

## **Ffos-y-fran land reclamation scheme groundwater abstraction**

### **1. Purpose of this document**

This report:

- explains how the application for a transitional transfer licence (also known as 'New Authorisation' licence) has been determined
- provides a record of the decision-making process
- shows how all relevant factors have been taken into account
- justifies the use of specific bespoke conditions within the licence.

In determining this application, NRW has exercised its duties and powers under The Water Abstraction (Transitional Provisions) Regulations 2017.

### **2. Table of Contents**

1. [Purpose](#)
2. [Content](#)
3. [Summary](#)
4. [Application and licence determination details](#)
5. [Advertisement of application](#)
6. [Location of abstraction](#)
7. [Rights of access](#)
8. [Historical evidence of abstraction and volumes](#)
9. [Technical assessment](#)
  - 9.1 [Water Framework Directive](#)
  - 9.2 [Hydrogeology/hydrology and low flows protection](#)
  - 9.3 [Impact on fisheries](#)
  - 9.4 [Impacts upon water quality](#)
  - 9.5 [Protected rights and lawful uses](#)
  - 9.6 [HRA, CROW Act, Conservation, heritage and landscape impacts](#)
  - 9.7 [Serious Damage](#)
  - 9.8 [Cumulative Impacts](#)
  - 9.9 [Subsidence and Desiccation](#)
  - 9.10 [Existing legislation and permissions](#)
10. [Means of measurement of abstraction](#)
11. [SMNR](#)
12. [PALs & Abstraction charges](#)

### 3. Summary of the application

This is an application for a transfer licence by Merthyr (South Wales) Limited to authorise a previously exempt groundwater abstraction at Ffos-y-Fran Reclamation Scheme, Merthyr Tydfil for dewatering the groundwater sump in the excavation area.

An existing pump positioned at 237 metres above ordnance datum (AOD) abstracts water from the sump. This water is transferred via a pipe to an attenuation lagoon for any solids to settle out prior to being discharged into the Nant Morlais at National Grid Reference SO 06720 07250 as permitted by Environmental Permitting Regulations permit number EPR/DB3131AF. There is no intervening use of the water.



We have decided to issue the licence on 24/06/2022.

Licensing this abstraction is considered a first step to move towards sustainable abstraction and it will continue to be reviewed through future sustainability review processes.

### 4. Application and licence determination details

Application details	
Applicant name and address	Merthyr (South Wales) Limited Lanyon House Mission Court Newport NP20 2DW Company number: 4261274
Application contact details	Mr Chris Barber Mobile: 07850 638015 Email: <a href="mailto:chris.barber@merthyrsw.com">chris.barber@merthyrsw.com</a>
Application reference number	PAN-008502

New licence number	WA/057/0022/0004
WFD Waterbody number & name	Taff Bargoed GB109057033140
Abstraction Licensing Strategy (ALS)	Taff and Ely
Catchment and sub-catchment	Taff u/s Cynon C057003 Catchment: 057 Sub-catchment: 0022
NRW Area	South Central

### Determination process details

Date application received	19 <sup>th</sup> December 2019
Date technical checks undertaken	9 <sup>th</sup> January 2020
Date any final further information received and application validated	<p><b>9<sup>th</sup> January 2020</b> – additional supporting documents about pump received</p> <p><b>24<sup>th</sup> January 2020</b> – revised WRH submitted</p> <p><b>28<sup>th</sup> January 2020</b> – additional information in support of rights of access submitted.</p> <p><b>29<sup>th</sup> January 2020</b> – valid letter sent to applicant.</p> <p><b>4<sup>th</sup> May 2022</b> – confirmation of company's registered address and new director</p> <p><b>13<sup>th</sup> June 2022</b> – confirmation of pumping regime and updated site contact details.</p>
Reason abstraction was previously exempt	Abstraction is for dewatering as part of mining/quarrying/engineering operations, this activity was previously exempt from licensing under section 29 of the Water Resources Act 1991.
Non- statutory determination date	30 <sup>th</sup> June 2022
Application publication	<p>This advertising decision was agreed by the <a href="#">NA Panel on 14/01/2021</a> and recorded in the <a href="#">NA Screening spreadsheet</a>.</p> <p>Application advertised in <a href="#">the Merthyr Express</a> on 17<sup>th</sup> June 2021, No public representations or comments received from statutory bodies <a href="#">Advert voucher copy</a></p>
National Park notification	Not relevant as abstraction not located within a National Park.
External Consultation	None undertaken in accordance with current policies and guidance.

Environmental Impact Assessment Regulations (EIA) requirements	The proposal is not relevant under these regulations; therefore no environmental statement is required.
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Abstraction details	Licence details
Location of abstraction	Ffos-y-Fran Reclamation Scheme, Disposal Point, Fochriw Road, Merthyr Tydfil.
Source of supply	Underground strata comprising of South Wales Middle Coal Measures Formation at Ffos-y-Fran Reclamation Scheme, Disposal Point, Fochriw Road, Merthyr Tydfil.
Point(s) of abstraction (NGR) (single point, multiple points, reach or area)	Within the area marked 'Area A' on the map and not outside the boundary formed by straight lines running between the following National Grid References: SO 07340 06568, SO 07278 06688, SO 07670 06902 and SO 07735 06784.
Purpose of abstraction	Transfer for the purpose of dewatering
Period of abstraction	All year
Quantities and rates:	Not applicable – transfer licence
cubic metres per hour	
cubic metres per day	
cubic metres per year	
litres per second	
Means of abstraction	Two submersible pumps
Measurement of abstraction	Not applicable, however meter is fitted as requirement to measure discharge for EPR permit.
Frequency of measurement	Not applicable
Frequency of recording/reporting	Not applicable
Annual returns requirement	No
Licence end date	31/03/2029 in accordance with Taff and Ely ALS
Minimum value condition (Y/N)	No
Issue date	24 June 2022
Effective date	24 June 2022

## 5. Advertisement of application

See Application publication in section 4 above. No representations were received.

## 6. Location of abstraction and discharge

Abstraction area as described in original application for WRH.

The discharge point for the transfer is at National Grid Reference SO 06720 07250, as stated in the sites existing Environmental Permit number EPR/DB313AF.

## 7. Rights of Access

The map ([Rights of access map](#)) provided includes an outline of the landownership of the applicant and demonstrates that the abstraction point lies within their landownership.

## 8. Historical Evidence of abstraction and volumes

As part of the transitional licence application, applicants were required to submit evidence to demonstrate the quantities of water abstracted and when the abstraction took place during the seven year 'qualifying period' (January 2011 – December 2017).

The evidence provided in the applicants application from [WRH](#) suggests that the maximum quantities abstracted during the qualifying period are as follows:

100 litres per second  
360 m<sup>3</sup> per hour (for 23 hours a day)  
8,280 m<sup>3</sup> per day  
3,022,200 m<sup>3</sup> per year

These quantities are estimates based on the maximum discharge quantity as permitted on their discharge consent EPR/DB313AF which allows a maximum discharge of 100 litres per second.

These quantities are indicative only and as the application is for a Transfer licence, no quantities are required to be included on the licence. NRW are satisfied that the abstraction will be controlled in order to comply with the discharge limit conditioned on the EPR discharge consent and therefore no maximum quantities will be included on the transfer licence.

**NRW considers the volumes applied for acceptable. The evidence submitted supports the application and demonstrates that the abstraction has occurred during the qualifying period .**

## 9. Technical assessment of the proposal

The application has been screened according to the New Authorisations (NA) screening process [and the results are recorded within the NA screening spreadsheet](#). Following this the application has been assigned a moderate and complexity score. This score was agreed by the [NA Panel on 14/01/2021](#).

### 9.1 Water Framework Directive Regulations 2017

The abstraction is located within GB40902G201900 SE Valleys Carboniferous Coal Measures. The status of this waterbody is at Good Quantitative status however, the surface water body (GB109057033140 – Taff Bargoed) is classified as Moderate. The waterbody receiving the discharged water GB109057033150 – Nant Morlais – source to conf R Taff is also classified as moderate.

The application was reviewed as part of the further consultation stage to determine whether scoping / detailed assessment was required under WFD Regulations 2017. This review concluded no scoping / detailed assessment was required under the WFD Regulations 2017.

The reasons for this are as follows:

- It is considered unlikely that there is direct connectivity with surface water flows. Therefore impacts on the WFD status of the surface waterbody are considered unlikely.
- The abstraction has been ongoing for many years with no reported impacts to the WFD status of the waterbody<sup>1</sup>.
- There are no anticipated incombination / cumulative impacts.
- The abstraction is not in connectivity with surface water bodies at high overall status or high status for morphology / hydromorphology<sup>1</sup>.
- The abstraction will be licensed based on historic operation so there will be no change in groundwater levels or quantitative status of the waterbody as a result of this abstraction.

**Licensing this abstraction is considered a first step to move towards sustainable abstraction and it will continue to be reviewed through future sustainability review processes.**

## 9.2 Hydrogeology/Hydrology and low flows protection

The abstraction is located in the South Wales Middle Coal Measures Formation underground strata and lies approximately 1.1 kilometres South East of the Nant Morlais, a tributary of the River Taff.

The abstraction has been occurring lawfully for many years, and in recognition of this the [2017 Government response](#) allows NRW as the regulator to have some discretion about the application HoFs to transitional licences.

For abstractions that are located within WFD waterbodies where flows are 'supporting good ecological status', the [2017 Government response](#) suggests the application of a 75% of Qn99 HoF condition. However, in line with our regulatory discretion, NRW consider this HoF is not required for the following reasons:

- The abstraction is from groundwater. The status of this waterbody is at Good quantitative status and the abstraction is not considered to be impacting surface water flows.
- There is insufficient evidence in Wales that a prescribed flow of 75% of Qn99 would provide any environmental benefit / be likely to result in any improvement to WFD status.
- Finally, flow gauges are not generally considered to operate reliably at such low flows, and therefore any condition applying this HoF would not be considered legally enforceable.

It is recognised that not applying a HoF may not be in line with the Abstraction Licensing Strategy (ALS) for Taff and Ely, but licensing the abstraction is considered a first step towards sustainable management, through future sustainability review processes.

## 9.3 Impact on fisheries

Not applicable to this application as a groundwater abstraction and considered unlikely to have any impacts to local surface waters.

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<sup>1</sup> The 2015 Cycle 2 WFD classification data has been used to ensure all NA applications are screened, assessed and licensing decisions are made from the same static baseline dataset. The 2015 Cycle 2 WFD classification data (published in the second cycle RBMP's Dec 2015) was the most up to date data at the time when exemptions were removed, and the application window opened.



## 9.4 Impact on water quality

There are no known local discharges in the area where the abstraction has been occurring (excluding the quarry operation discharge which is discussed below); therefore no impacts upon water quality are expected.

As part of the activity operation all of the water abstracted is discharged to the Nant Morlais. A condition is included within the licence to ensure that all water abstracted is discharged to the nearby watercourse. The discharge is permitted under permit ref. EPR/DB3131AF.

## 9.5 Protected rights and lawful users

Following MyMap screening and consultation screening 2 licensed abstractions and/or lawful users have been identified in the vicinity of the abstraction.

Licence serial number	Approx. distance / direction from abstraction
WA/057/0022/002	Existing abstraction licence for Ffos y fran.
21/57/22/0009	Expired abstraction licence for Ffos y fran.
21/57/22/0035	Deregulated abstraction licence

NRW acknowledges that the existing abstraction has been operating lawfully for many years under an exemption, without any concerns about impact to other water users/abstractors being raised. NRW considers the abstraction poses no risk to existing water users and should be licensed.

## 9.6 Habitats Directive, CROW Act, Conservation, heritage and landscape impacts

The following sites have been identified as a result of screening the application using MyMap. See MyMap screening result ([MyMap screening results](#)) for full details.

Designation Type	Name of Site	Potential Impact	Distance & Direction from abstraction
SAC	None identified	N/A	
SPA	None identified	N/A	
RAMSAR	None identified	N/A	
SSSI	Cwm Glo a Glyndyrys	None identified	Approx 3.2 kilometres west of site
	Cwm Taf Fechan Woodlands	None identified	Approx 3.7 kilometres north west of site
AONB	None identified	N/A	
Protected habitat	Reedbeds Lowland dry acid grassland Lowland heathland	No, the abstraction has been occurring lawfully with no	

		reported impacts, and in accordance with Government policy a 'light touch risk-based' approach to licensing needs to be applied.	
Source Protection zone	None identified	N/A	
National Park	None identified	N/A	

The abstraction has been occurring lawfully with no reported impacts.

An Appendix 4 assessment has been completed for Cwm Glo a Glyndyrys and Cwm Taf Fechan Woodlands and concluded no impact. The assessment has been saved to the [DMS](#).

## 9.7 Serious Damage

Not applicable to this application

## 9.8 Cumulative Impacts

The abstraction has been ongoing for many years with no reported impacts, therefore we are satisfied that there are no anticipated cumulative / in-combination impacts.

## 9.9 Subsidence and Desiccation

The abstraction has been ongoing for many years with no reported impacts, therefore we are satisfied that there are no anticipated impacts relating to subsidence and desiccation.

## 9.10 Existing legislation and permissions

Planning Condition 44 of the 2005 planning application (EA reference CY/2005/011552/1) was for a groundwater monitoring scheme to be agreed to protect groundwater resources to include quality and level monitoring data.

A File note from Andrea Mann (Groundwater and contaminated land team Environment Agency Wales) dated 30/9/2005 states that 'following previous consultations on this, I can confirm that the details submitted by Miller Argent for the Groundwater Monitoring Scheme for Discharge of Condition 44 at the Ffos y Fran site are acceptable. The Environment Agency shall look forward to receiving copies of the monitoring data in due course, with review of the need to develop separate baseline and trigger 'alert' values for surface water and groundwater after the first year'. Subsequent records of discussions centre around groundwater quality.

Therefore, as agreement to discharge condition 44 was given, and there appear to be no further discussions regarding water levels, NRW believe that issuing the licence as applied for is in line with the existing planning permission and there is no need to further address these issues through the licensing process.

## 10. Means of measurement of abstraction



As this application is for a transfer licence and no quantities are specified within the licence conditions, no conditions are required relating to the measurement or assessment of the actual volume of water abstracted.

## **11. Considerations of SMNR – Compliance with our General Purpose**

We are satisfied that this decision is compatible with our general purpose of pursuing the sustainable management of natural resources in relation to Wales and applying the principles of sustainable management of natural resources.

## **12. Criticality, PALS purposes and abstraction annual charges**

### **Criticality Class**

Critical

### **PALS Purposes**

<b>Primary Code</b>	<b>Secondary Code</b>	<b>Use/Loss Level code</b>
I: Industrial, Commercial, Public Services	EXT: Extractive	660: Dewatering- Very low

**Annual charges are not applicable in accordance with our abstraction charges scheme; the application is for a transfer licence.**