

Marine Licensing Variation Decision

The Marine and Coastal Access Act (2009)

Applicant: Mona Offshore Wind Limited

Variation application reference no: RML2201v1

North Wales

**Geophysical Surveys Mona Offshore Wind Farm,
North Wales**

29 July 2022

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OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided grant the variation to the Existing Marine Licence sought by the Variation Application.

This decision document:

- explains how the Variation Application has been determined, having regard to the relevant legal framework outlined in section 4;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the Variation Application;
- provides a record of the decision-making process; and
- sets out the reasons for any conditions imposed in connection with any marine licence granted pursuant to the Variation Application.

1 APPLICATION DETAILS

1.1 The Variation Application

Applicant name and address	The Applicant is the person or organisation set out below: Company/organisation name: Mona Offshore Wind Limited Company number: 13497266 Address: Chertsey Rd, Sunbury-onThames TW16 7LN
Variation Application reference number	RML2201v1
Existing Marine Licence reference number	RML2201
Date Variation Application was duly made	14 July 2022
Description of variation	The Marine Licence has been varied to include the use of vehicles and vehicle-based equipment on the intertidal areas. The coordinates have also been amended in Appendix 2 to extend into the intertidal area.
Proposal[s] covered by the Variation Application	Geotechnical surveys in the Mona bidding area, zone of influence around the bidding area and along potential export cable corridor routes. Surveys will include 155 grab samples and 110 vibrocore samples. (the Project)
Licensable marine activities	Grab Samples along potential export cable corridors and the zone of influence around the Morgan and Mona bidding areas Vibrocores along potential export cable corridors and bidding area (the Proposed Activities)
Marine Plan area	Welsh inshore region and Welsh offshore region

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Variation Application documents:	RML2201v1 Application Form	08/07/2022
	RML2201v1 Technical Note	08/07/2022

2 VARIATION APPLICATION PROCEDURE

2.1 The Variation Application

The Variation Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 14 July 2022. This means we considered it was in the correct form and contained sufficient information for us to begin our determination, but not that it necessarily contained all the information we needed to complete that determination, and the documents considered may therefore include documents provided after the Variation Application was first made.

2.2 Documents considered

In reaching its decision, NRW has considered the documents listed in section 1 of this decision document along with such other information provided by the Applicant or received during any consultation, that NRW considered relevant.

2.3 Commercial Confidentiality

The Applicant made no claim that any information forming part of the Variation Application was subject to commercial confidentiality and we have not received any information in relation to the Variation Application that appears to be commercially confidential.

3 CONSULTATION

3.1 Consultees

In determining this Marine Licence Variation Application, NRW Permitting Service carried out a consultation on the 14 July 2022 with NRW Technical Experts (NRW TE). NRW TE responded the consultation on the 18 July 2022 with advisories regarding avoiding the sensitive vegetation outside of the SSSI and reinforced that works should be sited to avoid damaging habitats in the Traeth Pensarn SSSI. A Form 2 agreeing with the conclusions of the HRA was also provided.

NRW has had regard to all consultation responses received in making its decision. Where these have impacted on NRW's decision making, this has been noted in the relevant paragraph in section 4 of this decision document.

4 BASIS FOR OUR DECISION

In determining this marine licence variation application, NRW has taken regard of the decisions made during the determination of the original marine licence, issued on 18 May 2022.

4.1 The need to protect the environment:

The reference to the “environment” includes the local and global environment; the natural environment; and, by virtue of section 115(2) of the 2009 Act, any site of historic or archaeological interest. The natural environment may include the physical, chemical and biological state of the sea, the sea-bed and the sea-shore, and the ecosystems within it, or those that are directly or indirectly affected by an activity, whether within the marine licensing area or otherwise.

In considering the need to protect the environment we have considered the relevant environmental legislation set out below.

4.1.1 Water Framework Directive, Groundwater Directive and Water Environment Regulations

(a) The legal framework

The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (**Water Environment Regulations**) implement the requirements of the Water Framework Directive (**WFD**) (Directive 2000/60/EC) which requires consideration as to whether that proposals for development may cause deterioration or prevent a water body from achieving ‘good status’. Proposals likely to cause deterioration or prevent a waterbody from achieving good status should be rejected, unless derogation procedures have been applied.

Under the Water Environment Regulations, NRW must exercise its relevant functions to ensure compliance with the requirements of the WFD, the Environmental Quality Standards Directive (Directive 2008/105/EC) and the Groundwater Directive (Directive 2006/118/EEC).

(b) Factors relevant to our determination

Please refer to RML2201 Decision Document for conclusions on Water Framework Directive, Groundwater Directive and Water Environment Regulations. These conclusions have not been affected by this variation application and therefore are still considered valid.

4.1.2 Biodiversity and resilience of ecosystems duty

(a) The legal framework

Section 6 of the Environment Wales Act 2016 requires that we seek to maintain and enhance biodiversity in the exercise of our functions, and in so doing promote the resilience of ecosystems, in a manner that is consistent with the proper exercise of our functions.

(b) Factors relevant to our determination

NRW is satisfied that in this case, we have taken into account and had due regard to this duty in so far as it is consistent with the function of determining an application for a Marine Licence under the Marine and Coastal Access Act 2009.

4.1.3 European Protected Sites and Ramsar Sites

(a) The legal framework

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European sites are those designated under the Conservation of Habitats and Species Regulations 2017 (**Habitats Regulations 2017**) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (**Offshore Habitats Regulations 2017**) as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 require that any project that is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) must be subject to an appropriate assessment. NRW undertakes a Habitats Regulation Assessment (HRA) to establish whether an appropriate assessment is required.

In addition NRW must exercise its functions under the 2009 Act so as to secure compliance with the requirements of the relevant European Directives. NRW also has a duty under the Habitats Regulations 2017 to support wild birds by protecting habitats and avoiding pollution.

A Ramsar site is a wetland which has been designated under the Ramsar Convention. The Ramsar Convention does not place specific legal requirements on its parties (though Ramsar sites are often SSSIs or SPAs, considered below), however Ramsar status is considered by NRW as matter of policy in its decision making.

(b) Factors relevant to our determination

The Marine Licence Variation Application dated 08 July 2022 requested the use of vehicles and vehicle-based equipment to be added to the method of the works for intertidal areas.

Following consultation with NRW Technical Experts (NRW TE), no concerns were raised regarding the alteration of the method and the use of vehicles in the intertidal areas. The HRA concluded that the project is not likely to have a significant effect on any European designated site.

Further information is outlined in RML2201v1 HRA.

4.1.4 Sites of Special Scientific Interest (SSSIs)

(a) The legal framework

Sites of Special Scientific Interest are designated under the Wildlife and Countryside Act 1981 (**1981 Act**) and protected by law to conserve their wildlife or geology. NRW must take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which an SSSI is of special scientific interest.

(b) Factors relevant to our determination

During consultation, NRW TE advised that the works should be sited to as avoid damaging the vegetated shingle feature of the SSSI.

The alteration of the technical note dated 08 July 2022 submitted by the applicant stated that the location of the cores will be micro-sited to minimise or avoid any disturbance to the shingle bank in the region of the Llandulas east sampling location. We consider that licence conditions will be required see Annex 1 condition 3.21 to ensure adherence mitigation proposed within the technical note. Therefore NRW PS conclude that there will be no significant adverse impacts upon the designated features of the Traeth Pensarn SSSI. In addition advice has been provided that the works should be sited as as to avoid damaging the vegetated shingle feature of the SSSI.

4.1.5 Other matters in considered relevant to the need to protect the environment

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The alteration of the technical note dated 08 July 2022 stated that access to the beach will be via the existing vehicle access at Pensarn and will cross the shingle bank outside the Traeth Pensarn SSSI and the route will be selected to avoid vegetation where possible.

During consultation, NRW TE advised that vehicles avoid crossing down to the lower shore immediately and instead traverse eastwards at the top of the shore towards the eastern edge of the red line boundary delineated in Figure 3.1 of the Technical Note. This has been emailed to the applicant dated 19 July 2022 and included in the Variation Cover Letter.

4.1.6 Conclusion of our considerations under the need to protect the Environment

IN SUMMARY, having considered the need to protect the environment, NRW does not consider that any impacts of the Project on the environment (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the Variation Application.

4.2 Marine Policy Documents**(a) The Legal framework**

NRW is required to take its decision in accordance with the appropriate marine policy documents unless relevant considerations indicate otherwise.

UK Marine Policy Statement 2011 (MPS)

The MPS is the framework for preparing Marine Plans and taking decisions affecting the marine environment.

Welsh National Marine Plan (WNMP)

The WMNP is the Marine Plan for the Welsh inshore region and the Welsh offshore region and sets out the Welsh Government's policies for and in connection with the sustainable development of this area.

(b) Our determination**UK Marine Policy Statement 2011**

This decision has been taken in accordance with marine policy as set out in the UK Marine Policy Statement 2011.

Welsh National Marine Plan

This decision has been taken in accordance with marine policy as set out in the Welsh National Marine Plan.

4.3 Other matters NRW thinks relevant**4.3.1 Well-being of Future Generations (Wales) Act 2015****(a) The legal framework**

In making its decision, NRW is required to take all reasonable steps to meet its published well-being objectives, which are designed to maximise NRW's contribution to achieving each of the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015. NRW must also act in accordance with the principles of sustainable development.

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(b) Our determination

NRW has taken into account its well-being objectives and is satisfied that its decision is consistent with meeting those objectives.

NRW is also satisfied that its decision is consistent with the sustainable development principle i.e. seeking to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

4.3.2 Sustainable management of natural resources

(a) The legal framework

NRW's general purpose is to pursue the sustainable management of natural resources in relation to Wales and applying the principles of sustainable management of natural resources as set out in section 4 of the Environment (Wales) Act 2016 so far as consistent with the proper exercise of its functions.

(b) Our determination

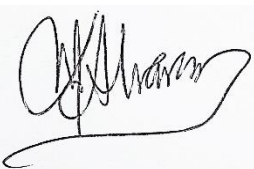
NRW is satisfied that this decision, when implemented in accordance with the attached conditions, is consistent with its general purpose of pursuing the sustainable management of natural resources in relation to Wales, and applying the principles of sustainable management of natural resources.

5 Conclusions and Recommendations

Based on all the information available, and having regard to all relevant considerations including consultation responses, NRW's decision is to grant the variation to the Existing Marine Licence sought by the Variation Application. We have reached this decision having had regard to the relevant legal framework outlined in section 4 and have also explained in section 4 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

Conditions have been attached to the Marine Licence as set out in Annex 1. The reason for the inclusion of each condition is set out with the conditions.

AUTHORISATION

Report by: Jodie Pullen Position: Permitting Officer	Date: 19 July 2022	Signed: 
Authorised by: Maria Alvarez Position: Lead Specialist Officer (on behalf of the Marine Licensing Team Leader)	Date: 29 July 2022	Signed: 

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ANNEX 1 – Changes to Marine Licence

Set out below are the changes made as set out by this decision.

Changes to Activity 2 in Table 1 Licensed Activities to include the use of vehicles in line with technical note dated 08 July 2022.

RML2201 Table 1 Activity 2 reads:

Activity 1 Vibrocores along potential export cable corridors ad bidding area	
Type of Licensed Activity	Removal
Description	Up to a maximum of 110 samples taken using a vibrocorer penetrating the seabed to an approximate depth of 6m and 7.5cm diameter along the potential export cable corridors and the bidding area. Samples to be taken at approximately 1km intervals along the length of potential export cable corridors. Vibrocores taken with use of a frame on the seabed. Footprint of the frame is 1.5m x 2.0m, or 2.9m x 3.4m with the legs extended.
Material types to be removed or deposited	Silt, Gravel, Sand, Other
Quantities/Dimensions	110 samples to 6m deep and 7.5cm diameter

RML2201v1 Table 1 Activity 2 reads:

Activity 2 Vibrocores along potential export cable corridors ad bidding area	
Type of Licensed Activity	Removal
Description	Up to a maximum of 110 samples taken using a vibrocorer penetrating the seabed to an approximate depth of 6m and 7.5cm diameter along the potential export cable corridors and the bidding area. Samples to be taken at approximately 1km intervals along the length of potential export cable corridors. Vibrocores taken with use of a frame on the seabed. Footprint of the frame is 1.5m x 2.0m, or 2.9m x 3.4m with the legs extended. Removals can be taken by vehicle or vessel in line with the technical note dated 08 July 2022.
Material types to be removed or deposited	Silt, Gravel, Sand, Other
Quantities/Dimensions	110 samples to 6m deep and 7.5cm diameter

Addition of condition 3.21 to ensure actions detailed in the technical note are implemented:

3.21 Technical Note

The Licence Holder must ensure that any actions outlined in V01 Technical Note dated 08 July 2022 are implemented. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

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Amendment to Appendix 2 to extend into the intertidal area:

The coordinates in Appendix 2 have been changed to include more of the intertidal area in line with email correspondence dated 21 July 2022.