

Dear Sir/Madam,

As you will be aware, we are instructed to act on behalf of BAE Systems Marine Limited and BAE Systems (Operations) Limited (together, "**BAE Systems**") in connection with the above matter.

Introductory Matters

We last made submissions to the Secretary of State on behalf of BAE Systems on 3 July 2025. These submissions were made in response to the Secretary of State's request for information dated 19 June 2025. Since this date, the Secretary of State has issued two further letters:

1. a letter dated 18 July 2025 inviting all Interested Parties to comment on the information provided in response to his information request of 19 June 2025; and
2. a letter dated 25 July 2025 requesting "final agreements" from several parties, including BAE Systems, in respect of commercial negotiations with the Applicant, Morgan Offshore Wind Limited.

In responding to the above-mentioned letters, we intend to confirm the position of BAE Systems in respect of the requirement wording to be included in the draft Development Consent Order ("**dDCO**") for the Morgan Offshore Wind Project ("**the Project**"). Furthermore, we will provide an update on the status of the commercial agreements which are still to be negotiated between BAE Systems and the Applicant.

Requirement Wording

On 4 July 2025, the Secretary of State issued his decision granting development consent for the Mona Offshore Wind Farm ("**Mona**"). The final DCO includes requirements in respect of the Primary Surveillance Radar at Warton Aerodrome ("**the PSR**") (see Requirement 23) and requirements in respect of the operation of Walney and Warton Aerodromes, specifically Air Traffic Services ("**ATS**") (see Requirements 27 and 28 respectively, together "**the Mona ATS Requirements**").

Regarding Requirement 23, concerning the PSR, we can confirm that BAE Systems is prepared to agree the wording of this requirement (subject to a small number of errors being addressed in respect of which the Applicant is intending to apply for a correction order) and for it to be included in the dDCO for the Project as Requirement 6. A copy of the agreed requirement wording is appended to these submissions as **Appendix 1**.

Turning to the Mona ATS Requirements, we can confirm that BAE Systems is also prepared to agree the wording of these requirements and for it to be included in the dDCO for the Project as Requirements 5 and 7 (together "**the Morgan ATS Requirements**"), save for one element. In granting development consent for Mona, the Secretary of State included a provision in the Mona ATS Requirements that allows the need for a mitigation scheme to be avoided where the Secretary of State is content that no mitigation is required ("**the no mitigation limb**"). This provision was requested by the applicant for Mona; however, its inclusion was (and continues to be) opposed by BAE Systems.

Paragraph 4.121 of the Secretary of State's decision letter for Mona states as follows:

"...In light of the late nature of the objection from BAE Systems in relation to the Walney and Warton ATS and the lack of detailed examination of the need for mitigation, the Secretary of State is content with this addition. These requirements have been added to the DCO as Requirements 27 and 28."

The Secretary of State's reasoning for the inclusion of the no mitigation limb in the Mona ATS Requirements does not apply in the instant case and the Project is capable of being distinguished from Mona.

BAE Systems made its objection to the Project clear from the outset – both BAE Systems Marine Limited and BAE Systems (Operations) Limited registered as Interested Parties to the examination (unlike for Mona). Furthermore, the potential for the Project to adversely impact the operation of Walney and Warton Aerodromes from an ATS perspective, and the need for that impact to be mitigated, was the subject of detailed examination, both through exchanges of written submissions and questioning at issue specific hearings. Hence, the inclusion of Requirements 5 and 7 in the dDCO (in the first instance at Deadline 5 on 16 January 2025).

The Secretary of State will have a record of the wording of Requirements 5 and 7, as proposed by the Applicant during the Project's examination – see the various iterations of the dDCO: Document Refs. REP5-017 (submitted at Deadline 5), REP6-017 (submitted at Deadline 6) and REP7-007 (submitted at Deadline 7). Notably, at no stage was the Applicant advocating for the inclusion of a no mitigation limb.

Further, the "Schedule of Changes to the DCO" (Document Ref. REP7-010) contains the following comment from the Applicant regarding the updates made to the wording of the Morgan ATS Requirements at Deadline 6: *Following further discussions with [BAE Systems (Operations) Limited, as the operator of Warton Aerodrome] [BAE Systems Marine Limited, as the operator of Walney Aerodrome], the Applicant has updated this requirement to accommodate requested amendments, so far as it considers reasonable and appropriate to do so.* The updates made to the requirement wording by the Applicant did not include a no mitigation limb.

Following the close of the examination for the Project, there has been no change in circumstance which necessitates a different approach or which justifies the Applicant's change of position.

The Morgan ATS Requirements cover a range of potential interactions with the Project including Instrument Flight Procedures ("**IFPs**") and Minimum Sector Altitude ("**MSA**"), as well as Very High Frequency, Ultra High Frequency and Direction Finding radio communications (respectively, "**VHF**", "**UHF**" and "**DF**"). The position with regard to each interaction is summarised below:

1. Walney Aerodrome IFPs/MSA: the assessments undertaken identify an impact on Walney Aerodrome's published IFPs, as well as future IFPs relating to Runway 5 and Runway 23. It is agreed between the Applicant and BAE Systems that this impact is required to be mitigated (through an increase in the applicable Minimum Obstacle Clearance Altitude) and that the associated cost will be met by the Applicant.
2. Warton Aerodrome IFPs/MSA: BAE Systems (Operations) Limited raised concerns during the course of the examination of the application for the Project regarding potential impacts on future IFPs which are currently in design. An assessment of this issue is being undertaken by Sagentia Aviation (formerly Osprey Consulting Services Ltd) (which was the case as at the close of the examination for the Project) and delivery of their report is expected imminently. However, it should be noted that the Applicant is the party which commissioned Sagentia Aviation to undertake the assessment and to produce a report of their findings. As such, BAE Systems (Operations) Limited has no influence or direct control over the timing of the report's delivery.

In the meantime, BAE Systems (Operations) Limited confirms that there will be an impact to the Warton Terrain Safe Altitude Chart (which is part of the Aerodrome's operating procedures for Test Flying), the western portion of which has a minimum safe operating altitude of 1800ft currently. As the proposed wind turbines are in the order of 1190ft above mean sea level, the minimum safe operating altitude will need to be raised to 2200/2300ft. This constitutes an operational impact which is required to be mitigated (through a change to documents and procedures) and the associated cost met by the Applicant.

3. Radio Communications: the findings of the assessments undertaken confirm that, as a result of the Project alone, and when considered together with the proposed Mona and Morecambe Offshore Wind Farms, degradation to radio communications to aircraft within the vicinity of the Project is expected to occur. Any such degradation has the potential to compromise aircraft safety and so cannot be tolerated. Accordingly, an appropriate mitigation solution is required to be identified.

The adverse impact of the Project to radio communications is a matter of serious concern for both Walney and Warton Aerodromes, as well as Blackpool Airport (together, "**the Aerodromes**"). A joint statement setting out these concerns in further detail, and highlighting the limitations of the assessments carried out to date (such that the Aerodromes consider that a worst-case scenario has not been assessed), is appended to these submissions as **Appendix 2**.

In the case of each interaction, there is a clear mitigation requirement (as evidenced by the assessment work undertaken) and the technical justification for this requirement has (having regard to the position statements set out above) been demonstrated.

In the event of development consent being granted for the Project, we invite the Secretary of State to include Requirements 5 and 7 in the final DCO in the form appended to these submissions as **Appendix 1**. For the avoidance of doubt, we ask that the Secretary of State does not amend the requirement wording to include a no mitigation limb as per the Mona ATS Requirements – there is no reasonable basis, nor sound justification for the Secretary of State to do so.

Commercial Agreements

We turn now to the Secretary of State's request for an update on BAE Systems' commercial agreements with the Applicant.

A suite of commercial agreements will be required to be negotiated in order to document the details of the mitigation schemes required to address the adverse impacts arising from the Project on operations at Walney and Warton Aerodromes, the funding of those schemes and their implementation and maintenance for the lifetime of the Project. As previously advised, the parties are in the process of putting in place a non-disclosure agreement ("**NDA**") in order that negotiations for the aforesaid commercial agreements can commence. It is hoped that an NDA will be concluded within the next 2-4 weeks, with BAE Systems' having issued a final draft of the NDA to the Applicant on 4 August 2025 for approval.

As confirmed in our submissions to the Secretary of State on 3 July 2025, the Applicant and BAE Systems have committed to agreeing a set of commercial principles, which will take the form of an initial commercial agreement, as soon as possible following the completion of the NDA. These principles will serve to set the framework in terms of future negotiations and agreeing key items in the post-consent phase of the Project. It is intended that the Ministry of Defence ("**MoD**"), alongside the Applicant and BAE Systems, will be a signatory to the initial commercial agreement.

Together, the suite of commercial agreements to which we've referred will document, formalise and secure the appropriate mitigation schemes, subject of Requirements 5, 6 and 7. Therefore, finalisation of the commercial agreements will enable BAE Systems to confirm their approval of the mitigation schemes and to proceed with the implementation of those schemes – a pre-condition of the discharge of the Requirements by the Secretary of State.

For completeness, we note that approval of the radar mitigation scheme (subject of Requirement 6) by the MoD is also required. The Secretary of State will be aware that, in its letter dated 3 July 2025, the Defence Infrastructure Organisation has advised (on behalf of the MoD) that the MoD's objection to the Project must remain in place until BAE Systems confirms that an operationally viable mitigation proposal in respect of the PSR has been identified. BAE Systems is yet to be satisfied in this regard.

Should the Secretary of State have any queries or require additional clarification in respect of the matters contained within these submissions, he should not hesitate to let us know.

EVERSHEDS SUTHERLAND (INTERNATIONAL) LLP

8 AUGUST 2025