



# Awel y Môr Offshore Wind Farm

## Written Summaries of Oral Submissions to ISH1 (dDCO) and the OFH

### Deadline 1

**Date: 24 October 2022**

**Revision: A**

Document Reference: 1.6

PINS Reference: N/A



REVISION	DATE	STATUS/ REASON FOR ISSUE	AUTHOR:	CHECKED BY:	APPROVED BY:
A	October 2022	Deadline 1	Burges Salmon	RWE	RWE

[www.awelymor.cymru](http://www.awelymor.cymru)

RWE Renewables UK Swindon Limited

Windmill Hill Business Park

Whitehill Way

Swindon

Wiltshire SN5 6PB

T +44 (0)8456 720 090

[www.rwe.com](http://www.rwe.com)

Registered office:

RWE Renewables UK Swindon Limited

Windmill Hill Business Park

Whitehill Way

Swindon

# Awel y Môr ISH 1 draft DCO: The Applicant's Summary of Oral Submissions



This note summarises the submissions made by Awel y Môr Offshore Wind Farm Limited (the Applicant) at ISH1 on 21 September 2022. This document does not purport to summarise the oral submissions of parties other than the Applicant; summaries of submissions made by other parties are only included where necessary in order to give context to the Applicant's submissions.

Updates or responses to action points are addressed in the response to ISH1 actions document submitted at Deadline 1 (Document 1.19 of the Applicant's Deadline 1 submission).

## **1 ARTICLES AND SCHEDULES (INCLUDING REQUIREMENTS) OF THE DRAFT DCO**

- 1.1 As requested by the ExA, the Applicant provided an overview of each part of the draft Development Consent Order (dDCO).
- 1.2 The Applicant was asked to briefly highlight changes which have been made to the dDCO since the original submission version. In response, the Applicant advised that these were primarily stylistic and consistency amends, particularly in names of sections and parts within references. In addition, a number of definitions which were used pre-submission but later deleted were tidied up, for example the definition of 'cable sealing ends' was deleted as that term is not used in updated dDCO. There were no fundamental changes to the powers in the dDCO.

### Article 2, Definitions

- 1.3 Definition of commence: The Applicant advised that the Environmental Statement (ES) onshore project description (APP-062) at section 1.7.1 sets out what is intended to be carried out as site preparation works in the context of the definition of commence. Paragraph 57 of the onshore project description (APP-62) provides that this would be detailed pre-commencement surveys (such as geophysical, geotechnical, ecological or archaeological surveys), preparatory works to existing infrastructure, utilities and services, preparation and installation of temporary access roads, working areas and Temporary Construction Compounds (TCCs), removal (or height reduction) of trees, hedgerows and ground vegetation. It was confirmed that the Applicant would consider the definition and make changes required to provide greater clarity at Deadline 1.
- 1.4 The Applicant was further asked how the definition of 'material operation' in section 155 of the Planning Act 2008 relates to the definition of commence. It was agreed that the Applicant would respond to this in writing.
- 1.5 The Examining Authority (ExA) noted that there was some inconsistency in the use of 'pre-commencement works' and 'preliminary works' in the dDCO. The Applicant confirmed it would review the dDCO for consistency.

### Article 7, Application and modification of legislative provisions

- 1.6 The Applicant explained that it considers it appropriate to disapply the legislation listed in the dDCO, that the approach taken is entirely in line with the objective of the DCO regime to reduce the number of other consents required for Nationally Significant Infrastructure Projects (NSIPs) and that there was precedent for this.
- 1.7 Items (a), (b) and (c) of Article 7 set out the disapplication of water byelaws and ordinary watercourse consents in order that further consents to carry out watercourse works are not required. The Applicant notes that no objection to this from the local authority was received during pre-application consultation.

- 1.8 Item (c) removes the need to obtain a separate flood risk activity permit. This has been discussed in principle with NRW. The Applicant has proposed and NRW are considering the inclusion of a further requirement to secure NRW's approval of method statements for specified crossing works before they can be undertaken, the wording of which is being negotiated at present. The Applicant will include the requirement in the next available revision of the dDCO as soon as it is agreed.
- 1.9 Item (e) is precautionary as the temporary possession sections of the Neighbourhood Planning Act 2017 have not been brought into force. Should those provisions be commenced, this article disapplies them to prevent a conflict of provisions arising between the Act and the DCO. The Applicant has had regard to the Act in providing for the time period for taking of temporary possession for construction in article 27(2), which is 3 months in line with the Act and not 14 days as was commonly provided for in DCOs before that Act.

#### Article 27

- 1.10 The Applicant was asked to review the drafting of Article 27. The Applicant confirmed that the intention of Article 27 is for the land in Schedule 6 to only be acquired temporarily and that the Applicant will re-visit this drafting.

#### Article 40

- 1.11 The Applicant confirmed the list would primarily include plans to control works and that an updated list of ES updates would be provided before the end of the examination. It is not proposed that marine licence mitigation/control documents would be certified in the DCO. In response to a query raised by Denbighshire County Council (DCC), the Applicant confirmed there was no duty on DCC to hold the certified documents but the Applicant would be happy to provide copies to DCC on request.

#### Article 43

- 1.12 The ExA asked the Applicant to explain the purpose of Article 43. It was confirmed that the purpose of the article is a route for appeal which is not included in the Planning Act 2008. It is a general power and there is a precedence for this wording in other DCOs. This article provides a route of appeal including where no decision is issued as otherwise the project would have no such right. This article is preceded in article 8 of the Hornsea Three Offshore Wind Farm Order 2020.

#### Schedule 1, authorised development – ancillary development

- 1.13 The ExA asked why ground investigations and boreholes were included as ancillary works. The Applicant confirmed that ground investigations would not normally be development which is why these have been included as ancillary not numbered works.

#### Schedule 2, Requirements

- 1.14 The Applicant was requested to review the existing parameters tables and provide greater clarity (Schedule 2, Requirement 2, Table 3 & Requirement 7, Table 4).
- 1.15 The Applicant confirmed that discussions were ongoing with Conwy County Borough Council (CCBC) regarding noise monitoring of offshore piling noise at onshore locations in Conwy. The Applicant confirms that the information requested by CCBC was provided following the hearing and a further call has been held to discuss specific proposals. That discussion is continuing.
- 1.16 The Applicant confirmed its willingness to provide a skills and employment strategy. The Applicant is preparing an outline strategy for discussion with the relevant local authorities which will be secured as a requirement of the dDCO, drafting for this has been inserted as a new requirement in the version F submitted at Deadline 1.

- 1.17 The Applicant noted the terms of the representation by National Air Traffic services (RR-025) and confirmed it is in discussions with NATS and a legal agreement is being progressed with them. As NATS note, the parties are not aware of any in principle reason that this would not be concluded during the AyM examination. It is agreed that mitigation is required for NATS interest and that delivery of that is possible and would use proven approaches. It was confirmed by the Applicant that the intention is that a requirement will be added to the dDCO once the wording for that proposal is agreed with NATS.
- 1.18 The ExA raised a query on the lack of an operational time limit of the project and a date for onshore and offshore decommissioning. It was confirmed that the assumed project lifetime used in the ES is an indicative time period for the purposes of the assessment and not a time limit on the development. This assumed period does not impact any of the conclusions reached in the ES. The development is temporary on the basis that there is a statutory obligation under the Energy Act 2004 to decommission the project in accordance with a plan to be approved by the Secretary of State.
- 1.19 It was also confirmed that the onshore decommissioning dDCO requirement includes the need to provide methodology information, which may be in the form of a code of practice in line with relevant environmental legislation at the time of decommissioning.

## **2 SCHEDULE 9 – PROTECTIVE PROVISIONS**

- 2.1 The ExA asked the Applicant to provide a general update on the protective provisions (PPs) included in the dDCO and the status of negotiations on PPs.
- 2.2 The Applicant confirmed that a set of PPs had been included in the dDCO in favour of parties which the Applicant considered required PPs at the time of submission and provided the following summary of PPs included in Schedule 9 of the dDCO and an update on negotiations with other parties:
- Part 1 includes PPs for the protection of electricity, gas, water and sewerage undertakers. These are in a standard form and no comments have been received on these PPs.
  - Part 2 includes PPs for the protection of Dwr Cymru (DC). The parties are in active negotiations on the PPs and some further technical information has been provided to DC.
  - Part 3 includes PPs for the protection of National Grid. The parties are in active negotiations on the PPs and a private agreement which will not be submitted to the examination.
  - Part 4 includes PPs for the protection of SP Manweb. There are active discussions taking place between the parties and the Applicant hopes that progress will be made. The Applicant has provided updated draft PPs and further technical information to SPM. It was confirmed the Applicant would review the land plots containing SPM interests.
  - Part 5 includes PPs for the protection of electronic communications code networks. These are in a standard form and no comments have been received on these PPs.
  - Part 6 includes PPs for the protection of Network Rail (NR). Some comments on the draft PPs have now been received by NR and the Applicant is pleased that NR are engaged in the process.
- 2.3 The Applicant also advised that it has been in communication with Rhyl Flats Offshore Wind Farm (RF OWF). Discussions are ongoing between the Applicant and RF OWF on the matters raised by RF OWF. The Applicant considers it has fully complied with the relevant provisions of the national policy statements including NPS EN-3 on renewable

energy infrastructure. On the basis of the proximity between the projects, an additional set of PPs will be included in the PPs for the protection of RF OWF as Part 7 of Schedule 9.

- 2.4 The Applicant confirmed that it considers that the distance between the proposed development and North Hoyle Offshore Wind Farm (NH OWF) does not warrant an additional set of PPs to be included. There will need to be a cable crossing agreement agreed between the Applicant and NH OWF which will be the appropriate place to deal with the interactions between the projects.

### **3 CONSENTS, LICENCES AND OTHER AGREEMENTS**

- 3.1 The ExA asked for an update on other consents and licences to be obtained by the Applicant. In response the Applicant referred the ExA to the other consents and licences document [APP-037] submitted with the application. The first part of the document explains what other consents are not required to be separately obtained (ie they are disapplied) and the powers required will be provided directly by the DCO including ordinary watercourse consent, flood risk activity permit and temporary traffic regulation orders.

#### Marine licencing

- 3.2 Marine licences will be required from Natural Resources Wales (NRW) in order to carry out the authorised development as works will be undertaken in the Welsh inshore region. It was confirmed that the DCO and marine licencing regimes are two separate processes within Wales; the DCO examination and marine licences process should be aligned as far as possible and that duplication should be avoided but must run in parallel. The Applicant, working with NRW, has prepared the Marine Licence Principles document [AS-023] to specify what will be included in the marine licences in order to allow the ExA to have visibility on the scope of the marine licences and the controls they will include.
- 3.3 The Applicant has submitted an application for three marine licences which cover the generation array, the transmission system and the proposed connection to the Gwynt y Môr offshore wind farm. These applications have been deemed duly made by NRW. A fourth marine licence will be required in relation to the crossing of the River Clwyd by the cable route as this is a tidal river. Additional information in relation to this marine licence will be submitted to NRW to supplement the application already made. The DCO provides the overarching consent for the project with the marine licence dealt with separately by NRW. The ExA raised a query about its ability to place reliance on marine licence conditions which are not within the control of the DCO. The Applicant noted NRW's submissions that there was no difficulty in law provided the Secretary of State (SoS) as the DCO decision maker was confident that matters will be dealt with appropriately under a separate decision making regime. The Applicant fully concurred with NRW's submissions
- 3.4 The Applicant confirmed that all relevant documents relating to the offshore aspects of the project had been included in the marine licences application.

#### The Crown Estate

- 3.5 The ExA noted that the Statement of Reasons (APP-021) submitted with the application mentions that agreements with The Crown Estate for the cable route and interlink cable are being progressed. The ExA asked the Applicant for an update on these agreements and asked whether they needs to be in place before the DCO could be granted. The Applicant confirmed it is currently in detailed discussions with The Crown Estate. It is the Applicant's preference is to have this agreed before the DCO is granted but it was noted that this is not a legal prerequisite.
- 3.6 The ExA queried if RF OWF and NH OWF would also need to provide consent as some of the works are within their leased areas. The Applicant advised that it has considered this carefully and does not believe that any of the works fall within the leased area of RF OWF and NH OWF. Some of the works intrude into the RF OWF's restricted area which

is outside of the lease area, and a plan to demonstrate this has been provided to RF OWF. The Applicant has provided an update on ongoing discussions with The Crown Estate and the need for the consent of RF OWF and NH OWF in response to Q 3.34 of the ExA written questions (Document 1.7 of the Applicant's Deadline 1 submission).

National Grid substation extension plans

3.7 The Applicant confirmed that it did not have an update to provide and that this was a matter for National Grid.

**4 STATEMENTS OF COMMON GROUND**

4.1 The Applicant confirmed that draft SoCGs would be sent out shortly and that an update will be provided at Deadline 1. It was noted that there may be some difficulty in engaging some parties before Deadline 1 and there was some sensitivity in submitting SoCGs in draft before they were agreed.

# Awel y Môr OFH 1: The Applicant's Summary of Oral Submissions



This note summarises the submissions made by Awel y Môr Offshore Wind Farm Limited (the Applicant) at OFH1 on 22 September 2022. This document does not purport to summarise the oral submissions of parties other than the Applicant; summaries of submissions made by other parties are only included where necessary in order to give context to the Applicant's submissions.

## **1 CONCERNS RAISED BY MR CARL DAVIES**

- 1.1 The Applicant noted concerns raised by Mr Carl Davies.
- 1.2 The Applicant welcomes the engagement from Mr Davies and other fishermen during the application process. The Applicant is aware of concerns raised and has sought to mitigate the impact of the development on fishermen through a Fisheries Liaison and Co-Existence Plan (FLCEP, comprising a Fisheries Liaison Plan and Fisheries Cooperation Strategy - document 1.32 of the Applicant's Deadline 1 submission) and the appointment of a Fisheries Liaison Officer, all of which will be secured through a condition of the marine licences. This is also considered in response to questions 12.3 and 12.10 of the ExA's first set of written questions (Document 1.7 of the Applicant's Deadline 1 submission).
- 1.3 Mr Davies raised concern that the Applicant's Environmental Statement (ES) does not refer to tub gurnard. The Applicant confirmed that the effect of the development on this species is considered in paragraphs 69 to 74 of Volume 2, Chapter 12 of the ES relating to Other Marine Users and Activities (APP-058).
- 1.4 The Applicant also noted Mr Davies' concerns about the cumulative effects of future offshore wind farm developments in the area. The Applicant confirmed that as Awel y Môr would be the first of these to be developed there is currently limited information available in the public domain for the Applicant to consider the cumulative effects in relation to other future offshore wind farms. It will be for the other projects to consider the cumulative impacts taking into account of Awel y Môr.
- 1.5 The Applicant also stated that the piling options outlined by Mr Davies are considered as options for this development and have been considered in the ES.
- 1.6 The Applicant has also responded to Mr Davies' relevant representation (RR-060) (Document 1.1 of the Applicant's Deadline 1 submission).



RWE Renewables UK Swindon Limited

Windmill Hill Business Park

Whitehill Way

Swindon

Wiltshire SN5 6PB

T +44 (0)8456 720 090

**[www.rwe.com](http://www.rwe.com)**

Registered office:

RWE Renewables UK Swindon Limited

Windmill Hill Business Park

Whitehill Way

Swindon