

Chief Executive

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29 September 2017

Your Ref: JH/CB

Vial email: jane.hutt@wales.gov.uk

Dear Ms Hutt

**ENVIRONMENTAL PERMITTING (ENGLAND AND WALES) REGULATIONS 2016;
SCHEDULE 5 (PART 1, PARAGRAPH 4) BIOMASS UK No.2 LTD APPLICATION NUMBER:
PAN – 000869****CIRIA; DSEAR; COMAH; APPLICATION OF THESE REGULATIONS TO THE CHEMICAL
INDUSTRY ON THE BARRY DOCKS ESTATE**

Thank you for your letter dated 15 September 2017 in which you seek advice as to how the Regulations under CIRIA, DSEAR and COMAH apply to the Barry Docks Estate, and to the proposed activity at the biomass plant, currently under construction on Woodham Road, and close to neighbouring industry engaged primarily in chemicals.

In your letter you raise two concerns, the first being the application of these regulations to the proposed plant. As matters currently stand we have not been consulted by the local authority (Vale of Glamorgan County Council) in relation to any hazardous substances consent application required under the Planning (Hazardous Substances) (Wales) Regulations 2015 in respect of this development. The reason for us not having been consulted may be either that consent is not needed, or the application has not yet been made.

Further, we have not been notified under the Control of Major Accident Hazards Regulations 2015 (known as COMAH) of any intention of this Operator to hold inventories of substances that would make it subject to the COMAH regulatory regime. If, and when, the biomass plant is operational, the duty holder will have to comply with Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR) with respect to any substance or preparation which could cause harm to people resulting from fires and explosions.

CIRIA – the Construction Industry Research and Information Association, produce guidance for the construction industry. They do not produce statutory requirements that fall within our remit to enforce.

Secondly, you raise concern as to the proximity of the proposed plant to the community of chemical industries (some of which are COMAH sites) in the Barry Docks area and the potential for any domino affect arising from an incident at the biomass plant. We are a statutory consultee for planning applications around major hazard sites. HSE's advice is aimed at mitigating the effects of a major accident on the population around a major hazard site. Our Land Planning Use section has advised me that the location of the biomass plant appears to be outside the consultation zones around any of the relevant sites in the Barry area to which COMAH applies. For this reason, the development would also not be within any of the Public Information Zones (PIZs) around any of the COMAH Upper Tier sites, where under COMAH Regulation 18 there is a requirement to provide certain information to the public where they could be affected by the consequences of a major accident. Accordingly, the biomass plant would also not be defined as a domino site under COMAH Regulation 24.

I hope this provides the clarification you were seeking on this matter. If you would like any further information, Neil Craig (neil.craig@hse.gov.uk tel: 02030282308) or Andrew Knowles (andrew.knowles@hse.gov.uk tel: 02030282264) would be pleased to meet with you in our Cardiff office

Yours sincerely

A handwritten signature in dark ink, reading "Richard Judge". The signature is written in a cursive style with a large initial 'R' and a long, sweeping underline.

Dr Richard Judge
Chief Executive