



TRINITY HOUSE

4th October 2022

The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Your Ref: EN010112
Identification No. 20031611

**Awel y Môr Offshore Wind Farm Project
Written Submission to the Examining Authority
for Deadline 1 on Draft Development Consent Order**

Dear Sir / Madam

We refer to the above application for development consent.

Accordingly, Trinity House requests to submit a written submission to the Examining Authority for Deadline 1 in respect of the Draft Development Consent Order as follows:-

**AS-015 Draft Development Consent Order (draft DCO) Application Ref: 3.1.2
Revision E: April 2022**

Article 44 Arbitration

Trinity House notes that Article 44 of the draft DCO makes provision in respect of Arbitration. It provides that any difference under any provision of the DCO, unless otherwise provided for, must be referred to and settled in arbitration.

Trinity House is concerned that the exercise of its statutory functions to provide for safety of navigation, including the requiring of the marking and lighting of potential obstructions during the construction, operation, maintenance and possible decay of the works authorised by the proposed DCO, might be regarded as being subject to the Arbitration provisions in the DCO.

The "saving" provision included in the draft DCO at Article 36 is intended to preserve Trinity House's ability to exercise its statutory functions. Nothing in the DCO should, in our view, fetter the statutory powers of Trinity House in respect of DCOs and Marine Licences, to give direction in terms of aids to navigation requirements and for the prevention of danger to navigation.

We consider therefore that it is important that there is clarity that the saving for Trinity House in the DCO, if adopted, should also not be subject to any other provision in the draft DCO.

Trinity House would therefore submit that Article 44(1) (Arbitration) of the draft DCO should be amended as follows:-

44.—(1) Any Subject to article 36 (saving provisions for Trinity House), any difference under any provision of this Order, unless otherwise provided for, is to be referred to and settled in arbitration in accordance with the rules at Schedule 12 (arbitration rules) of this Order, by a single arbitrator to be agreed upon by the parties, within 14 days of receipt of the notice of arbitration, or if the parties fail to agree within the time period stipulated, to be appointed on application of either party (after giving written notice to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State is required under any provision of this Order is not subject to arbitration.

We trust that this submission is of assistance and would ask that all correspondence regarding this matter is addressed to myself at [REDACTED] and to Mr Steve Vanstone at [REDACTED]

Yours faithfully,

[REDACTED]

Russell Dunham ACII

Legal Advisor

Email: [REDACTED]