

# **Application by Mona Offshore Wind Limited for an Order Granting Development Consent for the Mona Offshore Wind Farm (Ref. EN01037)**

## **Submission for Examination**

**Deadline 4**

**4 November 2024**

## **Joint Nature Conservation Committee (JNCC):**

# **Minimise Impacts to Marine Mammals and Rafting Birds**

## **JNCC comments on Minimise Impacts to Marine Mammals and Rafting Birds ([REP3-020](#))**

### **1. Amendments made to the Measures to Minimise Impacts to Marine Mammals and Rafting Birds**

We welcome the amendments made to the Measures to Minimise Impacts to Marine Mammals and Rafting Birds ([REP3-020](#)) to clarify which measures apply to which element of the proposed works. We have the following comments to make on issues that remain outstanding. Our comments below relate to the red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA.

#### **2. Export cable installation**

With respect to mitigation related to export cable installation (i.e. seasonal restriction during the sensitive period for the red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA, and measures to minimise disturbance to rafting birds outside this SPA), JNCC is satisfied with the measures proposed.

However, there are other elements of pre-construction and construction phases where we believe similar mitigation should be applied, which we outline below, in order to reach a conclusion of no Adverse Effect on Site Integrity on the red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA.

#### **3. Landfall**

We note the clarification given by the Applicant on their reasoning for not including a seasonal restriction on landfall works within the Liverpool Bay/Bae Lerpwl SPA ([PDA-008](#), row RR-011.24). We highlight that given the Applicant is unable to state at which port vessels will be based and hence what route would be taken across the SPA and the location of the landfall, it is unlikely that vessel transits would be entirely within existing shipping routes, and therefore disturbance of red-throated diver and common scoter are likely. We note the advice previously given by both NRW Advisory and NE on the temporary nature of this aspect of the works. However, in JNCC's view, the inability of the Applicant to include the port and hence likely route of vessel traffic at this stage introduces uncertainty over the route taken by vessels across the SPA and reduces the robustness of the assessment of disturbance impacts on the red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA. The applicant is currently unable to calculate the areas of habitat affected or the number of birds likely to be displaced by these activities. We welcome the commitment to manage vessel movements in accordance with the best practice outlined in [REP3-020](#), but it remains our view that an Adverse Effect on Site Integrity cannot currently be ruled out, and Adverse Effect on Site Integrity would be ruled out by avoiding works during the most sensitive period (1 November – 31 March).

#### 4. Pre-commencement works

As currently set out in the draft [DCO](#) and Measures to minimise disturbance to marine mammals and rafting birds from transiting vessels ([REP3-020](#)), it is unclear to what extent the measures to minimise disturbance to rafting birds would apply to pre-commencement activities.

Measures to minimise disturbance to marine mammals and rafting birds from transiting vessels ([REP3-020](#)) paragraph 1.3.1.1 states '*cable installation activities in the Liverpool Bay/Bae Lerpwl SPA will not take place during 1st November to 31st March*', but we note that 'cable installation activities' are not defined in this document. The draft [DCO](#) does not define 'cable installation activities, but defines 'commence' as '*the first carrying out of any licensed marine activities authorised by the deemed marine licence, save for pre-construction surveys and monitoring, and unexploded ordnance surveys and clearance of unexploded ordnance authorised under the deemed marine licence*'. This would imply that there would be no requirement for these activities to avoid the sensitive period where they occur within the SPA.

##### 4.1. Non-UXO-related activity

The parts of draft DCO Schedule 14 Condition 18 dealing with monitoring and mitigation, together with condition 19, appear to cover many eventualities, including imposing the seasonal restriction on construction, maintenance and operation activities via the ([REP3-020](#)), which forms part of the Offshore Environmental Management Plan.

However, one effect of the definition of commencement is that non-intrusive preconstruction surveys could potentially take place prior to commencement, and prior to the submission and approval of the Condition 18 information without any breach of the licence conditions. This is because carrying out those activities would not, in themselves, commence the authorised scheme, and so the Condition 18 prohibition is not triggered.

The monitoring provisions in Condition 18(1)(c) do include pre-construction surveys, and do not distinguish between intrusive and non-intrusive surveys. However, the Offshore Environmental Management Plan mitigation requirements in Condition 18(1)(e) only apply to the construction and operation of the authorised scheme, not to the pre-construction period. Therefore the component of that plan at subparagraph (vi) (measures to minimise disturbance to marine mammals and rafting birds from transiting vessels) would not appear to deal with any adverse effects arising from the pre-construction surveys.

This indicates that the overall purpose of the requirements of Condition 18 are to monitor and mitigate for the construction, maintenance and operational phases of the project; and not to mitigate for pre-construction activities such as surveying efforts.

JNCC is concerned by the potential for vessel movements associated with pre-construction survey efforts to have adverse impacts on the SPA, particularly when combined with other vessel movements associated with the project, and in-combination with other Plans and Projects. We do not consider that this aspect of the project has been fully considered, similar to our comments on vessel movements associated with the landfall above, and in our view an Adverse Effect on Site Integrity cannot currently be ruled out. Adverse Effect on Site Integrity would be ruled out by avoiding works during the most sensitive period (1 November – 31 March), and suggest that the draft DCO is amended accordingly.

#### 4.2. UXO-related activities

As above, JNCC is concerned by the potential for vessel movements associated with UXO clearance and survey efforts to have adverse impacts on the SPA, particularly when combined with other vessel movements associated with the project, and in-combination with other Plans and Projects.

Draft DCO Schedule 14 Condition 21 prohibits UXO clearance (removal or detonation of unexploded ordnance) from commencing until a number of requirements have been satisfied. These include, among other things the submission and approval (in consultation with JNCC) of:

- 21(1)(a)(i)(aa) – a method statement which included methodologies for the identification and investigation of potential unexploded ordnance targets;
- 21(1)(b) – a marine mammal mitigation protocol, in accordance with the outline marine mammal mitigation protocol

Condition 21(4) requires that the unexploded ordnance clearance activities must be carried out in accordance with the two approved documents referred to above. However, we note that Condition 21(4) refers to UXO clearance activities, and not to UXO survey (identification and investigation). In our view, the wording of condition 21(4) should be amended to include this.

In our view, to avoid a conclusion of Adverse Effect on Site Integrity, explicit reference to the seasonal restriction (1 November – 31 March) should be included in the draft DCO. We recognise that there would be a consultation on the UXO clearance method statement, where we would advise that no activity should occur within the SPA during the winter season, but have concerns that given this consultation would be after the close of Examination, there is current uncertainty as to whether that seasonal restriction would be applied.

## 5. Guard vessels

JNCC is concerned by the potential for vessel movements required for ‘guarding’ as-yet unprotected cables to have adverse impacts on the SPA combined with other vessel movements associated with the project, and in-combination with other Plans and Projects. Draft DCO Schedule 14, Part 18(d)(vi) refers to guard vessels to be employed. HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments Table 1.5 ([APP-033](#)) refers to up to 18 guard vessel movements within the Mona offshore cable corridor and access areas, but we are unable to locate where within the HRA this has been assessed.

This would appear to be an activity associated with the construction phase, and so it would be possible to secure this through condition 18(1)(e)(vi) – though it is recommended that the Measures to Minimise Disturbance To Marine Mammals And Rafting Birds From Transiting Vessels document ([REP3-020](#)) is amended, if necessary, to make it clear that the seasonal restriction applies to this.

## 6. Overall Recommendation

JNCCs recommendation is that to avoid a conclusion of Adverse Effect on Site Integrity resulting from disturbance caused by vessel movements associated with pre-construction and construction activities, that both the Offshore Environmental Management Plan and the definition of cable installation activities associated with the seasonal restriction in section 1.3.1 of the Measures to Minimise Disturbance To Marine Mammals And Rafting Birds From Transiting Vessels document ([REP3-020](#)) should be amended to include pre-commencement period to including vessel movements associated with:

1. Landfall;
2. pre-commencement non-UXO and UXO-related activities, and;
3. guard vessels.