

From: Allison, Stephen [<mailto:Stephen.Allison@cyfoethnaturiolcymru.gov.uk>]
Sent: 19 November 2014 16:33
To: Swansea Tidal
Subject: EN010049 - TLSB WFD Process

FAO: Katherine Chapman

Dear Katherine

Please find attached an update on the WFD Article 4(7) derogation process and copy of an e-mail previously sent to the Applicant.

If you have any further queries please do not hesitate to contact me.

Regards
Steve

Steve Allison

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Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.
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The Planning Inspectorate
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BS1 6PN

Ein cyf / Our ref: SH/2014/116403
Planning Inspectorate ref. EN010049
Dyddiad/Date: 19 November 2014

Annwyl Syr/Madam / Dear Sir/Madam,

**PROPOSED TIDAL LAGOON SWANSEA BAY (GENERATING STATION),
DEVELOPMENT CONSENT ORDER**

PROJECT REFERENCE: EN010049

**UPDATE FROM THE NATURAL RESOURCES BODY FOR WALES (NRW) ON
THE WATER FRAMEWORK DIRECTIVE (WFD) ASSESSMENT AND ARTICLE
4(7) DEROGATION PROCESS.**

We write to update the Panel as to progress in relation to the advice to be provided by NRW during the course of the examination in respect of Article 4 (7) of the WFD.

In our Deadline V submission (in response to the Panel's question ISH7) we expressed our concerns in relation to the applicant's approach to the submission of a robust WFD assessment. At Deadline V significant additional information was submitted by the Applicant. We have now undertaken an initial review of the evidence and have communicated to the applicant that further information is required. A copy of our email to the applicant 14 November 2014 is enclosed for information. We note that the Panel have indicated that 25 November is the final date for submission into the Examination. For the reasons previously outlined in our evidence to the Panel, we do not anticipate being in a position to advise them in respect of the derogation tests on those matters within our remit by this date. However, subject to timely receipt of the further information requested from the applicant, we anticipate that we will be in a position to do so on or before 10 December 2014.

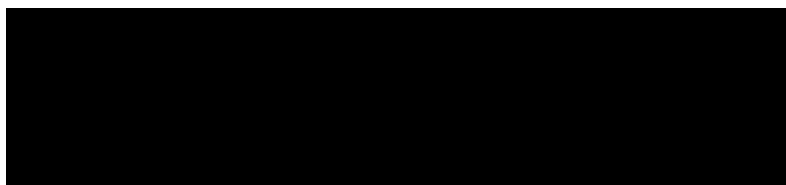
With regard to the extent of the advice to be provided by NRW, the following should be noted:

- 1) Under Article 4(7)(a), An assessment of mitigation measures will be undertaken in the specific context of the Water Framework Directive as distinct from the Planning Act 2008
- 2) Consideration will be given to Article 4(7)(b) relating to 'overriding public interest' and Article 4(7)(c) relating to 'the benefits to the environment and to society....'
- 3) Under Article 4(7)(c), the consideration of 'Environment benefits' within the scope of sustainable development will include an economic assessment within the scope of WFD.
- 4) Under Article 4(7)(c) the 'human health' and 'human safety' aspects are not within the NRW remit and we will not be able to provide the Panel with advice on these matters.
- 5) Under Art 4(7)(d) In addressing the Significantly Better Environmental Options condition, consideration will be limited to those options within Welsh territorial limits and those locations that have the hydro-geographical characteristics capable of supporting the proposed activity.

We trust that this note serves to clarify our current position and the scope of our future advice to the Panel on the outstanding WFD matters.

Please contact Steve Allison, Steve.Allison@cyfoethnaturiolcymru.gov.uk, or telephone 01792 325679 if you have any further queries on our representation.

Yn Gywir / Yours faithfully,



Martyn Evans

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From: [Allison, Stephen](#)
To: [Alex Herbert](#)
Cc: [Gill Lock](#)
Subject: WFD 4.7

Dear Alex

We are continuing to progress our review of your Article 4.7 information in order to provide timely advice to the Panel. As we work through the document our technical specialists have identified some further information which is required.

Please can you provide information on the below points to support the Water Framework Directive Information to Support Article 4.7 Derogation for Swansea Bay Coastal Water Body' Report submitted at Deadline V.

- An assessment of technical feasibility and disproportionate cost for the mitigation measures and significantly better environmental options has been made. What guidance or models have been used for these assessments and are those consistent with the definitions in [Common Implementation Strategy Guidance](#).
- The information used for the economic case for the development provided by Cardiff Business School may have changed as the scheme has developed through the examination period. For example some components may have been scoped in or out or number of jobs created by the proposed scheme revised. Please could those changes be summarised to ensure that the correct and most up-to-date information is being used for the economic assessment.
- Please provide further detail on how the components and extent of the soft engineering solutions for the inside and outside of the lagoon wall have been identified and quantified as being at the proportionate/disproportionate cost boundary . Further detail is required on what soft engineering solutions on the outside of the lagoon wall were considered and if they were technically feasible and/or disproportionately costly.
- Please provide an updated Figure 2.7 to demonstrate the tidal regime within the lagoon in relation to the promotion of salt marsh growth and biodiversity within the lagoon.

We are conscious of the need to provide advice to the Panel at the earliest opportunity and therefore it would assist if this information could be provided as soon as is possible. We will advise you promptly if further information is found to be required as we continue our review.

Regards
Steve

Steve Allison

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