



# Awel y Môr Offshore Wind Farm

**Written Summary of Oral Submissions to ISH4 (Offshore Environmental Effects and the draft Development Consent Order)**

**Deadline 8**

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# Awel y Môr ISH 4: The Applicant's Summary of Oral Submissions



This note summarises the submissions made by Awel y Môr Offshore Wind Farm Limited (the Applicant) at ISH4 on 1 March 2023. This document does not purport to summarise the oral submissions of parties other than the Applicant; summaries of submissions made by other parties are only included where necessary in order to give context to the Applicant's submissions.

Updates or responses to action points are addressed in the response to ISH4 actions document submitted at Deadline 7 (REP7-005).

## 1 Offshore environmental effects

1.1 The Applicant provided a summary of the Applicant's approach to environmental net gain (offshore).

### The Applicant's approach to environmental net gain (offshore)

1.2 The Applicant explained its approach to offshore environmental net gain alongside the opportunity to leave the environment in a better state. The Applicant explained (a) the background to marine net gain, (b) what the Applicant's approach has been and the approaches of Welsh Government and Natural Resources Wales (NRW), (c) pending policy changes and (d) the challenges of net gain in the marine environment. The Applicant then explained the actual opportunities for AyM to provide offshore environmental net gain (environmental benefit in the Welsh context).

1.3 The Applicant highlighted that as a renewable energy development AyM will deliver environmental benefit through its generation of clean energy, offsetting the emissions produced during the construction process. The iterative design process followed by the Applicant has limited the impact of AyM on the marine environment and is further committed to doing this where possible, as set out in its response to ExQ1.2.9 (REP1-007).

1.4 The Applicant has been closely following and is engaged in the DEFRA consultation on Marine Net Gain Principles and is aware of ongoing developments in planning policy. This includes the incorporation of biodiversity net gain for all onshore projects by 2025 (emphasis added).

1.5 The Applicant explained that marine net gain/benefit is a complex concept as the extent to which the seabed can be managed is more limited: both due to the highly dynamic and mobile nature of the marine environment and because of the practical difficulties surrounding ownership and competing offshore operations and interests. As such, policies on marine net gain/benefit are taking longer to emerge, and against an existing policy approach of minimising the change development brings to the marine environment. The Applicant considers that any future change in policy will therefore take time to develop into guidance on what is expected at project level and how that can be delivered.

1.6 The Applicant highlighted Section 4.5 the draft overarching National Policy Statement (NPS) for Energy (EN-1) which deals with environmental net gain. The Applicant also noted paragraph 5.4 of the draft NPS which advises upon ways in which developments may contribute to net gain. Despite still being in draft form, the Applicant has considered AyM's compliance with this draft policy in the NPS tracker (REP6-004) on the basis that the final form will remain as drafted.

### Opportunities considered to leave the natural environment (offshore) in a measurably better state than beforehand

1.7 It was highlighted that in Wales policy focusses on the extent to which a project can produce net benefit as opposed to quantifiable net gain. The Applicant advised that, in its

response to ExQ1.2.6 (REP1-007) the Welsh Government has confirmed that there is no established policy for the delivery or assessment of net gain in the marine environment. As such, this is not yet an appropriate requirement for a project application.

- 1.8 The Applicant further highlighted that the Welsh National Marine Plan provides some examples of restoration and enhancement that could be considered in the marine environment. In addition, that NRW has subsequently published a guidance note (GN 059) on the principles of supporting restoration and enhancement in marine or coastal development proposals. This was conducted as part of NRW's remit to provide advice on how developments may affect the marine environment. The Applicant noted this guidance had not been highlighted or provided to them by NRW and does not appear to be available online. On this basis it has not been possible for the Applicant to assess what would be considered an appropriate level of offshore environmental benefit, how this would be achieved or what weight it would be given at examination.
- 1.9 In the absence of clear policy, the Applicant is bound to adopt the position of the Statutory Nature Conservation Bodies, which maintains that any change from the baseline environment is to be viewed fundamentally as a negative impact. Responding to this, the Applicant has sought to minimise changes to the marine environment and interaction with sensitive species.
- 1.10 The Applicant did however advise that, once the appropriate mechanisms are in place, delivery of benefits to the marine environment will be largely reliant on a design-based approach. It was noted that, as had been stated in previous submissions, the Applicant was happy to explore options around environmentally sensitive design, such as using cable protection materials aimed at trialling nature-based solutions. Whilst not yet commonplace, the Applicant is aware of current UK initiatives which aim to introduce greater nature-inclusive design for both cable and scour protection, in particular with the aim of increasing biodiversity. These initiatives aim to increase knowledge on how to deliver marine environmental net benefits, in tandem with the need to design for the safe deployment of offshore wind farms. Examples of these were detailed in the Applicant's response to ExQ2.12.5 (REP5-004).
- 1.11 The Applicant will seek to discuss further opportunities for marine enhancement with NRW via the Marine Licensing process, including at the post-consent stage. The Applicant will additionally consider opportunities in relation to scour and cable protection, which it anticipates will form a condition of the marine licence. The Marine Licence Principles (MLP) (REP7-009) provided by the Applicant includes securing a Cable Specification and Installation Plan and Scour Protection Management Plan as conditions of NRW's Marine Licence (ML). These plans would be suitable for inclusion of protection measure specifications.

#### Consideration of the Revised National Policy Statements

- 1.12 The Applicant explained that the AyM application had focussed on the NPSs currently in force as opposed to the draft NPSs that were consulted on in 2021. This is in accordance with the transitional provisions approach set out in paragraphs 1.6.1 – 1.6.3 of revised draft ENI which confirms that applications accepted for examination before designation of the 2021 amendments should be determined in accordance with the extant (2011) NPS. The extent to which any emerging draft NPS will be relevant is a matter for the Secretary of State with regard to the specific circumstances of each DCO application. The Applicant also noted that there had been a significant period of time since the consultation on the 2021 revised NPS and, it considered it likely there would be a further consultation before any revised NPS are finalised and designated by Parliament.
- 1.13 Further to previous requests by the ExA, the Applicant confirmed that it had reviewed the revised NPSs and submitted a draft NPS tracker (REP6-004). However, it noted that in the absence of designated policy there was no framework or clear approach as to how any revised policies could be met by a development proposal including in relation to marine biodiversity net gain/benefit. AyM and other projects would require a clear

framework to explain what constitutes marine biodiversity net gain/benefit and how it can be achieved before they can begin to put forward appropriate proposals.

- 1.14 The Applicant will produce a note on potential marine biodiversity benefit measures, including commentary on the examples given by the ExA, however the Applicant noted that securing any such measures would be for the marine licence(s). The Applicant further noted that, due to issues such as the ownership of the seabed, measures such as these may be impossible to implement without further cooperation from The Crown Estate (TCE).
- 1.15 The Applicant further agreed that it would provide at Deadline 8 a high-level review of the recent Nationally Significant Infrastructure Projects (NSIP) Action Plan which, as yet, it had not considered in detail.

Underwater noise monitoring approach during piling for marine mammals and measures to mitigate

- 1.16 The Applicant provided an overview of its approach to noise monitoring. Again, the Applicant emphasised that the marine licence from NRW will secure any necessary monitoring and mitigation in relation to underwater noise.

Requirement for Noise Monitoring

- 1.17 The Applicant highlighted that this issue is discussed further within the Marine Mammals chapter of the Environmental Statement (ES) (AS-026). The Applicant explained that the noise generated by the impact of piling the foundations for wind turbines presents a risk of injury to marine mammals. It is therefore standard practice for UK offshore wind developments to carry out underwater noise assessments, and the Applicant has accordingly committed to a Marine Mammal Mitigation Protocol (MMMP). This will ensure that appropriate mitigation measures are provided to reduce the risk of injury to marine mammals to a negligible level.
- 1.18 The Applicant emphasised that these measures are not required to address issues in the Habitats Regulations context, as AyM does not interact with a marine mammal SAC as has been the case in many North Sea projects.
- 1.19 It was explained that exact mitigation measures will be based on the injury ranges determined through underwater noise modelling. Underwater noise monitoring will then be carried out in order to validate these presumed ranges ensuring that any mitigation measures introduced will be sufficient to reduce the risk of injury. Given that noise modelling data is produced from up-to-date wind farm projects and refined on a continual basis using empirical data, the Applicant has a high degree of confidence in the modelling undertaken.
- 1.20 The Applicant explained that, for the purposes of noise modelling, it selected two locations: one of which has the deepest water (highest potential for noise propagation) and another which has the shallowest water levels (lowest levels of water propagation) to illustrate the potential range of effects that could be experienced. In relation to piling impacts, this data was based on the worst-case scenario (i.e. the largest foundations, the greatest frequency of hammering and the greatest hammer energy). As such, the Applicant is confident that the piling parameters assessed are highly conservative compared to what will actually be used in eventual construction.
- 1.21 In response to further questions by the ExA regarding the actual data which has been used in the noise model, the Applicant confirmed that it would provide a note on this.
- 1.22 The Applicant expects to provide a final MMMP to NRW as a condition of the marine licence which is standard practice.
- 1.23 The Applicant acknowledged questions raised by NRW as to the exact nature of noise monitoring, including how sites are selected and what may be measured. In reference to

its response at Deadline 6 (REP6-003), the Applicant reiterated that it would address these concerns fully once site investigations have been completed and final locations will be agreed with NRW. This will likely be agreed through an offshore monitoring plan to be agreed prior to construction, at which point monitoring will begin. The data gathered through this monitoring will be provided to NRW within an agreed timescale to ensure that mitigation measures are effective.

#### Template documents

- 1.24 The Applicant explained that template marine documents had been produced at Deadline 4, in response to their request, these had also been provided to NRW.

#### The intertidal area

- 1.25 The Applicant explained that there is a jurisdictional overlap between the local planning authority (LPA), who have competence landward of Mean Low Water Springs (MLWS), and NRW, who have competence seaward of Mean High Water Springs (MHWS). The Applicant advised that the discharge of DCO requirements and ML conditions in this area will require cooperation between Denbighshire County Council (DCC) and NRW, however it is something which occurs often and it is therefore expected that NRW will limit its competence to marine issues, and DCC to onshore.

#### UXO

- 1.26 The Applicant explained that, whilst UXO clearance activities have been assessed in the ES, this is not something that is included within the DCO or ML applications and will require a separate ML.
- 1.27 The Applicant advised that it had already considered the worst-case scenario in respect of UXO, and that if further survey and investigation identified UXO clearance to be required, that this would be subject to a separate ML application. The Applicant also stated it would provide clarification of where this information was included in the application.

## **2 ARTICLES AND SCHEDULES OF THE DRAFT DEVELOPMENT CONSENT ORDER**

- 2.1 The Applicant was asked to briefly highlight changes which have been made to the dDCO since ISH1 (21 September 2022). The Applicant was also requested to undertake a general review of the Requirements as a whole, in terms of implementation, timing, retention and maintenance clauses (where required) and to update parties at ISH4.
- 2.2 The Applicant noted that all changes have been identified in a single document namely the Schedule of Changes (REP7-008).

#### Changes at Deadline 1

- 2.3 The Applicant noted that there had been a change to the definition of “commence” in Article 2 (interpretation) to clarify what the site preparation works consist of. This is reflected in further consequential amendments.
- 2.4 Further changes were made to the definitions of “onshore works” and “offshore works” to ensure Works Nos. 3 and 3A are now considered onshore works. The Applicant explained that this was to ensure that the LPA has appropriate control over the works in the intertidal area, given the land-based receptors for such work. This will ensure that these are taken into account under the appropriate consenting scheme.
- 2.5 It was further noted that references to outline documents solely relating to the ML (e.g. outline offshore Archaeological Written Scheme of Investigation (APP-304) and Preliminary Navigational Risk Assessment (APP-111)) have been removed from the dDCO as these are not secured as certified documents within the DCO.

- 2.6 The Applicant advised that a new requirement had been inserted to reflect the provision of a Skills and Employment Strategy (REP4-007). This is to reflect requests from the Isle of Anglesey County Council and DCC.
- 2.7 Changes were also noted to have been made to Article 27 (temporary use of land for carrying out the authorised development) in order to clarify the circumstances in which rights could be taken.
- 2.8 Further changes had been introduced to clarify the parameters of certain built aspects in Requirement 3 (Aviation Safety), Requirement 2 (Offshore Design Parameters), and Requirement 7 (Onshore Detailed Design Parameters) to confirm that these will be constructed in accordance with the ES.
- 2.9 NRW was noted to have been added as a consultee to Requirement 10 (Code of Construction Practice).
- 2.10 Changes to Requirement 11 (Highway Accesses) to allow temporary access necessary for pre-commencement work to be formed.
- 2.11 Requirement 14 had also been amended in order to include nationally protected species (European Protected Species Onshore) following requests from NRW.
- 2.12 Further to ongoing discussions with Rhyl Flats Offshore Wind Farm (RFFW), protective provisions had been added in relation to AyM cable works within the RFFW 250m buffer zone.
- 2.13 A list of documents to be certified was added at Schedule 13.

#### Changes at Deadline 2

- 2.14 The Applicant noted that changes had been made to add NRW as a consultee in Requirement 6 (Substation Works) and Requirement 8 (Landscaping)
- 2.15 Amendments had been made to include permanent access roads at the onshore substation in Requirement 19 (Operational Light Emissions) following discussions at ISH3.

#### Changes at Deadline 3

- 2.16 The Welsh Ministers have been added as a consultee to Requirement 10 (Code of Construction Practice (CoCP)) in relation to the soil management plan and in particular restoration of Best and Most Versatile (BMV) land.
- 2.17 Further updates have been made to Schedule 4 (Streets and Rights of Way to be Temporarily Stopped Up) following a correction of the plans.
- 2.18 The SP Manweb (SPM) protective provisions have been updated following agreement between the parties.

#### Changes at Deadline 3a

- 2.19 Following a request from Trinity House (TH), it was noted that they have now been excluded from Article 44 on Arbitration. The Applicant noted that this is a standard request from TH.

#### Changes at Deadline 4

- 2.20 The Applicant noted that a revised DCO was not submitted at Deadline 4.

#### Changes at Deadline 5

- 2.21 The Applicant advised that Article 27(8) had been amended in order to clarify the extent of rights which could be taken in response to questions by the ExA.
- 2.22 Changes had been made to Requirement 2 (Offshore Design Parameters) to ensure consistency in the appearance of turbines. The Applicant explained that this provision now clarifies the measurement location for the minimum distance between wind turbine generators (WTGs).
- 2.23 Further updates were made to Schedule 13 (Documents to be Certified).

#### Changes at Deadline 6

- 2.24 Changes were made to Requirement 4 (Offshore Noise) to provide clarity around its operation. The Applicant advised that wording had been added in relation to noise measurement location points and to provide an explanation of onshore wind weather conditions.
- 2.25 Further maximum building heights for the onshore substation building had been inserted at Requirement 7 (Detailed Design Parameters Onshore) in response to a request from the ExA to include a maximum building height for an Air Insulated Switchgear (AIS) substation.
- 2.26 The Applicant further highlighted the addition of Requirement 25 (Flood Risk Activity) to provide approval methodology for NRW in relation to watercourse crossings and to address concerns regarding the disapplication of a Flood Risk Activity Permit (FRAP).
- 2.27 A new set of protective provisions for Conwy County Borough Council (CCBC) had also been added in order to secure an offshore piling noise monitoring plan. The Applicant explained that this amendment was in response to concerns regarding monitoring and enforcement of offshore piling noise.

#### Review of Requirements

- 2.28 The Applicant further provided an overview of all requirements contained within the dDCO and confirmed whether these had been amended:
  - (a) No changes to Requirement 1 were proposed.
  - (b) No changes to Requirement 2 were proposed.
  - (c) The Applicant proposed to amend the formatting of Requirement 3 on 'Aviation safety'. No further changes were proposed.
  - (d) The Applicant proposed to amend the formatting of Requirement 4 on 'Offshore Noise'. No further changes were proposed.
  - (e) The Applicant noted that Requirement 5 on 'Stages of authorised development' contains an implementation provision, but that a maintenance provision would not be appropriate. No further changes were proposed.
  - (f) The Applicant noted that Requirement 6 on 'Substation works' contains an implementation provision, but that a maintenance provision would not be expected for a requirement of this kind. A further amendment was proposed in order to remove the word "and" and replace with a comma.
  - (g) No changes to Requirement 7 on 'Detailed design parameters onshore'.
  - (h) The Applicant noted that Requirement 8 on the 'Provision of landscaping' does not include an implementation provision, and thus appropriate wording will be provided in the next draft. Maintenance provisions are covered in Requirement 9.



- (i) As above, Requirement 9 provides for the 'Implementation and maintenance of landscaping'. No changes to this provision were proposed.
- (j) The Applicant noted that Requirement 10 on 'Code of construction practice' contains an implementation provision, but that a maintenance provision would not be appropriate as the requirement does not have any long-term implications. No further changes were proposed.
- (k) Requirement 11 on 'Highway accesses' contains an implementation provision. A maintenance provision would not be expected here. However, the Applicant has made minor changes to the wording as follows:
  - (i) (1) No new permanent means of access to a highway to be used by vehicular traffic, or any permanent alteration to an existing means of access to a highway used by vehicular traffic may be formed until written details of the design, layout and siting, siting and maintenance of that new or altered access have been submitted to and approved by the relevant planning authority in consultation with the highway authority.
  - (ii) (2) The highway accesses must be constructed in accordance with the approved details.
- (l) A maintenance provision would not be appropriate for Requirement 12 on 'Onshore archaeology'. This Requirement contains an implementation provision for pre-commencement works, but no other works. Amendments to this will be provided under the next draft.
- (m) The Applicant highlighted that Requirement 13 on the 'Landscape and Ecology management plan' (LEMP) contains an implementation provision, and that maintenance is provided for under Requirement 9(2). Ecological maintenance will be provided for in the LEMP and will vary depending on the works carried out.
- (n) Requirement 14 on 'European protected species onshore' contains an implementation provision. The EPS licence will address other matters and maintenance as appropriate.
- (o) No changes to Requirement 15 on 'Construction hours' were proposed.
- (p) Requirement 16 on 'Surface and foul water drainage' was noted to include an implementation provision, however no maintenance would be needed as physical infrastructure will be installed. The Applicant further advised that it would not be appropriate to amend this requirement to include pre-commencement works, as these would not apply to the construction of surface and foul water drainage. This requirement relates to permanent drainage at the substation site only. It was therefore suggested that Construction Drainage be covered through additional wording in the CMS.
- (q) Requirement 17 on the 'Restoration of land used temporarily for construction' contains an implementation provision, however maintenance was not considered to be appropriate.
- (r) No changes were proposed to Requirement 18 on the 'Control of noise during operational stage'.
- (s) The Applicant explained that Requirement 19 on the 'Control of operational artificial light emissions' contained both implementation and maintenance provisions.
- (t) A maintenance provision was not noted to be appropriate in relation to Requirement 20 on the 'Skills and Employment Strategy'. However, the Applicant stated that an implementation provision will be added in the next draft.

- (u) The Applicant highlighted that Requirement 21 on 'Offshore decommissioning' did not include a maintenance provision as it was not appropriate. Further, the Applicant did not propose to include an implementation clause as this is already controlled by the Energy Act 2004.
- (v) Requirement 22 on 'Onshore decommissioning' contains an implementation provision, however maintenance is not appropriate.
- (w) No changes were proposed to Requirement 23 on the 'Requirement for written approval'.
- (x) As above, no changes were proposed to Requirement 24 on 'Amendments to approved details'.
- (y) The Applicant advised that Requirement 25 on 'Flood Risk Activity Method Statement' contained an implementation provision, however maintenance would not be appropriate as this covers a construction activity.

#### Response to ExA Questions

- 2.29 The Applicant explained that changes have been made to the DCO in respect of ExA concerns and in response to consultation. It was explained that changes have also been made to the outline management plans to reflect elements which are not drafted into the DCO.
- 2.30 The Applicant further advised that extensive discussions with NRW had been ongoing in relation to the provisions of Article 7(c) in order to provide them comfort on this matter and to allow the disapplication of the flood risk activity permit (FRAP). NRW was not in agreement, and therefore the disapplication would be removed.
- 2.31 The Applicant explained that it was still in discussions with the Welsh Government concerning the disapplication of the need for a section 61 licence. The Applicant explained that it had taken a worst-case approach that installing cable using HDD under the A55 would be considered to be laying cables within a street and that it had sought to disapply the s61 requirement in order to ensure that as many permissions could be secured at the consent stage as possible. The Applicant was in discussions with Welsh Government on the wording of protective provisions to cover this.
- 2.32 In response to a query regarding the wording of Article 35 – 'Abatement of works abandoned or decayed', the Applicant explained that this Article relates to the provisions of the Energy Act 2004 preventing equipment being left in the marine environment. The Applicant stated that it was not clear why this only relates to offshore provisions, however it may be due to the differing works which require to be undertaken in the marine environment. The Applicant further advised that onshore decommissioning was generally a matter for the relevant local authority under the DCO requirements.
- 2.33 In response to further queries by the ExA, the Applicant provided a brief summary of the documents to be certified in the DCO:
- (a) The Offshore Archaeological Written Scheme of Investigation was noted to have been removed as it was deemed to be a ML document only. There is no reason for anything which is solely covered by the ML to be included in the DCO.
  - (b) In relation to the Life Cycle Assessment for AyM (REP5-006), the Applicant clarified that, generally, documents are only certified if they are necessary for the consenting of the DCO. This is to ensure that the ExA is aware of the documents which can be referred to in terms of understanding the scheme. This is therefore not a document that the Applicant wishes to certify in the DCO.
  - (c) The Applicant explained that the document assessing the visual impact from Faenol Bropor did not form part of the Environmental Impact Assessment (EIA)

and was instead carried out as supplemental work. It is not proposing to add this to the ES document.

- (d) In relation to documents referred to within the protective provisions, the Applicant advised it would confirm whether these would require certification.
  - (e) The Applicant further confirmed that it will review the dDCO and confirm whether there should be reference to the Crown Land Plan.
- 2.34 The Applicant was further asked to confirm whether the maximum height of the hub and meteorological mast were to be added to Requirement 2 of Table 3. The Applicant's position is that the maximum height of hub and met mast are not key parameters that need to be included and that Requirement 2 had already been revised to ensure there should be no material difference in the size and appearance of the WTGs. The Applicant confirmed that the met mast will be the same height as the hub height for engineering reasons.

Requirement 4 - Offshore noise including the position of Conwy County Borough Council

- 2.35 The Applicant noted that, as mentioned in the Statement of Common Ground (SoCG), there has been no agreement with CCBC on the noise level to use as a threshold within Requirement 4. The Applicant confirmed that the threshold listed in the dDCO has been calculated in accordance with the relevant British Standard (BS5228: Code of practice for noise and vibration control on construction and open sites), with which compliance is a minimum standard when assessing construction noise. It is the Applicant's position that BS5228 is the correct standard that should be followed for piling noise, and that the noise thresholds, calculated using the ABC method in BS5228, are the appropriate thresholds to use within draft DCO Requirement 4. The Applicant further advised that this same standard has been used for calculating noise threshold levels used within the onshore noise ES chapter (APP-071) in order to assess the potential for significant noise to occur, and that it was consulted upon via the PEIR and also discussed at the re-application Expert Topic Group (ETG) meetings.
- 2.36 The requirement is proposed in response to a single significant effect that is predicted in the ES. The Applicant explained that, under the ES, two scenarios had been assessed:
- (a) One which used a maximum hammer energy of 5000(KJ) was used for monopiles, where only a single piling operation would be undertaken at any one time; and
  - (b) One in which a maximum hammer energy of 3000(KJ) was used for pin piles where two adjacent piling operations will be undertaken simultaneously anywhere within the array.
- 2.37 Further to this assessment, the Applicant confirmed that only one significant effect had been predicted for an inland location (away from background sea noise) during neutral weather conditions during the night time for the concurrent pin-pile scenario (2 adjacent piles at same time). This was modelled as 1dB above the threshold. It was further confirmed that monopile piling did not result in significant effects during daytime, evening and night time and pin-piling did not result in significant effects during day time or evening time periods.
- 2.38 The Applicant explained that two pin piles being undertaken simultaneously at their closest approach would result in worst-case noise impacts, when compared to the monopile scenario. Predictions have been based on a maximum design scenario (MDS) where downwind propagation has been assumed between the source and the receiver. At a distance of approximately 13.5 km or more, the predicted noise levels from 2 adjacent pin piles would however be below the threshold limit.
- 2.39 In reality however, the prevailing wind conditions near Llandudno are from a south-westerly direction meaning night time piling noise would not be significant at the nearest settlements of Llandudno, Penrhyn Bay and Rhos-on-Sea for the majority of the time. In

addition, not all piling will occur at the nearest point of the array to land based receptors and piling will take place during the daytime.

- 2.40 BS5228:2009+A1:2014 provides the most appropriate piling noise thresholds (that have been used as the basis for EIA on other DCO schemes such as piling noise assessment for the Swansea Bay Tidal Lagoon).
- 2.41 The Applicant explained that although CCBC does not agree to the 50 dB(A) limits provided by BS5228, CCBC does agree that the method for calculating the noise limit (using BS5228), is correct and that the baseline data used is representative.
- 2.42 During ongoing discussions, the Applicant explained that CCBC has proposed an alternative limit of 5 dB(A) above background. This is however not suitable for determining limits for construction noise as this procedure is usually associated with BS4142:2014+A1:2019 Methods: used for rating and assessing industrial and commercial sound, the scope of which includes sound from manufacturing, mechanical and electrical plant, the unloading of goods and site related mobile plant that occur over much long operational timescales than construction projects. Section 1.3 of BS4142 states that the standard is not intended to be applied to the rating and assessment of sound from construction and demolition and so is not considered suitable for use in setting a noise threshold for piling noise for use in draft DCO Requirement 4.
- 2.43 Although the Applicant acknowledged CCBC's concerns, it explained that due to the type of piling equipment which would be required and the need for suitable weather and sea conditions, 24-hour piling was necessary.

Requirement 7, Table 4 – Inclusion of maximum buildings heights for the AIS OnSS option

- 2.44 The Applicant stated that in the dDCO, the Applicant has included the option for AIS and Gas Insulated Switchgear (GIS) substation and included a maximum building height of 15m for the GIS. This requires that the highest part of any building of any building must not exceed 49.97m above Ordnance Datum. This maximum height has been included in the dDCO in order to ensure the MDS is not exceeded by the buildings constructed as part of Work No. 31A.
- 2.45 In identifying the AIS building heights, the Applicant explained that it has become clear that different types of buildings will be required: including up to two static VAR compensation (SVC) buildings. The Applicant advised that the SVC buildings are typically higher than other buildings, however it noted that it has sought to have maximum heights for different types of buildings as required.
- 2.46 The Applicant explained that the tallest building in an AIS substation is typically the reactive compensation or SVC building, which provides reactive compensation. It was noted that an SVC consists of stacks of compensation equipment (power electronics modules), which are housed in a building so as to protect them from the external environment. Inside the building, the separation distance between the equipment and the building (walls and roof) is defined by the voltage level of the equipment. As a result, the Applicant noted that the building height is dependent upon the height and voltage of the equipment used, as different manufacturers' equipment having different heights and overall dimensions.
- 2.47 The Applicant further advised that, in a number older offshore wind substations (including Galloper and East Anglia 1), the SVC equipment had been arranged in shorter stacks across a larger area: creating a shorter building but with a larger footprint. However, the Applicant explained that on more recent projects such as RWE's Triton Knoll and Sofia projects, manufacturers had been standardising with taller stacks over a reduced footprint. The SVC installed at Triton Knoll is 7.4m high. This is reflected in other recent DCO applications such as East Anglia 2, East Anglia 1 North and Sheringham and Dudgeon Extension.

- 2.48 The Applicant advised that further information on the substation MDS was contained within the Onshore Project Description chapter (APP-062). This chapter confirms that all other equipment (including transformers, switchgear etc but excluding lightning rods) will not exceed a height of 12.5 m above finished ground level. The same MDS was noted to have been used in relation to the landscape and visual assessment and the cultural heritage assessment.
- 2.49 It was highlighted that securing maximum AIS building heights in the dDCO would not affect the maximum substation building height (15m), or the substation equipment (12.5m), and therefore is within the identified and assessed MDS for the purpose of the EIA. The Applicant advised that the key EIA topics to be affected by adhering to maximum AIS building heights would be the onshore LVIA (AS-029), cultural heritage assessment (APP-069) and onshore Noise and Vibration Assessments (APP-071).
- 2.50 The MDS parameters used for the LVIA reflect those in Table 14 of the Onshore Project Description Chapter [APP-062]. The Applicant noted that this confirms that the MDS represents the maximum parameter height model of 15.8m (based on the maximum OnSS building height of 15m plus an additional 0.8m for the substation platform), which is considered to represent the worst-case parameter in line with the Rochdale Envelope Approach. This approach was noted to have been followed throughout the LVIA process, as it allows for flexibility of elements such as in relation to their scale, mass and position within the defined maximum 3D parameter extents. The Applicant stated that the MDS approach is recognised as being necessary in developments such as AyM owing to the fact that the detailed design of substation components will not be known until the contract is let for the supply of the equipment and the design has been approved by DCC. This would not happen for some time after consent. The Applicant advised that this approach is set out in paragraphs 143 and 144 of the LVIA.
- 2.51 As such, the Applicant further advised that the MDS incorporated the height of the GIS building (15m), to define the maximum parameters for assessment (as shown on the visualisations that accompany the LVIA). It was explained that this meant that securing a maximum height of 7.5m for the SVC buildings to and 6.5m for all other AIS buildings would not affect this maximum parameter, and so the findings of the LVIA are unaffected. The Applicant stated that although it is likely that taller SVCs would mean a smaller footprint, this would be subject to detailed design.
- 2.52 The Applicant further directed the ExA to consider the LVIA, which makes clear that the 3D visualisations provided are example views of an indicative GIS and AIS layout, but are differentiated from the maximum potential visual envelope upon which the LVIA is based.
- 2.53 The example 3D block model views provided within the LVIA visualisations have a role in aiding the understanding of the approximate density and form of buildings and other elements that could be located within the maximum parameter extent shown on the visualisations i.e. that it is not the Applicant's intention to fill the maximum parameter extent with buildings of up to 15m in height. Notably the Applicant highlighted that the LVIA MDS includes provision for the maximum GIS building height across the larger AIS 200 x 250m footprint. This is because it has not yet been determined where within this area a GIS option would be sited. As such, the Applicant explained that the maximum parameter assessed in the LVIA (and shown in the visualisations) over-states either the maximum height of buildings and electrical infrastructure or the maximum plan area that would be affected depending on whether AIS or GIS is selected.
- 2.54 It was noted that this approach to the assessment allows for the scale, form and position of buildings and other components within the AIS or GIS substations to move around within the defined maximum parameter, so long as they do not exceed them. The Applicant advised that this approach is accepted and necessary due to the early stage in the design process.
- 2.55 In response to a query by the ExA, the Applicant explained that the AIS building dimensions provided in the MDS are indicative only. Further, the LVIA assessment was

conducted on the basis of all buildings across the GIS being a height of 15m which is a worst-case scenario.

Requirement 9(2) - Replacement of landscaping

- 2.56 With regards to the five-year period for replacement of trees or shrubs, the Applicant explained that five years is a standard period for a replanting obligation as trees and shrubs are most likely to either establish or fail within that period.
- 2.57 The Applicant explained that, whilst some other DCOs provide for longer timeframes, this is generally to account for issues such as extreme weather conditions associated with climate change. It was submitted that this was the case for projects such as East Anglia ONE North and TWO and Norfolk Vanguard and Boreas where concerns had been raised by local council officers and residents from the outset of the planning for those projects and therefore a longer period for tree and shrub replacement for some parts of those schemes was considered valid.
- 2.58 It was noted that no such concerns about extreme weather conditions and associated difficulties for plant establishment had been raised in this instance by DCC, NRW or local people and therefore the plant replacement period is not proposed to be extended beyond the standard five years.
- 2.59 In respect of providing comfort to local residents, the Applicant explained that the five-year period currently outlined in Requirement 9 of the dDCO refers only to plant replacement. The Applicant explained that this was not in reference to maintenance or management which, in accordance with the Outline LEMP (REP7-026), will be ongoing throughout the lifetime of the project with the details of the final LEMP to be agreed with DCC and NRW as part of the DCO requirement.

Requirement 12 - Archaeology – implementation clause and minor details

- 2.60 The Applicant noted that there is a formatting error in part two of this Requirement which will be corrected.

Requirement 15 - Construction Hours, particularly relating to works on a Saturday and works away from the landfall area;

- 2.61 In response to comments made by DCC, the Applicant advised that provisions for reduced working hours at the landfall had not been included in the dDCO as they were better located within the Construction Method Statement (CMS) (REP7-020). The Applicant further noted that the CoCP will need to be agreed with DCC prior to works taking place and will work in conjunction with the DCO requirements. The re-drafting of Requirements could cause a degree of complexity should different areas have different restrictions. As such, the Applicant deemed that this was the appropriate place to include in any modification, as it was explained that outline documents such as these work to inform how the scheme will be operated, fleshing out the more specific element of the DCO.
- 2.62 The Applicant explained that this reduction in hours is limited to landfall, and is the result of discussions with DCC about the number of schemes in the area, including coastal defence schemes. The Applicant noted that DCC had expressed fewer concerns about works in other areas.
- 2.63 The Applicant therefore confirmed that 24-hour working will be included in the DCO and will include notification to DCC. Approval will not however be required as the assessment of trenchless crossing had assumed that there would be 24-hour working at certain locations such as crossing the River Clwyd and landfall trenchless crossings. The Applicant advised that the CoCP would require correction on this point.
- 2.64 In response to a query from the ExA regarding half-day working, the Applicant advised that the impact of such a reduction had been assessed in the EIA and that, further to this, additional comfort had been provided in the CoCP.

- 2.65 With regards to the substation, the Applicant stated that there would be no ability to work on a Sunday and that a lighting management plan would be agreed with DCC prior to commencing construction. It was also noted that, once the substation is fully operational, there will be no need for it to be permanently manned.

Requirement 16 - Addition of pre commencement works

- 2.66 In respect of Requirement 16, the Applicant noted that this refers to surface water drainage for construction of the substation infrastructure for which details will need to be agreed before above ground works start in this area.
- 2.67 The Applicant noted that it considers that reference to pre-commencement works would be best placed in the outline plans, as this will form part of the site set-up operations.
- 2.68 It was however noted that this requirement should make reference to both Work Nos. 31 and 31A. The Applicant advised that it would seek to amend this prior to the next deadline.

Requirement 20 - Skills and Employment Strategy

- 2.69 The ExA queried why, despite its inclusion in the Schedule of Mitigation and Monitoring (REP7-034), this is ticked as not applicable in the column relating to whether this should be mitigation, monitoring, compensation or enhancement. In response to this, the Applicant advised that this was likely to be because the need for a Skills and Employment Strategy (REP4-007) is not classed as mitigation as it is not mitigating an effect of the scheme. The Applicant advised that it would review the entry in the Schedule of Mitigation and Monitoring.

Potential new requirement regarding aviation radar (See Annex A)

- 2.70 With respect to the potential for a new Requirement to be introduced regarding aviation radar, the Applicant confirmed that a form of contract has been agreed with NATS. This is yet to be submitted as there were some minor amendments needed to the NATS requirement wording. This has now been updated and the revised versions are with NATS for approval. The Applicant noted that it expects this to be agreed and that the requirement will be included in the next version of the dDCO.

Potential new requirement concerning the 'Design Guide'

- 2.71 The Applicant stated that it does not consider a requirement referring to a Design Guide to be necessary and that it is clear in the Design Principles Document how the design guide approach will operate.

Schedule 11 - Approval of matters specified in requirements (Fees).

- 2.72 The Applicant confirmed that the dDCO will be updated in order to reflect the requirement to pay fees for each submission to DCC. Consideration will be given to the wording in the Drax Carbon Capture project.

Street works on Glascoed Road

- 2.73 The Applicant noted submissions made by Mr Meirick Lloyd Davies and confirmed that it would provide information and relevant documents to Mr Davies in relation to the street works and access on Glascoed Road.
- 2.74 The Applicant advised that a further operational access road would be added over an existing agricultural access track. The use of the road was noted to be infrequent (a couple of times a year) demonstrating a less intensive use than in its current capacity. The Applicant confirmed that the location of this access has been agreed with DCC and included in their local assessment. This has been further considered under the EIA.

- 2.75 The Applicant advised that any changes to the speed limit in this area would be discussed and agreed with DCC at a later date, once the exact route has been pinpointed.

### **3 SCHEDULE 9 – PROTECTIVE PROVISIONS**

- 3.1 The Applicant did not discuss this issue at length as many of the Protective Provisions (PPs) had already been covered in the Compulsory Acquisition (CA) Hearing on 28 February 2023.
- 3.2 The Applicant did however explain that PPs have been included for CCBC in relation to offshore piling noise monitoring as none of the onshore works are due to take place within their administrative area and, as such, they do not qualify as a relevant planning authority for the purposes of the DCO. The Applicant has proposed protective provisions to CCBC and is awaiting comments on them. The outline offshore noise monitoring plan has been agreed with CCBC.
- 3.3 The Applicant highlighted that the issue of notice for the start date of piling works was still under discussion at the time of submitting the dDCO and therefore this has been included in square brackets. This has now been agreed and so the Applicant advised that the brackets could be removed in the next version of the dDCO.

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

- 4.1 The Applicant was asked to provide an update of progress and timescales for completion of other agreements.

#### Marine Licence principles and update

- 4.2 The Applicant stated that significant progress had been made on the AyM marine licence application. Throughout the examination, the Applicant has been liaising with NRW on the ML application. The Marine Licence Principles document is intended to provide information during the DCO process on what will be included within the ML, and the Applicant has been updating the MLP throughout the examination.
- 4.3 The Applicant advised that an additional ML is also sought in relation to the River Clwyd crossing, upon which NRW have conducted further consultation which closed on 25 January 2023. The Applicant advised that they had since been provided with feedback from this consultation, along with requests for copies of relevant DCO SoCGs. The Applicant explained it understands that NRW are content with the information provided.
- 4.4 The Applicant advised that it has recently amended the MLP to ensure Trinity House and Maritime and Coastguard Agency (MCA) are comfortable with the conditions in the MLP.

#### Landscape Enhancement Fund

- 4.5 The Applicant advised that it had been liaising with the North Wales LPAs on the landscape enhancement fund. The Applicant provided a set of key principles for a section 106 agreement, to provide for landscape enhancement projects in areas where significant impacts are likely.
- 4.6 Further to the matters discussed at Issue Specific Hearing 2 (ISH2), the Applicant advised that it has been liaising with NRW, Eryri National Park (ENP) (formerly Snowdonia National Park), Isle of Anglesey County Council (IoACC), CCBC and DCC and other Interested Parties, regarding the potential landscape enhancement fund.
- 4.7 The Applicant advised that it had provided the North Wales LPAs with a set of key principles for a fund on 15 December 2022. These principles, it was noted, set out a proposal for a section 106 agreement to be agreed between the Applicant and DCC with the approval of the other North Wales LPAs. The Applicant explained that the proposal suggested aims to provide funds throughout the development's operational lifetime, to be used for landscape enhancement projects within areas of Anglesey Area of Outstanding



Natural Beauty (AONB), ENP and Great Orme Heritage Coast, where landscape related significant effects from the project may occur.

- 4.8 The Applicant and the North Wales LPAs met on 11 January 2023 to discuss the proposed key principles and there was broad agreement reached. Further to this, the Applicant noted that, on 24 January 2023, it provided a draft section 106 agreement for review by the North Wales LPAs. The Applicant understands the draft is under review by legal representatives of the North Wales LPAs, however it is not currently clear when comments on this will be provided.
- 4.9 In regard to the amount of the fund, Commercial discussions are ongoing between the Applicant and the North Wales LPAs. Whilst values for the fund have been proposed, the Applicant advised that here remains some distance between the amount the local authorities have suggested and what the Applicant can provide. The Applicant stated that it will be going back to the local authorities to confirm its final offer in relation to the value of the fund, and will continue to try and make progress with the section 106 agreement.
- 4.10 Whilst the Applicant would like to resolve this matter before the close of the Examination, it noted that if this is not possible it will continue to work with the North Wales LPAs and report to the Secretary of State (SoS) prior to any decision being made. The Applicant is further considering whether, if the fund principles and value can be agreed and secured, the completion of the agreement could be secured through a requirement of the DCO.
- 4.11 The Applicant referred the ExA to the Morlais Tidal Stream project, noting that the Transport and Works Act Order had included a condition for a landscape enhancement scheme. The Applicant suggested that any requirement introduced for AyM would take a similar approach.

#### Tourism Fund

- 4.12 Further to matters discussed at ISH2, the Applicant advised that it has been liaising with CCBC regarding a potential Tourism Fund. The Applicant advised that it provided CCBC with a set of key principles on 9 January 2023.
- 4.13 The Applicant explained that the proposal is to establish a contract between the Applicant and CCBC in respect of tourism-related activities in Llandudno and the Great Orme. This will cover the period between construction ending and operation commencing, given the identification of the potential short-term impacts on tourism in these locations. The Applicant does not consider that this fund is necessary to address adverse impacts of the project and therefore it is not proposed to be secured through a s106 agreement or DCO requirement. The Applicant stated that the agreement is currently under negotiation with CCBC.

### **5 STATEMENTS OF COMMON GROUND**

- 5.1 The Applicant was requested to provide an update on SoCGs relevant to the dDCO.
- 5.2 The Applicant confirmed that the Statement of Commonality provided at Deadline 6 (REP6-038) sets out latest position, however a further amended version will be submitted at Deadline 8 as per the ExA's request.
- 5.3 The Applicant advised that the RSPB SoCG had not been submitted to the examination, although the Applicant has been in contact with them through the ETG process. The Applicant has provided several drafts of the SoGC to the RSPB and had most recently met with them on 8 February 2023. The Applicant does not consider there are any major areas of disagreement.
- 5.4 With regards to the North Wales Wildlife Trust (NWWT), the Applicant noted that all offshore matters have now been agreed, however no feedback had been received regarding onshore matters.

- 5.5 The Applicant further advised that it does not consider it necessary to submit SoCGs with Diamond Transmission and EirGrid and that these parties were not participants in the DCO examination.

**6 ANY OTHER MATTERS**

Update on funding

- 6.1 Further to issues raised at the Compulsory Acquisition Hearing on 28 February 2023, the Applicant provided an update on RWE's funding position. The Applicant advised that the assets stated in the full statement include all assets held by RWE, including those which they predict will draw value in the future. This is in contrast to the "At a Glance" table which represents only the net assets of the business.
- 6.2 As such, the Applicant stated the total value of RWE assets is £220 billion. An update on the funding position for the other parties to the Joint Venture Agreement will be provided by the Applicant at the next deadline. The Applicant will also clarify the position in writing.



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