



**CYNGOR SIR  
YNYS MÔN  
ISLE OF ANGLESEY  
COUNTY COUNCIL**

**GCD WYLFA NEWYDD:  
CYFEIRNOD PINS: ENO10007**

**Cyflwyniad Terfyn Amser 1:  
PWYNTIAU GWEITHREDU'R GWRANDAWIAD SY'N CODI O WRANDAWIAD Y  
GORCHYMYN CANIATÂD DATBLYGU (DCO) DRAFFT A GYNHALIWDYD AR FAES  
SIOE MÔN, DDYDD MAWRTH 24 HYDREF 2018.**

**Swyddfa Rheoli'r Rhaglen Ynys Ynni**

**13 Tachwedd, 2018**

**Mae'r canlynol yn cynrychioli ymatebion Cyngor Sir Ynys Môn i'r 'Pwyntiau Gweithredu' Terfyn Amser 1 a gyfeiriwyd at CSYM yn dilyn y Gwrandawriad ynghylch y Gorchymyn Caniatâd Datblygu (DCO) drafft a gynhaliwyd ar Faes Sioe Môn, ddydd Mawrth 24 Hydref 2018.**

<b>Pwynt Gweithredu Rhif 5.</b>	<b>Rhoi eglurhad ynglŷn ag amlygu tir priffyrdd o fewn y DCO drafft.</b>
<p>1. Mae'r Llyfr Gorchwyl ar gyfer y DCO yn cynnwys nifer o blotiau y mae gan CSYM fuddiant ynddyn nhw. Nid ydy'r nifer yma'n derfynol eto oherwydd ymchwili i nifer o blotiau o hyd.</p>	
<b>Buddiant CSYM</b>	<b>Plotiau</b>
<b>Perchennog - rhydd-ddaliad neu ran o rydd-ddaliad</b>	142, 143, 144, 145, 524, 525, 600, 656,
<b>Tenant neu hawliau deiliad</b>	66, 90, 108, 109, 114, 138, 140, 141, 511, 512, 513, 514, 515, 732, 733, 734, 735, 742, 743,
<b>Meddiannydd fel Awdurdod Priffyrdd</b>	14, 50, 51, 53, 54, 55, 56, 105, 130, 142*, 143*, 144*, 145*, 148*, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 202, 204, 206, 208, 211, 214, 300, 301, 302, 305, 306, 307, 309, 311, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 328, 400, 401, 402, 403, 404, 405, 406, 407, 411, 413, 415, 416, 417, 418, 437, 438, 439, 440, 441, 442, 501, 502*, 505, 506, 507, 508*, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 563, 564, 565, 566, 567, 568, 570, 571, 572, 573, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 624, 625, 626, 630, 631, 632, 633, 635, 636, 637, 647, 648, 651, 653, 655, 657, 660, 661, 662, 663, 664, 665, 666, 677, 678, 679, 680, 682, 700, 708, 709, 710, 711, 712, 713, 725, 726, 728, 729, 730, 731, 736, 737, 738, 739, 740, 741
<b>Meddiannydd fel Awdurdod Priffyrdd a/neu mewn cysylltiad â hawl tramwy cyhoeddus</b>	179, 500, 509
<p>*Mae'r plot hefyd yn cael ei ddangos ar linell flaenorol yn y tabl yma</p>	
<p>2. Mae CSYM yn dal i adolygu manylion yr holl blotiau ac mae'r rhestr a roddir uchod yn un ddangosol felly ac nid yw'n derfynol. Mae rhai materion eisoes wedi cael eu nodi yng nghofnodion y Llyfr Gorchwyl y mae angen eu datrys ac mae'r Cyngor yn ceisio cael esboniad yn eu cylch. Er enghraifft;</p>	
<p>i Plot 148, 1298 metr sgwâr o dir sy'n rhan o'r briffordd ac ymyl y ffordd o'r enw'r A5025 rhwng Treglele a Chemaes, mae'r Llyfr Gorchwyl yn rhestru Horizon Nuclear Power Wylfa Limited fel perchennog mewn perthynas â'r hawliau i'r isbridd o dan y briffordd fodd bynnag mae cofnodion CSYM yn dangos eu bod nhw'n berchen ar ran o'r isbridd ac felly mae angen ymchwilio i'r plot yma ymhellach.</p>	

ii Plot 304: 75 metr sgwâr o dir sy'n rhan o'r briffordd ac ymyl y ffordd i Fodedern yn rhestru CSYM fel meddiannydd, fodd bynnag nid ydy hyn yn adlewyrchu cofnodion y Cyngor ac ymchwilir ymhellach i hyn.

ii Plot 502: 373 metr sgwâr o dir sy'n rhan o'r briffordd ac ymyl ffordd o'r enw'r A5025 a Phlot 508: 1602 metr sgwâr o dir sy'n rhan o'r briffordd ac ymyl y ffordd o'r enw'r A5025. Mae'r Llyfr Gorchwyl yn rhestru dau unigolyn fel perchennog mewn perthynas â'r hawliau i'r isbridd o dan y briffordd ar gyfer y ddau blot yma, fodd bynnag mae cofnodion CSYM yn dangos eu bod nhw'n berchen ar ran o'r isbridd ac felly mae angen ymchwilio i'r plot yma ymhellach.

3. Mae'r plotiau sydd wedi'u rhestru yn y tabl i gyd wedi'u rhestru yn y Llyfr Gorchwyl ac wedi'u dangos ar y Cynlluniau Tir. Nid ydyn nhw'n cael eu rhestru yn Atodlen 11 felly nid ydy caffael wedi'i gyfyngu gan erthyglau 25 a 27 i gaffael neu greu hawliau yn unig, nid ydy caffael wedi'i gyfyngu i isbridd sy'n is na 9m gan erthygl 32 a, gan nad ydy'r plotiau wedi cael eu rhestru yn atodlen 14, nid ydy caffael wedi'i gyfyngu i feddiannu dros dro yn unig. Mae'r gyfres lawn o bwerau caffael gorfodol sy'n cael eu ceisio felly dros yr holl blotiau mae gan CSYM fuddiant ynddyn nhw, gan gynnwys y briffordd gyhoeddus, yn y DCO drafft yn unol ag erthygl 25(1). Er y credir yn y rhan fwyaf o achosion nad ydy Horizon yn bwriadu caffael pob buddiant, gan gynnwys buddiant yr awdurdod priffyrdd yn y briffordd gyhoeddus, maen nhw wedi drafftio'r DCO drafft mewn ffordd a fyddai'n caniatáu iddo wneud hynny ac felly maen nhw wedi creu risg ac ansicrwydd ynghylch dyfodol y plotiau hyn ac ni all CSYM dderbyn hynny.

**4. Mae CSYM yn gwrthwynebu cynnwys ardaloedd o'r briffordd gyhoeddus a'i hymylon yng nghwmpas caffael gorfodol o dan y DCO.** Mae hi'n hollol ddianghenraid cynnwys y briffordd gyhoeddus yng nghwmpas caffael gorfodol. Fel yr Awdurdod Priffyrdd mae CSYM yn fodlon ac yn gallu ymrwymo i gytundebau i hwyluso'r gwaith angenrheidiol i'r briffordd gyhoeddus mewn ffordd sy'n parchu angen yr Awdurdod Priffyrdd i gadw rheolaeth dros y rhwydwaith priffyrdd cyhoeddus a rheoli meddiant o'r ffordd gerbydau er mwyn sicrhau diogelwch y cyhoedd ac er mwyn rheoli traffig yn effeithiol. Mae CSYM yn nodi na fu unrhyw ymgysylltu na thrafod ffurfiol â swyddogion Priffyrdd nac Eiddo CSYM ynghylch caffael hawliau neu fuddiannau mewn tir priffordd gyhoeddus. Nid ydy Horizon wedi ceisio cael cytundeb na dull arall o gael yr hawliau sydd eu hangen ar gyfer gwneud y gwaith yma. Mae cytundeb Adran 278 wedi cael ei greu'n llwyddiannus rhwng Horizon a CSYM ar gyfer y gwelliannau i'r A5025 a byddai CSYM yn fodlon ymrwymo i gytundebau o'r fath (hy Adran 278 a/neu Adran 38) er mwyn hwyluso'r gwaith yma; nid ydy Horizon wedi gwneud unrhyw ymdrech i geisio trafod rhoi cytundebau o'r fath ar waith. Mae Horizon felly wedi methu â chydymffurfio â chanllawiau<sup>1</sup> sy'n mynnu bod pob dewis amgen rhesymol arall i gaffael gorfodol yn cael ei archwilio cyn ceisio'r pwerau hyn a dangos bod y pwerau'n angenrheidiol.

<sup>1</sup> Deddf Cynllunio 2008, Canllawiau sy'n ymwneud â'r gweithdrefnau ar gyfer caffael tir yn orfodol; Medi 2013 Yr Adran Cymunedau a Llywodraeth Leol, yn benodol paragraff 8

## Meddiant Dros Dro

5. Mae Horizon wedi nodi y bydd y rhan fwyaf o'r plotiau priffordd yn cael eu caffael fel meddiant dros dro Dosbarth 5. Mae'r pŵer i feddiannu dros dro wedi'i nodi yn erthyglau 35 a 36. O dan erthygl 35 meddiannu dros dro ar gyfer adeiladu, byddai Horizon yn caffael y pŵer, ar ôl cyflwyno hysbysiad, i:

- Mynd ar y tir a'i feddiannu
- Tynnu unrhyw strwythurau o'r tir hwnnw
- Adeiladu gwaith dros dro neu barhaol ar y tir

6. Mae meddiannu'r tir yn cael bod am gyfnod amhenodol wedi'i gyfyngu ddim ond gan ddarpariaethau erthygl 35(3) sef bod angen caniatâd neu gaffael gorfodol er mwyn parhau i feddiannu ar ôl diwedd blwyddyn ar ôl cwblhau'r gwaith. Mae modd cymryd meddiant dros dro fwy nag unwaith. Nid oes ffordd y gallai'r Cyngor stopio Horizon rhag cymryd a meddiannu'r tir, yr unig iawn ydy hawl i gael iawndal. Yng nghyd-destun y briffordd gyhoeddus, gan gynnwys ardaloedd sylweddol o'r ffordd gerbydau, mae'r sefyllfa hon yn gwbl annerbyniol i'r Cyngor fel Awdurdod Priffyrdd.

7. Mae'r plotiau sydd wedi cael eu cynnwys yng nghwmpas caffael gorfodol yn cynnwys ffordd gerbydau ffyrdd cyhoeddus. Er enghraifft mae plotiau 143 a 148 yn cynnwys lled cyfan adran o ffordd gyhoeddus yr A5025 rhwng pentrefi Cemaes a Thregele, mae plotiau 413, 414 a 415 yn cynnwys lled cyfan ffordd gerbydau ffordd Caergybi yr A5 yn y Fali, mae plotiau 507 a 508 yn cynnwys lled cyfan adran o ffordd gyhoeddus yr A5025 ger Llanfachraeth. Nid yw'n dderbyniol i CSYM, fel Awdurdod Priffyrdd, y gall datblygwr preifat gymryd a meddiannu'n egsgliwsif unrhyw ran o'r briffordd gyhoeddus am gyfnod amhenodol heb unrhyw reolaeth dros hynny gan yr Awdurdod Priffyrdd. Mae rhoi gallu o'r fath yn nwylo parti arall yn golygu na all CSYM reoli'r rhwydwaith ffyrdd cyhoeddus yn effeithiol ac yn ddiogel, cydlynu gwaith ffordd fel y mae'n rhaid iddo ei wneud yn ôl statud na chynllunio ei raglenni cynnal a chadw ei hun yn effeithiol gan nad oes ganddo unrhyw sicrwydd ynghylch pryd y gallai Horizon gau neu gyfyngu ar y briffordd gyhoeddus yn y lleoliadau a ddaw o dan y plotiau hyn.

8. Yn ogystal â meddiant dros dro ar gyfer y gwaith adeiladu ceir pŵer meddiant dros dro hefyd ar gyfer cynnal a chadw o dan erthygl 36. Mae hyn yn caniatáu i Horizon feddiannu'r tir unrhyw bryd yn ystod y cyfnod gweithredu (60 mlynedd) os oes angen i gynnal unrhyw ran o'r datblygiad. Unwaith eto y cyfan sydd ei angen i wneud hyn ydy cyflwyno hysbysiad a thalu iawndal, mae hyn yn annerbyniol ar dir priffyrdd. Mae natur yr orsaf bŵer niwclear yn golygu na fydd yr orsaf bŵer weithredol ei hun yn ffinio'n uniongyrchol â phriffordd gyhoeddus, felly nid oes angen y pŵer hwn dros briffyrdd cyhoeddus ar gyfer gwaith cynnal a chadw i'r orsaf bŵer. Dylai'r erthygl hon eithrio'n benodol pob priffordd gyhoeddus weithredol o'r pŵer hwn. Dylai unrhyw waith cynnal a chadw sy'n golygu bod angen meddiannu priffordd gyhoeddus geisio awdurdod am feddiant o'r fath gan yr Awdurdod Priffyrdd yn yr un modd ag a wneir ar gyfer unrhyw waith arall.

<b>Pwynt Gweithredu Rhif 8.</b>	<b>Egluro p'un a fydd Cyngor Sir Ynys Môn yn ildio ei gyfrifoldeb cyflawni ar gyfer y tir rhwng cymedr penllanw'r gorllanw (MHWS) a'r cymedr marc distyll (MLWM).</b>
<p>1. Nid ydy CSYM yn cytuno i ildio rôl yr awdurdod cyflawni o fewn yr ardal rynglanw o dan y DCO. Mae'r trefniadau cyfreithiol yn gorgyffwrdd gan fod ganddyn nhw ddibenion statudol gwahanol gydag ystyriaethau gwahanol yn berthnasol pan fydd cynigion yn cael eu cyflawni. Mae buddiant awdurdod cynllunio cyfreithlon yn yr ardal rynglanw ar yr un pryd â buddiant awdurdod trwyddedu morol cyfreithlon.</p> <p>2. Ni fyddai'n briodol i CSYM ildio ei rôl cynllunio, yn enwedig wrth ystyried natur sylweddol y gwaith yn yr ardal rynglanw a'r ffaith y bydd y gwaith hynny mewn sawl achos yn rhan ffisegol o waith sydd hefyd wedi'i leoli tua'r tir o'r cymedr penllanw gorllanw (hy mae gwaith sydd o boptu i'r cymedr penllanw gorllanw). Bydd angen trefniadau ymgynghori priodol rhwng CSYM a Chyfoeth Naturiol Cymru mewn perthynas â'r ceisiadau sy'n gorgyffwrdd o dan y DCO a'r drwydded forol er mwyn sicrhau bod y trefniadau'n gweithredu mewn cytgord.</p> <p>3. Petai hwn yn DCO yn Lloegr, byddai yna drwydded forol dybiedig fel atodlen i'r DCO gyda'i hamodau ei hun a'r Sefydliad Rheolaeth Forol fyddai'r awdurdod cyflawni ar gyfer hynny. Byddai'r drwydded forol dybiedig yn gorgyffwrdd â'r caniatâd datblygu yn yr ardal rynglanw, lle byddai'r awdurdod cynllunio yn awdurdod cyflawni. Mae nifer o Orchmynion caniatâd Datblygu wedi cael eu cyhoeddi ar y sail honno. Nid ydy CSYM wedi cael ei ddarbwylllo bod cyfiawnhad dros gael dull gweithredu gwahanol yn yr achos yma. Am resymau ymarferol nid oes gwahaniaeth rhwng y sefyllfaoedd yng Nghymru a Lloegr, gan fod y drwydded forol dybiedig yn bodoli fel rhywbeth annibynnol ar ôl dyfarnu DCO yn Lloegr.</p>	
<b>Pwynt Gweithredu Rhif 17.</b>	<b>Cyngor Sir Ynys Môn i ddarparu geiriad amgen i fynd i'r afael ag Atodlen 1 Datblygiad Arall Cysylltiedig, o) tudalen 54 y DCO drafft.</b>
<p><b>1 CYFLWYNIAD</b></p> <p>1.1 Yng Ngwrandawriad y DCO ar 24 Hydref 2018, cytunodd CSYM i ddarparu rhagor o sylwadau manwl ynghylch y darpariaethau datblygiadau cysylltiedig yn Atodlen 1 Gorchymyn Caniatâd Datblygu drafft Wylfa Newydd.</p> <p><b>2 DADANSODDIAD</b></p> <p>2.1 Mae Atodlen 1 yn rhoi disgrifiad o'r gwaith sydd i'w awdurdodi. Mae 15 Gwaith wedi'u rhifo wedi'u dilyn gan restr o Ddatblygiadau Cysylltiedig Eraill. Mae'r rhestr hon yn cynnwys rhagor o waith mewn perthynas ag adeiladu, gweithredu a chynnal a chadw'r datblygiad awdurdodedig "i'r graddau nad ydyn nhw fel arall yn rhan" o un o'r 15 gwaith sydd wedi'u rhifo.</p>	

- 2.2 Mae'r rhestr o ddatblygiadau cysylltiedig wedi'i nodi mewn 14 categori gwaith. Mae'n drawiadol bod:
- (a) Y categorïau gwaith gwahanol yn y rhestr wedi cael eu drafftio'n eang dros ben;
  - (b) Mae 10 o'r categorïau gwaith yn berthnasol yn gyffredinol ar draws y datblygiad awdurdodedig ac felly'n berthnasol i'r holl leoliadau a ddaw o dan y DCO drafft ac nid dim ond y prif safle;
  - (c) Dim ond 4 o'r categorïau sydd wedi'u cysylltu â gwaith penodol wedi'i rifo;
  - (d) Mae'r categorïau gwaith yn berthnasol i adeiladu, gweithredu a chynnal a chadw, mewn geiriau eraill maen nhw'n berthnasol yn ystod y cyfnod adeiladu a'r cyfnod gweithredu arfaethedig o 60 mlynedd.
  - (e) Yr unig gategori gwaith sydd wedi'i gymhwyso gan gyfeiriad i'r Datganiad Amgylcheddol ydy'r categori "gwaith arall" (o).

### 3 MATERION

- 3.1 Y DCO tebycaf i'r un ar gyfer Wylfa Newydd ydy'r un ar gyfer goraf bŵer niwclear Hinkley Point C. Dylid nodi nad oes gan Orchymyn Hinkley Point C (Gorsaf Gynhyrchu Niwclear) 2013 ddarpariaethau tebyg ar ddatblygiadau cysylltiedig i'r rheini a geisir ar gyfer Wylfa Newydd. Yn DCO Hinkley mae 22 gwaith wedi'i rifo, 4 gwaith pellach mewn perthynas â glanfa dros dro a dim darpariaethau pellach.
- 3.2 Mae angen i Horizon egluro pam mae cyfiawnhad dros y darpariaethau "cyffredinol" eang iawn a gyflwynir ar gyfer Wylfa Newydd os nad oedd eu hangen ar brosiect mae modd cymharu ag ef yn uniongyrchol sydd bellach wrthi'n cael ei adeiladu. Mae hi'n glir drwy gymharu â'r drafftio nad ydy hyn ond yn achos o osgoi drafftio ailadroddus y gellid ei restru o dan y gwaith sydd wedi'i restru.
- 3.3 Mae angen i Horizon egluro pam mai dim ond y categori "gwaith arall" (categori (o)) sydd wedi'i gymhwyso gan gyfeiriad at y Datganiad Amgylcheddol.
- 3.4 Nid ydy defnyddio darpariaeth (o) wedi'i gyfyngu i unrhyw ardal neu waith. Mae angen i Horizon egluro pam mae angen darpariaethau gwaith eraill mor gyffredinol sy'n cynnwys popeth neu pam eu bod yn briodol, yn enwedig mewn perthynas ag elfennau y tu allan i'r brif orsaf bŵer ei hun. Nid ydy Horizon chwaith wedi egluro sut mae'r darpariaethau hyn yn briodol yng nghyd-destun cynigion dros dro na fyddan nhw'n cael eu defnyddio ar ôl y cyfnod adeiladu ac y mae cynigion manwl wedi cael eu cynhyrchu ar eu cyfer; fel Dalar Hir, y cyfleusterau parcio a theithio dros dro ar gyfer y cyfnod adeiladu. Yn amlwg nid ydy'r ddadl a gyflwynwyd gan gwmsler Horizon yn y gwrandawriad mater penodol bod angen y pŵer hwn i gynnal cyfleuster yr orsaf bŵer drwy gydol ei oes weithredol yn berthnasol i elfennau dros dro o'r fath.
- 3.5 Mae hi'n dal yn ansicr pa waith mae Horizon yn ystyried bod darpariaeth (o) yn berthnasol iddo ac ystyried ei bod yn cael ei cheisio yn ychwanegol at ddisgrifiadau manwl o waith a'r darpariaethau 'cyffredinol' eraill (a) i (m). Ac ystyried hyd a lled y categorïau gwaith (a) i (n), dylai fod yn rhaid i Horizon gyfiawnhau pam fod angen categori (o) ("gwaith arall")

arno. Mae CSYM o'r farn bod cynnwys (o) yn arwain at lawer iawn o ansicrwydd yng nghyd-destun y Datganiad Amgylcheddol a gyflwynwyd. Mae'r drafftio yma yn creu pryder difrifol i CSYM ynghylch ei allu i adnabod ac i orfodi yn erbyn datblygu heb awdurdod. Ac ystyried statws troseddol torri'r DCO, neu wneud gwaith ar gyfer Prosiect Seilwaith o Arwyddocâd Cenedlaethol na chafodd gydsyniad drwy DCO, mae hi'n hollbwysig bod y gwaith sy'n cael caniatâd yn glir a bod modd ei ystyried yn erbyn y safon profi droseddol. Yn y bôn byddai drafftio'r ddarpariaeth hon yn gweithredu fel amddiffyniad yn erbyn unrhyw ymgais ar orfodi bod unrhyw waith mae Horizon yn dymuno ei wneud yn 'fanteisiol' i brosiect Wylfa Newydd a thrwy hynny wneud gorfodaeth ymarferol bron yn amhosibl.

3.6 Mae angen i Horizon egluro pam mae darpariaethau mor gyffredinol yn briodol ar gyfer cynnal a chadw sy'n ymestyn 60 mlynedd i'r dyfodol drwy gyfeirio at Ddatganiad Amgylcheddol y mae'n anorfod sydd wedi'i gyfyngu i'r hyn mae wedi'i asesu. Mae'r gallu i wneud gwaith heb ei ddiffinio ar draws holl Dir y Gorchymyn ar gyfer yr holl gyfnod adeiladu a gweithredu yn cyflwyno lefel annerbyniol o ansicrwydd o effeithiau ar gyfer yr Awdurdod Cynllunio Lleol a'r cyhoedd. Nid ydy'r ffaith y byddai gan unrhyw waith diweddarach effaith lai na'r gwaith adeiladu cychwynnol yn golygu ei fod yn dderbyniol. Nid ydy'r asesiad o sŵn gweithredol ar y prif safle yn y Datganiad Amgylcheddol er enghraifft yn cynnwys unrhyw weithgareddau cynnal a chadw a fyddai'n disgyn o fewn y ddarpariaeth hon; caiff asesiadau sŵn gweithredol eu darparu ar gyfer profi generaduron a larymau'n rheolaidd a symudiadau cerbydau ar y prif safle ond nid ar gyfer unrhyw waith adeiladu<sup>2</sup>.

3.7 Mae CSYM yn credu nad yw hi'n briodol nac yn angenrheidiol cynnwys darpariaeth (o) yn y DCO. Fodd bynnag os bydd yr Awdurdod Archwilio yn ystyried y dylid ei chynnwys, yna byddai CSYM yn gofyn iddi gael ei chyfyngu fel a ganlyn;

- (a) Dylai darpariaeth (o) fod yn berthnasol i'r brif Ardal Datblygu Wylfa Newydd yn unig ac nid unrhyw ran arall o Dir y Gorchymyn;
- (b) Ni ddylai darpariaeth (o) fod yn berthnasol i unrhyw waith nac adeilad dros dro lle mae'r defnydd dros dro wedi dod i ben; yn benodol ni ddylai fod yn berthnasol i gampws y safle ar ôl i adeiladau'r llety gael eu symud oddi yno; ac
- (c) Ni ddylai darpariaeth (o) ganiatáu gwneud unrhyw waith ar yr ardaloedd wedi'u tirweddu o amgylch yr orsaf bŵer ar ôl i'r gwaith o dirweddu'r ardaloedd hynny ddechrau. Mae hyn yn angenrheidiol er mwyn cyfyngu ar y gweithgareddau mae modd eu gwneud yn agos at y cymunedau o amgylch y prif safle.

3.8 Mae CSYM yn neilltuo ei safbwynt ar y cyflwyniadau hyn, ac ystyried wrth i'r Archwiliad fynd rhagddo ei bod hi'n debygol y bydd materion sy'n berthnasol i'r darpariaethau hyn yn codi o'r cyflwyniadau amrywiol gan bartion eraill, ymatebion Horizon a dealltwriaeth ddyfnach o'r dogfennau swmpus.

<sup>2</sup> Datganiad Amgylcheddol cyfrol D6, cyfeirnod Llyfrgell Archwiliadau Atodiad-125

<b>Pwynt Gweithredu Rhif 20.</b>	<b>Cyngor Sir Ynys Môn, Cyngor Gwynedd, Heddlu Gogledd Cymru a Llywodraeth Cymru i gynnwys pryderon ynglŷn ag: adran 106 mewn nodyn ôl-wrandawriad ar wahân; a, lefel y manylion yn y Cod Arferion Adeiladu.</b>
<p>Caiff y mater hwn ei drin yn llawn yng nghyflwyniad Terfyn Amser 1 “Achos Cyngor Sir Ynys Môn a Gyflwynwyd Ar Lafar yn y Gwrandawriad Mater Penodol (1) ar y Gorchymyn Caniatâd Datblygu Drafft Arfaethedig ar y 24 Hydref 2018.</p>	





CYNGOR SIR  
YNYS MÔN  
ISLE OF ANGLESEY  
COUNTY COUNCIL

**WYLFA NEWYDD DCO:**

**PINS REF: ENO10007**

**Deadline 1 Submission:**

**HEARING ACTION POINTS ARISING FROM THE DRAFT DEVELOPMENT  
CONSENT ORDER (DCO) HEARING HELD AT THE ANGLESEY  
SHOWGROUND, TUESDAY 24 OCTOBER 2018.**

**Energy Island Programme Management Office**

**13 November, 2018**

The following represent the Isle of Anglesey County Council's responses to Deadline 1 'Action Points' directed to IACC following the draft Development Consent Order (DCO) Hearing held at the Anglesey Showground, on Tuesday 24 October 2018.

Action Point No 5.	Provide clarification regarding the identification of highway land within the draft DCO.										
<p>1. The Book of Reference for the DCO includes a number of plots within which IACC has an interest. This number is currently not finalised as several plots are still being investigated.</p>											
<table border="1"> <thead> <tr> <th data-bbox="151 533 555 584">IACC interest</th> <th data-bbox="555 533 1441 584">Plots</th> </tr> </thead> <tbody> <tr> <td data-bbox="151 584 555 674"> <b>Owner - freehold or part of freehold</b> </td> <td data-bbox="555 584 1441 674">142, 143, 144, 145, 524, 525, 600, 656,</td> </tr> <tr> <td data-bbox="151 674 555 757"> <b>Tenant or rights holder</b> </td> <td data-bbox="555 674 1441 757">66, 90, 108, 109, 114, 138, 140, 141, 511, 512, 513, 514, 515, 732, 733, 734, 735, 742, 743,</td> </tr> <tr> <td data-bbox="151 757 555 1272"> <b>Occupier as Highway Authority</b> </td> <td data-bbox="555 757 1441 1272">14, 50, 51, 53, 54, 55, 56, 105, 130, 142*, 143*, 144*, 145*, 148*, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 202, 204, 206, 208, 211, 214, 300, 301, 302, 305, 306, 307, 309, 311, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 328, 400, 401, 402, 403, 404, 405, 406, 407, 411, 413, 415, 416, 417, 418, 437, 438, 439, 440, 441, 442, 501, 502*, 505, 506, 507, 508*, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 563, 564, 565, 566, 567, 568, 570, 571, 572, 573, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 624, 625, 626, 630, 631, 632, 633, 635, 636, 637, 647, 648, 651, 653, 655, 657, 660, 661, 662, 663, 664, 665, 666, 677, 678, 679, 680, 682, 700, 708, 709, 710, 711, 712, 713, 725, 726, 728, 729, 730, 731, 736, 737, 738, 739, 740, 741</td> </tr> <tr> <td data-bbox="151 1272 555 1422"> <b>Occupier as Highway Authority and/or in connection with public right of way</b> </td> <td data-bbox="555 1272 1441 1422">179, 500, 509</td> </tr> </tbody> </table>	IACC interest	Plots	<b>Owner - freehold or part of freehold</b>	142, 143, 144, 145, 524, 525, 600, 656,	<b>Tenant or rights holder</b>	66, 90, 108, 109, 114, 138, 140, 141, 511, 512, 513, 514, 515, 732, 733, 734, 735, 742, 743,	<b>Occupier as Highway Authority</b>	14, 50, 51, 53, 54, 55, 56, 105, 130, 142*, 143*, 144*, 145*, 148*, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 202, 204, 206, 208, 211, 214, 300, 301, 302, 305, 306, 307, 309, 311, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 328, 400, 401, 402, 403, 404, 405, 406, 407, 411, 413, 415, 416, 417, 418, 437, 438, 439, 440, 441, 442, 501, 502*, 505, 506, 507, 508*, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 563, 564, 565, 566, 567, 568, 570, 571, 572, 573, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 624, 625, 626, 630, 631, 632, 633, 635, 636, 637, 647, 648, 651, 653, 655, 657, 660, 661, 662, 663, 664, 665, 666, 677, 678, 679, 680, 682, 700, 708, 709, 710, 711, 712, 713, 725, 726, 728, 729, 730, 731, 736, 737, 738, 739, 740, 741	<b>Occupier as Highway Authority and/or in connection with public right of way</b>	179, 500, 509	
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<p>*Plot is also shown in a previous line in this table</p>											
<p>2. IACC is still reviewing the details of all the plots and the list given above is accordingly indicative and not final. Some issues have already been identified in the Book of Reference entries which require to be resolved and which the Council is seeking to clarify. For example;</p> <p>i Plot 148, 1298sqm of land forming part of highway and verge known as A5025 between Tregele and Cemaes Bay, the Book of Reference lists Horizon Nuclear Power Wylfa Limited as the owner in respect of subsoil rights beneath the highway however IACC records indicate that they own part of the subsoil and this plot therefore requires further investigation.</p>											

ii Plot 304: 75 sqm of land forming part of highway and verge of road to Bodedern lists IACC as an occupier however this does not reflect the Council's records and is being looked into further.

iii Plot 502: 373 sqm of land forming part of highway and verge known as A5025 and Plot 508: 1602 sqm of land forming part of highway and verge known as A5025. the Book of Reference lists as two individuals as the owner in respect of subsoil rights beneath the highway for both these plots however IACC records indicate that they own part of the subsoil and this plot therefore requires further investigation.

3. The plots listed in the table are all listed in the Book of Reference and shown on the Land Plans. They are not listed in Schedule 11 so acquisition is not restricted by articles 25 and 27 to the acquisition or creation of rights only, acquisition is not limited to subsoil lower than 9m by article 32 and, as the plots are not listed in schedule 14, acquisition is not limited to temporary possession only. The full suite of compulsory acquisition powers are accordingly being sought over all of the plots in which IACC has an interest, including the public highway, in the dDCO per article 25(1). While it is believed that in most cases Horizon does not intend to acquire all interests, including removing the highway authority interest in the public highway, they have drafted the dDCO in a manner which would allow it and have therefore created a risk and uncertainty over the future of these plots which cannot be accepted by IACC.

**4. The IACC objects to the inclusion of areas of the public highway and its verge within the scope of compulsory acquisition under the DCO.** It is entirely unnecessary to include the public highway in the scope of compulsory acquisition. IACC as Highway Authority are willing and able to enter into agreements to facilitate the necessary works to the public highway in a manner which respects the Highway Authority's need to maintain control of the public highway network and to manage occupation of the carriageway it in the interests of public safety and effective traffic management. The IACC notes that there has been no formal engagement or discussions held with IACC Highways or Property officers regarding the acquisition of rights or interests in public highway land. Horizon has not sought agreement on alternative means of gaining the rights required for these works. A S278 agreement has been successfully concluded between Horizon and IACC for the A5025 online works and IACC would be willing to progress such agreements (i.e. S278 and/or S38) to facilitate these works; Horizon has not made any approach seeking to discuss putting in place such agreements. Horizon has therefore failed to comply with guidance<sup>3</sup> which requires that all reasonable alternatives to compulsory acquisition are explored before these powers are sought and to demonstrate that the powers are necessary.

#### **Temporary Possession**

5. Horizon has indicated that most of the highway plots are to be acquired as Class 5, temporary possession. The power to temporarily possess is set out in articles 35 and 36. Under article 35,

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<sup>3</sup> Planning Act 2008, Guidance related to procedures for the compulsory acquisition of land; September 2013 Department for Communities and Local Government, in particular paragraph 8

temporary possession for construction, Horizon would acquire the power, after having served notice, to:

- To enter and take possession of the land
- To remove any structures from that land
- To construct temporary or permanent works on the land

6. The occupation of the land can be for an undefined period limited only by the provisions of article 35(3) that consent or compulsory acquisition is required to remain in possession after the expiry of one year from the completion of the works. Temporary possession can be taken more than once. There is no method by which the Council could stop Horizon from taking and possessing land, the only redress is a right to compensation. In the context of the public highway, including considerable areas of carriageway, this position is entirely unacceptable to the Council as Highways Authority.

7. The plots included within the scope of compulsory acquisition include the carriageway of public roads. For example plots 143 and 148 form the whole width of a section of the A5025 public road between the villages of Camaes and Tregele, plots 413, 414 and 415 form the whole width of the carriageway of the A5 Holyhead road at Valley, plots 507 and 508 form the whole width of a section of the A5025 public road near LLanfachraeth. It is unacceptable to IACC as Highways Authority that a private developer can take and exclusively possess any part of the public highway for an undefined period of time without any control of that by the Highway Authority. Such an ability in the hands of another party means that IACC cannot effectively and safely manage the public road network, co-ordinate roadworks as it is required to do by statute or effectively plan its own maintenance programmes as it has no certainty as to when the public highway in the locations covered by these plots may be closed or restricted by Horizon.

8. In addition to temporary possession for construction there is also a power of temporary possession for maintaining under article 36. This allows Horizon to take possession of the land at any time during the operational period (60 years) if it is required to maintain any part of the development. Again this simply requires the service of notice and paying of compensation, this is unacceptable on highways land. The nature of the nuclear power station is such that the operational power station itself will not be immediately abutting a public highway, this power is accordingly not required over public highways for maintenance works to the power station. This article should explicitly exclude all operational public highways from this power. Any maintenance works which require occupation of public highway should seek authorisation for such occupation from the Highway Authority in the same manner as any other works.

**Action Point  
No 8.**

**Provide clarification of the whether the IACC will surrender its discharging responsibility for the land between MHWS and MLWM.**

1. IACC does not agree to relinquish the role of discharging authority within the inter-tidal area under the DCO. The legal regimes overlap because they have different statutory purposes with different considerations being applied when proposals are discharged. There is a legitimate planning authority interest in the intertidal area at the same time a legitimate marine licensing authority interest.

2. It would not be appropriate for IACC to give up its planning role, particularly given the substantial nature of the works in the intertidal area and the fact that those works will in many case be physically part of works which are also located landward of mean high water springs (i.e. there are works which straddle mean high water springs). It will be necessary for appropriate consultation arrangements as between IACC and NRW in relation to the overlapping applications under the DCO and the marine licence to ensure that the regimes operate harmoniously.

3. If this were a DCO in England there would be a deemed marine licence as a schedule to the DCO with its own conditions for which the Marine Management Organisation would be the discharging authority. This deemed marine licence would overlap with the development consent in the intertidal area, for which the planning authority would be the discharging authority. Many DCOs have been issued on that basis. IACC is not persuaded that there is justification for a different approach in this case. For practical purposes there is no difference between the Wales and England positions as the deemed marine licence takes on an independent existence after the grant of a DCO in England.

<b>Action Point No 17.</b>	<b>IACC to provide alternative wording to address Schedule 1 Other Associated Development, o) page 54 of the draft DCO.</b>
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**1 INTRODUCTION**

1.1 At the DCO Hearing on 24 October 2018, IACC agreed to provide more detailed comments on the associated development provisions in Schedule 1 of the draft Wylfa Newydd Development Consent Order (dDCO).

**2 ANALYSIS**

2.1 Schedule 1 sets out the description of the works to be authorised. There are 15 numbered Works followed by list of Other Associated Development. This list comprises further works in connection with the construction, operation and maintenance of the authorised development “to the extent that they do not otherwise form part” of one of the 15 numbered works.

2.2 The list of associated development is set out in 14 works categories. It is notable that:

- (a) The drafting of the different works categories in the list is extremely wide;
- (b) 10 of the works categories are of generally applicability across the authorised development and therefore apply to all locations covered by the dDCO not just the main site;
- (c) Only 4 of the categories are linked to specific numbered works;
- (d) The works categories apply to construction, operation and maintenance, in other words they apply during construction and during the 60 years of intended operation;

(e) The only works category qualified by reference to the Environmental Statement is the “other works” category (o).

### **3 ISSUES**

3.1 The most comparable DCO to that for Wylfa Newydd is that for Hinkley Point C nuclear power station. It should be noted that The Hinkley Point C (Nuclear Generating Station) Order 2013 does not have comparable provisions on associated development to those sought for Wylfa Newydd. In the Hinkley DCO there are 22 numbered works, 4 further works in relation to a temporary jetty and no further provisions.

3.2 Horizon needs to explain why the very wide “sweeper” provisions put forward for Wylfa Newydd are justified if they were not needed by a directly comparable project now under construction. It is clear from a comparison with the drafting that this is not simply a case of avoiding repetition drafting which could be listed under the numbered works themselves.

3.3 Horizon needs to explain why it is only the "other works" category (category (o)) which is qualified by reference to the Environmental Statement.

3.4 The application of provision (o) is not limited to any area or work. Horizon needs to explain why such sweeping, catch-all other works provisions are needed or appropriate, particularly in relation to elements outwith the main power station itself. Horizon have also not explained how these provisions are appropriate in the context of temporary proposals which will not remain in use post construction and for which detailed proposals have been produced; such as at Dalar Hir, the temporary construction period park and ride facility. The argument advanced by Horizon’s counsel at the issue specific hearing that this power is required to maintain the power station facility throughout its operational life clearly cannot apply to such temporary elements.

3.5 It remains unclear what works Horizon consider provision (o) is necessary to cover given that this is sought in addition to detailed works descriptions and the other general ‘sweeper’ provisions (a) to (m). Given the breadth of works categories (a) to (n), Horizon should be required to justify why it needs category (o) (“other works”). IACC consider that the inclusion of (o) gives rise, in the context of the Environmental Statement submitted, to considerable uncertainty. This drafting creates a serious concern to the IACC regarding its ability to identify and enforce against unauthorised development. Given the criminal status of breaches of the DCO or of undertaking works for an NSIP which are not consented by a DCO, it is vital that what works are consented is clear and can be considered against the criminal standard of proof. The drafting of this provision would essentially act so as to provide a defence against any attempted enforcement that any works Horizon wish to undertake are ‘expedient’ to the Wylfa Newydd project and thereby make practical enforcement almost impossible.

- 3.6 Horizon needs to explain why such sweeping provisions are appropriate for maintenance stretching 60 years into the future by reference to an Environmental Statement that must necessarily be limited in what it has assessed. The ability to undertake undefined works across all of the Order Land for the entirety of the construction and operation period introduces an unacceptable level of uncertainty of impacts for the Local Planning Authority and the public. Simply because any later works would have a lesser impact than initial construction does not render them acceptable. The assessment of operational noise on the main site in the ES for example does not include any maintenance activities which would fall within this provision; operational noise assessments are provided for routine testing of generators and alarms and vehicle movements on the main site but not for any building works<sup>4</sup>.
- 3.7 The IACC considers that it is not appropriate or necessary for provision (o) to be included within the DCO. If however the Examining Authority consider it should be, then the IACC would request that it is limited as follows;
- (a) Provision (o) should apply to the main Wylfa Newydd Development Area only and not to any other part of the Order Land;
  - (b) Provision (o) should not apply to any temporary work or building where the temporary use has ceased; in particular it should not to apply to the site campus once the accommodation buildings have been removed; and
  - (c) Provision (o) should not allow any works to be carried out on the landscaped areas around the power station once the landscaping of those areas has commenced. This is necessary to limit the activities which can be carried out in closest proximity to the communities around the main site.
- 3.8 The IACC reserves its position on these submissions, given that as the Examination proceeds it is likely that issues relevant to these provisions will arise from the various submissions by other parties, Horizon's responses and a deeper understanding of the voluminous documentation.

<b>Action Point No 20.</b>	<b>IACC, Gwynedd Council, NWP and WG to include concerns regarding: section 106 in a separate post-hearing note; and, level of detail within the Code of Construction Practices</b>
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This matter is dealt with, in full, in the IACC's Deadline 1 submission to PINS entitled The Isle of Anglesey County Council's Case put orally at Issue Specific Hearing (1) on the proposed draft Development Consent Order on 24 October 2018.

<sup>4</sup> ES volume D6, Examination Library reference APP-125