



Awel y Môr Offshore Wind Farm

Applicant's Comments on Responses to the Examining Authority's Second Written Questions

Deadline 6

Date: 20 February 2022

Revision: A

Document Reference: 6.4

Application Reference: N/A



REVISION	DATE	STATUS/ REASON FOR ISSUE	AUTHOR	CHECKED BY	APPROVED BY
A	February 2023	Deadline 6	GoBe Consultants	RWE	RWE

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1 Introduction

- 1 At Deadline 5 of the Examination of Awel y Môr Offshore Wind Farm (AyM), Interested Parties (IPs) submitted responses to the Second Written Questions by the Examining Authority (ExA) where the ExA had requested answers from those IPs.
- 2 Awel y Môr Offshore Wind Farm Ltd ('the Applicant') has taken the opportunity to review each of these responses to questions received from IPs. Comments from the Applicant on each of these responses to questions received, where appropriate, are set out in the subsequent sections of this document.

2 The Applicant's comments on responses to Examining Authority's Second Written Questions

2.1 General and Cross-Topic Questions

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
0.8	Applicant, Gwynedd Council (GC), Gwynedd Archaeological Planning Services	<p>Wales Coastal Path</p> <p>To all parties: The ExA are aware of the imminent re-routing of the Wales Coast Path through the Penrhyn Estate. Will this change to the route of the footpath have any implications for effects upon landscape, seascape, and Penrhyn Hall and its registered Park and Garden?</p> <p>To GC: Do you have further information over the location of the proposed re-routing?</p>	<p>The Applicant: The Applicant has not been able to source much detail regarding the route of the Wales Coast Path (WCP) through the northern extents of the Penrhyn Castle Registered, Historic Park and Garden apart from a press release by Gwynedd Council. This notes that the new path would be re-aligned to be <i>'closer to the coast'</i> and <i>'Once complete, it will allow walkers to take in the spectacular views of Traeth Lafan and the north Wales coast on this section of the journey'</i>. The press release also states that <i>'Listed building consent has been obtained to take down a section of the grade 2 listed estate wall of Penrhyn to install pedestrian gates at each end of the estate. The path will then follow the Coast through the woodland and open fields.'</i></p> <p>This would suggest that there may be more opportunity for views from this section of the WCP than is currently the case between these two points due to the WCP currently running inland around the Penrhyn Castle estate.</p> <p>The SLVIA (AS-027) assesses the effects on the stretch of the WCP that runs between Port Penrhyn and Llanfairfechan from paragraph 581 as part of the route identified as Section H – Lavan Sands. Re-routing the section that runs</p>	N/A

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			<p>between Porth Penrhyn and the existing path near the Aberogwen Nature Reserve.</p> <p>In assessing the effect on users of the WCP as it passes through the estate the value of views obtained from this stretch of the route would increase to high thereby increasing the sensitivity to change to high due to the route passing through this nationally designated landscape.</p> <p>In terms of the magnitude of change that may occur if open views are available from this stretch of the Wales Coast Path the magnitude of change would be similar to that assessed for Viewpoint 17: Penrhyn Castle Terrace (APP-246) where this was assessed as medium-low resulting in a Moderate effect (Significant).</p> <p>Notably, from a review of aerial photographs showing the northern edge of the estate, the majority of the coastal edge is wooded. Without knowing how the path is routed through the woodland areas or through the fields to the south of these where screening of the views across Traeth Lafan may occur, it is difficult to determine the degree to which there would be open views towards AyM or to what extent effects similar to those assessed for Viewpoint 17 would occur from along the route. However, there are some sections along the eastern section of the route that are likely to gain open views where similar Moderate effects (Significant) would be likely to occur.</p> <p>It is noted in the press release that construction of the route may be complete by Spring 2023. Once further detail is provided on the routing the Applicant is willing to relook at this matter.</p>	

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			<p>However, until the route is actually complete and the views from it can be investigated in the field, it may be difficult to be more decisive about the extent of the route which may gain open views.</p> <p>From a Heritage perspective, The Applicant considers that this does not change the assessment as presented in the EIA. Whilst the proposed WTGs will potentially likely be more clearly visible in views across the Menai Strait to the north, the park and castle will be behind the viewer, to the south. There is a clear distinction between the seaward side and the designed landscape within the park, and the role the park plays as the setting for the castle itself is not affected, nor is the ability to appreciate this setting and the contribution made by the setting to the heritage significance of the castle adversely affected. The relationship of the park itself to the sea, and to the higher ground within the National Park to its south, is also not affected nor is the setting of the Park harmed so that the heritage significance of the park is reduced, and the ability to appreciate this intended juxtaposition is unaffected.</p>	

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			<p>GAPS: We do not have any information about the intended change to the route. Its possible relevance to the archaeology and cultural heritage impact assessment would stem from the nature of the visitor experience, and the ability to understand and appreciate the connection of the estate with the sea, aesthetically and historically. The value of setting is not dependent upon public access, but theoretically an increase in awareness and the opportunity to experience this connection could slightly increase its contribution to the significance of the estate. In practice, even if the new route opens up new sea views, it is felt unlikely that this would result in a change to the scale of impact. In contrast to the intentional, framed outlook from the terrace, any new views along the new route would be incidental. Such fortuitous views can be significant, but here are unlikely to enhance appreciation to such a degree as to affect our overall assessment of the impact on the Grade I Penrhyn Castle as Negligible or the Grade II* Registered Historic Park and Garden as Medium, moderate adverse.</p>	<p>The Applicant notes the agreement from GAPS that the intended change in route does not alter the level of effect previously identified by GAPS and the Applicant.</p>
0.9	Denbighshire County Council (DCC)	<p>Policy</p> <p>Your LIR [REP1-056] makes reference to a number of planning policies and, whilst finding some effects of the Proposed Development to be negative, does not appear to specify any conflict with these policies. Please clarify your position in this respect.</p>	<p>DCC: No specific conflict with LDP.</p>	<p>The Applicant welcomes this confirmation by DCC.</p>

2.2 Biodiversity, Ecology and Natural Environment

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2.2	NRW, DCC, CCBC, RSPB, NWWT	<p>General</p> <p>Please advise if you have any issues with the potential mitigation measures in the Schedule of Mitigation [REP2-024] and Marine Licence Principles (REP2-022), and if issues exist, please reference with explanation and evidence to justify.</p>	<p>RSPB: The current mitigation measures include a minimum blade clearance of the turbine blade of 22m above Mean High Water Springs, the minimum legal requirement (see 2.9. in UK Government Marine Guidance Note.) It has been demonstrated that a greater blade clearance results in lower predicted seabird collision mortalities (Johnstone et al., 20141) and as a consequence most recent offshore wind developments have a greater clearance. For example, for the Hornsea Four project, the Applicant has included a requirement that the clearance of each blade must not be less than 42.43m above LAT (see paragraph 2(2)(c) in Schedule 1, Part 3 (Requirements) of "REP7-039 C.1.1 Draft Development Consent Order (DCO)(Clean)" For the recently submitted Berwick Bank proposed offshore wind farm development, the minimum clearance has been set at 37m above LAT (see Description of Works in Section 36 Consent Application)</p> <p>NRW Advisory: NRW (A) has provided its position(s) on the appropriateness of the mitigation measures outlined in the Schedule of</p>	<p>The Applicant notes the different commitments from other proposed developments that the RSPB has mentioned (Hornsea Four and Berwick Bank), as they are examples of where an increased air gap has been embedded into the design process to reduce the risk of collision to seabirds. In both examples provided by the RSPB there were significant reductions in the mortality rates to key seabirds (including kittiwake, gannet and large gull species) when comparing the results from prior to and after the incorporation of a raised air gap.</p> <p>However, in the instance of AyM, the project level potential impacts as a consequence of collision mortality were estimated to be low for all seabirds, so any increase in the air gap would not provide similar reductions in mortality rates to key species. It should also be noted that the results from the Collision Risk Modelling (CRM) (APP-097) for AyM and subsequent assessments for offshore ornithology in ES Volume 2, Chapter 4: Offshore Ornithology (APP-050) and the RIAA (APP-027) concluded that the significance of effect from collision risk was between negligible and minor for all seabird species.</p> <p>Therefore, as agreed with NRW, the Applicant did not require further measures to mitigate the potential effects, as they were deemed to be not significant at the EIA and HRA level.</p> <p>This is noted and welcomed by the Applicant. The Applicant will continue to liaise with NRW Marine Licensing Team (MLT) as set out in</p>

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			<p>Mitigation and the Marine Licence Principles documents throughout its submissions to the examination. For the explanation and justification of these positions we refer the ExA to REP1-080 and REP3-026. Subject to the mitigation measures being applied and secured - as detailed in our submissions - then NRW (A) is content with the measures proposed. These positions are also reflected in the Statements of Common Ground with the Applicant [REP3-020].</p> <p>In order to aid your consideration, we have provided a summary below.</p> <p>Physical Processes: We have no issues with the potential mitigation measures.</p> <p>Benthic Ecology: We have no issues with the potential mitigation measures.</p> <p>Marine Water and Sediment Quality: - We have no issues with the potential mitigation measures.</p> <p>Fish and Shellfish: We have no issues with the potential mitigation measures.</p> <p>Marine Ornithology: We have no issues with the potential mitigation measures.</p> <p>Marine mammals: We have no issues with the potential mitigation measures proposed and as outlined in the Marine Mammal Mitigation Protocol (MMMP)</p>	<p>Document 6.9 of the Applicant's Deadline 6 submission to ensure any licence granted is reflective of the relevant measures proposed in the Schedule of Mitigation and Monitoring (REP4-021) and the outline Conditions in the Marine Licence Principles (Document 6.8 of the Applicant's Deadline 6 submission).</p> <p>In relation to marine mammals, the Applicant also notes that additional measures are proposed that do not fall under the umbrella of the MMMP, for example the Vessel Traffic Management Plan proposed to be secured as part of the Project Environmental Management Plan (PEMP) in Condition 34 of the Marine Licence Principles (Document 6.8 of the Applicant's Deadline 6 submission).</p>
			<p>NRW Regulation and Permitting Services: Previous comments made by NRW's Regulation and Permitting Services in relation to the Schedule of Mitigation and Marine Licence Principle documents, and as detailed in NRW's Written Representation [REP1-080], still apply.</p>	<p>This is noted by the Applicant, who will continue to liaise with NRW MLT as set out in Document 6.9 of the Applicant's Deadline 6 submission.</p> <p>The Applicant is in agreement with NRW Regulation and Permitting Services comment regarding safety zones, the approach to which</p>

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			<p>Without prejudice to the general determination of the marine licence application, NRW's Marine Licensing Team (MLT) is in general agreement with these documents on the basis that the mitigation measures identified and proposed by the Applicant have been captured within previous Marine Licences. As the Marine Licence application is still in determination, we are not able at this stage to comment more substantively on this document. NRW's MLT would, however, highlight in reference to Mitigation 17 "safety Zones" [REP2-024] that the designation of Restricted Navigational Areas are not within the Marine and Coastal Access Act (MACA) 2009 jurisdiction, and accordingly, the Applicant should ensure that the necessary consents are obtained from the appropriate authorities. NRW's MLT also highlight that an updated Marine Licence Principles document has been submitted to NRW MLT in support of the Marine Licensing application on the 30 January 2023.</p>	<p>is set out in the Safety Zone Statement (APP-297).</p>
			<p>Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust: With regard to the potential mitigation measures in the Schedule of Mitigation (REP2-024, now superseded by Rep4_021) the following issues are raised:</p> <p>Ref 82 – The proposed ECC (and substantial temp mitigation areas) pass through a block of farmland owned by the Trustees. The route runs centrally through the Holding as shown on the attached plan (RegisterPlanWA859967 – GBLandIMkerfootTrust.) The impact on the Holding will be significant, both during and post construction. Despite requesting the assessment</p>	<p>The Applicant notes these comments. In addition to the responses detailed, the Applicant provided (via its agents, on 26 January 2023) the following additional explanatory text:</p> <p><i>"Our client, RWE, has provided a further comment in relation to the request for more information on the cable corridor constraints and design issues:</i></p> <p><i>The proposed cable alignment has sought to identify the optimum environmental, technical, and economic option during the site selection process. In this regard, as detailed within the</i></p>

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			<p>of alternative routes or design iterations pre-statutory consultation, through statutory consultation (§42 Consultation Response attached for reference) the Applicant has provided little evidence of any detailed analysis of these alternative options that has led to their final site selection. The Applicant has provided a response to the Trustees submission of 11 October 2021 (attached) in Report 5.1, Annex 1: Consultation Report Appendices Part 2 (E to H) Date: April 2022 Revision: A The entry relating to the GBL and IM Kerfoot Discretionary Trust can be found under reference MOP_27_11102021 on page 74 of the Appendix H1: Section 42 Responses and Applicant Regard namely:</p> <p>"The chosen route has been selected as a compromise between all constraints in the region including combined with engineering, ecological, landscape and visual interaction and PRow management.</p> <p>The Applicant shall endeavour to negotiate a voluntary agreement with the landowner in respect of the rights required, through which compensation for losses will be addressed. In the event that the Applicant and the landowner fail to agree such a voluntary agreement, the Compensation Code shall apply and as such compensation for any sterilisation and for any sterilisation from development shall be paid on a proven loss basis."</p> <p>In response to the Representation received on behalf of the GBL and IM Kerfoot Discretionary Trust on 30 June 2022, the Applicant provided</p>	<p><i>site selection chapter of the ES, a number of technical receptor groups have been considered which include ecology, traffic, noise, historic environment, landscape and visual, and tourism. These are considered alongside technical/engineering feasibility and stakeholder feedback either with regards landowner preference or technical consultee advice.</i></p> <p><i>At the area of land ownership in question there are a number of constraints, which have been broadly characterised in previous responses as ecological constraints, and those related to the historic environment. To provide further detail the Applicant can confirm that the main environmental constraints identified were the Grade II listed property to the east with short term visual disturbance and impacts to the historic setting identified as increasing with closer proximity, a number of water bodies with newt potential which fall either side of the current final alignment, and the concomitant risk of further environmental constraints which occurs should the cable be forced to the east.</i></p> <p><i>For further detail on the ecological sensitivities the Applicant would refer the IP to Figure 13 and 14 of the onshore biodiversity chapter (app ref 6.3.5) which illustrates the presence of the priority habitat water bodies either side of the cable corridor, which would be impacted if the route were moved either east or west. Further east there are additional ponds which become increasingly challenging to avoid, in particular in the context of the woodland, also to the east of the final cable corridor. The woodlands, comprising both broad leaved and coniferous,</i></p>

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			<p>the following Response: "As noted in Report 5.1: Consultation Report (APP-024), the chosen route has been selected as a compromise between all constraints in the region including combined with engineering, ecological, landscape and visual interaction and PRow management. Nature conservation designations and sensitive ecological features located to the east of the onshore cable corridor meant that the requested re-location to the east was not adopted by The Applicant."</p> <p>The entry can be found under RR-037-3 "Compulsory Acquisition of Land..." at page 64 of the Applicant's Response to Relevant Representations Deadline 1 dated 24 October 2022.</p> <p>The Trustees do not feel that the Applicant provided enough clarity on their assessment of the alternative design options in this location (and possibly wider through the overall ECC design) or given correct weighting to a hierarchy of constraints and contests that this commitment has been, and will continue to be, properly and duly implemented by the Applicant. Ref 480 – The Trustees Holding will host a haul road from the main entrance off the Dyserth Road (B5119). Its is likely that this haul road will be in situ for the 'complete construction period' – anticipated to be upwards of 5 years from the initial installation and management of the proposed Mitigation Areas to a point where the project is energised. As the ECC bisects the Holding and a number of individual field parcels the Trustees would request that exact location and specification of</p>	<p><i>ancient semi natural woodland, and plantations on ancient woodland form constraints which have been preferentially avoided wherever practicable on the cable corridor. At this location, the series of woodland and differing woodland would represent a significant constraint to avoid. Whilst the effect could be short term, there is a risk of long term disturbance and damage to woodlands which is minimised by the current route, and is considered to weigh in the balance of the decision.</i></p> <p><i>For further detail on the historic environment moving the cable corridor further east would bring a greater interaction with the Grade II listed building illustrated in Figure 2 of the onshore historic environment chapter (app ref 6.3.8), and post-medieval assets identified in Figure 7 of the same chapter. The chapter identifies site 1405 as a Grade II listed building, which is approximately 250m from the current final cable corridor, any reduction in this distance would increase the risk of short term effects on the setting of the historic asset. Whilst the effect would be short term the effect is minimised by the current route, which is considered to weigh in the balance of the decision.</i></p> <p><i>The short term visual effects on the listed property, in the visual receiving environment context presented in the LVIA chapter (app ref 6.3.2), combined with increasing risk of interaction with flood areas to the east (see Figure 2 of the hydrology and flood risk chapter (app ref 6.3.7)), and interaction with public rights of way in the event the route were</i></p>

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			<p>haul roads are agreed with landowners (through the projects appointed land agent) in order to mitigate the impact on the ability to commercially farm the land or to comply with any agricultural support or environmental schemes.</p>	<p><i>moved to the east all weigh in the balance and are considered to support the final cable route decision when weighed against landowner preferences."</i></p> <p>The Applicant notes the comments about the haul road being <i>in situ</i> for the complete construction period of up to 5 years which is based on a worst-case assumption that it needs to remain in place until the project is commissioned before being reinstated and restored to agricultural use.</p> <p>The Applicant notes the comment around location of haul roads. Haul roads will be located along and within the main cable works area (Outline Code of Construction Practice (CoCP) Appendix 1 outline Onshore Construction Method Statement (REP5-014)). The route of haul road and cable trenching within the ECC will be subject to detailed design which will include engagement with the Landowner as noted in Section 3.7 of the outline CoCP (REP5-016). However, As explained above, the final design of the cable route will need to balance a number of engineering and environmental factors.</p>
			DCC: No issues.	This is noted and welcomed by the Applicant.
			CCBC: Conwy County Borough Council does not consider it likely that the proposed scheme would affect biodiversity interests within its area, and the Council does not therefore wish to comment on these documents.	This is noted by the Applicant.
2.5	DCC	General	DCC: Unable to provide any further specialist input at this point.	The Applicant considers that biodiversity net gain will be achieved through the provision of enhancement measures that will provide new

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		Please clarify your position regarding achieving net gain to biodiversity interest in response to paragraph 15.5 of your LIR [REP1-056].		benefits for biodiversity in addition to sufficient mitigation (to reduce and/ or eliminate the potential for significant effects) and compensation (to offset residual effects resulting in the loss of, or permanent damage to, ecological features despite mitigation). The proposed enhancement measures are set out in Section 7.1 and Figure 2 of the Outline Landscape and Ecology Management Plan (oLEMP) (REP4-011; Application reference 8.4).
2.7	Applicant, NRW	<p>General</p> <p>Please could the Applicant and NRW give a progress update on European Protected Species (EPS) Licences likely to be required for the Proposed Development.</p>	<p>The Applicant: During the Pre-Application stage of the DCO application NRW agreed that it could be satisfied in principle that EPSLs could be granted based upon the compensation and enhancement described in the oLEMP and that the extent of land included in the oLEMP is adequate. This position is set out in Table 1 of ES, Volume 5, Annex 5.12, Summary of consultation relating to onshore biodiversity and nature conservation (APP-136), which includes the following quote from correspondence with NRW that it:</p> <p><i>“could be satisfied in principle that an EPSL could be granted in relation to bats and GCN (in the absence of draft EPSL MS's being submitted pre-consent), based upon the compensation and enhancement proposals agreed at the last ETG which we understand have been carried over into the ES and outline LEMP. We would be content for the finer details to be conditioned/supplied later on in the planning decision-making process (i.e. post-consent), as you have proposed.”</i></p> <p>A copy of the full correspondence is provided in ES Volume 8, Document 8.2, Annex 2 (APP-303).</p>	N/A

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			<p>During Examination, NRW provided an update to this position in that the confirmation (set out above) related solely to achieving Favourable Conservation Status (FCS) (i.e. an EPSL could be granted to achieve FCS) and not to in principle agreement that EPSL could be granted.</p> <p>The Applicant has asked NRW whether its licencing team would be able to provide any further clarity on the position regarding an in-principle agreement that EPSL could be achieved for AyM based on the information, assessment and mitigation/compensation/enhancement proposals within the DCO application, however, NRW has confirmed that its Species Licensing Team are not able to pre-determine licence applications and therefore they have confirmed that as it is not their standard practice they are not able to issue such a statement.</p> <p>To date NRW has not raised any concerns with the Applicant regarding EPSL or suggested that there were issues that would preclude an EPSL being granted.</p> <p>As set out in the oLEMP and ES, Volume 3, Chapter 5: Onshore Biodiversity and Nature Conservation (APP-066), GCN and bat EPSLs are likely to be required for the proposed development.</p> <p>The Applicant has summarised the position regarding future EPSL as follows:</p> <p>An EPSL from NRW will be required for works affecting terrestrial habitat used by GCN at the OnSS (note all ponds will be retained in this</p>	

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			<p>area) as well as terrestrial habitat at other areas along the route. The conditions of the EPSL would be specified to ensure that construction and continued presence of the OnSS does not result in significant adverse impacts to the local population. This will include:</p> <ul style="list-style-type: none"> ➤ Creation of mitigation (and compensation) habitats for use by GCN; ➤ Scheduling of certain work to avoid sensitive periods of the GCN and common toad life cycle; ➤ Removal of GCN and common toads from areas where there is risk of injury or death in advance, plus other precautionary measures; and ➤ Monitoring of the GCN population at all water bodies at the OnSS area (existing, new and including those that are SuDS related). <p>The EPSL application and accompanying Method Statement will include the measures that will be implemented and will be submitted to NRW once final design details are available and pre-construction surveys for GCN completed. Areas that form part of the compensation and mitigation requirements for GCN and bats will be subject of a long-term management plan (<i>i.e.</i> for the lifetime of the development), as part of the EPSL. Further details of the content of EPSL applications for GCN are set out in Section 6.3 of the oLEMP (REP4-011).</p> <p>An NRW EPSL will be required in advance of work that could affect roosting bats. Since tree roosting bats utilise a range of locations over any given season, the licence will be sought to cover work at all trees with potential roost</p>	

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			<p>features (PRF) (i.e. the total roost resource) that may be affected by the project. The EPSL application will be submitted to NRW once final design details are available and pre-construction surveys for bats have been completed. Key principles that will be followed in order to mitigate and compensate for impacts are described in Section 6.3 of the oLEMP (REP4-011). The over-riding principle is for no net loss of potential roost resource as a result of the scheme.</p> <p>Based on current information, the construction phase will not directly impact any otter holts or resting places, however potential impacts shall be reviewed following completion of the pre-construction surveys and pre-clearance checks by the Ecological Clerk of Works (ECoW). An EPSL may be necessary from NRW if a previously unidentified holt is identified during pre-construction surveys and may be impacted. However, based on current information, an EPSL for otter is not likely to be required.</p> <p>No other EPSLs are likely to be required based on desk study and survey data collected to inform the Environmental Impact Assessment (EIA).</p> <p>On the basis that FCS could be achieved through the proposed approach to mitigation/compensation/enhancement, as confirmed by NRW, the Applicant respectfully considers that EPSLs would be achievable for the project (acknowledging NRW are the determining authority for EPSL applications). Therefore, the Applicant does not consider it</p>	

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			<p>necessary to provide additional information at this stage.</p> <p>NRW: NRW advise that it will ultimately be for the Applicant to determine whether (and for which species) a European Protected Species (EPS) licence would need to be applied for. The Applicant and its consultant ecologists are best placed to determine the risk of an offence and therefore the need for a licence.</p> <p>However, whilst it is at the discretion of the Applicant to apply for an EPS licence, as detailed in our previous submissions, NRW (A) encourage the Applicant to apply for an EPS licence to cover the possibility of impacts to deliberate injury (and deliberate disturbance) to cetacean EPS.</p>	<p>The Applicant has confirmed that an EPS licence is likely to be required for great crested newts and bats and that the Applicant will submit EPS licence applications to cover the possibility of impacts to these species during pre-commencement or construction activities.</p> <p>The Applicant understands that it is NRW's in-principle position not to comment on EPS licence acceptability without a full application having been submitted. NRW has not raised any concerns to the Applicant regarding the potential to achieve a necessary EPS licence, and it is the Applicant's position that any EPS licences are achievable for AyM.</p>
2.11	RSPB	<p>Offshore – Ornithology</p> <p>With reference to your Written Representation additional references [REP2-058], please summarise the key issue(s) relevant to the proposed Awel y Môr development.</p>	<p>RSPB: The additional references were those that we could not provide copies of in time for issuing with our WR. The references are cited in the WR as follows:</p> <ul style="list-style-type: none"> • Burt, M.L., Mackenzie, M.L., Bradbury, G. and Darke, J. (2022) Investigating effects of shipping on common scoter and red-throated diver distributions in Liverpool Bay SPA. NECR425. Natural England See para 4.8 (Ref no. 59): Red-throated diver displacement effects from offshore windfarms. • Heinänen, S., Ramūnas, Ž., Kleinschmidt, B., Dorsch, M., Burger, C., Morkūnas, J., Quillfeldt, P. and Nehls, G. (2020) Satellite telemetry and digital aerial surveys show strong displacement of red-throated divers (<i>Gavia stellata</i>) from offshore wind farms. Marine Environmental Research 160: 104989 See para 4.8 (Ref no. 58): 	<p>The Applicant notes the additional references submitted by the RSPB covering topics related to the seabird species assessed for AyM. The Applicant confirms that they have been considered in relation to the impact assessments undertaken for AyM, and therefore that they do not change the outcome of any assessments for offshore ornithology.</p>

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			<p>Red-throated diver displacement effects from offshore windfarms</p> <ul style="list-style-type: none"> Lane, J.V. and Hamer, K.C. (2021) Annual adult survival and foraging of gannets at Bass Rock, Scotland: Report to the Ornithology subgroup of the Forth and Tay Regional Advisory Group (FTRAG-O) – October 2021. NnG Document number NNG-LUN-ECF-REP-0002 Rev 0.1 Para 4.24 (ref no. 81): variation in the two dimensional foraging behaviour of gannets. 	
2.12	Applicant, NRW	<p>Offshore – Ornithology</p> <p>RSPB Written Representation additional references [REP2-058] includes marine environmental research considering displacement of red-throated divers (<i>Gavia stellata</i>) from offshore wind farms and refers to <i>"significant effect could be detected up to 10–15 km away. The telemetry data further indicated that the displacement distance decreased with decreasing visibility. The displacement distance was also shorter during the day than during the night, potentially as a response to aviation and navigation lights of the wind farms"</i>.</p> <p>Please comment on the above italics statement and its relevance to the behaviour of red- throated divers at Liverpool SPA and effects on any conservation objectives.</p>	<p>The Applicant: The Applicant consulted and agreed with the Marine Ecology Expert Topic Group (ETG) (APP-301), to which the RSPB was invited to all meetings, on the most appropriate displacement rates and corresponding evidence for assessment of potential displacement effects on red-throated diver from AyM.</p> <p>As detailed within ES Volume 2, Chapter 4: Offshore Ornithology (APP-050), a precautionary approach was taken to assessment when defining displacement rates and buffers, which accounted for the effects observed within the German Bight from which the Heinänen <i>et al.</i> (2020) research paper included within the RSPB's Written Representation additional references (REP2-058) is based and from which the statement in italics is derived.</p> <p>It was noted, however, through consultation between the Applicant and Statutory Nature Conservation Bodys (SNCBs) within the ETG (APP-301) and also stated within NRW's Relevant Representation (RR-015) that the</p>	N/A

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			<p>relevance of data from the German Bight and Southern North Sea to that of the Liverpool Bay SPA could be considered limited. This was agreed to be the case due to the actual observed behavioural responses of red-throated divers, specifically within the Liverpool Bay SPA, being significantly less to the presence of existing OWFs in comparison to studies in the German Bight and Southern North Sea. Evidence in support of these differences and the more limited nature of displacement in response of OWFs within the Liverpool Bay SPA population of red-throated divers was presented within Figure 3 of ES Volume 2, Chapter 4: Offshore Ornithology (APP-050) and also in the Burt <i>et al.</i> (2022) research submitted by the RSPB and included within their Written Representation additional references (REP2-058).</p> <p>As the Applicant took a precautionary approach to assessment for red-throated diver feature of the Liverpool Bay SPA, which provided for consideration and review of the research submitted within the RSPB Written Representation additional references (REP2-058), no change is therefore required to the outcomes of Report 5.2: Report to Inform Appropriate Assessment (APP-027). Therefore, an Adverse Effect on Integrity (AEoI) can be ruled out for the conservation objectives of the red-throated diver feature of the Liverpool Bay SPA from predicted impacts and effects from AyM alone and in-combination with other plans and projects as agreed with NRW (RR-015).</p>	

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			<p>NRW: NRW agrees that research evidence shows that offshore windfarms cause disturbance and displacement of red-throated diver (RTD) around Europe, in the UK and in other parts of Liverpool Bay SPA. These studies have reported variations in the apparent strength of displacement effects across locations, e.g., in the UK, RTD displacement distances of up to 8km from the Lincs, Lynn and Inner Dowsing offshore windfarms (OWFs) were recorded in the Greater Wash (Webb et al. 2017), up to 11.5km from London Array offshore wind farm in the Outer Thames Estuary (APEM 2021). From Europe, Petersen et al. (2006) reported the maximum extent of RTD displacement to be 4km at Horns Rev I, and 2km at Nysted; in the German North Sea (Heinänen et al. 2016; Zydalis et al. 2016; Mendel et al. 2019; Heinänen et al. 2020; Vilela et al. 2020) have reported RTD displacement of up to 10-20km.</p> <p>However, as indicated by Vilela et al. (2020), seasonal and spatial factors may play a role in the specific response of divers to offshore wind farms and the results from individual studies may not be directly transferable to areas other than those considered in the individual studies.</p> <p>Additionally, consideration should also be given to the robustness of the different methodologies used in the studies through considering criteria including:</p> <ul style="list-style-type: none"> ▲ Suitability of the survey platform ▲ Consistency of survey platform across surveys ▲ Survey area 	<p>The Applicant welcomes NRW's evidence-based approach and continued support of the conclusions in the RIAA (APP-027) that displacement from AyM would have no adverse effect on site integrity on the RTD feature of the Liverpool Bay SPA.</p> <p>The Applicant acknowledges NRW's HRA addendum (REP5-047) regarding the new set of conservation objectives which were recently published for the Liverpool Bay/Bae Lerpwl SPA. This document confirms NRW's view that the assessment that the RIAA undertaken for this feature (APP-027) remains valid, and that there will be no adverse effect upon it or the site, either alone or in-combination.</p> <p>The Applicant has also undertaken a review of the new set of conservation objectives and considers that the conclusion of no Adverse Effect on Integrity in relation to this SPA remains valid, in concurrence with NRW's advice on this matter.</p>

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			<p>▲ Time frame</p> <p>Consideration should also be given to the analysis methods used to detect and quantify displacement, as some methods (e.g. measures of absolute change) are more influenced by natural variation in numbers or changes in survey platform than others (e.g. relative or proportional measures of change).</p> <p>NRW has taken an evidence-based approach in order to conclude that displacement from Awel-y-Môr would have no adverse effect on site integrity (AEOSI) on the RTD feature of the Liverpool Bay SPA (see response to Q2.41). (NRW also provided a list of references which are note repeated here)</p>	
2.17	NRW, RSPB, Applicant	<p>Offshore – Ornithology (Collision Risk Modelling) For NRW and RSPB</p> <p>a) Please advise if you have any issues related to collision risk modelling parameters bird survey data; species data; turbine data; windfarm data; and avoidance rate.</p> <p>If any issues remain, please provide relevant evidence to justify.</p> <p>Could the Applicant provide relevant evidence to:</p> <p>b) explain the potential effect on its impact assessment if the collision risk model utilised an avoidance rate for gannet of 98%; and</p> <p>c) explain the potential effect on its impact assessment due to different foraging and</p>	<p>The Applicant: The Applicant notes that the approach to CRM has been outlined in extensive detail through the consultation process with both NRW and the RSPB being provided with the opportunity to comment, and up to the point of application agreement was in place with NRW and no objections had been raised from other SNCBs or interested parties (including the RSPB) regarding CRM parameters bird survey data, species data, turbine data, windfarm data or avoidance rates. The approach to CRM follows the guidance published by SNCBs (SNCBs, 2014) and in agreement with NRW for the species data (densities); turbine data; windfarm data and avoidance rates applied in the CRM for assessment purposes (SoCG06-3.6 within REP3-020).</p> <p>The use of a 98.9% avoidance rate for gannets is recommended by the SNCBs (SNCBs, 2014)</p>	N/A

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		behaviour of gannets during the breeding season.	<p>and moreover more recent studies would indicate it is in fact highly precautionary (Skov <i>et al.</i>, 2018; Cook, 2021). There is no evidence to suggest that a 98% avoidance rate is appropriate for gannet in the breeding season at any location.</p> <p>The Applicant also notes that a number of other recent DCO Applications within Wales and England have recently submitted collision risk assessments for gannets (for instance Hornsea Four) using a higher avoidance rate, as currently advocated by Natural England. This latest advice is to apply a macro avoidance to the flying bird densities for gannet ahead of use in the sCRM to account for evidence supporting gannets behaviour of strongly avoiding entering OWF array areas, which is also noted in the joint SNCBs interim displacement guidance (SNCBs, 2022). The latest advice from Natural England advocates the application of a correction factor being applied to flying bird densities to reduce them by between 65% and 85% (Natural England, 2022). When applying this level of reduction to the flying seabird densities of gannet within the sCRM it significantly reduces the mortality rates as a consequence, approximately in line with the percentage reductions being applied. It should be noted that the Applicant undertook a separate run of CRM following this guidance in order to inform interested parties and in case such advice was formally adopted post-application, as agree with JNCC and NRW through consultation and presented in presented as an Appendix to ES Volume 4,</p>	

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			<p>Annex 4.3: Offshore Ornithology Collision Risk Modelling (APP-097).</p> <p>Notwithstanding these concerns and additional rationale in support of the Applicant's approach to assessing gannet collision risk, if a 98% avoidance rate were used for gannet rather than 98.9%, it would increase collision estimates by approximately 1.8 times. Given the negligible magnitude of impacts predicted from AyM on gannets, even allowing for this the impacts would still be considered negligible or very low, and the overall conclusion of no significant effect would remain appropriate.</p> <p>Whilst the Applicant acknowledges the principle that gannet avoidance behaviour may in certain circumstances differ in the breeding season, any such effect would be strongest near breeding colonies where competition is highest and there is a greater proportional energetic cost associated with avoidance of key foraging locations. Whilst AyM is within the mean-max foraging range of 315.2 km +/- 194.2 km from several gannet colonies, it is beyond the mean foraging range of 120.4 km +/- 50 km (Woodward <i>et al.</i> 2019) from any colony and not in a location where behaviour would be highly constrained. Therefore, the Applicant does not consider that different foraging behaviour of gannet would have any discernible relevance to the impact assessment.</p>	
			<p>RSPB: The RSPB has provided details in their Written Representations of the issues around the avoidance rate for gannet used in collision risk</p>	<p>The Applicant consulted further with the RSPB during a meeting on 8 February 2023 to discuss the assessment of collision risk from AyM on gannets. The Applicant outlined the approach</p>

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			modelling and the application of a macro-avoidance correction factor.	<p>taken to CRM for gannets (APP-097), which followed the current SNCBs guidance (SNCBs, 2014), and that this advocates the use of a 98.9% avoidance rate for all months. The Applicant also confirmed that no additional macro avoidance factors were applied to the CRM for the assessment of gannet for AyM in the ES Volume 2, Chapter 4: Offshore Ornithology (APP-050) or RIAA (APP-027), though results using a macro avoidance were presented in Appendix 4 of the CRM Annex (APP-097) should guidance have been updated post-submission.</p> <p>During the consultation meeting on 8 February 2023 the Applicant acknowledged the RPSB's position that they consider CRM for gannets should use a 98.9% avoidance rate for the non-breeding season and 98% in the breeding season. However, the RSPB recognises that the current guidance from the joint SNCBs in the UK advocates for the use of 98.9% for all bio-seasons, so the RSPB agree that the Applicant has followed best practice and that even if a 98% avoidance rate had been applied for the breeding season there would not be a material difference to the level of impact significance estimated for AyM.</p>
			NRW: There are no issues outstanding.	This is welcomed by the Applicant.
2.18	Applicant, NRW	<p>Offshore – Ornithology</p> <p>a) Please confirm if gannet collision risk modelling without macro avoidance is necessary; and</p> <p>b) respond to RSPB comments in its Written Representation [REP1-090] that a reduction to</p>	The Applicant: The assessment of collision risk for gannets undertaken and presented by the Applicant in ES Volume 4, Annex 4.3: Offshore Ornithology Collision Risk Modelling (APP-097) carried out using the approach to CRM recommended by SNCBs (SNCBs, 2014) and agreed with NRW through the consultation	N/A

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		<p>base line densities in the gannet collision risk modelling (to account for macro avoidance of wind farms) should be avoided as it has not been formally adopted by the SNCBs.</p>	<p>process (SoCG06-3.6, REP3-020). This approach does not apply a separate macro avoidance factor.</p> <p>Cook (2021) recommends an approach to CRM for gannet in which macro avoidance is taken into account by reducing the input densities based on a macro avoidance factor, and separately specifying a within-windfarm avoidance rate as the avoidance rate input parameter to the CRM. Through the consultation process, it was agreed with JNCC and NRW that this novel approach would be carried out as an additional exercise and presented alongside the existing standard approach. The approach, including a separate macro-avoidance factor and the results of that modelling, is presented as an Appendix to ES Volume 4, Annex 4.3: Offshore Ornithology Collision Risk Modelling (APP-097). This alternative approach is not relied upon to inform the impact assessment conclusions. However, it has been included to further demonstrate the high level of precaution in the CRM and to inform interested parties should this advice be formalised post-application.</p> <p>Whilst the Applicant acknowledges the Cook (2021) study has not been fully adopted by the SNCBs, the Applicant would draw attention to Natural England's interim advice provided to other recent projects including Hornsea Four (Natural England, 2022) which notes that revised SNCBs guidance (in preparation) is anticipated to retain key elements of the Cook (2021) study, including a higher avoidance rate of 0.992 in addition to the application of a</p>	

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			<p>macro-avoidance factor of between 65-85% reduction in input densities. The Applicant, therefore, considers it reasonable to present the collision risk modelling outcomes following this approach for consideration, whilst reiterating that the impact assessment does not use or rely on those results.</p> <p>NRW: Evidence suggests that Gannets show strong macro-avoidance of offshore windfarms (for example, Dierschke et al., 2016). NRW (A) has considered the approach to collision risk modelling and gannet macro-avoidance and is of the view that, given emerging evidence, gannet macro-avoidance can be used with the modelling. This approach has been discussed with Natural England and is consistent with what they recommended for windfarm casework with the North Sea. Therefore, NRW (A) advise that gannet collision risk modelling without macro avoidance is not necessary.</p> <p>Reference: Dierschke, V., Furness, R. W., & Garthe, S. (2016). Seabirds and offshore wind farms in European waters: Avoidance and attraction. <i>Biological Conservation</i>: 202, 59–68.</p>	
2.19	NRW	<p>Offshore – Ornithology</p> <p>Do you consider that the outbreak of Highly Pathogenic Avian Influenza has any implications for the Applicant's assessment of effects on seabird colonies in the ES and the RIAA [APP-027]?</p>	<p>NRW: The Applicant's survey data is proportionate to the number of birds at breeding colonies at the time of the surveys, so is therefore still the correct approach. The survey methods were acceptable at the time they were deployed, as was the comparison with the number of birds at breeding colonies. Repeating surveys may detect fewer birds in the Awel-y Môr array and buffer, but NRW (A)</p>	<p>This is noted by the Applicant.</p>

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			advise that further surveys are not needed at this time. NRW (A) considers that the existing surveys and their comparison with colony counts still represent the best available evidence for the area.	
2.20	NRW, RSPB	Offshore – Ornithology Please comment on the Applicant's response to Written Representations [REP2-002] regarding Highly Pathogenic Avian Influenza (page 212) and Population Viability Analysis for gannet.	<p>NRW: Population Viability Analysis (PVA) for gannet was not needed in the Applicant's analysis pre-HPAI so for the reasons stated in 2.19 is not necessary now. In addition, according to GPS tracking by Wakefield et al., (2013), foraging gannets from Grassholm SPA are unlikely to occur here in the breeding period. (NRW also provided a list of references which are not repeated here).</p> <p>RSPB: The Applicant response (REP2-002) suggests that the number of birds affected by the windfarm will remain as the same proportion of the BDMPS population as prior to the outbreak of HPAI. This contravenes the considerable evidence of inter colony segregation of seabird foraging locations. This evidence demonstrates that choice of foraging hotspots is determined in part by colony size. This means that any changes in colony population size due to HPAI will lead to changes foraging site selection and potential changes to the numbers of birds using the development footprint and therefore at risk of impact. This change will not necessarily be in proportion to BDMPS population change.</p> <p>With regard to the Population Viability Analysis, due to the impact of HPAI on the gannet population, the conclusion that in combination gannet mortality will be less than 1% of the baseline mortality is not robust until more up to</p>	<p>This is noted by the Applicant.</p> <p>The Applicant notes the RSPB's response to the Applicant's response to the Written Representations (REP-002) regarding HPAI and PVA. As noted by NRW in their response to this question (2.20) and question 2.19 the data collected and used to characterise the baseline (APP-095) and taken through the impact assessment process in the ES Volume 2, Chapter 4: Offshore Ornithology (APP-050) and RIAA (APP-027) pre-date the known spread of HPAI into seabird populations throughout the UK.</p> <p>Both the Applicant and NRW are in agreement that the survey data are proportionate to the number of birds at breeding colonies at the time of the surveys, so these data still align with the correct approach for use in impact assessments. This is also in line with the only formal advice provided by a UK SNCB on the treatment of data collected prior to the current outbreak of HPAI from Natural England (NE,</p>

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			<p>date colony counts are carried out, as is planned for 2023.</p>	<p>2022) that stated 'we expect seabird data collected prior to summer 2022 (approx. June) to remain a valid' and 'broadly, we expect any changes in abundance at colonies to be reflected proportionately'. Therefore, it is reasonable to assume distribution patterns will remain broadly similar, but densities to change accordingly.</p> <p>As the survey methods were agreed between NRW and the Applicant and acceptable at the time they were deployed then they were also agreed as appropriate for comparison with the number of birds at breeding colonies at that point in time. Following the spread of HPAI in gannets in UK waters it may be found that repeating surveys could detect fewer birds in the AyM array area and buffer, but NRW advise that further surveys are not needed at this time and also consider that the existing survey data and their comparison with colony counts still represent the best available evidence for the area.</p> <p>As the assessment of collision risk took a precautionary approach in ES Volume 2, Chapter 4: Offshore Ornithology (APP-050) and the RIAA (APP-027) (as CRM outputs did not rely on those with a macro avoidance) and the estimated mortality rate was considered to be minor and therefore not significant at EIA or HRA levels and under the 1% threshold relative to the baseline mortality rate then the Applicant and NRW are in agreement that there was no need for any further PVA work to be undertaken for gannet.</p>

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2.21	RSPB	<p>Offshore – Ornithology</p> <p>Please give an update regarding previous disagreement with the Applicant on:</p> <p>a) assessment of no adverse effect on integrity of Liverpool Bay SPA (project alone and in- combination with other plans and projects), for its feature red-throated diver;</p> <p>b) assessment for Manx Shearwater from Copeland Islands SPA, Irish Sea Front SPA, Glannau Aberdaron ac Ynys Enlli/Aberdaron Coast and Bardsey Island SPA, Skomer, Skokholm and the Seas off Pembrokeshire/Sgomer, Sgogwm a Moroedd Penfro SPA;</p> <p>c) scoping out of collision impacts for Manx Shearwater at Copeland Islands SPA, Irish Sea Front SPA, Rum SPA, St Kilda SPA, Glannau Aberdaron ac Ynys Enlli/Aberdaron Coast and Bardsey Island SPA, and Skomer, Skokholm and the Seas off Pembrokeshire/Sgomer, Sgogwm a Moroedd Penfro SPA;</p> <p>d) assessment for gannets from Grassholm SPA, Ailsa Craig SPA, Saltee Islands SPA; and</p> <p>e) use of avoidance rates in gannet collision risk modelling</p> <p>If you consider your points have not been resolved in the Applicant's response to Written Representations [REP2-002] please provide relevant evidence and justification.</p>	<p>RSPB: Since the submission of our Written Representations, Marine Scotland Science has published a review of potential wind farm impacts on Procellariiformes. This review highlights the potential for birds, such as Manx shearwaters, to be attracted to, and disorientated by, light, such as those fitted to wind turbines and associated infrastructure. Such attraction and disorientation will substantially increase collision risk and has not been considered at all by the Applicant. The RSPB remains in disagreement with the Applicant in regard to the application of a macro-avoidance correction factor to gannet densities prior to collision risk modelling, and our rationale for this position is detailed in our Written Representations. Since the submission of these, NatureScot have produced updated Guidance to Support Offshore Wind Applications. Guidance Note 7, on assessing collision risk, does not recommend the application of this correction factor (The upcoming JNCC report on avoidance rates to use with the Stochastic CRM is highlighted, but this does not deal with the macro avoidance correction factor).</p>	<p>The Applicant consulted further with the RSPB during a meeting on 8 February 2023 to discuss these questions and can confirm that the RSPB are now in agreement on these matters following discussion and additional sign-posting to documents containing relevant consideration of the matters raised by the RSPB.</p> <p>a) The Applicant and NRW provided substantial responses to ExQ2.2.12 relating to the RTD feature of the Liverpool Bay SPA. As the Applicant took a precautionary approach to assessment for the RTD feature of the Liverpool Bay SPA, which provided for consideration and review of the research submitted within the RSPB Written Representation additional references (REP2-058), no change is therefore required to the outcomes of Report 5.2: Report to Inform Appropriate Assessment (APP-027). Therefore, an Adverse Effect on Integrity (AEoI) can be ruled out for the conservation objectives of the red-throated diver feature of the Liverpool Bay SPA from predicted impacts and effects from AyM alone and in-combination with other plans and projects as agreed with NRW (RR-015).</p> <p>b & c) The Applicant reviewed the responses from the RSPB during the consultation meeting on 8 February 2023. The Applicant presented the evidence from site-specific survey data collected to characterise the baseline for AyM, as well as data collected for sister project Gwynt y Môr, that shows that Manx shearwaters are not regularly recorded and only recorded in very low abundances and densities within this region of Liverpool Bay during the daytime.</p>

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				<p>Additional evidence from a further desk study providing details on nocturnal tracking data from Manx shearwaters also confirmed that no flights entered Liverpool Bay or AyM during the hours of darkness. These data were collated in a previous submission to the Examination in response to questions about Manx shearwater from the Isle of Man Government (REP3-009). Following discussion on these data sets the RSPB agreed in principal that Manx shearwaters were not at risk from AyM due to them being present in very low abundance and densities. It should also be noted that NRW response to ExQ2.2.42 is in agreement with the Applicant on this matter, as they stated that as the surveys for AyM detected relatively low numbers of Manx Shearwater, and as this as this species typically flies within a few meters of the sea surface (Johnston et al 2014), Môr NRW considers that there would not be a likely significant effect on Manx Shearwater as a result of Collision Risk from the project.</p> <p>d & e) The Applicant consulted further with the RSPB during a meeting on 8 February 2023 to discuss the assessment of collision risk from AyM on gannets, with details provided in the Applicant's comments to responses to ExQ2.2.17, culminating in agreement that there would not be a material difference to the level of impact significance estimated for AyM, which would remain minor and therefore not significant at the EIA or HRA levels for any designated sites.</p>

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2.23	RSPB	<p>Offshore – Ornithology</p> <p>In your Written Representation [REP1-090], you raise a number of concerns about the methodology used to assess effects on gannets. Please describe, with appropriate supporting evidence, the methods which you think should be used.</p>	<p>RSPB: For gannet collision risk, the RSPB recommend the use of the stochastic formulation of the Band collision risk model, as updated in 2022 (Caneco, 2022), with both deterministic and stochastic runs using monthly densities derived from site characterisation surveys. This should be run without applying the macro avoidance correction factor. The model should use the Option 2, that is the basic model using generic flight height distributions. Bird parameters should be as follows; Flight speed from Pennycuick, (1975) and Nocturnal Activity Factor from Furness et al., (2018). Avoidance rate should be 98% for the breeding season and 99.2% for the non-breeding season, as evidenced in the Written Representations Displacement should be assessed using the matrix approach (SNCB 2022) with a displacement rate of 70% and mortality of 1 and 3%</p>	<p>The Applicant consulted further with the RSPB during a meeting on 8 February 2023 with details provided in the Applicant's comments to responses to ExQ2.2.17, culminating in agreement that the Applicant has followed best practice and that even if a 98% avoidance rate had been applied for the breeding season there would not be a material difference to the level of impact significance estimated for AyM, which would remain minor and therefore not significant at the EIA or HRA levels.</p> <p>The Applicant also provided a full range of displacement rates and associated potential mortality rates for all bio-seasons for gannet in the Displacement Annex (APP-096), with the range used for assessment purposes agreed with NRW that follows the joint UK SNCB's interim guidance on displacement (SNCBs, 2022).</p>
2.25	Applicant, NRW	<p>Offshore – Ornithology</p> <p>Please summarise your current position and highlight any remaining issues regarding potential impacts of the Proposed Development on the breeding seabird features of the Pen-y Gogarth/ Great Orme's Head Site of Special Scientific Interest (SSSI).</p>	<p>The Applicant: The Applicant's current position is that the Population Viability Analysis (PVA) analysis has demonstrated clearly that there is no significant adverse effect on any interest feature of the Pen-y Gogarth/ Great Orme's Head Site of Special Scientific Interest (SSSI). This is presented in the Applicant's Deadline 3a Submission - Marine Ornithology Great Orme Assessment (REP3a-019).</p> <p>With reference to NRW's Deadline 4 submission (REP4-045), it is noted that NRW are in agreement with the Applicant and are satisfied that there will be no significant adverse effect on the breeding seabird features of Pen-y-Gogarth / Great Orme's Head SSSI.</p>	N/A

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			<p>NRW: Please see REP3-026 and REP4-045 which confirms NRW (A) is now satisfied with the assessment of the potential impacts of the proposed development on the breeding seabird features of Pen-y-Gogarth / Great Orme's Head Site of Special Scientific Interest (SSSI). NRW (A) is satisfied that there will be no significant effect on the breeding seabird features of this site.</p>	This is noted by the Applicant.
2.30	Applicant, NRW	<p>Offshore – Marine Mammals</p> <p>a) With reference to your response to ExQ1.2.29 [REP1-007] that typically for offshore wind farm projects across the UK there is a requirement to measure underwater noise during the installation for the first four piles for same foundation type, or a representative number of piles locations or four largest piles, please can the Applicant clarify how the results of this underwater noise monitoring approach correlates with piling into the seabed with different sediment distribution and thickness, bedform, and bedrock types.</p> <p>b) Could NRW please described its approach including parameters to underwater noise monitoring during piling for marine mammals.</p>	<p>The Applicant: Recent underwater noise monitoring requirements for pile installation at other UK offshore wind farms typically includes four of the first selection of piles driven to be measured. This is because often the first pile is slow, tentative and not necessarily representative, hence the requirement for more than one pile to be monitored, in order to gain a representative sample.</p> <p>In practice, the environmental conditions will be slightly different for all piles installed throughout the site, and differences in environmental conditions are conservatively factored into the underwater noise model. For the purposes of EIA, the Applicant considers the worst-case assessment to be appropriate and notes that the modelling parameters described in the Underwater Noise Technical Report (APP-105) have been agreed as appropriate via the Marine Ecology ETG (APP-301).</p> <p>The Applicant would be happy to discuss the drafting of a Marine Licence condition for underwater noise monitoring further with NRW and notes that it is outlined as Condition 42 of the Marine Licence Principles (REP4-023).</p>	N/A

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			<p>NRW: As for most offshore windfarm developments in the North Sea, the Applicant should plan to measure a minimum of four representative piles. If there are different sediment/seabed types predicted to influence sound emissions, this should be factored into the choice of pile locations recorded. The piles chosen should also reflect those modelled in the EIA so the modelling can be validated. The Applicant is encouraged to submit all relevant noise measurement data (e.g., frequency, max Sound Pressure Level (SPL) max Sound Exposure Level (SEL), max hammer energy) to the Marine Noise Registry including information on all piling events (e.g., what, where and when).</p> <p>NRW (A) recommends following ISO 18406:2017 measurement of radiated underwater sound from percussive piling, which describes the methodologies, procedures, and measurement systems to be used. Please also see Robinson (2017) which helpfully describes the content of the ISO.</p> <p>National Physical Laboratory (NPL) Good practice Guide No. 133: Underwater noise measurement is also a useful auxiliary reference text. (NRW also provided a list of references which are not repeated here).</p>	<p>The Applicant considers that this is a matter for the Marine Licensing process and is happy to discuss drafting of a Condition for underwater noise monitoring with NRW which is already outlined in Condition 42 of the Marine Licence Principles document (Document 6.8 of the Applicant's Deadline 6 submission). In the post-consent phase (once the final scheme design and its layout has been fixed), the Applicant would expect to discuss and agree the choice of representative locations with NRW prior to the commencement of offshore construction.</p>
2.32	NRW	<p>Offshore – Marine Mammals</p> <p>Please give an update regarding your position to Cumulative Effects Assessment clarification note [REP2-028] and outline any areas of concern.</p>	<p>NRW: Please see REP3-026 which confirms NRW (A)'s position on CEA and clarifies that we have no further concerns</p>	<p>This is noted by the Applicant.</p>

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2.34	Applicant, NRW	<p>Offshore – Marine Mammals</p> <p>Although NRW does not explicitly rule out the approach of applying a D/R curve from a more sensitive species to the less sensitive species of the Minke whale it does not recommend this approach given that there are other threshold options available [REP1-080 page 26]. Please summarise your current position on the potential effects on the modelling, the impact assessment and mitigation of Minke whales as a result of other threshold options available.</p>	<p>The Applicant: Following provision of further justification in the Marine Mammal Clarification Note in relation to the D/R curve, NRW is now satisfied with the Applicant's position as confirmed in paragraph 1.5.4 of its Deadline 3 submission, and as described in the SoCG (REP3-020).</p> <p>NRW: Please see REP3-026 which clarifies our position with respect to D/R curves. In addition, we advise the following:</p> <p>Despite sound energy of pile driving being highest in the low frequency range and overlapping more with the hearing range of a minke whale than that of a harbour porpoise - pile strikes of the same unweighted single-strike SEL (SELs) are louder for a minke whale than a harbour porpoise - evidence from studies with sonar suggests that minke whale are less sensitive than harbour porpoise by about 40-50 dB (Kvadsheim et al 2017; Sivle et al 2015; Tougaard 2021).</p> <p>NRW (A)'s view is that the Applicant's approach of applying a harbour porpoise D/R curve to assess the impacts of noise disturbance on minke whale, might therefore be considered (over-) precautionary and likely lead to an over-estimate of the number of minke whales affected.</p> <p>NRW (A) advise that the Level B Harassment threshold is more appropriate to use for minke whale (160 dB re 1 µPa SPLrms, for impulsive noise; NMFS 1995, 2005). This threshold was designed using data from whales rather than porpoise or dolphins. We expect using this threshold would result in a smaller area</p>	<p>N/A</p> <p>The Applicant undertook modelling of the Level B harassment threshold and provided a report on this directly to NRW and later provided this to the Examination at Deadline 3 (REP3-015). With reference to paragraph 1.5.2 of NRW's Deadline 3 submission (REP3-026), NRW agrees with its conclusions and has no outstanding concerns relating to marine mammals.</p>

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			<p>ersonified and fewer animals affected than that using a D/R approach. We still agree with the Applicant that despite the use of harbour porpoise D/R curves as a proxy for minke whale, the impact on minke whales is small.</p> <p>(NRW also provided a list of references which are not repeated here).</p>	
2.35	NRW	<p>Onshore – Mitigation</p> <p>Further to the Applicant's response to your comments to ExQ1.2.5 [REP2-003], please confirm if the Outline Landscape and Ecology Management Plan (oLEMP) [REP2-010] (and the associated draft DCO Requirement) would secure biodiversity enhancements with respect to Great Crested Newts (GCN).</p>	<p>NRW: We are satisfied that the Outline LEMP would secure enhancement with respect to GCNs.</p>	This is welcomed by the Applicant.
2.37	NRW	<p>Onshore – Mitigation</p> <p>Please clarify your response to ExQ1.2.5 in [REP1-080] "Although mitigation has been presented for the offshore marine environment, we are not aware of any particular opportunities presented for enhancement for biodiversity and geological conservation interests", and whether you agree or disagree with the oLEMP [REP2-010] (paragraph 152).</p>	<p>NRW: This quoted part of our response to ExAQ1 2.5 referred to the offshore marine environment. We refer you to paragraphs 1 and 38 of the oLEMP [REP2-010], which explains that the oLEMP relates to the onshore elements of the project. To confirm, we are satisfied that the oLEMP secures onshore enhancements with respect to protected species (including great crested newts as explained in our response to Q2.35 above).</p> <p>To clarify, the cited quote was intended to confirm that no opportunities for enhancement in the offshore environment have been presented by the Applicant.</p>	This is noted by the Applicant
2.41	NRW	<p>HRA</p> <p>Please confirm whether you agree with the Applicant's assessment that the Proposed Development (alone and in combination with</p>	<p>NRW:</p> <p>(a) NRW (A) confirms that it agrees that the proposed development would not adversely affect the integrity of any Natura 2000 / Ramsar</p>	<p>This is noted by the Applicant.</p> <p>The Applicant also acknowledges NRW's HRA addendum (REP5-047) regarding the new set of conservation objectives which were recently</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
		<p>other plans and projects) would not have an adverse effect on the integrity of any European site(s); and in light of the written representation from the RSPB [REP1-090], please explain why you do not consider that the Proposed Development would have implications for the conservation objectives of the Liverpool Bay Special Protection Area (SPA).</p>	<p>sites, alone or in-combination, for marine ornithology.</p> <p>(b) Displacement of seabirds, both during the construction and operation of offshore windfarms is widely recognised as one of the main impacts on biodiversity and can impact population dynamics (Dierschke et al., 2016; Welcker and Nehls, 2016). Indeed, RTD are considered one of the most sensitive species to the potential displacement effects of offshore wind farms.</p> <p>As detailed in paragraph 2.6.14 of REP1-080, NRW (A) noted that the displacement of RTD in this part of Liverpool Bay SPA is not consistent with what has been observed in other areas of the SPA. For example, the Burbo Bank Extension RTD monitoring programme (HiDef 2020), which demonstrated large-scale RTD displacement by a windfarm located within Liverpool Bay SPA.</p> <p>Given the results of the Applicant's assessment conclusions, and to further investigate if the Awel-y-Môr windfarm might affect the RTD feature of Liverpool Bay SPA, NRW (A) (in conjunction with JNCC) undertook an evidence-based analysis of RTD data both within the Gwynt-y- Môr windfarm, and in buffers around the windfarm boundary (note that the proposed location of Awel-y-Môr is adjacent to, but not within Liverpool Bay SPA and therefore the effects of displacement from the buffer of Gwynt-y-Môr windfarm was considered the most relevant evidence to use for analysis, in this case).</p> <p>The numbers of birds at SPA designation (from Visual Aerial Surveys conducted between 2004</p>	<p>published for the Liverpool Bay/Bae Lerpwl SPA. This document confirms NRW's view that the assessment that the RIAA undertaken for this feature (APP-027) remains valid, and that there will be no adverse effect upon it or the site, either alone or in-combination.</p>

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			<p>and 2011) were compared with numbers of birds post-construction of Gwynt-y- Môr (using HiDef post-construction data from Digital Aerial Surveys conducted between 2015 and 2020), to look for any potential displacement effects from Gwynt-yMôr alone. Whilst it is possible that this analysis may have underestimated the displacement effect, in the absence of a method to adjust visual aerial data to be more comparable with digital aerial data, NRW (A) nevertheless consider that this is the best available dataset and evidence to undertake analysis of displacement effects. Displacement of RTD would affect the extent of supporting habitat within the site by decreasing the usability of the habitat by the birds.</p> <p>The analysis suggested that numbers of RTD had decreased within the Gwynt-y- Môr windfarm boundary, but it also indicated that numbers increased within a 4km buffer outwith the windfarm. Further interrogation of the data focussed on incremental 1km buffer bands around the windfarm to understand any finer-scale effects.</p> <p>Results indicated minimal difference in the 1km buffer before- and after- construction, and no evidence of displacement beyond this 1km buffer. Furthermore, an increase in RTD numbers was observed in the 2-3km and 3-4km buffers around the windfarm, so it is possible that the displaced birds have moved to this area.</p> <p>As the proposed location of the Awel-y- Môr windfarm is outside of Liverpool Bay SPA, NRW (A) considers that there would be no Adverse Effect on Site Integrity (AEOSI) on the RTD</p>	

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			<p>feature of Liverpool SPA if the development goes ahead, based on our analysis of the best available evidence for the area.</p> <p>A separate analysis was undertaken by the Applicant to support their Report to Inform Appropriate Assessment. As the conclusions of the analysis undertaken by the Applicant, and the analysis undertaken by the SNCBs, were comparable, we consider that this corroborates the conclusion that there is unlikely to be an AEOSI on the RTD feature of Liverpool Bay SPA from loss of habitat, due to Awel-y- Môr alone and in-combination.</p> <p>It is worth noting that that the observed lack of displacement of RTD in this part of Liverpool Bay SPA is not consistent to that which has been observed in other areas of Liverpool Bay SPA (as well as in other areas of the UK and Europe). Given this anomaly in observation, we continue to advise that comprehensive validation monitoring before, during, and after construction of Awel-y- Môr is needed. The difference in findings between the evidence submitted by the Applicant and, for example, those of the Burbo Bank Extension RTD monitoring programme, clearly demonstrate the continued need to consider proposed windfarm developments within or near Liverpool Bay SPA, on a caseby-case basis. We welcome the Applicants commitment to validation monitoring for RTD as noted in REP2-002 and associated documents.</p> <p>Furthermore, NRW (A) agrees with the Applicant that a comprehensive Vessel Traffic Management Plan is needed, and we</p>	

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			acknowledge the Applicant's commitment to this as noted in Condition 34 of the Marine Licence Principles document [REP4-023]. We advise that the VTMP should be agreed in writing. (NRW also provided a list of references which are not repeated here).	
2.42	NRW	HRA The Applicant's RIAA [APP-027] excludes likely significant effects from collision-related mortality on Manx shearwater. Please explain why you agree with the Applicant on this point?	NRW: As surveys for Awel-y-Môr detected relatively low numbers of Manx Shearwater, and as this as this species typically flies within a few meters of the sea surface (Johnston et al 2014), Môr NRW (A) considers that there would not be a likely significant effect on Manx Shearwater as a result of Collision Risk from the project. (NRW also provided a list of references which are not repeated here).	This is noted by the Applicant.

2.3 Compulsory Acquisition (CA) and Temporary Possession (TP)

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3.3	DCC	<p>Special Category Land – open space</p> <p>DCC did not provide a response to many of ExQ1 which were directed to DCC. ExQ1.3.31 was directed to DCC and was as follows:</p> <p>Section 11.2 of [APP-021] sets out that any granting of development consent would not be subject to special parliamentary procedure given that 'open space' within the Order land, when burdened with the order right, will be no less advantageous than it was before to (a) the persons in whom it is vested, (b) other persons, if any, entitled to rights of common or other rights, and</p> <p>(c) the public, in accordance with s132(3) of PA2008. Please confirm whether you are satisfied with this conclusion.</p> <p>Please confirm whether you are satisfied with the Applicant's conclusions on this matter.</p>	<p>The Applicant: Whilst acknowledging that this question is not directed at it, the Applicant has provided the following response.</p> <p>There is no statutory open space designation over any part of the Order Limits, but following other offshore wind DCOs the Applicant has taken a precautionary approach to the beach at the landfall on the basis that it is used by the public.</p> <p>On the basis that there will only be temporary interference with the beach area during landfall works with public access being maintained, and the cables being buried with the post-construction rights the Applicant seeks being compatible with continued use by the public it is clear that the Order land will be no less advantageous.</p> <p>For examples of how this approach has been considered on other projects see paragraphs 8.13.9 onwards of the Examining Authority's Report for Norfolk Vanguard, and 8.15.31 onwards of the ExA's Report for the Triton Knoll Electrical System (TKES) (although noting that in the case of TKES the transition joint bays were located within the dunes area potentially identified as open space).</p> <p>DCC: Satisfied with the applicant's conclusions.</p>	N/A
3.4	Applicant	<p>Works</p> <p>The Works Plan [REP1-032] identifies a number of 'Temporary Mitigation Areas'. If temporary,</p>	<p>The Applicant: There is no ability under current compulsory acquisition law to create 'temporary' rights or rights which are the equivalent of a short lease or license. Temporary possession can be used to occupy</p>	N/A

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		<p>please explain in detail the reasons for seeking permanent rights over the relevant plots.</p>	<p>land without taking permanent rights but is very time limited in its applicability post construction. As set out in the statement of reasons (Document 5.10 Of the Applicant's Deadline 5 submission; Application reference 4.1) at paragraph 121, it is therefore necessary to seek permanent rights where land is required to be maintained for a number of years post construction to ensure mitigation works, habitat restoration and landscape planting becomes established. In order to be able to comply with the anticipated requirements of the landscape and ecological management plan (and potentially conditions of any European Protected Species Licences) which will require ongoing inspection and maintenance of restored and created habitat until established, rights to access the and undertake works and prevent activities which would conflict the requirements are needed for a period post construction, which period is expected to be 3 to 5 years.</p> <p>The Applicant has sought to make clear the limited application of the acquisition in the wording of the restrictive covenant in schedule 7 of the dDC0 (Document 5.9 Of the Applicant's Deadline 5 submission; Application reference 3.1). That provides the restrictions apply "during the period within which the undertaker is bound by any consent to maintain that ecological mitigation areas or areas of habitat creation".</p> <p>Without seeking such rights, the Applicant would have no ability to manage or maintain these areas after the temporary possession</p>	

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			<p>rights expire. Accordingly, the LEMP could only require a maximum of 1 year of post-construction monitoring and maintenance of these areas as, after that, the Applicant would not have the necessary land rights to undertake any such works.</p>	
			<p>Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust: The Trustees object strongly to Applicants requirement for acquisition of permanent rights for both the Temporary Mitigation areas and to facilitate delivery of the ECC.</p> <p>The Trustees Holding is located on the recently developed residential fringe of Rhyl. The DCC LDP process has been stalled for a number of years due to the outbreak of Covid 19, but is due to re-commence later in 2023 through a recently agreed delivery programme. Representations for the inclusion of the Trustees Holding as a strategic development site as part of an updated LDP are ongoing.</p> <p>With the delivery problems faced by significant allocations of strategic development sites across North Wales, the importance to regional housing delivery targets of this area south of Rhyl has increased. This has been reflected by approaches to the Trustees from a number of regional and national housebuilders looking to partner on the future promotion of the Holding, through both the next and subsequent LDP periods. The rights and restrictions sought by the applicant will render the majority of the holding undevelopable – particularly with the requirement to pass ownership and management of the EC's to an OFTO and in</p>	<p>The Applicant notes the Trustees' position and has previously explained (Response to ExQ2.3.6 within REP5-004) why it is necessary for the dDCO to include permanent rights for the activities related to the Temporary Mitigation areas for the ECC.</p> <p>As acknowledged in paragraph 165 of ES Volume 1, Chapter 4: Site Selection and Alternatives (APP-044), the Applicant has consulted closely with DCC regarding the Replacement LDP process. The Applicant undertook a review of all sites that had been submitted to DCC as 'Candidate Sites' in the replacement LDP process. DCC invited interested parties to submit land for consideration as sites within the replacement LDP in 2018 and again in 2020. which have been made available via the DCC website.</p> <p>Following consultation with DCC, and recognition that development opportunities in Rhyl were constrained by flood zones, RWE incorporated an offset into the project design resulting in an eastward shift in the ECC away from the LDP candidate sites at the south-east of Rhyl.</p> <p>It is noted that the DCC 'Candidate Sites' did not include the GBL and IB Kerfoot Discretionary Trust land and so it does not appear that the Trust had taken the</p>

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			<p>consideration of necessary realignment of the Dyserth Road or upgraded access requirements to serve any future development of the Holding.</p> <p>These permanent restrictions and rights will also sterilise the Holding for any sort of agricultural or diversified developments that have been explored.</p> <p>The Trustees welcome the following wording in Applicants Statement of Reasons with regards to Mitigation work rights and restrictive covenants at para 123 that states 'It is intended that the exercise of mitigation rights and effect of restrictive covenants will be time limited to the period required to deliver the mitigation secured in the Order, after which only access rights will be exercised.' However, the Applicant does not go so far as to say the rights will be removed or surrendered and the mere fact that they will endure on the property register is blight enough and considered unnecessary by the Trustees.</p> <p>The Applicant should be made to surrender all rights after their useful requirement period and the Trustees would welcome further dialogue with the ExA as to how this could be incorporated into the draft DCO. Likewise, with permanent rights, the Trustees maintain that these rights and requirements for the installation and operation of the EC's could be limited (by surrender/removal) at the end of the decommissioning period for the project. The Trustees maintain that taking and impacting on landowners' rights in perpetuity is not balanced with the needs to deliver a time limited energy</p>	<p>opportunity to promote its land within the formal replacement LDP process. The revised Denbighshire Replacement Local Development Plan – Revised Delivery Agreement was approved by Welsh Government in December 2022 and confirms that 'The opportunity to submit further candidate sites has now closed but additional sites can be put forward at the Deposit consultation stage which is programmed to take place between September 2023 and May 2024.</p> <p>Whilst the easement does include restrictions on certain activities it does not preclude the holding being brought forward for development.</p> <p>The Applicant has not been made aware of the detail relating to the agricultural or diversified developments referred to. If details are provided the Applicant will be able to confirm that, as with other land parcels, the rights sought do not conflict with the continued agricultural use of the land. Any change from the existing agricultural use would likely require planning permission and the Applicant is not aware of any such application being made by the Trustees.</p> <p>The rights and restrictions sought in relation to the Trustee's land are set out in Schedule 7 of the dDCO (Document 6.5 of the Applicant's Deadline 6 submission)– and as set out in the Statement of Reasons (Document 6.6 of the Applicant's Deadline 6 submission), the rights are appropriately limited to the right to access the land for the purposes of undertaking vegetation and other ecological measures,</p>

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			<p>generation project. Beyond the life the initial project any rights will no longer be fit for purpose, but will remain a significant legacy constraint for landowners. The Trustees seek comfort that rights and restrictions will only be taken for a period as is necessary, with provision made within the DCO for time limited removal.</p> <p>Notwithstanding the points made in 2.2 above, the Trustees request that Work Plans (REP1-032) Plots 145 and the Southern element of Plot 142 (south from Plot 141) are removed from the DCO as this separate access right is not required outside of the main ECC. There are existing rights and farm tracks within Plot 140 that will provide the access necessary without the need to inflict disturbance on a greater area than necessary.</p>	<p>environmental or ecological mitigation or enhancement works and any works required by any consent or licence. These rights are only in relation to the construction, operation, maintenance and decommissioning of the authorised development. They constitute the minimum possible to deliver the mitigation works required to make the authorised development acceptable in planning terms. In seeking these rights in the alternative to acquisition of the land the Applicant has not sought to extinguish any subsisting rights or interests and as stated above does not consider that these would sterilise the land.</p> <p>In addition, the restrictive covenant sought is limited to works that could disturb the mitigation areas and clearly stated to be limited to <i>'the period within which the undertaker is bound by any consent to maintain that ecological area or area of habitat creation'</i>. The Applicant cannot see how this could be more clearly stated or for a shorter period. Whilst the restrictive covenant would remain on the title until surrendered, in the absence of their being any justification for the restriction to continue (i.e. the period had expired) the Applicant considers the covenant would be unenforceable.</p> <p>The rights sought in relation to the cables necessarily reflect the consent that is being sought for the development. In accordance with the precedent set by all other offshore wind DCOs the consent is not time limited and whilst there is a requirement for the scheme to be decommissioned, there is no date specified</p>

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				<p>for this. As a result the right is considered to be permanent and any compensation calculated on that basis.</p> <p>It should however be noted that, as this is not subject to the compulsory acquisition regime and legislation, the voluntary agreement offered to the Trustees by the Applicant does include express provision for the grantee to surrender the rights and restrictions on effective decommissioning of the development</p> <p>The operational access cannot follow the cable route as this would prevent the reinstatement of field boundaries and hedges. Notwithstanding the above the final arrangement will be subject to detailed design which will include engagement with the Landowner as noted in Section 2.4, paragraph 25 of the outline Onshore Construction Method Statement (Document 6.34 of the Applicant's Deadline 6 submission).</p>
3.7	Davis Meade Property Consultants on behalf of Mr JB and Mrs E Evans	<p>Land for OnSS</p> <p>The ExA notes concerns regarding the degree of permanent land take and the future viability of the Faenol Broper farm business. Are you able to provide an indication of the degree of land take which would, in your view, negate such a concern?</p>	<p>DMPC (Evans): Unfortunately, it is considered that the loss of any part of the land proposed to be acquired will adversely impact on the farming enterprise. This is particularly the case given the limited size of the Freehold agricultural property and the significant fact that the subject area forms part of the overall farm which encompasses the homestead in one whole unit. No amount of money will sufficiently compensate our client for the potential loss of, in excess of, 54 % of their freehold.</p> <p>AGRICULTURAL HOLDING - as they cannot buy an equivalent neighbouring asset. To our client the loss of this land is (metaphorically) akin to</p>	The Applicant notes DMPC's comments and would reaffirm response given to ExQ2.3.within REP5-004.

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			<p>severing a limb (which cannot be equally replaced). The blood and toil invested by 3 generations to carefully nurture and enrich this substantial parcel is at risk of being lost which is a significant concern to Messrs Evans in respect of the ability to sustain a viable livelihood in the future. Therefore, our client would be willing to consider the exclusion / return of as much land as possible (as regards to the potential acquisition) providing it's condition and layout is satisfactory, and is deemed manageable for optimum agricultural production purposes.</p>	
3.8	Rhyl Flats Wind Farm Limited (RWF)	<p>Wake effects</p> <p>The Applicant provided its view on the matter of wake effects in respect of RWF in response to ExQ1.3.27 [REP1-007]. Do you agree with the points raised, and if not, do you have any substantive evidence of your own to support your concern on this matter?</p>	<p>The Applicant: The Applicant acknowledges that this question is directed at RWF. It notes the information provided by RWF at Deadline 4 and maintains that wake effects are not a matter for examination.</p> <p>RWF: Response to Applicant Views on Wake Loss RFWL responded to the views of the Applicant on this matter in their comments at Deadline 2 [REP2-057] and again at Deadline 4 [REP4-047] . RFWL does not agree with the points raised by the Applicant. The Applicant raises 3 main points which are addressed in turn:-</p> <p>1) Crown Estate Siting Criteria</p> <p>The Applicant maintains that 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. It is accepted that the Crown Estate's siting criteria include set off distances from existing offshore wind farms but it important to take account of the context</p>	<p>N/A</p> <p>The Applicant considers that there are three main points to address in relation to RFWL's response:</p> <p>1. Agreement for Lease</p> <p>The Applicant has an Agreement for Lease (AfL) with The Crown Estate (TCE) for the AyM wind farm (the array area). This permits the Applicant to locate wind turbine generators (WTGs) anywhere within the AfL area without the consent of RFWL.</p> <p>The need for RFWL's consent is entirely separate from the Applicant's array area. There is no link between the requirement for RFWL's consent for cable works within the 250m restriction zone and the wake loss claims made</p>

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			<p>for these criteria and how they fit with the policy in EN-3.</p> <p>Crown Estate leases for offshore wind farms typically set restriction zones around the leased area which restrict the granting of new interests. Within the first restriction zone (typically up to 250m from the perimeter of the lease), the consent of the existing tenant is required if the Crown Estate wish to grant a lease for other works. This provision has been referred to by both parties and is why the granting of the lease by the Crown Estate to the Applicant is subject to RFWL's consent.</p> <p>For some offshore windfarm leases (such as the existing RFWL lease) there is also an extended restricted zone prohibiting the granting of a lease for the construction of additional turbines which would result in reduction of energy output from an existing wind farm unless certain criteria are met.</p> <p>The Crown Estate siting criteria need to be seen in the context of the Crown Estate's contractual position in relation to existing wind farms. The siting guidance seeks to avoid new proposals within geographic areas which may trigger liability for the Crown Estate under existing leasehold arrangements.</p> <p>The Applicant appears to be suggesting that the ExA can rely on the Crown Estate siting process to have addressed issues of wake loss impact. Planning case law has considered how planning authorities should deal with considerations which are subject to control by other regulatory bodies. The case of Gateshead MBC v Secretary of State for the</p>	<p>by RFWFL. It is important that these two matters are not conflated.</p> <p>The Applicant will have a lease with TCE for its offshore cables (the offshore transmission assets). At present it is anticipated that this lease will include a small area which intrudes into the 250m restriction zone around the RFWF array leased area. The need for the Applicant to undertake works in the restriction zone is yet to be confirmed. However, in the event that AyM needs to undertake works in this restriction zone, the consent of RFWFL is needed. The Applicant believes that, based on other TCE offshore lease drafting, RFWFL's lease with TCE will contain an obligation for RFWFL in such circumstances not to unreasonably withhold or delay consent and not to deliberately take any actions to frustrate a neighbouring project. In so far as it will be required, RFWFL's consent is therefore a leasing issue where its consent cannot be unreasonably withheld (assuming such a provision is included in RFWFL's lease). There is no reason why RFWFL's consent (if needed) should be given different status to any other offshore interaction between AyM and other existing infrastructure.</p> <p>Any interaction between the Applicant and RFWFL in relation to the Applicant's works in the RFWF restriction zone will be appropriately controlled by the protective provisions in the DCO. Discussions between the Applicant and RFWFL are ongoing in relation to these protective provisions.</p>

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			<p>Environment and Another (1994) 67 P&CR 179 considered air emissions. The case confirmed that air emissions were a material consideration but so too was a stringent statutory regime for controlling such emissions. The planning authority was entitled to be satisfied that the issue of air emissions was capable of being overcome by Environmental Protection Agency ("EPA") regulation. Whether that point had been reached, however, was a matter for the decision maker to reach in circumstances of the case.</p> <p>The position of the Crown Estate in granting leases for new wind farms is not analogous to a regulatory body in the position of the EPA. The EPA operates detailed regulatory regimes for matters such as air and water emissions. The Crown Estate sets broad siting criteria for the lease of new sites. It is understood that this does include a criterion that the lease of new sites are sufficiently separated from existing sites so as to avoid high levels of impact on existing sites. However, the Crown Estate does not regulate such impacts in the same way as the EPA. It may use locational criteria to avoid what might be the worst levels of impact but it cannot be assumed that a site which the Crown Estate propose to lease will not have a wake loss impact on an existing wind farm or that matters in that regard will have been considered adequately by the Crown Estate.</p> <p>Whether there is an impact or not will be a matter for the circumstances of the case and is a matter which the ExA requires to consider.</p> <p>2) Interpretation of EN-3</p>	<p>Given that protective provisions will appropriately regulate any works within the RFWF restriction zone, there is no reason to consider that RFWFL's consent for works within this area would not be obtained.</p> <p>2. Policy</p> <p>The Applicant notes RFWFL's position with regards to paragraphs 2.6.176 - 2.6.188 of NPS EN-3.</p> <p>The Applicant acknowledges that other offshore wind farm (OWF) operators are referred to in the NPS tracker in relation to paragraphs 2.6.180 and 2.6.181 of EN-3. However, the Applicant does not consider that this contradicts its position regarding the relevance of paragraphs 2.6.176 – 2.6.188 of EN-3 to other OWFs. It merely confirms that consultation took place which is considered to be best practice.</p> <p>As previously stated, the Applicant does not consider that these paragraphs apply to other OWFs for the following reasons:</p> <ul style="list-style-type: none"> ▲ The title of the section (oil, gas and other offshore infrastructure and activities) denotes that the intention is for the policy to cover <u>other</u> offshore sectors such as oil and gas. If it was intended to apply to other OWFs, then the title of this section could be left as being 'Other offshore infrastructure and activities' or would include reference to other OWFs.

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>The key point at issue between the parties here is whether paragraphs 2.6.176-2.6.188 require the Applicant and the ExA to consider the impact of the proposed AyM wind farm on existing offshore wind farms. The Applicant points out that impacts on existing offshore wind farms are not expressly referred to in this section of EN-6 and, that, had the guidance been intended to apply to them then this would have been expressly stated. They also point to paragraph 2.176. They submit that 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>RFWF's position is that 2.6.176-2.6.188 do require the assessment of the impact of AyM on existing offshore wind farms. The impact of the Applicant's interpretation is that any type of development (not just existing offshore wind farms) that are not expressly listed in paragraph 2.6.176 are excluded from the requirement for assessment. So, for example, impacts on telecommunications cables would require to be assessed (as they are listed) but impacts on electricity connectors would not (as they are not listed). That simply cannot be correct. It ignores the express wording in paragraph 2.5.1.76 which refers to the need to "other offshore infrastructure, such as..." The use of the words "such as" shows that the types of infrastructure referred to in the following part of the sentence are just examples of the types of infrastructure which may be affected.</p> <p>The Applicant's interpretation would also mean that there would be no policy requirement to</p>	<ul style="list-style-type: none"> ▶ The wording of paragraph 2.6.176 which suggests that other offshore infrastructure could be telecommunications, oil and gas further indicates that another OWF would not fall within this category. The drafting of the NPS could have easily kept this to be more open or expressly included other OWFs or electricity generators had this been intended. ▶ Paragraph 2.6.184 of EN-3 is a key policy test cited by RFWFL which relates to avoiding or minimising disruption or economic loss to 'other offshore industries'. The Applicant considers that reference to 'other offshore industries' rather than other offshore infrastructure or activities is further evidence that this section is aimed at other sectors, not offshore electricity generation. <p>The Applicant considers that there is nothing in the NPS or other relevant policy to prevent an OWF from being developed in the vicinity of another OWF. In addition, there is nothing in policy that says that the performance of an existing wind farm (either onshore or offshore) is something that should be protected. Paragraphs 2.6.46 and 2.6.47 of NPS EN-3 expressly contemplate the extension of existing wind farms in the vicinity of operational projects. This is in the context of leases being awarded by TCE which demonstrates that the NPS considers that the relationship between a new offshore wind farm and existing offshore wind farms should be regulated through the leasing regime.</p>

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			<p>assess any type of impact on an existing offshore wind farms (not just wake loss impact). For example, the impacts of a development on carrying out operations in close proximity to existing turbines or crossing an existing export cable would be excluded from policy assessment. It is difficult to see how it could be suggested that the Crown Estate siting criteria could have assessed those impacts.</p> <p>Contrary to what the Applicant says, if the intention was to exclude certain types of infrastructure from the policy requirements of paragraph 2.6.176-2.6.188 then there would require to clear wording to that effect. There is no such wording. The Applicant is seeking to read additional words into the policy which are not there. In RFWF's submission, potential impacts on existing offshore wind farms are covered by 2.6.176- 2.6.188 and need to be assessed.</p> <p>It is also noted that the position taken by the Applicant here contradicts what they say elsewhere in the examination documents. The Applicant's National Policy Statement Tracker {REP3-003} includes reference to paragraphs 2.6.176-2.6.188 of EN-3. They note the requirement in paragraphs 2.6.18 to 2.6.181 "to engage with interested parties in the potentially affected offshore sectors early in the development phase." In setting out how the Applicant has accorded with this provision, the Tracker states that:-</p> <p>"Consultation with potentially affected stakeholders including charter anglers, other offshore wind farm operators and oil and gas</p>	<p>Furthermore, even if paragraphs 2.6.176 - 2.6.188 of NPS EN-3 were to apply to OWFs (which the Applicant maintains is incorrect), the provisions do not require the Applicant to avoid any impacts altogether in all circumstances. Paragraph 2.6.184 refers to applicants making efforts to avoid or minimise disruption and economic impact. The Applicant has done this by ensuring the WTGs are in accordance with TCE's siting criteria which requires a 5km separation between OWFs. The only way to reduce any impact further would be to increase this separation which would have a disproportionate impact on the capacity of renewable energy generation that would be delivered by AyM. The Applicant has explained in response to ExQ1.17.25 relating to SLVIA effects (REP1-007) that it is not possible to reduce the extent of the array area without a significant reduction in the output of AyM. The SoS should consider these points if it determines that it is relevant to consider whether the Applicant has 'minimised' economic loss on RFWFL.</p> <p>3. Wake loss</p> <p>On the basis that it is not required by policy and that TCE OWF siting criteria dictates the location of the AyM WTGs, the Applicant is not required to undertake or submit a wake loss assessment as suggested by RFWFL. In any event, to undertake an assessment based on the MDS would be overly precautionary as the number, layout and height of the WTGs have</p>

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			<p>operators has been carried out from the early stages of the project and continues through the pre-application consultation process"</p> <p>The Applicant has therefore clearly recognised in their National Policy Tracker that this section of EN-3 applies to offshore windfarms. In terms of compliance with paragraph 2.6.179, the Tracker points to Volume 2 Chapter 12 of the ES [APP-058] which sets out the assessment of the potential effects of AyM on marine infrastructure and other users of the marine environment. This includes a section on pages 77 to 79 of the impacts on other offshore wind farms. The Applicant has therefore acknowledged the need in terms of EN-3 to assess the impact of their development on existing offshore wind farms. Indeed they have assessed that impact in the ES but have just not extended that assessment to consideration of potential wake loss impact.</p> <p>3) Wake loss is a private commercial matter</p> <p>The applicant submits that any claims of wake loss are a commercial matter between the parties and are not relevant to the AyM examination and decision. RFWL operate a electricity generating station. If the proposed development impacts onthe ability of the station to generate electricity then that is an impact on a statutory undertaker. It is not simply a private matter. 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</p>	<p>not been determined, and would therefore not be a sound basis on which to reach any conclusions regarding wake loss effects.</p> <p>The relevant sections of the ES Volume 2, Chapter 12: Other Marine Users and Activities (APP-058) referred to by RFWFL relate to construction impacts which are irrelevant to wake loss. The Scoping Opinion (APP-295) refers to the operational effects on RFWF only in the context of maintenance activities. Therefore, wake loss is not considered to be within the scope of the EIA. The maintenance effects of AyM on RFWF during operation will be controlled by the protective provisions included in the DCO.</p> <p>No information or detail has been provided by RFWFL on the 2% figure so the Applicant is unable to comment on this assessment. In any event, even if 2% wake loss was correct, the Applicant does not consider this is sufficient to demonstrate that AyM has not sought to avoid or minimise disruption or economic loss on RFWF or that it will affect the future viability of RFWF.</p> <p>RFWFL's status as a statutory undertaker (SU) has no relevance with regards to its claims regarding wake loss. There is nothing in legislation or policy which guarantees income or revenue stream to SUs and the protections afforded to SUs primarily relate to protecting land, rights and infrastructure. Sections 127 and 138 of the Planning Act 2008 do not apply as these only relate to onshore SU land or to the extinguishment of rights or removal of</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>interpreted, the issue of wake loss is still therefore an issue which the ExA must consider.</p> <p>Evidence of wake loss</p> <p>The ExA ask if RFWF have substantive evidence of wake loss impacts. For the reasons set out above, it is for the Applicant to undertake a detailed assessment of the impacts of their proposed development on RF. RFWL should not be put to the expense of undertaking such an assessment. However, in the absence of the Applicant submitting anything to the examination, RFWF have engaged DNV to provide an independent opinion on potential wake loss. This was attached as Appendix 1 to RFWF's Deadline 4 submission [REP4-048]. 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> <p>RFWF would add that they understand that the Applicant accepts that there will be a potential wake loss impact but they have chosen not to provide information on this to the examination or to propose any mechanism for addressing the impact.</p> <p>RFWF is continuing to discuss protective provisions with the Applicant. In the absence of any movement from the Applicant on this</p>	<p>apparatus. Appropriate protection for RFWF's infrastructure will be provided through the protective provisions.</p> <p>Outside the protective provisions to regulate the Applicant's cable works, the absence of policy tests and protections offered to SUs in relation to wake loss and the Applicant's compliance with the siting criteria means that this is not a relevant consideration for the ExA or Secretary of State.</p> <p>The Applicant has set out further details of its position in its response to ExQ1.3.27 (REP1-007) and comments on RFWFL's submissions (REP3-002 and REP5-003).</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			matter then RFWF will propose an additional protective provision to deal with wake loss.	
3.9	North Hoyle Wind Farm (NHWF) Limited	<p>Protective provisions</p> <p>You indicate that should a crossing agreement not be reached with the Applicant, protective provisions may be needed within the dDCO. Are you able to provide any wording for these for the consideration of the Applicant and ExA?</p>	<p>The Applicant: The Applicant acknowledges that this question is directed at NHWF but would like to state that a cable crossing agreement is standard industry practice for this type of work and will adequately protect the interests of NHWF. The Applicant does not consider that protective provisions are necessary in addition to a cable crossing agreement. The Applicant provided comments on the agreement to NHWF on 30 November 2022 and no comments have yet been received in response.</p> <p>NHWF: NHWFL is still in discussions with the applicant in relation to the conclusion of a cable crossing agreement. There are currently a number of points between the parties which prevent an agreement being concluded. Principally, these relate to indemnities and financial obligations which the Applicant is seeking to apply to works which may require to be carried out by NHWFL on their existing cables. Currently, NHWFL would be able to carry out these works without these additional burdens. NHWFL do not consider that it is reasonable to be asked to accept additional costs caused by the presence of the Applicant's works.</p> <p>There is also the issue of the extent of the indemnity which has been offered in relation to losses caused by the actions of the Applicant in relation to the authorised works. The Applicant has sought to limit this indemnity to works</p>	<p>N/A</p> <p>The Applicant has set out its position in its responses to REP1-085-4.1 – REP1-085-4.4 (REP2-002) and comments on NHWFL's submissions (REP3-002 and REP5-003). The Applicant maintains that a bilateral cable crossing agreement which contains obligations on both the Applicant and NHWFL as the owner of an existing cable is an industry standard approach. The draft cable crossing agreement uses an industry-standard template previously employed by NHWFL and the Applicant does not see why the agreement could not be concluded before the end of the examination. There has been no engagement with NHWFL on the proposed protective provisions to date but the Applicant will consider the draft submitted by NHWFL at Deadline 5 (REP5-040).</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>associated with the cable crossing. NHWFL remains concerned, on the basis of previous experience, that works carried out by the Applicant to connect their development to the grid could lead to temporary disconnection or curtailment of generation of the NHWFL development. NHWFL therefore seeks additional protection for that potential impact.</p> <p>At present it is not clear whether it will be possible to conclude a cable crossing agreement within the course of the examination or what the scope of additional protective provisions may need to be. To assist the ExA, and as requested, NHWFL has prepared a full set of protective provisions which are attached. These would only be required in the event that it is not possible to conclude agreement in any form and they would still allow the parties to reach agreement on a contractual basis. Depending on how discussions progress, it may be that parties are able to agree a core crossing agreement with submissions on what additional protective provisions are required. (NHWFL also provided a set of protective provisions which are not listed here).</p>	
3.13	The Welsh Ministers, Secretary of State for Wales, National Assembly for Wales, and The King' s	The Crown Consent is required for provisions in the DCO relating to Crown land or rights benefiting the Crown in accordance with s135(2) of PA2008. The Applicant indicates it is in discussions with all relevant Crown authorities in this respect [REP3-005]. Please confirm when you expect any consent to be forthcoming and whether	<p>Welsh Government: This information will be provided directly to the applicant through the relevant ongoing discussions.</p> <p>The Crown Estate: We are engaged with the Applicants on this point and will consider what is appropriate once further information has been received.</p>	<p>This is noted by the Applicant</p> <p>This is noted by the Applicant</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
	Most Excellent Majesty in Right of His Crown (Crown Estate)	you envisage any impediment to such consent.		
3.17	Network Rail Infrastructure Limited, National Grid Electricity Transmission plc and Dŵr Cymru Cyfyngedig / Welsh Water	<p>Negotiations</p> <p>The Applicant's negotiations document [REP3-005] indicates that discussions are ongoing with the parties and that agreement will be reached before the end of the Examination. Please confirm whether you are of the same view and provide detailed reasons should you consider otherwise.</p>	<p>NGET: The parties continue to work together towards an agreed form of protective provisions. The key outstanding issue to be agreed is the safeguarding of an area within the Order Limits for the future extension of the Bodelwyddan substation and associated works and infrastructure (including new overhead line gantries and the diversion of an existing gas pipeline to facilitate the substation extension). These upgrading works are critical to enable the connection of multiple projects at this location (the Awel Y Mor Project being only one of a number of projects requiring a future connection to the Bodelwyddan substation). NGET anticipates that appropriate agreement should be reached before the end of the Examination. An update will be provided to the Examination in due course.</p> <p>Wilson Fearnall Ltd on behalf of GBL and IB Kerfoot Discretionary Trust: Negotiations with the Applicant are not progressing positively. The Trustees undertaken detailed and timely engagement with the Applicant at all stages of the pre and post submission process. The Applicants have been slow to respond to material points raised throughout the development process and responses to engagement and suggested alternatives have</p>	<p>The Applicant and NGET are continuing active discussions on the protective provisions. The main outstanding issue between the parties relates to the interaction between AyM and the future extension of the Bodelwyddan substation. The Applicant and NGET are continuing discussions and hope to reach an agreed position before the end of the Examination.</p> <p>The Applicant has acknowledged in the Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Document reference 6.10 of the Applicant's Deadline 6 submission) that there remain a number of points of difference between the parties. However, as noted in the latest update to (Document reference 6.10 of the Applicant's Deadline 6 submission), the Applicant's appointed agents are continuing</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>been briefly dismissed and poorly communicated. The Trustees are aware of another offshore wind farm proposal being prepared for submission by RWE – the Rampion 2 project – that has recently undertaken a second round of formal consultation to address and mitigate a wide number of landowner related requests and requirements – these are reflected in the changes highlighted through the Rampion 2 further consultation booklet on the project website. The Trustees are concerned by the seeming lack of consistency between the two approaches with regard to landowner impacts and the resultant burden for compulsory acquisition and would encourage the Applicant to give greater weight to localised landowner concerns. Whilst a draft Option agreement has kindly been provided by the Applicant for consideration a draft Easement Agreement would also be appreciated to allow the possibility of negotiated agreements to progress.</p>	<p>to engage with the land interest's appointed agent with the most recent correspondence being issued on 15 February 2023.</p> <p>The Applicant throughout its submission both in terms of the original application, responses to representations, responses to Examining Authority questions and in voluntary discussions and negotiations with the owners agent has provided clear and evidenced reasoning for decisions made in relation to the consideration of alternatives and the rights sought over the Order land (see ES Volume 1, Chapter 4: Site Selection and Alternatives (APP-044)).</p> <p>The Applicant is aware of The Rampion 2 project and their additional consultation which covers adjustments to the proposed onshore cable route.</p> <p>The reasons for the amendments to Rampion 2's proposed route which includes entirely new sections are complex and reflect the responses from Statutory stakeholders, Consultees and the discovery of new physical and ecological constraints that rendered their initial route to be partially undeliverable. Some of the additional constraints were found as a result of survey work that occurred after covid access restrictions had been lifted</p> <p>The Applicant has not faced similar circumstances on this project that have necessitated additional consultation of the type referred to.</p> <p>The Applicant's agents will endeavour to provide the Landowner's agent with a draft easement agreement referred to however</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
				completion of heads of terms, subject to contract before any draft contractual documentation has been shared between the parties is not uncommon
3.18	Natural Resources Wales (NRW)	<p>Negotiations</p> <p>The Applicant's negotiations document [REP3-005] states that protective provisions are not required for NRW (as a statutory undertaker) as Plot 26 has been removed from the Order limits. Please confirm whether you are in agreement with this.</p>	NRW: NRW is in agreement with this	This is welcomed by the Applicant.

2.4 Construction

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
4.1	DCC, CCBC and NRW	<p>Staging of Onshore Works</p> <p>At Deadline 3 the Applicant submitted 'Staging of Onshore Works' [REP3-017] document. Please provide comments in respect of the suitability of the suggested staging approach.</p>	<p>NRW: NRW has no comments to make with respect to the staging approach outlined in REP3- 017.</p>	This is noted by the Applicant.
			<p>DCC: DCC are happy to agree to the suggested staging approach.</p>	This is noted by the Applicant.
			<p>CCBC: The onshore works are due to be carried out outside the Conwy County Borough, and the Council does not wish to comment on this document.</p>	This is noted by the Applicant.
4.6	NRW	<p>Cable Route Crossings</p> <p>The Applicant confirmed on page 30 of [REP2-002] that the outline Construction Management Plan (oCMS) had been updated to "clarify that any non-trenchless cable route crossings options or culverted haul road would be closely monitored to quickly identify whether channel deformities were starting to occur so that appropriate action could be taken. The oCMS has also been updated to include potential bank stabilization mitigation and additional information on watercourse crossings".</p> <p>Noting paragraphs 3.2.2 and 3.8.2 of your Relevant Representation [RR-015] are you satisfied that such amendments alleviate your concerns?</p>	<p>The Applicant: It is acknowledged that this Question is not directed at the Applicant, but the Applicant has provided the following response which may be useful context for the ExA.</p> <p>The Applicant has continued to discuss this issue with NRW following Deadline 3.</p> <p>NRW has suggested that the inclusion of the following statement within the CMS, alongside some additional updates, could remove NRW's disagreement on this matter:</p> <p><i>"RWE acknowledges and accepts there is a risk that some watercourse crossing techniques may not be acceptable following detailed design and further appraisal and that a trenchless crossing option may remain the only acceptable method"</i>.</p> <p>The Applicant has made these corresponding changes to the CMS and provided these to NRW. (a copy of the CMS incorporating these changes has been submitted at Deadline 4 as REP4-017; Application reference 8.13.1). NRW has</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>confirmed within its Deadline 4 response (REP4-045) that the updates made by the Applicant to the CMS have addressed the previous concerns raised by NRW in paragraphs 3.3.1 – 3.3.7 (Annex A) of NRW's REP1-080.</p> <p>NRW: As explained in section 2.3 of our Deadline 4 submission, NRW has held further discussions with the Applicant, and the Applicant has proposed further updates to the Outline Construction Method Statement [REP4-018] which was submitted to the Examination at Deadline 4. NRW can confirm that the updated Outline CMS [REP4-018] addresses NRW's previous concerns as set out in paragraphs 3.3.1 – 3.3.7 (Annex A) of our Deadline 1 submission [REP1-080]. Please also see our response to Q 7.3 below.</p>	<p>This is welcomed by the Applicant.</p>

2.5 Good Design

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
5.7	Applicant, DCC	DCC and design requirements At ISH3 it was stated that it was likely that DCC would need to procure some external support when considering discharging the relevant requirements of the DCO relating to Design and that potentially this would be agreed between the Applicant and DCC. Please provide further information on this matter, including if necessary updating the DPS to confirm.	<p>The Applicant: The Applicant and DCC agree that a Planning Performance Agreement (PPA) to facilitate support for the Council to discharge the Requirements would be useful.</p> <p>The Parties are discussing the best way for this to be arranged. The likelihood is it will form a private contract between the Applicant and DCC and its remit would cover the discharge of all DCO requirements and post-consent work rather than be linked to the DPS.</p> <p>DCC: DCC are happy to progress a PPA with RWE.</p> <p>This has been further discussed during Feb 2022 with RWE.</p>	<p>N/A</p> <p>This is welcomed by the Applicant, who, in the event that consent is granted, will engage with DCC to secure a PPA to provide resources for any potential post consent activities requiring DCC's input through the pre-commencement, construction and operation of the AyM project.</p>

2.6 DCO

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
6.3	DCC, Applicant	<p>A2 –</p> <p>To the Applicant: While noting the contents of paragraphs 3.8-3.11 of [REP3a-005], please respond to the comments of DCC made at Deadline 3 regarding onshore and pre-commencement works [REP3a-020] and amend the dDCO if necessary.</p> <p>To DCC: Please provide your comments on paragraphs 3.8-3.11 of [REP3a-005].</p>	<p>The Applicant: The Applicant has provided a response to DCC's comments within the Applicant's response to the Rule 17 letter (REP4-005) submitted at Deadline 4.</p>	N/A
			<p>DCC: DCC are happy with RWE's definition of pre-commencement. To be included in the DCO.</p>	This is welcomed by the Applicant.
6.4	DCC	<p>Your LIR [REP1-056] raised concerns around the provisions of Part 3 (Streets) of the dDCO. The Applicant responded to these concerns [REP2-004]. Please confirm whether you are satisfied with the response, and if not, provide detailed reasons for this, highlighting the particular areas / articles of concern.</p>	<p>DCC: DCC is satisfied with RWE's response.</p>	This is welcomed by the Applicant.

2.7 Flood Risk and Water Quality

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
7.2	Applicant, NRW	<p>Flood Risk Activity Permits (FRAP)</p> <p>The ExA notes in the onshore SoCG [REP3-021] that the disapplication of FRAP remains an unresolved matter and that NRW does not consent to the disapplication.</p> <p>Please can both parties advise if discussions regarding this issue are ongoing or is this the NRW final position?</p>	<p>The Applicant: The Applicant has suggested to NRW that the following DCO Requirement could resolve the concerns that NRW set out within its written representation which gave 3 reasons why NRW does not currently consent to the inclusion of Article 7(c) within the DCO in order to disapply Flood Risk Activity Permit (FRAP). These reasons were:</p> <p><i>"1. In order for NRW to determine whether or not to provide consent for the disapplication of the relevant provisions under section 150, it must be provided with the specific details of the works for which the consent or authorization would be required. To date, NRW has not been provided with the required information. Section 150 does not provide a general or blanket exemption from the need for consents or authorisations, the details of which have not yet been identified but may however materialise during the lifetime of the development.</i></p> <p><i>2. Notwithstanding and/or further to the above, NRW is not satisfied that the regulatory mechanisms under the draft DCO in respect of the works are adequate. Should the requirement for an environmental permit in respect of the works be disapplied, the local planning authority will be the discharging authority with responsibility for approving the detailed design. NRW considers it necessary to retain its regulatory functions under the Regulations in respect of the works given its established expertise when appraising works of this nature.</i></p> <p><i>3. An application for the works under the Regulations would be subject to an application charge in accordance with NRW's Environmental Permitting Charging Scheme Environmental</i></p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p><i>Permitting Charging Scheme 2022/23 (cyfoethnaturiol.cymru). NRW considers it necessary for this scheme to be applied in respect of the works, having regard to the appropriate allocation of public resources."</i></p> <p>The Applicant has suggested an alternative DCO Requirement that would have NRW as the approving body (and so would address point 2 above) and so maintain NRW's regulatory functions. The suggested DCO Requirements is as follows:</p> <p><i>"(1) Construction of Work Nos. [insert relevant Works Nos] involving crossing of flood defences or a main river using techniques other than trenchless installation techniques, must not commence until for that crossing a watercourse crossing method statement has been submitted to and approved by Natural Resources Wales.</i></p> <p><i>(2) The watercourse crossing method statement must include the following details for each watercourse crossing:</i></p> <ol style="list-style-type: none"> <i>1. site plan showing the location of the crossing;</i> <i>2. details of the activities to be undertaken and the location of each crossing;</i> <i>3. details of the duration of the proposed crossing activities (in particular whether the activities are permanent or temporary);</i> <i>4. method statement for the proposed crossing works;</i> <i>5. general arrangement plan and cross section showing the proposed depth of cable installation;</i> <i>6. information on the duration of the crossing activities, time of year and anticipated date of commencement; and</i> 	

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>7. control measures to be applied and an environmental risk assessment.</p> <p>(3) Each watercourse crossing must be carried out in accordance with the approved watercourse crossing method statement."</p> <p>The suggested DCO Requirement would also allow NRW to access the fee for DCO requirement discharge, plus any pre application advice fees (as set out in Schedule 11 (4) of the draft DCO). The Applicant is hopeful that this would address Point 3 of NRW's reasons for not agreeing to the inclusion of Article 7(c) within the DCO.</p> <p>The proposed DCO Requirement will require the provision of information typically included within a FRAP application before a decision is made on the acceptability of a proposed watercourse/flood defence crossing. Works could not take place until that information were provided, approval given and the DCO Requirement discharged. Through this mechanism, specific details would need to be provided to NRW and so The Applicant is hopeful that Point 1 could be addressed through this proposal.</p> <p>The Applicant awaits a response from NRW to the proposed requirement.</p>	
			<p>NRW: As explained in our Deadline 4 submission [REP4-045], we have previously advised the Applicant that the draft DCO should be updated so as to remove Article 7(c) which seeks to disapply the requirement for a FRAP.</p> <p>However, on 25/1/2023, NRW received an email from the Applicant suggesting an additional</p>	<p>The Applicant looks forward to receiving NRW's response to the suggested DCO Requirement that seeks to address the concerns raised by NRW relating to Article 7 (c). This wording has been included in the dDCO (Document 6.5 of the Applicant's Deadline 6 submission) at Deadline 6.</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			DCO Requirement provision in seeking to address our concerns regarding the disapplication of the requirement for a FRAP. NRW will consider this information and update the Examining Authority accordingly.	
7.3	Applicant, NRW	<p>Water Quality (Freshwater)</p> <p>Noting the Applicants response at D3a [REP3a-003] in respect of the WFD and watercourse crossing options, can the Applicant and NRW please provide an update regarding discussions between both parties.</p> <p>Additionally, please can NRW advise whether they are satisfied with the suggestion by the Applicant that further information is to be deferred until post-consent 'when it can be prepared on the base of detailed design and further ground investigations' (row 5, page 11 of [REP3a- 003]).</p>	<p>The Applicant: The Applicant has continued to discuss this issue with NRW following Deadline 3.</p> <p>NRW has suggested that the inclusion of the following statement within the CMS, alongside some additional updates, could remove NRW's disagreement on this matter:</p> <p><i>"RWE acknowledges and accepts there is a risk that some watercourse crossing techniques may not be acceptable following detailed design and further appraisal and that a trenchless crossing option may remain the only acceptable method"</i>.</p> <p>The Applicant has made these corresponding changes to the CMS and provided these to NRW (Document 5.11 Of the Applicant's Deadline 5 submission; Application reference 8.13.1). As noted in the response to ExQ2.4.6, NRW has confirmed within its Deadline 4 response (REP4-045) that the updates made by the Applicant to the CMS have addressed its previous concerns in paragraphs 3.3.1 – 3.3.7 (Annex A) of NRW's REP1-080.</p> <p>NRW: As explained in section 2.3 of our Deadline 4 submission, NRW has held further discussions with the Applicant, and the Applicant has proposed further updates to the Outline Construction Method Statement [REP4-018] which was submitted to the Examination at Deadline 4.</p>	<p>N/A</p> <p>This is welcomed by the Applicant.</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>The updated Outline CMS includes the following statement: "The Applicant acknowledges and accepts there is a risk that some watercourse crossing techniques may not be acceptable to NRW following detailed design and further appraisal. Upon further investigation it may be determined that an open-cut solution is not acceptable to NRW and a trenchless crossing option may remain the only acceptable method". The draft also includes other minor amendments to remove reference to use of gabions/gabion mattresses as engineered reinstatement options.</p> <p>NRW can confirm that the updated Outline CMS [REP4-018] addresses NRW's previous concerns as set out in paragraphs 3.3.1 – 3.3.7 (Annex A) of our Deadline 1 submission [REP1-080].</p>	
7.4	NRW	<p>Flood Consequence Assessment (FCA)</p> <p>Noting the comment made in Written Representation [REP1-080] regarding the omission of assessment of works located within C2 (as identified in the Development Advice maps in TAN15), the Applicant provided an updated version of the FCA for the Onshore ECC at Deadline 1 [REP1-042].</p> <p>Please confirm whether you are satisfied with the revised FCA? If not, please give reasons.</p>	<p>NRW: We note the updated FCA submitted at Deadline 1 [REP1-042]. As explained in paragraph 3.2.11 of our Deadline 1 submission [REP1-080], NRW is satisfied that flood risk can be appropriately managed.</p>	This is welcomed by the Applicant.
7.7	Applicant, NRW	<p>Western Wales River Basin Management Plan 2021-2027</p> <p>Please confirm whether the updated Western Wales River Basin Management Plan and associated data [REP1-080] has resulted in</p>	<p>The Applicant: The Applicant confirms that the updated Western Wales River Basin Management Plan and associated data described in REP1-080 have not resulted in any changes to the findings of the WFD compliance assessment presented in APP-094.</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
		any changes to the findings of the WFD compliance assessment?	<p>ES Volume 2, Chapter 3: Marine Water and Sediment Quality (APP-049) and the WFD assessment (APP-094) referred to the latest water body classifications at the time of writing; these were the 2018 interim classifications provided as part of Cycle 2 River Basin Management Plans (RBMPs). These noted the North Wales coastal water body was at moderate ecological potential (phytoplankton) and failing chemical status (mercury), while the Clwyd transitional water body was at moderate ecological potential (dissolved inorganic nitrogen; mitigation measures assessment) and achieving good chemical status. These classifications remain the same in the updated 2021 Cycle 3 data and, therefore, the assessments presented in the application documents would not be changed and remain valid.</p> <p>NRW: As explained in paragraph 3.3.8 of our REP1-080, NRW is satisfied that the updates to the Western Wales River Basin Management Plan do not affect the overall conclusion with respect to WFD.</p>	
7.8	DCC and CCBC	<p>Landfall and Coastal Erosion</p> <p>The ExA are aware that there is a programme of coastal defence works in the area proposed for landfall to protect the surrounding areas from storms and the impact of climate change. In view of this are DCC and CCBC content with the level of detail provided in respect of proposed works</p>	<p>DCC: DCC do not consider any landfall construction method statement is necessary.</p> <p>This can be managed in dialogue between DCC and RWE.</p>	This is noted and welcomed by the Applicant.

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
		at the landfall or is further detail, potentially in the form of a landfall construction method statement, considered necessary?	CCBC: Conwy County Borough Council has submitted a planning application for coastal defence works in the Kinmel Bay area, which is currently undergoing consultation and assessment. The area of the proposed works is well to the west of the landfall location and the Council does not consider that the works proposed at the landfall would affect the delivery of the coastal defence works.	This is noted by the Applicant.

2.8 Historic Environment

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
8.1	Gwynedd Archaeological Planning Services	ISH2 Please provide any comments, should you wish to, on the Applicant's summary of your views from ISH2 [REP3a-004].	GAPS: Paragraph 3.1 states that we agree with their meaning of 'negligible' in the ES as 'no effect'. We consider 'negligible' to mean a very small or imperceptible effect, that has no implications for the significance of the asset in question and merits no further consideration in the context of the scheme. Other references to GAPS simply acknowledge points of agreement and disagreement which have been set out in full in our respective representations throughout the examination. We have no comments on these observations.	The Applicant notes the agreement from GAPS that a negligible level of effect has no implications for the significance of the asset in question and merits no further consideration in the context of the scheme.
8.2	Welsh Government	Legal update Please provide an update on the progress of the Historic Environment (Wales) Bill 2023, including a likely date when Royal assent is expected.	Welsh Government: The Historic Environment (Wales) Bill is currently making its way through the Senedd Cymru and, if all goes according to plan, Royal Assent is expected in early summer 2023. However, the legislation will not come into force as soon as it receives Royal Assent since a substantial quantity of secondary legislation will need to be made and guidance will need to be updated during an implementation phase.	This is noted by the Applicant.

2.9 Land Use

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
9.1	DMPC on behalf of Mr and Mrs HE Hughes	<p>Tree Loss</p> <p>Noting the comments made in the Written Representation (WR) on behalf of Mr and Mrs HE Hughes [REP1-101] and the response made by the Applicant at [REP2-002], are you satisfied that the Proposed Development would not impact on the required level of tree coverage to qualify for the proposed Welsh Government Sustainable Farming scheme?</p>	<p>Welsh Government: For information. The SFS proposes a tree planting requirement which requires all farmers who enter the SFS to have at least 10% tree cover on their farm, if they already have tree cover on their farm, they will be required to manage it in line with the UKFS otherwise, they will need to plant trees to make up the 10%, they'll have five years to do so. We acknowledge that some farmers will be restricted in tree planting opportunities due to priority habitats or conditions attached to farm tenancies. We are exploring what exemptions or variations are appropriate. We do not have the information available for this landowner currently so cannot comment if this would apply.</p> <p>A link to the Outline Scheme Publication: Sustainable Farming Scheme (gov.wales) There is a final consultation on SFS design later in 2023 and final decisions on scheme design will not be made until that consultation has concluded. When scheme rules are finalised we will need to consider scenarios under Force Majeure where developments are outside of the control of the individual scheme participants.</p>	This is noted by the Applicant.
			<p>DMPC on behalf of Mr and Mrs HE Hughes: Please find attached detail of the outline proposals for the Sustainable Farming Scheme. On page 70 (annex 3) it is specified that to qualify for the 'Universal actions' criteria there will be a need to-: 'Create new and manage existing agro-forestry and woodland.</p>	The Applicant notes the comment relating to the Sustainable Farming Scheme. The route of the haul road and cable trenching within the ECC will be subject to detailed design which will include engagement with the Landowner as noted in Section 3.7 of the outline Code of Construction Practice (REP5-016). Where possible the loss of trees or hedges will be avoided to

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<ul style="list-style-type: none"> ➤ Have at least 10% tree cover on their farm. This should be managed in line with the UK Forestry Standard (as part of this 10%). ➤ Manage new and existing hedgerows in line with the hedgerow management cycle.' <p>Whilst it is mentioned (on page 60) that a degree of flexibility will be applied to the requirements, until the final regulations and associated guidance are determined the actual position is not known. Accordingly, it is a concern that any removal of trees and hedgerows may adversely impact our client's ability to qualify .</p>	ensure as far as is practicable works do not impact landowner's ability to qualify for such schemes. The Welsh Government's comments around force majeure and matters being outside the control of individual participants is acknowledged.
9.2	Applicant and DMPC on behalf of Mr and Mrs HE Hughes	<p>Severance</p> <p>In the WR on behalf of Mr and Mrs HE Hughes [REP1-101], concern was raised in respect of temporary severance and subsequent ability to farm. At [REP2-002] the Applicant noted these concerns and confirmed ongoing discussions regarding this matter were underway.</p> <p>Please can both parties provide an update in respect of this issue.</p>	<p>The Applicant: Negotiations are still progressing with the Landowner and their agents, and these include express terms relating to the matter of severance from both a practical and compensatory perspective.</p> <p>DMPC on behalf of Mr and Mrs HE Hughes: Please note discussions on Heads of Terms in respect of the proposed cable route, has not advanced since 11th October 2022. Whilst we are seeking further liaison with the Applicant's representatives, I can confirm that this matter has not been resolved.</p>	N/A
9.3	Applicant and DMPC on behalf of Mr and Mrs HE Hughes and Mr JB	<p>Burial Depth</p> <p>In response to answers to ExQ1.9.3 ([REP1-102] and [REP1-104]) the Applicant confirmed at [REP2-003] that discussions regarding the depth of necessary infrastructure and cables were ongoing and it is likely a minimum burial depth of 0.9m</p>	<p>The Applicant: The Applicant's position has not changed with regards to the minimum burial depth proposed.</p> <p>DMPC behalf of Mr JB and Mrs E Evans: We have not received confirmation from the Applicant in this regard and maintain that a minimum burial depth of 0.9 m below ground</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
	and Mrs E Evans	may be achieved. Please can both parties provide an update in respect of this issue.	<p>surface level is reasonable and necessary for the reasons specified previously.</p> <p>As stated previously (in response to ExQ1) laying infrastructure (such as cables) at a depth of 0.75m below ground level will limit the ability to effectively subsoil and/or mole-plough , when needed to address compaction ,as appropriate . Such apparatus should therefore be installed at a minimum of 0.9 m below surface level (to accord with, what is regarded as 'established standard practice with such schemes ') to mitigate impact on productive capacity. Moreover ,although we have sought further liaison with the Applicant's representatives, discussions on Heads of Terms in respect of the proposed cable route, has not advanced since 11th October 2022 .</p> <p>DMPC on behalf of Mr and Mrs HE Hughes: We have not received confirmation from the Applicant in this regard and maintain that a minimum burial depth of 0.9 m below ground surface level is reasonable and necessary for the reasons specified previously. As stated previously (in response to ExQ1) laying infrastructure (such as cables) at a depth of 0.75m below ground level will limit the ability to effectively subsoil and/or mole-plough , when needed to address compaction ,as appropriate . Such apparatus should therefore be installed at a minimum of 0.9 m below surface level (to accord with, what is regarded as 'established standard practice with such schemes ') to mitigate impact on productive capacity. Moreover ,(as stated in respect of item 9.2 above) although we are seeking</p>	<p>and this is included in the Heads of terms for the land agreement.</p> <p>The Applicant has set out its current position in the Update on Negotiation with Landowners, Occupiers and Statutory Undertakers and Other Utilities (Document 6.10 of the Applicant's Deadline 6 submission) and can confirm a series of productive meetings and exchanges have occurred since 11 October including a meeting on 24 November, a substantive response to outstanding points on the 2 February, a further meeting on 14 February and a further meeting planned for 22 February all of which have resulted in progress being made on the draft terms for a voluntary agreement. As noted in the latest update to (Document 6.11 of the Applicant's Deadline 6 submission) and above, the Applicant's appointed agents are continuing to engage with the land interest's appointed agent.</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			further liaison with the Applicant's representatives , discussions on Heads of Terms in respect of the proposed cable route, has not advanced since 11th October 2022 .	
9.5	Welsh Government	<p>Soil Resources</p> <p>Noting your comments made in respect of ExQ1.9.1 and ExQ1.9.8 [REP1-097], the Applicant responded at [REP2-003] stating that "the Post 1988 Agricultural Land Classification (Wales) Surveys show there have been extensive surveys undertaken to the south and east of Rhyl, to the northwest of Bodelwyddan and around St Asaph Business Park. The ALC determined by these surveys is reflected in the Predictive ALC data and the Applicant considers this represents sufficient information to inform the EIA with permanent loss of up to 5Ha of land predicted to be BMV associated with the OnSS."</p> <p>Please confirm whether this approach satisfies your concerns?</p>	<p>The Applicant: It is acknowledged that this Question is not directed at the Applicant, but the Applicant has provided the following response which may be useful context for the ExA.</p> <p>The Applicant has undertaken an Agricultural Land Classification (ALC) survey of the substation site which includes the substation footprint, TCC location and wider landscape mitigation and ecological compensation and enhancement area. The ALC survey was undertaken in December 2022 and finds that only a relatively small corner of the site (1.5 Ha) is ALC Grade 3a which represents Best and Most Versatile Land (BMVAL). The remainder of the site is ALC Grade 3b (and so is not BMVAL).</p> <p>This finding differs to the Predictive ALC dataset which suggested more extensive coverage of ALC grade 3a land (BMVAL) across the northern part of the site.</p> <p>The ALC survey confirms a significant reduction in BMVAL land within the substations site, with no BMVAL permanently lost through development of the substation footprint and only 1.5 Ha of BMVAL (located in the south-eastern corner of the site next to Glascoed Nature Reserve) taken out of agricultural production during the operational lifetime of the project.</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>The Applicant provided the ALC survey to Welsh Government and has received the following confirmation:</p> <p><i>"The ALC survey report (see attached – Ref: 2094/1, Soils and Agricultural Quality of Land at Faenol-Bropor, St Asaph – 13th January 2023) has been validated by the Department. The report has been completed to an acceptable standard as per 'Guidelines and Criteria for Grading the Quality of Agricultural Land' (MAFF 1988). The report confirms that the surveyed area (33.3ha) contains 1.5ha ALC Subgrade 3a, 30.6ha Subgrade 3b and 1.2ha 'other-land/non-agricultural.'"</i></p> <p>The Applicant has also discussed with Welsh Government whether the inclusion of commitments within the oSMP (Document 5.13 Of the Applicant's Deadline 5 submission; Application reference 8.13.4) to undertake pre-construction ALC survey and Soil Resources and Physical Characteristics surveys would address the Welsh Government comments on undertaking an ALC survey prior to determination of the DCO. The results of these surveys would be included within the final SMP that would be provided to DCC for approval (In consultation with Welsh Government.</p> <p>The Welsh Government confirmed the following to the Applicant via e-mail on 25 November 2022:</p> <p><i>"Regarding the inclusion of ALC and Soil Physical Characteristics surveys in the oSMP, following our discussions we would not consider it essential that these are undertaken for the cable corridor prior to the determination of the DCO. There is a commitment by the developer</i></p>	

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p><i>to undertake these surveys, plus a significant area of the route is previously surveyed and the principles of the oSMP will be adequate at this point. From our perspective, it is important that these surveys are undertaken prior to the final SMP so the results can inform the document's detailed scheme. The Department would be available, and would welcome the opportunity to validate survey reports commissioned. This is to ensure all parties can rely upon the evidence presented. It is a free service."</i></p> <p>Welsh Government: The ALC Survey Report (Ref: 2094/1, Soils and Agricultural Quality of Land at Faenol-Bropor, St Asaph – 13th January 2023) can be accepted by the Examining Authority as an accurate reflection of the agricultural land quality on the OsSS site. The proposed red-line boundary of the OsSS includes an area of 1.5ha of Best and Most Versatile (BMV) agricultural land. The Department does not consider this loss of BMV a matter in the national agricultural interest. It would therefore be a matter for the Examining Authority to take a view, in the light of the evidence before them, regarding compliance with Policy 9 of Future Wales: The National Plan 2040 and Planning Policy Wales (PPW) paragraph 3.58 and 3.59 in respect of BMV agricultural land.</p>	
9.7	Welsh Government	<p>Outline Soil Management Plan (oSMP)</p> <p>In response to ExQ1.9.9, 9.10, 9.11, 9.13, 9.14, 9.15 and 9.17 [REP1-097], concerns were raised by the Welsh Government regarding the content of the oSMP. Revisions to the oSMP have been made by the Applicant</p>	<p>The Applicant: It is acknowledged that this Question is not directed at the Applicant, but the Applicant has provided the following response which may be useful context for the ExA.</p> <p>Further to the revisions made to the SMP that were submitted at Deadline 2 (REP2-033;</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
		<p>and submitted into the Examination at Deadline 2 [REP2-033].</p> <p>Do the amendments satisfy your concerns?</p>	<p>Application reference 8.13.4), the Applicant has continued to discuss the proposals with Welsh Government and received a number of suggested amendments from the Welsh Government that have been incorporated within the updated SMP that was provided at Deadline 4 (REP4-015; Application reference 8.13.4).</p> <p>The Applicant provided the updated SMP to Welsh Government on 24 January 2023 (alongside the recently completed ALC Survey) and has received some further suggested minor additions to the document that the Applicant has incorporated into the version submitted as Document 5.13 of the Applicant's Deadline 5 submission; Application reference 8.13.4 (This latest update has also been provided to Welsh Government on the 2 Feb 2023).</p> <p>Welsh Government: It is welcomed that there is a clear commitment from the applicant to undertake the ALC and Soil Physical Characteristics surveys prior to undertaking any work on site to inform the baseline and the final Soil Management Plan (SMP). The Department remains available to validate survey reports commissioned. The Department also welcomes the opportunity to be a consultee on the final SMP.</p>	<p>This confirmation is welcomed by the Applicant.</p>

2.10 Landscape and Visual

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
10.2	Applicant, DCC	<p>Screening</p> <p>The ExA notes that the purpose of the woodland planting in the southwestern area of the OnSS site is to assist with the screening of the proposed substation for the occupiers of properties along Glascoed Road. Noting comments made by Interested Parties during ISH3: a) has any consideration been given to how this might affect any current open views over the landscape from these properties; and b) would there be the opportunity for the occupiers of residential properties in the vicinity of the ONSS site (i.e. those along Glascoed Road and at Faenol Broper) to comment on landscape proposals for the wider OnSS site?</p>	<p>The Applicant: a) The Applicant notes that some of the existing properties on Glascoed Road do not have an open outlook to the north due to the existing trees located on the opposite side of the road, within the Bodelwyddan Castle Registered Historic Park and Garden.</p> <p>Consideration was given to how the views from the properties would be affected by the planting with a change being made to the arrangement of the proposed planting between PEIR and application stage versions so that an area of open space was left immediately opposite the houses rather than creating a continuation of the Bodelwyddan planting along the boundary, which had been the proposal at PEIR stage.</p> <p>At the detailed design stage further consideration would be given to the ultimate height and location of the planting in order to achieve screening of the proposed OnSS whilst also retaining as much of the view towards the sea and Clwydian Range hills as possible from the properties where such views currently exist.</p> <p>b) The Applicant confirms that there will be the opportunity for the occupiers of residential properties in the vicinity of the OnSS site (i.e. those along Glascoed Road and at Faenol Broper) to be discussed via consultation on the Design Guide (as set out in the updated Design Principles Document that was provided at Deadline 4 (REP4- 009; Application reference 8.8). Local residents will also be able to comment on the materials submitted to DCC as part of the</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			local authority's consultation for any discharge of DCO Requirement applications.	
			<p>DCC: DCC agrees with RWE on this point.</p> <p>Any landscaping proposals could balance open views and required screening with details to be shared and agreed with residents.</p>	This is welcomed by the Applicant

2.11 Marine - Commercial Fisheries, Shipping and Navigation

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
12.5	Applicant, NRW	<p>Commercial Fisheries</p> <p>Please provide an update on emerging solutions to ecological engineering for cable and scour protection with biodiversity in mind.</p>	<p>The Applicant: The Applicant's position remains as set out in its response to ExQ1.2.9 (REP1-007). Within that submission, the Applicant highlighted that it will consider the (cable protection) solutions that are available when the CSIP is being developed post consent. Whilst not yet common practice in the UK, the Applicant is aware that the concept of using protection material associated with offshore wind farm infrastructure to enhance marine biodiversity is undergoing significant exploration across a number of European states, most noticeably in the Netherlands, examples of which include the BENS0 project and the Rich North Sea Project. These initiatives are trialing nature-based design solutions aimed at increasing our knowledge of how to maximise gains for nature whilst meeting the need for the safe deployment of offshore wind farm infrastructure. Within the UK, initiatives are starting to come forward under The Crown Estate led Offshore Wind Evidence and Change (OWEC) Programme to explore a number of strategic themes for the offshore wind sector, with one such study linked to this concept. Cefas have been commissioned to undertake a study termed Nature Inclusive Cable Enhancement (NICE) Protection. This project aims to review existing cable protection technologies and explore different innovative Nature Inclusive Design (NID) solutions.</p> <p>In terms of specific solutions, the Applicant is aware of a number of organisations that are actively developing innovative, ecologically-</p>	N/A

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>focused scour protection products such as (but by no means limited to) ARC Marine, EConcrete, Exo Engineering and BESE-products. The Applicant anticipates that with the ongoing research across Europe on this topic, there will be a strong evidence base to inform any future consideration for scour and/ or cable protection associated with AyM. It is important to note (as set out in the Applicant's original response on this topic) that the application of any such solutions within the final scheme design will be influenced by the expectations of the SNCB and regulatory authority at that time.</p>	
			<p>NRW: For clarity, NRW (A) does not provide advice on the potential impact of project developments on commercial fisheries as this is not part of our statutory remit.</p> <p>Nonetheless, we seek further clarity with respect to the context / direction of this question. We assume that this question relates to the impacts of gear / infrastructure on cables and scour protection, and potentially is seeking a view on whether rock protection could enhance habitats and act as a Fish Aggregation Device for marine fish species. If so and as such, NRW (A) is not aware of any emerging solutions to ecological engineering for cable and scour protection that have biodiversity in mind and that would be appropriate for the potential areas where cable and scour protection might be required in the Awel-y-Môr project. In general, NRW (A) advise that the rock used is as similar as possible to that which would naturally occur in the area where the cable protection is being placed. With regards to the use of frond</p>	<p>This is noted by the Applicant. The Applicant does not have any further comment and refers back to its response to ExQ2.12.5.</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			<p>mattresses, whilst the principal of fronds accreting sediment is generally beneficial, NRW (A) advise that polypropylene frond mattresses should not be used due to the potential for the release of microplastics directly into the benthic environment.</p> <p>NRW (A) are happy to assist the ExA further with responding to this question if the context can be clarified further.</p>	

2.12 Socio-Economic

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
18.1	Welsh Government, DCC and CCBC	<p>Local Content</p> <p>In response to ExQ1.18.26 [REP1-007] the Applicant stated they “would have significant concern about a proportion of local content being secured through the DCO”.</p> <p>Noting this response and the requirement of the Applicant to submit a Supply Chain Plan in order to be eligible to apply for a Contract for Difference, do you still consider it necessary to secure a percentage of local content for jobs from within the North Wales region during the construction and/or operational phase?</p> <p>If so, please provide a realistic target figure and how this could be secured.</p>	<p>Welsh Government: For local communities in North Wales and Wales to benefit from the opportunity of hosting such developments, it is necessary to at least understand the proportion of work coming to local supply chains. It is not possible for Welsh Government to indicate a realistic figure as the work on supply chain is yet to be completed. Welsh Government has funded the Offshore Energy Alliance to carry out such work so that we have a better understanding of what is realistic for North Wales, including what other opportunities might exist. This piece of work should provide a better understanding of what could be secured.</p> <p>Currently, the Supply Chain Plan does not provide the detail of 'local content' and therefore it is difficult to secure such opportunities for local communities hosting major infrastructure.</p>	<p>Following receipt of a DCO and Marine Licence (requirements for entering a Contract for Difference (CfD) Allocation Round (AR)), the Applicant intends to apply for a CfD. Whilst all the rules governing ARs after AR4 (2022) are yet to be published, it is anticipated that the Project will be required to submit a Supply Chain Plan (SCP) in order to be eligible to apply for a CfD (this has been the case for previous ARs and is the case for AR5 in 2023). The range and quality of commitments within the SCP across the categories of Green (Business) Growth, Innovation, Skills & Infrastructure will be assessed and approved by the UK Government via the Secretary of State - one of which will be to maximise local content.</p> <p>The Applicant will continue to seek to bring local benefits to the region as a result of its projects. The existing Gwynt y Môr wind farm produced 700 jobs during construction, with a further 100 local highly skilled jobs created longer-term. As of 2022, 74% of all operations and maintenance spend at the Gwynt y Môr project level was with UK based suppliers (~£65m); and out of all suppliers utilised by Gwynt y Môr to date, 90% of these were UK based. Whilst it is too early at this stage to specify definitive figures for AyM, RWE is working closely with Welsh Government and other stakeholders (for example through funding capability studies and working via engaging with and supporting the Offshore Energy Alliance's activities) to ensure that it fully understands the capabilities of businesses in the region and where there may be</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
				gaps, with the aim of incorporating solutions to these within the Supply Chain Plan process and other measures, to help secure as much local content / benefits as possible.
			DCC: DCC is content with the suggested approach on this matter.	This is noted and welcomed by the Applicant.
			CCBC: Initial discussions have taken place with RWE and information has been shared regarding further internal departments within the Local Authority, external partners and other organisations who will be crucial to bringing forward this work. Discussions are ongoing at this stage.	This is noted by the Applicant.
18.3	Applicant, DCC, CCBC, IoACC	Requirement 20 – Skills and Employment Strategy Is it necessary to include Requirement 20 in the Schedule of Mitigation [REP2-024]?	The Applicant: The Applicant has updated the Schedule of Mitigation and Monitoring to include the Skills and Employment Strategy (REP4-007) at Item 487 (REP4-021; Application reference 8.11).	N/A
			IoACC: A Skills and Employment Strategy is considered an integral part of the DCO application in order to identify the employment and training opportunities that will be available both locally and regionally, demonstrating and confirming the potential local benefits arising from the project and how they will be maximised, promoted and achieved. The IACC is pleased to confirm that the applicant has been working on establishing an outline Skills and Employment Strategy and have been engaging with IACC and relevant stakeholders to explore opportunities within the local area for skills and employment and apprenticeship opportunities.	The Applicant can confirm that the Skills and Employment Strategy has been included within the Schedule of Mitigation and Monitoring at Deadline 4 (REP4-021).

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			<p>Requirement 20 of the DCO requires that a final detailed Strategy be submitted and approved by the relevant Authority prior any development being commenced.</p> <p>The IACC considers that the Skills and Employment Strategy should also be included within the schedule of mitigation. This would ensure that each mitigation measure is situated within one location, making it convenient and clear for all interested parties what requires implementation.</p>	
			DCC: DCC agrees with RWE's suggested approach.	This is welcomed by the Applicant.
			CCBC: Initial discussions have taken place with RWE and information has been shared regarding further internal departments within the Local Authority, external partners and other organisations who will be crucial to bringing forward this work. Discussions are ongoing at this stage.	This is welcomed by the Applicant.
18.5	Welsh Government	<p>Community Linguistic Statement</p> <p>Noting the reply by the Applicant to the Welsh Government response to ExQ1.18.12 [REP2-003], are you satisfied that the Community Linguistic Statement has adopted an appropriate and proportionate approach? If not, please provide further detail.</p>	<p>Welsh Government: Within the document tracker deadline 4, dated 30 January 2023 there seems to be no response to the points raised by the Welsh Government on how the Community Linguistic Statement could be strengthened. The Community Linguistic Statement has therefore not been revised in response to these issues. It is a concern that the Community Linguistic Statements (CLS) does not fully understand the aims of the DCC SPG especially in regard to the context of the (paragraph 5.5 of the DCC SPG – Planning and the Welsh language). The statement at paragraph 43 of the CLS states “that such a project cannot reasonably be expected to</p>	<p>Having had an historic presence in North Wales and as the largest generator and renewable generator of electricity in Wales, RWE is supportive of measures to safeguard the future of and grow the Welsh language. The Applicant is currently consulting on and collating ideas to consider with regard to the drafting of its Supply Chain Plan (which will form a key part of its CfD application). The Applicant considers a Welsh language policy to be an appropriate inclusion within the Supply Chain Plan, to ensure opportunities to safeguard and promote the Welsh language are included in the procurement strategy for the project.</p>

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
			arrest the already low and decreasing numbers of Welsh speakers''. To the contrary the SPG highlights the need to protect the social and cultural use of the language within communities. The Welsh language strategy Cymraeg 2050: a million Welsh speakers as well as 'Future Wales: the national plan 2040' highlights the importance of safeguarding and putting the right conditions to enable the language to grow – across the whole of Wales. It is therefore expected that all developments consider the effects on the Welsh language as well as how it can help the language to grow.	The Applicant has therefore updated the Community Linguistic Statement (Document 6.14 of the Applicant's Deadline 6 submission) to reflect the proposed commitments in this regard.
18.6	Applicant	Draft Skills and Employment Strategy In reply to the Welsh Government response to ExQ1.18.12 [REP2-003], it is stated you will consider the Welsh Language when consulting on the draft Skills and Employment Strategy. Please expand on how this consideration will be implemented in practice?	The Applicant: AyM consulted Welsh Government and other key stakeholders on the outline Skills and Employment Strategy (oSES) from October 2022 to January 2023. The resulting feedback helped shape the submitted oSES (REP4-007), including consideration of the Welsh Language as laid out in Section 1.5 Policy Context.	N/A
			Welsh Government: The applicant seems to have followed the process for the equality impact assessment, engaged with stakeholders and considered mitigations where these were/are needed.	This is welcomed by the Applicant.
18.7	CCBC	10-year Regeneration Plan for Llandudno In response to ExQ1.18.4 [REP1-054] reference was made to a 10-year regeneration plan for Llandudno. Please provide either a copy or link to this plan.	CCBC: As attached. [CCBC attached this document to their submission]	This is noted by the Applicant.

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
18.11	Welsh Government, DCC and CCBC	<p>Equalities Impact Report</p> <p>Please confirm whether you are satisfied with the assessment approach adopted and conclusions as detailed within the Equalities Impact Report [REP3-010].</p> <p>If not, please explain your reasons.</p>	<p>DCC: DCC agrees with the suggested approach.</p>	This is welcomed by the Applicant.
			<p>CCBC: Initial discussions have taken place with RWE and information has been shared regarding further internal departments within the Local Authority, external partners and other organisations who will be crucial to bringing forward this work. Discussions are ongoing at this stage.</p>	This is noted by the Applicant

2.13 Tourism and Recreation

QUESTION NUMBER	QUESTION ADDRESSED TO	QUESTION	RESPONSES	APPLICANT'S COMMENT
19.1	DCC	<p>Outline Public Access Management Plan (oPAMP)</p> <p>The comments in the DCC Local Impact Report (LIR) in respect of the draft oPAMP are noted. At D1 [REP1-036] and D2 [REP2-041] the Applicant submitted revised versions of the oPAMP.</p> <p>Do the revised versions of the oPAMP deal satisfactorily with your requests/concerns? If not, please explain your reasons.</p>	<p>DCC: DCC is content with the revised version of the oPAMP.</p>	<p>This is welcomed by the Applicant.</p>

3 References

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Natural England (2022). Natural England interim advice on updated Collision Risk Modelling parameters (July 2022)Refs

SNCBs (2022). Joint SNCB Interim Displacement Advice Note.



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