

RESPONSE TO COMMENTS ON WRITTEN REPRESENTATION

(1) BARROW OFFSHORE WIND LIMITED (REF: 20048546) (2) BURBO EXTENSION LTD (REF: 20048544) (3) WALNEY EXTENSION LIMITED (REF: 20048542) (4) MORECAMBE WIND LIMITED (REF: 20048547) (5) WALNEY (UK) OFFSHORE WINDFARMS LIMITED (REF: 20048545) (6) ØRSTED BURBO (UK) LIMITED (REF: 20048543) (THE "ØRSTED IPs")

IN CONNECTION WITH THE Application by Mona Offshore Wind Limited for an Order Granting Development Consent for the Mona Offshore Wind Farm

1. Introduction

- 1.1 This document is provided in accordance with Deadline 3 of the examination timetable for the application by Mona Offshore Wind Farm Limited (the “**Applicant**”) for an Order under the Planning Act 2008 (the “**Act**”) granting Development Consent for the Mona Offshore Wind Farm (the “**Project**”).
- 1.2 We represent six owners of operational offshore windfarms in the East Irish Sea (as set out relevant representations RR-004, RR-007, RR-047, RR-087, RR-088 and RR-090), who we refer to together as the “**Ørsted IPs**” for the purposes of this document.
- 1.3 This submission sets out the Ørsted IPs’ responses to a small number of the Applicant’s comments on its written representation (REP1-072), regarding the Applicant’s assessment of the Project’s effects on wildlife, where the Ørsted IPs believe it may be of assistance to the Examining Authority (“**ExA**”) to provide further information. This submission falls within the Deadline 3 item “*comments on any other submissions received at Deadline 2*”.
- 1.4 It is noted that the Ørsted IPs have responded to the Applicant’s comments on their written representation relating to shipping and navigation in their response to the written questions of the ExA. Additionally, the Ørsted IPs’ responses to the written questions of the ExA on wake loss cover the key issues raised in the Applicant’s response to their written representation. The Ørsted IPs do not repeat that information in this document.

2. Assessment of effects on wildlife

- 2.1 The Ørsted IPs have raised concerns regarding the robustness of the Applicant’s assessment of the effects of the Project on wildlife. In their written representation, the Ørsted IPs pointed to a number of specific concerns/discrepancies in the Applicant’s assessment.
- 2.2 The Applicant has responded to these points in its Response to Written Representations (REP2-078), submitted at hearing deadline 2. The Ørsted IPs have responded to two specific points below and generally note that their concerns regarding the robustness of the Applicant’s assessment remain, as does their interest in ensuring the Project’s assessments accurately assesses the potential effects of the Project on wildlife and identifies appropriate mitigation.

REP1-072.3

- 2.3 In response to the Applicant’s comments regarding HRA methodology at REP1-072.3, the Ørsted IPs reiterate their view that collision risk with vessels for marine mammals should not have been screened out.
- 2.4 It is well established that an effect should be considered ‘likely’, for the purposes of HRA screening, if the risk cannot be reasonably excluded on the basis of objective information.¹ The Applicant’s justification for screening out collision risk with marine mammals states the risk of such collision is considered ‘low’. The Ørsted IPs consider the implication of this statement is that the risk cannot be excluded, and therefore meets the threshold for being considered ‘likely’.
- 2.5 Furthermore, recognising that embedded mitigation measures would reduce this risk further highlights the initial presence of this risk. The Ørsted IPs consider that collision risk of vessels with marine mammals should not be screened out at the HRA screening stage. It is noted that the Project will result in a circa 66.6% increase in vessel traffic throughout the construction phase, although in the Applicant’s view, there is a low vessel collision risk with marine mammals due to the distance of the proposed works from any designated sites with protected marine mammal features. However, given the highly mobile nature of marine mammal features, they are commonly present outside the boundary of the designated SAC boundary, including within the Project area. Therefore, they may be exposed to vessel collision risk.
- 2.6 The Ørsted IPs consider this justification for screening out vessel collision with marine mammals does not align with the approaches established by case law. The Ørsted IPs consider that the risk for vessel collision with marine mammals should be taken forward into Appropriate Assessment stage (where proposed mitigation measures can be considered).

¹ Refer, for example, to *People Over Wind and Peter Sweetman v Coillte* Case C-323/17 at [34].

REP-1-072.6

- 2.7 In response to the Applicant's comments at REP-1-072.6, regarding the Applicant's baseline assessment of impacts on marine mammals, the Ørsted IPs acknowledge the Applicant's comment that the approach presented was discussed and agreed with SNCBs (namely Natural Resources Wales and the Joint Nature Conservation Committee).
- 2.8 However, the Ørsted IPs consider the Applicant's response does not fully address the query raised with regards to the baseline assessment approach. The Ørsted IPs recognise that the baseline information utilised in the EIAR covers a wide range of sources, however, query why only the Welsh Marine Mammal Atlas was considered within the HRA baseline. Site-specific sources are invaluable in assessing impacts in a HRA context and it is unclear why or whether the HRA baseline is only based on the Atlas information. The Ørsted IPs consider that the HRA baseline should be characterised with the same information sources as adopted in the EIAR. The technical information does not necessarily need repeated in the HRA documentation, though it should present a clear and consistent approach to baseline characterisation and reference sources where necessary.

Shepherd & Wedderburn LLP

30.09.2024