

Tîm Prosiect Gorsaf Bŵer Niwclear Wylfa Newydd
Ysgrifennydd Gwladol dros Fusnes, Ynni a Strategaeth Ddiwydiannol
d/o yr Arolygiaeth Gynllunio
Eagle Wing 3/18, Temple Quay House
Temple Quay, Bryste
BS1 6PN

wylfa@planninginspectorate.gov.uk

At sylw Mr Gareth Leigh

11 Chwefror 2020

Annwyl Mr Leigh

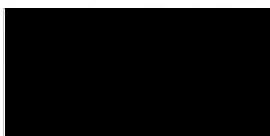
Prosiect DCO Wylfa Newydd: Ymateb i Gais yr Ysgrifennydd Gwladol am Ragor o Wybodaeth

Ysgrifennaf ar ran Horizon Nuclear Power Wylfa Limited (“**Horizon**”).

Yn dilyn llythyr yr Ysgrifennydd Gwladol dyddiedig 24 Ionawr 2020 yn gofyn am sylwadau gan bartion â diddordeb, gweler yn amguedig ymateb Horizon.

Byddwn yn ddiolchgar pe gallech gadarnhau derbyn sylwadau Horizon.

Yn gywir



Duncan Hawthorne

Prif Swyddog Gweithredol Horizon Nuclear Power Wylfa Limited

Wylfa Newydd Nuclear Power Station Project Team
Secretary of State for Business, Energy and Industrial Strategy
c/o the Planning Inspectorate
Eagle Wing 3/18, Temple Quay House
Temple Quay, Bristol
BS1 6PN

wylfa@planninginspectorate.gov.uk

For the Attention of Mr Gareth Leigh

11 February 2020

Dear Mr Leigh

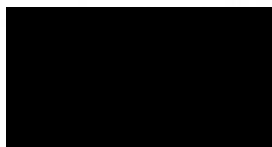
Wylfa Newydd DCO Project: Response to Secretary of State's Request for Further Information

I write on behalf of Horizon Nuclear Power Wylfa Limited (“**Horizon**”).

Further to the Secretary of State's letter dated 24 January 2020 requesting comments from interested parties, please see enclosed Horizon's response.

I would be grateful if you could confirm receipt of Horizon' submission.

Yours Sincerely



Duncan Hawthorne

CEO of Horizon Nuclear Power Wylfa Limited

Response to comments received to the Secretary of State's request for further information

Introduction

- 1.1 This document sets out Horizon Nuclear Power Wylfa Limited's ("**Horizon**") response to comments by Interested Parties to the Secretary of State's letter (dated 23 October 2019) ("**SoS Request Letter**") as requested on 24 January 2020. Responses have been provided on an alphabetical basis in **Table 1-1**. Where responses raise issues which Horizon has already addressed in its December submission ("**December Response**"), Horizon has not repeated its response but provided the Secretary of State with appropriate cross-references.
- 1.2 Horizon notes that certain responses have raised matters that were extensively discussed and examined during examination of the DCO Application (for example, the appropriateness of the Site Campus location). For this reason, Horizon has not sought to repeat the submissions on these points that were provided during examination, both at the Issue Specific Hearings and in examination submissions.
- 1.3 Horizon acknowledges the responses provided by Jonathan Dean, Wales & West Utilities Limited, the Health and Safety Executive, Dwr Cymru Welsh Water Limited, Network Rail Infrastructure Limited, Steve, Gwyneth and Mark Taylor, the Office for Nuclear Regulation and Menna Jones; however, it has no additional information or comments to add in response to these parties.

Additional Updates

- 1.4 On 30 January 2020, Horizon provided an update to the Secretary of State on five matters which had been the subject of further discussions with stakeholders and had not been resolved at the time Horizon submitted its December Response ("**January Letter**") (attached as **Appendix 1**). Given that discussions have been ongoing throughout January and February 2020, a final update is provided in respect of each of these matters below.

Q.22 Archaeology

- 1.5 Following the update provided in the January Letter, calls were held between the parties on 30 January and 5 February 2020 to seek to agree the terms of a voluntary agreement for the completion of the existing archaeological works. The terms of a voluntary agreement have now been agreed with IACC and the Welsh Government with the result that Horizon and IACC entered into a formal agreement in relation to the existing archaeological works on 10 February 2020. This matter is now resolved between the parties.

Q.25 Requirement SPC8

- 1.6 The January Letter appended the agreed revised drafting of Requirement SPC8 for the Secretary of State to include within the final DCO (if granted). This matter is now resolved between the parties.

Q.33 Protective Provisions with Network Rail

- 1.7 The agreements with Network Rail and Direct Rail Services are now largely agreed, save for a few minor points that are being urgently confirmed by the parties. Once these final points are confirmed, engrossments will be issued for the parties for signing. Horizon will provide an update to the Secretary of State (including a copy of the agreed protective provisions) as soon as those agreements have been executed. Horizon intends that this will be well before 31 March 2020 (likely in the next few weeks); but in the event that agreement cannot be reached on these minor points, this does not prevent the Secretary of State from determining the DCO Application as Horizon considers that adequate protections have already been included for Network Rail within the draft DCO (as set out during examination).

Q.34 Outstanding Objections and Agreements

- 1.8 The additional queries raised by National Trust on the draft agreement have now been agreed and Horizon and National Trust are preparing engrossments to be executed this week. Following this agreement being entered into, National Trust has confirmed that it will remove its objection to the Wylfa Newydd DCO Project.

Q.38 Marine Enforcement Authority (Article 86)

- 1.9 Following the update provided in the January Letter, amendments to articles 2 and 86 have now been agreed. The amendments are attached as **Appendix 2** for the Secretary of State to include within the final DCO (if granted) and clarify that the Welsh Ministers are the "relevant local authority" for the purposes of section 173

and Part 8 of the Planning Act 2008 and that land seaward of the mean high water springs is included within the definition of "land" in article 2 of the draft Order. This matter is now resolved between the parties.

- 1.10 As noted in the January Letter, the above matters are not matters which require additional consultation to be undertaken or that would prevent the Secretary of State from making a determination on the DCO Application.

Table 1-1 Responses to comments received to the SoS Request Letter

Interested Party	Horizon's Response
<p>Felin Honeybees Ltd</p>	<p>Since the close of examination, Horizon has continued to meaningfully engage with Ms Hayward to keep her updated on the progress of the DCO application and the status of the Wylfa Newydd DCO Project, as well as the potential impacts on her business which she operates from the National Trust property Felin Gafnan.</p> <p>Horizon has engaged with Ms Hayward on numerous occasions in order to better understand her business, the nature of her claim, and to seek to reach a voluntary agreement. Horizon has also sought extensive legal advice on the legal basis of her claim. The legal advice is clear that, due to the nature and basis of her occupation of Felin Gafnan (based on information provided by Ms Hayward), there is no legal basis for any claim by Ms Hayward for compensation. In addition, Felin Gafnan is not identified in the DCO Application as a property over which any form of compulsory acquisition powers have been sought. It lies outside the Order Limits, directly to the west of the Wylfa Newydd Development Area.</p> <p>Notwithstanding this, Horizon has facilitated the provision of independent legal advice to Ms Hayward and has made a formal voluntary capped settlement offer to Ms Hayward on 30 August 2019; however, to date this offer has not been accepted. Horizon believes that the offer that it has made is reasonable given the nature and terms of her tenancy, the nature and scale of her business, information provided to Horizon, and the fact that she has no legal right to claim compensation.</p> <p>Horizon considers that the matters raised by Ms Hayward have already been examined and consulted on and are therefore not matters which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.</p>
<p>Greenpeace Ltd</p>	<p>Horizon has endeavoured to respond to the key matters raised by Greenpeace in its response. Where Horizon has not responded to a particular point or issue this should not necessarily be taken as agreement with that point.</p> <p>Horizon disputes Greenpeace's submission that changes in circumstance since the close of examination means that any decision to give 'significant weight' to Overarching National Policy Statement for Energy ("EN-1") and National Policy Statement for Nuclear Power Generation ("EN-6") which supports nuclear new build at Wylfa Newydd, would be erroneous and amount to grounds for judicial review challenge.</p> <p>It is well accepted that the DCO Application shall be determined pursuant to section 105 of the Planning Act 2008 as the Wylfa Newydd DCO Project is due for deployment beyond 2025. Section 105 requires that in deciding the application the Secretary of State must have regard to:</p> <ul style="list-style-type: none"> • any local impact report; • any matters prescribed in relation to development of the description to which the application relates, and • any other matters which the Secretary of State considers are both important and relevant to her decision. <p>Horizon maintains, as set out in its Response to Greenpeace's Written Representation [REP3-012] and throughout the Issue Specific hearings, that EN-1 and EN-6 continue to be both important and relevant to the Secretary of State's decision and should be given significant</p>

weight in accordance with section 105. The principle of urgent need for new nuclear is well established in EN-1 and EN-6. The Government's continued support for this principle was confirmed in the Written Ministerial Statement on Energy Infrastructure by Lord Henley dated 7 December 2017 ("**Ministerial Statement**") which stated that:

"For projects yet to apply for development consent and due to deploy beyond 2025, Government continues to give its strong in principle support to project proposals at those sites currently listed in EN-6. Even if EN-6 is considered not to have effect under section 104 of the Act for such a project, section 105 of the Act would apply to the decision on whether or not to grant development consent for the project..."

"[I]n deciding whether or not to grant development consent for such a project, the Secretary of State would be required, under section 105(2)(c) of the Act, to have regard to the content of EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change of circumstances it is likely that significant weight would be given to the policy in EN-1 and EN-6, unless they have been suspended or revoked. In respect of matters where there is no relevant change of circumstances it is likely that significant weight would be given to the policy in EN-1 and EN-6."

In respect of Greenpeace's claims that there has been a 'relevant change in circumstance' that means that EN-1 and EN-6 should no longer have significant weight attributed to them, the Ministerial Statement is clear that the "Government is confident that both EN-1 and EN-6 incorporate information, assessments and statements which will continue to be important and relevant for projects which will deploy after 2025, **including statements concerning the need for nuclear power** – as well as environmental and other assessments that continue to be relevant for those projects (emphasis added)."

The "relevant changes of circumstances" referred to in the Ministerial Statement therefore cannot include matters that go against the need for new nuclear power stations. To consider otherwise would make the Ministerial Statement inherently contradictory. The "relevant changes in circumstances" must therefore either relate to changes in law and policy (that do not relate to the need for new nuclear power) which are contrary to EN-1 or EN-6. Therefore, in the absence of a suspension, revocation or announcement from the Government about a change in the law or policy with respect to new nuclear, including the suitability of EN-1 or EN-6, the Government's position must be assumed to remain unchanged. The "relevant changes of circumstances" could also relate to changes in the compliance of a particular site in respect of law and policy.

As noted above, the Government's position with respect to the appropriateness of the Wylfa Newydd NPS site has not changed. Subsequent to the statements in the Ministerial Statement, in July 2018 the Government Response to the Consultation on Siting and Process ("**Government's Response**") set out, at Annex I, the finalised strategic siting criteria that the Government will use to assess whether sites listed in EN-6 should continue to be listed in the new NPS. The Government Response confirms (at paragraph 2.117) that the strategic siting criteria for the new NPS applicable to nuclear power plants deployed after 2025 have been updated to be consistent with current law and policy.

The Government's Response affirmed the Government's decision to carry the list of potentially suitable sites from EN-6 (including the Wylfa NPS Site) through to the new NPS, concluding that it was not considered necessary to make any changes to the Wylfa NPS Site boundaries established in EN-6. The basis for this decision was that Wylfa Newydd alongside the other sites listed in EN-6 remain those sites which can deploy the soonest and are likely to be the only sites capable of development by 2035 which is critical for meeting the urgent need for new nuclear. Developers of the sites listed within the EN-6 were invited to submit information to support the new assessments. Horizon's submission for the Wylfa Newydd site in respect of the strategic siting criteria, entitled 'Wylfa Site: Supplementary Information Report' (August

	<p>2018), is attached as Appendix 16a to Horizon's responses to the Examining Authority's First Written Questions [REP2-002]. This report demonstrates that there have been no relevant changes in circumstances in respect of the Wylfa Newydd site and the site is still suitable for new nuclear.</p> <p>Horizon therefore does not consider that the matters raised by Greenpeace are matters which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.</p>
IACC	<p>Through ongoing engagement with IACC during October – December 2019, Horizon was aware of the points IACC was intending to raise in its December submission. For this reason, Horizon's December Response therefore already fully responds to all points raised by IACC in its December submission and so Horizon has nothing further to add.</p> <p>As outlined in the December Response, Horizon stated that it would provide an update to the Secretary of State in January 2020 on three matters which had been the subject of further discussions with IACC and the Welsh Government (and had not been resolved as at the date of the December Response). An initial update was provided via the January Letter and a further final update has been provided on these matters at paragraphs 1.4 – 1.10 above.</p>
Michael J. Taylor	<p>In his response, Mr Taylor states that the DCO Application should not be consented without concurrent input from the relevant licencing and permitting authorities (in particular, the Office for Nuclear Regulation ("ONR")), and to do so, would be a breach of the Secretary of State's Ministerial duties. Mr Taylor also requests that the permission is withheld until a review of EN-1 and EN-6 and the necessary regulatory work is carried out.</p> <p>Requirement for regulatory Input</p> <p>In respect of Mr Taylor's comments that the DCO should not be granted without the necessary regulatory input, Horizon has fully addressed this point in response to Q2.3 (<i>Licences and Consents (including Marine Licences and Operational Combustion Installations permits)</i>) of its December Response at pages 1-4. There is no requirement for all applications to be in place and/or granted at the time that a DCO Application is determined and all necessary assessment information on environmental impacts has been provided to the Secretary of State for her to determine the DCO and to NRW for it to be satisfied that the potential releases can be adequately regulated. ONR has also confirmed (in its December submission) that while a new nuclear site licence application would need to be resubmitted, it had not identified any fundamental shortcomings in Horizon's original application which it considered should prevent the grant of a nuclear site licence. There is therefore no reason to believe that the necessary construction and operational permits, consents and licences will not be granted by the regulators.</p> <p>Deferral until review of EN1 and EN6</p> <p>There is no reason to delay the determination of the DCO Application after the a review of EN-1 and EN-6 has been undertaken. The Ministerial Statement clarifies that sites listed in EN-6 on which a new nuclear power station is anticipated to deploy after 2025 (which includes the Wylfa Site) will continue to be considered appropriate sites and retain strong Government support during the designation of the new NPS. The Ministerial Statement is also clear that nuclear power stations yet to apply for development consent at the time of the Ministerial Statement and due for deployment beyond 2025 should be considered under section 105 of the Planning Act 2008 rather than</p>

section 104, under which an application would have to be determined against any relevant NPS (subject to limited exceptions). The DCO Application is being determined under section 105 of the Planning Act 2008.

As noted above, section 105(2) provides that the Secretary of State must, among other things, have regard to any other matters that the Secretary of State thinks are both important and relevant to her decision. The policies included in the EN-1 and EN-6 continue to be both important and relevant matters in the context of decisions under section 105 and the Ministerial Statement confirms that the assessments and statements in NPS EN-1 and EN-6 contain *"information, assessments and statements which will continue to be important and relevant for projects which will deploy after 2025, including statements concerning the need for nuclear power"*.

Conclusion

For these reasons, Horizon considers that the matters raised by the Mr Taylor are not matters which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.

Nia Thomas on behalf of the Anglesey Language Forum

The Anglesey Language Form ("**Forum**") expresses its concerns that it did not have early involvement in the process and suggests that Horizon has misled the Inspectorate on some of the discussions that were held as part of the Statement of Common Ground ("**SoCG**") process and that Horizon failed to take into account all evidence put forward by the Forum. The Forum also state that the draft Section 106 Agreement ("**S106**") was not shared with them in advance of it being made publicly available.

Engagement with the Forum

Horizon has engaged extensively throughout the pre-application period with IACC (who is also a party to Forum) in respect of Welsh Language and Culture. This was on the basis that it was the local planning authority (and so had statutory obligations in relation to Welsh Language) and would be the counterparty to the S106 which would secure the majority of Welsh Language mitigation. However, since 2016, Horizon has also engaged with the Forum in respect of the Welsh Language Impact Assessment ("**WLIA**") that was provided as part of the DCO Application and the development of the Welsh Language Mitigation Enhancement Strategy (which formed part of the WLIA).

Horizon accepts that it did not engage with the Forum for the purposes of entering into an SoCG prior to the DCO examination commencing in October 2018. At the Preliminary Meeting held on 23 October 2018, Horizon stated that it thought it had chosen to engage with what it considered to be the most appropriate Welsh Language body (IACC) because it was concerned that since, as the Forum represented a number of Welsh Language groups, it would be difficult to agree SoCGs with such a group. However, Horizon also reiterated that it was willing to negotiate SoCG with any other Welsh language groups that wanted to be involved.

Following the Preliminary Meeting, Horizon met with the Forum with a view to starting discussions around a SoCG; however, it was only able to arrange two meetings that all members of the Forum could attend. At the time discussions started with the Forum, the first draft of the S106 had already been shared with IACC on the 28 October 2018 and a summary of the potential obligations under that agreement had already been made publicly available on the PINS website on 13 November 2018 [REP1-010] (as part of the Deadline 3 Submissions). Therefore, it was not possible to share the S106 with the Forum in advance of it being made publicly available.

Discussions between the Forum and Horizon largely focused on how Welsh mitigation would be implemented by Horizon, rather than how it was secured through the DCO Application. At Deadline 6, Horizon submitted (in both Welsh and English) a draft SoCG with the Forum [REP6-032/033]; however, despite efforts by all participants, the parties were unable to progress discussions any further. While Horizon acknowledges the Forum's comments that Horizon did not respond to it in Welsh, this was unfortunately due to the tight examination timetable

and the length of time required to translate documents between Welsh and English; had there been further time allowed in examination, Horizon would have endeavoured to provide all responses to the Forum in Welsh.

Reporting to the Examining Authority

Horizon disputes the suggestion in the Forum's submission that it has misled the Examining Authority in how it had reported progress between itself and the Forum.

The introduction to the draft SoCG is clear that the Deadline 6 document [REP6-032] stated that it had been "*developed as an iterative draft by Horizon Nuclear Power (hereafter referred to as 'Horizon') to reflect its understanding of Fforwm Iaith Môn's position expressed verbally at meetings or through correspondence and is to its knowledge an accurate reflection of agreed, disagreed and ongoing matters. At this stage however, it is not being submitted as an endorsed agreed draft with Fforwm Iaith Môn. Furthermore, some member organisations of Fforwm Iaith Môn have chosen not to participate in the process of developing this SoCG. Horizon is continuing to work with Fforwm Iaith Môn to develop the draft to a status where it can be signed and submitted as a jointly agreed statement*"

The intention was that Horizon would continue to work with the Forum to develop the draft to a status where it could be signed and submitted as a jointly agreed SoCG.

Horizon would like to note that in respect of the Forum's SoCG it was expressly agreed with the Forum that Horizon would directly translate the Forum's comments from Welsh to English and so the draft SoCG submitted at Deadline 6 represents the direct translation, rather than any paraphrasing or summary by Horizon. For this reason, Horizon has not in any way misled the Inspectors as to what was stated during engagement with the Forum.

Conclusion

Horizon, together with IACC and the Welsh Government, has agreed a significant range of Welsh Language mitigation through the control documents to the final draft DCO and the agreed Section 106 Agreement [REP10-009]. A number of these mitigants were discussed with the Forum as part of the SoCG process. For this reason, Horizon considers that the matters raised by the Form are not matters which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.

Natural Resources Wales

Through ongoing engagement with NRW during October – December 2019, Horizon was aware of the points NRW intended to raise in its December submission. For this reason, Horizon's December Response therefore already fully responds to all points raised by NRW in its December submission and so Horizon has nothing further to add. However, Horizon would like to reiterate its position in response to the following points raised by NRW in its response:

Q.2,3 (Licences and Consents ((including Marine Licences and Operational Combustion Installations permits))

- Horizon strongly disagrees with NRW's position that the withdrawal of the operational permit applications means it cannot draw conclusions on the risks and impediments or determine the extant applications. The Environmental Statement and Shadow Habitat Regulations Assessment ("**HRA**") submitted with the DCO, Marine Licence and construction environmental permit applications are **Project-wide assessments**. This means that the assessments cover **all works and activities associated with construction, operation and decommissioning** that are to be consented by the Wylfa Newydd DCO Project, and other consents including the

Marine Licence, construction and operational environmental permits (if granted), as well as the potential in-combination effects arising across the Wylfa Newydd DCO Project and impacts associated with operational combustion plant.

- All necessary assessment information on environmental impacts is before the Secretary of State in order for her to determine the DCO and before NRW in order for them to be satisfied that the potential releases can be adequately regulated and that the in-combination effects with existing sources of pollution would not make the development unacceptable. There are no reasons to believe that the operational permits, consents and licences will not be granted when those applications are resubmitted in due course.
- The operational permit applications have been withdrawn for the time being; however, Horizon wishes to emphasise that the withdrawal of these applications does not obviate the need for those operational permits. All permits required to operate the Wylfa Newydd DCO Project will be sought in due course following the decision to restart the Wylfa Newydd DCO Project. NRW can impose conditions on these permits to ensure the permitted activities are effectively controlled and their impacts remain within the Project-wide Environmental Statement and Shadow HRA

Full details of Horizon's response to this request is set out in Horizon's December Response at pages 1 - 6.

Q.6 Imperative Reasons of Overriding Public Interest ("IROPI")

- Neither Horizon nor NRW are of the view that the HRA considerations should prevent the DCO Application from being granted. The outstanding differences between NRW and Horizon are limited to whether there is the need for a specific requirement requiring compensatory proposals or not. Horizon considers there is no need.
- Based on the assessment in its shadow HRA [APP-050/051], Horizon considers there will be no adverse effects resulting from the Wylfa Newydd DCO Project on the integrity of the qualifying features of any European Designated Sites in the Wylfa Newydd DCO Project's zone of influence. Despite this conclusion, Horizon prepared Stage 3 and 4 Reports on a precautionary basis in response to NRW's position that there would be adverse effects.
- In the event that the Secretary of State agrees with NRW that there will be adverse effects and that a DCO requirement for compensation is required, a solution has been offered to this issue, with a draft DCO requirement provided on a precautionary basis. Horizon's preferred requirement is set out on pages 19 – 20 of its December Response. In Horizon's view, in the event it is determined that there is likely to be an adverse impact, then the provision of two compensation sites would be proportionate and precautionary.

Full details of Horizon's response to this request is set out in Horizon's December Response at pages 15 - 20.

Q.13, 14 Sites of Special Scientific Interest Network ("SSSI")

- The Environmental Statement concluded that the small-scale changes in species composition that could potentially occur at Cae Gwyn SSSI would not affect the broader national network of SSSIs as the overall integrity of the site would not be compromised and any changes would be reversible following completion of the construction works. For this reason, no mitigation was considered necessary.
- The Environmental Statement identifies the combined potential effects of changes in hydrology and construction air quality to be major adverse for Tre'r Gof SSSI and offers a range of mitigation to reduce the effects of hydrological change. To offset the potential effects at the Tre'r Gof SSSI, Horizon has committed to delivering a compensation proposal which will create 49.5ha of new areas

of rich -fen habitat and enhance areas of existing rich-fen habitat within Anglesey. This provision would ensure that there are no broader impacts on the national network of SSSIs. In accordance with paragraph 5.3.11 of EN-1, the potential significant harm identified in respect of the Tre'r Gof SSSI (and the broader SSSI network) is necessary to achieve the substantial public benefits of delivering the Power Station and helping meet the identified urgent need for new nuclear power.

- There will be **no adverse effects on integrity ("AEOI") with respect to terns nesting at Cemlyn Bay** (and mentioned on the Cemlyn Bay SSSI designation). Horizon strongly disagrees with NRW's position that there are any AEOI with respect to terns nesting at Cemlyn Bay (as evidenced by the Shadow HRA) or that there is any risk of the Sandwich terns being eliminated from Wales. However, if the Secretary of State disagrees then proposals for compensation sites have been provided.

Full details of Horizon's response to this request is set out on pages 29 – 33 of Horizon's December Response.

Conclusion

Both Horizon and NRW agree that none of the HRA issues raised in their responses are matters which prevent the Secretary of State from making a determination on the DCO Application. Horizon also does not consider that HRA issues require additional consultation to be undertaken as all information necessary to enable the Secretary of State to determine the DCO Application has been provided.

North Wales Wildlife Trust, National Trust and Royal Society for the Protection of Birds

The joint submission of the North Wales Wildlife Trust, National Trust and Royal Society for the Protection of Birds (together the "eNGOs") raise a number of issues in respect of transboundary effects, the impact of the Wylfa Newydd DCO Project on tern populations, the sufficiency of the mitigation offered by Horizon and its HRA.

Horizon considers all of the issues raised in the eNGO's response have already been fully addressed in Horizon's December Response; however, for the Secretary of State's benefit, we have set out cross-references to each response below:

Q.4 (Representations of the Government of the Republic of Ireland under the Espoo Convention)

The eNGOs refer to comments in the Government of the Republic of Ireland's submission that Horizon has failed to adequately address the obligations of Article 12, 15 & 16 of the EU Habitats Directive and it is not credible for the Secretary of State to conclude with the requisite degree of certainty for the purposes of an Article 6 (3) assessment, that AEOI of Natura 2000 sites will not arise.

Horizon notes that this was not a point that was raised by the Government of the Republic of Ireland in its submission; this point was raised in the submissions by the non-governmental organisation, the Irish Environmental Network as part of the public consultation process. Horizon disagrees that it has not carried out a full and proper assessment of the HRA issues relating to the Wylfa Newydd DCO Project. It is Horizon's position that there will be no AEOI of any European Designated Site, tern populations or habitats, but that if the Secretary of State disagrees, a solution has already been offered to this issue with the provision of a draft DCO requirement, if necessary this DCO Requirement would require the provision of tern compensation sites prior to the commencement of works on the WNDA (refer to pages 19 – 20 of Horizon's December Response).

Q.6 (IROPI)

Alternative Solutions

The eNGOs state that while they cannot provide a view, the Secretary of State must satisfy herself that there is sufficient information in order to determine that no less damaging solutions exist to meet the UK's low carbon energy targets. Horizon's response to these comments is

set out in response to Q.6 at pages 15 – 20 of its December Response; however, we set out these comments out again for the Secretary of State's benefit.

Although Horizon's view remains as set out in the shadow HRA [APP-050/051] and as extensively tested during examination that there would be no AEOL resulting from the Wylfa Newydd DCO Project on the qualifying features of any European Designated Sites in the Wylfa Newydd DCO Project's zone of influence, it nevertheless, at Deadline 5, submitted precautionary Stage 3 and 4 reports which concluded that:

- **Stage 3 Alternative Solutions Assessment:** There are no feasible 'alternative solutions' to the Wylfa Newydd DCO Project proposals in the context of the Habitats Regulations and predicted effects on the qualifying features of the Morwenoliaid Ynys Môn/Anglesey Terns SPA.
- **Stage 4 IROPI:** There is a clear and robust IROPI for the Wylfa Newydd DCO Project, given the vital role that nuclear power can play in ensuring security of supply and the transition to a low carbon economy (particularly in light of the UK Government's commitment to a net-zero emissions target by 2050). The delivery of low carbon electricity at Wylfa in the long term would also provide social and economic benefits to the UK and support human health and public safety.
- **Stage 4 Compensatory Measures:** The proposed compensatory measures are deliverable, ecologically feasible and fit for purpose.

Horizon notes that NRW acknowledges in its Deadline 8 response [REP8-080] that no alternative options would address its concerns, save for avoiding blasting and construction during the tern breeding seasons. NRW, however, notes in [REP8 -080] that this option is ruled out as it would not meet/deliver the Wylfa Newydd DCO Project needs or objectives. Horizon emphasises that this is not a viable alternative solution given the severe impacts and delays this would place on the construction schedule.

Given the conclusion of the Alternatives Solutions Assessment, and NRW's conclusions, Horizon considers that the Secretary of State has all information available to her to determine that there no other reasonable alternatives to the mitigation proposed by Horizon in the DCO Application.

Inadequacies with the tern compensation proposals

The eNGOs raise a number of criticisms of the proposed tern compensation proposal, the majority of which align with NRW's position in its December submission; namely:

- the need for four tern compensation sites;
- the need for these sites to be delivered a full breeding session prior to works commencing in the WNDA;
- the definitions of "tern breeding period" and "establishment period";
- the need for the compensation sites to be retained post-construction; and
- a lack of conservation objectives.

In relation to the number and delivery of the tern compensation sites and the scope of the definitions, please refer to Horizon's response to these points in its December Response on pages 17 – 18. Horizon notes that NRW has agrees that if an appropriate requirement is imposed (as discussed above in response to IROPI (paragraph 6)), then this addresses both effects on the tern colony at Cemlyn Bay and the

passage population of Sandwich tern in the Dee Estuary SPA. As such, Horizon wishes to emphasise that both it and NRW are of the view that this matter should not prevent the DCO Application from being granted.

In respect of the retention of the compensation sites, the tern compensation proposal [REP9-028] is clear that these sites will continue to be managed following the end of construction if tern breeding numbers are insufficient to meet the conservation objectives of the Anglesey terns SPA. At the time that the terns return to breed at the Cemlyn lagoon colony, the continued need for these sites will be reviewed and, if no longer required, they will be offered to NRW or a third party to continue to manage prior to being decommissioned (which can only occur following approval of IACC, in consultation with NRW). As the purpose of these sites are to provide a compensatory habitat for breeding birds in the event they are affected by construction works within the WNDA, the retention of these sites is therefore appropriately tied to continued use and need of these sites by breeding terns.

Q.7 (Ecological Mitigation Sites)

The eNGOs state that they do not consider that Horizon is able to extend the lease agreements using the statutory renewal rights under the Landlord and Tenant Act 1954 ("**LTA54**") or the compulsory acquisition powers under the draft DCO.

Horizon has agreement in principle for the extension of the ecological mitigation sites with both owners and is working to progress these towards heads of terms.

As noted in Horizon's December Response, the draft DCO identifies these sites as subject to compulsory acquisition powers. While CPO is intended to be a last resort (as Horizon would seek to extend through voluntary agreement or use the powers under the LTA54), Horizon is seeking an 8 year period to exercise its compulsory acquisition powers under the DCO (refer to article 28). This means that, if it sought to acquire the ecological mitigation sites, it would have to do so two years prior to the end of 10 year construction period. This would provide sufficient time for Horizon to monitor the sites and determine whether they did need to be acquired to ensure that they could continue to be established.

In respect of the LTA54, the current leases have not contracted out of the LTA54 and so there are various statutory rights to renew these lease agreements. These rights may be exercised in accordance with the provisions of the LTA54 during the final year of the 15 year terms already granted and give Horizon the statutory right to seek a new lease on terms similar to those that are currently granted.

Q8-10 (Noise, Visual Impacts and Disturbance from Recreational Users)

The eNGOs raise concerns with the mitigation proposed in the DCO Application to address noise, visual impacts and disturbance from recreational users during construction of the Wylfa Newydd DCO Project. As stated in its December Response at pages 23 – 27, Horizon's assessment have concluded that there will be no AEIOI of any European Designated Site, tern populations or habitats and Horizon considers that the mitigation provided is adequate to mitigate effects and reflects practices adopted on other large scale construction projects.

Horizon notes that NRW has confirmed in its December submission that it is not aware of additional measures or controls which can be proposed which would adequately address noise, visual or recreational disturbance effects or mean that NRW can agree with Horizon's conclusion that there are no AEIOI. However, neither Horizon or NRW consider that the absence of agreement on whether there is complete avoidance of effects should prevent the DCO Application from being granted. The outstanding difference is limited to whether there is the need for a specific requirement requiring compensatory proposals or not. In the event that the Secretary of State considers there is, a solution has been offered to this issue with a draft requirement provided on a precautionary basis which would require the provision of tern compensation sites prior to the commencement of works on the WNDA (refer to pages 19 – 20 of Horizon's December Response for Horizon's preferred drafting of this requirement).

Q.12 (Landscape and Habitat Management Strategy)

The amendments to the LHMS referred to by the eNGOs were submitted as Appendix 3 of Horizon's December Response and detailed in response to Q12 at pages 28 - 29. No further amendments are considered necessary as these reflect the changes requested by the eNGOs during examination.

Q13/14 (SSSI)

The eNGOs note that they agree with NRW's opinion that there will be a significant risk to the SPA tern colony at the Cemlyn Nature Reserve, which in turn could undermine the national SSSI network for these species. Horizon wishes to stress that it strongly disagrees with any statements that there are any AEOI with respect to terns nesting at Cemlyn Bay (or on the Cemlyn Bay SSSI designation) or that there is any risk of the Sandwich terns being eliminated from Wales.

However, in event the Secretary of State disagrees with Horizon's assessment and considers there is an AEOI on the Cemlyn Bay SSSI, then proposals for a DCO requirement to provide compensation sites has been offered. Horizon understands that NRW considers that the overall integrity of the network can be maintained with compensation sites. In addition, although any such compensation would (if needed) be necessitated by the Habitats Regulations, it would also support the broader national network of SSSIs. Please refer to Horizon's comments on these matters above in response to NRW's submission, as well as pages 29 - 33 of its December Response.

Q34 (Outstanding Objections and Agreements)

The additional queries raised by National Trust on the draft agreement have now been agreed and Horizon and National Trust are preparing engrossments to be executed this week. Following the agreement being entered into, National Trust has confirmed that it will remove its objection to the Wylfa Newydd DCO Project.

Nuclear Decommissioning Authority

In its response, the Nuclear Decommissioning Authority ("**NDA**") restates its proposed amendments to the protective provisions for its benefit as set out in the NDA's Rule 17 Response [REP9-040] and objects to the proposed extension of the time limit for compulsory acquisition to 8 years in Article 28 (Time limit for exercise of authority to acquire land compulsorily) in the final draft DCO [REP10-006].

Protective provisions

Horizon outlined its position on the amendments sought by NDA to article 9 and the protective provisions in Schedule 15 of the draft DCO in its December Response (please refer to pages 56- 58 in response to Q.33) and in its Deadline 8 submission [REP8-004].

As set out in the December Response, it is not disputed that the parties agree in principle that where Horizon seeks to transfer the benefit of the DCO to a third party, it must ensure that that third party enters into a co-operation agreement with NDA in respect of its land within the WND. What is disputed is the **mechanism** by which that obligation is secured:

- NDA considers that the requirement for the co-operation agreement should be included as an express restriction in article 9 (Consent to transfer the benefit of the Order) and article 29 (Compulsory Acquisition of land) should be amended to make it clear that compulsory acquisition powers do not apply to NDA land.

- Horizon considers that the requirement for the co-operation agreement should be addressed through article 37 (statutory undertakers) and the protective provisions in Schedule 15, rather than on the face of article 9. An amendment to article 9 is not necessary as the protective provisions provide a secure mechanism to achieve the NDA's request. It is not appropriate for article 9 to refer to private agreements with third parties. DCOs are pieces of legislation and it is not usual practice to impose restrictions in respect of private agreements with statutory undertakers in the main body of an Order. It is for this reason that DCOs have negotiated protective provisions (as recognised and encouraged by PINS' Advice Note 15) and why Horizon has provided protective provisions for the NDA in this instance.
- As the Secretary of State is aware, article 37 makes the exercise of any compulsory acquisition powers under the draft DCO subject to Schedule 15 (and therefore the requirement in paragraph 29¹ of Schedule 15 that the cooperation agreement is entered into prior to such exercise would apply). There is no need to amend article 29 as requested by NDA as it already states it does not apply to any rights or restrictions where article 37 applies (as is the case here).

Horizon considers that as drafted, the draft DCO provides NDA with all the restrictions and protections it is seeking and has been fully justified within the December Response.

Horizon confirms that a call to discuss the above matters was initially discussed between the parties and that Horizon was amenable to participating in such a call. Horizon provided the NDA with a copy of its proposed draft December response and confirmed it would be prepared to provide an undertaking for the NDA's reasonable costs. However, it became apparent that further engagement was unlikely to result in any meaningful change to the parties respective positions and therefore, Horizon considered that a follow up call would not be useful or provide any progress on the above matters and would incur material wasted costs.

Extension to the CPO timeframe

NDA does not consider that the extension from 5 to 8 years for time limit in article 28 is reasonable or proportionate and that the Secretary of State should only allow such an extension where there are "exceptional circumstances".

Horizon has already clearly set out the reasons why it considers that the extension to 8 years is necessary and proportionate at pages 59 – 60 of its December Response. Horizon wishes to emphasise that there is no test under the Planning Act 2008 that an applicant must demonstrate there are "exceptional circumstances" to warrant an extension to the time limit proposed for compulsory acquisition ("**CPO**"). In respect of CPO timeframes, the Planning Act 2008 only:

- disapplies the 3 year time limit under the Compulsory Purchase Act 1965 for service a notice to treat (section 125(3)(a));
- provides that where a DCO authorise the compulsory acquisition of land, steps must be taken in relation to such compulsory acquisition before the end of either the prescribed period (as specified by the Secretary of State in regulation) or such other period (whether longer or shorter than that prescribed) as specified in the order (section 154(3)). (To date, there are no regulations which specify the timeframe for CPO under the Planning Act); and
- enables a DCO to include any provision which appears necessary or expedient to the Secretary of State for giving full effect to any other provision of the order (section 120(5)(c)).

¹ Please note that the December response referred to paragraph 30, but it is paragraph 29 in the final draft DCO [REP10-006]

The exceptional circumstances test simply does not apply to how the Secretary of State must determine an extension to CPO Powers. Horizon notes that in the determination of the National Grid (Hinkley Point C Connection Project) Order ("**Hinkley Point C**"), the Secretary of State concluded that the extension to 8 years was justified on the basis that there was a *compelling case in the public interest* in order to ensure there is no unnecessary delay in the development being delivered or impact on the security of electricity supply.

The Hornsea Three Offshore Wind Farm, Hinkley Point C, and Dogger Bank Teesside A and B DCOs provide precedent for the timeframe for exercising compulsory acquisition power to be extended beyond the typical 5 year period sought by other DCOs. A seven or eight year period was granted in all three DCOs on the basis that it was warranted due to the scale and complexity of the Project, lead times in securing contractors and supply chain availability, the policy support for the development of offshore cost-effective renewable energy, and the fact that a longer timeframe would maximise the ability to bring forward strong, viable projects.

Horizon considers that all of these justifications apply equally to the Wylfa Newydd DCO Project (except the reference to renewable in this case should be read as new nuclear, rather than offshore wind) and Horizon therefore continues to consider that a longer acquisition period is necessary and proportionate, as well as providing a compelling case in the public interest. In particular, the extension is in the interests of consumers as it will help reduce costs and for those whose land will be acquired as it will mean that Horizon will not need to acquire the land earlier than needed and so enable them to continue to occupy and utilise their land. Horizon has set out the policy support for the development of new nuclear in full in section 6 of its Planning Statement submitted as part of its DCO Application [APP-406] and at pages 8-9, 31-32 of its December Response.

If the Secretary of State believes it to be necessary then Horizon would be happy, to restrict the exercise of compulsory acquisition powers in respect of the NDA land to 5 years rather than 8 years, given that the NDA is the only party which has raised these concerns and that the NDA land will be required early in the construction programme. Horizon proposes that article 28 could be amended as follows:

Time limit for exercise of authority to acquire land compulsorily

28.—(1) Subject to paragraph (3), ~~After~~ the end of the period of 8 years beginning on the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 of the 1965 Act; and

(b) no declaration may be executed under section 4 of the 1981 Act applied by article 30 (Application of the 1981 Act), in relation to any part of the Order Land.

(2) The authority conferred by article 35 (Temporary use of land for carrying out authorised development) ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period if the land was entered and possession was taken before the end of that period.

(3) In respect of the NDA Site, after the end of the period of 5 years beginning on the day on which this Order is made—

(a) no notice to treat is to be served under Part 1 of the 1965 Act; and

(b) no declaration may be executed under section 4 of the 1981 Act applied by article 30 (Application of the 1981 Act), in relation to any part of the NDA Site.

The definition of "NDA Site" in Part 3 of Schedule 15 of the final draft DCO should be inserted into article 2 (Interpretation):

"“NDA Site” means the site over plots 16, 28, 29, 30, 31, 32, 33, 34, 37, 38, 39, 40, 44, 62, 63, 64, 65, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 107, 108, 109, 110, 111, 112, 114, 118, 119, 122, 128, 129, 130, 131, 132, 133, 134, 135, 137, 138, 140, 141, 146, 147, 150, 153, 154, 159, 161, 176, 179, 181, 182, 183, 184 and 185 in the Book of Reference and shown on the Land Plans and in which NDA has an interest;"

We provided NDA with a copy of the above response and proposed restriction; however, given the timeframes Horizon has not been able to receive a response. We trust that, if the Secretary of State considers it necessary, the proposed restriction is agreeable to NDA and resolves the concerns it has raised in respect of the timeframe for compulsory acquisition powers.

Conclusion

Horizon considers that the issues raised by the NDA have already been fully addressed within the examination documents, Horizon's December Response or through the amendments proposed above and are therefore not issues which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application. In the event that the Secretary of State does not agree with Horizon's position the amendments sought to article 9 and 29, she can choose to accept the amendments requested by NDA.

Welsh Anti-Nuclear Alliance

In its response, the Welsh Anti-Nuclear Alliance states that current energy policy is out of date, fails to address climate change and is not appropriate for Wales. Horizon has responded to submissions such as these on numerous occasions throughout the examination (please refer, in particular, Horizon's response to Welsh Anti-Nuclear Alliance's Deadline 2 submission [REP3-0017]). As per those previous responses, Horizon maintains that there remains strong legislative and policy support for new nuclear power in the UK and specifically at Wylfa. New nuclear remains a critical element of the Government's plan for tackling the causes of climate change.

With respect to the Welsh Anti-Nuclear Alliance's comments about the draft National Development Framework for Wales, please refer to Horizon's response to Q36 (*Welsh Planning Policy and Climate Change Emergency Declaration*) in its December Response (pages 60 – 61) which includes a comprehensive response to this policy update.

Horizon considers that the matters raised by the Welsh Anti-Nuclear Alliance have been fully addressed within the DCO Application, examination document, and the December Response and are therefore not matters which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.

Welsh Government

Through ongoing engagement with the Welsh Government during October – December 2019, Horizon was aware of the points the Welsh Government intended to raise in its December submission. For this reason, Horizon's December Response therefore already fully responds to all points raised by the Welsh Government in its December submission and so Horizon has nothing further to add.

	<p>As outlined in the December Response, Horizon stated that it would provide an update to the Secretary of State in January 2020 on three matters which had been the subject of further discussions with the Welsh Government and IACC (and had not been resolved as at the date of the December Response). An initial update was provided via the January Letter and a further final update has been provided on these matters at paragraphs 1.4 – 1.10 above.</p>
<p>Zencity Ltd</p>	<p>Zencity Ltd's ("Zencity") submission raises concerns about climate change and sea-level rises during the lifetime of the Wylfa Newydd DCO Project and the impact of the Broecker conveyor belt on the stability of northern Europe's infrastructure.</p> <p>Horizon has responded to submissions such as these on numerous occasions throughout the examination (please refer, in particular, to Horizon's response to Zencity's Deadline 2 submission [REP3-0018] and Appendix 1-1 of [REP5-056] which outlines all references to and assessment of sea level rises and climate change within the DCO Application). In relation to the concerns raised about sea-level rises due to climate change, Horizon has fully set out how the Wylfa Newydd DCO Project has taken into account climate change design and the UKCP18 projections in response to <i>Q4. (Representations of the Government of the Republic of Ireland under the Espoo Convention)</i> in its December Response at pages 9 – 11.</p> <p>Horizon considers that the matters raised by Zencity have been fully addressed within the DCO Application, examination documents, and its December Response and are not matters which require additional consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.</p>

Appendix 1: Letter to the Secretary of State (dated 30 January 2020)

Wylfa Newydd Nuclear Power Station
Project Team
Secretary of State for Business, Energy
and Industrial Strategy
c/o the Planning Inspectorate
Eagle Wing 3/18, Temple Quay House
Temple Quay, Bristol
BS1 6PN

wylfa@planninginspectorate.gov.uk

For the Attention of Mr Gareth Leigh

28 January 2020

Dear Mr Leigh

Wylfa Newydd DCO Project: Response to Secretary of State's Request for Further Information and Comments

I refer to the Secretary of State's letter (dated 24 January 2020) which requested further information and comments from interested parties on the Wylfa Newydd DCO Application.

Horizon is concerned with the implication in the letter that the Secretary of State considers that there is information that is outstanding and which, once provided, could result in the need for further consultation to be undertaken. Horizon wishes to reiterate to the Secretary of State that it has provided all the information necessary to address the additional questions raised by the Secretary of State in her letter of 23 October 2019 ("**October Letter**") and to enable full and proper consultation to be undertaken and for the DCO Application to be determined.

In its December 2019 response, Horizon had stated that it would provide an update to the Secretary of State in January 2020 on five matters which had been the subject of further discussions with stakeholders. These discussions related to:

- the completion of existing archaeological works (separate to the DCO Application);
- Requirement SPC8 (Archaeological written scheme of investigation for site preparation and clearance) (this is now agreed);
- protective provisions for Network Rail;
- National Trust's objection to the DCO Application; and
- article 86 (marine enforcement).

Engagement with stakeholders on these matters was undertaken during the recent consultation period (23 October – 31 December 2019) largely in response to requests in the October Letter for further comments or that the parties reach agreement. In order to give as much time as

possible to reach agreement with stakeholders on the above matters, Horizon intended to provide the Secretary of State with a final update on the progress of these discussions as part of Horizon's response to comments received from interested parties by the 31 December 2019 deadline.

We have provided a further update in respect of the five matters below. While Horizon is continuing discussions with stakeholders, it must stress that none of these matters require the Secretary of State to undertake further consultation or prevent her from making a determination on the DCO Application.

1. Q.22 Archaeology

As outlined in Horizon's December response, the remaining archaeological issues related to the completion of the existing archaeological works ("**existing works**") and the scheduling of three nationally important archaeological sites. These existing works, which do not form part of the DCO Application, are currently being undertaken by Horizon in accordance with the written schemes of investigations agreed with IACC, GAPS and Cadw in 2015 and 2016. Horizon has confirmed that, to date, it has undertaken the existing works in accordance with these documents and will continue to do so.

However, in order to provide further comfort to stakeholders that Horizon would continue to comply with its existing archaeological commitments and that scheduling was not required, Horizon agreed to seek to enter into a voluntary agreement with IACC to formalise these commitments. Since December 2019, discussions between the parties have been ongoing and an all parties call has been scheduled for 30 January 2020 to seek to reach agreement on the remaining points.

Despite Horizon seeking to enter into this agreement, it is important to note that these works do not form part of the DCO Application and that the requirement to enter into this agreement is entirely voluntary as these works were not consented under any formal planning permission or licence. Given the separation to the DCO Application, this is not a matter which requires additional consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

2. Q.25 Requirement SPC8

As set out at the end of examination, Horizon did not agree that it was necessary to amend Requirement SPC8 either as proposed by the Welsh Government in [REP9-029] or as proposed by the Secretary of State in the October Letter. This was because Horizon did not consider it necessary to require both an Archaeological Written Scheme of Investigation ("**WSI**") and an Archaeological Mitigation Scheme ("**AMS**") for Work No.12 as this was already covered by Requirements SPC7 and SCP8 and was disproportionate to the nature of Works No.12.

However, following further engagement with IACC and the Welsh Government during the consultation period, amendments to Requirement SPC8 have now been agreed. The new Requirement SPC8 is attached as **Appendix 1**. These amendments provide for an WSI and an AMS to be approved prior to commencement of Work No.12, except where works are being undertaken on areas that have already been subject to the existing works. As this matter has

now been agreed, it is therefore does not require further consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.

3. Q.33 Protective Provisions with Network Rail

Throughout examination, Horizon has maintained that the protective provisions sought by Network Rail were out of proportion with the land and interests affected. This was clearly set out in the Outstanding Issues Register submitted at Deadline 8 [REP8-004] and the protective provisions included within the final draft DCO submitted at Deadline 10 [REP10-006] are those that Horizon considers appropriate.

Following close of examination, Horizon has continued to engage with Network Rail and Direct Rail Services ("**DRS**") (as tenant of Network Rail) to reach a separate agreement. The intention was that if agreement could be reached, Horizon and Network Rail would provide the Secretary of State with the agreed protective provisions to be included within the final DCO (if granted).

Discussions between Horizon, Network Rail and DRS are ongoing; although the parties are very close to reaching agreement. However, in the event that agreement cannot be reached, then Horizon considers (and has stated on a number of occasions) that the current protective provisions in the final draft DCO [REP10-006] should be retained as these are appropriate to protect Network Rail's interests.

If the Secretary of State does not agree with Horizon, then she can choose to include the protective provisions sought by Network Rail. This is therefore not a matter which requires further consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

4. Q.34 Outstanding Objections and Agreements

As noted in the December response, Horizon has reached agreement in principle with National Trust and was awaiting receipt of engrossments. National Trust has raised some minor queries on the drafting of the agreement which Horizon is currently considering. It is intended that this agreement will still be finalised and executed in the next few weeks. This is therefore not a matter which requires further consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

5. Q.38 Marine Enforcement Authority (Article 86)

At the end of examination, NRW, IACC and the Welsh Government had reached agreement regarding the enforcement arrangements under the final draft DCO. This was reflected in article 86 of the final draft DCO which no party raised concerns with at the end of examination. For this reason, Horizon was comfortable that article 86 reflected the agreed enforcement arrangements.

However, in response to the request in the October Letter that IACC and the Welsh Government confirm they were content with the drafting, the Welsh Government advised Horizon and IACC that it wished to make minor clarifications to article 86 to make it clear it had all enforcement

powers under Part 8 of the Planning Act 2008. As at the date of Horizon's December response, the Welsh Government had not circulated any proposed amendments to IACC or Horizon.

The amendments proposed by the Welsh Government were circulated to IACC and Horizon on 24 January 2020 and are still under discussion. In the event that agreement cannot be reached, Horizon considers that the current article in the final draft DCO is clear that the Welsh Ministers have the benefit of all enforcement powers under Part 8 of the Planning Act 2008 and so no further amendments are required.

If the Secretary of State does not agree with Horizon, then she can choose to include any amendments that are advanced by the Welsh Government or approve article 86 as is. This is therefore not a matter which requires further consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

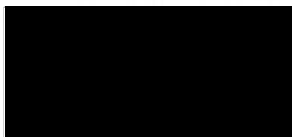
Urgent confirmation requested

Horizon urgently requests that the Secretary of State confirms whether there is any other information which she considers has not been provided to date by Horizon. Horizon has complied with every request for information and has set out its position on any remaining points of disagreement throughout and following the close of examination.

The above matters relate to matters that Horizon was proactively seeking to resolve with stakeholders (as a result of requests in the October Letter). None of these matters raise issues that warrant any further consultation with interested parties, or delay or prevent the determination of the DCO Application.

Additionally, none of the above matters are anywhere near the scale or severity necessary to outweigh or override the clear planning case for the Wylfa Newydd DCO Project and the huge benefits it will bring in terms of delivering the UK Government's decarbonisation agenda and driving economic growth across the regions of the UK.

Yours Sincerely,



Duncan Hawthorne

CEO of Horizon Nuclear Power Wylfa Limited

Appendix 1 – Amended Requirement SPC8

SPC8 Archaeological mitigation scheme and written scheme of investigation

(1) 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.

(2) The archaeological mitigation scheme must:

(a) 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");

(b) Be prepared in general accordance with sections 12 of the Wylfa Newydd CoCP and the Main Power Station Site Sub-CoCP;

(c) Identify works comprised in Work No.12 that may damage an archaeological area ("relevant works");

(d) 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

(e) require written scheme of investigation(s) to be prepared as appropriate for the identified archaeological areas.

(3) 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.

(4) 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):

(a) a plan of the WNDA identifying areas which are known not be an archaeological area ("excluded areas"); and

(b) 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).

(5) 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).

Tîm Prosiect Gorsaf Bŵer Niwclear Wylfa
Newydd
Ysgrifennydd Gwladol dros Fusnes, Ynni a
Strategaeth Ddiwydiannol
d/o yr Arolygiaeth Gynllunio
Eagle Wing 3/18, Temple Quay House
Temple Quay, Bryste
BS1 6PN

wylfa@planninginspectorate.gov.uk

At Sylw Mr Gareth Leigh

28 Ionawr 2020

Annwyl Mr Leigh

Prosiect DCO Wylfa Newydd: Ymateb i Gais yr Ysgrifennydd Gwladol am Ragor o Wybodaeth a Sylwadau

Rwy'n cyfeirio at lythyr yr Ysgrifennydd Gwladol (dyddiedig 24 Ionawr 2020) a oedd yn gofyn am ragor o wybodaeth a sylwadau gan bartïon sydd â diddordeb ar Gais Wylfa Newydd am Orchymyn Cydsyniad Datblygu.

Mae Horizon yn poeni am yr awgrym yn y llythyr bod yr Ysgrifennydd Gwladol yn meddwl bod gwybodaeth heb ei chyflwyno ac, ar ôl ei darparu, y gallai hynny olygu bod angen ymgynghoriad arall. Mae ar Horizon eisiau rhoi gwybod i'r Ysgrifennydd Gwladol unwaith eto ei fod wedi darparu'r holl wybodaeth sydd ei hangen i fynd i'r afael â'r cwestiynau ychwanegol a godwyd gan yr Ysgrifennydd Gwladol yn ei llythyr dyddiedig 23 Hydref 2019 ("**Llythyr mis Hydref**") ac er mwyn gallu cynnal ymgynghoriad llawn a phriodol ac er mwyn gallu penderfynu ar y cais am Orchymyn Cydsyniad Datblygu.

Yn ei ymateb ym mis Rhagfyr 2019, dywedodd Horizon y byddai'n rhoi'r wybodaeth ddiweddaraf i'r Ysgrifennydd Gwladol ym mis Ionawr 2020 ar bum mater a oedd wedi bod yn destun trafodaethau pellach gyda rhanddeiliaid. Roedd y trafodaethau hyn yn ymwneud â:

- cwblhau gwaith archaeolegol a oedd eisoes yn bodoli (ar wahân i'r cais am Orchymyn Cydsyniad Datblygu);
- Gofyniad SPC8 (cynllun ymchwiliad ysgrifenedig archaeolegol ar gyfer paratoi a chlirio'r safle) (cytunwyd ar hyn nawr);
- darpariaethau gwarchodaeth ar gyfer Network Rail;
- gwrthwynebiad yr Ymddiriedolaeth Genedlaethol i'r Cais am Orchymyn Cydsyniad Datblygu; ac
- erthygl 86 (gorfodaeth forol).

Ymgysylltwyd â rhanddeiliaid ynghylch y materion hyn yn ystod y cyfnod ymgynghori diweddar (23 Hydref – 31 Rhagfyr 2019) yn bennaf mewn ymateb i'r ceisiadau yn Llythyr mis Hydref i gael rhagor o sylwadau neu fod y partïon yn dod i gytundeb. Er mwyn rhoi cymaint o amser â phosibl i ddod i gytundeb gyda rhanddeiliaid ar y materion uchod, roedd Horizon yn bwriadu rhoi diweddariad terfynol i'r Ysgrifennydd Gwladol ar gynnydd y trafodaethau hyn fel rhan o ymateb Horizon i sylwadau a gafwyd gan bartïon sydd â diddordeb erbyn dyddiad cau 31 Rhagfyr 2019.

Rydym wedi rhoi diweddariad pellach mewn perthynas â'r pum mater isod. Tra bod Horizon yn parhau i drafod â rhanddeiliaid, mae'n rhaid iddo bwysleisio nad oes dim un o'r materion hyn yn mynnu bod yr Ysgrifennydd Gwladol yn cynnal ymgynghoriad arall nac yn ei hatal rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

1. C.22 Archaeoleg

Fel yr amlinellwyd yn ymateb mis Rhagfyr Horizon, roedd y materion archaeolegol a oedd ar ôl yn ymwneud â chwblhau'r gwaith archaeolegol a oedd eisoes yn bodoli ("**gwaith a oedd eisoes yn bodoli**") a chofrestru tri safle archaeolegol a oedd â phwysigrwydd cenedlaethol. Ar hyn o bryd mae'r gwaith yma, nad yw'n rhan o'r Cais am Orchymyn Cydsyniad Datblygu, yn cael ei wneud gan Horizon yn unol â'r cynlluniau ymchwiliad ysgrifenedig y cytunwyd arnynt gyda Chyngor Sir Ynys Môn, GAPS a Cadw yn 2015 ac yn 2016. Mae Horizon wedi cadarnhau ei fod, hyd yma, wedi gwneud y gwaith sydd eisoes yn bodoli yn unol â'r dogfennau hyn ac y bydd yn parhau i wneud hynny.

Fodd bynnag, er mwyn rhoi rhagor o sicrwydd i randdeiliaid y byddai Horizon yn parhau i gydymffurfio â'i ymrwymadau archaeolegol cyfredol ac nad oedd angen cofrestru, roedd Horizon wedi cytuno i ymrwymo i gytundeb gwirfoddol gyda Chyngor Sir Ynys Môn i ffurfioli'r ymrwymadau hyn. Ers mis Rhagfyr 2019, mae trafodaethau wedi parhau rhwng y partïon ac mae galwad rhwng yr holl bartïon wedi cael ei drefnu ar 30 Ionawr 2020 er mwyn cytuno ar y pwyntiau sydd ar ôl.

Er bod ar Horizon eisiau ymrwymo i'r cytundeb hwn, mae'n bwysig nodi nad yw'r gwaith hwn yn rhan o'r Cais am Orchymyn Cydsyniad Datblygu ac mai cwbl wirfoddol ydy'r gofyniad i ymrwymo i'r cytundeb hwn gan nad oedd cydsyniad i'r gwaith hwn o dan unrhyw drwydded neu ganiatâd cynllunio ffurfiol. Ac ystyried ei fod ar wahân i'r Cais am Orchymyn Cydsyniad Datblygu, nid yw hwn yn fater y mae angen ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

2. C.25 Gofyniad SPC8

Fel y nodwyd ar ddiwedd yr archwiliad, nid oedd Horizon yn cytuno bod angen diwygio Gofyniad SPC8 naill fel y cynigwyd gan Lywodraeth Cymru yn [REP9-029] nac fel y cynigwyd gan yr Ysgrifennydd Gwladol yn Llythyr mis Hydref. Y rheswm am hynny oedd nad oedd Horizon yn credu bod angen mynnu Cynllun Ymchwiliadau Ysgrifenedig Archaeolegol ("**WSI**") a Chynllun Lliniaru Archaeolegol ("**AMS**") ar gyfer Gwaith Rhif 12 gan fod hwn eisoes yn dod o dan Ofynion SPC7 a SCP8 a bod hynny'n anghymesur i natur Gwaith Rhif 12.

Fodd bynnag, yn dilyn rhagor o ymgysylltiad â Chyngor Sir Ynys Môn a Llywodraeth Cymru yn ystod y cyfnod ymgynghori, cytunwyd bellach ar ddiwygiadau i Ofyniad SPC8. Mae'r Gofyniad SPC8 newydd wedi'i atodi yn **Atodiad 1**. Bydd y diwygiadau hyn yn darparu i gymeradwyo WSI ac AMS cyn dechrau Gwaith Rhif 12, ac eithrio pan fydd gwaith yn cael ei wneud ar ardaloedd sydd eisoes wedi bod yn destun y gwaith sydd eisoes yn bodoli. Oherwydd bod y mater hwn wedi cael ei gytuno nawr, nid oes angen cynnal ymgynghoriad pellach ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

3. C.33 Darpariaethau Gwarchodaeth gyda Network Rail

Drwy'r archwiliad, mae Horizon wedi dweud bod y darpariaethau gwarchodaeth a geisid gan Network Rail yn anghymesur i'r tir a'r buddiannau dan sylw. Cafodd hyn ei nodi'n glir yn y Gofrestr Materion sy'n Weddill a gyflwynwyd ar Ddyddiad Cau 8 [REP8-004] a bod Horizon yn credu mai'r darpariaethau gwarchodaeth a oedd wedi'u cynnwys yn y Gorchymyn Cydsyniad Datblygu drafft terfynol a gyflwynwyd ar Ddyddiad Cau 10 [REP10-006] sy'n briodol.

Ar ôl cau'r archwiliad, roedd Horizon wedi parhau i ymgysylltu â Network Rail a Direct Rail Services ("**DRS**") (tenant Network Rail) i ddod i gytundeb ar wahân. Y bwriad oedd pe bai modd dod i gytundeb, y byddai Horizon a Network Rail yn rhoi'r darpariaethau gwarchodaeth y cytunwyd arnynt i'r Ysgrifennydd Gwladol er mwyn eu cynnwys yn y Gorchymyn Cydsyniad Datblygu Terfynol (petai'n cael ei roi).

Mae trafodaethau'n parhau rhwng Horizon, Network Rail a DRS; er bod y partïon yn agos iawn at ddod i gytundeb. Fodd bynnag, os na fydd modd dod i gytundeb, yna mae Horizon yn credu (ac mae wedi dweud hyn droeon) y dylid cadw'r darpariaethau gwarchodaeth cyfredol sydd yn y Gorchymyn Cydsyniad Datblygu drafft terfynol [REP10-006] gan fod y rhain yn briodol i ddiogelu buddiannau Network Rail.

Os nad ydy'r Ysgrifennydd Gwladol yn cytuno â Horizon, gall ddewis cynnwys y darpariaethau gwarchodaeth a geisir gan Network Rail. Nid yw hwn felly'n fater sy'n galw am ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

4. C.34 Gwrthwynebiadau a Chytundebau sy'n Weddill

Fel y nodwyd yn yr ymateb ym mis Rhagfyr, mae Horizon wedi dod i gytundeb mewn egwyddor gyda'r Ymddiriedolaeth Genedlaethol ac mae'n disgwyl cael copïau cymen. Mae'r Ymddiriedolaeth Genedlaethol wedi codi rhai mân ymholiadau ynghylch drafftio'r cytundeb y mae Horizon yn ei ystyried ar hyn o bryd. Bwriedir y bydd fersiwn terfynol y cytundeb hwn ar gael ac yn cael ei weithredu dros yr wythnosau nesaf. Nid yw hwn felly'n fater sy'n galw am ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

5. C.38 Awdurdod Gorfodi Morol (Erthygl 86)

Ar ddiwedd yr archwiliad, roedd Cyfoeth Naturiol Cymru, Cyngor Sir Ynys Môn a Llywodraeth Cymru wedi cytuno ar y trefniadau gorfodi o dan y Gorchymyn Cydsyniad Datblygu drafft terfynol. Cafodd hyn ei adlewyrchu yn erthygl 86 y Gorchymyn Cydsyniad Datblygu drafft terfynol ac nid oedd unrhyw barti wedi codi pryderon ynghylch hynny ar ddiwedd yr archwiliad. O'r herwydd, roedd Horizon yn gyfforddus bod erthygl 86 yn adlewyrchu'r trefniadau gorfodi y cytunwyd arnynt.

Fodd bynnag, mewn ymateb i'r cais yn Llythyr mis Hydref bod Cyngor Sir Ynys Môn a Llywodraeth Cymru yn cadarnhau eu bod yn fodlon ar y drafftio, dywedodd Llywodraeth Cymru wrth Horizon a Chyngor Sir Ynys Môn ei bod yn dymuno gwneud esboniadau bach i erthygl 86 er mwyn egluro bod ganddi'r holl bwerau gorfodi o dan Ran 8 o Ddeddf Cynllunio 2008. Adeg cyflwyno ymateb mis Rhagfyr Horizon, nid oedd Llywodraeth Cymru wedi dosbarthu unrhyw ddiwygiadau arfaethedig i Gyngor Sir Ynys Môn nac i Horizon.

Cafodd y diwygiadau a oedd yn cael eu cynnig gan Lywodraeth Cymru eu dosbarthu i Gyngor Sir Ynys Môn a Horizon ar 24 Ionawr 2020 ac mae'r rhain yn dal i gael eu trafod. Os na fydd modd dod i gytundeb, mae Horizon yn credu bod yr erthygl gyfredol yn y Gorchymyn Cydsyniad Datblygu drafft terfynol yn glir bod Gweinidogion Cymru yn cael budd yr holl bwerau gorfodi o dan Ran 8 o Ddeddf Cynllunio 2008 ac felly nad oes angen rhagor o ddiwygiadau.

Os nad ydy'r Ysgrifennydd Gwladol yn cytuno â Horizon, yna gall ddewis cynnwys unrhyw ddiwygiadau a gyflwynir gan Lywodraeth Cymru neu gymeradwyo erthygl 86 fel y mae. Nid yw hwn felly'n fater sy'n galw am ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

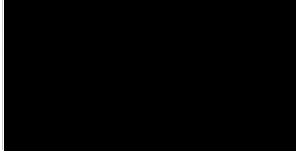
Cais am gadarnhad ar frys

Mae Horizon yn gofyn i'r Ysgrifennydd Gwladol gadarnhau ar frys a oes unrhyw wybodaeth arall mae hi'n credu nad yw wedi cael ei darparu gan Horizon hyd yma. Mae Horizon wedi cydymffurfio â phob cais am wybodaeth ac mae wedi egluro ei sefyllfa ar unrhyw bwyntiau y mae anghytuno yn eu cylch o hyd drwy gydol yr archwiliad ac ar ôl iddo gael ei gwblhau.

Mae'r materion uchod yn ymwneud â materion roedd Horizon yn ceisio eu datrys yn rhagweithiol gyda rhanddeiliaid (o ganlyniad i geisiadau yn Llythyr mis Hydref). Nid oes unrhyw un o'r materion hyn cyfiawnhau unrhyw ymgynghoriad pellach gyda phartion sydd â diddordeb, ac nid yw'n golygu bod angen oedi na rhwystro penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

Ar ben hynny, nid oes unrhyw un o'r materion uchod yn agos at fod yn ddigon mawr neu ddifrifol i ddiystyru'r achos cynllunio clir dros Brosiect DCO Wylfa Newydd a'r manteision enfawr bydd yn eu cyflwyno o ran cyflawni agenda datgarboneiddio Llywodraeth y DU a sicrhau twf economaidd ar draws rhanbarthau'r DU.

Yn gywir,



Duncan Hawthorne

Prif Swyddog Gweithredol Horizon Nuclear Power Wylfa Limited

Atodiad 1 – Gofyniad Diwygiedig SPC8

SPC8 Cynllun lliniaru archaeolegol a chynllun ymchwiliad ysgrifenedig

(1) Yn amodol ar baragraff (4) ni fydd unrhyw ran o Waith Rhif 12 yn cael dechrau ar Ardal Datblygu Wylfa Newydd nes bod cynllun lliniaru archaeolegol wedi cael ei gyflwyno i CSYM a bod CSYM yn ei gymeradwyo drwy ymgynghori â Cadw.

(2) Mae'n rhaid i'r cynllun lliniaru archaeolegol:

(a) Nodi'r ardaloedd hynny o Ardal Datblygu Wylfa Newydd lle ceir olion archaeolegol, adeiladau hanesyddol a thirweddau hanesyddol i'r graddau nad ydy ardaloedd o'r fath wedi cael eu cloddio ("ardaloedd archaeolegol");

(b) Cael ei baratoi yn unol ag adrannau 12 Cod Ymarfer Adeiladu Wylfa Newydd ac Is God Ymarfer Adeiladu Prif Safle'r Orsaf Bŵer;

(c) Nodi'r gwaith yng Ngwaith Rhif12 a allai ddifrodi ardal archaeolegol ("gwaith perthnasol");

(d) Nodi mesurau, prosesau a rheolyddion a fydd yn cael eu dilyn wrth gyflawni'r gwaith perthnasol mewn ardal archaeolegol er mwyn osgoi difrod o'r fath wrth wneud Gwaith Rhif 12; a

(e) mynnu bod cynllun ymchwiliad(au) ysgrifenedig yn cael ei baratoi fel sy'n briodol ar gyfer yr ardaloedd archaeolegol dan sylw.

(3) Rhaid adeiladu Gwaith Rhif 12 yn unol â'r cynllun lliniaru archaeolegol a'r cynllun ymchwiliad ysgrifenedig a gymeradwywyd o dan baragraff (1) a (2)(e) ac mae'n rhaid rhoi unrhyw gynllun ymchwiliad ysgrifenedig ar waith yn llawn fel y cymeradwywyd, oni chymeradwyir fel arall gan CSYM drwy ymgynghori â Cadw.

(4) Caiff Gwaith Rhif 12 ddechrau cyn cymeradwyo'r cynllun lliniaru archaeolegol y cyfeirir ato ym mharagraff (1) pan fydd yr ymgymwrwr wedi cyflwyno i CSYM a bod CSYM wedi cymeradwyo (drwy ymgynghori â Cadw):

(a) cynllun o Ardal Datblygu Wylfa Newydd yn nodi'r ardaloedd y mae'n hysbys nad ydynt yn ardal archaeolegol ("ardaloedd wedi'u heithrio"); a

(b) datganiad yn cadarnhau na fydd dechrau ar yr ardaloedd wedi'u heithrio yn cael effaith niweidiol ar unrhyw ardal archaeolegol a gan roi manylion y gwaith y gellid ei wneud ar yr ardal(oedd) perthnasol sydd wedi'u heithrio.

(5) Ni cheir gwneud unrhyw waith y tu hwnt i'r ardaloedd perthnasol sydd wedi'u heithrio ac mae'n rhaid i'r holl waith fod yn unol â'r datganiad a gymeradwywyd o dan baragraff 4(1)(b).

Appendix 2: Agreed amended article 86

Marine enforcement authority

86. (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:

(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.

(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.

(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

Article 2(1)

Definitions to be revised in article 2(1) of the Order for the purposes of the Order:

"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

"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

Tîm Prosiect Gorsaf Bŵer Niwclear Wylfa
Newydd
Ysgrifennydd Gwladol dros Fusnes, Ynni a
Strategaeth Ddiwydiannol
d/o yr Arolygiaeth Gynllunio
Eagle Wing 3/18, Temple Quay House
Temple Quay, Bryste
BS1 6PN

wylfa@planninginspectorate.gov.uk

At Sylw Mr Gareth Leigh

28 Ionawr 2020

Annwyl Mr Leigh

Prosiect DCO Wylfa Newydd: Ymateb i Gais yr Ysgrifennydd Gwladol am Ragor o Wybodaeth a Sylwadau

Rwy'n cyfeirio at lythyr yr Ysgrifennydd Gwladol (dyddiedig 24 Ionawr 2020) a oedd yn gofyn am ragor o wybodaeth a sylwadau gan bartïon sydd â diddordeb ar Gais Wylfa Newydd am Orchymyn Cydsyniad Datblygu.

Mae Horizon yn poeni am yr awgrym yn y llythyr bod yr Ysgrifennydd Gwladol yn meddwl bod gwybodaeth heb ei chyflwyno ac, ar ôl ei darparu, y gallai hynny olygu bod angen ymgynghoriad arall. Mae ar Horizon eisiau rhoi gwybod i'r Ysgrifennydd Gwladol unwaith eto ei fod wedi darparu'r holl wybodaeth sydd ei hangen i fynd i'r afael â'r cwestiynau ychwanegol a godwyd gan yr Ysgrifennydd Gwladol yn ei llythyr dyddiedig 23 Hydref 2019 ("**Llythyr mis Hydref**") ac er mwyn gallu cynnal ymgynghoriad llawn a phriodol ac er mwyn gallu penderfynu ar y cais am Orchymyn Cydsyniad Datblygu.

Yn ei ymateb ym mis Rhagfyr 2019, dywedodd Horizon y byddai'n rhoi'r wybodaeth ddiweddaraf i'r Ysgrifennydd Gwladol ym mis Ionawr 2020 ar bum mater a oedd wedi bod yn destun trafodaethau pellach gyda rhanddeiliaid. Roedd y trafodaethau hyn yn ymwneud â:

- cwblhau gwaith archaeolegol a oedd eisoes yn bodoli (ar wahân i'r cais am Orchymyn Cydsyniad Datblygu);
- Gofyniad SPC8 (cynllun ymchwiliad ysgrifenedig archaeolegol ar gyfer paratoi a chlirio'r safle) (cytunwyd ar hyn nawr);
- darpariaethau gwarchodaeth ar gyfer Network Rail;
- gwrthwynebiad yr Ymddiriedolaeth Genedlaethol i'r Cais am Orchymyn Cydsyniad Datblygu; ac
- erthygl 86 (gorfodaeth forol).

Ymgysylltwyd â rhanddeiliaid ynghylch y materion hyn yn ystod y cyfnod ymgynghori diweddar (23 Hydref – 31 Rhagfyr 2019) yn bennaf mewn ymateb i'r ceisiadau yn Llythyr mis Hydref i gael rhagor o sylwadau neu fod y partïon yn dod i gytundeb. Er mwyn rhoi cymaint o amser â phosibl i ddod i gytundeb gyda rhanddeiliaid ar y materion uchod, roedd Horizon yn bwriadu rhoi diweddariad terfynol i'r Ysgrifennydd Gwladol ar gynnydd y trafodaethau hyn fel rhan o ymateb Horizon i sylwadau a gafwyd gan bartïon sydd â diddordeb erbyn dyddiad cau 31 Rhagfyr 2019.

Rydym wedi rhoi diweddariad pellach mewn perthynas â'r pum mater isod. Tra bod Horizon yn parhau i drafod â rhanddeiliaid, mae'n rhaid iddo bwysleisio nad oes dim un o'r materion hyn yn mynnu bod yr Ysgrifennydd Gwladol yn cynnal ymgynghoriad arall nac yn ei hatal rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

1. C.22 Archaeoleg

Fel yr amlinellwyd yn ymateb mis Rhagfyr Horizon, roedd y materion archaeolegol a oedd ar ôl yn ymwneud â chwblhau'r gwaith archaeolegol a oedd eisoes yn bodoli ("**gwaith a oedd eisoes yn bodoli**") a chofrestru tri safle archaeolegol a oedd â phwysigrwydd cenedlaethol. Ar hyn o bryd mae'r gwaith yma, nad yw'n rhan o'r Cais am Orchymyn Cydsyniad Datblygu, yn cael ei wneud gan Horizon yn unol â'r cynlluniau ymchwiliad ysgrifenedig y cytunwyd arnynt gyda Chyngor Sir Ynys Môn, GAPS a Cadw yn 2015 ac yn 2016. Mae Horizon wedi cadarnhau ei fod, hyd yma, wedi gwneud y gwaith sydd eisoes yn bodoli yn unol â'r dogfennau hyn ac y bydd yn parhau i wneud hynny.

Fodd bynnag, er mwyn rhoi rhagor o sicrwydd i randdeiliaid y byddai Horizon yn parhau i gydymffurfio â'i ymrwymadau archaeolegol cyfredol ac nad oedd angen cofrestru, roedd Horizon wedi cytuno i ymrwymo i gytundeb gwirfoddol gyda Chyngor Sir Ynys Môn i ffurfioli'r ymrwymadau hyn. Ers mis Rhagfyr 2019, mae trafodaethau wedi parhau rhwng y partïon ac mae galwad rhwng yr holl bartïon wedi cael ei drefnu ar 30 Ionawr 2020 er mwyn cytuno ar y pwyntiau sydd ar ôl.

Er bod ar Horizon eisiau ymrwymo i'r cytundeb hwn, mae'n bwysig nodi nad yw'r gwaith hwn yn rhan o'r Cais am Orchymyn Cydsyniad Datblygu ac mai cwbl wirfoddol ydy'r gofyniad i ymrwymo i'r cytundeb hwn gan nad oedd cydsyniad i'r gwaith hwn o dan unrhyw drwydded neu ganiatâd cynllunio ffurfiol. Ac ystyried ei fod ar wahân i'r Cais am Orchymyn Cydsyniad Datblygu, nid yw hwn yn fater y mae angen ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

2. C.25 Gofyniad SPC8

Fel y nodwyd ar ddiwedd yr archwiliad, nid oedd Horizon yn cytuno bod angen diwygio Gofyniad SPC8 naill fel y cynigwyd gan Lywodraeth Cymru yn [REP9-029] nac fel y cynigwyd gan yr Ysgrifennydd Gwladol yn Llythyr mis Hydref. Y rheswm am hynny oedd nad oedd Horizon yn credu bod angen mynnu Cynllun Ymchwiliadau Ysgrifenedig Archaeolegol ("**WSI**") a Chynllun Lliniaru Archaeolegol ("**AMS**") ar gyfer Gwaith Rhif 12 gan fod hwn eisoes yn dod o dan Ofynion SPC7 a SCP8 a bod hynny'n anghymesur i natur Gwaith Rhif 12.

Fodd bynnag, yn dilyn rhagor o ymgysylltiad â Chyngor Sir Ynys Môn a Llywodraeth Cymru yn ystod y cyfnod ymgynghori, cytunwyd bellach ar ddiwygiadau i Ofyniad SPC8. Mae'r Gofyniad SPC8 newydd wedi'i atodi yn **Atodiad 1**. Bydd y diwygiadau hyn yn darparu i gymeradwyo WSI ac AMS cyn dechrau Gwaith Rhif 12, ac eithrio pan fydd gwaith yn cael ei wneud ar ardaloedd sydd eisoes wedi bod yn destun y gwaith sydd eisoes yn bodoli. Oherwydd bod y mater hwn wedi cael ei gytuno nawr, nid oes angen cynnal ymgynghoriad pellach ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

3. C.33 Darpariaethau Gwarchodaeth gyda Network Rail

Drwy'r archwiliad, mae Horizon wedi dweud bod y darpariaethau gwarchodaeth a geisid gan Network Rail yn anghymesur i'r tir a'r buddiannau dan sylw. Cafodd hyn ei nodi'n glir yn y Gofrestr Materion sy'n Weddill a gyflwynwyd ar Ddyddiad Cau 8 [REP8-004] a bod Horizon yn credu mai'r darpariaethau gwarchodaeth a oedd wedi'u cynnwys yn y Gorchymyn Cydsyniad Datblygu drafft terfynol a gyflwynwyd ar Ddyddiad Cau 10 [REP10-006] sy'n briodol.

Ar ôl cau'r archwiliad, roedd Horizon wedi parhau i ymgysylltu â Network Rail a Direct Rail Services ("**DRS**") (tenant Network Rail) i ddod i gytundeb ar wahân. Y bwriad oedd pe bai modd dod i gytundeb, y byddai Horizon a Network Rail yn rhoi'r darpariaethau gwarchodaeth y cytunwyd arnynt i'r Ysgrifennydd Gwladol er mwyn eu cynnwys yn y Gorchymyn Cydsyniad Datblygu Terfynol (petai'n cael ei roi).

Mae trafodaethau'n parhau rhwng Horizon, Network Rail a DRS; er bod y partïon yn agos iawn at ddod i gytundeb. Fodd bynnag, os na fydd modd dod i gytundeb, yna mae Horizon yn credu (ac mae wedi dweud hyn droeon) y dylid cadw'r darpariaethau gwarchodaeth cyfredol sydd yn y Gorchymyn Cydsyniad Datblygu drafft terfynol [REP10-006] gan fod y rhain yn briodol i ddiogelu buddiannau Network Rail.

Os nad ydy'r Ysgrifennydd Gwladol yn cytuno â Horizon, gall ddewis cynnwys y darpariaethau gwarchodaeth a geisir gan Network Rail. Nid yw hwn felly'n fater sy'n galw am ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

4. C.34 Gwrthwynebiadau a Chytundebau sy'n Weddill

Fel y nodwyd yn yr ymateb ym mis Rhagfyr, mae Horizon wedi dod i gytundeb mewn egwyddor gyda'r Ymddiriedolaeth Genedlaethol ac mae'n disgwyl cael copïau cymen. Mae'r Ymddiriedolaeth Genedlaethol wedi codi rhai mân ymholiadau ynghylch drafftio'r cytundeb y mae Horizon yn ei ystyried ar hyn o bryd. Bwriedir y bydd fersiwn terfynol y cytundeb hwn ar gael ac yn cael ei weithredu dros yr wythnosau nesaf. Nid yw hwn felly'n fater sy'n galw am ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

5. C.38 Awdurdod Gorfodi Morol (Erthygl 86)

Ar ddiwedd yr archwiliad, roedd Cyfoeth Naturiol Cymru, Cyngor Sir Ynys Môn a Llywodraeth Cymru wedi cytuno ar y trefniadau gorfodi o dan y Gorchymyn Cydsyniad Datblygu drafft terfynol. Cafodd hyn ei adlewyrchu yn erthygl 86 y Gorchymyn Cydsyniad Datblygu drafft terfynol ac nid oedd unrhyw barti wedi codi pryderon ynghylch hynny ar ddiwedd yr archwiliad. O'r herwydd, roedd Horizon yn gyfforddus bod erthygl 86 yn adlewyrchu'r trefniadau gorfodi y cytunwyd arnynt.

Fodd bynnag, mewn ymateb i'r cais yn Llythyr mis Hydref bod Cyngor Sir Ynys Môn a Llywodraeth Cymru yn cadarnhau eu bod yn fodlon ar y drafftio, dywedodd Llywodraeth Cymru wrth Horizon a Chyngor Sir Ynys Môn ei bod yn dymuno gwneud esboniadau bach i erthygl 86 er mwyn egluro bod ganddi'r holl bwerau gorfodi o dan Ran 8 o Ddeddf Cynllunio 2008. Adeg cyflwyno ymateb mis Rhagfyr Horizon, nid oedd Llywodraeth Cymru wedi dosbarthu unrhyw ddiwygiadau arfaethedig i Gyngor Sir Ynys Môn nac i Horizon.

Cafodd y diwygiadau a oedd yn cael eu cynnig gan Lywodraeth Cymru eu dosbarthu i Gyngor Sir Ynys Môn a Horizon ar 24 Ionawr 2020 ac mae'r rhain yn dal i gael eu trafod. Os na fydd modd dod i gytundeb, mae Horizon yn credu bod yr erthygl gyfredol yn y Gorchymyn Cydsyniad Datblygu drafft terfynol yn glir bod Gweinidogion Cymru yn cael budd yr holl bwerau gorfodi o dan Ran 8 o Ddeddf Cynllunio 2008 ac felly nad oes angen rhagor o ddiwygiadau.

Os nad ydy'r Ysgrifennydd Gwladol yn cytuno â Horizon, yna gall ddewis cynnwys unrhyw ddiwygiadau a gyflwynir gan Lywodraeth Cymru neu gymeradwyo erthygl 86 fel y mae. Nid yw hwn felly'n fater sy'n galw am ymgynghoriad pellach arno ac nid yw'n rhwystro'r Ysgrifennydd Gwladol rhag penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

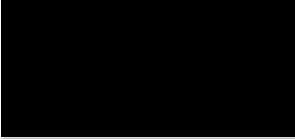
Cais am gadarnhad ar frys

Mae Horizon yn gofyn i'r Ysgrifennydd Gwladol gadarnhau ar frys a oes unrhyw wybodaeth arall mae hi'n credu nad yw wedi cael ei darparu gan Horizon hyd yma. Mae Horizon wedi cydymffurfio â phob cais am wybodaeth ac mae wedi egluro ei sefyllfa ar unrhyw bwyntiau y mae anghytuno yn eu cylch o hyd drwy gydol yr archwiliad ac ar ôl iddo gael ei gwblhau.

Mae'r materion uchod yn ymwneud â materion roedd Horizon yn ceisio eu datrys yn rhagweithiol gyda rhanddeiliaid (o ganlyniad i geisiadau yn Llythyr mis Hydref). Nid oes unrhyw un o'r materion hyn cyfiawnhau unrhyw ymgynghoriad pellach gyda phartion sydd â diddordeb, ac nid yw'n golygu bod angen oedi na rhwystro penderfynu ar y Cais am Orchymyn Cydsyniad Datblygu.

Ar ben hynny, nid oes unrhyw un o'r materion uchod yn agos at fod yn ddigon mawr neu ddifrifol i ddiystyru'r achos cynllunio clir dros Brosiect DCO Wylfa Newydd a'r manteision enfawr bydd yn eu cyflwyno o ran cyflawni agenda datgarboneiddio Llywodraeth y DU a sicrhau twf economaidd ar draws rhanbarthau'r DU.

Yn gywir,



Duncan Hawthorne

Prif Swyddog Gweithredol Horizon Nuclear Power Wylfa Limited

Atodiad 1 – Gofyniad Diwygiedig SPC8

SPC8 Cynllun lliniaru archaeolegol a chynllun ymchwiliad ysgrifenedig

(1) Yn amodol ar baragraff (4) ni fydd unrhyw ran o Waith Rhif 12 yn cael dechrau ar Ardal Datblygu Wylfa Newydd nes bod cynllun lliniaru archaeolegol wedi cael ei gyflwyno i CSYM a bod CSYM yn ei gymeradwyo drwy ymgynghori â Cadw.

(2) Mae'n rhaid i'r cynllun lliniaru archaeolegol:

(a) Nodi'r ardaloedd hynny o Ardal Datblygu Wylfa Newydd lle ceir olion archaeolegol, adeiladau hanesyddol a thirweddau hanesyddol i'r graddau nad ydy ardaloedd o'r fath wedi cael eu cloddio ("ardaloedd archaeolegol");

(b) Cael ei baratoi yn unol ag adrannau 12 Cod Ymarfer Adeiladu Wylfa Newydd ac Is God Ymarfer Adeiladu Prif Safle'r Orsaf Bŵer;

(c) Nodi'r gwaith yng Ngwaith Rhif12 a allai ddifrodi ardal archaeolegol ("gwaith perthnasol");

(d) Nodi mesurau, prosesau a rheolyddion a fydd yn cael eu dilyn wrth gyflawni'r gwaith perthnasol mewn ardal archaeolegol er mwyn osgoi difrod o'r fath wrth wneud Gwaith Rhif 12; a

(e) mynnu bod cynllun ymchwiliad(au) ysgrifenedig yn cael ei baratoi fel sy'n briodol ar gyfer yr ardaloedd archaeolegol dan sylw.

(3) Rhaid adeiladu Gwaith Rhif 12 yn unol â'r cynllun lliniaru archaeolegol a'r cynllun ymchwiliad ysgrifenedig a gymeradwywyd o dan baragraff (1) a (2)(e) ac mae'n rhaid rhoi unrhyw gynllun ymchwiliad ysgrifenedig ar waith yn llawn fel y cymeradwywyd, oni chymeradwyir fel arall gan CSYM drwy ymgynghori â Cadw.

(4) Caiff Gwaith Rhif 12 ddechrau cyn cymeradwyo'r cynllun lliniaru archaeolegol y cyfeirir ato ym mharagraff (1) pan fydd yr ymgwymerwr wedi cyflwyno i CSYM a bod CSYM wedi cymeradwyo (drwy ymgynghori â Cadw):

(a) cynllun o Ardal Datblygu Wylfa Newydd yn nodi'r ardaloedd y mae'n hysbys nad ydynt yn ardal archaeolegol ("ardaloedd wedi'u heithrio"); a

(b) datganiad yn cadarnhau na fydd dechrau ar yr ardaloedd wedi'u heithrio yn cael effaith niweidiol ar unrhyw ardal archaeolegol a gan roi manylion y gwaith y gellid ei wneud ar yr ardal(oedd) perthnasol sydd wedi'u heithrio.

(5) Ni cheir gwneud unrhyw waith y tu hwnt i'r ardaloedd perthnasol sydd wedi'u heithrio ac mae'n rhaid i'r holl waith fod yn unol â'r datganiad a gymeradwywyd o dan baragraff 4(1)(b).

Wylfa Newydd Nuclear Power Station
Project Team
Secretary of State for Business, Energy
and Industrial Strategy
c/o the Planning Inspectorate
Eagle Wing 3/18, Temple Quay House
Temple Quay, Bristol
BS1 6PN

wylfa@planninginspectorate.gov.uk

For the Attention of Mr Gareth Leigh

28 January 2020

Dear Mr Leigh

Wylfa Newydd DCO Project: Response to Secretary of State's Request for Further Information and Comments

I refer to the Secretary of State's letter (dated 24 January 2020) which requested further information and comments from interested parties on the Wylfa Newydd DCO Application.

Horizon is concerned with the implication in the letter that the Secretary of State considers that there is information that is outstanding and which, once provided, could result in the need for further consultation to be undertaken. Horizon wishes to reiterate to the Secretary of State that it has provided all the information necessary to address the additional questions raised by the Secretary of State in her letter of 23 October 2019 ("**October Letter**") and to enable full and proper consultation to be undertaken and for the DCO Application to be determined.

In its December 2019 response, Horizon had stated that it would provide an update to the Secretary of State in January 2020 on five matters which had been the subject of further discussions with stakeholders. These discussions related to:

- the completion of existing archaeological works (separate to the DCO Application);
- Requirement SPC8 (Archaeological written scheme of investigation for site preparation and clearance) (this is now agreed);
- protective provisions for Network Rail;
- National Trust's objection to the DCO Application; and
- article 86 (marine enforcement).

Engagement with stakeholders on these matters was undertaken during the recent consultation period (23 October – 31 December 2019) largely in response to requests in the October Letter for further comments or that the parties reach agreement. In order to give as much time as

possible to reach agreement with stakeholders on the above matters, Horizon intended to provide the Secretary of State with a final update on the progress of these discussions as part of Horizon's response to comments received from interested parties by the 31 December 2019 deadline.

We have provided a further update in respect of the five matters below. While Horizon is continuing discussions with stakeholders, it must stress that none of these matters require the Secretary of State to undertake further consultation or prevent her from making a determination on the DCO Application.

1. Q.22 Archaeology

As outlined in Horizon's December response, the remaining archaeological issues related to the completion of the existing archaeological works ("**existing works**") and the scheduling of three nationally important archaeological sites. These existing works, which do not form part of the DCO Application, are currently being undertaken by Horizon in accordance with the written schemes of investigations agreed with IACC, GAPS and Cadw in 2015 and 2016. Horizon has confirmed that, to date, it has undertaken the existing works in accordance with these documents and will continue to do so.

However, in order to provide further comfort to stakeholders that Horizon would continue to comply with its existing archaeological commitments and that scheduling was not required, Horizon agreed to seek to enter into a voluntary agreement with IACC to formalise these commitments. Since December 2019, discussions between the parties have been ongoing and an all parties call has been scheduled for 30 January 2020 to seek to reach agreement on the remaining points.

Despite Horizon seeking to enter into this agreement, it is important to note that these works do not form part of the DCO Application and that the requirement to enter into this agreement is entirely voluntary as these works were not consented under any formal planning permission or licence. Given the separation to the DCO Application, this is not a matter which requires additional consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

2. Q.25 Requirement SPC8

As set out at the end of examination, Horizon did not agree that it was necessary to amend Requirement SPC8 either as proposed by the Welsh Government in [REP9-029] or as proposed by the Secretary of State in the October Letter. This was because Horizon did not consider it necessary to require both an Archaeological Written Scheme of Investigation ("**WSI**") and an Archaeological Mitigation Scheme ("**AMS**") for Work No.12 as this was already covered by Requirements SPC7 and SCP8 and was disproportionate to the nature of Works No.12.

However, following further engagement with IACC and the Welsh Government during the consultation period, amendments to Requirement SPC8 have now been agreed. The new Requirement SPC8 is attached as **Appendix 1**. These amendments provide for an WSI and an AMS to be approved prior to commencement of Work No.12, except where works are being undertaken on areas that have already been subject to the existing works. As this matter has

now been agreed, it is therefore does not require further consultation to be undertaken or prevent the Secretary of State from making a determination on the DCO Application.

3. Q.33 Protective Provisions with Network Rail

Throughout examination, Horizon has maintained that the protective provisions sought by Network Rail were out of proportion with the land and interests affected. This was clearly set out in the Outstanding Issues Register submitted at Deadline 8 [REP8-004] and the protective provisions included within the final draft DCO submitted at Deadline 10 [REP10-006] are those that Horizon considers appropriate.

Following close of examination, Horizon has continued to engage with Network Rail and Direct Rail Services ("**DRS**") (as tenant of Network Rail) to reach a separate agreement. The intention was that if agreement could be reached, Horizon and Network Rail would provide the Secretary of State with the agreed protective provisions to be included within the final DCO (if granted).

Discussions between Horizon, Network Rail and DRS are ongoing; although the parties are very close to reaching agreement. However, in the event that agreement cannot be reached, then Horizon considers (and has stated on a number of occasions) that the current protective provisions in the final draft DCO [REP10-006] should be retained as these are appropriate to protect Network Rail's interests.

If the Secretary of State does not agree with Horizon, then she can choose to include the protective provisions sought by Network Rail. This is therefore not a matter which requires further consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

4. Q.34 Outstanding Objections and Agreements

As noted in the December response, Horizon has reached agreement in principle with National Trust and was awaiting receipt of engrossments. National Trust has raised some minor queries on the drafting of the agreement which Horizon is currently considering. It is intended that this agreement will still be finalised and executed in the next few weeks. This is therefore not a matter which requires further consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

5. Q.38 Marine Enforcement Authority (Article 86)

At the end of examination, NRW, IACC and the Welsh Government had reached agreement regarding the enforcement arrangements under the final draft DCO. This was reflected in article 86 of the final draft DCO which no party raised concerns with at the end of examination. For this reason, Horizon was comfortable that article 86 reflected the agreed enforcement arrangements.

However, in response to the request in the October Letter that IACC and the Welsh Government confirm they were content with the drafting, the Welsh Government advised Horizon and IACC that it wished to make minor clarifications to article 86 to make it clear it had all enforcement

powers under Part 8 of the Planning Act 2008. As at the date of Horizon's December response, the Welsh Government had not circulated any proposed amendments to IACC or Horizon.

The amendments proposed by the Welsh Government were circulated to IACC and Horizon on 24 January 2020 and are still under discussion. In the event that agreement cannot be reached, Horizon considers that the current article in the final draft DCO is clear that the Welsh Ministers have the benefit of all enforcement powers under Part 8 of the Planning Act 2008 and so no further amendments are required.

If the Secretary of State does not agree with Horizon, then she can choose to include any amendments that are advanced by the Welsh Government or approve article 86 as is. This is therefore not a matter which requires further consultation to be undertaken or prevents the Secretary of State from making a determination on the DCO Application.

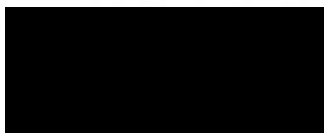
Urgent confirmation requested

Horizon urgently requests that the Secretary of State confirms whether there is any other information which she considers has not been provided to date by Horizon. Horizon has complied with every request for information and has set out its position on any remaining points of disagreement throughout and following the close of examination.

The above matters relate to matters that Horizon was proactively seeking to resolve with stakeholders (as a result of requests in the October Letter). None of these matters raise issues that warrant any further consultation with interested parties, or delay or prevent the determination of the DCO Application.

Additionally, none of the above matters are anywhere near the scale or severity necessary to outweigh or override the clear planning case for the Wylfa Newydd DCO Project and the huge benefits it will bring in terms of delivering the UK Government's decarbonisation agenda and driving economic growth across the regions of the UK.

Yours Sincerely,



Duncan Hawthorne

CEO of Horizon Nuclear Power Wylfa Limited

Appendix 1 – Amended Requirement SPC8

SPC8 Archaeological mitigation scheme and written scheme of investigation

(1) 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.

(2) The archaeological mitigation scheme must:

(a) 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");

(b) Be prepared in general accordance with sections 12 of the Wylfa Newydd CoCP and the Main Power Station Site Sub-CoCP;

(c) Identify works comprised in Work No.12 that may damage an archaeological area ("relevant works");

(d) 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

(e) require written scheme of investigation(s) to be prepared as appropriate for the identified archaeological areas.

(3) 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.

(4) 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):

(a) a plan of the WNDA identifying areas which are known not be an archaeological area ("excluded areas"); and

(b) 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).

(5) 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).