

MONA OFFSHORE WIND PROJECT

Response to ExA request to summarise outstanding drafting points on the Draft DCO

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Image of an offshore wind farm

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1 Response to request for summary of outstanding DCO drafting points

1.1 Introduction

1.1.1.1 The Examining Authority (ExA) requested at that the Applicant provides a summary of the outstanding drafting points for the draft development consent order for the end of Examination.

1.1.1.2 The Applicant has prepared this as set out below and highlights the key points of difference which have been raised by interested parties in the Examination.

1.1.2 Outstanding Drafting Points

	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
1	Griff Parry on behalf of Harriet Mary Parry, Robert Wynne Parry, Griffith Wynne Parry and Elizabeth Wynne Wade ('Parry')	Removal of plots from the Draft Development Consent Order.	Article 2(1) within reference to 'Order land' to exclude reference to the Plots in dispute. Schedule 1, Authorised Project, Part 1, Authorised Development, Articles 3 and 4 Schedule 7 Schedule 8	Please see page 2/7 of the Rebuttal Submissions in Deadline 6 Submission (REP6-145) for further details. This was previously set out in Comments on the Development Consent Order (REP4-120).	The Applicant's response remains the same in respect of REP4-120.2, REP4-120.9 and REP4-120.10 in the Response to Griff Parry on behalf of Harriet Mary Parry, Robert Wynne Parry, Griffith Wynne Parry and Elizabeth Wynne Wade D4 Submissions (Response to Parry D4 Submissions - REP5-067). By way of summary, the Statement of Reasons (REP6-021) sets out why all land within the Order Limits is required and is necessary for the Mona Offshore Wind Project.

	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
2	Parry	In the event this is not accepted by the ExA, Parry requested that suggestion 1 above is not accepted, Parry requested that the definition of 'required' is amended.	Definitions	<p>Please see section 9.2.3 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.2, REP4-120.9 and REP4-120.10 in Response to Parry D4 Submissions (REP5-067). By way of summary, the Applicant does not consider the proposed amendment to be appropriate, in light of precedent in other consented DCOs.
3	Parry	Further to points 1 and 2 above, a request that Article 8(d) be removed in its entirety.	Article 8(d)	<p>Please see section 4.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.2, REP4-120.9 and REP4-120.10 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the proposed removal would be appropriate.

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
4	Parry	Further to points 1-3 above, Parry requested drafting changes to article 16.	Article 16 – Discharge of Water	<p>Please see section 5.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.3 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the proposed amendments are necessary or appropriate.
5	Parry	Amendments suggested to limit the Applicant's discretion to exercise compulsory acquisition powers.	Article 20(3) – Compulsory Acquisition of Land	This position was previously set out in Comments on the Development Consent Order (REP4-120).	The Applicant's response remains the same in respect of REP4-120.4 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the additional drafting is necessary, given the controls already provided for under the Draft DCO and wider legislation.

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
6	Parry	Request that the time limit for compulsory acquisition is reduced from 7 years to three	Article 21 - Time limit for exercise of authority to acquire land compulsorily	<p>Please see section 6.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.5 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the additional drafting is necessary, given the controls already provided for under the Draft DCO and wider legislation
7	Parry	Request to remove article 21(2) relating to article 29 and powers of temporary possession	Article 21 - Time limit for exercise of authority to acquire land compulsorily;	<p>Please see section 6.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.5 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the removal is appropriate, given the fact temporary possession powers sit alongside compulsory acquisition powers and enable a more proportionate approach to be taken to compulsory acquisition.

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
8	Parry	Request to remove article 22(3) relating to interrelation between compulsory acquisition powers under the DCO and the 1965 Act.	Article 22- Compulsory acquisition of rights	<p>Please see section 7.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.6in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the removal is appropriate, considering precedent for this drafting, which is reasonable and proportionate.
9	Parry	Request to remove article 26 (2) - (4) concerning the Applicant's use of the right to acquisition of subsoil	Article 22- Compulsory acquisition of rights	<p>Please see section 8.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	The Applicant's response remains the same in respect of REP4-120.7in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the removal is acceptable, given the use of this article is to (where appropriate) 'downgrade' the Applicant's powers of compulsory acquisition where the acquisition of subsoil only would have less impact on landowners. The drafting is currently considered to be reasonable and proportionate with regards the rights being sought and aligns with recently consented offshore wind orders.

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
10	Parry	Suggests the removal of temporary possession powers.	Articles 29 and 30 (Temporary use of land for carrying out the authorised project and Temporary use of land for maintaining the authorised project)	Please see section 9.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position. This position was previously set out in Comments on the Development Consent Order (REP4-120).	The Applicant's response remains the same in respect of REP4-120.8 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe the deletions are appropriate, considering the alternative would be that the Applicant would have to permanently acquire the full construction width of the cable corridor.
11	Parry	Request to further consider Schedule 9, Article 27 Modification of compensation and compulsory purchase enactments for creation of new rights and imposition of restrictions.	Schedule 9, Article 27	This position was previously set out in Comments on the Development Consent Order (REP4-120)..	The Applicant's response remains the same in respect of REP4-120.6 and REP4-120.7 in Response to Parry D4 Submissions (REP5-067). Please also see responses in REP4-120.6 and REP4-120.7 in Response to Parry D4 Submissions (REP5-067). .

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
12	Parry	Request to further consider SCHEDULE 2A Section 8 COUNTER-NOTICE REQUIRING PURCHASE OF LAND NOT IN NOTICE TO TREAT	Schedule 2A	<p>Please see section 7.0 in Hearing Points to DCO-ISH6 Hearing in Deadline 6 Submission (REP6-145) for the latest position.</p> <p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	<p>The Applicant's response remains the same in respect of REP4-120.12 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe any changes are necessary as the Draft DCO already includes dispute resolution mechanisms through article 46 (arbitration) and schedule 13 (arbitration rules).</p>
13	Parry	Request to consider code of conduct and dispute resolution arrangements	Schedule Article 10, 40 (Protective Provisions)	<p>This position was previously set out in Comments on the Development Consent Order (REP4-120).</p>	<p>The Applicant's response remains the same in respect of REP4-120.13 in Response to Parry D4 Submissions (REP5-067).</p> <p>See also REP4-120.6 and REP4-120.7 in Response to Parry D4 Submissions (REP5-067). The Applicant does not believe further changes are required.</p>

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
14	National Farmers' Union (NFU)	Request that article 17(1) is updated to limit powers of survey from any other land affected, to be any 'adjacent' that may be affected by the project.	Article 17 (Authority to survey investigate land) and Definitions	Please see National Farmers' Union Deadline 4 Submissions (REP4-124).	Please see responses in Response to National Farmers' Union D4 Submissions (REP5-068) in REP4-124.2. The Applicant does not consider the drafting to be appropriate or workable, as the flexibility drafted into the Article is required to, for example, inform detailed design.
15	NFU	Request that notices prior to temporary possession under articles 29 and 30 is extended from 28 days to 3 months.	Article 29 and article 30	Please see National Farmers' Union Deadline 4 Submissions (REP4-124).	Please see responses in Response to National Farmers' Union D4 Submissions (REP5-068) in REP4-124.4 and REP4-124.5. The Applicant considers the current drafting to be reasonable, proportionate and in line with precedent drafting.

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16	Natural Resources Wales-Marine Licencing Team (NRW MLT)	Concern raised regarding the power of the SoS to authorise transfer of the Marine Licence.	Article 7 (Benefits of the Order) Schedule 14, paragraph 7	Please see NRW Deadline 3 Submission - Marine Licencing (REP3-090).	Please see REP3-090.231 in responses in Response to NRW Deadline 3 Submission (REP4-047), with further detail in the response in Applicant's Response to Relevant Representations (PDA-008) row RR-011.154. The Applicant does not consider this drafting to be appropriate. The procedure as drafted is based on the Model Provisions.
17	NRW MLT	Requested removal of condition 19(2), concerning a 4 month time limit on NRW MLT for approvals of plans submitted for approval.	Schedule 14, Conditions 12, 18(4), 19, 20(3) and 21(3)	Please see NRW Deadline 3 Submission - Marine Licencing (REP3-090).	Please see REP3-090.236 responses in Response to NRW Deadline 3 Submission (REP4-047), with further detail in Applicant's Response to Relevant Representations (PDA-008) row RR-011.162. The Applicant does not consider this drafting to be appropriate. The drafting will ensure there are limited delays in obtaining approvals and is in line with precedent drafting.

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
18	Denbighshire County Council	Construction hours	Schedule Requirement 14 2,	Please see the Local Impact Report (REP1-049).	Please see Response to Conwy Borough County Council and Denbighshire County Council's Local Impact Report (REP2085), row REP1-049.153, and Mona and Denbighshire County Council SoCG (S_D3_22 F04, row DCC.DCO.8). These construction hours are required as set out in the Closing Submissions (S_D7_2). The matter is not one of DCO drafting but an in principle objection to these hours.
19	Denbighshire County Council	Timescales for approvals	Schedule 12 'Approval of matters specified in requirements', paragraph 3(1)	Please see Mona and Denbighshire County Council SoCG (S_D3_22 F04, row DCC.DCO.11).	Please see Mona and Denbighshire County Council SoCG (S_D3_22 F04, row DCC.DCO.11). These approval timescales are appropriate (aligning with the Town and Country Planning Act 1990 procedures).
20	Conwy County Borough Council	Construction hours	Schedule Requirement 14 2,	Please see the Local Impact Report (REP1-049).	Please see Response to Conwy Borough County Council and Denbighshire County Council's Local Impact Report (REP2085), row REP1-049.153, and Mona and Conwy County Borough Council SoCG (S_D3_23 F04, row DCC.DCO.8). These construction hours are required as set out in the Closing Submissions (S_D7_2). The matter is not one of DCO drafting but an in principle objection to these hours.

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	Relevant Stakeholder	Outstanding DCO Drafting Matter	Relevant DCO Reference	Stakeholder's Position	Applicant's Position
21	Conwy County Borough Council	Timescales for approvals	Schedule 12 of 'Approval of matters specified in requirements', paragraph 3(1)	Please see Mona and Denbighshire County Council SoCG (S_D3_22 F04, row DCC.DCO.11).	Please see Mona and Conwy County Borough Council SoCG (S_D3_23 F04, row DCC.DCO.11). These approval timescales are appropriate (aligning with the Town and Country Planning Act 1990 procedures).