<p><b><i>Dalar Hir</i></b></p> <p>The Secretary of State notes that at the end of the examination, WG raised concerns regarding the modelling of the capacity of Junction 4 at Dalar Hir and asked for confirmation as to whether the modelling was based on 1,900 daily vehicle movements or 1,000 daily vehicle movements. The Secretary of State requests the <b>Applicant</b> to confirm the figure used for modelling daily vehicle requirements, and for its views on WG's proposed amendment to Requirement PR5 Site Access Design.</p>	The IACC confirms that it is satisfied for Schedule 4 of the draft DCO to be amended to specifically identify the Welsh Ministers as consultees for the Parking Phasing Strategy.
30	<p><b><i>Abnormal Indivisible Loads</i></b></p> <p>The Secretary of State notes that during the examination, the Applicant confirmed that no Abnormal Indivisible Loads ("AIL") would be required in relation to works no 12, and that WG requested that for the avoidance of doubt this should be secured through amendment of the CoCP. The Secretary of State requests confirmation from the <b>Applicant</b> and <b>WG</b> that the CoCP has been amended to address this issue or explain why this is not appropriate or cannot be agreed.</p>	
31	<p>The Secretary of State is aware that concerns were raised by the WG regarding the impact of demand in housing during the construction phase, particularly on tourist accommodation. To address this concern, WG suggested the insertion of the following requirement:</p> <p><i>The number of construction workers occupying accommodation in the Tourist Sector shall at no time exceed 1100.</i></p>	
32	<p>The Secretary of State invites comments from the <b>Applicant</b> for views on the cap of the use of tourist accommodation by construction workers, and for details on how the Applicant intends to monitor and enforce the use of tourist accommodation by its staff and subcontractors.</p>	The IACC confirms that it has no further comments.

33	<p><b>Protective Provisions</b></p> <p>The Secretary of State notes that bespoke protective provisions in respect of the interests of Network Rail Infrastructure Limited (“Network Rail”) and the interests of the Nuclear Decommissioning Authority were not agreed by the close of the examination. The Secretary of State requests the <b>Applicant</b>, <b>Network Rail</b> and the <b>Nuclear Decommissioning Authority</b> to confirm whether any agreement on bespoke protective provisions has been reached and, if so, to provide the agreed provisions to the Secretary of State. If an agreement has not been reached, an indication of whether an agreement is possible and, if so, when it might be reached would be helpful. If an agreement has been reached, the Secretary of State requests <b>Network Rail</b> and the <b>Nuclear Decommissioning Authority</b> to state whether or not it will withdraw its representations (see section 127(1)(b) of the Planning Act 2008).</p>	
34	<p><b>Outstanding Objections and Agreements</b></p> <p>The Secretary of State notes that objections had not been withdrawn or agreements were still outstanding between the Applicant and the National Trust, RE and JA Roberts, G and I Roberts and WM, EW and M Harper at the end of the examination. The Secretary of State requests the <b>Applicant</b> and the <b>landowners listed above</b> for an update on the status of negotiations.</p>	
35	<p><b>Compulsory Acquisition Time Limit</b></p> <p>The Secretary of State notes that Article 28 of the proposed development consent order was amended to allow the Applicant a period of 8 years, rather than the usual 5 years, to exercise its Compulsory Acquisition powers. The Secretary of State notes the information already provided by the Applicant during the examination to justify this. However, in order to consider this matter fully, the Secretary of State requests that the <b>Applicant</b> provide further detail as to why the 8 year period is necessary and proportionate in this case. The Secretary of State would also be interested in comments from <b>any landowners affected by compulsory acquisition</b> on this point.</p>	
36	<p>The Secretary of State is aware that following the examination, WG published its draft National Development Framework for consultation on 7 August 2019 with responses due by 1 November 2019. The Secretary of State is also aware that after the close of the examination, WG made a climate emergency declaration on 29 April 2019 committing the WG to help other areas of the economy to make a decisive shift away from fossil fuels and reinforced support for the policies and proposals contained within Prosperity for all: A Low Carbon Wales (2019). The Secretary of State invites comments from <b>any Interested Party</b> in regard to the Development and WG’s draft National Development Framework and climate emergency declaration.</p>	The IACC confirms that it has no further comments.
37	<p>The Secretary of State notes that during the examination, NRW proposed wording to be added to the Design Access Statement (“DAS”) to mitigate landscape and visual impacts from the Marine Off- Loading Facility on the Anglesey Area of Outstanding Natural Beauty and North Anglesey Heritage Coast, but that this wording had not been included in the final version of the DAS. The Secretary of State requests the <b>Applicant</b> to confirm whether the text suggested by NRW has been included in the final version of the DAS.</p>	

38	<p>The Secretary of State is aware that the WG is of the view that Welsh Ministers are the enforcing authority in respect of requirements relating to Marine Works below the mean low water mark. The Secretary of State is also aware that a new Article, Article 86, was inserted to make clear that Welsh Ministers are the enforcement authority for land below the mean low water mark. The Secretary of State requests confirmation from the <b>WG</b> and <b>IACC</b> whether they are content with the drafting below:</p> <p><i>For the purposes of section 173 of the 2008 Act, the Welsh Ministers will be the relevant planning authority in respect of land seaward of the mean low water springs.</i></p>	<p>In its previous submission the Welsh Government confirmed that it had reflected further on article 86 and wished to propose minor amendments to expressly set out in the DCO that the Welsh Ministers shall have all relevant powers of enforcement under Part 8 in respect of any offence in respect of land seaward of low mean water springs (including power of prosecution under s.161) and that Part 8 PA 2008 shall apply in respect of land seaward of LMWS.</p> <p>Following further engagement between the WG, IACC and HNP, the following amendments to article 86 and the DCO definitions has been agreed between all parties.</p> <p><b>Marine enforcement authority</b></p> <p><b>86.</b> (1) For the purposes of enforcement in respect of land and water seaward of mean high water springs, Part 8 of the 2008 Act will be deemed to apply as follows:</p> <ul style="list-style-type: none"> <li>(a) Welsh Ministers will be the relevant local planning authority in respect of land seaward of mean high water springs for the purposes of Section 173 and Part 8 of the 2008 Act.</li> <li>(b) Welsh Ministers will have all powers under Part 8 of the 2008 Act in respect of land seaward of mean high water springs, including the power to prosecute under section 161 of the 2008 Act.</li> <li>(c) For the purposes of section 235 and Part 8 of the 2008 Act and this article 86, “land” shall include all land and water seaward of mean high water springs, including land and water seaward of mean low water springs and the sea bed</li> </ul> <p><b>Article 2(1)</b></p> <p>Definitions to be revised in article 2(1) of the Order for the purposes of the Order:</p> <p>“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time, unless otherwise agreed with NRW and Welsh Ministers</p> <p>“land” includes land covered by water (including where relevant all land and water seaward of mean high water springs including the sea bed), any interest in land or right in, to or over land</p>
----	---	--