

Applicants Responses to Examining Authority’s First Written Questions

Further Response on behalf of Rhyl Flats Wind Farm Limited

Comments on Table 5 of the Applicant’s Deadline 3 Representations

Table 5 of REP3-002 sets out the Applicant’s responses to the comments made by RFWFL at Deadline 2 on relevant representations. There are no additional substantive points raised in this table. The position of the Applicant that the proposed protective provisions will be sufficient to address the need for protective provisions and consent in terms of RFWFL’s Crown Estate lease is understood. The acceptability of this approach depends on whether the protective provisions can be concluded in terms which are agreeable to the parties. Full agreement has not been reached (with the issue of wake loss still fundamentally in dispute) and it may be necessary for RFWFL to propose additional protective provisions if agreement cannot be reached.

Comments on Table 6 of the Applicant’s Deadline 3 Representations

Table 6 of REP3-002 sets out the Applicant’s responses to the comments made by RFWFL at Deadline 2 on the ExQ1s. RFWFL’s further comments are set out below. Due to constraints of space, only the comments from Deadline 2 and 3 have been included:-

Reference	ExA Question	RFWFL Deadline 2 Response	Applicant’s Deadline 3 Response	RFWFL Further Response
3.26	<p>Several Statutory Undertakers with offshore land and equipment interests (not included the BoR) have submitted a RR ([RR-018], [RR-019] and [RR-020]).</p> <p>The Applicant:</p> <p>a) Provide a progress report on negotiations with each of these Statutory Undertakers, with an estimate of the timescale for securing agreement with them;</p>	<p>RFWFL acknowledges that draft protective provisions were supplied by the Applicant in September. Revised provisions were returned to the Applicant at Deadline 1.</p> <p>Although RFWFL state that they are seeking to reach agreement by the end of the inquiry, there is a fundamental issue to be resolved in relation to wake loss. RFWFL is encouraged by the applicant’s statement in their</p>	<p>The Applicant has responded to RFWFL’s comments on the draft protective provisions provided at Deadline 1. The Applicant has addressed this matter in response to REP1-088-4.1 - REP1-088-4.3, document REP2-002</p>	<p>Progress is being made with the Applicant in relation to protective provisions and these are under discussion between the parties. No progress has been made on the issue of wake loss which remains in dispute between the parties.</p>

	<p>b) Indicate whether there are any envisaged impediments to the securing of such agreements; and c) State whether any additional Statutory Undertakers with offshore interests have been identified since the submission of the application.</p> <p>Statutory Undertakers: Where Statutory Undertakers [RR-018, RR-019 and RR-020] have concerns regarding the current drafting of the Protective Provision within [AS-014], either provide copies of preferred wording or if you have provided it, signpost where it can be found and explain why you do not consider the wording as currently drafted to be appropriate.</p>	<p>response to RFWFL’s relevant representation that the applicant seeks to address this issue by agreement. However, no proposals have been received from the applicant on this matter. RFWFL is further confused by the applicant’s response to Q3.27(c) where they still appear to question the need to address wake loss. The applicant is called upon to clarify their position and explain how they intend to resolve this matter before the close of the Examination.</p>		
3.27	<p>Please comment on the concerns raised by RFWF Limited [RR-020] regarding: a) Work No.2 and implications for the operation of RFWF and its lease agreements; b) Necessary consents from RFWF (similar matter also raised by NHWF Limited [RR-019]); and c) The positioning of the Proposed Development and potential fora</p>	<p>a) It is acknowledged that Work No.2 does not intrude into the areas of the seabed leased to RFWFL. It is noted that the applicant proposes to deal with the crossing of the RF restriction zone by way of private agreement. Although draft protective provisions have been received (and revisions were returned at Deadline 1), this is the first time that the applicant</p>	<p>a) & (b) The Applicant considers that the agreement of suitable protective provisions will be sufficient for RFWFL to provide its consent to the granting of the lease. The Applicant no longer considers that a separate private agreement with RFWFL is necessary to secure its consent and has confirmed this in</p>	<p>a)and b) The protective provisions are not yet fully in terms which are acceptable to RFWFL in order for them to provide their consent to the granting of the lease. It cannot be assumed that the existence of protective provisions means that RFWFL has given its consent to the lease. This will still require formal approval by RFWFL whether this is in the</p>

	<p>reduction in the energy output of RFWF from changes to wind speed and direction</p>	<p>has received an indication that the applicant proposes a private agreement to deal with crossing of the restriction zone. RFWFL looks forward to receiving further details of the proposed agreement. The conclusion of such an agreement will of course be subject to satisfactory resolution of RFWFL's other concerns.</p> <p>b) As above, no proposals for such an agreement have been received.</p>	<p>correspondence with RFWFL. The Applicant has addressed negotiations on the protective provisions in response to REP1-088-4.1 - REP1-088-4.3, document REP2-002.</p>	<p>form of agreement or a letter of consent. This is not currently in place.</p>
		<p>c) It appears to RFWFL that the applicant has not answered the question raised by the ExA. They were asked to respond to RFWFL's concerns about the positioning of the proposed development and potential for reduction in energy yield. The applicant has not provided any substantive material to explain what they consider the impact of their development will be on the energy yield of RF.</p> <p>The applicant's position on wake loss is contradictory. Elsewhere (such as in their response to RFWFL's relevant</p>	<p>The Applicant has made its position clear in its responses to REP1-088, document REP2-002, and ExQ1.3.27, document REP1-007. Ensuring a suitable distance between existing and new offshore wind farms was considered as part of TCE's siting criteria and there are no further siting requirements placed on the Applicant in relation to the design of AyM. The Applicant fundamentally disagrees with RFWFL's interpretation of NPS policy in relation to this issue. The Applicant maintains that had paragraphs 2.6.176 –</p>	<p>RFWFL's position is set out in the response to Q3.27 at REP3-029. The TCE siting criteria are broad criteria and do not mean that a site outwith the TEC siting distances can be assumed to have no impacts on existing windfarms. It is for the Applicant to show this and they have not done so.</p> <p>The Applicant's interpretation of the NPS would mean that any from of offshore development that is not expressly "listed" in 2.6.176 does not require to go through the assessment process in that</p>

		<p>representation), the applicant indicates that they intend to deal with wake loss by way of private agreement (thereby acknowledging that there is an issue which requires to be addressed). Here, the applicant appears to question the need to deal with wake loss. If that is the intention then it is misconceived.</p> <p>Dealing first with the TCE siting guidance, whilst this does include minimum set-off distances for extension proposals from existing wind farms, the context for this is important. Crown Estate leases for offshore wind farms set a restricted zone around the lease area within which the consent of an existing leaseholder is required for the construction of additional turbines which would result in reduction of energy output from an existing wind farm. The 5km zone is related to these restriction zones where leaseholder consent is required. Hence, the siting guidance seeks to avoid proposals within</p>	<p>2.6.188 of NPS EN-3 been intended to cover other offshore wind farms this would have been expressly stated. The use of the word 'other' and omission of such projects from the list in paragraph 2.6.176 of NPS EN-3 confirms this is the correct interpretation.</p> <p>As a result, and following the principles that apply to terrestrial development, the Applicant maintains its position that any claims of wake loss are a commercial matter between the parties and are not relevant to the AyM examination and decision.</p>	<p>part of the NPS. Other impacts on existing wind farms (other than wake loss) would similarly not need to be considered. Such an interpretation cannot be correct and contradicts the position taken by the Applicant on other aspects of RF where they have accepted the need to consider the impact of installing their cable on close proximity to the existing turbines. That demonstrates why impacts on existing wind farms need to be considered and that is what paragraphs 2.6.176 – 2.6.188 require. For this section not to apply to particular types of existing offshore infrastructure, there would need to be clear wording to that effect as the result would be that there is no policy requirement to address impacts. There is no such wording and the Applicant is seeking to imply wording that does not exist. In RFWL's submission, the types of infrastructure listed in paragraph 2.6.176 are simply examples. It is not an exhaustive list. Existing offshore</p>
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		<p>geographic areas where leaseholder consent is required.</p> <p>The 5km set off zone sets broad locational guidance to try and avoid areas where it is known that locating new turbines is likely to have a detrimental impact on existing assets. However, it does not follow that that development outwith the TCE set off distance will be free of wake loss impacts. This issue still needs to be considered on a site by site basis, taking the individual circumstances into account.</p> <p>In relation to EN-3, RFWFL made detailed submissions at Deadline 1 on the implications of this document which are not restricted to paragraph 2.6.184. It is noted that the applicant seeks to argue that this section of EN-3 does not apply to other offshore wind farms. The other activities referred to in paragraph 2.6.176 are simply examples of offshore infrastructure which may be affected by an offshore wind proposal. This is clear from the</p>		<p>wind farms are included and impacts on them require to be assessed in terms of paragraphs 2.6.176 –2.6.188.</p> <p>Wake loss is not a private commercial matter. It is an impact on the infrastructure of a statutory undertaker.</p> <p>Furthermore, if AyM would result in a reduction of power generation from a neighbouring generating station then this reduces the overall net contribution that the development would make to renewable energy targets. Regardless of how the NPS is interpreted, the issue of wake loss is still therefore an issue which the ExA must consider.</p> <p>RFWFL understands that the Applicant accepts that their development may have wake loss impacts on RF but they refuse to engage on this point or propose a mechanism for how such impacts can properly be assessed and addressed. In the absence of assessment by the Applicant, RFWFL have</p>
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		<p>wording of paragraph 2.6.176 – “the scale and location of future offshore wind development around England and Wales raises the likelihood of development being proposed in or close to areas where other offshore infrastructure, such as...” (emphasis added). There is no basis for interpreting EN-3 as being restricted to offshore infrastructure other than existing offshore wind farms.</p> <p>Although this section of EN-3 is being considered in the context of potential wake loss impacts, the guidance of course applies to a wider range of potential impacts on existing offshore infrastructure. If this section does not require consideration of potential impacts on existing offshore wind farms then what is being suggested by the applicant is that EN-3 does not require any sort of impact on an existing offshore wind farm to be considered at all. That simply cannot be correct.</p> <p>For the reasons stated by RFWFL in their Deadline 1 submissions,</p>		<p>engaged DNV to provide an independent opinion on potential wake loss. This is attached as Appendix 1. It will be noted that DNV are of the opinion that, given the distances between the developments, construction of AyM will result in tangible wake loss at RF. In their professional opinion, DNV expect the additional wake loss at RF to be in the region of up to 2%. They further recommend that a wake loss assessment be conducted. Over the remaining lifespan of RF, a 2% wake loss will have a substantial financial impact.</p>
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		<p>the applicant is required by EN-3 to assess the impact of their proposal on RF (include impacts on wind energy yield). This work has not been undertaken and the ExA is therefore currently unable to satisfy itself in terms of paragraph 2.6.184 of EN-3.</p> <p>The applicant has not specified how it has sought to minimise economic loss or disruption to RF. The references provided to the ES provide no comfort on this point.</p> <p>Although the Applicant states that they are in discussions with RFWFL on issues of concern, there are no ongoing discussions on wake loss and no proposals have been received. In the event that the applicant continues to fail to engage on this point then RFWFL reserves the right to provide the ExA with their own assessment of wake loss impacts, together with proposed additional protective provisions to deal with the issue.</p>		
3.29	Does Schedule 9 (Protective Provisions) Part 1 (Protection for	It would be helpful if the applicant could explain why these provisions only apply to	These are standard protective provisions for onshore interests and were not drafted to cover	The position is noted. Negotiations are continuing on

	electricity, gas, water and sewage undertakers) of [AS-014] apply both onshore and offshore?	onshore undertakers. However, progress is being made on bespoke protective provisions for RFWFL.	offshore interests. The Applicant considers that RFWFL's interests will be adequately protected by the RFWFL protective provisions included in Part 7, Schedule 9 of the draft DCO (Document 3.6 of the Applicant's Deadline 3 Submission). The Applicant has addressed negotiations on the protective provisions in response to REP1-088-4.1 - REP1-088-4.3, document REP2-002.	the protective provisions but they are not yet agreed.
3.34	Paragraphs 16 and 110 of [APP-021] set out that an agreement for lease for the array area has already been finalised with the Crown Estate and a further agreement for lease for the cable area is being progressed. Please provide an update on this progress and confirm whether agreement will be reached before the close of the Examination, noting and addressing also that North Hoyle Wind Farm Limited [RR-019] and Rhyl Flats Wind Farm Limited [RR020] indicate that their consent is also required.	It is understood from this response that the applicant accepts that the consent of RFWFL is required in order for the lease to be granted. There is currently no agreement in place for the granting of this lease.	The Applicant considers that the agreement of suitable protective provisions will be sufficient for RFWFL to provide its consent to the granting of the lease. The lease will be entered into after the DCO is granted.	It cannot be assumed that the existence of protective provisions means that RFWFL has given its consent to the lease. This will still require formal approval by RFWFL whether this is in the form of agreement or a letter of consent. This is not currently in place.
4.11	Outline Code of Construction Practice (oCoCP) Paragraph 9 of the oCoCP [APP-312] relates to the	The DCO will also authorise works in the marine environment which are assessed	The Applicant is unclear which works are being referred to.	The position is noted.

	<p>onshore elements of the Proposed Development only (i.e., landward of Mean High-Water Springs (MHWS)). Please provide a list of documents employed to manage the potential environmental impacts seaward of MHWS during preliminary works and construction works.</p>	<p>in the ES with proposed mitigation. It remains unclear how the mitigation is secured for the purpose of offshore works authorised by the DCO.</p>	<p>Following standard practice, the detailed mitigation plans for the offshore works will be secured through the Marine Licences which in this case can only be issued by NRW. The Marine Licence Principles Document presents a summary of the mitigation plans and details anticipated to be contained within the Marine Licences (REP2-022)</p>	
4.23	<p>Safety Zones</p> <p>Please can you confirm the 500 metres safety zones during construction are within the OL?</p>	<p>It is noted that the safety zones may extend beyond the Order Limits. It appears that this may result in the safety zone extending into the lease area for RF. Further clarification is sought over how the safety zone will operate and the implications for the operational RF wind farm whilst the safety zone is in effect.</p>	<p>The Applicant agrees with Rhyl Flats Wind Farm Limited (RFWFL). The safety zone may extend into the lease area for Rhyl Flats Wind Farm. Works in this area will be covered by protective provisions as set out in the Applicant's response to RR-020.</p> <p>The Applicant will request a mandatory 500m safety zone around each offshore foundation structure during construction activities where a construction vessel is present. Note that export cables are not considered a structure in this context.</p>	<p>The position is noted.</p>

			<p>Considering the distance between the Awel y Môr structures and the adjacent wind farms, these mandatory safety zones will not affect RFWFL (or NHWFL). Further clarification is available in doc ref 7.2 (APP-297) (Safety Zone Statement) which confirms that safety zones will be sought for the protection of individuals working on the installation and vessels both related to the works and operating within the vicinity of works.</p> <p>Additionally, during the construction period, there will be advisory safe passing distances around construction vessels such as the export cable installation vessel. It should be noted that it is common marine practice for vessels restricted in their ability to manoeuvre to issue navigational warnings requesting such clearance. As such, an advisory safe passing distance is not normally confined within the Order Limits of an offshore</p>	
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			<p>RWE has a unique position as developer and operator of North Hoyle, Rhyl Flats, Gwynt y Môr and now Awel y Môr wind farms. As such it has extensive experience in the successful coordination of export cable installation and maintenance activities in proximity to operational assets. The Applicant will use the same industry standard safety zone techniques as previously used in the construction and maintenance of these prior schemes</p>	
6.23	<p>R2, Table 3 – this sets out the maximum parameters of Maximum Design Scenario (MDS) A and MDS B. Given this:</p> <p>a) Would it allow for the maximum parameters for each scenario to be constructed (e.g. 50 turbines at a height of 332 metres)?</p> <p>b) Should there instead be two tables with one setting out the maximum parameters of MDS A and the other setting out the maximum parameters of MDS B?</p>	<p>RFWFL may require to make further submissions on design parameters depending on how discussions progress with the applicant.</p>	<p>This is noted by the Applicant</p>	<p>Discussions are still progressing and the position of RFWFL is reserved on design parameters.</p>

6.42	<p>Decommissioning</p> <p>R21 (1) refers to the onshore written scheme of decommissioning being submitted to and approve by the relevant planning authority at least six months prior to works commencing. In contrast, R20 remains silent in respect of a timescale. Please clarify why it isn't necessary for a timescale to be included within R20.</p>	<p>It is likely that RF will be decommissioned before AyM. However, the presence of the AyM cable in close proximity to the existing RF infrastructure has the potential to increase RFWFL's decommissioning costs. The protective provisions submitted by RFWFL at Deadline 1 therefore included provision in paragraph 9(1)(d) for the applicant to indemnify RFWFL for these additional costs.</p>	<p>The Applicant has responded to RFWFL on comments raised on the draft protective provisions. The Applicant considers that indemnifying RFWFL in relation to increased decommissioning costs would be an unreasonable burden on the Applicant</p>	<p>The close proximity of the cable to the infrastructure of RF may increase RFWFL's decommissioning costs. The increased costs would be as a result of the Applicant's works. It is not unreasonable for these costs to be met by the Applicant.</p>
11.3	<p>Cable Burial Risk Assessment Please confirm when the Cable Burial Risk Assessment is to be completed and provide a high-level overview in respect of content.</p>	<p>RFWFL would wish to see the approved CBRA when proposals for works are submitted for their approval in terms of the protective provisions. This will require further adjustment of the protective provisions.</p>	<p>The Applicant has responded to RFWFL on comments raised on the draft protective provisions. The Applicant is content to provide cable burial details as part of a method statement to RFWFL but does not consider that the approved CBRA should be submitted for approval by RFWFL</p>	<p>RFWFL is not asking to approve the CBRA. They are just asking that the approved CBRA is submitted to them as part of the package of materials which needs to be submitted to them when seeking consent.</p>
11.4	<p>Cable Specification and Installation Plan and Cable Route Burial Protocol Noting that this plan and protocol are to be produced post consent, please confirm how they are to be secured and provide a high-level overview in respect of content.</p>	<p>RFWFL would wish to see the approved Protocol when proposals for works are submitted for their approval in terms of the protective provisions. This will require further adjustment of the protective provisions.</p>	<p>The Applicant has responded to RFWFL on comments raised on the draft protective provisions. The Applicant is content to provide cable burial details as part of a method statement to RFWFL but does not consider that the approved Cable Route Burial Protocol should be</p>	<p>RFWFL is not asking to approve the CRBP. They are just asking that the approved CRBP is submitted to them as part of the package of materials which needs to be submitted to them when seeking consent.</p>

			submitted for approval by RFWFL	
16.7	<p>Site Selection</p> <p>Table 2 of ES Vol 1 Chapter 4, Site Selection and Alternatives [APP044] notes in a summary of Crown Estate extensions criteria that</p> <p>“Other than the existing wind farm, the proposed extension must not encroach within a radius of 5km of any other wind farm unless the tenant of any such wind farm confirms its agreement in writing to The Crown Estate”. The proposed development compliance states in response that “the nearest wind farm to the...project is the Rhyl Flats offshore wind farm, which is greater than 5km away and is also operated by RWE” [RR-020] from DLA Piper on behalf of Rhyl Flats Wind Farm Limited effectively objects to the proposed development.</p> <p>Please confirm:</p> <p>a) the distance between the proposed development and Rhyl Flats</p> <p>b) whether Rhyl Flats is operated by RWE.</p>	<p>A) Please see comments on Q 3.27. Compliance with the TCE extensions criteria cannot be taken to mean that the proposed development will have an acceptable impact on RF.</p> <p>B) Although the operational and maintenance activities of RF are carried out by RWE Renewables UK Swindon Limited, this is in terms of a contractual arrangement for these activities. RFWFL has the legal interest in the RF wind farm and is separate to RWE.</p>	<p>a) The Applicant has responded to this in relation to ExQ1.3.27(c) above.</p> <p>b) This is noted by the Applicant</p>	<p>a) Please see further comments on Q1.3.27(c) above,</p> <p>(b) No further comment.</p>

