

**From:** [George Meyrick](#)  
**To:** [Mona Offshore Wind Project](#)  
**Subject:** RE: Mona Offshore; ExQ2; Interested Party Reference Number 20048554; Deadline 5; Response to Question 2.5.6 together with Questions 2.5.1 & 2.5.7  
**Date:** 03 December 2024 20:18:47  
**Attachments:** [Bodorgan Marine Ltd Response to ExQ2 Q2.5.6 Deadline 5 Mona Offshore.pdf](#)

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Dear Sirs,

I attach the Response of Interested Party 20048554, Bodorgan Marine Limited, relating to 3 questions raised by the Examining Authority:

1. Question 2.5.6 – which was directed to Bodorgan Marine together with 3 commercial fishing actors;

and also

2. Question 2.5.1 – which was directed to the Applicant and Welsh Government; and
3. Question 2.5.7 – which was directed to the Applicant.

Bodorgan Marine's written Response to all 3 of these Questions takes the form of a single written Response authored by George Mackenzie of Counsel who has an extensive DCO practice.

Regards,

George W. Meyrick  
Director, Bodorgan Marine Limited  
Tel: 07799 410115  
E-mail: [\[REDACTED\]@eebs.com](#)

**MONA OFFSHORE WIND FARM NSIP (“THE PROJECT”)**

**EXAMINING AUTHORITY’S WRITTEN QUESTIONS  
AND REQUESTS FOR FURTHER INFORMATION (“EXQ2”)**

**DEADLINE 5**

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**RESPONSE TO EXQ2 Q2.5.6 ON BEHALF OF  
BODORGAN MARINE LIMITED**

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**A. Introduction**

1. This Deadline 5 submission contains the response of Bodorgan Marine Limited (“Bodorgan”) to EXQ2 (**PD-018**) question 2.5.6 which is set out below for ease of reference. This submission also sets out Bodorgan’s position in relation to:
  - (1) EXQ2 question 2.5.1 which the ExA has asked the Applicant and the Welsh Government to answer; and
  - (2) EXQ2 question 2.5.7 which the ExA has asked the Applicant to answer.
2. Bodorgan will provide further submissions on the Welsh Government and the Applicant’s responses to EXQ2 at Deadline 6, once it has reviewed those responses.
3. EXQ2 question 2.5.6 is as follows: *“If you are not satisfied with the commercial fisheries measures being put forward by the Applicant and captured in Mitigation and Monitoring Schedule [REP4-013] can you indicate what mitigation and monitoring is required with a summary of reasons.”* There is an obvious synergy between this question and questions 2.5.1 and 2.5.7 as alluded to above.

4. These submissions adopt the abbreviations set out at EXQ2 pp1-3 unless expressly indicated. For example these submissions refer to “the Project” instead of “the Proposed Development”.

## **B. Preliminary matter**

5. Bodorgan notes that in EXQ2 question 2.5.1 the ExA has asked the Applicant and the Welsh Ministers to advise whether the Project complies with Policy ECON\_01 of the Welsh National Marine Plan (“WNMP”). However, the ExA has omitted to ask the Applicant or the Welsh Ministers to advise whether the Project complies with WNMP Policy **ECON\_02**.
6. In the context of s.104(2)(aa) PA 2008, the extent to which the Project complies with ECON\_02 is a statutorily relevant consideration, and not just an “important and relevant consideration” within the meaning of s.104(2)(d) PA 2008. That said, an important part of the context for Policy ECON\_02 is the Centre for Environment, Fisheries and Aquaculture Science’s *Review of the potential for co-existence of different sectors in the Welsh Marine Plan Area* (April 2020) (“the CEFAS Review”) (**REP2-101**). That document certainly is an important and relevant consideration; yet it has been omitted from consideration by the Applicant and merits further consideration as part of the examination process.
7. Bodorgan therefore strongly encourages the ExA to seek written clarification from the Applicant and from the Welsh Ministers as to the extent to which the Project complies with ECON\_02, which Bodorgan contends it plainly does not, as it has made clear in previous representations. See, for example, p.6 of Bodorgan’s Deadline 4 post-hearing submissions (**REP4-113**).

## **C. Context**

8. Bodorgan is an Anglesey-based company operating in the mussel aquaculture industry. Together with its partners, Bodorgan has ambitions to co-locate an offshore mussel farm on part of the sea bed within the Order Limits for the Mona OWF, which would comprise an ideal environment for offshore bivalve aquaculture (though this has

hitherto failed to be recognized by the Applicant). The potential for such an asset to be co-located within the Order Limits comprises a significant economic opportunity (which also has hitherto failed to be recognized by the Applicant) and accordingly the failure to do so would comprise a significant economic opportunity cost, i.e. loss.

9. As set out below, these ambitions and in particular the opportunity to co-locate an offshore bivalve aquaculture asset within the Order Limits, are supported by:

(1) NPS-EN1 Section 4.5 (in particular paras 4.5.2, 4.5.3, 4.5.4, 4.5.8, 4.5.11);

(2) NPS-EN3 and in particular paras 2.8.46–2.8.48 and 2.8.250–2.4.8.251; and

(3) WNMP policies ECON\_01, **ECON\_02**, FIS\_01a and FIS\_01b. Note that ECON\_02 is highlighted in bold text because despite not having been subject to any questions in EXQ2, the issue of whether the Project complies with ECON\_02 is a statutorily relevant consideration as set out above.

10. The Applicant's failure to make any provision for (or, indeed to provide any – let alone any adequate – explanation as to why) offshore bivalve aquaculture as part of the Project is not just a substantive failure of mitigation (though it is that too); rather, it is a fundamental defect of the Project as a whole and means that:

(1) in the context of s.104(3) PA 2008 the Project does not comply with EN-1 and EN-3; and

(2) in any event (noting that WNMP is a document falling within s.104(2)(aa) rather than s.104(2)(a) PA 2008) in the context of s.104(7) PA 2008 the Project's adverse impacts (namely, the failure to make a policy-compliant level of provision for offshore bivalve aquaculture) outweigh its benefits such as they are.

11. The failure to make any (let alone any adequate) provision for the co-location of offshore mussel farms in Welsh waters as part of the Project would be a missed

opportunity of significant magnitude and should militate significantly against a grant of Development Consent, therefore.

#### **D. Policy framework**

##### **NPS EN-1**

12. EN-1 paras 4.5.1-4.5.12 indicate that decision-makers will have regard to marine planning documents (including, in Wales, the WNMP) and will “*determine if and how proposals meet the high-level marine objectives, plan vision, and all relevant policies*” (emphasis added). In this context albeit that marine plans are documents within s.104(2)(aa) PA 2008, rather than NPSs within s.104(2)(a), it is clear from EN-1 that the government expects compliance with marine planning documents save to the extent that they conflict with an NPS (EN-1 para. 4.5.12). Bodorgan’s submissions below with respect to ECON\_01, ECON\_02 and FIS\_01 must be seen in this context.
13. It is notable that EN-1 itself (see para. 4.5.3) refers to the imperative to “maximise co-location possibilities”.

##### **NPS EN-3**

14. EN-3 para. 2.4.48 requires Applicants to “*work collaboratively with those other developers and sea users on co-existence/co-location opportunities, shared mitigation, compensation and monitoring where appropriate.*” (underlining added). Bodorgan has consistently pointed out that the Applicant has entirely failed in this respect. At no point (whether during the formative stage of the DCO application or thereafter) has the Applicant sought to work collaboratively with the aquaculture community to identify opportunities for co-existence/co-location within Order Limits. This policy has been breached, therefore.
15. For the same reasons, EN-3 para. 2.8.250 has been breached.

16. As to EN-3 para. 2.8.251, it clearly would be possible to “enhance” the benefits (both in the medium but particularly in the long term) to the aquaculture industry in North Wales. The failure to do so would be a significant missed opportunity and contrary to policy. Steps must be taken, as set out below, to rectify this.

## WNMP

### ECON\_01

17. Policy ECON\_01 places the concept of co-existence (and its subset, co-location) at the heart of the WNEP’s core goal of sustainable economic development. Marine resources are finite and it is necessary to maximise opportunities for co-existence and co-location. It follows that opportunities that are not taken to do so cannot be regarded as sustainable economic development and accordingly breach ECON\_01.
18. It must be noted that WNMP para. 98 itself draws a distinction between “co-existence” and “co-location” albeit that the latter is a subset of the former. Bodorgan’s previous written representations have highlighted the distinction and have shown that the Applicant has failed to understand or apply it. It could not be clearer, however: “*Co-location is a subset of co-existence and is where multiple developments, activities or uses co-exist in the same place by sharing the same footprint or area.*”
19. It is this “*sharing of the same footprint or area*” that is critical to the notion of co-location. Co-location is where two mutually compatible uses of marine resource take place in the same spatial footprint at the same time. Co-existence is where two mutually incompatible uses of marine resource take place in the same spatial footprint but at *different* times, so as to avoid the externalities of the mutual incompatibility.
20. For the avoidance of doubt, the Scallop Mitigation Zone is patently **neither** a form of co-existence **nor** co-location. Rather, it is the complete opposite. It is an area where the Applicant considers that co-existence is *impossible* and accordingly it proposes not to situate any turbines in that zone. It is an area, therefore, where albeit that the *status quo* will be preserved, no form of co-existence or co-location will exist. It is a division of a resource into two separate zones, each with its own use. There are of course good

reasons for this: the scallop beds in this zone are significant economic goods in their own right, so turbines/cables cannot be situated on them. But it is wrong for the Applicant to point to the Scallop Mitigation Zone and claim that it meets the policy imperative for co-existence and co-location. It does not: rather, it avoids the need to develop forms of co-existence and co-location *ab initio*.

21. Bodorgan submits that it is proposing the *only* genuine form of co-location that is feasible and deliverable at an OFW. The bivalve aquaculture assets will share the same sub-surface marine resource, in space and time, as the OFW generating infrastructure. It is well-documented that offshore bivalve aquaculture is mutually compatible with OFW energy generation and transmission infrastructure. Many OFWs in northern European waters (Germany, Holland etc.) incorporate co-located bivalve aquaculture as standard. United Kingdom OFW is a notable, and regrettable, exception to the rule. This must change so that the marine resource can sustainably be used and shared.
22. The co-location of bivalve aquaculture as part of the Project would meet all of the policy objectives of ECON\_01. Accordingly, the failure to seek to enable its co-location would breach the policy. The ExA must note that WNMP para. 101 expressly refers to situations where there “could be” scope to co-locate aquaculture development. Here, such scope exists, though it has been ignored by the Applicant, and as such there has been a clear breach of policy. The Project cannot be supported, therefore.

#### ECON\_02

23. ECON-02 requires that “*Proposals should demonstrate how they have considered opportunities for coexistence with other compatible sectors in order to optimise the value and use of the marine area and marine natural resources.*” Here:

- (1) bivalve aquaculture is a compatible sector;

- (2) co-existence (and, in particular co-location) would optimise the value and use of the Welsh marine area and resource; and

(3) the Applicant has failed to consider this opportunity let alone make any adequate provision for it in the dDCO.

24. The policy has plainly and transparently been breached, therefore.

25. This is particularly surprising because, as set out above, in April 2020 CEFAS produced the CEFAS Report (**REP2-101**) specifically with a view to reviewing the evidence in respect of various forms of OFW co-existence. Section 3.2.12.1 of that report deals with bivalve aquaculture and offshore wind energy and states, after referring to a co-location trial in Welsh waters at the North Hoyle OFW) that:

“This trial demonstrated that aquaculture activities could be carried out without a negative impact on wind farm operations. Further commercial-scale trials were recommended to both refine the technology to grow mussels offshore on fixed gear and assess environmental impacts and economic performance. Anticipated socio-economic benefits from co-locating aquaculture within OWFs include (Syvret et al., 2013):

- Job creation and employment opportunities;
- Potential for expanding seafood provision from UK waters;
- More space left in the sea for other economic or recreational activities in the region; and,
- Knowledge and experience acquired through the trial to mitigate impact on local fishing grounds.”

26. The Report’s conclusion on p.18 is as follows: “*The mussel aquaculture sector appears to have the greatest current potential to be combined with offshore wind arrays, and thus meeting economic, environmental and technical requirements.*”

27. Bodorgan submits that the CEFAS Report is an important and relevant consideration and ought to have been regarded as such by the Applicant. It is also highly probative to the matters which go to Policy ECON\_02. If the Applicant had read and considered the CEFAS Report during the preparation of the DCO application (which they did not, and that is agreed by them) it is inevitable that they would have promoted some form of



bivalve aquaculture co-location (or at the very least readiness for such) as part of the Project.

FIS\_01(a) and (b)

28. Note that Policy FIS\_01 has two parts, (a) and (b). In this case, both would be breached.
29. As to FIS\_01(a), bivalve aquaculture co-located with OFW infrastructure is a “sustainable fishing activity” within the meaning and scope of the policy. The Project will neither support nor enhance it. On the contrary, it will squander this important opportunity to secure a symbiotic co-located asset. It would breach FIS\_01(a) in doing so.
30. As to FIS\_01(b), Bodorgan’s previous written (and oral) representations have illustrated the Applicant’s wholesale failure to engage with (let alone “collaborate with”) the North Wales aquaculture community (which comprises many “interested parties” within the meaning of the policy) with a view to developing a strategic evidence base in respect of offshore bivalve aquaculture. There has been a policy breach in this respect, therefore.

**E. Insufficiency of proposed mitigation**

31. Bodorgan confirms that it is not happy (to use the language set out in EXQ2 question 2.5.7) with the commercial fisheries measures being put forward by the Applicant and captured in Mitigation and Monitoring Schedule (“MMS”).
32. The reason is simply that the commercial fisheries measures being promoted in the MMS and, in particular, in only relate to “business as usual” scallop dredging and do not relate to opportunities to co-locate offshore aquaculture assets within the Order Limits. There is no (and not just no adequate) mitigation in respect of proposed co-located offshore aquaculture assets and as such there is a plain breach of the relevant policy requirements as set out above.

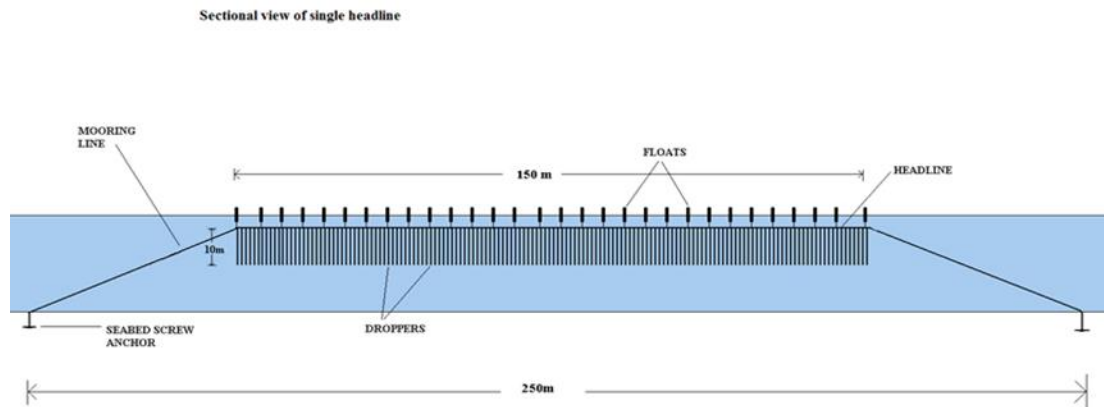
33. The Applicant’s proposed mitigation measures (“the measures”) in respect of the operational and maintenance phase are set out in Section 1.3.6 of the Outline Fisheries Liaison and Co-existence Plan (“OFLCP”) (**REP3-017, tracked**) and comprise, in summary (and as will be well-known to the ExA):
- (1) the reservation of a 57km<sup>2</sup> (minimum) turbine-free Scallop Mitigation Zone (“SMZ”) within the Mona Array Area (OFLCP para. 1.3.6.1);
  - (2) minimum infrastructure spacing within the Mona Array Area of 1,400m between and within rows (OFLCP para. 1.3.6.2);
  - (3) rough north to south turbine alignment (OFLCP para. 1.3.6.3); and
  - (4) cable protection (OFLCP para. 1.3.6.4).
34. OFLCP para. 1.3.6.1 contends that the SMZ “*has been presented to and discussed with commercial fisheries stakeholders...*” That contention is only half correct. The ExA should note that the Applicant has engaged extensively with the mobile gear (i.e. dredging) industry. It has however failed entirely to engage with Bodorgan and the aquaculture community based in North Wales and in particular those associated with the School of Ocean Sciences of Bangor University (which is the industry-leading source of research and technical development/innovation in this field) and Mr. James Wilson of DeepDock Ltd who has carried out well-documented (such as in the CEFAS Report, for example) successful trials of offshore bivalve aquaculture at OFWs in Welsh waters, and stands ready to deliver an operational scheme at the Project. This lack of engagement occurred notwithstanding that, as set out above, the CEFAS Report indicates at p.18 that “*The mussel aquaculture sector appears to have the greatest current potential to be combined with offshore wind arrays, and thus meeting economic, environmental and technical requirements.*”
35. The measures would do nothing whatsoever to facilitate the co-location of bivalve aquaculture assets within the Project. They are entirely unsatisfactory, therefore.

36. In this context, what is required (both in substance and in order to render the Project consentable as against the relevant policy framework) is the following (at a minimum):
- (1) the identification of not less than 5 blocks of marine space (surface and sea bed) each block not being less than 50ha in area<sup>1</sup> and each situated within a separate notional 1400m x 1400m ‘grid square’ marked off as a result of having a turbine in each notional ‘corner’ in which bivalve aquaculture can take place (note: these blocks would not need to be situated in the Scallop Mitigation Zone);
  - (2) the grant of a sub-lease on appropriate terms to Bodorgan in respect of that block so as to enable the delivery and operation of the aquaculture asset;
  - (3) the deemed grant of a Marine License in respect of the use of that area for bivalve aquaculture; and
  - (4) the making of navigational arrangements and protocols (or at least the establishment of a framework for such arrangements and protocols to be developed in consultation with appropriate bodies) for the use of such area for that purpose.
37. As to what the aquaculture asset ‘looks’ like, the ExA are invited to note that in the main this comprises the tethering of a headline and droppers to the mooring cables and screw anchors affixed to the sea bed such that the droppers can be used for the cultivation of mussels. Floats on the surface tethered to the headline and droppers (i.e. the aquaculture unit) indicate the location and position of the headline and droppers at sea. The structure is designed to withstand tidal and wave energy. The cable is inspected and harvested by way of static line operations from a boat. The mussels on the droppers

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<sup>1</sup> Note that the area between each array of four sited turbines is around 196 ha such that the 50 ha area required for co-located bivalve aquaculture blocks is extremely modest in the context of the operational area of the project as a whole. It would not compromise (to any extent) the suitability of the intra-turbine corridors to be subject to navigation (note that the aquaculture blocks would fall to be marked on Admiralty charts and other GIS maps and software) and would be situated so far away from individual turbines that the Applicant’s ability to operate, inspect, survey and maintain the turbines (and cables) would not be compromised, again to any extent at all, including in emergency scenarios. It is for this reason that it is clear that bivalve aquaculture has the ability for frictionless co-location with the Project (and why this is standard practice for OFW farms in other European countries).

obtain the nutrition they require from the marine environment: no additional delivery of nutrition is required. An illustrative representation of one such unit (sectional detail) is shown below.



38. Bodorgan suggests that the above measures should be inserted into a new Section 1.3.7 (suggested header: *Co-location with future aquaculture developments during the operational and maintenance phase*) of the OFLCP. These measures would also need to be transposed into the Mitigation and Monitoring Schedule. It is not thought that any additional dDCO drafting would be necessitated: iteration of the control documents as suggested above would be sufficient. Appropriate revisions to the *Environmental Statement – Volume 2, Chapter 6: Commercial fisheries (APP-058)* and the *HRA Stage 1 Screening Report (APP-0034)* should be considered by the Applicant.
  
39. Without the iterations/updates of the control documents in this manner Bodorgan submits that the Project remains unconsentable in the context of s.104(3) and s.104(7) PA 2008.
  
40. Bodorgan is keen to engage further with the Applicant and the Welsh Government with respect to the above matters and respectfully requests that the ExA issue further written questions and/or hold an ISH in respect of the issues raised herein, so that the detailed issues in respect of the imperative for the Project to accommodate the co-existence and co-location of sustainable industry can be fully explored and understood, and appropriate arrangements for co-located bivalve aquaculture secured.



**Chambers of Simon Bird K.C.**  
**Francis Taylor Building**  
**Inner Temple**  
**London**

**3 December 2024**