

**From:** Pete Sulley [<mailto:Pete.Sulley@bartonwillmore.co.uk>]  
**Sent:** 13 November 2014 18:11  
**To:** Hirwaun  
**Cc:** Rachel Cole ([Rachel.Cole@hsgplc.co.uk](mailto:Rachel.Cole@hsgplc.co.uk))  
**Subject:** EN010059 - Hirwaun Power Station  
**Importance:** High

Iwan/Louise,

Please see below Tower Regeneration Limited's (TRL) response to Question CA2-02 of the Examining Authority's second round of written questions.

It is understood that Hirwaun Power Limited has already submitted a response, contained within the email below from Robin Hutchison to Rachel Cole. You will therefore note the revisions that TRL requested to be made for the below statement to comprise a fuller response and constitute a 'Joint Statement of Common Ground' between the two parties. However, as the HPL response has already been submitted, please accept the below revised version as TRL's position. The email from myself to Robin Hutchison below explains the revisions made.

We trust that this is acceptable but please do not hesitate to contact me should you require any further clarification.

Regards / Cofion

**Pete Sulley**  
Associate

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**From:** Pete Sulley  
**Sent:** 13 November 2014 17:05  
**To:** 'robin.hutchison@pinsentmasons.com'  
**Cc:** Rachel Cole ([Rachel.Cole@hsgplc.co.uk](mailto:Rachel.Cole@hsgplc.co.uk)); 'sharvey@stagenenergy.com'; 'richard.griffiths@pinsentmasons.com'  
**Subject:** FW: HPL Answer CA2-02 [PM-AC.FID1137814]  
**Importance:** High

Robin,

Rachel has forwarded me your draft text below.

Please see additional text from TRL in [blue](#) and deleted text ~~struckthrough~~—I have also provided text **highlighted in red** explaining the rationale for the deleted text, which is obviously to be deleted before submission to PINS.

I have also picked up a minor typo (interference) at the start of Point 2, identified in [blue](#).

Once these revisions are made TRL is happy for this statement to be submitted to PINS.

Thanks very much.

Regards / Cofion

**Pete Sulley**

Associate

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**From:** Rachel Cole [<mailto:Rachel.Cole@hsgplc.co.uk>]

**Sent:** 13 November 2014 12:59

**To:** Pete Sulley

**Subject:** Fwd: HPL Answer CA2-02 [PM-AC.FID1137814]

Thanks

Rachel

Sent from my iPhone

Begin forwarded message:

**From:** HUTCHISON Robin <[Robin.Hutchison@pinsentmasons.com](mailto:Robin.Hutchison@pinsentmasons.com)>

**Date:** 13 November 2014 12:56:27 GMT

**To:** "[Rachel.Cole@hsgplc.co.uk](mailto:Rachel.Cole@hsgplc.co.uk)" <[Rachel.Cole@hsgplc.co.uk](mailto:Rachel.Cole@hsgplc.co.uk)>

**Cc:** Susannah Harvey <[sharvey@stagenenergy.com](mailto:sharvey@stagenenergy.com)>, GRIFFITHS Richard <[Richard.Griffiths@pinsentmasons.com](mailto:Richard.Griffiths@pinsentmasons.com)>

**Subject:** HPL Answer CA2-02 [PM-AC.FID1137814]

Rachel – I attach below the text of HPL's answer to CA2-02 of the Examining Authority's second written questions which is due to be submitted today.

Kind regards

Robin

Robin Hutchison  
Senior Associate  
for Pinsent Masons LLP

D: +44 20 7418 8276 M: +44 7909 894 399 Ext: 818276

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1. As set out in the Applicant's response to the Examining Authority's first written questions CA09 and CA16 and the issue specific hearing on Compulsory Acquisition, TRL had submitted an application under section 73 of the Town and Country Planning Act 1990 (ref 13/0859/15) (the "S73 Application") to amend the area where the excavation of minerals is permitted under permission ref APP/L6940/A/14/2212351 (the permission under which the mining operations are currently being carried out) to allow extraction to be carried out in respect of plots numbered 10\_GR, 10a\_GR, 11\_GR and 11a\_GR. The S73 Application was refused by RCTCBC on 28 October 2014. The reason for refusal relates to the presence of the high pressure gas main (into which the AGI would connect) and, more specifically, the lack of proposals to divert and protect the main or any assessment of such proposals. RCTCBC accepted that the proposed extension was acceptable in all other aspects and that the lack of environmental information was the only reason for refusal. The proposed relocation of the pipeline must be outside the ownership and control of TRL. Further, the route of any relocated pipeline is unknown at present as this is within the control of the statutory undertaker. As such it is the responsibility of the statutory undertaker to provide such environmental information. Therefore, the Applicant can confirm that it will not be interfering with any rights of Tower to excavate minerals. This is not correct. No 'rights' have been lost. Planning permission has been refused, and this can be appealed, up to 28th April 2015. At present, an appeal can progress with the sole 'obstacle' being the refusal of planning permission, and it is clear that RCTCBC considers the principle of the extension acceptable, but has refused the application because of a lack of environmental information.
2. To provide protection for Tower in relation to potential interference with storage bunds and drainage channels in relation to Tower's current mining operations (albeit the Applicant considers these could be worked around subject to the necessary consents being obtained) and as agreed between Tower and the Applicant at the issue specific hearing on Compulsory Acquisition, Part 6 of revision 3.0 of the draft Order includes protective provisions that restrict the Applicant from:
  1. vesting the land identified in the book of reference and the land plans by plot reference numbers 10\_GR and 11\_GR in itself;
  2. exercising the powers conferred on it by Article 27 in respect of the land identified in the book of reference and the land plans by plot reference numbers 10\_GR, 10a\_GR, 11\_GR and 11a\_GR; or

3. commencing the authorised development on the land identified in the book of reference and the land plans by plot reference numbers 10\_GR, 10a\_GR, 11\_GR and 11a\_GR;

until on or after 1 January 2018 by which time, according to the approved plans, the mining operations will have moved away from the AGI Site.

3. The Applicant and Tower are continuing to actively and positively engage and further meetings to discuss the commercial terms of any voluntary agreement are currently being arranged for November 2014. The Applicant has also confirmed that it will be responsible for the fees incurred to date by Tower Regeneration Limited and Tower's anticipated fees.
- 4.

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