

MONA OFFSHORE WIND PROJECT

Response to comments on the Measures to Minimise Impacts to Marine Mammals and Rafting Birds from transiting vessels

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Image of an offshore wind farm

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Glossary

Term	Meaning
Applicant	Mona Offshore Wind Limited.
Appropriate Assessment	A step-wise procedure undertaken in accordance with Article 6(3) of the Habitats Directive, to determine the implications of a plan or project on a European site in view of the site's conservation objectives, where the plan or project is not directly connected with or necessary to the management of a European site but likely to have a significant effect thereon, either individually or in-combination with other plans or projects.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Project (NSIP).
Expert Working Group (EWG)	Expert working groups set up with relevant stakeholders as part of the Evidence Plan process.
Landfall	The area in which the offshore export cables make contact with land and the transitional area where the offshore cabling connects to the onshore cabling.
Marine licence	The Marine and Coastal Access Act 2009 requires a marine licence to be obtained for licensable marine activities. Section 149A of the Planning Act 2008 allows an applicant for a DCO to apply for a 'deemed' marine licence as part of the DCO process. In addition, licensable activities within 12nm of the Welsh coast require a separate marine licence from Natural Resource Wales (NRW).
Maximum Design Scenario (MDS)	The scenario within the design envelope with the potential to result in the greatest impact on a particular topic receptor, and therefore the one that should be assessed for that topic receptor.
Mona Array Area	The area within which the wind turbines, foundations, inter-array cables, interconnector cables, offshore export cables and offshore substation platforms (OSPs) forming part of the Mona Offshore Wind Project will be located.
Mona Offshore Cable Corridor	The corridor located between the Mona Array Area and the landfall up to MHWS, in which the offshore export cables will be located.
Mona Offshore Cable Corridor and Access Areas	The corridor located between the Mona Array Area and the landfall up to MHWS, in which the offshore export cables will be located and in which the intertidal access areas are located.
Mona Offshore Wind Project	The Mona Offshore Wind Project is comprised of both the generation assets, offshore and onshore transmission assets, and associated activities.
Offshore Substation Platform (OSP)	The offshore substation platforms located within the Mona Array Area will transform the electricity generated by the wind turbines to a higher voltage allowing the power to be efficiently transmitted to shore.

Acronyms

Acronym	Description
AEOsI	Adverse Effect on Site Integrity
DCO	Development Consent Order
dML	deemed Marine Licence
EWG	Expert Working Group

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Acronym	Description
HDD	Horizontal Directional Drilling
HRA	Habitat Regulations Assessment
ISAA	Information to support the Appropriate Assessment
JNCC	Joint Nature Conservation Committee
MDS	Maximum Design Scenario
ML	Marine Licence
MLPD	Marine Licence Principles Document
NE	Natural England
NRW(A)	Natural Resources Wales (Advisory)
NRW(MLT)	Natural Resources Wales (Marine Licensing Team)
OEMP	Offshore Environmental Management Plan
OFTO	Offshore Transmission Owner
OSP	Offshore Substation Platform
SNCB	Statutory Nature Conservation Body
SPA	Special Protection Area
TA	Transmission Assets
UXO	Unexploded Ordnance

Units

Unit	Description
km	Kilometres
km ²	Kilometres squared

1 Response to Comments on the Measures to Minimise Impacts to Marine Mammals and Rafting Birds from Transiting Vessels

1.1 Summary

1.1.1.1 The Applicant submitted the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) that sets out industry best practice Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels. The Applicant has received and responded to a number of queries from the JNCC and NRW (A) during examination. This document brings together the Applicant's responses regarding clarity on the scope of the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) and is provided in response to comments received at Deadline 4 from the JNCC and NRW (A). The Applicant has also made a new commitment at Deadline 5, to include UXO clearance within the seasonal restriction of 1 November to 31 March within the Liverpool Bay/Bae Lerpwl SPA. The Applicant considers that the appropriate measures have been put in place and are appropriately secured to enable the SNCBs 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.

1.2 Introduction

1.2.1.1 Vessel traffic associated with the Mona Offshore Wind Project has the potential to lead to an increase in vessel movements within the Liverpool Bay/Bae Lerpwl SPA, which overlaps with the Mona Offshore Cable Corridor and Access Areas, as stated in Volume 2, Chapter 5: Offshore ornithology (REP4-007). This increase in vessel movements could lead to an increase in interactions between vessels and marine wildlife (such as marine mammals and birds) during the offshore construction, operation and maintenance phases. The Applicant submitted the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) that sets out industry best practice Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (both within and outside the Liverpool Bay/Bae Lerpwl SPA). The document also includes a commitment to a seasonal restriction on offshore export cable laying and UXO clearance within the Liverpool Bay/Bae Lerpwl SPA between 1 November to 31 March to reduce disturbance to sensitive features including common scoter and red-throated diver during the overwintering period.

1.2.1.2 The commitment to a seasonal restriction on UXO clearance within the Liverpool Bay/Bae Lerpwl SPA (between 1 November to 31 March) is a new commitment made by the Applicant at Deadline 5 which seeks to address comments from NRA (A) and the JNCC in their Deadline 4 submissions (including NRW (A)'s Comments on Submissions received at Deadline 3 (REP4-105) and JNCC's Comments on Minimise Impacts to Marine Mammals and Rafting Birds (REP4-099) on the potential for Adverse Effect on Integrity of the Liverpool Bay/Bae Lerpwl SPA from this activity.

1.2.1.3 The Applicant's assessment of disturbance to common scoter and red-throated diver as features of the Liverpool Bay/Bae Lerpwl SPA is within the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and

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Ramsar sites Assessments (REP2-010). This assessment concludes no AEol from the Mona Offshore Wind Project alone and in-combination with other projects and plans.

- 1.2.1.4 The Applicant has received and responded to a number of queries from the JNCC and NRW (A) during examination. This document brings together the Applicant's responses regarding clarity on the scope of the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (REP3-020) and is provided in response to comments received at Deadline 4 from the JNCC (REP4-099) and NRW (A) (REP4-105) (see section 1.2.2 below for details).
- 1.2.1.5 The Applicant considers that the appropriate measures have been put in place and are appropriately secured to enable the SNCBs to reach a conclusion of no Adverse Effect on Site Integrity (AEoSI) on the red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA.

1.2.2 Summary of principal points of disagreement

- 1.2.2.1 Table 1.1 summarises the principal points of disagreement between the Applicant and both NRW (A) and the JNCC with respect to the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (S_D5_22) document with signposting to where further information responding to this matter can be found in this document.
- 1.2.2.2 'Not applicable' indicates where a party has not raised any specific concern during examination in relation to this matter, and therefore, it is assumed there is no principal point of disagreement between the Applicant and the relevant party.

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Table 1.1: Summary of principal points of disagreement between the Applicant and the SNCBs on the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (S_D5_22).

ID no.	Principal point of disagreement	NRW(A)'s position (REP4-105)	JNCC's position (REP4-099)	Applicant's position
1	Environmental assessment - Robustness of the assessment of disturbance and displacement from airborne sound and the presence of vessels and infrastructure on features of the Liverpool Bay/Bae Lerpwl SPA	Not applicable	JNCC considers that as the construction port is not known at this time and therefore vessel transit routes are only indicative, reduces the robustness of the assessment for common scoter and red-throated diver.	The assessment considered the maximum densities of birds that could be impacted within Mona Offshore Cable Corridor and Access Areas and is therefore precautionary. The final specific vessel transit routes from port(s) through the Liverpool Bay/Bae Lerpwl SPA would not change the assessment of disturbance or its conclusion on the red-throated diver and common scoter non-breeding qualifying features. See Section 1.3.1 and 1.3.2 for further information.
2	Environmental assessment - Assessment of vessel movements associated with the pre-construction surveys within the HRA	Not applicable	The 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. JNCC does not consider that this aspect of the project has been fully considered by the Applicant.	The Applicant has set out how vessel movements have been assessed within the application and that vessel movements have been full considered. See Section 1.3.1 for further information.
3	Environmental assessment - Assessment of guard vessel movements within the HRA	Not applicable	JNCC queried where guard vessels have been considered in the HRA application materials.	The Applicant has set out how guard vessel movements have been assessed within the application and that guard vessel movements have been full considered. See section 1.3.11.3.1 for further information.

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ID no.	Principal point of disagreement	NRW(A)'s position (REP4-105)	JNCC's position (REP4-099)	Applicant's position
4	<p>Mitigation requirements - Seasonal restriction (1 November to 31 March) on vessel movements at the landfall</p>	Not applicable	JNCC advises that the seasonal restriction ought to apply to vessel movements at the landfall in order to rule out AEol	<p>The Applicant has set out why it does not consider it necessary for a seasonal restriction to be applied to vessel movements associated with the trenchless techniques at the exit pits in the nearshore area.</p> <p>See section 1.4 for further information.</p>
5	<p>Mitigation requirements - Seasonal restriction on pre-commencement works within the Liverpool Bay/Bae Lerpwl SPA (1 November to 31 March), including:</p> <ul style="list-style-type: none"> • Non-intrusive pre-construction surveys • Unexploded ordnance (UXO) surveys • UXO clearance 	<p>NRW (A) advises that the seasonal restriction should apply to UXO clearance to rule out AEol.</p> <p>NRW (A) has not raised any concerns with respect to other pre-commencement works.</p>	<p>JNCC advises that the seasonal restriction should apply to all pre-commencement works (non-intrusive pre-construction surveys, UXO surveys and UXO clearance) in order to rule out AEol.</p> <p>During a meeting between JNCC, NRW (A) and the Applicant on 22 November 2022, it was identified that UXO clearance, however, is the principal concern.</p>	<p>The Applicant is now only seeking to authorise low order UXO clearance within the dML. Furthermore, the Applicant has committed to a seasonal restriction on low order UXO clearance within the Liverpool Bay/Bae Lerpwl SPA between 1 November and 31 March. The Applicant has set out why it is not proportionate for the seasonal restriction to apply to any other pre-commencement works.</p> <p>See section 1.4.2 for further information.</p>
6	<p>Mitigation requirements - Seasonal restriction within the Liverpool Bay/Bae Lerpwl SPA (1 November to 31 March) to apply to guard vessels (i.e. vessels guarding as yet-protected cables)</p>	Not applicable	JNCC recommended that the seasonal restriction ought to apply to guard vessels.	<p>The Applicant has set out why it is not appropriate for the seasonal restriction to apply to guard vessels.</p> <p>See section 1.4.3 for further information.</p>
7	<p>Securing of mitigation - Requirement for Draft DCO Schedule 14, Condition 20(4) to apply to UXO surveys as well as UXO Clearance</p>	Not applicable	In JNCCs view, Schedule 14, Condition 21(4) ought to be amended to include UXO surveys as well as UXO clearance activities.	<p>The Applicant has set out why it is not proportionate for the seasonal restriction to apply to UXO surveys.</p> <p>See section 1.5 for further information.</p>

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ID no.	Principal point of disagreement	NRW(A)'s position (REP4-105)	JNCC's position (REP4-099)	Applicant's position
9	<p>Securing of mitigation - Inclusion of seasonal restriction on export cable laying and UXO clearance within the Liverpool Bay/Bae Lerpwl SPA (1 November to 31 March) within the draft DCO/dML</p>	<p>NRW (A) requested further clarity on overlap between the Transmission Marine Licence and the DCO Deemed Marine Licence (dML) and advises that as the controlling consent for the Mona Offshore Wind Project (which NRW understands to be the case), the DCO should ensure that required mitigation measures are secured by specifying the requirement.</p>	<p>JNCC advises that the seasonal restriction ought to be included in the draft DCO in order to rule out AEol.</p>	<p>The Applicant has provided further clarity on why it is not legally appropriate to include the seasonal restriction as a standalone requirement in the draft DCO (C1 F06). See section 1.5 for further information.</p>

1.3 Environmental assessment queries

1.3.1 Assessment of displacement on the features of the Liverpool Bay SPA due to export cable installation

1.3.1.1 The information provided in this section is considered to address points no. 1, 2 and 3 outlined in Table 1.1.

Red throated diver

1.3.1.2 As set out in paragraph 1.6.3.41 of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010), NRW (A) requested that a 2km radial displacement buffer for red-throated diver be applied around the cable laying vessel. Within the Maximum Design Scenario (MDS), it is assumed that up to two cable-laying vessels will be present with up to four support vessels at any one time. Any support vessels will be in the immediate vicinity of the cable-laying vessels so, any displacement effect from those vessels is expected to be included within the 2 km buffer. Therefore, 12.57 km² would be disturbed around each construction vessel, so two vessels working independently would disturb a total area of 25.14 km². However, during construction, vessel activity will be clustered around the area of cable laying, and the areas of potential disturbance from each vessel are likely to overlap. Therefore, the overall area of disturbance will likely be smaller than 25.14 km², and therefore, this should be viewed as a maximum.

1.3.1.3 As set out in paragraph 1.6.3.43 of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010), during the winter months (October to March) up to 30.67 red-throated diver and during the summer months up to 2.49 red-throated diver may be temporarily displaced due to airborne sound, and presence of vessels and infrastructure during the construction phase of the Mona Offshore Wind Project. The increased mortality equated to a potential increase in baseline mortality of 0.07% during the non-breeding season (winter months) without the implementation of mitigation.

1.3.1.4 The Applicant has committed to no offshore export cable installation works during the period 1 November to 31 March within the Liverpool Bay/Bae Lerpwl SPA. It therefore follows that there will be no cable installation supporting vessels in the Liverpool Bay/Bae Lerpwl SPA during this period. As mitigation is proposed to avoid the winter months, the impact on red-throated diver would equate to a <0.01% predicted increase in baseline mortality. As set out in paragraph 1.6.3.48 of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010), the trenchless works in the intertidal zone will be supported by up to eight vessel movements at the landfall over the winter period. Given the very low frequency of vessel movements, this vessel activity was not considered to contribute to an increase in the baseline mortality of red-throated divers.

1.3.1.5 Thus, the local spatial extent, short-term temporary duration, and intermittent but controlled nature of vessel activities associated with the construction of the offshore export cables are deemed to have minimal impact on red-throated diver during the construction of the Mona Offshore Wind Project.

Common scoter

- 1.3.1.6 As set out in paragraph 1.6.3.57 of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010), the JNCC requested that a 2.5 km radial buffer for common scoter be applied around the cable laying vessel. Within the MDS, up to two cable-laying vessels will be present, along with up to four support vessels, at any one time. Any support vessels will be in the immediate vicinity of the cable laying vessels, so any displacement effect from those vessels is likely to be included within the 2.5 km buffer. Therefore, 19.63 km² would be disturbed around each construction vessel, so two vessels working independently would disturb a total area of 39.26 km². However, during construction, vessel activity will be clustered around the area of cable laying and the areas of potential disturbance from each vessel will overlap, so the overall area of disturbance will likely be smaller than 39.27 km² which should be viewed as a maximum.
- 1.3.1.7 As set out in paragraph 1.6.3.58 of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010), during the winter months up to 1,240 common scoter may be temporarily displaced due to airborne sound, and presence of vessels and infrastructure during the construction phase of the Mona Offshore Wind Project. No birds would be temporarily displaced during the summer months (May to August). The increased mortality equated to a potential increase in baseline mortality of 0.03% to 0.06% during the breeding season (winter months) without the implementation of mitigation.
- 1.3.1.8 The Applicant has committed to no offshore export cable installation works during the period 1 November to 31 March within the Liverpool Bay/Bae Lerpwl SPA. It therefore follows that there will be no cable installation supporting vessels in the Liverpool Bay/Bae Lerpwl SPA during this period. As mitigation is proposed to avoid the winter months, the impact on common scoter would equate to a <0.01% increase in baseline mortality. As set out in 1.6.3.63 of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010), the trenchless works on the intertidal zone will be supported by up to eight vessel movements at the landfall over the winter period. Given the very low frequency of vessel movements, that vessel activity was not considered to contribute to an increase in the baseline mortality of common scoter.
- 1.3.1.9 Thus, the controlled local spatial extent, short-term temporary duration, and intermittent nature of vessel activities associated with the construction of the offshore export cables are deemed to have minimal to no impact on common scoter during the construction of the Mona Offshore Wind Project.

Assessment of supporting vessel movements

- 1.3.1.10 The Applicant has assessed the displacement associated with offshore export cable laying and supporting pre-construction and construction vessels (types of vessels e.g. guard vessels or survey vessels are not split out within the assessment text) within paragraphs 1.6.3.40 to 1.6.3.50 for red-throated diver and paragraphs 1.6.3.57 to 1.6.3.65 for common scoter of the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010). The MDS for the assessment of potential impacts on red-throated diver and common scoter from disturbance and displacement from airborne sound, and the presence of vessels and infrastructure during the construction phase is based on up

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to 126 vessel movements (return trips, including pre-construction vessel movements) during construction which is expected to take one year (see Table 1.5 in HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010)) and up to 160 vessel movements for installation of the offshore export cable at the landfall area with up to eight vessel of these movements at the landfall over the winter period (Table 1.5 in HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010)). However, the assessment also considers the commitment of no offshore export cable installation works from 1 November to 31 March within the Liverpool Bay/Bae Lerpwl SPA. As there will be no cable-laying vessels from 1 November to 31 March, there will be no associated cable-laying support vessels presented within the SPA during this period. Furthermore, the trenchless works in the intertidal zone will be supported by up to eight vessel movements at the landfall over the winter period; therefore, support vessel movements within the Liverpool Bay/Bae Lerpwl SPA during sensitive period for red-throated diver and common scoter (1 November to 31 March) will be minimal.

- 1.3.1.11 Even when assuming no mitigation, the pre-construction vessel movements within the winter period would result in less than 1% predicted increase in baseline mortality and was deemed to have minimal impact on red-throated diver and common scoter (see HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010)). The assumption that all vessel movements would occur over the same period is a precautionary assumption as survey vessels are large and slow moving and very unlikely to be active at the same time as cable laying vessels. As discussed in section **Error! Reference source not found.** above, a standard 2 km and 2.5 km radial displacement buffer around vessels was used for each species as requested by NRW (A) and JNCC for red-throated diver and commoner scoter, respectively, which is also precautionary.
- 1.3.1.12 The assessment considered the maximum densities of birds that could be impacted within Mona Offshore Cable Corridor and Access Areas (using HiDef (2023) survey results) and a 2 km and 2.5 km radial displacement buffer (Figure 1.3 of HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010)). Using the highest density of birds from this entire area is precautionary and in reality, birds would be at a lower density away from the coastal area.
- 1.3.1.13 The assessment concluded that movement of supporting vessels would be of local spatial extent, short term duration, intermittent nature and was therefore deemed to have minimal to no impact on red throated diver and common scoter.

Conclusions of assessment

- 1.3.1.14 The HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010) concluded beyond reasonable scientific doubt that there will be no adverse effect on integrity for the Mona Offshore Wind Project alone or in-combination with other projects due to disturbance and displacement from airborne sound and presence of vessels (including survey vessels and guard vessels) and infrastructure.
- 1.3.1.15 The Applicant welcomes the comment from the JNCC that they are satisfied with the measures proposed with respect to mitigation related to export cable installation within the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from

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Transiting Vessels (REP3-020) (see Comments on Minimise Impacts to Marine Mammals and Rafting Birds (REP4-099)).

1.3.2 Construction port selection

1.3.2.1 The information provided in this section is considered to address point no. 1 outlined in Table 1.1.

1.3.2.2 At this stage, no decision has been made regarding which port or ports will be used for the construction of the Mona Offshore Wind Project, and therefore, it is currently unknown where vessels will be transiting to and from. It is standard practice for offshore wind assessment to be based on indicative vessel routes as the final port or ports are not known at the consent stage multiple years ahead of the start of construction. Consideration of the final port or ports selected and vessel routes is included in and controlled by the Vessel Traffic Management Plan which will be developed post consent (in accordance with the outline Vessel Traffic Management Plan (REP3-019) and in consultation with relevant stakeholders) when the details are known, and the port contract has been awarded.

1.3.2.3 As outlined in paragraph 1.3.2.2 of the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (S_D5_17), project vessels travelling to the Mona Offshore Cable Corridor and Array Area within and outside Liverpool Bay/Bae Lerpwl SPA will use regular vessel transit routes, as detailed in the Outline Vessel Traffic Management Plan (REP3-018) which follow, where possible, established shipping routes within Liverpool Bay and, or chartered approaches to ports and harbours. This measure will restrict and minimise the spatial distribution of any disturbance to rafting birds.

1.3.2.4 As set out in section 1.3.1, the Applicant has provided an estimate of the number of birds displaced and area of habitat affected from offshore export cable laying and support vessel movements in the Liverpool Bay/Bae Lerpwl SPA. The level of detail provided is in line with previous offshore wind applications and sufficient to conclude no adverse effect on integrity on the Liverpool Bay/Bae Lerpwl SPA.

Indicative vessel transit routes

1.3.2.5 The Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) set out that project vessels will use indicative vessel transit routes, as detailed in the Outline vessel traffic management plan (REP3-018). The Applicant acknowledges that it is unlikely that all project vessel transits would be entirely within existing shipping routes. However, the Applicant has sought to maximise the use of existing shipping routes where possible and, therefore, minimise disturbance. The measures set out in section 1.2 of the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) apply regardless of the final selected port.

1.3.2.6 The Assessment of disturbance of red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA within the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010) considered the maximum density of birds within Mona Offshore Cable Corridor and Access Areas and a 2 km buffer (Figure 1.3 of HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments

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(REP2-010)) and therefore is precautionary in regard to the exact location of vessel movements and therefore disturbance within the Liverpool Bay/Bae Lerpwl SPA.

1.3.2.7 The final specific vessel transit routes from port(s) through the Liverpool Bay/Bae Lerpwl SPA would not change the assessment of disturbance or its conclusion on the red-throated diver and common scoter non-breeding qualifying features within the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010) as the assessment has assumed the maximum density of birds within Mona Offshore Cable Corridor and Access Areas.

1.4 Seasonal restriction on activities within the Liverpool Bay/Bae Lerpwl SPA

1.4.1.1 The information provided in this section is considered to address points no. 4, 5 and 6 outlined in Table 1.1.

1.4.1 Offshore export cable installation within the nearshore

1.4.1.1 The Applicant has committed that cable installation activities in the Liverpool Bay/Bae Lerpwl SPA will not take place from 1 November to 31 March to minimise disturbance to sensitive features (including common scoter and red throated diver). This restriction is applicable to cable installation vessels undertaking active cable installation within the Liverpool Bay/Bae Lerpwl SPA only (see the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03)). The Applicant confirmed in the sixth offshore ornithology expert working group meeting (Appendix D.7 of Technical engagement plan Appendices - Part 1 (A to E) (APP-042)) that up to eight vessel movements were required during the overwintering period for the entry/exit location of the trenchless technique installation works at the landfall, within the nearshore waters of the Liverpool Bay/Bae Lerpwl SPA.

1.4.1.2 As set out in row RR-011.24 of the Applicant's Response to Relevant Representations (PDA-008), the commitment to no offshore export cable laying during the overwintering period (1 November – 31 March) within the Liverpool Bay SPA has reduced flexibility in the construction programme, and therefore the programme of works is more constrained. Prohibiting works at the trenchless techniques exit pits during the overwintering period would add further pressure to the installation window for offshore export cables. Due to this, up to eight vessel movements in total associated with the construction works at the landfall may be required during the overwintering period to maintain the construction programme and to allow flexibility for works when necessary. As outlined in paragraph 1.3.1.4 and 1.3.1.8 above, given the very low frequency of vessel movements, this vessel activity is not considered to contribute to an increase in the baseline mortality of red-throated divers or common scoter. Thus, it is not considered necessary to apply a seasonal restriction to vessels associated with the construction works at the landfall.

1.4.1.3 The Applicant notes in row REP1-066.20 of the Applicant's response to the JNCC's written representation (REP2-081) that the JNCC view was that '*The trenchless works on the intertidal zone including up to eight vessel movements at the landfall over the winter period ((APP-033) sections 1.6.3.48 and 1.6.3.63), which is an exception to the seasonal restriction on cable installation works. Any disturbance impact to features of the SPA will be temporary for the time of the vessel presence, therefore JNCC do not expect this temporary activity to result in an AEOSI*'.

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- 1.4.1.4 The Applicant also notes that NRW (A) provided feedback after the sixth offshore ornithology expert working group meeting (Appendix D.7 of Technical engagement plan Appendices - Part 1 (A to E) (APP-042)): *Given that: any disturbance impact to features of the SPA will be temporary for the time of the vessel presence; birds will be able to return once the vessel has gone; there will be other habitat available within the SPA to the birds for the time they are disturbed from the landfall area; up to 8 movements across the key winter period of Nov-Mar represents a small proportion over this timescale; and a commitment to HDD for landfall has been made, NRW Advisory do not expect this temporary activity to result in an AEOSI, but it would be worth also obtaining NE and JNCC agreement.*
- 1.4.1.5 Furthermore, as set out in row RR-011.24 of the Applicant's Response to Relevant Representations (PDA-008), the Applicant also notes an email dated 26/03/2024 Natural England stated that *"In line with NRW's comments on the 8 vessel movements within Liverpool Bay SPA, up to 8 movements across the key winter period of November-March represents a small proportion over this timescale; and a commitment to HDD for landfall has been made, therefore NE do not expect this temporary activity to result in an AEOSI"*
- 1.4.1.6 In summary, up to eight vessel movements in total associated with the construction works at the landfall may be required during the overwintering period to maintain the construction programme. The impact has been fully assessed within the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010). Due to the impact being small-scale, temporary and reversible, the Applicant concluded that there would be no potential for AEol for Liverpool Bay/Bae Lerpwl SPA. This conclusion is supported by NRW (A) and Natural England and was supported by earlier submissions by the JNCC. As such, the Applicant considers that AEol for Liverpool Bay/Bae Lerpwl SPA can be ruled out beyond reasonable scientific doubt without the need for a seasonal restriction to be applied to vessels associated with the construction works at the landfall.

1.4.2 Pre-commencement works

- 1.4.2.1 The Applicant can confirm that the seasonal restriction outlined in the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels, as updated at Deadline 3 (REP3-020), initially only covered export cable installation. While offshore export cable installation is not specifically defined within the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (REP3-020), the Applicant can confirm that it falls with the definition of 'commence' in the draft DCO (C1 F06).
- 1.4.2.2 The seasonal restriction on offshore export cable installation was suggested by NRW (A), JNCC and Natural England during the fourth Offshore Ornithology Expert Working Group (EWG) meeting, and no other activities were identified that would require a seasonal restriction (see section D.5 of Technical Engagement Plan Appendices Part 1 (A to E) (APP-042)).
- 1.4.2.3 Whilst it is the Applicant's position that AEol can also be ruled out beyond scientific doubt for the Mona Offshore Wind Project in-combination with other plans and projects (for all sites, features and assessment scenarios considered within the application and examination materials), the Applicant understands that at Deadline 5, NRW (A) and the JNCC are unable to confirm their position on AEol with respect to Liverpool Bay/Bae Lerpwl SPA. NRW (A)'s and the JNCC's concerns with respect to Liverpool Bay/Bae Lerpwl SPA red-throated diver and common scoter features were also

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discussed with the Applicant during a meeting on 22 November 2024 and it was established that the SNCB's principal concern related to the potential impact of UXO clearance on features of the SPA during the overwintering period (1 November to 31 March). The Applicant understands this concern applies to both low and high-order UXO clearance.

- 1.4.2.4 The Applicant is now only seeking to authorise low order clearance within the dML (see the response to Q4.1.7a in Annex A of the Applicant's Comments on the RIES (S_D5_33) for further information). In light of this and taking the SNCBs' comments into account, the Applicant has also committed to a seasonal restriction on low-order UXO clearance within the Liverpool Bay/Bae Lerpwl SPA between 1 November and 31 March. This commitment is outlined in the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) and the Mitigation and Monitoring Schedule (J10 F05) submitted at Deadline 5 and is expected to be secured via the standalone NRW ML for the transmission works as outlined in the updated Marine Licence Principles Document (J9 F05) submitted at Deadline 5.
- 1.4.2.5 The Applicant understands from its discussions with NRW (A) and the JNCC on 22 November 2024 that with the addition of this commitment, both SNCBs would be able to agree with the Applicant's conclusion of no AEOsI for the Liverpool Bay/Bae Lerpwl SPA red-throated diver and common scoter features from the Mona Offshore Wind Project alone and in-combination with other projects and plans.
- 1.4.2.6 The Applicant does not consider that it would be proportionate to apply this seasonal restriction to other pre-commencement activities (non-intrusive pre-construction surveys and UXO survey) given the local spatial extent, short term duration and intermittent nature of vessel movements associated with these activities. All other pre-construction works (as defined in Schedule 14 Part 1 of the draft DCO (C1 F06) (i.e. non-intrusive pre-construction surveys and unexploded ordnance surveys (along with all associated vessel movements)) within the Liverpool Bay/Bae Lerpwl SPA would therefore not be subject to any seasonal restriction. Although it should be noted that activities from 1 November to 31 March are unlikely due to more challenging weather conditions, the Applicant requires the flexibility to undertake preconstruction works at any time of year, as a seasonal restriction on such works could potentially and unnecessarily severely affect the project delivery programme.

1.4.3 Guard vessels

- 1.4.3.1 Guard vessels are required during offshore cable installation to ensure the health and safety of all sea users as well as to protect exposed cables until the necessary cable protection is in place. The Applicant also highlights that guard vessels are considered mitigation under The Outline Fisheries Liaison and Co-Existence Plan (REP3-016). The MDS, as presented in Table 3.23 of Volume 1, Chapter 3: Project description (APP-050), on which the impact assessments are based, identifies a maximum of one guard vessel for export cable installation at any one time.
- 1.4.3.2 Given the Applicant's commitment that cable installation activities in the Liverpool Bay/Bae Lerpwl SPA will not take place from 1 November to 31 March, it is unlikely that any guard vessels will be present within the SPA during this period. However, flexibility must be retained during the construction phase to allow guard vessels to operate within the Liverpool Bay/Bae Lerpwl SPA year round to ensure exposed offshore cables and the health and safety of all sea users can be protected as necessary. As such, the Applicant does not consider it appropriate or necessary (to

reach a conclusion of no AEoI beyond scientific doubt) to apply a seasonal restriction on guard vessels operating within the Liverpool Bay/Bae Lerpwl SPA.

1.5 Securing of mitigation measures

- 1.5.1.1 The information provided in this section is considered to address point no. 7 outlined in Table 1 1, which relates to the SNCB's suggestion that the seasonal restriction for offshore cable installation (and UXO clearance the Applicant assumes) in the Liverpool Bay/Bae Lerpwl SPA ought to be included as a requirement in the dML.
- 1.5.1.2 The measures to minimise disturbance to marine mammals and rafting birds will be included as an appendix to the final Offshore Environmental Management Plan. The Offshore Environmental Management Plan is secured through condition 18(1)(e) of the deemed marine licence in Part 2 of Schedule 14 of the draft Development Consent Order (DCO).
- 1.5.1.3 The Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (REP3-020) submitted at Deadline 3 include measures for all of the offshore works. This is because the Applicant seeks to indicate its commitment to these measures, including for the Liverpool Bay/Bae Lerpwl SPA. This document will be a certified document for the purposes of the DCO alongside the Mitigation and Monitoring Schedule (J10 F05) which also sets out these commitments. Those documents will therefore be 'set in stone' in the event the DCO is granted.
- 1.5.1.4 Whilst the DCO does provide the development consent required for the Mona Offshore Wind Project, the marine licences are where the specific controls relating to the various elements of the project are secured through the relevant management plans and details for approval by NRW MLT. With the removal of high order UXO clearance from any consents required for the Mona Offshore Wind Project, it is only the transmission assets export cable works within the Liverpool Bay/Bae Lerpwl SPA which have the potential to disturb common scoter and red-throated diver it is only necessary for any seasonal restriction to apply to those works (which will be secured through the standalone NRW ML) and no similar restriction is justified or required for the dML.
- 1.5.1.5 It is therefore appropriate that the DCO secures the submission of Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) (as part of the Offshore Environmental Management Plan) to NRW for approval prior to commencement of those parts of the offshore works to which the deemed marine licence relates. It is also appropriate for the submission of mitigation details pertaining to the offshore works which fall under the standalone NRW transmission works marine licence to be secured within the standalone marine licence. As indicated by the Marine Licence Principles Document (MLPD) (J9 F05), the Applicant anticipates that the NRW marine licence will also include a condition which secures a project environmental management plan (the equivalent to an Offshore Environmental Management Plan) and that this, in turn, will include Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels. The Applicant has also provided the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (REP3-020) to NRW under the application for the standalone NRW ML.
- 1.5.1.6 For the avoidance of doubt, Table 1.2 provides details of the mitigation measures outlined in Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) that apply to activities licenced under the dML and standalone NRW ML.

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Table 1.2: Relevance of the different measures outlined in the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) to the dML and standalone NRW ML.

Measures and section of the MMDMMRB ¹ Deemed Marine Licence	Standalone NRW ML
Adherence to the Wildlife Safe (WiSe) Scheme (Section 1.2)	✓
Seasonal restriction to cable installation and UXO clearance activities in the Liverpool Bay/Bae Lerpwl SPA (Section 1.3.1)	X
Other measures relevant to transiting vessels (Section 1.3.2)	✓

¹MMDMMRB is the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03)

- 1.5.1.7 The Applicant confirms that there is an intentional overlap between the Transmission Assets (TA) marine licence (ML) and the dML is such that the TA ML includes the dML area. However, the dML **does not** cover the TA ML area. Therefore, mitigation measures that specifically relate to activities undertaken in the TA ML area, for example, the seasonal restriction on offshore export cable installation and low-order UXO clearance within the Liverpool Bay/Bae Lerpwl SPA between 1 November and 31 March, **can only be secured via the standalone NRW ML**. As the dML does not authorise licenscble marine activities within the TL MA area (which includes the Liverpool Bay/Bae Lerpwl SPA), it would not be appropriate to include this commitment within the dML.
- 1.5.1.8 It is, however, considered acceptable to have a single certified plan (the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03)) that includes the measures relevant for all of the offshore works to demonstrate that the necessary measures are, or are expected to be, appropriately secured in the relevant marine licences.
- 1.5.1.9 The Applicant highlights that this matter was considered in the Awel y Môr DCO Examination and notes the Examining Authority’s Q2.107, which stated:
“The Examining Authority notes that the Applicant has relied on mitigation measures to avoid harm to the integrity of European/Ramsar sites in the marine environment. However, these mitigation measures, including the Marine Mammal Mitigation Protocol and the Project Environmental Management Plan are not secured through the draft DCO but instead rely on suitable conditions being attached to the Marine Licences for the Proposed Development. The Applicant is requested to explain, with references to case law if appropriate, why the SoS should have confidence that such an approach would comply with the requirements of the Habitats Regulations”.
- 1.5.1.10 The Applicant (RWE Renewables UK) provided a response in its Applicant’s Comments on Responses to the Examining Authority’s First Written Questions (RWE Renewables UK, 2022), highlighting the following, which has been updated to reflect the latest policy and guidance:
- Paragraph 4.12.9 and 4.12.10 of the Overarching National Policy Statement for Energy (EN-1) states that:

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“In considering an application for development consent the Secretary of State should focus on whether the development itself is an acceptable use of the land or sea, and the impact of that use, rather than the control of processes, emissions or discharges themselves.

The Secretary of State should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. The Secretary of State should act to complement but not seek to duplicate them”.

- The Nationally Significant Infrastructure Projects: Advice on HRA (Planning Inspectorate, 2024) states that an HRA Report should *“identify any mitigation measures relied upon and how these are secured through the draft Development Consent Order (**or other mechanisms**)” (emphasis added)*
- The position taken for the Morlais Demonstration Zone applications for a Transport and Works Act Order (TWAo) and deemed planning permission, where the Welsh Government were the competent authority for the TWAo and NRW was the competent authority for the marine licence. Paragraph 798 of the Inspector’s Report (Planning and Environment Decisions Wales, 2021) states: *“My report does not offer a view on the potential appropriateness of the suggested Marine Licence conditions. However, the potential scope, nature and effectiveness of the mitigation either within the suggested conditions, or that would be provided by other Marine Licence conditions, is set out to inform the Welsh Ministers’ consideration of this TWA application.”*

1.5.1.11 In light of this, the Applicant considers that securing offshore mitigation measures for works that can only be authorised through a standalone marine licence accords with NPS EN-1 policy and the Planning Inspectorate’s guidance and will be in compliance with the requirements of the Habitats Regulations. It is neither necessary nor appropriate for any DCO granted duplicating such mitigation measures.

1.5.2 Mitigation and Monitoring schedule

1.5.2.1 The Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) is included in the Mitigation and Monitoring Schedule (J17 F03) under reference number 2 and 110. The Mitigation and Monitoring Schedule (REP4-013) submitted at Deadline 4 states that the *‘Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels is expected to be secured as a condition within the standalone Natural Resources Wales marine licence’*. However, as set out in paragraph 1.5.1.2 the measures to minimise disturbance to marine mammals and rafting birds is also secured within condition 18(1)(e), Part 2 of Schedule 14 of the draft Development Consent Order (DCO) and is expected to be secured within the standalone NRW marine licence, as presented within the Marine Licence Principles Document (J9 F05).

1.5.2.2 The intention of this updated drafting was to clarify that the seasonal restriction between 1 November and 31 March within the Liverpool Bay/Bae Lerpwl SPA is expected to be secured as a condition within the standalone Natural Resources Wales marine licence only. The Applicant has further updated the Mitigation and Monitoring Schedule (J10 F05) at Deadline 5 to separate the commitment (reference number 110) to the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) from the seasonal restriction. The Applicant also considers that further clarity has been provided within this document and in a further

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update to the Measures to Minimise Disturbance to Marine Mammals and Rafting Birds from Transiting Vessels (J17 F03) submitted at Deadline 5.

1.6 Conclusion

- 1.6.1.1 The Applicant's assessment of disturbance to common scoter and red-throated diver as features of the Liverpool Bay/Bae Lerpwl SPA is set out within the HRA Stage 2 Information to Support an Appropriate Assessment Part Three: Special Protection Areas and Ramsar sites Assessments (REP2-010). The Applicant has received and responded to a number of queries from the JNCC and NRW (A) on this matter during examination. Furthermore, the Applicant has made a new commitment at Deadline 5 to apply a seasonal restriction to low-order UXO clearance within the Liverpool Bay/Bae Lerpwl SPA between 1 November and 31 March (noting that high-order UXO clearance has also been removed from the dDCO at Deadline 5).
- 1.6.1.2 The Applicant considers that the appropriate measures have been put in place and sufficiently secured to enable the SNCBs to reach a conclusion of no AEoI on the red-throated diver and common scoter non-breeding qualifying features of the Liverpool Bay/Bae Lerpwl SPA.

1.7 References

Planning and Environment Decisions Wales (2021) Inspectors report: Morlais demonstration zone. Available: <https://www.gov.wales/inspectors-report-morlais-demonstration-zone>. Accessed December 2024.

RWE Renewables UK (2022) Applicant's Comments on Responses to the Examining Authority's First Written Questions. Available: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010112/EN010112-000915-2.3_D2_AyM_Applicant's_Comments_on_Responses_to_the_Examining_Authority's_First_Written_Questions_RevA.pdf. Accessed December 2024.

The Planning Inspectorate (2024) Nationally Significant Infrastructure Projects: Advice on Habitats Regulations Assessments. Available: <https://www.gov.uk/guidance/nationally-significant-infrastructure-projects-advice-on-habitats-regulations-assessments>. Accessed December 2024.