



Awel y Môr Offshore Wind Farm

Statement of Common Ground 15 – JNCC

Marine Licence Submission 1

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Position	JNCC to complete upon final SoCG version
For	JNCC to complete upon final SoCG version

Signed	The Applicant to sign upon final SoCG version
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Position	The Applicant to sign upon final SoCG version
For	Awel y Môr Offshore Wind Farm Limited (the Applicant)

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1 Introduction

1.1 Background

- 1 This Statement of Common Ground (SoCG) has been prepared between Awel y Môr Offshore Wind Farm Limited (hereafter referred to as 'the Applicant') and The Joint Nature Conservation Committee (JNCC) to set out the areas of agreement and disagreement between the two parties in relation to the proposed Development Consent Order (DCO) application for the Awel y Môr Offshore Wind Farm (hereafter referred to as 'AyM').
- 2 This SoCG covers the topic of Marine Mammals.
- 3 The need for a SoCG between the Applicant and JNCC was set out within Rule 6 letter issued by the Planning Inspectorate (PINS) on 23 August 2022.
- 4 Following detailed discussions undertaken through pre-application consultation, the Applicant and JNCC have sought to progress a SoCG. It is the intention that this document provides the Examining Authority (ExA) with a clear overview of the level of common ground between both parties. This document will facilitate further discussions between the Applicant and JNCC and will be updated as discussions progress prior to and during the Examination.

1.2 Approach to SoCG

- 5 This SoCG has been developed during the pre-examination phase of AyM. In accordance with discussions between the Applicant and JNCC, the SoCG is focused on marine mammals.
- 6 The SoCG is structured as follows:
 - **Introduction:** Outlining the background to the development of the SoCG;
 - **JNCC's remit:** Describing the remit of JNCC, the relevance of their interest in the Application, the main areas of discussion within the SoCG and a summary of consultation to date; and

- **Agreements Log:** A record of the positions of the Applicant alongside those of JNCC as related to the topics of discussion and the status of agreement on those positions.

1.3 The Development

- 7 The Application is for development consent for the Applicant to construct and operate the proposed Awel y Môr project under the Planning Act 2008.
- 8 AyM will comprise up to 50 Wind Turbine Generators (WTGs) and will include infrastructure that is required to transmit the power generated by the turbines to the offshore substation via inter-array cables, before being transmitted via export cables to the proposed onshore substation located to the west of St Asaph Business Park (SABP) and then to the existing National Grid Bodelwyddan substation.
- 9 The key offshore components of AyM will include:
 - WTGs with associated foundations and scour protection;
 - Inter-array cables and associated cable protection;
 - Up to two Offshore Substation Platforms (OSPs) with associated foundations and scour protection;
 - Up to two offshore export cable circuits and associated cable protection;
 - A meteorological mast (met mast); and
 - Permanent Vessel Moorings (PVMs).
- 10 More details on the offshore aspects of the proposed development are described in the Environmental Statement (ES) Volume 2, Chapter 1: Offshore Project Description (APP-047).

2 JNCC's remit

2.1 Introduction

- 11 The Joint Nature Conservation Committee is the public body that advises the UK Government and devolved administrations on UK-wide and international nature conservation. JNCC has responsibility for nature conservation in the offshore marine environment, which begins at the edge of territorial waters and extends to the UK Continental Shelf (UKCS). Furthermore, JNCC is a prescribed consultee for the proposed development under Section 42 of the Planning Act and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.
- 12 The following matters were agreed as not forming areas of focus for JNCC and therefore no Statement of Common Ground is required for these topic areas:
 - Offshore ornithology;
 - Benthic subtidal and intertidal ecology;
 - Fish and shellfish ecology; and
 - Onshore biodiversity and nature conservation.
- 13 The SoCG covers technical topics of the DCO application of relevance to JNCC, comprising:
 - Marine mammals.

2.2 Consultation Summary

- 14 Table 1 This section briefly summarises the consultation that the Applicant has undertaken with JNCC including both statutory and non-statutory engagement during the pre-application and post-application phases.

Table 1: Consultation undertaken with JNCC pre-application relevant to marine mammals.

DATE AND TYPE	DESCRIPTION OF CONSULTATION
03/03/2020	Pre-scoping meeting to discuss and review the marine mammal density estimates.
June-July 2020	Scoping Opinion.
10/11/2020	Post-scoping meeting on non-ornithological HRA matters regarding marine ecology. This meeting was focused on discussing key points from feedback on the HRA screening and to agree on changes to the HRA screening conclusions where appropriate. Following this meeting, an updated screening conclusions note was circulated to ETG members.
August-October 2021	Statutory consultation on the PEIR under Section 42 of the Planning Act 2008.
01/02/2022	Post-statutory consultation meeting to discuss marine mammal feedback on the RIAA and the MMMP.

3 Agreements Log

- 15 The following sections of this SoCG set out the level of agreement between the Applicant and JNCC for each relevant component of the Application identified in paragraph 13. The tables below detail the positions of the Applicant alongside those of JNCC and whether the matter is agreed or not agreed.
- 16 In order to easily identify whether a matter is 'agreed', 'not agreed' or an 'ongoing point of discussion', the agreements logs in the tables below are colour coded to represent the status of the position according to the criteria in Table 2 below.

Table 2: Position status key.

POSITION STATUS	COLOUR CODE
The matter is considered to be agreed between the parties	Agreed
The matter is neither 'agreed' or 'not agreed' and is a matter where further discussion is required between the parties, for example where relevant documents are being prepared or reviewed.	Ongoing point of discussion
The matter is not agreed between the parties, however the outcome of the approach taken by either the Applicant or JNCC is not considered to result in a material outcome on the assessment conclusions. Both parties are in agreement that the disagreement does not have a material outcome on the assessment conclusions.	Not agreed – No material impact
The matter is not agreed between the parties and the outcome of the approach taken by either the Applicant or JNCC is considered to result in a materially different outcome on the assessment conclusions.	Not agreed – material impact

Table 3: Status of discussions relating to Marine Mammals.

DISCUSSION POINT	APPLICANT'S POSITION	JNCC POSITION	POSITION STATUS
ENVIRONMENTAL IMPACT ASSESSMENT			
Planning and policy	The EIA has identified and given due regard to all appropriate plans and policies relevant to marine mammal ecology, insofar as relevant to JNCC's remit.	JNCC agree the EIA (Section 7.2) has given regard to all appropriate policies relevant to offshore marine mammals.	Agreed
Consultation	The EIA has had regard to matters raised by JNCC via statutory and non-statutory consultation activities in relation to marine mammal ecology.	JNCC agree the EIA has had regard to matters raised by JNCC, for example the sensitivity score assigned to dolphin species was amended following consultation with JNCC and NRW.	Agreed
Assessment scope and methodology	The EIA has identified and assessed all likely significant effects relevant to marine mammal ecology as identified within the Scoping Report and Scoping Opinion.	JNCC agree the EIA has identified and assessed appropriately all potential impacts that could have a likely significant effect on offshore marine mammals.	Agreed
	The study area defined for the assessment is appropriate for the impacts, pathways and receptors considered.	JNCC agree the study area defined for the assessment was appropriate for marine mammal receptors and the impact pathways being considered.	Agreed
	The assessment has appropriately defined the Maximum Design Scenario (MDS) for the purposes of assessment.	JNCC agree with the maximum design scenarios used in the assessment.	Agreed
	The noise modelling and metrics applied are appropriate in relation to assessing impacts on marine mammals.	JNCC agree the noise modelling undertaken and the metrics applied (e.g. sound pressure levels and cumulative sound exposure levels) were appropriate when assessing potential impacts to marine mammals from underwater noise, in particular piling.	Agreed
Baseline characterisation	Sufficient primary and secondary data (including site-specific digital aerial surveys) have been collated to appropriately characterise the baseline environment for the purposes of EIA.	JNCC agree that sufficient data was collated to characterize the marine mammal baseline environment for the EIA.	Agreed
	The sensitivity and importance of marine mammal receptors has been appropriately and adequately described within the EIA.	JNCC agree the sensitivity of marine mammal receptors to the impacts assessed in the EIA have been appropriately described.	Agreed
Mitigation measures	<p>The mitigation measures identified within the EIA to reduce potential impacts from piling are considered appropriate and adequate in relation to marine mammal ecology.</p> <p>The Applicant provided a Marine Mammal Clarification Note (REP1-002) which confirms that the Applicant will commit to</p>	JNCC do not agree with the use of a single metric (SPL) to define the distance within which injury could occur and needs to be mitigated, which will influence the choice of mitigation methods employed. We note, however, AyM now commits to mitigating both metrics in the final MMMP (to be agreed post-consent) in its Clarification Note to NRW (Marine Mammal	Agreed

DISCUSSION POINT	APPLICANT'S POSITION	JNCC POSITION	POSITION STATUS
	<p>mitigating against cumulative PTS (SEL_{cum}) in the final MMMP rather than the SPL metric unless guidance at the time advises it is not appropriate to do so.</p> <p>Noise abatement measures are included within the suite of potential mitigation options considered within the outline MMMP (APP-107).</p>	<p>Clarification Note, Deadline 1, 24 October 2022, Revision B) unless evidence or guidance at the time suggest otherwise. We agree with this approach as the mitigation measures identified in the Clarification Note (including noise abatement) are appropriate methods to consider when developing mitigation plans to reduce potential injury from piling to marine mammals and should be sufficient to mitigate all the injury ranges predicted in the EIA.</p>	
	<p>The mitigation measures proposed in the Outline Marine Mammal Mitigation Protocol (MMMP) for piling are appropriate and sufficient given the conclusions of the EIA.</p>	<p>The noise assessment in the EIA considers two metrics when assessing potential injury to marine mammals from underwater noise; sound pressure levels (SPL), and cumulative sound exposure levels (SEL_{cum}). This is in line with current industry best practice and the current advice of JNCC. However, the Outline MMMP only considers injury ranges predicted using the SPL metric (referred to as instantaneous PTS), as AyM considered the injury ranges predicted using the SEL_{cum} metric (referred to as cumulative PTS) over precautionary.</p> <p>JNCC do not agree with the use of a single metric when mitigating auditory injury from piling and believe the mitigation measures described in the Outline MMMP for piling are not sufficient to reduce the risk of injury using the cumulative SEL metric to negligible levels. Since submission of the Outline MMMP, AyM now commits to mitigating both metrics in the final MMMP (see above regarding the Marine Mammal Clarification Note). JNCC agree with this approach and that the MMMP can be finalised post-consent as we believe the injury ranges predicted in the EIA can be mitigated with a combination of the methods discussed in the Clarification Note.</p> <p>Current industry best practice is to use both metrics when assessing potential impacts from noise to marine mammals, with the assumption that all predicted injury ranges will be considered when developing subsequent mitigation plans. While we agree the current assessment methods can over-estimate potential injury ranges, no suitable alternative method of estimating injury using the SEL_{cum} metric has been presented. JNCC do not agree the information provided is sufficient to</p>	Agreed

DISCUSSION POINT	APPLICANT'S POSITION	JNCC POSITION	POSITION STATUS
		support this approach at this time and believe applying it is contrary to the precautionary principle which underpins UK (and EU) legislation.	
Outcomes of the EIA	The conclusions of the assessment appropriately reflect the potential effects on marine mammals within the study area during the construction, operation, and decommissioning phases of AyM.	JNCC agree with the conclusions of the EIA, however this agreement is on the assumption a MMMP which considers both injury metrics is agreed prior to construction commencing. AyM now commit to mitigating both metrics in the final MMMP (see above regarding the Marine Mammal Clarification Note) and JNCC agree with this approach. Finalizing the MMMP post-consent will enable the plan to incorporate any changes to the design envelope, making it more fit for purpose, and allow consideration of any new evidence or best practice guidance that may have been published in the interim period.	Agreed
	The cumulative effects have been adequately described and the conclusions of the cumulative effects assessment are appropriate in relation to marine mammal ecology.	JNCC agree potential cumulative effects to offshore marine mammals have been assessed appropriately and agree with the conclusions, noting our previous comments on the Outline MMMP.	Agreed
	No significant adverse effects (in EIA terms) on marine mammals are predicted to arise from the development of AyM.	JNCC agree with the conclusion of no significant adverse effects to marine mammals on the assumption a suitable MMMP is agreed prior to construction commencing. As stated previously, we are content to finalize the plan post-consent as we believe the injury ranges predicted in the EIA can be mitigated using the methods discussed.	Agreed
REPORT TO INFORM APPROPRIATE ASSESSMENT			
HRA Screening	The RIAA has identified all relevant features of designated sites in relation to marine mammal ecology that may be sensitive to changes as a result of AyM.	JNCC agree all appropriate offshore designated sites with marine mammal features were identified in the HRA screening.	Agreed
Mitigation measures	The mitigation measures identified within the HRA are considered appropriate and adequate in relation to marine mammal ecology.	JNCC do not agree the mitigation measures described in the Outline MMMP for piling are sufficient to reduce the risk of injury from piling to negligible levels (see our previous comments on mitigation measures proposed in the EIA and the outline MMMP). However, AyM now commits to mitigating both metrics	Agreed

DISCUSSION POINT	APPLICANT'S POSITION	JNCC POSITION	POSITION STATUS
		in the final MMMP (see above regarding the Marine Mammal Clarification Note) and JNCC agree with this approach.	
Outcomes of the RIAA	The conclusion of no Adverse Effect on Integrity (AEol), either from the project alone or in-combination, at any sites is appropriate in relation to marine mammal ecology.	JNCC agree with the conclusion of no adverse effect on site integrity to SACs designated for harbour porpoise (e.g. the North Anglesey Marine SAC) however this agreement is on the assumption a suitable MMMP is agreed prior to construction commencing (see previous comments) and that <u>spatial/temporal threshold</u> to reduce disturbance are not beached.	Agreed



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