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Mona Offshore Wind Project Development Consent Order Application – EN010137 – JNCC's Response to Request for Information

Dear [redacted],

Thank you for consulting JNCC for further information on the Mona Offshore Wind Project Development Consent Order (DCO) Application.

The advice contained within this minute is provided by JNCC as part of our statutory advisory role to the UK Government and devolved administrations on issues relating to nature conservation in UK offshore waters (beyond the territorial limit). We have subsequently concentrated our comments on aspects of the documents that we believe relate to offshore waters and defer to comments provided by Natural Resources Wales Advisory (NRW (A)) for aspects relating to inshore waters.

The following advice from JNCC is to the Secretary of States (SoS) request to all interested parties for comments on information provided in response to the information request of 12 May 2025. It pertains to information provided by Mona Offshore Wind Limited (the Applicant) in the document C1-008b MOCNS-J3303-JVW-10576.

Marine Mammals

When responding to the 12 May request, the Applicant provided an update on Unexploded Ordnance (UXO) matters from the standalone Natural Resources Wales (NRW) Marine Licence process (Section 1.10 of document MOCNS-J3303-JVW-10576). We provide here a copy of the relevant sections of our latest response to NRW Licensing (NRW (L)) on the Marine Licence application ORML2429T (OIA-10845, dated 20/05/2025), which includes comment on the proposed additional consent conditions provided to the SoS. It also included

advice regarding updated versions of documents submitted to the Examining Authority at Deadline 5 (REP5-028 and REP5-032), which are of relevance to both applications.

1. **Advice regarding Document S_NRWML_11 (the Applicant's responses to further consultation, submitted as part of marine licence application ORML2429T)**

JNCCs position regarding including UXO clearance in this licence (and the associated DCO)

The Applicant refers to advice JNCC provided during the Development Consent Order (DCO) consultation process, that we would be supportive of including UXO clearance in the DCO if it was clearly stated high order clearance would be subject to a separate Marine Licence application. JNCC provided this advice (REP04-098) in November 2024, in response to a question from the Examining Authority who provided two options for consideration. These were;

> Scenario 1: exclude UXO clearance from the DCO and deemed Marine Licence (dML), or
>
> Scenario 2: UXO clearance was restricted to low order clearance charges.

Our complete response was:

> JNCC's preferred option throughout pre-application engagement has been for Scenario 1, that all UXO clearance is excluded from the DCO/dML. However, we would be supportive of Scenario 2, if in addition to the DCO/dML specifying all UXO clearance is restricted to low-noise methods only, that it clearly stated should high order clearance be required, it will be subject to a separate Marine Licence application.
>
> In line with the joint position statement on UXO clearance, our primary position is that high order clearance of UXOs is avoided.

An update to the Government Joint UXO position statement, to which JNCC is a signatory, was published 25 January 2025, just after the Mona DCO examination period closed. Of particular relevance is the information detailed in the new position statement to be provided when applying for Marine Licences. This includes:

- Total number of UXOs to be cleared, ideally with the location and type of each.
- The brand of clearance tool to be used and the operator which will conduct the clearance, with a detailed methodology.

None of this information is currently available and surveys which would inform these are yet to be conducted. This lack of information at this time, alongside the updated Government position statement has only strengthened our position on this issue and our preference for Scenario 1 outlined above.

Evidence supporting low noise methods of clearance

The Applicant acknowledges the lack of data supporting the efficacy of the low yield method. They also highlight that the joint position statement refers generally to low noise methods rather than specific methods like deflagration. We confirm this is correct and was an intentional use of language when developing the position statement to allow for future methods which may become available. This could include methods in addition to low order methods referred to by the Applicant.

We consider it could be appropriate to refer to low yield in an assessment as a potential future option, provided the current lack of evidence supporting its efficacy is made clear. However, the Environmental Statement (ES) and supporting documents are making

assumptions about the low yield method with no evidence to support them. Instead, it has been assumed that data collected for deflagration equally applies to low yield. This has resulted in incorrect assumptions regarding the low yield method being included in the outline Underwater Sound Management Strategy (oUWSMS) and outline Marine Mammal Mitigation Protocol (oMMMP). Without data verifying the effectiveness of the low yield method and confirming the level of noise reduction compared to equivalent high order clearances, it cannot be assumed this method will reduce impacts or that standard measures will mitigate any risk of injury from this clearance method.

With regard the Applicant's comment that the size of the UXO is immaterial to low order clearance as it is the size of the donor charge only that predicts the magnitude of impact – we advise there is only evidence to support this statement for deflagration. There is no such evidence for low yield and conclusions for deflagration cannot be and should not be applied to low yield.

It is for this reason our previous advice focussed on the deflagration method, as evidence supporting its efficacy at reducing noise is publicly available. If the Applicant wishes to future-proof the UWSMS, it would be better to focus assessments and mitigation options on methods for which there is currently evidence (e.g. deflagration) and highlight that any other noise reduction methods for which evidence is available at the time may also be considered, an example of which could be low yield. However, the current assumptions made regarding the low yield method in the oUWSMS and oMMMP are inappropriate.

Parameters for assessment

With regard the opinion that it is not necessary to provide specific parameters for low order clearance, we disagree. The Overarching National Policy Statement for Energy Infrastructure (EN1) states that where some details are still to be finalised, the ES should, to the best of the Applicant's knowledge, assess the likely worst-case environmental, social and economic effects of the proposed development to ensure that the impacts of the project as it may be constructed have been properly assessed (paragraph 4.3.12).

While it may be argued that UXO clearance is not part of a projects design, ensuring construction sites are safe is a fundamental step without which construction cannot commence. EN1 further discusses case law (footnote 12, R v Rochdale MBC Ex p. Tew [2000] Env.L.R.1), which establishes that while it is not necessary or possible in every case to specify the precise details of development, the information contained in the ES should be sufficient to fully assess the project's impact on the environment and establish clearly defined worst case parameters for the assessment.

Linked government guidance on Rochdale Envelopes (updated 25 March 2025) takes this further to say that in the context of the DCO application process:

- the clearly defined parameters established for the Proposed Development must be sufficiently detailed to enable a proper assessment of the likely significant environmental effects and to allow for the identification of necessary mitigation, if necessary within a range of possibilities;
- the assessments in the ES should be consistent with the clearly defined parameters and ensure a robust assessment of the likely significant effects; and
- the DCO must not permit the Proposed Development to extend beyond the 'clearly defined parameters' which have been requested and assessed. The Secretary of State may choose to impose requirements to ensure that the Proposed Development is constrained in this way.

While the current application is for a stand-alone Marine Licence, it is for a project which also requires a DCO and we therefore expect the same principles to apply here.

Assessing a range of explosive charge sizes up to the largest potential UXO weight will encompass potential low noise charges. However, low and high order are different methods of clearance, and each should have its own Maximum Design Scenario (MDS). Without clearly stating which of the presented scenarios apply to low order, one cannot be confident mitigation measures described will be appropriate or effective.

The Applicant has, in fact, defined a MDS for the two low noise methods assessed, for example in Table 4.16 and paragraph 4.9.4.5 of the ES. These state that a low order clearance donor charge of 0.08 kg was assumed and low-yield donor charges of multiples of 0.75 kg, with up to four required for the largest possible UXO. Our advice was based on these definitions and the respective impact assessment.

In line with the above guidance, we expect the DCO not to permit the proposed development to extend beyond these clearly defined parameters and request the same of this Marine Licence.

Potential licence conditions

JNCC maintain their preference that UXO clearance is not included in this Marine Licence, however, if it is, we provide the following further advice in response to the Applicants' comments.

- We welcome the Applicants' willingness to accept a condition limiting the number of low order clearances to 22, in line with the scenario assessed within the ES. Given the above discussions, changing the wording proposed for the condition to 'low noise methods' (rather than 'low order methods') would allow the Applicant greater flexibility to consider new methods that may be developed prior to clearances being required. However, the MMMP should focus on clearance methods that currently have supporting evidence to demonstrate effective mitigation methods are currently available and potential impacts can be mitigated. The UWSMS could include a caveat that future iterations may include additional or alternative options, depending on available evidence at the time.
- While we appreciate the benefits of enabling flexibility with regard to the size of future donor charges, a MDS is still required to enable an impact assessment to be conducted and demonstrate that potential impacts can be mitigated. The subsequent activity (if licensed) should not exceed this MDS. Based on discussions provided, we assume the Applicant wishes to be able to use donor charges up to 3kg (i.e. the 4 x 0.75kg proposed for low yield), however, the Applicant has not clearly specified this in their response. The Applicant is responsible for defining an appropriate MDS for all activities. However, the Applicant is defining the MDS based on a clearance method with no evidence to support efficacy. Redefining the MDS could provide greater flexibility while still providing a realistic scenario.
- We agree that the process for clearing UXOs is sequential, however, by providing details of all methods in a single document ahead of the process commencing, there is no further information available on type and location of UXOs that will require clearing. The purpose of a separate clearance plan would be to provide this information. An alternative could be that the method statement is provided as discussed and an addendum provided once the investigative surveys have been completed, confirming how many UXOs were identified, what and where they are. This would provide confirmation that the chosen low noise method is appropriate and provide an opportunity to highlight any devices which may require high order

clearance. This would enable discussions regarding the need for high order to commence quickly, reducing the potential for delays to the overall clearance process.

2. Advice regarding updated Outline Underwater Sound Management Strategy and Outline Marine Mammal Mitigation Protocol (submitted as part of their marine licence application ORML2429T)

In addition to providing responses to our previous advice, the Applicant has provided updated versions of the following two documents. These were originally submitted to the Examining Authority to support the projects DCO and dML applications and have also been provided to support the current Marine Licence application. The primary purpose of the new versions, in addition to referring to the current Marine Licence application, are to update the contents to reflect several noise related policy documents and statements published in 2025. We note the following with regard to the changes made to the two documents.

2.1. Outline Underwater Sound Management Strategy (oUWSMS); Version F03, April 2025

Section 1.1.1 Background introduction

Additional paragraphs (1.1.1.3 - 1.1.1.4) have been added, introducing the Defra noise policy paper published January 2025. This new text correctly states that the policy applies to English waters only but that the Applicant is committed to considering primary and/or secondary noise reduction methods regardless. We note no reference is made to the recent Welsh Government announcement (6 March 2025) discussed above.

We also note that the introduction now states (paragraph 1.1.1.5) that the Applicant 'expects low order clearance can be fully mitigated via standard industry measures'. However, as discussed above, one of the low order clearance methods assessed in the ES, and subsequently included in both this document and the oMMMP currently has no supporting evidence regarding its efficacy to reduce noise. We concur with this statement with regard to low order deflagration tools which have been tested under controlled conditions and noise monitoring has been undertaken when used at sea, but no data is currently available for low yield to support this statement.

2.2. Outline Marine Mammal Mitigation Protocol (oMMMP); Version F03, April 2025

Section 1.4.3 Injury to marine mammals from UXO clearance

Paragraph 1.4.3.3 now states that high order clearance will only be required where the listed conditions are met. We request clarity that these will be the only conditions where high order clearance will be requested, as suggested by the text.

Paragraph 1.4.3.6 (maximum design scenario) states that 'for low order UXO clearance the maximum design scenario only relates to the size of the donor charge as the size of the munition to be cleared has no bearing on the sound level emitted', and quotes Robinson et al. (2022) at the end of the sentence to support this claim. Firstly, the paper quoted reports on noise monitoring undertaken during high order clearances, not low noise methods and therefore is not the correct reference. Secondly, the references we suspect should be referred to (Robinson et al., 2020; Lepper et al., 2024) are specific to low order deflagration only and the conclusions cannot be applied to low yield. As the document appears to be referring to both methods of clearance when referring to low order UXO clearance, the additional text is misleading / incorrect.

Please contact me with any questions regarding the above comments.

Yours sincerely,

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