



# Meeting note

<b>File reference</b>	EN010007
<b>Status</b>	<b>Final</b>
<b>Author</b>	Siân Evans
<b>Date</b>	3 October 2017
<b>Meeting with</b>	Horizon Nuclear Power
<b>Venue</b>	Temple Quay House
<b>Attendees</b>	<b>The Planning Inspectorate</b> Chris White (Infrastructure Planning Lead) Kay Sully (Case Manager) Lynne Franklin (Lawyer, Government Legal Department) Siân Evans (Case Officer) Steven Parker (Assistant Case Officer) Hannah Pratt (Senior EIA and Land Rights Advisor) Helen Lancaster (Senior EIA and Land Rights Advisor) Richard Kent (Senior EIA and Land Rights Advisor) <b>Horizon Nuclear Power</b> Alex Herbert Nigel Howarth (Clifford Chance) Viral Desai (Atkins)
<b>Meeting objectives</b>	Wylfa Newydd project update and draft documents review
<b>Circulation</b>	All attendees

## Summary of key points discussed and advice given

### Introduction

Horizon Nuclear Power (the Applicant) and the Planning Inspectorate (the Inspectorate) case team introduced themselves and their respective roles. The Inspectorate outlined its openness policy and ensured those present understood that any issues discussed and advice given would be recorded and placed on the Inspectorate's website under s51 of the Planning Act 2008 (PA2008). Further to this, it was made clear that any advice given did not constitute legal advice upon which the Applicant (or others) can rely.

### Project update

The Applicant stated that they are aiming for submission of their application in Q1 2018. The Inspectorate advised the Applicant to keep the Inspectorate, National Grid and other key stakeholders, advised of any changes to the submission date, due to the impact this may have on submission of the North Wales Connections application and implications for resources of the Inspectorate and stakeholders.

The Inspectorate welcomed sight of the draft documents but queried why particular statutory parties had been passed draft documents for review and others hadn't. The Applicant explained that the documents provided to each statutory party were those that they had stated they wished to review when asked by the Applicant. The Inspectorate advised the Applicant to consider adding justification for this approach in their Consultation Report, and to explain if and how any issues arising from this non-statutory consultation had fed into the development of the application.

The Applicant advised that their Town and Country Planning Act (TCPA) applications for online highway improvements and site preparation works are likely to be submitted to Isle of Anglesey County Council October 2017. They confirmed that even if permission for the site preparation works is granted under TCPA, these works will also be included in the Development Consent Order (DCO) and, if granted, the works will then continue under the PA2008 DCO consent. The Inspectorate advised the Applicant to consider the interplay between the TCPA conditions and the PA2008 requirements, to ensure clarity for statutory parties who may have an interest in the works covered by these applications.

### **Review of draft documents**

The Applicant was advised that the Inspectorate's detailed comments would be provided as annexes to the note of the meeting.

### **Development Consent Order and Explanatory Memorandum**

The Inspectorate noted that the Explanatory Memorandum (EM) states at points that an article "is based broadly" on precedent articles or "substantially follows" the wording of a model provision. The Inspectorate advised that it would be helpful, where the drafting isn't identical, if the Applicant could clarify whether modification of an article changes the effect. The Applicant should also justify how a particular provision is relevant to this particular application.

The Applicant considers that they have provided more explanation than in other submitted EMs that they have seen. The Inspectorate advised that further explanation could reduce the number of questions from statutory parties and the Examining Authority (ExA) during the Examination, and make it clearer to parties as to why certain powers are sought in the DCO.

### **Book of Reference**

The Inspectorate noted that the Book of Reference had been separated into different sections for the main development area and off-site works and that the numbering of plots restarted for each section. The Inspectorate advised that having several plots with the same number could be confusing and recommended a unique number is used for each plot. This could be done by naming the sections A-H so plots would be numbered A1, B1, C1 etc.

### **Plans**

The Inspectorate noted that cuts from sheet to sheet on the Land Plans show similar areas and that some plots are missing their labels on sheets where a plot is not shown in its entirety on one sheet. The Applicant advised that they would look at this.

The Inspectorate advised that the Works Plans lack detail of the individual parts that make up the works. The Applicant stated that parameter plans will be provided with the application which will provide further details of the works.

The Inspectorate enquired whether key plans would be provided for the off-site works which would show the works in proximity to the main site. The Applicant advised that a Development Overview Order Limits plan had been provided which shows all of the sites.

The Inspectorate noted that no Crown land plans had been provided for review. The Applicant stated that this would be provided with the application. The Inspectorate confirmed that Crown land plans should be separate from Special Category land plans.

### **Consultation Report**

The Inspectorate advised the Applicant to ensure the deadline for consultation responses on the Statement of Community Consultation is evidenced in the Consultation Report. Where there are errors with dates on letters sent during the statutory consultation period, this should be fully explained in the Consultation Report.

### **Habitats Regulations Assessment**

The Inspectorate noted that the draft Shadow Habitats Regulations Assessment (HRA) states that the methodology has been discussed and agreed with the Inspectorate. The Inspectorate reminded the Applicant that the methodology could not be agreed with the Inspectorate. The Inspectorate could advise on the methodology but would not want to bind the ExA to this.

The Inspectorate advised that a signposting document would be useful to make clear which effects belong to which consent.

The Inspectorate advised the Applicant to provide evidence to support the assertion that the effects of the decommissioning and construction will be the same.

The Inspectorate advised the Applicant that their in-combination assessment with other plans and projects does not currently comply with the Regulations. The Applicant was advised to consider in-combination effects where there was an insignificant effect on a site.

### **Environmental Statement**

The Inspectorate advised the Applicant to ensure that the parameters set out in the Environmental Statement (ES) are consistent with those in the DCO. The Applicant advised that they were aware that they had some work to do on this.

The Inspectorate advised the Applicant to ensure that the development is assessed on the worst case basis.

The Inspectorate queried how the Applicant intends to ensure the development proposed to reduce potential transport effects (i.e. the logistics centre, park and ride and offline highway improvements) will be secured to allow implementation at the

appropriate time during the construction phase. The Applicant advised that they were aware of this issue and are considering how to proceed..

The Inspectorate advised that it would be helpful to include a route map of mitigation. The Applicant advised that they have looked at examples of this and enquired whether this should be done by theme or chapter. The Inspectorate advised that it could be done either way but to reduce as much duplication as possible. A summary table of mitigation at the end of each chapter of the ES would be helpful.

## **Water Framework Directive**

The Inspectorate advised the Applicant to provide evidence of Article 4.7 derogation with their application to reduce the pressure of preparing this during the Examination phase.

## **Information required in preparation for the submission**

The Inspectorate advised the Applicant to submit a Guide to the Application to help enable all parties navigate the documents and easily see when documents are superseded. A good practice example has recently been added to the website [here](#).

The Inspectorate also advised that for each submission deadline it is helpful for a cover letter to be submitted with the Applicant's documents which can act as an executive summary. This can set out what documents have been submitted, a brief summary of the key issues each document covers, and can signpost parties to the documents that are relevant to them.

The Inspectorate advised that its website now complies with the Welsh Language Standards, so the Wylfa Newydd webpage can now be viewed in Welsh. The Applicant confirmed that their company name did not need to be translated into Welsh.

The Applicant suggested the visitor centre for the existing Wylfa nuclear power station could be used as a venue for the Preliminary Meeting. The Inspectorate advised that if this is owned by the Applicant it may not be suitable as an examination venue.

## **AOB**

The Applicant advised that they have a letter from Natural Resources Wales regarding which permits will not be included in the DCO application. The Inspectorate advised the Applicant to include this as evidence in their Other Consents document which will be submitted with the application.

The Applicant enquired whether their approach to requirements was acceptable. The Inspectorate did not identify any specific concerns at this stage, but advised the Applicant to start working on production of draft Statements of Common Ground with those parties that will be responsible for discharging the requirements..

It was agreed that the next meeting would be held at the end of November 2017.



# The Planning Inspectorate

## Yr Arolygiaeth Gynllunio

### Wylfa Newydd Project – The Planning Inspectorate's comments following the Draft documents review

***September - October 2017***

Annexes:

Annex A - Comments on the draft Environmental Statement

Annex B – comments on the Draft Shadow Habitats Regulations Assessment

Annex C - Comments on the draft Development Consent Order and Explanatory Memorandum

Annex D - Comments on the draft Statements of Reasons, Funding Statement and Book of Reference

Annex E - Comments on the draft plans

Annex F – Comments on the draft Consultation report

These comments relate solely to matters raised by the drafting of the documents, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration of the DCO application documents

## Annex A

### Wylfa Newydd Project: Comments on the Environmental Statement

The draft project description Environmental Statement (ES) chapters have been provided in isolation from the remainder of the ES; therefore, it is acknowledged that some of the matters raised below may already be addressed by the Applicant in other application documents.

Overall, the chapters are well drafted and presented in a logical manner. At this stage, the Planning Inspectorate has not had sight of any figures, but it is noted that the lists of figures within the contents pages are relatively short (with the exception of ES Volume G for the offline highways improvements). The Planning Inspectorate would expect the ES to contain figures which detail the existing environment as well as the locations and scales of the elements of the proposed development (e.g. site layout plans).

**Table 1: ES Parameters and consistency with the Development Consent Order**

The Planning Inspectorate's primary observation is the need for the Applicant to ensure that the ES describes and assesses the development for which consent is being sought, as set out in the draft Development Consent Order (DCO). At all times, it should be clear to the Examining Authority the basis upon which the EIA has been undertaken, for example the parameters and any specific assumptions about phasing and construction methods. If assessments are based upon drawings outside of the ES (e.g. engineering drawings), the ES should confirm that this is the case.

Further specific comments are provided in the table below:

<b>Point no.</b>	<b>Document reference</b>	<b>Extract/summary</b>	<b>Question/Comment</b>
1	Briefing note – paragraph 3.2	Assessments are based on a defined design which is considered to represent the realistic worst case scenario in terms of environmental effects.	The Planning Inspectorate reminds the Applicant to be mindful of the principles established in the Rochdale case law (see also <a href="#">Advice note nine: Rochdale Envelope</a> ). Whilst the realistic worst case approach can be a useful method to explain how the likely built proposals may be less intrusive than the worst case, the EIA should be undertaken in such a way as to ensure the worst case that could be permitted by the draft DCO has been assessed. This is in accordance with our advice previously given in the <a href="#">meeting of 3 May 2017</a> .

2	Briefing note – paragraphs 3.3-3.4	Sensitivity testing is being undertaken to confirm that the worst case would not be materially worse than the realistic worst case.	<p>The Planning Inspectorate notes the proposed sensitivity testing. This approach is conceivable, however the Planning Inspectorate would expect any such testing to be presented within the ES so that readers can be assured that the worst case scenario has been assessed. The Applicant will need to take care to ensure that this does not lead to confusion.</p> <p>Should the Applicant wish to present the realistic worst case within the ES, this should be done alongside, and not in replacement of, the worst case scenario and the ES should present the logic as to why the worst case scenario would not be built out.</p>
3	Design and Access Statement paragraph 8.4.5	<p><i>"Group 1 buildings: Fixed buildings and structures – these are fixed in terms of their location, but they are subject to modest parameters of up to +/- 5m in length and/or width and/or +/- 2m AOD in height.</i></p> <p><i>Group 2 buildings: Moveable buildings and structures – these can move anywhere within the building zone within which they are located. In addition, the buildings/structures themselves are subject to parameters of a maximum of 10m longer and/or wider than the base drawing and/or up to 5m AOD higher."</i></p>	<p>The Applicant should ensure that these limits of deviation are accounted for within the ES. For example, the maximum dimensions of buildings in terms of landscape and visual effects, or the minimum stack height for air quality effects.</p>

4	Document 6.4.1 Paragraph 1.8.5-6	<i>"The total 4,000 bed spaces would be provided over 25 buildings, the majority of which would be four storeys (16.5m high) or five storeys (20m high) (other than four buildings, which would be seven storeys (27m high))."</i>	MS[30] provides for blocks up to 32m high and the heights on the elevation drawings (WN0902-HZDCO-SCA-DRG-00014 and WN0902-HZDCO-SCA-DRG-00015) do not appear to accord with either the ES or draft DCO. The Planning Inspectorate expects the dimensions within all documents to correlate within one another.
5	Document 6.5.1 paragraph 1.4.2-3	<p><i>"...the building dimensions that have been assessed are larger than the dimensions of the parameter approach sought under the requirements in the DCO and therefore, the assessment represents a worst-case scenario"</i></p> <p>Paragraph 1.4.3 sets out the assumptions upon which the assessment is based.</p>	The maximum parameters provided within OPSF[3] of the draft DCO are larger than those in paragraph 1.4.3 (with the exception of the length of the ESL building). The Planning Inspectorate reiterates its previous comments that the ES must reflect what could be built out should consent be granted.
6	Document 6.6.1 Table F1-1	Table F1-1 Building Dimensions	<p>The dimensions of the cycle store provided in Table F1-1 do not accord with the parameters within PR3 of the draft DCO.</p> <p>It is assumed that the 'bus transport facility' used in Table F1-1 is the 'bus terminal building' within PR3 of the draft DCO. The dimensions of this structure stated in Table F1-1 do not accord with those in PR3.</p> <p>The bus shelters detailed in PR3 of the draft DCO are not identified within Table F1-1.</p>

<b>Point no.</b>	<b>Document reference</b>	<b>Extract/summary</b>	<b>Question/Comment</b>
7	Document 6.6.1 Paragraph 1.4.3	<i>"While the parameters are slightly larger than the dimensions assessed in the EIA, the maximum parameters set by the DCO requirements would not result in materially different likely significant environmental effects."</i>	There is no justification to this statement. The Planning Inspectorate reiterates its previous comments that the ES should assess the worst case scenario.
8	Document 6.7.1 Paragraph 1.4.2	<i>"The limits of deviation set by the DCO requirements would not result in materially different likely significant environmental effects"</i>	There is no justification to this statement. The Planning Inspectorate reiterates its previous comments that the ES should assess the worst case scenario.
9	Document 6.8.1 Table H1-1	Building/structure dimensions	Table H1-1 – the maximum dimensions for the office/welfare building and covered inspection bay do not accord with the maximum dimensions in LC3 of the draft DCO. Paragraph 1.4.3 states that <i>"the maximum parameters set by the DCO requirements would not result in materially different likely significant environmental effects"</i> ; the Planning Inspectorate reiterates its previous comments that the ES should assess the worst case scenario.

**Table 2: ES additional comments**

The table below provides comments on matters that the Planning Inspectorate considers could be best addressed during the pre-application process to provide clarity to the documents. These matters could lead to points of interest during the Examination.

<b>Point no.</b>	<b>Document reference</b>	<b>Extract/summary</b>	<b>Question/Comment</b>
<b>Document 6.1.2 ES Volume A – Introduction to the project and approach to the EIA. Chapter A2 – Project overview and introduction to the developments</b>			
1	Paragraph 2.5.1	<i>The main construction phase is anticipated to take approximately seven years, with the first ABWR unit operational in 2025, and the second ABWR unit operational approximately two years later.</i>	The ES should address the potential combined effects of construction and operation taking place concurrently for this time period.
2	Paragraphs 2.5.4-2.57	Provide anticipated construction dates of the park and ride facility, logistics centre and site campus; construction for all would commence in 2019 and last for varying amounts of time	Elements of the proposed development will be delivered and operable over a long time period with activity at different times; this should be reflected within the assessment. If any specific phasing is relied upon in the ES, this must be reflected accordingly within the draft DCO.
<b>Document 6.4.1 ES Volume D – Power Station Main Site. Chapter D1 – Proposed Development</b>			
3	Paragraph 1.1.2	Defines 'Power Station Site' and 'Wylfa Newydd Development Area'	The defined terms are also utilised in Volume A, therefore it may be prudent to define these in Volume A as well/instead of Volume D. In addition, a figure to delineate these two areas would be useful.

4	Paragraph 1.2.1	States that embedded mitigation measures are described in this chapter.	The terminology 'embedded mitigation' has only been used once again in the chapter (paragraph 1.9.21). There are references to 'ecological and related measures' (paragraph 1.6.86); the Code of Construction Practice (CoCP) (paragraphs 1.6.128-131); pollution prevention measures (paragraph 1.6.133); best practice measures (paragraph 1.6.216); and 'measures to reduce the entrapment of marine organisms' (paragraph 1.6.226); however it is not clear which (if any) of these are considered to be embedded mitigation. Given the reference made to embedded mitigation, it would aid in understanding the approach to mitigating effects if a clear distinction is made between embedded and additional mitigation.
5	Paragraph 1.3.1	<i>"A description of the Rochdale Envelope approach is provided in chapter B1".</i>	The Planning Inspectorate does not have a draft version at this stage and is therefore unable to provide comments on this approach.
6	Paragraph 1.3.5	<i>"The EIA is based on the Wylfa Newydd Development Area Power Station Site layout presented in chapter A2 (figure A2-1), and the buildings/structures dimensions presented within the tables contained within this chapter. These dimensions are within the set parameters."</i>	The Planning Inspectorate reiterates its comments made above regarding the need to assess the worst case scenario.

7	n/a	Application site description	As noted in paragraph 2.40 of the Secretary of State's Scoping Opinion (April 2016) the ES should ensure that the project description and the red line boundary are complimentary to one another. The Works Plans identify a larger area of the application site to be used for earthworks to establish landscape mounds. It is advised that clarity is provided within the ES as to the use of all land within the red line boundary; this could be aided through the use of figures.
8	Section 1.6		The buildings/structures are described within the text of this ES chapter as being either 'main plant' or 'common plant and supporting facilities'; some of these buildings/structures are put into the opposite category within Table D1-6 (e.g. the Reserve Ultimate Heat Sink (RUHS), seal pits and garage for mobile emergency vehicles). The Applicant is reminded of the need to ensure consistency within and across application documents.
9	Table D1-6	Identifies a 'ball strainer pit'	This element is not described within the text.
10	Paragraphs 1.6.41 and 1.6.204	Identifies gas storage facilities	These are not detailed in Table D1-6.
11	Paragraph 1.6.80	States that table D1-1 contains the construction zones and platform heights	Table D1-1 is entitled 'Construction working zones and haul routes'. It is expected that the platform heights to be used for the EIA will correspond with those detailed within the draft DCO (e.g. MS[11]).
12	Paragraph 1.6.81	Details mitigation measures to protect the Tre'r Gof SSSI and Cae Gwyn SSSI.	It would be useful for the ES to explain the mechanism that would be used to secure the mitigation measures.

13	Paragraph 1.6.83	<i>"It is proposed that 35 buildings and other structures would be demolished during the early Enabling Works prior to the commencement of the main construction activities. The relevant buildings are listed in table D1-1."</i>	The Planning Inspectorate assumes that the reference to table D1-1 in this paragraph is an error (as table D1-1 is entitled 'Construction working zones and haul routes') and that a suitable table will be included within the final ES detailing which buildings and structures would be demolished.  'Associated development (h)' of the draft DCO (page 55) allows for 'demolition/removal of temporary buildings, amenity buildings'. It should be clear which buildings (in connection with Work No. 3A, 5, 6 and 7) are 'temporary' and which would be demolished.
14	Paragraphs 1.6.89-91	Species management	Are these receptor sites located within the application site boundary and can figures be provided to identify their location? Their use as a receptor site should be secured by a suitable mechanism and it would be useful to describe this mechanism within the ES.
15	Paragraphs 1.6.92-95	Diversion of Nant Porth-y-pistyll	The diversion of Nant Porth-y-pistyll is included within the draft DCO as part of Work no. 12 (Site preparation and clearance works), but it is unclear from the Works Plans where the diversion would be located as Work no. 12 includes other activities which would cover a wider area.  The watercourse diversion should be delineated on a figure within the ES. If the design details and the translocation of water voles described within the ES are required to mitigate potential significant effects arising from these works, these measures should be secured within the draft DCO.

16	Paragraph 1.6.100	<i>"The plant required to construct the Power Station would include three very heavy lift cranes up to 250m high and up to 40 tower cranes up to 86m high."</i>	<p>It is assumed that these are the cranes referred to within MS[14] of the draft DCO. The final column of the table within this requirement refers to 'cranes', therefore there is some ambiguity as to whether numerous cranes up to the maximum specified height could be constructed within each identified zone. It is recommended that the draft DCO is clear as to the number of cranes allowed. It is also noted that the '<i>up to 40 tower cranes up to 86m high</i>' identified in the ES are not referred to within the draft DCO but it is unclear why this is the case.</p> <p>Note also that for construction of the marine facilities, the draft DCO allows for one crane up to 292m high in Zone 7 (MS[10]); however this height is not specified within the ES.</p>
17	Paragraph 1.6.110	<i>"These deep excavation works would use a range of construction methods including rock blasting and mechanical removal techniques."</i>	Do these works constitute development and if so, how will they be authorised?
18	Paragraph 1.6.111	<i>"Rock processing would be undertaken within two areas south-east of the Power Station Site."</i>	It is recommended that the ES identify on a plan the locations where rock processing would be undertaken and to describe what activities this would entail.
19	Figure D1-2		Figure D1-2 appears to be a duplication of Figure A2-7 in Document 6.1.2 ES Volume A Chapter A2. The Planning Inspectorate would advise to minimise duplication where possible. If Figure D1-2 is intended to represent workforce of the main power station site only, it is unclear how this differs from the project as a whole.
20	Paragraphs 1.6.148 and 1.7.3	<i>"A figure of 60% by sea and 40% by road has been adopted when assessing the effect on the road network"</i>	The Planning Inspectorate would expect to see the commitment to be secured via a suitable mechanism.

21	Paragraphs 1.6.162-169	Full operation of the Power Station	A simple diagram could be useful to aid readers in understanding the nuclear process and how the main proposed structures operate together.
21	Paragraph 1.6.194	Types of combustion plant	It would be useful if the heights of the stacks for each of the combustion plant and their location were presented on a figure within the ES. The Applicant may wish to consider incorporating the heights of each of these stacks within the parameters set out in MS[11] of the draft DCO?
22	Paragraphs 1.6.225-232	Cooling water system	The Planning Inspectorate assumes that any design measures of the cooling water intake structures will be secured through MS[25] and/or MS[26] of the draft DCO.
23	Paragraph 1.7.4	<i>"The two berthing platforms would have approximate surface area dimensions of 65m by 30m"</i>	It is unclear if this is the surface area per platform or combined. In addition, the maximum parameters within MS[15] of the draft DCO are 'to extents of Zone 1F-7', which is larger than 65m by 30m and is an area which contains other elements of the MOLF. The parameters within the draft DCO should correspond with those within the ES. The Planning Inspectorate would expect the location of the quay to be refined by the time of the DCO application.
24	Paragraph 1.7.5	The Ro-Ro quay	The ES has provided an approximate length of the Ro-Ro quay wall, but not the width. Similar to the bulk quay, MS[15] of the draft DCO gives maximum parameters 'to extents of Zone 1F-7' therefore the same comment as above applies.
25	Paragraph 1.7.11	<i>"The breakwaters' dimensions are identified in table D1-6."</i>	Table D1-6 provides dimensions of buildings of the site campus. The Planning Inspectorate would expect the dimensions described and assessed within the ES to correspond with those in MS[15] of the draft DCO. MS[19] and MS[20] are also noted and it is assumed these would be merged together as their titles are the same. Will reference to the dimensions of breakwaters in MS[15] be made in MS[19]/MS[20]?
26	Paragraph 1.7.15	Temporary access ramp dimensions	The dimensions of the temporary access ramp within the ES do not correspond with those within MS[15] of the draft DCO.

27	Paragraphs 1.6.47, 1.6.118, 1.6.118 and 1.720-21	Cofferdams	<p>The ES makes a number of references to 'cofferdams' e.g. at paragraphs 1.6.47, 1.6.118, 1.6.118 and 1.720-21. It is assumed that the 'temporary cofferdam' referred to in paragraphs 1.720-22 is the same as the 'inner harbour cofferdam in Porth-y-pistyll' described in paragraph 1.6.122 and as the 'bund cofferdam' detailed within MS[15] of the draft DCO; however this is unclear. If this assumption is correct, it is noted that the dimensions of the temporary cofferdam within the ES do not correspond with the parameters of the bund cofferdam within the draft DCO.</p> <p>It is also unclear from the ES whether the 'intake' and 'outfall' cofferdams are temporary or permanent features and if they are the same as the 'intake structure' referred to elsewhere within the ES. Paragraph 1.6.118 refers to a temporary cofferdam at Porth Wnal and it is unclear to the Planning Inspectorate which cofferdam this is. A clearer description, consistency with the draft DCO and a figure identifying cofferdam locations would assist the reader.</p>
28	Paragraph 1.7.23	<i>"...the outer harbour..."</i>	<p>It is unclear what the 'outer harbour' refers to i.e. if it is within or outside the proposed order limits. It would be useful for the ES to identify the areas to be dredged, as advised in paragraph 2.62 of the Secretary of State's Scoping Opinion (June 2017).</p>
29	Paragraph 1.7.23	Dredging and excavation	<p>MS[15] of the draft DCO states the maximum dredged volume of superficial deposits would be 220,000m<sup>3</sup> however this figure does not appear within the chapters of the ES that have been provided.</p>
30	Paragraph 1.7.25	Shore protection	<p>The ES identifies two locations for shore protection, however MS[15] of the draft DCO only identifies one. As with other elements of the proposed development, the dimensions within the ES do not tally with those in the draft DCO and the Planning Inspectorate would expect to see this rectified.</p>

31	Paragraph 1.7.27	<i>"The worst-case volume for material that could require disposal at sea is approximately 610,000m<sup>3</sup>"</i>	Does the draft DCO (e.g. MS[15]) need to include the maximum volume of dredged material from the intake channel or the berthing pockets?
32	Paragraph 1.7.138	Operational dredging	Does the draft DCO need to identify maximum volumes of dredged material during the operational phase?
33	Paragraphs 1.8.4 and 1.8.16	Site campus landscaping	<p>Could reference be made to the proposed landscaping and site restoration plans (i.e. Drawings WN0902-HZDCO-SCA-DRG-00019 and WN0902-HZDCO-SCA-DRG-00009-00011)?</p> <p>Given the short operational lifespan of the site campus, the Planning Inspectorate will be interested to see what plants are proposed and how the establishment and maturation of planting has been taken into account within the ES.</p>
34	Paragraph 1.8.14	<i>"An extension to the existing Cemaes Welsh Water Treatment Plant, operated by Dŵr Cymru Welsh Water (DCWW), and located to the west of the Site Campus, would treat sewage derived from the Site Campus."</i>	<p>It is unclear whether these works would form part of the authorised development as the Planning Inspectorate is unable to find reference to the works required for the extension to the existing Cemaes Welsh Water Treatment Plant within the draft DCO. If so, details should be provided within both the DCO and in the ES.</p> <p>If works do not form part of the DCO, the Applicant should consider the potential for cumulative effects.</p>
35	n/a	Site campus - figures	A number of draft figures have been provided to the Planning Inspectorate for the site campus, although these do not form part of the ES. The use of similar figures for the ES would be appropriate to enable readers to visualise the site campus.

36	Section 1.9	Other on-site development	<p>Temporary construction areas and compounds are referred to within the draft DCO under 'Other associated development' and are stated to be established 'at each Works site'. Section 1.9 of the ES implies that specific locations have been identified for the main power station site and states that the main site compound has been chosen to minimise noise levels from receptors. The Examining Authority will need to understand the proposed temporary and permanent land uses across the site; therefore the ES should identify the location of site compounds. Given the reliance of their positioning to minimise noise levels, do their locations need to be secured?</p> <p>Section 1.9 details a number of works and measures to minimise potential effects associated with both the construction and operational phases; the Planning Inspectorate would expect to see these secured through an appropriate mechanism.</p>
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#### **Document 6.5.1 ES Volume E – Power Station Off-site Facilities: AECC, ESL and MEEG. Chapter E1 – Project overview and introduction to the developments**

37	Paragraphs 1.3.20-22	Landscaping	Should the proposed landscaping and landscape strategy objectives be secured via OPSF[8]?
38	Paragraphs 1.3.34-38	Drainage	It is currently unclear how the drainage scheme would be secured.
39	Paragraph 1.5.2	<i>"The majority of construction activities would be undertaken within the site footprint..."</i>	The ES infers that construction would be undertaken outside of the DCO application site. It is advised that this wording is clarified.
40	Section 1.6	Mitigation	It is welcomed that the good practice mitigation would be secured via the CoCP documents. The embedded mitigation measures should also be secured via a suitable mechanism.

Document 6.6.1 ES Volume F – Dalar Hir. Chapter F1 – Proposed development			
41	Paragraph 1.1.7	<i>"Following construction of the Power Station, the Park and Ride facility would be removed and the land restored to its existing use (agricultural land)."</i>	The park and ride facility works include a new roundabout. It is unclear whether this would be retained or decommissioned following construction of the power station.
42	Paragraphs 1.3.21-24	Drainage	How will these drainage principles be secured?
43	Paragraph 1.5.2	<i>"It is anticipated that construction of the Park and Ride facility would commence in 2019 and that construction activity on the site would last for approximately 18 months. Construction would be phased in order to most effectively cater for construction workforce ramp up during the period in which the Power Station is being constructed."</i>	If the use of the park and ride facility is intended to mitigate potential transport impacts from construction workers, what guarantees are there for it to be operational by a certain time within the construction programme? The same applies to the off-line highway works and the logistics centre. In regard to the former, it is noted that paragraph 1.5.5 of ES Volume E states that " <i>construction of the Off-site Power Station Facilities would commence following the completion of the A5025 Highway Improvements</i> ".
44	Paragraph 1.5.3	<i>"Construction work on the Park and Ride facility would be limited to 08:00 to 18:00 hours weekdays and 08:00 to 13:00 hours Saturdays"</i>	How will construction hours be secured?
45	Section 1.6	Mitigation	It is welcomed that the good practice mitigation would be secured via the CoCP documents. The embedded mitigation measures should also be secured via a suitable mechanism.

**Document 6.7.1 ES Volume G – A5025 Offline Highways. Chapter G1 – Proposed development**

46	Paragraphs 1.3.3-4	Mitigation	The Planning Inspectorate welcomes that the mitigation measures proposed in paragraph 1.3.3 would be secured through the CoCPs. The measures in paragraph 1.3.4 should also be secured via a suitable mechanism.
47	Paragraph 1.3.18	<i>"The outline drainage design for section 1 is shown on figures G1-1a and G1-1b."</i>	The Planning Inspectorate would expect the drainage designs for the proposed works to be secured within the draft DCO.
48	Paragraphs 1.3.36-40	Boundary treatments and earthworks	The ES chapter makes a number of references to drawings e.g. for boundary treatments and earthworks. Are these to be secured through the draft DCO?
49	Paragraphs 1.3.41-47	Landscaping	Unlike for a number of the other associated development works, the draft DCO does not contain provisions for landscaping of the off-line highway improvements. The Planning Inspectorate would expect to see any landscaping detailed within the ES secured via a suitable mechanism.

50	Paragraph 1.3.56-60	Structures	<p>In addition to the ES identifying the required clear span of any viaduct, overbridge or overpass structures, the location and maximum height of such structures should be provided within the ES. Parameters of such structures should be included within the draft DCO and their locations identified on works plans. (Whilst it is noted that Work no.9 of the draft DCO explains that there will be an elevated viaduct, this does not appear to be identified on the works plan.)</p> <p>Relevant details should be defined with reference to a fixed level either existing ground level AOD or proposed ground level AOD, and should be consistent throughout the ES. Cross section drawings of all off-line highway improvement works would assist in this regard. These details will be particularly important for readers to understand the potential landscape and visual effects.</p> <p>Work no. 10 of the draft DCO refers to an 'associated overpass' for section 5 of the off-line highway improvement works; this is not referred to within the ES description.</p>
51	Paragraph 1.3.62	<i>"There would also be six culverts; three for the bypass and three for access tracks which cross land drains."</i>	The culverts are not included within the authorised development description of the draft DCO. Works should be consistently described in the authorised development and shown on the works plans.
52	Paragraphs 1.5.24, 1.5.36, 1.5.55 and 1.5.75	Reinstatement of land	How will the statement of the land temporarily used during construction be secured?

53	Various	Operational lighting	The draft DCO does not include requirements for controlling operational lighting of the off-line highway improvements. However, it is noted that there are operational lighting requirements for other associated development sites e.g. MS7, OPSF7 and PR5. Is a similar requirement anticipated for the off-line highway improvements?
54	n/a	Project description	It would be useful for the ES to identify the lengths of each section of work (i.e. akin to those provided within the draft DCO).
<b>Document 6.8.1 ES Volume H – Logistics Centre. Chapter G1 – Proposed development</b>			
55	Table H1-1	Building/structure dimensions	The ES should identify the other buildings listed in LC3 of the draft DCO so it is clear what is being assessed.
56	Paragraphs 1.3.12-14	Lighting	As with the off-line highway improvements, the draft DCO does not include requirements for controlling operational lighting specifically at the logistics centre. Is a requirement anticipated for the logistics centre?
57	Paragraph 1.5.4	<i>"It is anticipated that the Logistics Centre would be operational for a period between 2020 and 2030."</i>	It is unclear why the logistics centre would operate until 2030, as this is beyond the construction phase of the Power Station set out in Figure D1-1 of ES Volume D. This should be clarified.
58	Section 1.6	Mitigation	It is welcomed that the embedded and good practice mitigation would be implemented; these should be secured via a suitable mechanism.
59	n/a	Reinstatement	Neither the ES or Work no. 7 of the draft DCO refers to reinstatement of the site further to decommissioning. It should be clear what will happen to the site once operation of the logistics centre ceases.

## Annex B

### Wylfa Newydd Project: comments on the Draft Shadow Habitats Regulations Assessment

These comments relate solely to matters raised by the drafting of the documents, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration of the DCO application documents.

Comments are provided in the table below:

<b>Point No.</b>	<b>Section</b>	<b>Extract from Document</b>	<b>Question/Comment</b>
1	General		The shadow HRA deals with the effects of the works that would be permitted under the Development Consent Order (DCO), the Marine Licence and 3 Environmental Permits. Although the report does try to provide information on which activities would be subject to the Environmental Permit or Marine Licence applications (see paragraph 5.4.13 and Appendices F.4 and G.4), it would benefit from a clearer explanation about which effects are expected to be generated by the works to be consented by the DCO, which would be generated by works that would be covered by both the DCO and the Marine Licence and effects which would be solely generated by activities consented under the Marine Licence and the Environmental Permits.
2	3.1.1	<i>The methodology used for this Shadow HRA has been discussed and agreed with NRW and The Planning Inspectorate.</i>	It should be noted that while the Planning Inspectorate is happy to provide advice on HRA in relation to the examination for the DCO, our participation in the HRA Working Group does not constitute agreement on the approach used for scoping, screening and appropriate assessment.

3	4.7		The section on transboundary scoping includes references to consultation with the statutory nature conservation bodies in Northern Ireland, England and Scotland. Transboundary consultation is usually taken to refer to consultation with other European Economic Area states so it is unclear why Northern Ireland, England and Scotland have been included in this section. The Applicant is advised to include copies of the correspondence in the final version of the HRA.
4	General	<i>The approach adopted herein to screening for LSE for the decommissioning phase has been to consider the identified potential effects for the construction phase (and, in the case of radiological discharge, the operational phase). These potential effects will be replicated (to an extent) in the decommissioning phase and, for each of the screening categories, a set of working assumptions for this phase of the project has been established (table 5.5).</i>	While it is noted that any assessment of decommissioning can only be based on assumptions about the way it will be carried out, given that the lifetime of the project is expected to be around 60 years, is the Applicant satisfied that they have provided enough evidence to support the assumption that the effects of decommissioning will be the same or less than the effects of construction?

5	5.6.1	<p><i>The approach taken to the 'alone' Stage 1 Screening assessment for the Project was deliberately precautionary, in that LSE was concluded where there was any potential pathway for any conceivable effect on an interest feature. As such, it is considered that the European Designated Sites not captured by the 'alone' LSE screening assessment do not have any potential to be affected by the Project alone or in-combination. This approach was discussed with NRW in April 2017 (at an in-combination assessment workshop) intended to make the proposed approach clear. This exercise did not result in any new sites being scoped into the in-combination assessment. Consequently, when other plans and projects were considered in-combination with the Project, no European Designated Sites were included beyond those already included scoped into the 'alone' assessment.</i></p>	<p>The approach to 'in-combination' assessments seems confusing and it isn't clear if it meets the requirements of the Habitats Regulations. As described in paragraph 5.6.1, every European site where effects are possible rather than significant has been screened in for further assessment. This means that when in-combination effects are considered the shadow HRA is effectively considering significant effects alone <b>and</b> in combination, rather than alone <b>or</b> in combination which is what the Habitats Regulations actually require.</p>
6	5.3.15	<p><i>...However of relevance to the HRA, plans and project that have the potential to have a significant effect on the marine environment and on Anglesey were identified and are included and considered in appendix B</i></p>	<p>With regard to the other plans or projects included in the in-combination assessment, paragraph 5.3.15 appears to state that they have been selected on the basis of having a significant effect on the marine environment and on Anglesey. This does not appear to address the possibility that some plans or projects may have insignificant effects which would interact with the effects of the project to cause significant effects. Has the Applicant agreed with the relevant stakeholders which plans or projects should be included in the in-combination assessment?</p>

7	8.4.4	<p><i>It was concluded in section 8.3 A2 for alone effects that airborne noise during construction is highly unlikely to result in any significant effects on grey seal and harbour seal and the European Designated Sites where they are a qualifying feature. Therefore there is no potential for any in-combination effects of airborne noise during construction to adversely affect the integrity of the European Designated Sites in view of their conservation objectives.</i></p>	The approach described in this paragraph and repeated elsewhere in the shadow HRA, appears to suggest that unless likely significant effects have been identified from the Wylfa development or other plans or projects scoped into the assessment, it would not be possible for significant in-combination effects to occur. Again this does not appear to address the possibility that insignificant effects can interact to lead to significant in-combination effects.
8	Table 8-53	<p>In relation to Anglesey Eco Park:</p> <p><i>It is assumed that the potential for any auditory injury would be mitigated. Therefore this is no potential for any in-combination effects to adversely affect the integrity of the site.</i></p>	Reliance on other projects to deliver mitigation and so avoid significant in-combination effects does not appear to be in line with case law. It would be more accurate to say that there is no information available that would allow assessment of the potential in-combination effects and therefore the combined effects of Wylfa and the Anglesey Eco Park. However should the situation change before the end of examination, the Applicant should be prepared to update the in-combination assessments in the HRA.
9	General		There are a number of references in the shadow HRA to points which have been agreed with NRW. It would be helpful if the correspondence/meeting minutes where these points were agreed was included in the final version of the shadow HRA.
10	General		In some cases the shadow HRA cross refers to the chapter of the environmental statement or appendix which contains the evidence that supports the conclusions in the HRA. In a lot of cases however, it doesn't (for instance in Table 5-1 or paragraph 10.3.46) so it isn't clear where the supporting evidence for a statement can be found. The shadow HRA should clearly cross-refer to supporting evidence wherever possible.

11	4.6.27 – 4.6.30	<i>Therefore, no SPAs or Ramsar sites were scoped in for further assessment in the Shadow HRA on the basis of passage wader or wildfowl populations. NRW are satisfied with this conclusion.</i>	Several of the European sites referred to in this section are wholly within England (Ribble and Alt Estuaries SPA for instance) so NRW are not the responsible SNCB. Since NE have apparently said that they do not have any concerns (section 4.7 of the shadow HRA), it would be helpful to refer to their response in this section.
12	Appendix F		The Planning Inspectorate strongly recommends that the screening matrices include an introductory paragraph explaining why some European site features have not been included (eg there is no pathway for effects) and cross referring to the relevant sections of the HRA and/or the ES as relevant.
13	Table 11-1		The Planning Inspectorate welcomes the inclusion of Table 11-1. It would be helpful if Chapter 3 directed the reader to this table so they could easily establish how mitigation has been secured.
14	6.4.18		The thermal standards used to inform the assessment of the effects of temperature increases refers to salmonid species but the remainder of the assessment appears to be specific to Atlantic salmon. It is not explicitly clear how effects on other host salmonid species have been factored into the assessment for freshwater pearl mussel.
15	6.5.54	<i>Data from the Minesto surveys are in the process of being purchased by Horizon to inform the assessment but these were not available in time for incorporation into this version of the Shadow HRA.</i>	Will Chapter 6 of the shadow HRA be updated to incorporate the Minesto survey data?
16	6.5.103	<i>Breeding populations of fulmar, guillemot, puffin and lesser black-backed gull are qualifying features of the Lambay Island SPA.</i>	These aren't the only bird species which are features of the Lambay Island SPA. It would be helpful to make clear here that these are the only features that are within mean maximum foraging distance of the Zones of Influence for the project if that is the reason that these other species have not been included in the shadow HRA.

17	7.4.94	<i>Where the process contribution (PC) (meaning the contribution made by the activity) is less than 1% of the relevant critical level or critical load, the emission is not likely to be significant alone or in combination irrespective of the existing concentrations or deposition rates.</i>	Is the Applicant aware of the ruling in the case Wealden District Council v Secretary of State for Communities and Local Government [2017] EWHC 351? Link to judgement is: <a href="http://www.bailii.org/ew/cases/EWHC/Admin/2017/351.html">http://www.bailii.org/ew/cases/EWHC/Admin/2017/351.html</a>
18	D1		It would be helpful for the reader if the text stated that Esgair Cemlyn is the name of the shingle ridge across the lagoon.
19	8.3.11	<i>Concurrent drilling whereby two drilling rigs may be in operation at the site.</i>	Is there some text missing from this sentence? It doesn't seem to make sense as currently written.
20	9.3.1		Changes in water temperature, siltation and chemistry all appear to be grouped under 'water quality'. Can the Applicant confirm changes in prey availability have been addressed (or provide justification as to why this has not been necessary).
21	10.4.47/ Appendix F	<i>Seabird assemblage of international importance</i>	The qualifying feature for Rathlin Island SPA is listed as a seabird assemblage of international importance in the shadow HRA but on the JNCC website the qualifying features are given as breeding populations of peregrine falcon, razorbill, kittiwake and guillemot with no reference to an assemblage feature. Please can this discrepancy be addressed?
22	Chapter 11		This chapter repeats a lot of information from Chapter 3, including the diagram showing the steps of the HRA process. Is this duplication necessary?

## Annex C

### Wylfa Newydd Project: Comments on the Draft Development Consent Order (DCO) and Explanatory Memorandum (EM)

These comments relate solely to matters raised by the drafting of the documents, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration of the DCO application documents.

Comments are provided in the table below:

General	
1	<p>The Applicant should ensure that when the development consent order (DCO) is finalised all internal references and legal footnotes are checked and that the drafting follows best practice in Advice Note 15 and any guidance on statutory instrument drafting.</p> <p>The Explanatory Memorandum (EM) notes at points that an article "is based broadly" on precedent article or "substantially follows" the wording of a model provision. It would be helpful in these cases (where the drafting isn't identical to the model provision or precedent article) if the Applicant could clarify whether the change is minor and has been made where in the Applicant's view the model provision is unclear or could be improved or does not follow standard statutory instrument drafting practice or has been modified to change the effect of the article.</p>
2	<p>Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO is appropriate will be for the Examining authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.</p>
Article 2 interpretation	
3	<p><i>definition of commencement to exclude various operations:</i> It would be helpful if the EM could explain where authorisation for the operations (i) to( ix) lie in the draft DCO – eg article 75 authorises felling etc of trees – and whether (where they constitute development) any of the works are listed in Schedule 1 and if not how they are authorised. Article 3 grants development consent for the authorised development and it is the carrying out of the authorised development which is</p>

	subject to the requirements. It's noted in the EM that the effect of the "carve out" means that works (i) to (ix) can be carried out without the need to discharge requirements. Could the EM clarify how the drafting of the DCO ensures that the operations/works (i) to (ix) are nonetheless controlled by a requirement to be carried out in accordance with the CoCP.
4	<i>Specific associated development works:</i> It would be helpful if the EM could cross refer to paragraphs [9.20] onwards (article 83) which explains the legal means by which reversion to previous agricultural use will be achieved.

#### **Article 5 Effect of the Order on the site preparation and clearance permission**

5	It would be helpful if the EM could clarify on what statutory basis the provision which makes the planning permission of no further effect is made (with reference to section 120) and confirm whether or not a development consent obligation is needed to prevent implementation of the planning permission. The views of IACC will be important as the LA with the power to enforce the terms of the planning permission and DCO.
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#### **Article 9 Consent to transfer benefit of Order**

6	Article 9 (4) "largely reflects" the approach in Glyn Rhonwy Pumped Storage Generating Station Order 2017 which provides that  (5) The consent of the Secretary of State is not required for a transfer or grant for an agreed period of the benefit of any of the provisions (and any related statutory rights) to another body licensed under section 6(1)(a) of the Electricity Act 1989(a), or formally exempted from requiring such a licence.
7.	It's noted that the Hinkley Point C (Nuclear Generating Station) Order 2013 did not have a similar transfer provision (obviating the need for the Secretary of State's consent in such circumstances). It would be helpful to explain the effect of article 9, which is to limit the class of transferees. This will be a matter for the ExA to examine further before making a recommendation to the Secretary of State.

#### **Article 10 defence to proceedings in relation to statutory nuisance**

8	The Applicant should ensure that the statement prepared in compliance with regulation 5 (2) (f) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 provides sufficient information about mitigation (secured by the CoCP etc) to enable the ExA to consider whether it is appropriate to create this additional defence.
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## **Article 11 power to alter layout etc of streets and Article 13 Application of 1991 Act**

9	General Model Provision 8 (2) provides that:  (2) The authority given by paragraph (1) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.
10	Statutory right is defined in the 1991 Act as "a right (whether expressed as a right, a power or otherwise) conferred by an enactment (whenever passed or made), other than a right exercisable by virtue of a street works licence." It's not clear why article [8] (2) is "no longer" required". Is this amendment made because the Applicant considers that the General Model Provision 8 (2) was unclear/unnecessary?
11	General Model Provision 8 (3) provides that  (3) The provisions of sections 54 to 106 of the 1991 Act apply to any street works carried out under paragraph (1)
12	Sections 54 to 106 of the 1991 Act make provision in relation to notice and co-ordination of works, streets subject to special controls, general requirements as to execution of street works, reinstatement, inspections, charges, fees etc, duties and liabilities, apparatus affected by highway etc works, provisions with respect to particular authorities, powers and various supplementary provisions. It would be helpful if the Applicant could explain further the practical effect of replacing General Model Provision 8 (3) and selecting only certain provisions of Part 3 in Article 13.

## **Article 15 Status of footpaths created or improved**

13	It would be helpful to explain why this article only deals with the status of footpaths etc unlike General Model Provision 10. Is this to improve drafting clarity?
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## **Article 16 temporary stopping up of streets**

14	Notwithstanding the precedent in the Hinkley Point connection DCO, whether or not article 16 of the Wylfa Newydd DCO is appropriate or is too wide will be a matter for the ExA depending on the facts of this particular DCO application (including the impacts of authorising temporary working sites in such circumstances) and taking account of any views expressed by the street authority.
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#### **Article 17 use of private roads for construction**

- 15 It's noted that no made DCO contains this provision and this article may need more explanation. By reference to section 120 and schedule 5 as necessary on what legal power is this article based? It's noted that this power obviates the need to acquire an easement. What then is the legal nature of the "temporary passage" which is created if it isn't an easement? Has the Applicant identified and consulted persons with a right in every private road within the Order limits and are those persons identified in part 1 and/or part 3 of the book of reference? If not, why not?

#### **Article 19 Construction and maintenance of new and altered streets**

- 16 It would be helpful if more clarification could be provided. Article 19 (1) provides that "any street to be constructed" will be maintained for a period of 12 months by the undertaker before responsibility is transferred to the highway authority. Article 19 (3) provides that land not previously part of the public highway is immediately (on completion) deemed to be public highway and therefore maintainable by the highway authority at that point. Is there some overlap with 19 (1)? Would "land not previously part" encompass "any" new streets "to be constructed" and therefore must be maintained by the undertaker for 12 months in accordance with 19 (1)?

#### **Article 21 Traffic regulation measures**

- 17 Section 32 of the Traffic Regulation Act 1984 Act provides local authorities with power to provide off-street parking places and authorise the use of any part of a road as a parking place; Schedule 7 to the Traffic Management Act 2004 provides for enforcement of road traffic contraventions. It would be helpful if the EM could explain further the effect of article 21 (4) and identify the power on which the article is based.

#### **Article 22 discharge of water**

- 18 It would be helpful to have more explanation. Does the damage or interference authorised by 22 (5) create an offence and is the effect of the article to disapply the legal basis for the offence? On which power is the article based?

**Article 27 compulsory acquisition of rights**

- 19 In relation to the proposed modifications to the existing compensation regime it would be helpful if the Applicant could comment on the Secretary of State's decision to remove similar provisions in the National Grid (Hinkley Point C Connection Project) Order 2016.

**Article 29 private rights**

- 20 In relation to 29 (3) (suspension of rights and restrictive covenants during temporary possession) see comments in relation to Article 35 temporary use of land and any implications of the Neighbourhood Planning Act.

**Article 30 Application of 1981 Act**

- 21 If modifications to this General Model Provision have been made to reflect changes brought about by the Housing and Planning Act 2016 it would be helpful if further explanation could be provided about what has been amended and why.

**Article 35 Temporary use of land for carrying out the authorised development**

- 22 It would be helpful if the EM could clarify how the works (article 35 (1)(b) to (d) are authorised (are the permanent works identified as works in schedule 1?) and whether they have been subject to EIA.
- 23 With some exceptions, the substantive provisions in Part 2 Chapter 1 (temporary possession of land) of the Neighbourhood Planning Act are not yet in force and no regulations have been made. The Applicant may wish to consider in due course what, if any, changes might be required to this article when the provisions are effective.

**Article 36 Temporary use of land for maintaining authorised development**

- 24 To assist examination and considering whether the general power is necessary and/or too wide it would be helpful to understand why it has not been possible to identify specific land over which a right of entry may be required for maintenance.
- 25 With some exceptions, the substantive provisions in Part 2 Chapter 1 (temporary possession of land) of the

	Neighbourhood Planning Act are not yet in force and no regulations have been made. The Applicant may wish to consider in due course what, if any, changes might be required to this article when the provisions are effective.
<b>Article 37 statutory undertakers</b>	
25	The Applicant should note that where a representation is made under section 127 of the 2008 Act and has not been withdrawn, the Secretary of State will be unable to authorise article 37 unless satisfied of specified matters set out in section 127 of the Planning Act 2008.
26	The Secretary of State will also be unable to authorise removal or repositioning of apparatus unless satisfied that the extinguishment or removal is necessary for the purpose of carrying out the development to which the order relates in accordance with section 138 of the 2008 Act. The Applicant should provide relevant justification either in the EM or Statement of Reasons.
<b>Articles 43 to 71 marine works</b>	
27	<p>1. These articles haven't been considered in any detail – the views of NRW and Trinity House will be important – but there is nothing to suggest that there is no power underpinning the articles. However, it would be helpful if the Applicant could :</p> <ul style="list-style-type: none"> <li>• If not already provided in the EM, cite the power in the Planning Act 2008 on which the articles rely where such articles do not have a DCO precedent.</li> <li>• Provide further explanation about the effect, if any, of the transfer of functions (for example in relation to harbour orders under the Harbours Act 1964 and to pilotage (under the Pilotage Act 1987) to the Welsh Ministers effected by the Wales Act 2017</li> </ul>
<b>Article 72 removal of human remains</b>	
28	The Applicant should explain why this article is necessary in the circumstances of this particular project.
<b>Article 73 application of landlord and tenant law</b>	
29	The Applicant should explain why this article is necessary in the circumstances of this particular project.

#### **Article 74 operational land for purposes of the 1990 Act**

30	The Applicant should explain why this article is necessary in the circumstances of this particular project and to clarify whether the intention is also to apply the permitted development rights under Class B (harbour undertaking) as well as Class G (electricity undertakers).
31	It would be helpful if the EM could briefly explain the difference between the Town and Country Planning (General Permitted Development) (England) Order 2015 (applying and extending to England only) and the 1995 Order (applying and extending to England and Wales) and why the latter applies.

#### **Article 81 exclusion and modification of local legislation**

32	The power under section 120 (5) (b) to make amendments, repeals or revocations of statutory provisions of local application is subject to the Secretary of State considering that they are necessary or expedient in consequence of a provision of the order or in connection with the order. To assist examination of this article the Applicant may wish to consider providing full justification in relation to each piece of legislation or byelaw, highlighting the purpose of such local legislation and explaining the implications of amendment, repeal etc.
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#### **Article 84 Crown rights**

33	Section 135(1) of the Planning Act 2008 prevents the compulsory acquisition of land held by or on behalf of the Crown in any circumstances, and only enables the compulsory acquisition of land held 'otherwise than by or on behalf of the Crown' if consent is given by the appropriate Crown authority to the acquisition. Section 135(2) precludes a DCO from including any provision affecting Crown land unless the appropriate Crown authority consents.
34	Part 4 of the Book of Reference indicates that no interest in Crown land is to be acquired and does not specify any owners of a Crown interest "which is proposed to be used for the purposes of the Order for which Application is being made". It is not clear therefore why Article 84 (1) is necessary to secure consent for, amongst other things, use of the authorised development on Crown land and why it is necessary under 84 (b) to prevent "exercise of any right under this Order compulsorily to acquire an interest in any land which is Crown land ...without the consent in writing of the appropriate Crown authority".
35	It would be helpful if the Applicant could clarify whether the DCO through articles 2 (interpretation of Order land) and 25 (1) (compulsory acquisition of land) will authorise compulsory acquisition of land held (1) by the Crown and (2) held otherwise than by or on behalf of the Crown. The Applicant should also identify any provisions in the DCO affecting Crown land.
36	Depending on the clarification provided in the context of the above, the ExA may need to see express consent from the

Crown Estate in relation to section 135 (1) (land held otherwise than by the Crown) and section 135 (2) (provisions affecting Crown land) before making a recommendation to the Secretary of State. In the case of Glyn Rhonwy the Secretary of State concluded as follows:

*The Applicant sought the grant of compulsory acquisition powers over two plots of land in which the Ministry of Defence is named as having an interest. The Ministry of Defence had not indicated during the examination whether it had granted consent for the acquisition. The Secretary of State, therefore, sought the Ministry of Defence's indication of whether it had now granted the requisite consent. The Ministry of Defence did not respond to the consultation but the Applicant did, stating that it would not seek the compulsory acquisition of the plots of land in question and asking the Secretary of State to remove the relevant provisions from the draft Order. The Secretary of State has, therefore, made the necessary amendments to the Order*

#### **Article 85 Licences relating to water etc**

- 37 Section 120 (5) provides that a DCO may apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the order. The effect of article 85 is to exclude a statutory provision. It would be helpful if the EM could identify the power on which article 85 is based and clarify why, as a matter of preferred drafting, this article is not described under the heading Disapplication and modification of legislative provisions. As noted above in relation to article 81, to assist examination of article 85 it would be helpful if the Applicant could explain the purpose of section 25 of the Water Resources Act 1991 and explain the implications of excluding the requirement to obtain a licence.

#### **Schedule 1**

- 38 The key drafting principle here is that it should be clear what is being authorised and there should be no inconsistencies between development descriptions in the DCO and any other documents, including the ES and works plans.

#### **Schedule 3 Requirements**

- 39 This hasn't been considered in any detail. The Applicant should consider the guidance in Advice Note 15 Drafting Development Consent Orders, including the following:
- 17.1 Section 120 of the PA 2008 provides that a DCO may impose requirements in connection with the development for which consent is granted. Such requirements may correspond with conditions which could have been imposed on the grant of any permission, consent or authorisation which would have been required for the development.*

*17.2 It is likely that the law and policy relating to planning conditions, imposed on planning permissions under the Town and Country Planning Act 1990 (the TCPA 1990), will generally apply when considering requirements to be imposed in a DCO in relation to the terrestrial elements of a proposed NSIP. Requirements should therefore be precise and enforceable, necessary, relevant to the development and reasonable in all other respects.*

**19. Providing flexibility – approving and varying final details**

*19.1 When preparing the draft DCO, applicants will need to consider carefully which aspects of the proposed development can suitably be left for approval at a later stage by the local planning authority (LPA) and which aspects can or should be fixed by the terms of the DCO. Paragraph 82 of the DCLG pre-application Guidance advises that a requirement may be proposed which allows details of "particular finalised aspects" of a development to be submitted later to the LPA or another body for approval in writing.*

*19.2 In relation to matters that are fixed by the terms of the DCO, changes to a DCO can only be authorised in the prescribed way under section 153 of and schedule 6 to the PA 2008. Furthermore, it is not considered acceptable to circumvent the prescribed process in schedule 6 by seeking to provide another route to approving such changes or variations, by a person other than the Secretary of State who made the DCO, for example by applying the provisions of section 73 and/or section 96A of the TCPA 1990.*

*19.3 Therefore, adding a tailpiece such as the one below would not be acceptable because it might allow the LPA to approve a change to the scope of the authorised development which had been applied for and examined and circumvent the statutory process:*

*The authorised development must be carried out in accordance with the principles set out in application document [x] [within the Order limits] unless otherwise approved in writing"*

*19.4 On the other hand, a requirement might make the development consent conditional on the LPA approving detailed aspects of the development in advance (for example, the details of a landscaping scheme). Where the LPA (or other discharging body) is given power to approve such details it will be acceptable to allow that body to approve a change to details that they had already approved. However, the tailpiece (or other wording) should not allow the LPA to approve details which stray outside the parameters set for the development as part of the examination process and subsequent approval of the Secretary of State.*

**Good Practice:**

*If a requirement imposes an obligation on the applicant to seek approval of final details in a scheme, the tailpiece should not be drafted in a way which allows the LPA to dispense with the need for a scheme altogether. Neither should the tailpiece enable the LPA to vary the scheme in writing such that the scheme then departs from the principles fixed by the application.*

## **Work no.5 Off-site power station facilities**

40	The Work No. contains limited details as to what the off-site power station facilities would comprise. When compared to (for example) Work no.6 or 7 which refer to buildings, parking, drainage, restoration etc. With few details within the DCO, there is limited confidence that the ES has correctly assessed what could be built. The Applicant may wish to include further detail in the description of works
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## **Construction method statement MS[2](2) and (3)**

41	Should this read that any revisions to the construction method statement should be submitted to 'and agreed with' the relevant planning authority
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## **Landscaping MS[6]/ MS[35]/ EW[2]/ OSF[8]/ PR6/ LC2**

42	The draft DCO allows for permanent landscaping schemes to be submitted for approval at a later date. Any details of permanent landscaping which are relied upon within the ES should be accommodated within the plans/documents listed in MS[6](2)/MS[35](2)/EW[2](2)/OSF[8](2)/PR6(2)/LC6(2).
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## **Power station parameters MS[11]**

43	The Planning Inspectorate assumes that the maximum height in column 6 is the height above platform level, as the maximum height AOD is provided in the final column. This should be clarified.
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## **Decommissioning and restoration works MS[36]**

44	Drawings WN0902-HZDCO-SCA-DRG-00009, WN0902-HZDCO-SCA-DRG-00010 and WN0902-HZDCO-SCA-DRG-00011 are restoration plans for the site campus. Should these drawings be referred to within the draft DCO requirement so that it is clear what is expected following decommissioning?  If there are any other principles/assumptions within the ES, these should also be carried through to the decommissioning plan and this should be allowed for within the wording of the requirement (for example paragraph 2.4.2 of Document 6.1.2 ES Volume A Chapter A2 states that the "area [would be] returned to its pre-developed condition").  It is also noted that the May 2017 Scoping Report addendum referred to a Landscape Environmental Management Plan
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(LEMP) to provide details of decommissioning; however no such reference has been made within the draft DCO. Will a LEMP be referenced in the draft DCO?

The above comment also applies to PR7. It is noted that paragraph 2.4.11 of Document 6.1.2 ES Volume A Chapter A2 states the "Park and Ride facility would be removed and the land restored to its existing use (agricultural land). The existing hedge line and proposed new hedge line to the west of the site, along with tree and shrub planting, using native species, on the southern boundary would be retained as a legacy benefit" (however, no restoration plans have been provided within the draft documents).

It is also noted that there is currently no comparable requirement for the logistics centre. Paragraph 2.4.11 of Document 6.1.2 ES Volume A Chapter A2 states that "Following construction of the Power Station, the site would be available for another use subject to necessary consents being secured". If the EIA has assumed that the logistics centre would only be present for the construction of the power station, this should be reflected within the draft DCO requirements.

#### **Detailed drawings and off-site power station facilities parameters OPSF[2] and OPSF[3]**

45 OPSF[2] states that the off-site power station facilities site must be carried out in accordance with approved detailed drawings. It is assumed that the detailed drawings would be submitted with the DCO application; however this is not stated within the final column of the table. If they are not to be provided with the DCO application, there should be some link to the maximum parameters within requirement OPSF[2]. Either way, the parameters of the detailed drawings must be within the envelope described and assessed in the ES.

OPSF[3] states that if the off-site power station facilities are not carried out in accordance with approved detailed drawings, it must be built in accordance with the parameters stated in OPSF[3]. The Applicant should be mindful of the potential for an Examining Authority to confine development to just one approach.

The same comment applies to LC3 and LC4.

#### **PR[6] (Permanent Landscape Works) and LC6**

46 Note that there are currently two PR6 requirements.

Some of the landscaping is proposed to be retained as 'legacy' benefits post decommissioning of these works. The lifespans of the park and ride facility and logistics centre are short when compared to the remainder of the proposed development. The Planning Inspectorate recommends that thought be given to implementing a landscape scheme as early

as possible, potentially prior to construction commencing so that foliage can mature and establish to provide effective mitigation during the operation of these works. The Applicant should ensure that these temporal aspects are considered within the ES, for example making it clear by when mitigation would be effective and any assumptions made.

The May 2017 Scoping Report addendum notes that the LEMP would cover the park and ride facility and logistics centre; previous comments regarding the LEMP are therefore also applicable here.

#### **Code of Construction Practise, Code of Operational Practise and sub-CoCPs and sub-CoOPs**

- 47 The proposed CoCP, Code of Operational Practise (CoOP) and sub-CoCPs and sub-CoOPs are welcomed. These documents are stated to be certified and finalised. Therefore it is unclear why the draft DCO currently is drafted to enable approval by the relevant planning authority. Irrespective of this, it is recommended that their content is agreed with the IoACC during the pre-application stage. The Applicant may wish to consider whether any other statutory consultees should be involved in the sign off of these documents. The Applicant is advised to undertake a thorough cross check of mitigation within the ES and the proposed documents. The same applies for the Habitat Management Strategy and other strategies identified within the draft DCO which are relied upon to mitigate potentially significant effects.

## Annex D

### Wylfa Newydd Project: Comments on draft Statement of Reasons (SoR), Funding Statement (FS) and Book of Reference (BoR)

These comments relate solely to matters raised by the drafting of the documents, and not the merits of the proposal.

They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration of the DCO application documents.

Comments are provided in the table below:

<i>Point no.</i>	<i>Statement of Reasons Extract / reference</i>	<i>Question/Comment</i>
1	General	Ensure that all references to paragraphs and other application documents are consistent, as well as the relevant DCO Articles. Appendices not included in the draft SoR.
2	Para 3.1.1 and others	Definition of watercourses are not included here as per Article 2 of DCO; should it be assumed that this is not considered necessary to list under 'Particular definition to note'?
3	Para 3.1.1 - 3.3.4	Explains the separate site preparation and clearance permission that Horizon is seeking under the Town and Country Planning Act 1990; however if permission is not granted is included in work no 12 consider whether this is clear enough?
4	Para 5.4.22	Reference to Schedule 1 of the DCO and the Works Plans – detailed works required for the project.

5	Para 7	Well-presented information on the scope and purpose of compulsory acquisition and temporary possession powers.
6	Para 7.2.11	Reference to the tribunal for resolving dispute is normally not referred to like this. Consider using terminology used in 10.6.6.
7	Para 8	Description of the Order land; noted that it is clear more information will be added to the document such as flowcharts, plans etc.
8	Para 9	Acquisition strategy is explained, with reference to the engagement with landowners and those with interest in land during the consultation period. Para 9.1.6 states that the Consultation Report provides further information. Will need to be cross-referenced.
9	Para 9.2	How does this paragraph tally up with the BoR. If it has agreements in place, why does Horizon need to compulsorily acquire this land (Dalar Hir and Park Cybi).
10	Para 10	Justification and reference to the DCLG Guidance: Planning Act 2008: Guidance related to procedures for compulsory acquisition of land (September 2013).
11	General	The Statement of Reasons does not address the plot of land in BoR A5025 offline highways section 1 – plot 6 (Special category land subject to parliamentary procedure).
12	Para 11.2.1 and 11.2.2	Comments in the draft DCO section above deal with the Crown land articles. Paragraphs 11.2.1 and 11.2.2 of the SoR state briefly that compulsory acquisition of Crown land (held by, held otherwise by?) is not proposed. Further clarification should be provided in relation to Crown land article 84 (and any other provisions which affect Crown land) and the necessity or otherwise of obtaining Crown Estate consent before the DCO is made

13		Comments in the draft DCO section above relate to article 37 statutory undertakers. Acquisition of statutory undertaker land/interference with apparatus is subject to the provisions of sections 127 and 138. Further justification should be provided in relation to this in the EM or SoR.
Point no.	Funding Statement Extract / reference	Question/Comment
1	Para 1.1.1	Suggest deleting date in the name of the DCO. Currently it says Order [2018]. Good practice suggest either using reference to Title of documents as "Development Consent Order 20[]" and within the content of the document referencing as the "Development Consent Order".
2	Para 2.1	Consider whether a diagram of The Horizon Group would be useful here.
3	Para 2.2.2	The Applicant states: 'The majority of the land within the Wylfa NPS Site is already under the ownership or control of Horizon'. Consider if more detailed information is required here.
4	Para 2.3.1	Reference to Annex 1: copy of the consolidated accounts for Hitachi, Horizon's ultimate parent company. Not included.
5	Para 3.1	Compulsory Purchase is mentioned on occasions when compulsory acquisition should be used in the context of the PA2008.

<b>Point no.</b>	<b>Book of Reference Extract / Reference</b>	<b>Question/Comment</b>
1	General	Restarting the book of reference for each sub book of reference will likely cause confusion during the examination as there will be several plots with the same plot number; A different approach is recommended.
2	General	The use of the column Interests/Right to be acquired could benefit from a footnote explaining what the purpose is or where the clarification can be found.
3	General	Would it be possible to list all rights under each category 2 owner rather than repeating the owner again? It would make the BoR easier to navigate.
4	General	The BoR lists people living at the same address jointly; affected persons/category three persons needs to be listed individually and not together.
5	General	The Applicant is advised to review its s44 consultee list against the BoR to ensure that all parties listed as s44 consultees are listed with the correct address in the book of reference and that all parties are listed individually.
6	Main Site - Part 2, Dala Hir – Part 2 and Parc Cybi – Part 2	Does not contain any category 3 people. This should be justified in the application.

7 General

If possible, could all rights be listed under the owner ones rather than repeating the address and the new right? It would make the document easier to navigate.

## **Annex E**

### **Wylfa Newydd Project: Comments on the draft works and land plans**

These comments relate solely to matters raised by the drafting of the documents, and not the merits of the proposal.

They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration of the DCO application documents.

Comments are provided in the table below:

<b><i>Point no.</i></b>	<b><i>Extract / reference</i></b>	<b><i>Question/Comment</i></b>
1	General	Works outside of the main development area (Wylfa Newydd Development Area) have their own sections in the book of reference. This leads to there being numerous plots within the Book of Reference (BoR) that are numbered the same. It is obvious which entries in the BoR relate to plots on the land plans, though this approach isn't considered the usual approach to labelling plots.
2	General	The plans for the land and works outside of the main development area do not appear to have a key plan.
3	General	Plan WN0902-HZDCO-LPN-DRG-00006 is labelled incorrectly as WN0902-HZDCO-LPN-DRG-00005 (two copies of 00005 have been submitted but are completely different)

4	General	Although it is obvious where the Red Line Boundary (RLB) is located, it would be helpful if it could be a darker shade of red (currently a similar shade to class 1 (pink)).
5	General	Whilst this is not mandatory, cut lines on plans to show continuation would be helpful (such as on Keuper project).
6	Works Plans	While works in the Development Consent Order (DCO) can be identified on the submitted works plans, they do not go into detail of the individual parts that make up the work (such as buildings, cooling towers etc). It maybe that this information is covered in other plans not submitted at this stage.
7	Land plans	Cuts from sheet to sheet show similar areas. Some plots are missing their labels on sheets, where a plot is not shown in its entirety on one sheet.  An example of this is for plots 15 and 20. These plots appear on Land plan sheets 1 and 2 but the labels identifying the plots don't appear on sheet 2.  Another example of this is for plot 60 – this is labelled on sheet 2 but not on sheet 1.  While these two are just examples, this approach is used through the plans submitted. This makes reading plans more complicated (multiple sheets may be required to view one plot) and leads to confusion as labels may only appear on one sheet and not the other where plots are shown on more than one sheet.
8	Land plans	The use of white colouration for class 6 land (Land not subject to powers of acquisition) is unclear. While it is possible to identify these plots (they are within the RLB and will have a label on at least one of the sheets, the same colouration is also used for land which is outside the scope of this Project

9	Land plans	<p>Ownership of class 6 land can be by various parties, including the Crown Estate, the developer and others. Crown land should be clearly labelled (where applicable, a plan with any accompanying information identifying any Crown land – 5(2)(n) The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009).</p> <p>This land is identified in part 4 of the BoR (plots 60 &amp; 115 – 117) but no exclusive plan appears to have been submitted for this, and the land class is shared with land under other ownership.</p>
10	Land plans	There are areas that have no plot numbers that lie completely surrounded by land required for the development – such as the land within plot 63. Should this land not have a plot number (class 6)?
11	Land plans	Boundary line between plots 98 and 100 is unclear.
12	Land plans	Does plot 57 (sheet 1) encompass both parts (Trapezoidal & Triangular areas) in one plot (it's unclear if the two areas are joined or not). Size in m <sup>2</sup> suggests that it is all part of the same plot.
13	Land plans	Label for plot 104 appears to identify plot 102 – if this is not the case, there may be an unlabelled plot to the left of plot 123.

## **Annex F**

### **Wylfa Newydd Project: Comments on the draft consultation report**

These comments relate solely to matters raised by the drafting of the documents, and not the merits of the proposal.

They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration of the DCO application documents.

Comments are provided in the table below

<b><i>Point no.</i></b>	<b><i>Extract / reference</i></b>	<b><i>Question/Comment</i></b>
1	General	Applicant to ensure where there are errors with dates on letters sent during the statutory consultation period, this should be fully explained in the Consultation Report.
2	Para 5.1.11	Clarification is needed in the report to why the PAC2 consultation ends on 25 October 2016 but that responses would be taken into account until the 16 November 2016.
3	Paras 3.4.23 and 6.3.3	Clarity required on when the 28 day deadline for the formal SoCC consultation is needed in the report (paras 3.4.23 and 6.3.3 states it gave the LA 28 days to respond). The Applicant might want to state in the text the deadline given and provide copies of the letter.
4	General	The Applicant is advised to review the report to ensure that all omitted information has been included in the final version.

5	General	Whilst it is expected these will be provided with the final report, it is noted that the draft consultation report doesn't contain copies of the letters sent to the s42 consultees.
6	Appendix: Sample of Feedback from Stage One Pre-Application Consultation	<p>The Applicant might want to review the naming of this appendix so it is in line with the others listed in the Consultation Report.</p> <p>Suggest the table in relation to sample of feedback from 'Stage One Pre-Application Consultation' is cross referenced to a schedule of 'changes to the application', or something similar to easily identify what those changes were.</p> <p>It would be useful if the Applicant identifies which approach it intends on taking regarding the tables and provide the same approach throughout the final report.</p>