

MONA OFFSHORE WIND PROJECT

Statutory nuisance statement

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Image of an offshore wind farm

MONA OFFSHORE WIND PROJECT

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MONA OFFSHORE WIND PROJECT

Contents

1	STATUTORY NUISANCE STATEMENT	1
1.1	Introduction	1
1.2	Proposed Development and Key Components of the Mona Offshore Wind Project.....	1
1.3	The Purpose and Structure of This Statement	2
1.4	Identification and Assessment of Statutory Nuisance	3
1.4.1	Legislative Framework	3
1.5	Assessment of Significance.....	3
1.5.1	Overview	3
1.5.2	Noise and Vibration	4
1.5.3	Dust Emissions.....	5
1.5.4	Artificial Light Emissions	5
1.6	Conclusion	6
1.7	References	6

MONA OFFSHORE WIND PROJECT

Glossary

Term	Meaning
Applicant	Mona Offshore Wind Limited.
Bodelwyddan National Grid Substation	This is the Point of Interconnection (POI) selected by the National Grid for the Mona Offshore Wind Project.
Cumulative Effects	The combined effect of the Mona Offshore Wind Project in combination with the effects from other proposed developments, on the same receptor or resource.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Project (NSIP).
Effect	The term used to express the consequence of an impact. The significance of effect is determined by correlating magnitude of the impact with the importance, or sensitivity, of the receptor or resource in accordance with defined significance criteria.
Environmental Statement	The document presenting the results of the Environmental Impact Assessment (EIA) process for the Mona Offshore Wind Project.
Mona Array Area	The area within which the offshore wind turbines (up to 96) will be located.
Mona 400kV Grid Connection Cable Corridor	The corridor from the Mona onshore substation to the National Grid substation at Bodelwyddan.
Mona Offshore Cable Corridor	The corridor located between the Mona Array Area and the landfall up to MHWS, in which the offshore export cables will be located.
Mona Offshore Cable Corridor and Access Areas	The corridor located between the Mona Array Area and the landfall up to MHWS, in which the offshore export cables will be located and in which the intertidal access areas are located.
Nationally Significant Infrastructure Project (NSIP)	Large scale development including power generating stations which requires development consent under the Planning Act 2008. An offshore wind farm with a capacity of more than 350MW in Wales constitutes an NSIP.
National Policy Statement	A document setting out national policy against which proposals for NSIPs will be assessed and decided upon. See also NPSs.
Onshore Substation	Where the power generated by the wind farm is adjusted (including voltage, power quality and power factor as required) to meet the UK System-Operator Transmission-Owner Code (STC) for supply to the existing National Grid Bodelwyddan substation.

Acronyms

Acronym	Description
CoCP	Code of Construction Practice
DCO	Development Consent Order
EIA	Environmental Impact Assessment
MHWS	Mean High Water Springs
MLWS	Mean Low Water Springs

MONA OFFSHORE WIND PROJECT

Acronym	Description
NPS	National Policy Statement
OSP	Offshore Substation Platform

Units

Unit	Description
dB	Decibel
kV	Kilovolts
km	Kilometres

1 Statutory nuisance statement

1.1 Introduction

- 1.1.1.1 This Statutory Nuisance Statement (the Statement) has been prepared on behalf of Mona Offshore Wind Limited (the Applicant), a joint venture of bp Alternative Energy Investments Ltd (bp), and Energie Baden-Württemberg AG (EnBW). It forms part of the application (the Application) for a Development Consent Order (DCO), submitted to the Secretary of State pursuant to the Planning Act 2008 (the 2008 Act).
- 1.1.1.2 The Applicant is seeking development consent for the construction, operation, maintenance and decommissioning of an offshore wind project (the Mona Offshore Wind Project). The Mona Offshore Wind Project falls within the definition of a Nationally Significant Infrastructure Project (NSIP) under Section 14(1)(a) and Section 15(3)(A) of the 2008 Act, as it is an offshore generating station in Wales that would have a generating capacity greater than 350MW. As such, a DCO is required to authorise the Mona Offshore Wind Project in accordance with Section 31 of the 2008 Act.
- 1.1.1.3 The purpose of this Statement is to comply with Regulation 5(2)(f) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) which states that any application for a DCO should be accompanied by a statement setting out whether the development proposed could cause a statutory nuisance pursuant to Section 79(1) of the Environmental Protection Act 1990 (EPA 1990).
- 1.1.1.4 The Mona Offshore Wind Project has the potential to cause statutory nuisance, however it is not expected to arise. The relevant chapters of the Environmental Statement conclude that there will be no significant effects arising from the Mona Offshore Wind Project in relation to noise, vibration or dust emissions during the construction, operation and maintenance, or decommissioning phases.
- 1.1.1.5 Nevertheless, the draft DCO (document reference C1) that accompanies the Application contains a provision at Article 9 (Defence to proceedings in respect of statutory nuisance) that would provide a defence to proceedings for statutory nuisance under the terms of the DCO. Given the Mona Offshore Wind Project's status as nationally significant infrastructure it is appropriate that the Mona Offshore Wind Project is protected from proceedings under Section 79 of the Environmental Protection Act 1990 for construction and subsequent continued operation.

1.2 Proposed Development and Key Components of the Mona Offshore Wind Project

- 1.2.1.1 The Mona Offshore Wind Project will consist of the development of up to 96 wind turbines with a proposed generating capacity of over 350 MW with all associated infrastructure required to support the offshore capacity and to transmit the electricity generated to the onshore substation, as well as all infrastructure required to operate and maintain the wind farm. The Mona Offshore Wind Project consists of the following:
- **Mona Array Area:** This is where the wind turbines, Offshore Substation Platforms (OSPs), foundations (for both wind turbines and OSPs), inter-array cables, interconnector cables and offshore export cables will be located;
 - **Mona Offshore Cable Corridor and Access Areas:** The corridor located between the Mona Array Area and the landfall up to Mean High Water Springs (MHWS), in

MONA OFFSHORE WIND PROJECT

which the offshore export cables will be located and in which the intertidal access areas are located;

- Intertidal access areas: The area from MHWS to Mean Low Water Springs (MLWS) which will be used for access to the beach and construction related activities;
- Landfall: This is where the offshore export cables make contact with land;
- Mona Onshore Development Area: The area in which the landfall, transition joint bays, onshore cable corridor, onshore substation, mitigation areas, temporary construction facilities (such as access roads and construction compounds), and the connection to National Grid infrastructure will be located;
- Mona Onshore Substation: This is where the new substation will be located, containing the components for transforming the power supplied from the offshore wind farm up to 400 kV;
- Mona 400 kV Grid Connection Cable Corridor: The corridor from the Mona onshore substation to the National Grid substation.

1.2.1.2 Further details of the key components of offshore and onshore infrastructure can be found in Volume 1, Chapter 3: Project description of the Environmental Statement (document reference F1.3) with further information as to the Mona Offshore Wind Project contained within the Draft DCO and Works Plans (document references B3 and B4).

1.3 The Purpose and Structure of This Statement

1.3.1.1 The purpose of this Statement is to comply with Regulation 5(2)(f) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations) which states that any application for a DCO should be accompanied by a statement setting out whether the development proposed could cause a statutory nuisance pursuant to Section 79(1) of the Environmental Protection Act 1990 (EPA 1990). If such a nuisance could occur, the Statement must set out how the applicant proposes to mitigate or limit the effects.

1.3.1.2 Section 14.5.1 to 14.5.4 of the 'Overarching National Policy Statement for Energy EN-1' (NPS EN- 1) (designated in January 2024) states that: "*Section 158 of the Planning Act 2008 confers statutory authority for carrying out development consented to by, or doing anything else authorised by, a Development Consent Order. Such authority is conferred only for the purpose of providing a defence in any civil or criminal proceedings for nuisance. This would include a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990 (EPA) (statutory nuisance) but only to the extent that the nuisance is the inevitable consequence of what has been authorised. The defence does not extinguish the local authority's duties under Part III of the EPA 1990 to inspect its area and take reasonable steps to investigate complaints of statutory nuisance and to serve an abatement notice where satisfied of its existence, likely occurrence or recurrence. The defence is not intended to extend to proceedings where the matter is "prejudicial to health" and not a nuisance*".

1.3.1.3 Furthermore, paragraph 4.15.6 of the NPS EN-1 states that: "*At the application stage of an energy NSIP, possible sources of nuisance under section 79(1) of the EPA 1990 and how they may be mitigated or limited should be considered by the Secretary of State so that appropriate requirements can be included in any subsequent order granting development consent*".

MONA OFFSHORE WIND PROJECT

- 1.3.1.4 This Statement explains that, whilst it is not expected that the construction, operation, maintenance or decommissioning of the Mona Offshore Wind Project would engage Section 79(1) by causing a statutory nuisance, the Draft DCO (document reference C1) contains a provision at Article 9 (defence to proceedings in respect of statutory nuisance) to provide a defence to proceedings for statutory nuisance where those arise as an inevitable consequence of the authorised project, should they be initiated against the Applicant. This protection is provided by the Planning Act 2008 and reflects the position that the Mona Offshore Wind Project is of national significance.
- 1.3.1.5 This Statement first describes the legislative context for the identification of matters which constitute statutory nuisance and the methodology for the assessment of these. This is followed by a summary of the assessment of the statutory nuisances, using information from the Environmental Statement, including any relevant mitigation measures and residual effects, whether embedded within the design of the Mona Offshore Wind Project or secured through requirements within the DCO.

1.4 Identification and Assessment of Statutory Nuisance

1.4.1 Legislative Framework

- 1.4.1.1 Section 79(1) of the EPA 1990 identifies the matters which are considered to be statutory nuisance as follows:
- a) any premises in such a state as to be prejudicial to health or a nuisance;
 - b) smoke emitted from premises so as to be prejudicial to health or a nuisance
 - c) fumes or gases emitted from premises so as to be prejudicial to health or a nuisance
 - d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance
 - e) any accumulation or deposit which is prejudicial to health or a nuisance
 - f) any animal kept in such a place or manner as to be prejudicial to health or a nuisance
 - fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance
 - g) noise emitted from premises so as to be prejudicial to health or a nuisance
 - ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road and
 - h) any other matter declared by any enactment to be statutory nuisance.

1.5 Assessment of Significance

1.5.1 Overview

- 1.5.1.1 The Environmental Statement which has been prepared by the Applicant in accordance with The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) has assessed the potential significant effects of a number of elements specified in Section 79(1) and the likelihood of those arising.

MONA OFFSHORE WIND PROJECT

- 1.5.1.2 It is considered that the Mona Offshore Wind Project has the potential to give rise to complaints from local communities under sub-paragraphs (g) and (ga) of Section 79(1) in relation to noise. This Statement also considers air quality (sub-paragraph (d)) and construction lighting (sub-paragraph (fb)). As the Mona substation will not be occupied on a regular basis operational lighting will be limited and will be controlled through an operational artificial light emissions plan to be approved by Denbighshire County Council and secured through a requirement of the draft DCO. Operational lighting is therefore not considered further in this Statement.
- 1.5.1.3 Volume 3, Chapter 9: Noise and vibration of the Environment Statement (document reference F3.9), Volume 3, Chapter 10: Air Quality of the Environmental Statement (document reference F3.10) and their associated appendices provide detailed assessments of these potential impacts and identify mitigation measures where necessary.
- 1.5.1.4 The Applicant considers that none of the matters specified in Section 79(1) are engaged by the offshore elements of the Mona Offshore Wind Project, principally because the Mona Offshore Wind Project is approximately 28km from the north coast of Wales, 47 km from the northwest coast of England, and 47 km from the Isle of Man. As such, the offshore aspects are not considered further within this Statement.

1.5.2 Noise and Vibration

- 1.5.2.1 Section 79(1) of the EPA 1990, subsections (g) and (ga) refer to:
- g) noise emitted from premises so as to be prejudicial to health or a nuisance;
 - ga) noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street or in Scotland, road
- 1.5.2.2 The potential noise and vibration impacts and mitigation are assessed in Volume 3, Chapter 9: Noise and vibration of the Environment Statement (document reference F3.9.) Overall, this chapter concludes that there will be no significant effects arising from the Mona Offshore Wind Project during the construction, operation and maintenance, or decommissioning phases. This includes noise associated with the operation of the Mona Onshore Substation. In addition to this, the assessment concludes that there will be no significant cumulative noise and vibration effects from the Mona Offshore Wind Project alongside other relevant projects.

Construction noise and vibration management

- 1.5.2.3 Construction noise will be managed in accordance with the Construction Noise and Vibration Plan, which will be secured as part of the Code of Construction Practice. The Code of Construction Practice must be approved by the relevant planning authority prior to the commencement of construction, for the onshore substation this will be Denbighshire County Council. An Outline Code of Construction Practice (document reference J26) and Outline construction noise and vibration plan (document reference J26.3) are included in the Application.
- 1.5.2.4 In addition, onshore construction hours are generally limited through requirement 14 of the draft DCO to the hours of 7am to 7pm Monday to Saturday with no working on Sunday or Bank Holidays. The only exceptions to this are emergency works or those that require continuous operation, or as agreed with the relevant planning authority through the Code of Construction Practice.

MONA OFFSHORE WIND PROJECT

Operational noise and vibration management

- 1.5.2.5 Operational noise for the Mona Onshore Substation shall not exceed 34dBA at the closest residential property in accordance with requirement 17 of the Draft DCO. The design of the Mona Onshore Substation will incorporate noise control measures, where practicable or feasible, to ensure compliance with the operational noise limit.

1.5.3 Dust Emissions

- 1.5.3.1 Section 79(1) of the EPA 1990, sub-section (d) refers to:
- d) any dust, steam, smell or other effluvia arising on industrial, trade or business premises and being prejudicial to health or a nuisance
- 1.5.3.2 Dust emissions are anticipated during onshore construction works. Further details of these effects are provided in Volume 3, Chapter 10: Air quality of the Environmental Statement (document reference F3.10).
- 1.5.3.3 Overall, it concluded that there will be no significant air quality effects arising from the Mona Offshore Wind Project during the construction, operations and maintenance or decommissioning phases.
- 1.5.3.4 Therefore, a statutory nuisance in relation to construction dust is unlikely to occur.

Construction dust emission management

- 1.5.3.5 Dust emissions during construction will be managed in accordance with the Air quality and dust management plan which will be an appendix of the with the Code of Construction Practice. The Code of Construction Practice must be approved by the relevant planning authority (either Conwy County Borough Council or Denbighshire County Council) prior to the commencement of construction. An Outline Code of Construction Practice (document reference J26) and Outline air quality and dust management plan (document reference J26.2) is included in the application.

1.5.4 Artificial Light Emissions

- 1.5.4.1 Section 79(1) of the EPA 1990, sub-section (fb) refers to:
- fb) artificial light emitted from premises so as to be prejudicial to health or a nuisance
- 1.5.4.2 Artificial Light will be needed during construction to provide safe levels of light necessary where night working is unavoidable.

Construction artificial light emissions management

- 1.5.4.3 External lighting of the construction work areas and temporary construction compounds will be in line with the Artificial light emissions plan as secured by a requirement (as an appendix of the Code of Construction Practice) of the draft DCO (Document Reference C1). An Outline artificial light emissions plan is included in the DCO application (Document Reference J26.10). Construction lighting will be designed and positioned to minimise light spillage, pollution, disturbance to adjoining residents and to wildlife.

MONA OFFSHORE WIND PROJECT

1.6 Conclusion

- 1.6.1.1 The Applicant has designed the Mona Offshore Wind Project in such a way as to minimise environmental effects and has also included a variety of measures to mitigate any remaining impacts further still.
- 1.6.1.2 These measures are secured by the requirements contained in Part 1 of Schedule 2 to the draft DCO, which cover a number of relevant matters including:
- A Code of Construction Practice in relation to onshore works, covering a wide range of matters:
 - a. Construction noise and vibration plan;
 - b. Air quality and dust management plan; and
 - c. Artificial light emissions plan.
 - Limits on onshore construction hours;
 - Limits on operational noise arising from the onshore substation, as measured at specific residential locations; and
- 1.6.1.3 Following adherence to the measures set out in the plans described no significant residual impacts are predicted in relation noise, air quality and light emissions therefore, they are not expected to engage Section 79(1).
- 1.6.1.4 Notwithstanding the above conclusion, the draft DCO (document reference C1) that accompanies the Application contains a provision at Article 9 (Defence to proceedings in respect of statutory nuisance) that would provide a defence to proceedings for statutory nuisance under the terms of the DCO. Given the Mona Offshore Wind Project's status as nationally significant infrastructure it is appropriate that the Mona Offshore Wind Project is protected from proceedings under Section 79 of the Environmental Protection Act 1990 for construction and subsequent continued operation.

1.7 References

Department for Energy Security & Net Zero (designated 17 January 2024) Overarching National Policy Statement for Energy (NPS EN-1). Available:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1147380/NPS_EN-1.pdf