

ExA Drafting queries on DCO (Doc Ref 3.01 Rev.0) as submitted

Question Number	Topic Heading	Question Text
1	General	Will a list be maintained of all plans and other documents that will require SoS certification under Article 39 (including plan/document references), updated throughout the examination process, and supplied to the Examining authority before the close of the examination?
Snowdonia Pumped Hydro's Response		
Yes, this list will be maintained and submitted.		

Question Number	Article/Requirement	Question Text
2	General	Can the next version comply with current SI drafting conventions (see Section 2 of PINS Advice Note 15 – Drafting development Consent Orders), e.g. can the word “shall” be replaced by “must”, “is to be”, “are to be” etc where the context permits ?
Snowdonia Pumped Hydro's Response		
A number of drafting changes are proposed to address this point. These changes are set out in detail in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
3	General	Can the applicant confirm that any subsequent versions of the DCO submitted after the application version: <ul style="list-style-type: none"> • will be supplied in both .pdf and Word formats, the latter showing any changes from the previous version by way of tracked changes, with Word comments briefly outlining the reason for the change? • will be supported by a report of the outcome of validating that version of the DCO through the Publishing section of the legislation.gov.uk website?
Snowdonia Pumped Hydro's Response		
Yes, the Applicant confirms that these requirements will be observed, save that comments will be in a separate table.		

Question Number	Article/Requirement	Question Text
4	General	Can any plans referred to in A2 and elsewhere each be identified by Drawing and Revision Numbers in subsequent versions of the draft DCO?
Snowdonia Pumped Hydro's Response		
Yes A number of drafting changes are proposed to include these references. These changes are set out in detail in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
5	General	A number of Articles make provision for "compensation to be determined, in case of dispute, under Part 1 of the 1961 Act". It is acknowledged that a provision in this form is in the various

		<p>MPs and is commonplace in DCOs and other Orders. However, Part 1 of the 1961 Act only relates to compensation for compulsory acquisition. In order for there to be certainty that it would apply in other situations (e.g. the temporary stopping up of streets under A13), should a modification be included as with the other compensation provisions in Schedule 7? If not, why not?</p>
<p>Snowdonia Pumped Hydro's Response</p>		
<p>Compensation is not normally provided in general for temporary stopping up of streets as mitigation is in place - rights of access must be maintained to premises not otherwise accessible (Article 13(2)) and any body with apparatus under the street is protected. It is only interference with a private right of way which is compensatable under Article 13(6). The private rights of way known which are to be interfered with are listed in the book of reference (Doc ref: 4.03). Part 1 of the 1961 Act sets out a number of rules and assumptions applying to the calculation of compensation which are considered to be the most appropriate for valuing interference with private rights of access. In order to clarify and address the concern the Applicant suggests amending the wording of Article 13(6) by including after dispute ("by the Tribunal as if the compensation were due under Part 1 of the 1961 Act"). Other instances of this have been dealt with as they arise in the queries.</p>		

Question Number	Article/Requirement	Question Text
6	General	<p>A number of provisions confer deemed consent if a consultee does not respond within 28 days (a 'guillotine').</p> <p>(a) Please provide evidence that the guillotine has been discussed with each relevant consultee so that they are aware of it and have had the opportunity of commenting on their ability to comply</p> <p>(b) Should those provisions contain an express requirement that the application for consent should contain a statement drawing the consultee's attention to the guillotine?</p>
<p>Snowdonia Pumped Hydro's Response</p>		
<p>The Applicant is seeking to have the guillotines included within the Statements of Common Ground at Deadline II to be submitted in order to provide the evidence sought.</p> <p>The Applicant has amended the provisions of Art to insert a requirement to note the guillotine on the covering letter for any application.</p>		

Question Number	Article/Requirement	Question Text
7	Short Title	As the NSIP that would be given development consent would be a generating station, should this be reflected in the short title as with other made power generation DCOs?
Snowdonia Pumped Hydro's Response		
<p>The Applicant has inserted "(Generating Station)" into the title. The applicant notes however that DECC will shortly begin a consultation on storage and that the Government is currently considering new primary and secondary legislation for storage which may not class it as generation, this change may therefore need to be reviewed as that progresses. This change is set out in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
8	Article 1, citation and commencement	See query 5 above
Snowdonia Pumped Hydro's Response		
<p>The Applicant has assumed this should refer to query 7. The Applicant has inserted "(Generating Station)" into the citation. The applicant notes however that DECC will shortly begin a consultation on storage and that the Government is currently considering new primary and secondary legislation for storage which may not class it as generation, this change may therefore need to be reviewed as that progresses. This change is set out in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text

9	Article 2(1)	Should there be definitions of “AOD” which is used in Schedule 1, “indicative drawings and sections” (A6) and “design and access statement” (R19)?
Snowdonia Pumped Hydro’s Response		
A definition of AOD has been inserted into the Article; AOD means Above Ordnance Datum (height relative to the average sea level at Newlyn, Cornwall UK). This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
10	Article 2(1) Definition of apparatus	“other infrastructure” is a very general term. Should the definition be more limited e.g. “....cables, ducts or other <u>similar</u> infrastructure situated in....”
Snowdonia Pumped Hydro’s Response		
The Applicant has amended the definition to “similar”. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
11	Article 2(1) Definition of authorised development	Is other development intended to be authorised by the DCO that is not described in Schedule 1 part 1?
Snowdonia Pumped Hydro’s Response		
Schedule 1 sets out the main elements of the works, it is not intended to be an exhaustive list of every minor operation which will be required for each work. There are a number of operations required to achieve the works which are not specifically listed.		

Question Number	Article/Requirement	Question Text
12	Article 2(1) Definition of commence	What extent of 'diversion and laying of services' is envisaged Where is this covered in the ES?
Snowdonia Pumped Hydro's Response		
<p>Diversion of existing services close to the site, under the main road into Llanberis and at the cycle path along Llyn Padarn are anticipated to be probable. Diversion and laying of services is not something the Applicant can be definitive on at this point as detailed surveys will need to be carried out to accurately ascertain their location.</p>		

Question Number	Article/Requirement	Question Text
13	Article 2(1) Definition of the land plans	The underlined phrase should be "land plans"?
Snowdonia Pumped Hydro's Response		
<p>The Applicant has amended the definition. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text

14	Article 2(1) Definition of the limits of deviation	a) Article 6 does not refer to this phrase, nor is it used elsewhere in the DCO? b) Regulation 5(2)(j) of the APFP Regulations requires any limits of deviation to be shown on the works plans; please confirm how any such limits are shown
Snowdonia Pumped Hydro's Response		
<p>a) The Applicant proposes to delete the definition as being unnecessary.</p> <p>b) The horizontal limits of deviation are the limits of each work area, there is no area outside of the works area to show separately, the limits of deviation are therefore shown by the information given on the plan as the delineation of the works areas. The works plans do not include any information on the vertical elements of the works and there is therefore no way to shown any limit of deviation on these plans. The provision for vertical deviation is in Article 6.</p>		

Question Number	Article/Requirement	Question Text
15	Article 2(1) Definition of Maintain	<p>“maintain” -</p> <ul style="list-style-type: none"> • what is the justification for this extended definition (the underlined words seem to extend the normal meaning of ‘maintain’)? • Can you identify where all the activities in the definition have been covered by the ES? (See the advice given in section 20 of PINS Advice Note 15 – Drafting development Consent Orders). For example, the definition suggests that there could be major construction works during operation.
Snowdonia Pumped Hydro's Response		
<p>a) The expected lifespan of the project is 125 years, it is therefore reasonable that as part of maintaining the project various items may have to be replaced. The re-lining of the inner faces of the quarries and replacement of the turbines will be required every 30 to 50 years. The project has been designed so that regular maintenance as envisaged can be carried out from within the quarries and penstock and will not require major construction works.</p>		

b) Maintenance activities are described in chapter 4 which includes replacement of components. The impacts have therefore been assessed as part of the operational and maintenance assessment within each chapter. Maintenance has also been assessed in the transportation chapter as abnormal loads will be required.

Question Number	Article/Requirement	Question Text
16	Article 2(1) Definition of Order Land	<p>c) Is the 'Order land' intended to be the whole of the land within the Order limits or to have some different boundary? The Works plans keys identify the red boundary as the 'Order limits'; however, the Land plans also have a red line boundary, but the key describes it as 'Land to be acquired or used?</p> <p>d) Can you identify any Order land which is "required for, or affected by the authorised development" but which is not to be acquired?</p> <p>e) Are the 'limits of the land required for the authorised development' the same as the Order limits – if so, should that phrase be used for clarity?</p> <p>f) Can this definition be clarified generally?</p>
Snowdonia Pumped Hydro's Response		
<p>c) The Order Land is the land which is liable to compulsory acquisition and shown on the land plans. The Order Limits is the entirety of the project including all works as shown on the works plans is effectively the red line planning boundary.</p> <p>d) No, all of the Order Land is subject to compulsory acquisition.</p> <p>e) and f) the definition has been amended to clarify. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text

17	Article 2(1) Definition of Order limits	“...shown on the works plans, within...”? The red line boundary showing the order limits is actually only shown on the Works Plan Key Plan. It should be on the other works plans as well?
Snowdonia Pumped Hydro’s Response		
The Applicant is amending the plans to show this line.		

Question Number	Article/Requirement	Question Text
18	Article 2(1) Definition of street	Do any of the streets affected by the development have verges? Are any dual carriageways? If not, why is it necessary to extend the definition in the 1991 Act?
Snowdonia Pumped Hydro’s Response		
This definition reflects that in the model provisions. The streets affected by the development are rural roads and do have verges. No dual carriageways are affected. The definition has been amended to exclude land between two carriageways. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
19	Article 2(1) Definition of works plans	Should the underlined words be combined with A2(4) ? “...shown on the works plans”?
Snowdonia Pumped Hydro’s Response		

The Applicant has moved the underlined words to Article 2(4) and amended the definition.

Question Number	Article/Requirement	Question Text
20	Article 3(2) Development Consent etc. granted by the Order	Should this be clarified e.g. "...each numbered work may only be constructed within the area shown for that numbered work on the works plans"
Snowdonia Pumped Hydro's Response		
The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
21	Article 6 – Power to deviate	<p>a) This is a very extensive power which (in addition to environmental effects) may impinge on mineral or other underground rights. Should LPA consent be required to deviation beyond limits assessed in the ES (or otherwise to be specified)? It is noted that the EM says that vertical deviation is allowed "subject to the maximum parameters set out in the requirements", but the parameters in R5 do not provide depth parameters.</p> <p>b) Can you identify where the environmental statement assesses vertical deviation, the baseline from which deviations will be judged under paragraph (2)?</p> <p>c) There should be a definition of "indicative engineering drawings and sections" in this Article or A2(1)?</p>
Snowdonia Pumped Hydro's Response		

a) The development as proposed in the indicative engineering drawings and section is already at a depth which impinges on minerals and underground rights. This has been explicitly recognised by the incorporation of the mineral code at Article 21.

b) The limits of deviation on the power house shaft and penstock are related to geotechnical optimisation and geotechnical uncertainty. The objective of this provision is to allow adjustment to the turbine hall design and penstock alignment from the indicative drawings if geological conditions dictate. The precise shape of the turbine hall will be finally determined once the turbines have been selected. The maximum parameters set out a maximum volume for the turbine hall. The hall will require to be wide enough to allow the turbines to be inserted, operated and removed for maintenance, this places a minimum dimension on the size of the turbine hall and access shaft which in conjunction with the level constraint for pressure gives a maximum depth. The level of the turbine is determined by the required difference in pressure between the Lowest Operating Level (LOL) in Q6 and the turbine. The LOL is defined as that level above which the necessary storage (1.3Mm3) can be achieved and, in turn, is dependent on the assumed shape of the stabilised quarry. The penstock level may be amended depending on the geological conditions encountered en route, this may be horizontally or vertically with the end points fixed. The depth of the penstock is controlled by the topography (the need to connect Q1 to Q6), geological conditions and the need to align at the Q6 terminus with the turbine hall, it therefore cannot vary at this point by more than the change to the turbine hall depth.

b) Limits of deviation have been assessed with regard to noise and waste generated as given that the elements without a defined limit are underground, there is limited scope for direct receptor impact.

c) The Applicant has inserted a definition. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
22	Article 7 Operation of generating station subject to requirement to obtain a licence	<p>a) Section 140 PA2008 only refers to authorising the operation of a generating station. What element of the authorised development is involved in the transmission of electricity?</p> <p>b) On what basis is it suggested that the DCO can authorise transmission? It is noted that the EM explanation of A7 does not refer to transmission at all.</p> <p>c) Is 'transmission' intended to refer to a grid connection, which would be likely to be considered 'associated development' that could not be authorised by a DCO in Wales?:</p> <p>d) A7(2) should be extended to include "...or to authorise the transmission of electricity"?</p>

Snowdonia Pumped Hydro's Response

- a) "transmission" has not been defined to give it its Electricity Act meaning, it has the normal meaning of to pass from one place to another . In this case transmission covers only the transmission of electricity from the generating station to the on-site substation where the grid connection will begin and is entirely within the project site. Nothing in the DCO seeks to authorise transmission within the Electricity Act meaning. To avoid confusion the reference to transmission will be deleted.
- b) As above no consent for transmission in any sense which requires to be authorised is sought. This merely covers the development necessary to allow the electricity generated by the authorised development to be supplied to the substation.
- c) No. The grid connection is being progressed separately from this application.
- d) The Applicant does not consider that this change is appropriate. The undertaker does not require a transmission licence as the electricity will be exported offsite and transmitted within the meaning of the Electricity Act by the distribution network operator.

Question Number	Article/Requirement	Question Text
23	Article 8 Benefit of Order	Should this paragraph refer to <u>5_working</u> days?

Snowdonia Pumped Hydro's Response

The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
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24	Article 9 Defence to proceedings in respect of statutory nuisance	<p>The Article provides defences against claims relating to:</p> <ul style="list-style-type: none"> (c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance; (d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance; (e) any accumulation or deposit which is prejudicial to health or a nuisance; (g) noise emitted from premises so as to be prejudicial to health or a nuisance; (ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road; <p>The EM merely says that the defence is in respect of air quality and noise. What elements of the project justify or require the extension of the defence in relation to the other items in the list?</p>
Snowdonia Pumped Hydro's Response		
<p>The Applicant would advise that as set out in the Statement of Statutory Nuisance submitted as a part of the application (document reference 5.02) the various elements have been considered under the heading of air quality and noise. The following were considered under the headings listed as follows:</p> <p>c) and d) concern fumes from vehicles and machinery used to construct the authorised development and dust from the construction operations and raised by vehicle movements. In particular the initial stages of blasting of the penstock is likely to create a large amount of dust. There is not anticipated to be any source of fumes during construction. There may be some dust carried off the site immediately following construction as the re-profiled slate mounds are exposed to the elements. These matters form part of air quality as assessed in the Statement of Statutory Nuisance</p> <p>e). The construction of the project will require the creation of new slate mounds which would fall within the definition of "deposit". This is likely to have some dust impact. This is considered to form part of air quality as assessed in the Statement of Statutory Nuisance</p> <p>g) concerns noise. Noise has been assessed within the Statement of Statutory Nuisance for both the construction and operation phases.</p> <p>ga) during construction there will be vehicle movements for vehicles access and leaving the site (including heavy vehicles and abnormal loads) which will require to be taken over street in close proximity to some sensitive receptors. This is considered to form part of noise as assessed in the Statement of Statutory Nuisance.</p> <p>The Explanatory Memorandum therefore aligns with the Statement of Statutory Nuisance in the ES. The Applicant would propose to amend the Explanatory Memorandum to make this clearer.</p>		

Question Number	Article/Requirement	Question Text
25	Article 13 (7) Temporary stopping up of streets	a) There seems to be a degree of conflict between this provision and the more general A4 (which merely requires a decision not to be unreasonably withheld or delayed. Why are both provision required? b) Has this 28 day 'guillotine' (which is applied in several Articles) been discussed with the relevant authorities?
Snowdonia Pumped Hydro's Response		
<p>a) The requirement not to unreasonably delay consent under Article 4 relates to the issue of consent in principle, it does not set any limit on when any authority should respond but prevents an authority withholding consent for unrelated reasons. This provision is more specific and relates to the timing of the response. The Applicant requires to be able to temporarily close streets in order to meet the health and safety requirements of critical path works, in particular blasting activities. The Applicant therefore requires some certainty that having timeously notified the authority of the planned closure the critical path works will not be delayed simply due to lack of response from the authority. This provision is additional and complementary to Article 4.</p> <p>b) The Applicant is seeking to discuss the guillotine points with the relevant parties and the agreed positions will be documented within the Statements of Common Ground with the relevant parties.</p>		

Question Number	Article/Requirement	Question Text
26	Article 13 (8) Temporary stopping up of streets	Orders under s14 of the 1984 Act are prescribed consents in Wales, provisions for whose removal can only be included in a DCO with the consent of the 'relevant body', in this case the traffic authority. Please provide evidence that the traffic authority have consented to the inclusion of this provision.
Snowdonia Pumped Hydro's Response		
The Applicant is seeking to have this documented within the Statement of Common Ground with Gwynedd Council as the local highways authority.		

Question Number	Article/Requirement	Question Text
27	Article 14(2) Access to works	Again there seems to be a degree of conflict between this provision and the more general A4 (which merely requires a decision not to be unreasonably withheld or delayed). Why are both provisions required?
Snowdonia Pumped Hydro's Response		
<p>The requirement not to unreasonably delay consent under Article 4 relates to the issue of consent in principle, it does not set any limit on when any authority should respond but prevents an authority withholding consent for unrelated reasons. This provision is more specific and relates to the timing of the response. The Applicant requires to be able to create access to carry out works. The Applicant therefore requires some certainty that having timeously applied to the authority works will not be delayed simply due to lack of response from the authority. This provision is additional and complementary to Article 4.</p>		

Question Number	Article/Requirement	Question Text
28	Article 17(7) Discharge of water	The form of the paragraph is based on the Model Provision, and intended to reflect the repeal of s 85 of the Water Resources Act 1991 (referred to in the MP) and the introduction of the regime in the Environmental Permitting (England and Wales) Regulations 2010, but the provisions of the Act and Regulations are expressed differently (S85 identifies a number of offences, whereas Regulation 12 precludes certain activities in the absence of an environmental permit). Would the intention of the Article be more clearly addressed by recasting A17(7) such as "This Article does not authorise any groundwater activity or water discharge activity within the meaning of the Environmental Permitting (England and Wales) Regulations 2010"?
Snowdonia Pumped Hydro's Response		
<p>The Applicant has amended sub-paragraph (7) to include the suggested wording. This change is included in the Table of DCO Amendments requested</p>		

prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
29	Article 17(9) Discharge of water	a) Should the express reference to NRW be removed as it is unnecessary and the responsible authority may change in future? b) Paragraph (2) relates to disputes. Should this be a reference to paragraph (3)?
Snowdonia Pumped Hydro's Response		
The Applicant accepts both changes and has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
30	Article 18 Authority to survey	As drafted the Article has no requirement for reinstatement. Should a paragraph be added e.g. "As soon as practicable following the exercise of any powers under paragraph (1), any apparatus or equipment must be removed and the land must be restored to the reasonable satisfaction of the owners of the land."?
Snowdonia Pumped Hydro's Response		
The Applicant has amended the Article by insertion of a new sub-paragraph 7 to address this point. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
31	Article 19 Compulsory acquisition	<p>a) The BoR includes Plot 42 as replacement land for Plot 65. Although paragraph (3) refers to this arrangement, is the applicant satisfied that A19 does authorise the acquisition of the exchange land (it is noted that the reference to “required as replacement land” in MP18 has not been included in A19)</p> <p>b) See earlier question as to the meaning of “the Order land”. The implication of this paragraph is that not all of the Order land is specified in the BoR?</p> <p>c) There are a number of ‘trigger’ activities and authorisations outside the DCO process on which the project is dependent. These include some land acquisition for which CA powers are not proposed and the grid connection. In the Hirwaun Power Station DCO the Secretary of State added an Article (Article 30) which made the power to compulsorily acquire certain plots subject to the prior obtaining of planning permission. Should the CA powers in this DCO also be subject to the trigger events?</p>
Snowdonia Pumped Hydro’s Response		
<p>a) The Applicant is happy that this is covered by the wording of the provision which includes the purchase of land to facilitate or which is incidental to the authorised development however for the avoidance of doubt the wording has been amended to include the suggested reference to “required as replacement land”. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p> <p>b) The Book of Reference only includes the land over which powers of compulsory acquisition are sought, this is only a small area of the land required for the project. As set out in the response to query 16 the Order Land is the land which is liable to compulsory acquisition and shown on the land plans. The Order Limits is the entirety of the project including all works as shown on the works plans is effectively the red line planning boundary.</p> <p>c) The Applicant does not consider this to be necessary as the consents form part of the compulsory acquisition consideration other impediments and will have been duly taken into account at that time. In Hirwaun the trigger (grant of planning permission for works comprising an underground gas pipeline) only applied to the acquisition of two plots and was the planning permission for the use those two plots were to be put to; it does not to the whole of the land to be acquired. This arose from the fact that development consent could not be granted in Wales for the relevant works.</p> <p>This Order will authorise the use to which the plots for which rights of acquisition are sought and the issue addressed in the special circumstances of</p>		

Hirwaun does not apply in this case and that precedent should not be followed.

Question Number	Article/Requirement	Question Text
32	Article 19 Compulsory acquisition	<p>a) For the SoS to be satisfied that s131(4) PA2008 applies, there must be reasonable certainty that the exchange land will be given for the access land. A19(1) provides a power for the undertaker to acquire the exchange land, but there is no obligation to exercise that power. The exchange land will only vest in the former owner of the access land if the exchange land becomes vested in the undertaker. What mechanism is proposed to give the SoS comfort that the undertaker will in fact acquire the exchange land?</p> <p>b) This provision for exchange land appears to apply only if the access land is acquired compulsorily. Insofar as A19 authorises the acquisition of the access land, s131 will apply whether or not the land is ultimately acquired under that authority. Should the word “compulsorily” be deleted from A19(3)(b)?</p> <p>c) “...Part 3 of the Book of Reference?”</p> <p>d) Can the next version of the DCO use consistent capitalisation for the book of reference throughout (e.g. lower case in A 2 and A23)</p> <p>e) Is the phrase “which shall remain vested across the access land” necessary, as the exchange will not transfer the rights, trusts and incidents from the access land to the new land but create equivalent new rights over the exchange land (the water supply through the access land is protected by A23)?</p>
Snowdonia Pumped Hydro’s Response		
a) An amendment will be added to the DCO to provide “The power to compulsorily acquire the access land can only be exercised by the undertaker if the exchange land is acquired compulsorily by the undertaker at the same time (unless the exchange land has already been acquired by the undertaker by agreement).”		

b) It is not appropriate to remove the reference to "compulsorily" as the legal obligation to provide exchange land only arises where compulsory powers are used to acquire the open space land.

c) d) and e) The Applicant has amended the Article.

These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
33	Article 21 Incorporation of the mineral code	<p>a) A21(1) incorporates Parts 2 and 3 of Schedule 2 to the ALA 1981 subject to modifications. However modification (d) refers to paragraph (1(1) of that Schedule, which is in Part 1 which is not incorporated in the Order (and not therefore subject to modifications). What is intended here?</p> <p>b) The EM says that the Article has been adapted to apply to the possible extinguishment of mineral rights under A23 (Private rights). Schedule 2 of the ALA 1981 is not otherwise modified by the DCO, and relates only to the compulsory acquisition of land. How is it to be applied in the event of extinguishment of rights under A23, or indeed A22, 25 or 27?</p> <p>c) Subject to a) above, A21(1)(d) purports to make paragraph 1(1) of Schedule 2 apply not only to a CPO but to a notice of entry under the 1965 Act. But paragraph 1(1) is concerned with enabling a CPO to incorporate Parts 2 and 3 of the Schedule. If the proposed modification is made, how will a notice of entry incorporate those Parts?</p> <p>d) Why is A21(2) required, as "mines" are not referred to in the Article at all?</p>
Snowdonia Pumped Hydro's Response		
<p>a) Article 21 should read Parts 1, 2 and 3 of Schedule 2. The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

b) The Applicant has in Article 21 applied the provisions of the 1981 Act to exercise of the powers under Articles 22, 23, 25 and 27 as if they were acquisition of land. Rather than amend the definition of the 1981 Act the provisions of it are incorporated into this Order within the wider meaning of acquisition of land covered by the listed Articles.

c) The notice of entry would have to include on its face the mineral rights which are included.

d) The definition refers to defines mines only as mines of coal, ironstone, slate and other minerals. The quarries included within the site show a history of slate extraction in the area and slate mining is accordingly a relevant issue. The 1981 Act provisions incorporated into this Order by Article 21(1) use the term mines and the definition is included for that purpose, to give those incorporated provisions the correct definition.

Question Number	Article/Requirement	Question Text
34	Article 22(4) Compulsory acquisition of rights	<p>a) Should A22(1) read “The undertaker may acquire compulsorily such rights over the Order land as is specified in the book of reference and which may be required for any purpose” (as in A19(1)?</p> <p>b) As this paragraph relates to private rights only, should it be in A23 not A22?</p> <p>c) As the BoR does not make provision for any rights to be suspended, why is the phrase “or suspension” included?</p>
Snowdonia Pumped Hydro’s Response		
<p>a) The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p> <p>b) To delete Article 22(4) would leave persons who had lost private rights by the creation of new rights rather the only by extinguishment under Article 23 with no right to compensation. The Applicant therefore considers that the wording should be retained.</p> <p>c) The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
35	Article 23(1) Private rights	Various plots in Part 3 of the BoR benefit from rights of vehicular access that are to be extinguished. Paragraph 7.11 of the Statement of Reasons says that these rights will be diverted onto permanent tracks following construction. How is this secured by the DCO? This should presumably be A23(1)(b)?
Snowdonia Pumped Hydro's Response		
<p>There are a number of tracks and ways across the land some of which are used for vehicular access. All of the existing ways are shown on the access plan and included in the various schedules. The protections of Articles 11, 13 and 15 therefore apply, The replacement ways must be formed and available before the existing routes are closed (Article 11(2)(a) and 13(5)) and must be of a suitable standard for the type of traffic anticipated (Article 15).</p> <p>The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
36	Article 23(1) Private rights	Should this read "...extent set out in Part 3 of the [BoR]"?
Snowdonia Pumped Hydro's Response		
<p>The Applicant has amended the Article. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
37	Article 23(4)(a) Private rights	Can the applicant explain the references in this paragraph to appropriation and temporary possession (e.g. there appears to be no provision elsewhere in the DCO for appropriation or temporary possession)?
Snowdonia Pumped Hydro's Response		
A23(4)(a) (ii) and (iv) have been removed. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
38	Article 23(6) Private rights	<p>a) Can the applicant explain the restriction to the terms of s152 PA2008, which is limited to claims for injurious affection and depreciation of land value (extinguishment of a private right involves more than injurious affection or depreciation)?</p> <p>b) As the Article does not make provision for any rights to be suspended, why is the phrase "or suspension" included?</p> <p>c) The Article does not make any provision for compensation for the interference with rights</p>
Snowdonia Pumped Hydro's Response		
<p>a) No right is to be extinguished which is not being replaced with an equivalent right. The rights to be extinguished are to take access over a track which will be replaced, initially with access over a track in a slightly different location maintained by the Applicant and then on a public road, There is no other loss to compensate.</p> <p>b) The Applicant has deleted the reference.</p>		

c) The Applicant considers that the incorporation of the 1961 Act addresses this point.

These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
39	Article 23(7) Private rights	This paragraph is not explained in the EM. As A23(1) and (2) limit private rights to be extinguished or interfered with to those specified in the BoR, and no restrictions, trusts or incidents are specified there, why is this paragraph necessary?
Snowdonia Pumped Hydro's Response		
The reference has been deleted. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
40	Article 25 and elsewhere	In the next version of the DCO, can the applicant either amend the references to "the tribunal" to "the Tribunal" for consistency with A2(1), or amend that definition
Snowdonia Pumped Hydro's Response		
The Applicant has amended the references. These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
41	Article 26 Guarantees in respect of payment	<p>“....19, 22, 23 or 24 until...”?</p> <p>Should the phrase “against the guarantor” be deleted – as it relates to only one of the six potential forms of security permissible under A26(2)?</p> <p>“...in place for a minimum of 20 years...”?</p>
Snowdonia Pumped Hydro’s Response		
<p>Yes This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p> <p>The Applicant does not consider that the proposed change is appropriate. This principle applies to all the forms of guarantee – “guarantors” would cover 3 forms and this inclusion provides extra security to unknown persons who may not be able to be identified as beneficiaries at this point</p> <p>The Applicant does not consider that the proposed change is appropriate. There is no utility in maintaining a guarantee after all claims have been made and settled, a minimum period therefore could quickly become unreasonable. The Applicant has to meet the costs of providing ongoing guarantees, 20 years provides a reasonable period for affected landowners to make claims after which the Applicant should not have to continue to incur the cost. This does not remove any statutory right to compensation only the additional protection offered by the Applicant.</p>		

Question Number	Article/Requirement	Question Text
42	Article 28 Power to override easements	<p>a) This is an unusual and perhaps novel provision. Is there a precedent for it?</p> <p>b) Can the applicant confirm what steps have been taken to identify the existence of any such easements etc?</p> <p>c) It is noted that no qualifying persons are identified in Part 2 of the BoR (potential claimants</p>

		under s10 of the Compulsory Purchase Act 1965, Part 1 of the Land Compensation Act 1973 or s152(3 PA2008). If there are no such persons, why is this Article necessary?
Snowdonia Pumped Hydro's Response		
<p>a) The Applicant does not believe that the provision is novel and would submit that it is preceded in The Swansea Bay Tidal Generating Station Order 2015 Article 25, The Progress Power (Gas Fired Power Station) Order 2015 Article 19, The Able Marine Energy Park Development Consent Order 2014 Article 31 and The Hinkley Point C (Nuclear Generating Station) Order 2013 Article 25,</p> <p>b) The Applicant's land referencing agents are preparing a note on the methodology of the investigation done, the Applicant will report to the Examining Authority on this point following receipt of that note.</p> <p>c) The Applicant is not entirely clear as to the relevance of these statutory provisions to this Article. In any event, it is not always possible to identify easements from the methods undertaken as they do not require to be registered, none have been identified but this does not guarantee none exist and the Applicant requires to be able to address any easements not yet identified should they come to light.</p>		

Question Number	Article/Requirement	Question Text
43	Article 31 Felling or lopping of trees	<p>a) Should A31(1) be expressly subject to A32, so that it will not apply to trees in conservation areas?</p> <p>b) The Article goes further than the title suggests, as it includes a power to remove hedgerows within the Order limits without the need for consent under the Hedgerows Regulations 1997. Should the title therefore include reference to removal of hedgerows?</p> <p>c) Please identify, by reference to the relevant application documents, any hedgerows whose removal would otherwise require consent under the 1997 Regulations</p> <p>d) Consent under the 1997 Regulations is a prescribed consent in Wales under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. Please provide evidence that the appropriate authority has consented to the inclusion of this provision.</p>
Snowdonia Pumped Hydro's Response		

- a) The Applicant is not aware of any conservation area designation covering the project site which would need to be allowed for.
- b) The Applicant has amended the Article so that the title now includes “and removal of hedgerows”. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)
- c) The Applicant requires to remove vegetation at Q6 and on the banks of Llyn Padarn. The Applicant may also require to interfere with hedgerows and remove where these form boundary features, particularly to highways. The removal of vegetation has been considered within the Environmental Statement. This provision has been included as a precaution.
- d) The Applicant is seeking to have this documented within the Statement of Common Ground with the authority.

Question Number	Article/Requirement	Question Text
44	Article 32 Trees subject to tree preservation orders	<p>a) Please identify, by reference to the relevant application documents, the tree areas and groups of trees referred to in this Article</p> <p>b) Consent under s198 of the Town and Country Planning Act 1990 is a prescribed consent in Wales under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. Please provide evidence that the appropriate authority has consented to the inclusion of this provision.</p>
Snowdonia Pumped Hydro’s Response		
<p>a) The tree area and groups affected are listed in Article 32. A copy of the tree preservation order together with its plan has been submitted as part of the Environmental Statement in appendix 7.17 and figure 7.2.</p> <p>b) The Applicant is seeking to have this documented within the Statement of Common Ground with the authority.</p>		

Question Number	Article/Requirement	Question Text
45	Article 33 Statutory undertakers	a) Why are the works referred to in A33(1) not subject to the protective provisions? b) Why is (1) necessary at all, given that the relevant streets will in any event be covered by A33(2)(b)?
Snowdonia Pumped Hydro's Response		
<p>a) There is a statutory regime in place for the protection of apparatus under streets. The additional protections given under this Order are necessary outside of streets where those provisions will not apply.</p> <p>b) Sub-paragraph 1 allows apparatus to be moved or relocated within the street, sub-paragraph (2)(b) allows for it to be moved outwith the street but within the Order limits.. Movement outwith the street would take the apparatus outwith the street works ambit and the protective provisions are therefore required.</p>		

Question Number	Article/Requirement	Question Text
46	Article 35(4) Recovery of costs of new connections	a) Although this Article follows Model Provision 32, what is the justification in this application for the limited definition of "public utility undertaker"? The definition in the Highways Act 1980 refers only to suppliers of gas or hydraulic power, and not, e.g. water or electricity. b) Given that limited definition, how can paragraph (1) of the Article apply to the removal of public sewers, which is the premise of paragraph (2)
Snowdonia Pumped Hydro's Response		
<p>The Applicant has amended the Article This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
47	Article 36 Protection of interests	a) "protection of electricity..."? b) Is there any reason for excluding public communications providers from protection under Schedule 8?
Snowdonia Pumped Hydro's Response		
<p>a) The Applicant has made the suggested change to the Article.</p> <p>b) Public communications providers have been included within the Article.</p> <p>These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
48	Article 37 Removal of human remains	"such re-interment or cremation"?
Snowdonia Pumped Hydro's Response		
<p>The Applicant has amended the Article to correct the typographical error. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text

49	Article 38 Service of notices	<p>a) The EM says that s229(6) of the PA2008 provides that the service of notice provisions in s229 are “subject to any contrary provision made by or under this Act”. That would usually refer to Regulations made under the Act (as in e.g. Rule 22 of the Examination Procedure Rules); does the applicant contend that the A37 of the DCO will be a ‘contrary provision made under the Act’?</p> <p>b) Please identify the differences between the statutory provisions for service of notices in s229 and the provisions proposed in A37.</p> <p>c) What is the reason for preferring a bespoke Article to the statutory provision?</p>
Snowdonia Pumped Hydro’s Response		
<p>The Applicant considers that this Order would be contrary provision under the Act. The wording used is wider than that given in section 229. Under section 229 service cannot be effected by leaving the notice at the person’s last known address and the requirements of service on companies are more restrictive. The Article allows service on unknown interest and persons who cannot be located by affixation which provides an ability to serve on unknown interests which is required. The version used also allows parties served electronically to require that they be given a hard copy.</p>		

Question Number	Article/Requirement	Question Text
50	Article 39 Certification of plans etc	The list of specified documents should also include the indicative sections as well as the indicative engineering drawings, the design and access statement, temporary stopping-up plans, TPO and hedgerow plans, the ES, and the draft CoCP in Appendix 16.1 of the ES (see also Item 1 above)
Snowdonia Pumped Hydro’s Response		
Noted, as confirmed at query 1 the Applicant will prepare and maintain a list of documents to be certified under this Article.		

Question Number	Article/Requirement	Question Text

51	Article 40 Crown rights	Can the applicant provide evidence that the Crown has agreed to the inclusion of this Article in the DCO?
Snowdonia Pumped Hydro's Response		
<p>This Article protects the rights of the Crown and prevents any interference with Crown land or rights, it does not allow the Applicant to do anything on crown land without consent or require to the Crown to do anything. The Applicant has an option to lease crown land from the Crown Estate for the authorised development and the Crown Estate will be required to give consent to the Applicant entering upon and carrying out the Works on that land. It is not clear to the Applicant why the Crown would need to consent to this Article as it does diminish or remove any of their rights.</p> <p>The Applicant has contacted the Crown Estate to seek confirmation of their agreement to the inclusion of this Article.</p>		

Question Number	Article/Requirement	Question Text
52	Article 41	This Article should have a heading – e.g. "Arbitration"?
Snowdonia Pumped Hydro's Response		
<p>The Applicant has amended the Article to insert the heading "Arbitration". This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
53	Schedule 1 part 1 (Authorised development) and Requirement 3	What is the reason for the choice of 99.9MW as the maximum output capacity of the generating station?

Snowdonia Pumped Hydro's Response

This level of peak output is the most economic scale at which to build the project. Building at a lower output will be useful in balancing the supply and demand of the grid, and make suboptimal use of the storage potential of the system. As designed, the battery has a 7 hour life which is sufficient to respond to the daily morning and afternoon peaks having charged up overnight. Building at a higher peak output would require the project to hold a Generation Licence, which would reduce the flexibility of trading behaviour, reduce revenues, and increase transmission costs.

Question Number	Article/Requirement	Question Text
54	Work No 1G	What is meant by “ancillary activities during construction to be reinstated once operational”? Can this Work be defined more clearly?

Snowdonia Pumped Hydro's Response

Work No 1G comprises reprofiling of existing slate mounds, grouting of connecting tunnels and access including ancillary activities during construction to be reinstated once operational. The ancillary activities comprise those minor works required in connection with, and to facilitate, the undertaking of the principal works identified within this work package. These will include *inter alia* pollution prevention works, laying of geo textiles for ground protection, temporary storage of materials and fencing. The ancillary activities will be temporary in nature during the construction period only. Further works common to more than one work package are defined as ‘further works’ within Part 1 of Article 2, and the Applicant does not consider it necessary to define these works further in connection with individual work packages.

Question Number	Article/Requirement	Question Text
55	Work No1H	The words after the semi-colon are not a description of the work to be undertaken but should rather be included as a separate requirement in Part 2?

Snowdonia Pumped Hydro's Response

The Applicant has amended the work description and created a new requirement 18. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
56	Work No3	No Work No 3B is identified as such; is this intended to be a reference to the electrical switchgear building? What is meant by a 'connection'?
Snowdonia Pumped Hydro's Response		
The Applicant has amended the Article to correct the erroneous reference to work 3B. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
57	Work No3	Why is an open-ended general provision for 'other ancillary buildings' necessary?
Snowdonia Pumped Hydro's Response		
The principal contractor has not yet been appointed and it has not been finalised precisely what ancillary buildings they will require however welfare facilities and site management offices are likely, storage facilities may be required. The Applicant seeks the flexibility to define the precise ancillary buildings at a later stage in conjunction with the primary contractor, it is not expedient to create a closed list at this point.		

Question Number	Article/Requirement	Question Text

58	Work No4A	(b) water level of up to 154m OD? (c) a scour tower within the reservoir? (d) spillway infrastructure to Llyn Padarn?
Snowdonia Pumped Hydro's Response		
The Applicant has made minor amendments to the wording of these works to address the point. These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
59	Further	a) This is an extensive list of further development. If these items are necessary, why can they not be identified in more detail in connection with the works to which they are relevant? b) Which of these works are already within the scope of the existing planning permission?
Snowdonia Pumped Hydro's Response		
<p>a) These are general elements which apply to multiple works, listing them in each would create unnecessary repetition and rigidity. For example fencing will continue across work boundaries, it is not practical to split the fencing by work as there will be no physical gap or divide on the ground.</p> <p>b) – The extant planning permission is for the following: “DEVELOPMENT OF PUMP STORAGE FACILITY WHICH WILL INCLUDE AN UPPER RESERVOIR AT CHWAREL UCHAF AND ASSOCIATED DAM, A LOWER RESERVOIR AT GLYN RHONWY ALSO WITH DAM, ERECTION OF POWERHOUSE TO INCLUDE TURBINES, ASSOCIATED ENGINEERING WORKS INCLUDING THE CREATION OF NEW SLATE SPOIL HEAPS AND DIVERSION OF HIGHWAYS”.</p> <p>Condition 2 of the extant consent (Ref: C12/1451/15/LL as amended by C15/0308/15/DA) states that; “The development shall be carried out in strict accordance with application plans, sections and drawings listed below, details and supporting information received in the form of an application and Environmental Statement on October 31st 2012, additional information and such other details that were requested and accepted and other such details as may subsequently be approved in writing by the Local Planning Authority...”</p>		

Question Number	Article/Requirement	Question Text
60	Schedule 1 part (Requirements)	Generally, can the requirements in the next version of the DCO be revised to substitute the word “shall” with “must”, “is to” or otherwise as appropriate to reflect modern SI drafting conventions
Snowdonia Pumped Hydro’s Response		
As provided in response to query 2 a number of drafting changes are proposed to address this point. These changes are set out in detail in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
61	Requirement 2 Time limits	“...on which this Order comes into force”?
Snowdonia Pumped Hydro’s Response		
The Applicant has amended the requirement. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
62	Requirement 3 Export limit	Why is the 99.9MW output expressed as net (by comparison, A2(1) of the Hirwaun Power Station DCO expressly referred to ‘gross rated electrical output’)
Snowdonia Pumped Hydro’s Response		

In order to achieve maximum efficiency the turbines installed will together be capable of generating more than 99.9MW however the export capacity of the generating station will never exceed this level and the grid connection is limited to 99.9MW. The output is therefore net as that is the limit. As noted on Hirwuan a cap on the rated electrical output would hinder the achievement of maximum efficiency in the operation of the generating station. In particular, the reservoirs at Glyn Rhonwy are relatively deep compared to other pumped hydro stations such as Dinorwig. This makes for a highly variable head range and in order to achieve the desired peak output across the range; the turbines will be oversized compared to a similar station with a static head. This makes the nominal output of the turbines less relevant than the net output and so net output is the superior description. Furthermore, the station internal loads and fault currents are subject to detailed design and are expected to be lower than stated in the grid connection offer. The grid connection offer illustrates a worst case. As the internal station load is subject to detailed design, it is impractical to set the gross output at this time. The net output can however be determined because through power electronics, variable speed technology and other power regulation measures, the facility can be restricted from generating above its target.

Question Number	Article/Requirement	Question Text
63	Requirement 4 Phasing plan	a) 'landscape plan' is undefined b) Should this requirement include provision for a longstop period for the use of the temporary construction compounds, or require the written scheme to provide such a longstop?
Snowdonia Pumped Hydro's Response		
<p>a) 'landscape plan' is the landscape and reinstatement plan forming part of the Code of Construction Practice and required by Requirement 6. The wording has been amended to refer to the landscape and reinstatement plan.</p> <p>b) A longstop date has been inserted.</p> <p>These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
64	Requirement 5 Detailed design	<p>a) Several parameters are described as 'Maximum site area' where this parameter covers a number of areas (e.g. construction compounds), is this intended to be an aggregate maximum area or a maximum for each one?</p> <p>b) Provision is made for the submission of details of permanent buildings and structures; why is there no equivalent requirement for temporary buildings and structures</p> <p>c) Should this requirement read "...in accordance with the approved plans and details and any other approvals...."?</p>
Snowdonia Pumped Hydro's Response		
<p>a) The maximum site area is the maximum aggregate area for that element within that work. The slate mounds to be formed in work 1B have an aggregate volume of 935,000 cubic metres The Q1 construction compounds in Work 1D have an aggregate maximum area of 72,000sqm. The wording has been amended to clarify this. No other plural elements subject to one maximum are included. These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p> <p>b) This requirement deals with the detailed design of the permanent elements. The temporary structures are dealt with by Requirement 21 which requires the submission and approval of the details of temporary building and structures. As these elements are by their nature temporary there is no need to as strictly control their external appearance as they will be removed following construction.</p> <p>c) The Applicant has amended the wording as suggested. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text

65	Requirement 6 Code of construction practice	"...CoCP, which is to specify measures to mitigate...."?
Snowdonia Pumped Hydro's Response		
The Applicant has amended the wording. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
66	Requirement 7 Other required plans and strategies	"commence" has a specific definition in A2(1) which already expressly excludes ground investigation; does it need to be referred to in this requirement? (This also applies to R13 (Land discovery strategy))
Snowdonia Pumped Hydro's Response		
While the Applicant concurs that this is essentially repetition given the definition of commence the Applicant considers that its inclusion here aids clarity. If the Examining Authority disagrees the Applicant is happy to delete the words "other than ground investigation or site clearance for temporary construction compounds or access works".		

Question Number	Article/Requirement	Question Text
67	Requirement 11 Noise Management Plan	This plan is to be incorporated in the CoCP, but under R11(2) is to apply after construction as well. Would the DCO be clearer if the Noise management plan was to be a stand-alone plan outside the CoCP, which on its title would appear to relate to construction works only?
Snowdonia Pumped Hydro's Response		

The list of plans to be included within the CoCP is based upon the plans identified as required in the Environmental Statement. The Applicant appreciates that inclusion within the CoCP does not make it clear that the noise management plan is also an operational document. To address this the Applicant has divided the elements of the noise management plan into the construction phase which will be included in the CoCP and the operational phase which will be included with the operational noise management plan now required under Requirement 7. The Applicant has accordingly amended the wording. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
68	Requirement 16 Construction Hours	<p>a) As drafted , this requirement could be interpreted as restricting working hours on all days except public holidays. Should it be re-drafted e.g. “Construction work must not take place on public holidays, or outside the hours of.....”?</p> <p>b) Planning Inspectorate Advice Note 15 (Drafting DCOs), section 19, contains advice on the use of ‘tailpieces’, that enable the LPA to vary matters included in the DCO. Can the applicant confirm why it considers tailpieces to be acceptable in this requirement, having regard to any impacts of working</p>
Snowdonia Pumped Hydro’s Response		
<p>a) The Applicant has amended the wording. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01).</p> <p>b) The Applicant is seeking the ability to temporarily vary working hours with the prior approval of the LPA only to provide flexibility for critical path activities should unforeseen circumstances arise or where impacts can be reduced by doing works outside of the standard hours. In particular works which affect public roads which need to be closed may be best undertaken overnight or at weekends when use is lowest. Sub-paragraph 2 provides further precision by allowing any extended hours only to apply to specified elements or activities such as road works rather than applying to the whole works.</p>		

Question Number	Article/Requirement	Question Text
69	Requirement 17 Construction compound and temporary structures	Should this requirement also make provision for the removal of the temporary buildings and structures after a defined period? (R21 appears to duplicate this requirement)
Snowdonia Pumped Hydro's Response		
<p>A longstop date for the removal of temporary buildings and structures has been inserted.</p> <p>The Applicant agrees that R21 is duplication and it has been deleted.</p> <p>These changes are included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text
70	Requirement 18 Fencing and other means of enclosure	This requirement seems superfluous having regard to requirement 22 which duplicates and extends its provisions?
Snowdonia Pumped Hydro's Response		
<p>The Applicant agrees that R18 is unnecessary and it has been deleted. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)</p>		

Question Number	Article/Requirement	Question Text

71	Requirement 19 External lighting	This should define the 'design and access statement' referred to in the requirement?
Snowdonia Pumped Hydro's Response		
The Applicant has inserted a definition of design and access statement into the list of definitions in Requirement 1. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
72	Requirement 20 excess water management strategy	"...an ⁿ excess water management strategy must.."?
Snowdonia Pumped Hydro's Response		
The Applicant has amended the wording. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
73	Requirement 22 Fencing and other means of enclosure	This requirement refers to details as being 'agreed', whereas others refer to them as being 'approved'. Is there any reason for this inconsistency?
Snowdonia Pumped Hydro's Response		

The Applicant has amended the wording to “approved”. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)

Question Number	Article/Requirement	Question Text
74	Requirement 23 Decommissioning plan	Please explain how the LPA is to judge ‘the life of the development consent’ or whether electricity generation has ‘permanently ceased’ so as to calculate when the decommissioning plan is due
Snowdonia Pumped Hydro’s Response		
The expected lifespan of the project is 125 years. The Applicant has amended the wording to require submission of the plan within 124 years of commencement of generation or upon the notification of the LPA by the Applicant that generation has permanently ceased. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
75	Schedule 7 Modification of compulsory acquisition enactments for creation of new rights , paragraph 2(2)(a)	As drafted the word ‘from’ would be duplicated in the section as amended. Should the wording to be substituted in (a) be reduced to “a right is purchased”?
Snowdonia Pumped Hydro’s Response		
The Applicant has amended the wording as suggested. This change is included in the Table of DCO Amendments requested prepared for the Issue		

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Question Number	Article/Requirement	Question Text
76	Schedule 7 Modification of compulsory acquisition enactments for creation of new rights, paragraph 6	"...overridden by the deed , the right which is to compulsorily acquired....." (comma inserted for clarity)
Snowdonia Pumped Hydro's Response		
The Applicant has amended the wording as suggested. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
77	Schedule 8 Protection for electricity, gas, water and sewerage undertakers	Can the formatting and margins be corrected in the next version?
Snowdonia Pumped Hydro's Response		
The Applicant is aware that the formatting looks odd but the verification report advises that it is correct and any change shows as an error. A copy verification report has been submitted.		

Question Number	Article/Requirement	Question Text
78	Schedule 8 Protection for electricity, gas, water and sewerage undertakers, paragraph 6	This paragraph refers to apparatus 'in or along any railway of the undertaker'. What railways are to be provided as they are not described in Schedule 1?
Snowdonia Pumped Hydro's Response		
This is an error, the Applicant has amended the wording. This change is included in the Table of DCO Amendments requested prepared for the Issue Specific Hearing on the Draft Development Consent Order, 09 March 2016 (doc ref: SPH_GREX_DCO_01)		

Question Number	Article/Requirement	Question Text
79	Schedule 8 Protection for electricity, gas, water and sewerage undertakers, paragraph 7	Please provide an explanation of how this paragraph is to operate and its purpose
Snowdonia Pumped Hydro's Response		
This provides a process for the utility undertakers to be advised of and given an opportunity to put requirements upon works which will or may affect the utility undertakers apparatus but where the Applicant has not sought removal of that apparatus. The utility undertaker can also, where they determine that the works require the removal of apparatus, have that removal treated as if the Applicant had requested in and the right to compensation.		

Question Number	Article/Requirement	Question Text

80	Schedule 8 Protection for electricity, gas, water and sewerage undertakers, paragraph 8	<p>a) How is the value of the removed apparatus to be determined (paragraph 8(2))?</p> <p>b) Should there be a provision for determination of disputes as to value?</p> <p>c) Similarly in respect of the value of the benefit (paragraph 8(5))</p>
Snowdonia Pumped Hydro's Response		
<p>a) The value referred to is its intrinsic or scrap value, it would be the open market value for such material and would be established by the price paid by appropriate dealers.</p> <p>b) and c) Article 41 (Arbitration) applies to any dispute as to value as it would be a difference under a provision of the Order. Recourse to expert determination could be inserted should the Examining Authority consider the arbitration provisions to be insufficient.</p>		

Question Number	Article/Requirement	Question Text
81	Schedule 8 Protection for electricity, gas, water and sewerage undertakers, paragraph 9(2)	Should this refer to the utility undertaker whose apparatus is damaged, rather than utility undertakers in general?
Snowdonia Pumped Hydro's Response		
<p>No, the provision applies more widely than the suggested amendment would allow. The current drafting provides that the Applicant is not liable for damage or interruption caused by any utility undertaker, not only the utility undertaker whose apparatus has been damaged. If an utility undertaker should in altering their equipment to accommodate the works damage the apparatus of another utility undertaker the Applicant cannot be liable for that damage.</p>		

Question Number	Article/Requirement	Question Text

82	Schedule 9 discharge of requirements	<p>a) There are precedents in previously made DCOs for arrangements for discharge of requirements, but Schedule 9 does not appear to follow any of them. Is there a precedent for the arrangements made by Schedule 9?</p> <p>b) Should paragraph 3(1) expressly make provision for the Fees Regulations to apply as if the application for discharge of requirements was an application for the approval of reserved matters?</p>
Snowdonia Pumped Hydro's Response		
<p>a) This schedule reflects the arrangements set out in Schedule 14 of The Hinkley Point C (Nuclear Generating Station) Order 2013 and Schedule 4 of The National Grid (Hinkley Point C Connection Project) Order 2016. The provisions have been simplified to better reflect the nature of the current project.</p> <p>b) The regulations list the applications to which they apply and do not include discharge of requirements under a DCO. It is not considered appropriate to extend the remit of the regulations to this Order. The Applicant does however recognise that there is a cost to the LPA in processing applications under the requirements and that it is reasonable that a fee be paid for that.</p>		