

Mona Offshore 4 November 2024 Deadline

Representation of Bodorgan Marine Limited

Executive Summary

1. The twin policy requirements for enhancement and optimisation of fisheries have not been dealt with adequately by the Applicant. This is evidenced by the fact that there is no substantial addressing of these twin policy requirements anywhere in the application documents.
2. As matters stand at present, we do not believe that the Secretary of State could lawfully discharge his Section 104 (2) (a) and (aa) Planning Act 2008 duties:

104 [F¹Decisions in cases where national policy statement has effect]

- (1) This section applies in relation to an application for an order granting development consent if [F²a national policy statement has effect in relation to development of the description to which the application relates].
- (2) In deciding the application the [F³Secretary of State] must have regard to—
 - (a) any national policy statement which has effect in relation to development of the description to which the application relates (a “relevant national policy statement”),
 - [F⁴(aa) the appropriate marine policy documents (if any), determined in accordance with section 59 of the Marine and Coastal Access Act 2009;]

The Twin Policy Requirements: enhancement and optimisation of fisheries

3. At issue is whether the Applicant has recognised, understood and applied all of the relevant NSIP policy requirements.
4. Bodorgan Marine has a particular focus on 2 marine policy requirements. The first policy requirement, enhancement, deals with the narrow issue of the design of mitigation. The second is a broader policy requirement on all development in the Welsh marine space. This submission refers to these 2 policy requirements of enhancement and optimisation of fisheries as the Twin Policy Requirements.
5. NPS EN3 paragraphs 2.8 250 and 251: in short, there is a policy requirement for the enhancement of fisheries to be the central part of the mitigation design process:

Commercial fisheries and fishing

- 2.8.250 Any mitigation proposals should result from the applicant having detailed consultation with relevant representatives of the fishing industry, IFCA's, the MMO and the relevant Defra policy team in England and NRW and the relevant Welsh Government policy team in Wales.
- 2.8.251 Mitigation should be designed to enhance, where reasonably possible, any potential medium and long-term positive benefits to the fishing industry, commercial fish stocks and the marine environment.

6. Policy ECON 02 of the 2019 Welsh Marine Plan: in short, there is a policy a requirement for all proposals in the Welsh Marine Space to seek to optimize the value and use of marine resources through co-existence.

Policy

ECON_02: Coexistence

Proposals should demonstrate how they have considered opportunities for coexistence with other compatible sectors in order to optimise the value and use of the marine area and marine natural resources.

Policy Aim

103. This Plan supports coexistence of relevant activities and uses by encouraging proposals to consider opportunities to bring together differing but compatible activities to make the best possible use of marine space and natural resources.

104. Under **Policy ECON_02**, proposals should set out how potential opportunities for coexistence with other activities have been assessed and how realising these opportunities could optimise the value and sustainable use of the Plan area. Proposals should demonstrate the extent to which they will coexist with other activities and how this will be achieved. Consideration should also be given to the coexistence of activities and developments in adjacent marine planning areas and at the land-sea interface in order to optimise the value and sustainable use of wider resources. It is recognised projects may not be able to identify realistic coexistence opportunities.

Examination of how the Applicant has addressed the Twin Policy Requirements: the Outline Fisheries Liaison and Co-Existence Plan

7. There is no mention of the Twin Policy Requirements in the OFLCEP; see para 1.1.4

1.1.4 Guidance and legislation

1.1.4.1 This Outline FLCP has been developed with reference to the following key legislation and guidance documentation:

- Fisheries Act 2020 – Joint Fisheries Statement: Displacement Policy
- Fishing Liaison with Offshore Wind and Wet Renewables Group (FLOWW) Best Practice Guidance for Offshore Renewables Developments. Recommendations for Fisheries Liaison (FLOWW, 2014)¹
- FLOWW Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Disruption Settlements and Community Funds (FLOWW, 2015)
- Marine Scotland Guidance on preparing a Fisheries Management and Mitigation Strategy – Draft (Marine Scotland, 2020)
- Seafood/Offshore Renewable Energy (ORE) Engagement in Ireland - A Summary Guide (Department of Housing, Local Government and Heritage, 2023)
- International maritime regulations as adopted by the relevant flag state such as International Regulations for Preventing Collisions at Sea (COLREGS) (IMO, 1972/77) and Safety of Life at Sea Convention (SOLAS) (IMO, 1974).

Examination of how the Applicant has addressed the Twin Policy requirements: The Environmental Statement: Volume 2 Chapter 6 on Commercial Fisheries

8. Volume 2 Chapter 6 deals with commercial fisheries.

NPS EN3

9. The policy of requirements NPS EN 3 paragraphs 250 and 251 are referred to at Table 6.2 in the section which deals with policy.

<p>Any mitigation proposals should result from the applicant having detailed consultation with relevant representatives of the fishing industry, IFCAs, the MMO and the relevant Defra policy team in England and NRW and the relevant Welsh Government policy team in Wales. (paragraph 2.8.250 of NPS EN-3)</p>	<p>been included in the Application (Document Reference: J10). Consultation is an important aspect of the assessment of potential impacts on commercial fisheries for the Mona Offshore Wind Project and any related mitigation. Early engagement was established with fisheries stakeholders in June 2021 and will continue throughout the lifetime of the project (see section 6.3). A Fisheries Liaison and Coexistence Plan is being developed by the Applicant through ongoing consultation with fisheries stakeholders. An outline of this plan has been included with the Application (Document Reference: J10).</p>
<p>Mitigation should be designed to enhance where reasonably possible any potential medium and long-term positive benefits to the fishing industry and commercial fish stocks and the marine environment. (paragraph 2.8.251 of NPS EN-3)</p>	<p>Mitigation measures are presented in section 6.7.</p>

10. The substance of the Applicant’s mitigation approach is set out in Section 6.7 which deals with ‘Measures’ at pages 63-66.

11. The focus of the Measures appears to be on the reduction of impact. There is nothing on the enhancement of fisheries: see 6.7.1.2.

6.7.1.2 A number of measures (primary and tertiary) have been adopted as part of the Mona Offshore Wind Project to reduce the potential for impacts on commercial fisheries (see Table 6.15).

The Welsh Marine Plan

12. The 2019 Welsh Marine Plan requirements are dealt with at paragraph 6.2.2 and following as follows and by reference to other chapters of the Environmental Statement:

ECON_02: Co-existence	Proposals should demonstrate how they have considered opportunities for co-existence with other compatible sectors in order to optimize the value and use of the marine area and marine natural resources.	Co-existence impacts are assessed in Volume 4, Chapter 3: Socio-economics, and community in Volume 2, Chapter 11: Inter-related effects (offshore) of the Environmental Statement.
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Examination of how the Applicant has addressed the policy requirements of the Welsh Marine Plans: Volume 4, Chapter 3 on socio-economic matters

13. We cannot see anything on enhancement or optimisation of fisheries in Volume 4, Chapter 3.

Examination of how the Applicant has addressed the policy requirements of the Welsh Marine Plan: Volume 2, Chapter 11 on Inter-related Effects

14. At 11.6.4: there is nothing on enhancement or optimisation of fisheries.

11.6.4 Human environment

Commercial fisheries

11.6.4.1 For commercial fisheries, the following potential impacts have been considered within the inter-related assessment:

- Loss or restricted access to fishing grounds
- Displacement of fishing activity into other areas
- Interference with fishing activity
- Loss or damage to fishing gear due to snagging
- Potential impacts on commercially important fish and shellfish resources
- Supply chain opportunities for local fishing vessels
- Potential impacts on commercial fisheries as a result of increased risk of introduction and spread of INNS.

Other comments: co-location and co-existence

15. The Applicant has appeared to conflate co-existence and co-location.

16. The definitions of co-location and co-existence for present purposes are set out in the 2019 Welsh Marine Plan at paragraph 98 which immediately precedes policy ECON 02.

Supporting coexistence

98. Coexistence is where multiple developments, activities or uses can exist alongside or close to each other in the same place and/or at the same time. Coexistence is already common in the marine environment. Co-location is a subset of coexistence and is where multiple developments, activities or uses coexist in the same place by sharing the same footprint or area.

17. Paragraphs 98-102 examine and provide policy support for co-existence.
18. The 2020 CEFAS Report on Co-existence¹ takes this examination further and identifies off-shore aquaculture as the optimal form of co-location with offshore wind.

Other comments: the Applicant's response at Outline Hearing 4

19. After Bodorgan Marine had made its submission at Outline Hearing 4, the Applicant's representative stated that this was the first time the Applicant had heard the issues raised by Bodorgan Marine. While that statement might have been correct in a narrow sense as that Hearing was the first occasion on which Bodorgan Marine have spoken, Bodorgan Marine have been making representations to similar effect consistently since May 2024.
20. The Applicant made reference to the fact that it was proposing by way of biodiversity mitigation to enhance shell fish. We have not yet managed to find the relevant passage in the application documents and consequently are not able in this representation to comment on the extent to which this proposal contributes to the discharge of the Applicant's obligations.

¹ Bodorgan Marine has made representations to the effect that the 2020 Cefas Report on Co-existence should be an Examination Document.