

# MONA OFFSHORE WIND PROJECT

## Hearing Summary (ISH5) dDCO

Deadline: 4

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Image of an offshore wind farm

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# 1 Summary of the Applicant’s Oral Submission at ISH5

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2	<b>Purpose of the Issue Specific Hearing</b>	
3	<p><b>Articles and schedules of the draft DCO (excl. 2, 10, 12, 14, 15)</b></p> <p>(a) The Applicant will be asked to briefly highlight changes which have been made to the draft DCO submitted at Deadline 2 (D2) [REP2-004].</p>	<p><b><i>Explain the DCO and how it works</i></b></p> <p>(1) The Applicant confirmed that the draft DCO follows precedents set by other recently consented DCOs including Awel y Mor, Sheringham and Dudgeon and Hornsea which are fully set out and described in the Explanatory Memorandum (REP2-006).</p> <p>(2) The Applicant clarified that Part 1 sets out the definitions which apply within the rest of the Order, including key definitions of “commence”; “authorised project”; “maintain” and other definitions relating to built elements of the project and various relevant documents which will be certified.</p> <p>(3) The Applicant explained that Part 2 of the draft DCO covers principal powers which includes the power to consent the project under the Planning Act 2008 by virtue of article 3, which grants authority to construct the authorised project subject to other controls set out in the draft DCO. The Applicant confirmed this includes requirements for the authority to operate the authorised project within article 4 and the ability to maintain it under article 6.</p> <p>(4) The Applicant confirmed other articles in Part 1 cover items such as the deeming of the marine licence and the disapplication or modification of other legislation. The Applicant explained that in Part 3, various articles are included to provide street works and traffic regulation powers to allow the undertaker to interfere with and execute works in or under streets within the Order limits for the purposes of the authorised project. The Applicant clarified that this includes temporarily stopping up or restricting streets or rights of way and is to facilitate the provision of temporary and permanent accesses along the onshore cable corridor at landfall and the onshore substation site, therefore precluding the need to seek separate consent from the Local Highways</p>

Authority. The Applicant confirmed that details of the streets and rights of way are set out in Schedules 3, 4, 5 and 6.

- (5) The Applicant explained that Part 4 contains supplemental powers including the power to make connections into watercourses and drains, for example the power to access and survey or investigate land and the ability to undertake protective works to buildings. The Applicant confirmed Part 5 contains the powers of compulsory acquisition and temporary possession as described in Compulsory Acquisition Hearing 1 [**Post hearing note:** See the Hearing Summary (CAH1) Compulsory Acquisition Hearing 1 (Document Reference S\_D4\_3 F01) paragraphs 2 to 12]. The Applicant confirmed that the final section of the draft DCO articles are contained in Part 6 and these are a series of articles covering miscellaneous matters, for example the ability to fell or lop trees and remove hedgerows and undertake works to trees which are subject to tree presentation orders. The Applicant confirmed that specific matters relating to Trinity House and Crown bodies are set out in Part 6 and a series of articles follow this that apply the relevant schedules later in the draft DCO, for example article 40 applies protective provisions as set out in Schedule 10.
- (6) The Applicant confirmed that Schedule 1 contains the details of what constitutes the authorised project and details the various works descriptions numbered 1 to 36 which apply to the work areas as identified on the works plan – onshore.
- (7) The Applicant confirmed that Schedule 2 sets out the requirements which the undertaker must comply with as part of the construction, operation, maintenance and decommissioning of the authorised project.
- (8) The Applicant highlighted that the draft DCO has been drafted to take account of comments made by interested parties which includes Denbigshire County Council (**DCC**) and Conwy County Council (**CCC**), Natural Resources Wales (**NRW**), Trinity House and also comments made by the Examining Authority. The Applicant confirmed that taking such comments and perspectives into account will continue throughout Examination.

***Deadline 2 changes***

- (9) The Applicant set out the main changes which were made to the draft DCO at Deadline 2 in respect of the articles. The Applicant confirmed that these largely fall into three main categories, namely (i) changes made to provide further detail on the temporary construction compounds which are required in connection with the construction of the development; (ii) changes to the transfer of the benefit of the Order under article 7; and (iii) addition of article 47 inconsistent planning permissions.

**Changes to works descriptions and associated definitions for TCCs**

- (10) The Applicant confirmed that it understood from comments made by the Examining Authority during Issue Specific Hearing 1 that further clarity was required regarding the different types of temporary construction compound which are required in relation to the construction of the development and how those were to be controlled.
- (11) The Applicant confirmed that following Issue Specific Hearing 1 further details of temporary construction compounds were set out at Annex 2 of the Response to Hearing Action Points (REP1-012) and the Applicant updated the Works descriptions in Schedule 1 of the draft DCO and added complementary new definitions to Article 2.
- (12) The Applicant confirmed that in respect of the Works descriptions, Work No. 10 was updated to refer to the transition joint bay temporary construction compound and a secondary temporary construction compound, which together will not exceed 30,000 m<sup>2</sup>. The Applicant confirmed that Work Nos. 13, 16 and 18 were updated to include reference to primary and secondary temporary construction compounds as appropriate and Work Nos. 23 and 24 were updated to include reference to the onshore substation temporary construction compound.
- (13) The Applicant confirmed that new definitions have been added for these temporary construction compounds which include reference to the activities to be undertaken there and the maximum area to be covered by those. Therefore, the restriction on the maximum land take for temporary construction compounds is applied through the definitions.

**Changes to Article 7 benefit of the order**

- (14) The Applicant confirmed that article 7 of the draft DCO allows the benefit of the Order to be transferred or leased to others by the undertaker. Without the ability to transfer the benefit, no party but the undertaker could operate the power station without committing a criminal offence. The Applicant explained that this article is therefore necessary to ensure that the authorised project is fundable and could be sold or leased in the future and for the transmission and generation assets to be owned separately in future, while the Secretary of State retains the ability to approve any transfer or lease.
- (15) The Applicant reviewed the drafting of article 7 and made updates to align that drafting with more recent precedent wording included in offshore wind farm development consent orders and in particular to align with the Morgan Generation Assets draft DCO [Post hearing note: Further updates have been made to the drafting of Article 7. Please see October Response to Hearing Action Points (Document Reference S\_D4\_6 F01), Row HAP\_ISH5\_05 and the draft development consent order

(Document Reference C1 F05)]. The Applicant confirmed that the purpose of these changes is to allow for the whole of a deemed marine licence (**dML**) to be transferred or leased only and the ability, therefore, to transfer or lease part of a dML has been removed. The Applicant confirmed that although some additional drafting updates were made to align with the Morgan Generation Assets draft DCO, those do not change the meaning of the drafting.

***Addition of article 47 covering inconsistent planning permissions***

(16)The Applicant explained that following the Supreme Court ruling in *Hillside Park v Snowdonia National Park Authority* [2020] EWCA Civ 1440, the insertion of article 47 (Inconsistent Planning Permissions) is prudent to address the risk to the Applicant associated with the implementation of planning permissions which overlap with or are inconsistent with the Mona draft DCO.

(17)The Applicant explained that the *Hillside* case sought to clarify the approach to successive grants of planning permissions within the same red line boundary under the Town and Country Planning Act 1990.

(18)The Applicant clarified that in the *Hillside* case it was held that if there is an existing planning permission which has been implemented, a second permission which overlaps physically with that original permission cannot be lawfully implemented if there is a physical barrier (created by the implementation of the first permission) which prevents the second permission being constructed.

(19)The Applicant confirmed that article 47(1) deals specifically with planning conditions on other Town and Country Planning Act 1990 consents and where those are inconsistent with the authorised project. Article 47(1) circumvents any risk of non-compliance with the Mona draft DCO requirements due to the conflicts with those permissions by allowing the authorised project to take precedence over the conditions of those to the extent they conflict with the authorised project. To ensure the proposed development has certainty over the ability to proceed, while at the same time ensuring that there are no unnecessary constraints over other consents granted under the Town and Country Planning Act 1990, the provision applies from the date on which the proposed development is commenced.

(20)The Applicant confirmed article 47(2) deals with planning permission granted in respect of land within the Order limits. Where those planning permissions are consistent with the authorised development but have environmental impacts that will exceed those assessed in the Environmental Statement (**ES**) or for any development that is unrelated to the authorised development, article 47(2) ensures that the implementation



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		<p>of such consents will not render development pursuant to the draft DCO incapable of further implementation. The Applicant explained this will allow for a separate planning permission to be granted and implemented for part of the proposed development, for which a separate Environmental Impact Assessment (“EIA”) has been carried out, without the undertaker losing the ability to continue to construct the remainder of the proposed development. Essentially, the provision operates to allow drop-in permissions which may necessitate a subsequent environmental assessment or indeed those that are not related to the original development without precluding those works consented through the draft DCO.</p> <p>(21)The Applicant confirmed the drafting of the article in 47(3) removes the risk of criminal liability pursuant to sections 160 and 161 of the Planning Act 2008 through conflicting planning consents and ensures that enforcement action is not taken in respect of any planning permissions which are inconsistent with the works and exercise of powers under the draft DCO.</p> <p>(22)The Applicant summarised the inclusion of article 47 is to prevent issues arising out of the <i>Hillside</i> case whereby the delivery of the authorised project might be hindered by either: (i) a third party consent which is inconsistent with the Mona DCO; (ii) the conditions attached to a third party consent are inconsistent with the Mona DCO; and/or (iii) where Mona itself requires an additional Town and Country Planning Act 1990 consent which is technically inconsistent with the Mona DCO but is nonetheless required in order to deliver the consent. The Applicant confirmed its belief that the drafting achieves those purposes. <b>[Post hearing note: See paragraphs 40 and 41 below for further detail.]</b></p>
	<p>(b) The ExA may ask questions in respect of articles and schedules in the draft DCO, seeking responses from the Applicant and Interested Parties (IPs).</p>	<p>(23)In response to the Examining Authority’s comment on the preamble text, the Applicant confirmed that there is no article in the draft DCO that refers to open space. The Applicant explained that although open space land at landfall and beach areas had been identified, it is not designated in local plans as such. The Applicant confirmed its position, as stated in the Statement of Reasons (REP3-004), that there would be no need to include such an article because there will be no permanent loss of open space by virtue of the cable works and use of the temporary construction compound. However, the Applicant confirmed it was happy to review the position in respect of a potential additional article for open space <b>[Post hearing note: see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_01].</b></p> <p>(24)The Applicant agreed to review whether a definition of “building” requires updating given Requirement 6 restricts building height to 26m which is below the height of</p>



lightning masts (which currently fall within the definition) [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_02].

(25) The Applicant agreed to review whether the definition of “commence” which for offshore works references the carrying out of licensed marine activities authorised by the dML, should also refer to the standalone Marine Licence. The Applicant noted that the standalone Marine Licence is a separately licenced document and therefore it is questionable whether there are links between the works licenced under that consent and the definition in the draft DCO [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_03].

(26) The Applicant noted the reference to additional wording within the definition of “maintain” in other made DCOs such as The Sheringham Shoal and Dudgeon Extensions Offshore Wind Farm Order 2024 and confirmed familiarity with that particular drafting and discussions referenced by the Examining Authority. The Applicant explained that there are concerns in respect of the potential to restrict the undertaker’s ability to carry out repairs that would necessitate replacement of a wall forming part of the substation building, for example. The Applicant confirmed that it would nonetheless review the definition of “maintain” while ensuring this would not unnecessarily restrict the undertaker’s ability to make the buildings safe [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_04].

(27) The Applicant confirmed that the definitions of “mean high water” and “mean low water” were amended in version two of the draft DCO from “mean high water springs” and “mean low water springs” because on the annotations within the Ordinance Survey (OS) Maps, it is referred to “mean high water” and “mean low water”. The Applicant confirmed it was aware that NRW maintain that the definition should revert back to the original position to ensure consistency with the Marine and Coastal Accesses Act 2009 (MCAA 09) and to avoid a potential discrepancy between the boundaries of Works within the transmission marine licence and with Works No. 3 and 8 of the draft DCO. The Applicant highlighted, though, that this was largely a technical matter which will not change the practicalities of the Works. The Applicant explained that sufficient clarity needs to be provided in respect of the interaction between the offshore works and the onshore works. The Applicant confirmed that it understood NRW’s position that conceptually there is a mean high water springs and a mean low water springs, but because this is not shown on any of the Welsh OS Mapping bases, the Applicant favours the amended definition to demonstrate a clear delineation between offshore and onshore works. In response to the Examining Authority’s point on consistency, the Applicant noted that if the definition was clear on the Works Plans - onshore (AS-003) and the draft DCO it follows that the Environmental Statement and the various outline

management plans could differ, but nevertheless agreed to review the definition and attempt to reach resolution with NRW. **[Post hearing note:** See S\_D4\_6 F01 Mona Response to October Hearing Action Points, Row HAP\_ISH5\_03.]

(28)The Applicant clarified that the intention with the site accesses in relation to the onshore preparation works is that they are there for the establishment of the access bellmouth and there would not be a further approval process required from the local highways authority. The Applicant confirmed that discussions were ongoing with the local highways authority to ensure that the Outline highways authority management plan (APP-228) contains sufficient information and detail regarding the site accesses. The Applicant confirmed this is not just the temporary hardstanding accesses, but the creation of those permanent site accesses at landfall and the substation. The Applicant confirmed that discussions with the local highways authority are also connected to the street works and traffic regulation powers contained with the draft DCO and are working towards ensuring safety information will be provided in advance of the access being delivered and that the Outline highways authority management plan (APP-228) will provide for agreement between the Applicant and the local highways authority. The Applicant explained that it was exploring drafting options regarding the relevant requirements to ensure the position is aligned between the draft DCO and the Outline highways authority management plan. In response to a comment from the representative of Denbighshire County Council and Conwy County Borough Council, the Applicant agreed that this is an ongoing matter of discussion between the Applicant and the local highways authority. The Applicant confirmed that the aim is to resolve this for Deadline 5.

(29)In response to the Examining Authority’s query about the need for a definition of “stages”, the Applicant confirmed that the starting point was such definition is not needed and within the relevant requirement there is flexibility for how each stage would be discharged. The Applicant agreed to review the Yorkshire Green Development Consent Order’s definition of “stages” to see if this could be worked into the Mona drafting. **[Post hearing note:** By way of clarification, Requirement 4 of the Draft DCO provides for flexibility in respect of the discharge of stages of the authorised development and distinguishes between a single stage or two or more stages. Requirement 4 further provides for commencement of the onshore works as contingent on the submission and approval of the details of these stages to the relevant planning authority. The National Grid (Yorkshire Green Energy Enablement Project) Development Consent Order 2024 defines “stages” as “*a defined stage of the authorised development, as described in a scheme submitted to the relevant planning authority pursuant to requirement 4*”. This definition, therefore, does not do more to provide clarity on what the stages would be.]

(30) In response to NRW Licensing Team's concerns about the lawfulness of the transfer position under article 7 being changed, the Applicant confirmed that it would be unlikely that agreement will be reached on this point, as noted in NRW's deadline 3 submission (REP3-090), and it will ultimately be a matter for the Secretary of State and Examining Authority to exercise their discretion in determining this matter. The Applicant confirmed that this power is that, when the Planning Act 2008 process came into place and was implemented for new projects, was the subject of early discussions with the Marine Management Organisation (**MMO**) in respect of those transfer provisions. The MMO's position was a concern around the partial transfer of a dML and if this split the licence then there would be issues of enforceability. The Applicant explained that this is how the practice of having separate marine licences for generation and transmission materialised: to facilitate the offshore transmission operator transfer, there would not need to be a split of a marine licence. Subject to resolving those matters, within made development orders since then, it has been legally established that it is possible to transfer a dML with a transfer of the relevant provisions in the DCO. The Applicant confirmed that the wording within this draft DCO is appropriate and the Applicant has provided drafting at article 7(11) which disapplies relevant provisions of the MCAA 09 to provide clarity that provisions under section 72(7) and (8) will deal with transfer of the dML.

(31) The Applicant confirmed it understands NRW's point that a transmission Marine Licence under NRW procedures could not be an automatic transfer but the Applicant maintained that this does not justify why this would be disapplied in respect of the generation element. The Applicant confirmed that the DCO process is designed to streamline as far as possible and it is fundamental to the Applicant that this provision is included. The Applicant contended that despite this being the first dML within Wales, this is not sufficient reason to change from recognised precedent. The Applicant noted that the article is subject to Secretary of State approval save when transferring to another party that has an electricity licence and the Secretary of State must consult with NRW. The Applicant confirmed that NRW will be part of the process in terms of deciding the suitability of the party to whom the dML is transferred and the provisions are appropriate and well precedented. The Applicant reiterated that its position will not change in respect of the drafting.

(32) The Applicant agreed to review paragraph 7(7) in respect of excluded paragraph 7(5). The Applicant confirmed that notification to the Secretary of State under paragraph 7(8) is required because there will be circumstances in which Secretary of State consent is not required, for example to the holder of the generation licence.

(33) In response to the Examination Authority's point that Article 8(a)(c) requires section 150 Planning Act 2008 consent by virtue of affecting the Councils, the Applicant

confirmed that discussions are underway with the local planning authority and if consent is not forthcoming then the provisions will need to be removed.

- (34) The Applicant confirmed that the intention behind article 12 is to provide for stopping of or alteration or any diversion of any street for the purposes of carrying out the authorised development which means streets both within and outside of the order limits. The Applicant agreed to provide further clarity in respect of why this is appropriate and proportional in the Explanatory Memorandum (REP2-006). **[Post hearing note: see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_06].**
- (35) The Applicant confirmed that there are no known burial grounds with the Order Limits, save for remains being found during the trial trenching exercise which will be covered in the update to the outline Onshore Written Scheme of Investigation (APP-209). The Applicant confirmed that this article will remain in the draft DCO subject to the Examining Authority or Secretary of State exercising their discretion to remove it.
- (36) In response to the National Farmer's Union's (NFU) submissions in respect of article 17, the Applicant confirmed that the intention of the wording in 17(1) will allow survey and investigation both within the Order Limits and any land affected by the authorised project. An example of where surveys on land outside the Order limits may be required is the Tan-y-Mynydd Trout Fishery Ltd **[Post hearing note: For example in relation to monitoring which is described in row REP1-080.5 of Response to Written Representations (REP2-078)].** For reasons like this, inclusion of this power and the related wording is necessary and is also well precedented. The Applicant noted the NFU's comment in respect of article 17(2) and agreed to take away and review the position in relation to landowners being aware of the reason for entry, accepting that this was a reasonable request **[Post hearing note: see S\_D4\_6 F01 Mona Response to October Hearing Action Points, rows HAP\_ISH5\_07 and HAP\_ISH5\_08].**
- (37) The Applicant confirmed that article 20 achieves exception of Crown interests from compulsory acquisition powers by virtue of article 39 which states that nothing in the draft DCO will affect any interest or estate and confirms that the undertaker cannot compulsorily acquire Crown land.
- (38) The Applicant confirmed that the 28-day period for notice to landowners under articles 29 and 30 is a standard period and highlighted that this is a minimum period of not less than 28 days and therefore is considered reasonable. In response to the interested parties' examples of how this will impact farming businesses and practices, the Applicant clarified that the temporary possession powers are a last resort where it has not been possible to reach voluntary agreement with landowners in respect of

accessing land and articles 29 and 30 provide for compensation payments. The Applicant confirmed that timing of entry onto land will be done in such a way as to minimise the impacts to landowners and minimise compensation likely to be payable.

(39) The Applicant confirmed that the key driver for the inclusion of article 47 is a de-risking exercise. The fact that the development is a linear project means it carries with it the risk that the DCO will overlay on top of other consents which could interfere with landowners' use of the land and from the Applicant's perspective this is what article 47 seeks to mitigate and minimise.

(40) The Applicant clarified that article 47(2) covers development which is "consistent with" the authorised development and this is essentially development which could be part of the authorised development, for example where a DCO has been granted for associated development and amendments can be done through a Town and Country Planning Act 1990 application which is separate to the DCO. The Applicant provided a further example of a circumstance where it has been necessary to make a minor amendment to a highways access or the route of a cable corridor and rather than amending through the Planning Act 2008 process, such amendment can be done through a Town and Country Planning Act 1990 application which would then sit alongside a DCO but would affect the Order land and might be caught by the position set out in *Hillside*.

(41) The Applicant explained that development unrelated to the authorised project would essentially be anything brought forward by a third party which is not connected to the proposed scheme. The Applicant confirmed it would add in similar wording to the Explanatory Memorandum (REP2-006) [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, rows HAP\_ISH5\_09 and HAP\_ISH5\_10].

(42) The Applicant confirmed there have been communications with the local authorities regarding trees subject to tree preservation orders (TPO), and as set out in the Applicant's Tree Survey Clarification Note (REP3-049) was seeking precise details from Conwy County Borough Council of the precise details of trees protected by TPOs within the Order limits. The Applicant confirmed that since Deadline 3 Conwy County Borough Council has now provided this information and the Applicant having reviewed it has identified that trees subject to TPOs will need to be removed or cut back in order to deliver the landfall access. The Applicant confirmed it will update Schedule 11 at Deadline 4 to include relevant details for these works in a new Part 3 [**Post hearing note:** Please see the draft development consent order (Document Reference C1 F05), Schedule 11, Part 3].

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	<p>(c) IPs will also be invited to raise any matters in relation to Development Consent Order (DCO) articles and schedules</p>	
<p>4</p>	<p><b>Schedule 2 and Schedule 12 of the draft DCO (Requirements and approval of matters specified in requirements)</b></p> <p>(a) The Applicant will be asked to briefly highlight and explain any changes to requirements within the draft DCO submitted at D2. The ExA will then ask questions, seeking responses where appropriate from the Applicant and IPs.</p>	<p>(43) In response to the Examining Authority asking what is meant by proceedings under Requirement 1 and whether this should be defined in the DCO, the Applicant agreed to review the drafting and provide further detail and clarification in relation to how it would operate in practice including revisiting the point in respect of the additional year for a challenge to proceedings under Requirement 1(2) <b>[Post hearing note: see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_12].</b></p> <p>(44)The Applicant confirmed that in response to Examination Authority questions, tweaks to parameters under Requirement 2 will be made to mirror Table 4 in Schedule 14 in the next iteration of the DCO for submission at Deadline 4 <b>[Post hearing note: Please see the draft development consent order (Document Reference C1 F05), Schedule 2, Table 2].</b></p>
	<p>(b) IPs will also be invited to ask questions of clarification in relation to DCO requirements.</p>	<p>(45) The Applicant confirmed awareness of Ministry of Defence’s submissions requesting Requirement 3 to submit, approve and implement an aviation lighting scheme during the construction phase. The Applicant confirmed it was reviewing the drafting of the Requirement to better understand the concerns behind this request and considering the drafting in the Rampion 2 DCO. The Applicant explained that Requirement 3(2) is a standard article and the position going forwards in respect of the CAA’s will assume it is acceptable to the CAA. <b>[Post hearing note: The Ministry of Defence have since confirmed that they no longer require a review of this requirement wording].</b></p> <p>(46)The Applicant clarified that the reference to lowest permissible lighting in Requirement 3(3) is connected to the Air Navigation Order 2016 and this is therefore a technical matter but nevertheless agreed to review and assess whether further clarity is required. <b>[Post hearing note: see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_13].</b></p> <p>(47)In response to Denbighshire County Council’s and Conwy County Borough Council’s confirmation that discussions have been held to discuss submissions in the Local Impact Report (REP1-049) concerning whether or not sufficient detail had been included within Requirement 4 in respect of stages. <b>[Post hearing note: The Applicant confirms that such detail will be discussed at the next the SoCG]</b></p> <p>(48)The Applicant confirmed its intention to undertake a review of each requirement, including Requirement 5, to ensure a uniform structure is implemented in respect of retention and maintenance clauses to ensure all requirements are secured in</p>



perpetuity for the life of the development [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_14].

(49) The Applicant agreed to review the drafting of Requirement 6(4) in respect of trenchless techniques and explained that this was initially in the context of trenchless installation techniques being agreed and how this would relate to the onshore crossing schedule. The Applicant confirmed there is optionality in areas as to whether trenched or trenchless techniques will be used in such circumstances and therefore the Applicant needs to ensure flexibility is retained where optionality has been put forward. [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_15].

(50) In response to DCC and CCC's confirmation that Requirement 7 continues to lack a detailed management of landscape, as noted in the Local Impact Report, the Applicant confirmed discussions are ongoing. The Applicant explained that the position in respect of the implementation and maintenance of landscaping set out under Requirement 8 is appropriate for Requirement 7 and the justification for having the maintenance within the Outline landscape and ecology management plan (**LEMP**) (REP2-034) rather than on the face of the DCO is because of the flexibility needed in respect of final species and appropriate mitigation and management periods for those particular species.

(51) The Applicant clarified that Requirement 8 is solely related to Requirement 7 and confirmed the outline LEMP (REP2-034) will be updated to be clear around the replacement period or any landscaping outside of the substation area [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_16].

(52) The Applicant confirmed the drafting for Requirement 9 has been considered and will be updated for submission a Deadline 4 [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH3\_01]. The Applicant confirmed the outline landfall construction method statement (REP2-066) applies between mean low water springs and mean high water springs and is approved by the local authority because it covers part of the onshore area. The Applicant confirmed that this is in consultation with NRW in respect of elements within NRW's remit and forms part of works licensed under the standalone transmission marine licence.

(53) In response to Interested Party Mr Hussey's query in respect of mobilisation hours which appear in the outline code of construction practice (**CoCP**) (REP2-038) the Applicant confirmed that mobilisation hours as set out in the outline CoCP (REP2-038) are intended to ensure works can start promptly within recognised construction hours



and provides clarity around what activities can take place on site prior to works commencing. The Applicant explained there are noise restricted activities which are to be undertaken during the mobilisation period including ensuring safety checks have been undertaken, lighting installed and fencing erected and operatives arriving on site (excluding HGVs) [**Post hearing note:** Please see Response to Examining Authority's Written Questions (REP3-062), Q1.2.7]. The Applicant confirmed that as the local planning authority approve the final CoCP, if the Examining Authority or Secretary of State felt mobilisation hours were inappropriate, this would be noted in the report and picked up by local planning authority in terms of approval of the final CoCP (REP2-038).

(54) The Applicant explained the difficulty in specifying a discharge date to the relevant authority in respect of Requirement 15 given the Applicant does not know when those works will take place and be completed. The Applicant agreed to review the point given the interaction with restoration for the landowner alongside factoring in the time it will take for the council to discharge the requirement and the potential for changes; fixing timings too early might not benefit either party given the construction works are carried out on site. The Applicant confirmed the wording "approved in writing" will be added [**Post hearing note:** see S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_19].

(55) The Applicant confirmed the change to the approving authority to the Secretary of State under Requirement 19 is required because the Skills and Employment plan will be project-wide and therefore outside of the local planning authority's boundaries or NRW's as marine licencing authority. The Applicant explained that the final plan should align with the details of any contract for difference process which the Secretary of State will also be involved. The Applicant agreed to review the drafting in Awel y Mor in respect of this requirement and noted the Examining Authority's question in respect of liaising with the Secretary of State would be willing to resource this. The Applicant confirmed to respond to and incorporate into the updated version of the outline skills and employment plan at Deadline 4 the council's comments from deadline 3 [**Post hearing note:** The updated Outline Skills and Employment Plan has been submitted at Deadline 4 (J24 F02)].

(56) In response to the Examining Authority's query concerning the 20-day period provided for the relevant discharging authority under Schedule 12, paragraph 3(1), the Applicant explained the reason for the specific time period was to provide certainty as to timings for which discharges will be provided by local planning authorities. The Applicant confirmed it will review the time periods concurrently with the Councils' consideration of the Examining Authority's suggestion of 8 weeks as in a standard planning permission or the 13 weeks provided for in the Awel y Mor consent [**Post hearing**

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		<p><b>note:</b> see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_21].</p> <p>(57) In response to the Examining Authority's concerns with the 10-day period provided for further information, the Applicant confirmed it had further considered this time frame and will update this to 15 days. <b>[Post hearing note:</b> see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_21].</p> <p>(58) The Applicant clarified that fees are payable for each application and separate applications will incur separate fees.</p>
	<p>(c) The ExA will ask IPs, in particular Denbighshire County Council and Conwy County Borough Council as the relevant planning authorities, whether there are any concerns with the approaches taken to the discharge of requirements, or for managing appeals or disputes under the draft DCO.</p>	<p>(59)The Applicant agreed to review paragraph 2(3) of Schedule 12, Part 5 in response to the Councils' submission <b>[Post hearing note:</b> Please see the draft development consent order (Document Reference C1 F05), Schedule 12].</p>
	<p><b>Schedule 10 of the draft DCO (Protective Provisions)</b></p> <p>The Applicant will be asked to provide an update on progress between parties regarding protective provisions; an explanation of any important differences of view and a timescale for resolution.</p>	<p>(60)The Applicant confirmed there are no further updates in respect of the wording in Schedule 10 since the Compulsory Acquisition Hearing 1.</p> <p>(61) The Applicant confirmed that the drafting in Protective Provision Part 1 for the protection of electricity, gas, water and sewerage undertakers follows precedent and no changes will be made.</p> <p>(62)The Applicant confirmed that there will be no further changes to the drafting of Protective Provision Part 2 for the protection for operators of electronic communications code networks.</p> <p>(63)The Applicant confirmed that the Protective Provision Part 3 for the protection of Dwr Cymru Cyfyngedig is agreed and is not expected to change. The Applicant confirmed Dwr Cymru Cyfyngedig will write into the Examining Authority to confirm this position. <b>[Post hearing note:</b> see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_23].</p> <p>(64)In response to the Examining Authority's submission in respect of Protective Provision Part 4 for the protection of SP Manweb as electricity undertaker that suggested wording had been submitted to the Applicant, the Applicant confirmed that since Deadline 3 discussions had been ongoing with SP Manweb and agreement has been reached which will be added to the draft DCO at Deadline 4 <b>[Post hearing note:</b> see</p>

as stated in S\_D4\_6 F01 Mona Response to October Hearing Action Points, row HAP\_ISH5\_24 the Applicant has since identified a drafting point which requires clarification with SP Manweb prior to making the necessary updates to Schedule 10, Part 4. The Applicant is confident that this outstanding point is minor in nature and will not pose any barrier to SP Manweb and the Applicant reaching agreement on Protective Provisions. An update will be provided at Deadline 5]. The Applicant confirmed understanding than SP Manweb will write into the Examining Authority at Deadline 5 to confirm.

(65) The Applicant confirmed that discussions have been held with Wales and West Utilities in relation to the drafting of Protective Provision Part 5 in which comments and requested changes have been submitted. The Applicant confirmed that any updates will be made at the earliest opportunity and the Examining Authority will be updated.

(66) The Applicant confirmed discussions with the Welsh Ministers as Strategic Highway Authority for Protective Provision Part 6 are underway and close to agreement, subject to confirmation on one provision which is expected to be forthcoming.

(67) The Applicant confirmed that discussions with National Grid Electricity Transmission Plc are being held in respect the drafting of Protective Provision Part 7 and the parties are seeking to reach an agreed position by the end of Examination which will include the extension works to the substation, with a meeting scheduled in November with National Grid, the engineers and their legal representatives to move things forward. The Applicant confirmed that a commercial side agreement is being concurrently negotiated which will sit alongside the provisions.

(68) The Applicant confirmed discussions are underway with Network Rail in respect of the details of Protective Provision Part 8 the undertaker's framework agreement (which will sit alongside the protective provisions). The Applicant confirmed that a meeting with Network Rail was diarised for the week commencing 28 October 2024 to progress matters further [**Post hearing note:** The Applicant and Network Rail had arranged to meet on 31 October to further progress discussions, but this had to be rearranged by the Applicant due to a diary clash. This meeting has been rearranged for the week commencing 4 November 2024. The Applicant expects that it will reach agreement with Network Rail on these documents before the close of examination.].

(69) In response to the Examining Authority's question in respect of the relevant representation submitted by Awel y Mor [RR-003] concerning overlaps with their DCO and the Order limits, the Applicant confirmed that discussions are underway. There are ongoing considerations as to the best means of protection, in particular for any potential compulsory acquisition and temporary possession powers granted if

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		<p>appropriate and potential cross overs of cables around the substation. The Applicant confirmed that a meeting with Awel y Mor is being sought for the beginning of November to progress matters and determine the most appropriate course of action to secure protection, whether that it by way of protective provisions or a side agreement.</p> <p>(70)The Applicant noted the Examining Authority’s comments in respect of parties endeavouring to agree on protective provision drafting by the end of Examination to avoid the possibility of holding December hearings to go through a line-by-line review of the provisions. The Applicant submitted it would put forward its best endeavours to achieve this, notwithstanding that it remains the Applicant’s priority in such negotiations to maintain a position that is most acceptable to it in respect of the protective provisions.</p> <p>(71)The Application agreed to submit an iteration of the DCO at Deadline 6 to allow for all parties to consider the Applicant’s final position prior to Deadline 7.</p>
6	<p><b>Schedule 14 (Deemed Marine License)</b></p> <p>(a) The Applicant will be asked to briefly highlight any substantive changes to Schedule 14 submitted at D2. The Applicant and</p> <p>(b) NRW MLT will be asked for an update on the separate Marine Licence application for the Mona transmission assets.</p>	<p>(72)The Applicant clarified that the definition of “commence” within Schedule 14 (Deemed Marine Licence) excludes pre-commencement activities such as intrusive pre-construction surveys in response to comments raised by NRW Marine Licensing Team (MLT) which have been carved out of the DCO [<b>Post hearing note:</b> see S_D4_6 F01 Mona Response to October Hearing Action Points, row HAP_ISH5_03]. The Applicant explained that inclusion of these activities, which would otherwise require a marine licence exemption, means there is no requirement to seek an exemption expressly. The Applicant added that this approach clearly indicates that the carrying on of such activities will not trigger “commencement” for the rest of the dML.</p> <p>(73)The Applicant confirmed that the definitions of “mean high water springs” and “mean low water springs” have been removed from Schedule 14 because these terms are not referenced in the Schedule.</p>
	<p>(c) The ExA may ask questions about the provisions of the Deemed Marine Licence and the Marine Licence Principles Document [REP2-028].</p>	<p>(74)The Applicant confirmed that the Works description in paragraph 3 will be aligned with the Works description in Schedule 1 of the DCO [<b>Post hearing note:</b> Please see Response to NRW D3 Submission (Document Reference S_D4_16 F01), Row REP3-090.234].</p> <p>(75)The Applicant confirmed the intention of the structure of condition 17 is that subparagraph 1 will cover what happens in relation to all dropped objects where there is an environmental or navigational hazard posed by such object and the second subparagraph is intended to cover notifications and side sonar scans. The Applicant, in response to NRW MLT, confirmed that discussions are being conducted with the NRW MLT on the drafting of the dML in respect of this [<b>Post hearing note:</b> Please</p>

see Response to NRW D3 Submission (Document Reference S\_D4\_16 F01), Row REP3-090.237].

(76) In response to NRW MLT, the Applicant confirmed that it had sought to discuss with their team to provide a solution in respect of naming and listing consultation bodies within the dML. The Applicant explained that some bodies such as Trinity House and the MCA must be written into the dML as this is the only basis on which they will withdraw any objections to projects. The Applicant maintained that in order to satisfy requirements of organisation like these, there is no option but to write them in. The Applicant indicated that NRW Advisory are a key consultee and confirmed they will likely be written into the dML as a consultation body and reiterated the position of satisfying and ensuring no objections are maintained to the dML that are not necessary  
**[Post hearing note:** Please see Response to NRW D3 Submission (Document Reference S\_D4\_16 F01), Rows REP3-090.163 and REP3-090.239]. The Applicant confirmed its understanding that in respect of the standalone marine licence, NRW Licensing Team have complete discretion as to who is written into this.

(77) In response to the Examining Authority's question raised, the Applicant acknowledged the Examining Authority's request to tweak the drafting in condition 18(1)(a)(ii) of "confirm" to "confirmation" **[Post hearing note:** Please see the draft development consent order (Document Reference C1 F05), Schedule 14, Part 2, Condition 18(1)(a)(ii)].

(78) The Applicant clarified that the drafting of the mitigation monitoring schedule was updated to remove reference to the dML following review because it was not clear as to how that particular mitigation would be secured. There was no corresponding change to the dML needed. This matter is being discussed with interested parties to ensure comfort in respect of the mitigation and how this will be secured. **[Post hearing note:** Please see the Mitigation and Monitoring Schedule F02\_F03 (Tracked) (REP3-130), rows 2, 5, 6, 7 all of which highlight commitments which relate to the transmission assets and mitigation for that is therefore expected to be secured in the standalone marine licence.]

(79) The Applicant confirmed it would review the penultimate column of Table 1.5 within the offshore in principle monitoring plan provided for in condition 18(1)(c) to ensure the method of securing monitoring is clear and specific about which dML condition secures which strand of monitoring. The Applicant confirmed this would be included for Deadline 5.

(80) In response to NRW's position in respect of specified time scales for submission of plans and indication that conditions would not normally be included to this effect in a

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	<p>marine licence, the Applicant confirmed the condition is necessary for the same reason that Schedule 12 is included in the draft DCO which deals with how the local authorities are going to discharge the requirements. The Applicant confirmed that the wording here is more light touch than Schedule 12 and is in respect of the local authorities, but it is a fundamental principle to secure a timely consent.</p> <p>(81)The Applicant noted NRW MLT’s position and in respect of the NRW standalone marine licence. In particular that there will not be a time frame on this, but this does not justify not having an indicative time frame on the face of the dML. The Applicant confirmed that the period in Condition 12 is not a hard period, but the starting point should be that the discharge period can be four months to allow the Applicant to, for example, place contracts for vessels and all other manner of items that have a long lead in time. The Applicant confirmed the essential nature of this to the Applicant to ensure it can manage those matters and that there can be a proactive dialogue with NRW MLT in the event they are not able to manage something within the 4-month period. The Applicant confirmed that there is an ability to extend the 4 month period and there is not a deeming provision within this licence; which there could be, however the Applicant does not consider this to be necessary. The Applicant concluded by concurring with NRW MLT that this would continue to be a point of disagreement which will require adjudication by the Examining Authority and the Secretary of State.</p> <p>(82)The Applicant confirmed that, in response to NRW’s submissions that the definition of “commence” excludes UXO, the drafting of condition 21 will be reviewed and agree the point requires revisiting [<b>Post hearing note:</b> Please see the draft development consent order (Document Reference C1 F05), Schedule 14, Part 2, Condition 21].</p> <p>(83)In response to NRW’s submission in respect of compliance reports, the Applicant confirmed such reports will be included into the dML at Deadline 4 [<b>Post hearing note:</b> Please see the draft development consent order (Document Reference C1 F05), Schedule 14, Part 2, Condition 18].</p>
<p>7</p> <p><b>Schedule 15 (Documents and Plans to be Certified)</b></p> <p>The Applicant will be asked to briefly highlight any changes to this list in the draft DCO submitted at D2.</p>	<p>(84)The Applicant confirmed that the Schedule would be updated to ensure the Revision numbers, Examination Library References and dates are included for submission at Deadline 4 and for subsequent Deadline 6 to allow for the Examining Authority to raise any questions of the Applicant, and at Deadline 7 to reflect the final list of documents covering the whole examination [<b>Post hearing note:</b> Please see October Response to Hearing Action Points (Document Reference S_D4_6 F01), Row HAP_ISH5_26 and the draft development consent order (Document Reference C1 F05), Schedule 15.</p>
<p>8</p> <p><b>Consents, Licenses and Other Agreements</b></p>	<p>(85) The Applicant submitted that the Examining Authority was provided with an update the previous week in respect of the listed building consent and confirmed it would</p>

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	<p>The Applicant will be asked to provide an update on progress and timescales for completion from both Other Consents and Licences Required (submitted at D3) and the Commercial Side Agreements Tracker [REP1-036]</p>	<p>confirm receipt of this as soon as possible. <b>[Post hearing note:</b> The Applicant can now confirm that listed building consent has been granted. The Other Consents or Licences Required (REP3-010) will be updated at Deadline 5 to reflect this].</p>
9	<p><b>Statements of Common Ground relevant to the DCO</b></p> <p>The ExA will ask the Applicant to provide an update on Statements of Common Ground relevant to the draft DCO.</p>	<p>(86) The Applicant confirmed that statement of common ground discussions are ongoing with the various parties as stated in the statement of commonality (REP3-024) submitted to the Examination. The Applicant confirmed that as part of wider statement of common ground discussions, the DCO elements are being actioned and will feed back into any drafting considerations that need to be made for the draft DCO for example points in relation to the local planning authority which were discussed during the previous agenda items.</p> <p>(87)The Applicant agreed to submit as part of Deadline 7 closing submissions a list of provisions in the DCO which at that point are not agreed and are still contested.</p>
10	<p><b>Review of issues and actions arising</b></p>	<p style="background-color: #e0e0e0;"> </p>
11	<p><b>Any other business</b></p>	<p>(88) The Applicant stated that it will in the first half of the week commencing 28 October submit a notice of intention to make a Change Application. The Applicant explained this has materialised by undertaking further work to regarding the development of site accesses, and in particular at the substation has revealed the need to undertake minor changes to ensure sufficient land and rights within the Order. The Applicant confirmed the change is necessary because works are outside current Order limits and will require additional compulsory acquisition powers. This Applicant confirmed this is subject to the Examining Authority's acceptance and formal consultation.</p> <p>(89)The Applicant indicated that the change would consist of minor amendments to accesses around the substation site. The Applicant confirmed it will be seeking the change firstly to bring new land within the Order limits to facilitate access to the west of the substation platform. The Applicant confirmed the second change is to the substation construction access Work No. 27 where the Applicant identified through detailed design work that the access requires widening to facilitate abnormal indivisible load deliveries required for drainage and attenuation for that construction access track. These would only require temporary rights. The Applicant confirmed the third element of change is to widen a small area of permanent substation access track parallel to the National Grid substation to ensure sufficient space for AIL deliveries so they have a wide enough access to use permanent construction access which would require an increase to freehold acquisition in that area.</p>



- (90)The Applicant submitted that no new landowners are affected and those that are affected have been notified both in writing and by telephone of the Applicant's intention to make changes. The Applicant confirmed awareness of formal requirements to be followed and highlighted that a timetable has been prepared which would accommodate changes with the Examination timetable, seeking to align deadlines as far as possible. The Applicant confirmed this is subject to formal notification to the Examination and recognised the Examination Authority has discretion as to whether it accepts these changes or not.
- (91)The Applicant confirmed, in response to the Examining Authority's responses, that it had thoroughly considered the guidance in respect of change applications and has had close regard to this, in addition to awareness that the proposed change engages compulsory acquisition regulations 5-19 of The Infrastructure Planning (Compulsory Acquisition) Regulations 2010 and recognition that timescales must factor in Welsh translations.
- (92)The Applicant noted appreciation for constrained timescales and indicated necessity for commencing certain activities on an anticipatory basis prior to receiving the Examining Authority's approval of the change request.
- (93)The Applicant confirmed a timetable will be submitted but provided an overview of the likely timeframes to include: (i) notification early in the week commencing 28 October; followed by (ii) the request for change being made on Friday 1 November; (iii) undertaking consultation publicity from 11<sup>th</sup> November giving a consultation period of 30 days (with the Applicant noting that although The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 will not be triggered by changes, additional time is being provided for); (iv) consultation period ending 20<sup>th</sup> December which aligns with Deadline 6 and; (v) Applicant will be required to submit various certificates in advance of Deadline 7 and then close of Examination.
- (94)The Applicant noted December hearings will commence prior to the end of the consultation period, submitted that this could present an early opportunity to take some soundings on the change request if appropriate.
- (95)The Applicant confirmed that the change was absolutely necessary and have sought to keep this as minor as possible, affecting a very small area of land and are predominantly increasing temporary possession but small area of increased freehold acquisition and are aware of what is happening.
- (96)The Applicant confirmed the intention to align the relevant representations and written representations with 20 December 2024 (the period for the end of the consultation

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		<p>process) with opportunity to respond to those on 14<sup>th</sup> January if considered sufficient time.</p> <p>(97)The Applicant confirmed that if required, it would anticipate compulsory acquisition hearings would be held in the first week of January 2025 and confirmed awareness of the 21 days' notice required for any hearings.</p>
12	<b>Closure of the hearing</b>	