Inverdee House, Baxter Street,
Aberdeen, AB11 9QA, United Kingdom

Email: OIA@jncc.gov.uk
Tel: +44 (0) 1224 266550
jncc.gov.uk

The Planning Inspectorate
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN
United Kingdom

By email: monaoffshorewindproject@planninginspectorate.gov.uk

JNCC Reference: OIA-10462
JNCC Registration ID Number: 20048439
PINS Reference: EN010137
Date: 30 September 2024

To whom it may concern,

Mona Offshore Wind Project Development Consent Order Application – Environmental Statement and Management Plans – EN010137 – Response to the Examining Authority's written questions and requests for information (ExQ1)

Thank you for consulting JNCC on the Mona Offshore Wind Project Development Consent Order (DCO) Application including the Environmental Statement (ES) and Management Plans.

The advice contained within this minute is provided by JNCC as part of our statutory advisory role to the UK Government and devolved administrations on issues relating to nature conservation in UK offshore waters (beyond the territorial limit).

ExQ1	Question	JNCC response
Q1.5.3	**ES Chapter 3 (Vol 2) Fish and Shellfish Ecology [APP-055]** There does not appear to be any information on wind turbine sound emissions nor vessels sound emissions during operation in section 3.9.3. Table 3.6 states that it has been scoped out based on site specific sound information, including modelling of sound emissions from the proposed wind turbines and vessels and effects on fish and shellfish receptors as detailed in section 3.9.3. The Planning Inspectorate did not agree that operational noise of the OWF can be scoped out of the Environmental Statement. Can the Applicant provide the information stated in Table 3.6 on wind turbine sound emissions and vessels; and Can respective parties advise if they have any concerns regarding potential underwater sound during the operational phase impacting fish and shellfish receptors.	JNCC's remit does not include fish and shellfish ecology.
Q1.10.2	**Screening** Can the Applicant provide further reasoning to its statement that 'the likelihood of the Mona Array Area	JNCC agrees with the Applicant's statement that barrier effects can be screened out of the assessment. There is no widely accepted method of directly assessing barrier effects. Birds on the water and in flight are both included within the displacement assessment presented by the Applicant. Birds in flight could be at risk of barrier effects, therefore including birds in flight within a displacement assessment is the closest method available.

JNCC Support Co. Registered in England and Wales, Company No: 05380206.
Registered Office: JNCC, Monkstone House, City Road, Peterborough, PE1 1JY, UK.

ExQ1	Question	JNCC response
	resulting in barrier effects for qualifying features of SPAs are low' (paragraph 1.4.6.25 of [REP2-012]. Does NRW (A) and JNCC agree with the Applicant's statement and that barrier effects can be screened out?	The mechanism by which a barrier effect manifests an impact is through increased energetic cost flights, usually between breeding colonies and foraging areas, and/or increased time elapsed between provisioning of young. For the SPAs for which JNCC has responsibility, we do not consider that barrier effects are a significant consideration, for the following reasons: • For the Irish Sea Front SPA, the proposal is not located in a direct path between it and any of the Manx shearwater breeding colony SPAs. • For Skomer, Skokholm and the Seas off Pembrokeshire/Sgomer, Sgogwm a Moroedd Penfro SPA, the proposal does not lie between the breeding colonies of qualifying features of that SPA and the foraging areas contained within the marine portion of the SPA. Additionally, while there are concerns over mortality of individuals breeding at Skomer, Skokholm and the Seas off Pembrokeshire/Sgomer, Sgogwm a Moroedd Penfro SPA from displacement from within the array area, we do not consider that the proposal is likely to result in the barrier effects described above. • Foraging by both breeding and non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA occur within the SPA and therefore barrier effects will not occur
Q1.10.3	**Screening** The ExA notes the Applicant's commitment to assessing in-combination effects where no LSE from the project alone has been concluded in section 1.4 of the HRA Stage 1 Screening Report [REP2-012]. Can the Applicant provide such an assessment, where this has not been done within the HRA and identify the projects or plans considered.	**Ornithology response:** We consider that there is potential for an in-combination LSE for Atlantic puffin, which has currently been excluded from an in-combination assessment and therefore the gap-filling exercise has not been applied to this species. See our comments on the Applicant's responses to our Written Representations submitted alongside these responses to Examining Authority's Questions for details. In conclusion, we do not agree with the rational provided by the Applicant for exclusion of this species from in-combination

ExQ1	Question	JNCC response
	Does NRW (A) and JNCC consider that there is the potential for an in-combination LSE for any site/feature where the Applicant has excluded a LSE from the project alone?	assessment, and remain concerned that a gap-filling exercise could reveal significantly more mortalities for this species than anticipated. There is the potential for an in-combination LSE for other sites and features (See our WR REP1-061 paragraph 12 and 42 where we highlight that it is not currently possible for us to advise on in-combination impacts), however until revised assessments are submitted at Deadline 3 using the SNCB-advised approach to displacement, we are unable to provide further, more detailed advice. JNCC will provide an update at Deadline 4. **Marine Mammal response:** The Mona Array Area is 22.8km from the North Anglesey Marine (NAM) SAC. JNCC do not consider there to be a potential in-combination LSE for the impact pathways identified in the HRA for this site and for which a conclusion of no LSE alone was reached. This is because of the distance between the project and the SAC, and the fact impacts from these pathways (e.g. changes in water clarity; Electro-Magnetic Field, EMF) are localised in nature. As a result, they will not add additional pressure to the site when considered in-combination with impacts from other activities. The above advice also applies to harbour porpoise SACs at greater distance from the development, for example, the North Channel SAC.
Q1.10.12	**Stage 2 assessment** The Applicant's Stage 2 SAC Report [APP-032] and Stage 2 SPA Report [REP2-010] rely upon measures in an Offshore Environmental Management Plan (EMP) to avoid adverse effects on marine mammal and offshore	JNCC have previously commented (paragraph 21, REP1-066) on the need for the securing of mitigation measures relied upon to avoid adverse effects, particularly in relation to red-throated diver and common scoter features of the Liverpool Bay SPA. We advised that the DCO should be amended to secure the seasonal restriction on installation and/or protection of the cables within the Liverpool Bay/Bae Lerpwl SPA during the most sensitive

ExQ1	Question	JNCC response
	ornithological qualifying features. Can the Applicant provide an outline Offshore EMP to provide assurance that all measures relied upon to avoid AEoI are secured?	time period, which is required to conclude no adverse effect on the integrity of the designated site. We are also of the opinion that if an outline Offshore Environmental Management Plan (EMP) is submitted into the examination, as suggested by the ExA, which includes the same seasonal restriction, and the Secretary of State can be more confident that the measure would be secured, and that this potential adverse effect on the integrity of the SPA would be avoided. To further guarantee this mitigation, if an outline EMP is submitted to the Examination, we suggest a revision to the wording of the DCO is made to reflect that a finalised Offshore EMP would need to be agreed by the Licencing Authorities, in consultation with the SNCBs. JNCC requests that, even if the outline EMP is submitted containing the requested restriction, the revised wording of the DCO still explicitly retains a requirement for the finalised EMP to also include this restriction – revised wording is suggested as follows: 18.— (1) No part of the authorised scheme may commence until the following (insofar as relevant to that activity or phase of activity) have been submitted to and approved in writing by NRW-Licensing, in consultation with the relevant statutory nature conservation bodies (NRW Advisory and JNCC), Trinity House and the MCA as appropriate— (e) a final offshore environmental management plan, derived from the submitted outline offshore environmental management plan, covering the period of construction and operation to include — (vi) details of measures to minimise disturbance from transiting vessels to marine mammals, and rafting birds; (vii) a restriction that works associated with the installation and/or protection of the cables will not be carried out within the Liverpool Bay/Bae Lerpwl SPA during the most sensitive time period of 1st November to the 31st March inclusive;

ExQ1	Question	JNCC response
		(viii) measures to minimise the potential spread of invasive non-native species; Clarity is required on the specifics of when a seasonal restriction within the Liverpool Bay/Bae Lerpwl SPA would apply. There is currently ambiguity between the Marine Licence Principles Document (APP-195) and the Measures To Minimise Disturbance To Marine Mammals And Rafting Birds From Transiting Vessels (APP-203). The former refers to 'works', while the latter refers to cable installation activities. This latter potentially allows for other activities set out in the definition of 'commence' in Part 1 of the DCO (pre-construction surveys and monitoring, and unexploded ordnance surveys and clearance of unexploded ordnance) to occur within the sensitive period for the SPA. There is an apparent discrepancy in the timings required of the NRW Marine Licence and the DCO deemed Marine Licence (dML). Marine Licence Principles Document Table 1 page 19 (APP-195) states that the NRW Marine Licence would require the Applicant to submit a Project Environmental Management Plan (PEMP) to NRW at least six weeks prior to commencement of the Licenced Activities, but states *'dML condition 18((1)(e) requires submission of an offshore environmental management plan 4 months prior to commencement of the authorised scheme'*. This could leave a situation where an Offshore EMP is agreed by MMO, but NRW do not agree with a proposed PEMP. We therefore suggest that the timescales for submission of these documents are aligned, and ideally achieved in consultation with both Licencing Authorities together. In addition, in the Measures To Minimise Disturbance To Marine Mammals And Rafting Birds From Transiting Vessels document (APP-203), it is stated that: "1.4.1.1 Except where specifically described, the measures detailed in this document will not apply to the following activities: • Vessels actively laying cable in areas that coincide with known areas of bird aggregations…"

ExQ1	Question	JNCC response
		This has caused JNCC some confusion as currently set out, and on the face of it appears contradictory to the aims of the mitigation measures. We suggest that the document is amended to clarify which measures are and are not applicable to which activity.
Q1.10.14	**Stage 2 in-combination assessment** Is NRW (A)/JNCC content with the projects included in the in-combination assessments as detailed in: • Annex I habitats – Table 1.21 and Figure 1.9 of [REP2-012] • Annex II diadromous fish species – Table 1.58 and Figure 1.9 of [REP2-012] • Annex II marine mammals – Table 1.154 and Figure 1.13 of [REP2-012] • Offshore ornithological features – Table 1.57 and Figure 1.21 of [REP2-010]	**Annex I habitats** – We assume that the ExA are referencing Table 1.13 and Figure 1.3 of (REP2-012), not Table 1.21 which relates to 'LSE matrix for Annex II diadromous fish species of the Solway Firth SAC' or Figure 1.9 which relates to 'Location of European Sites designated for Annex II marine mammal species to be taken forward for the determination of LSE'. – The Annex I habitats of Table 1.13 and Figure 1.3 of (REP2-012) relate to inshore waters which is outside of JNCC's remit (waters extending out from the territorial limit of 12nm). JNCC therefore defer to NRW (A) on this matter. **Annex II diadromous fish species** – JNCC's remit does not include diadromous fish species. **Annex II marine mammals** – JNCC are content with the projects included at this stage. However, we highlight that seasonal noise disturbance thresholds for the North Anglesey Marine SAC will require consideration of all planned noisy activities within a particular season. The list of relevant projects will continue to evolve between now and the relevant season, and during that season. Regulators will be required to review in-combination impacts whenever new activities are proposed. While this does not affect this assessment, those operating within or near the site in a particular season may be required to coordinate their activities to ensure daily thresholds are not breached. Such a requirement could be requested of this project.

ExQ1	Question	JNCC response
		Offshore ornithological features – We assume that the ExA are referencing Table 1.63 of REP2-010 (equivalent to Table 1.57 of APP-033, the original submission of this document) "List of other projects and plans with potential for in-combination effects on offshore ornithology" and Figure 1.12 "Location of other projects and plans considered for in-combination effects on SPAs and Ramsar sites with offshore ornithological features" not Figure 1.21 which does not exist. – We are content with the projects included in the in-combination assessments, as detailed in Table 1.63 of REP2-010 (equivalent to Table 1.57 of APP-033) List of other projects and plans with potential for in-combination effects on offshore ornithology" and Figure 1.12 of REP2-010 "Location of other projects and plans considered for in-combination effects on SPAs and Ramsar sites with offshore ornithological features".
Q1.17.2	**Significance of effects** Table 2.36 in ES Chapter 2 (Vol 1) Benthic subtidal and intertidal ecology [APP-054] presents a summary of the potential impacts, the associated important ecological features, and significance of effects. i. If you disagree with any listed aspect including Applicant's significance of effects, can you identify and provide evidence to justify your opinion. ii. If you consider any effect to be significant in terms of EIA, can you identify and advise on any possible and realistic mitigation measures to	As per our Written Representation (WR; REP2-081), reference: REP1-066.140, and our response to the Applicant's comments on our WR (submitted at this deadline, Deadline 3), JNCC do <u>not</u> agree with the values attributed within the assessment of significant effects, covered in Sections 2.9, page 92, and 2.11, page 235, of Volume 2, Chapter 2: Benthic subtidal and intertidal ecology (APP-054). The magnitude of impact has been assessed as too low, incorrect assumptions of feature sensitivity have been applied to the sea-pen and burrowing megafauna communities Important Ecological Features (IEF), and the subsequent adverse significance has been under-represented. The magnitude of impact was assessed based on the 'benthic subtidal and intertidal ecology study area' which was defined as a 50km buffer around the 'Mona Array Area' (see Figure 2.1 and Section 2.4.3.1 of APP-054) with over two million square meters

ExQ1	Question	JNCC response
	enable residual effects to be not significant in terms of EIA.	(Section 2.9.5.7) of seabed expected to be permanently impacted/changed by the development. The impact area is then compared with the 'Mona benthic subtidal and intertidal ecology study area' as a percentage of that 50km buffer area that includes the 'Mona Array Area'. This is not helpful as the 'Mona benthic subtidal and intertidal ecology study area' includes large portions that will not be directly impacted by the operations. The Environmental Impact Assessment Methodology (APP-052), Section 5.3.6.8 and Table 5.4, defines the spatial extent of an impact as the "Geographical area over which the impact may occur (CIEEM, 2016)". Using the spatial extent of the feature impacted to calculate the impact percentage provides a more meaningful representation of the magnitude of impact. This may be 100% but would increase the magnitude to Medium, possibly even High. There would also be scope to assess the magnitude of impact based on the 'Mona Array Area', although there will be large portions of that which will not be directly impacted by the development, but would be more appropriate than using the 'Mona benthic subtidal and intertidal ecology study area'. Combining the areas associated with the 'Long-term habitat loss' and 'Temporary habitat loss' impact pathways would, however, give a more meaningful impact percentage and subsequent meaningful magnitude (probably Medium). JNCC recommends that the Applicant revises the assessment to evaluate the magnitude of the impacts in this way, which could potentially lead to a revised assessment of the significance of the effects. Sensitivities of the sea-pen and burrowing megafauna communities are assessed through the Marine Evidence based Sensitivity Assessment (MarESA) within the Marine Life Information Network (MarLIN). MarESA assessments are based on collated feature-specific scientific literature providing a robust assessment of the feature to different pressures. The Applicant has used MarESA for this purpose but the Applicant has adjusted the feature's sensitivity due to a lack of sea-pens being recorded during surveys.

ExQ1	Question	JNCC response
		At a meeting of the OSPAR Contracting Parties in Bergen in November 2011 (OSPAR Workshop on the improvement of the definitions of habitats on the OSPAR list, 20 to 21 October 2011), a key recommendation was that the presence of burrowing megafauna is the essential defining characteristic of the feature; the presence or absence of sea-pens does not in itself define the feature. Sea-pens may form a prominent feature of the seabed surface, but do not have to be present to define the OSPAR Threatened and Declining habitat. JNCC believe that this is the most up-to-date position on the composition of this habitat. Therefore, it is not appropriate for the Applicant to alter the sensitivities listed by MarESA based on a lack of sea-pens being recorded during surveys in this identified habitat. The Applicant should revise the assessment using the sensitivities listed by MarESA. Once that has taken place, JNCC will be in a position to comment on whether or not the effects on the sea-pen and burrowing megafauna communities IEF in the marine offshore environment would be significant.
Q1.17.3	**Cumulative effects** Table 2.37 in ES Chapter 2 (Vol 1) Benthic subtidal and intertidal ecology [APP-054] presents a summary of the potential cumulative effects, the associated important ecological features, and significance of effects. i. If you disagree with any listed aspect including Applicant's significance of effects, can you identify and provide evidence to justify your opinion. ii. If you consider any effect to be significant in terms of EIA, can you identify and advise on any possible and realistic mitigation measures to	Please see our response to Q1.17.2 above. Until the Applicant has correctly assessed the magnitude of effects and the sensitivity of all receptors, it is not possible for JNCC to properly advise on the significance of the predicted effects.

ExQ1	Question	JNCC response
	enable residual effects to be not significant in terms of EIA.	
Q1.17.4	**Marine Benthic Impact Assessment** If you disagree with the Applicant's marine benthic impact assessment, can you summarise your position. Can you also provide information and reference to any legislation including relevant projects to justify the need to distinguishing between the inshore (within 12nm) and offshore (beyond 12nm) to assess marine benthic impacts. (JNCC RR-033.3 response to relevant representation [REP2-097]).	JNCC has two main concerns relating to the Marine Benthic Impact Assessment, namely: the under-representation of the subsequent adverse significance of sea-pen and burrowing megafauna communities IEF within the Array Area (see response to Q1.17.2 and Q1.17.3, above); and sandwave clearance within the Export Cable Corridor. The latter spans the inshore and offshore marine environments, as defined by the Marine and Coastal Access Act 2009 Section 322(1). If the impacts of sandwave clearance are not defined by the inshore and offshore marine environments, JNCC would have to take a worst-case approach and assume that all the sandwave clearance impact will be carried out in the Welsh offshore region. This will significantly overestimate the impact which the development will have on the benthic offshore environment. The legal basis for the Joint Nature Conservation Committee's (JNCC's) offshore remit is summarised here: https://jncc.gov.uk/about-jncc/how-we-work/legal-basis-of-our-work/. JNCC's specific responsibilities for offshore marine nature conservation are set out in the Conservation of Offshore Marine Habitats and Species Regulations 2017 S.I 2017/1013) ('the Offshore Marine Regulations'), the Marine and Coastal Access Act 2009 ('MC Act 2009') and various Regulations that relate to the activities of the offshore petroleum industry. In general, the legislation makes a distinction between 'inshore' areas which mean the territorial sea up to 12nm from the shore; and 'offshore' areas which are beyond that 12nm limit. The 12nm limit for the territorial sea was established in Article 3 of the United Nations Convention on the Law of the Sea, 1982. Regulation 28(4) in the Offshore Marine Regulations sets out that Joint Committee must be consulted by competent authorities in relation to their appropriate assessments of relevant

ExQ1	Question	JNCC response
		plans or projects which are likely to have a significant effect on a European Offshore marine site. Similarly, Section 147 of MCA Act 2009 states that the 'appropriate statutory conservation body' for the purposes of that Act means: -'(c) in respect of an area outside the seaward limits of the territorial sea, the Joint Nature Conservation Committee.' In turn, this means that public authorities must engage with JNCC in carrying out any of their functions which are capable of significantly affecting offshore Marine Conservation Zones (sections 125 and 126 of the MC Act 2009). In relation to impacts on European sites or MCZs which are within inshore areas around the UK, JNCC is not the statutory body which must be consulted, and others will provide that advice - in the case of the Mona Windfarm Project, National Resources Wales (NRW) performs that role. There is no specific legal requirement for developers to distinguish in their assessments between effects occurring in the inshore area (within 12nm), and those occurring within the offshore area (beyond 12nm). Nevertheless, JNCC considers that it is a matter of good practice for developers to put their assessments of the effects of projects in the legislative context of the 12nm limit for inshore waters; and JNCC usually requests this. This distinction enables the nature, extent, magnitude, and significance of impacts that would be experienced in different parts of the marine area to be easily identified. In turn, this assists consultees (including JNCC and other statutory bodies such as NRW) to fulfil their statutory duties by advising competent/public authorities on the nature conservation implications of the proposals in hand when making decisions whether or not to grant consent.

ExQ1	Question	JNCC response
		The Secretary of State should take into account all relevant marine benthic impacts of the Mona Windfarm Project, whether occurring inshore and offshore, when carrying out his duties in respect of the DCO decision. In JNCC's view this decision would be assisted by the Applicant making the distinction set out above - ensuring for instance that there is no 'double counting' of effects inside or outside the 12nm limit in the advice provided to the Secretary of State by different consultees. In addition to the statutory consultee aspect, it should be recognised that different regulatory bodies have different roles and responsibilities depending on which side of the 12nm limit a development would take place. It may also be helpful to those regulators have distinguished where the Project's effects will be felt in relation to the 12nm limit. For instance, the Marine Management Organisation may find it useful, when dealing with a future offshore licence application, to understand the nature etc of the Mona Windfarm effects in this regard, so that in-combination effects can be properly taken into account.
Q1.17.9	If scenario 1 involved excluding UXO clearance from the DCO and Deemed Marine Licence, and scenario 2 involved UXO clearance restricted to only low-order clearance charges; can parties advise if it would be supportive or not to either approach with reasoning.	JNCC's preferred option throughout pre-application engagement has been for Scenario 1, that all unexploded ordinance (UXO) clearance is excluded from the DCO/deemed Marine License. However, we would be supportive of Scenario 2, if in addition to the DCO/deemed Marine License specifying all UXO clearance is restricted low-noise methods only, that it also clearly stated should high order clearance be required, it will be subject to a separate marine licence application. In line with the joint position statement on UXO clearance, our primary position is that high order clearance of UXO clearance is avoided.
Q1.17.13	Are you satisfied that the site specific digital aerial survey (DAS) reflects Manx shearwater baseline	JNCC are satisfied that the site specific digital aerial survey (DAS) reflects Manx shearwater baseline characterisation. There are known limitations of DAS in relation to crepuscular and nocturnal species such as Manx shearwater given that DAS, out of

ExQ1	Question	JNCC response
	characterisation. If not, can you provide evidence to justify your position?	necessity, needs to be conducted during daylight hours. It is therefore likely that some activity of this species will have been missed. However, the significance of this is likely to be most acute in proximity to colonies, where Manx shearwater will often gather in larger numbers at dusk to avoid predation as adults return to the colony at night. Given the distance of the Mona OWF array to colonies, we don't anticipate that these gatherings are likely, and that the distribution identified in the DAS surveys is likely to be representative of the use of the area.
Q1.17.14	Are you are satisfied with the collision risk assessment for Manx Shearwater and its conclusion. If not, can you provide evidence to justify your position?	JNCC are satisfied with the collision risk assessment for Manx Shearwater and its conclusion. We are satisfied that the population densities derived from DAS are likely to be representative of actual density (subject to the caveats noted in response to Q1.17.13 above) and therefore that the collision risk assessment can be relied upon. We note the comments of the RSPB in their Statement of Common Ground (REP2-088) that they have concerns that attraction to lighting would invalidate the collision risk modelling undertaken. Manx shearwaters are known to be attracted to light and can also be disoriented, for example due to the lighting at the top of a wind turbine. The current method of assessing collisions does not account for this addition collision risk, however there is not currently any evidence available to quantify that risk. Therefore, given the limitations of the existing evidence base, we are satisfied that the collision risk model is as robust as it currently can be.

Please contact me with any questions regarding the above comments.

Yours sincerely,

Richard Shelmerdine

Offshore Industries Adviser

Email: [redacted]@jncc.gov.uk

Telephone: [redacted]