

Sent by email

06 January 2022

Dear Elena San Martin,

SCREENING AND SCOPING OPINION UNDER THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007 (as amended)

Mostyn Energy Park Extension- a proposal to extend upon recent developments as part of the Mostyn Energy Park (MEP) development within the Port of Mostyn, Dee Estuary, Flintshire.

I am writing further to your request for a screening and scoping opinion, dated 05 October 2021, made in accordance with The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) ("The Regulations").

The purpose of the Environmental Impact Assessment (EIA) screening procedure is to determine whether the proposed works require an Environmental Impact Assessment and submission of an Environmental Statement (ES). The purpose of the scoping procedure is to determine what information should be provided in the ES.

In reaching our Screening Opinion we have considered the proposed works against Schedule A1 and A2 of the above regulations. In reaching our scoping opinion we have had regard to the information provided in the "Mostyn Energy Park Extension Scoping Report¹", dated October 2021, and considered the requirements of Schedule 3 of the Marine Works Regulations. We have also consulted with the bodies that we consider have an interest in the project by reason of their environmental responsibilities, or local or regional competences, as required by the above regulations, and had regard to their comments.

Screening Opinion

It is our opinion that the works fall within the categories of project listed within Schedule A2, paragraph 63 (Construction of harbours and port installations, including fishing harbours) of the above regulations, and therefore must be considered in terms of its size, nature and location having regard to the relevant criteria listed in Schedule 1 of the above regulations.

¹ ABPmer, (2021). Mostyn Energy Park Extension, Scoping Report, ABPmer Report No. R.3738. A report produced by ABPmer for Port of Mostyn, October 2021.

We have carefully considered the views of the consultation bodies alongside the criteria as set out in Schedule 1 of the regulations, and have determined, based on the information provided; that the project has the potential to have a significant effect on the environment and therefore a statutory Environmental Impact Assessment is required.

We have come to this conclusion on the basis of the likely significant impacts of the project, specifically with regard to the location of the Project within the Dee Estuary SAC, SPA, Ramsar and SSSI and the potential for significant impacts to the features of these protected sites.

Scoping Opinion

In reaching our scoping opinion we have had regard to the information provided in the "Mostyn Energy Park Extension Scoping Report, dated October 2021, and considered the requirements of Schedule 3 of the Marine Works Regulations. We have consulted with the bodies that we consider have an interest in the project by reason of their environmental responsibilities, or local or regional competences, as required by the above regulations, and had regard to their comments.

This letter sets out the additional information that we consider necessary to be included and/or assessed in the ES for this Project.

Please note our scoping opinion is based on the information available to us at this time. The information provided is not a definitive list of the ES / EIA requirements and further information may be required following an application for this project, to ensure a full assessment is carried out.

This Screening and Scoping Opinion will be provided to all those bodies that were consulted and will be publicised on our website and on our Public Register.

The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)

Scoping Opinion (SC2107)

Summary of the proposal

The Port of Mostyn, located on the Dee Estuary, is proposing to extend the Mostyn Energy Park (MEP) so that the Port can continue to support and service current and anticipated future offshore wind development. This proposed development is to be known as the MEP Extension Project.

The key components of MEP are:

- Construction of 360m length of new quay wall and reclamation of approximately 4ha of the existing harbour behind this wall.
- Capital dredge required to create new berth pocket alongside new quay wall (approx. dredge depth -11m Chart Datum)
- Maintenance dredging and disposal programme for operational phase
- Continuation of ongoing maintenance dredging of the navigational channel and harbour area

Location

The Port of Mostyn is located on the Dee Estuary in Flintshire, North Wales. The majority of the proposed development will occur below mean high water springs (MHWS).

Consultation Responses Received

In considering the scoping report, the NRW PS consulted with various consultation bodies. The consultation bodies that responded are listed below:

- Natural Resources Wales
- Maritime and Coastguard Agency (MCA)
- Royal Yachting Association (RYA)
- Trinity House Lighthouse Service (THLS)
- Local Harbour Authority
- Dee Conservancy
- Natural England
- The Crown Estate
- Ministry of Defence
- Royal Society for the Protection of Birds (RSPB)
- Cadw
- Welsh Archaeological Trust (Clwyd-Powys Archaeology Trust)
- Royal Commission on Historic Monuments in Wales (RCHMW)

- North West Inshore Fisheries Conservation Authority (NWIFCA)
- UK Chamber of Shipping
- NATS Safeguarding

0. General comments

0.1. Marine and coastal guidance produced by NRW that may provide useful information to help with your project is available here:

<https://naturalresources.wales/guidance-and-advice/business-sectors/marine/?lang=en>

0.2. The ES submitted should demonstrate consideration of the points raised in this scoping opinion. It is recommended that a table is provided in the ES summarising the scoping opinion comments and how they are addressed in the ES.

0.3. The EIA must be undertaken by a competent person and the ES must include a competent expert statement.

0.4. Where possible, other environmental assessments should be coordinated with the EIA process. However, it is important to note that the Habitats Regulations Assessment (HRA) and Water Framework Directive assessment (WFD), and any other assessment, are separate processes to the EIA.

0.5. Throughout the ES robust evidence should be presented so that the potential environmental impacts can be properly understood and evaluated; and appropriate measures identified to avoid, reduce or where necessary compensate for those impacts.

0.6. The ES must include:

- A Non-Technical Summary (NTS);
- A chart or map identifying where the activity will be carried out;
- A description of the likely significant effects of the project, whether direct, indirect, secondary, cumulative, transboundary, short-term, medium-term, long-term, permanent, temporary, positive and negative;
- A description of the methods used to make the assessment of the significant effects and difficulties encountered in compiling the information and uncertainties involved;
- A description of measures to avoid, prevent, reduce or offset identified significant adverse effects and proposed monitoring arrangements; &
- A description of the expected significant adverse effects of the project on the environment resulting from the vulnerability of the project to risks of major accidents or disasters.

0.7. The ES must consider any potential transboundary impacts where appropriate.

0.8. Early engagement with relevant stakeholders is encouraged. You are able to obtain further advice from NRW TE through the NRW Discretionary Advice Service, please see here: <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/advice-for-developers/our-service-to-developers/>

0.9. The UK left the EU on 31 January 2020 – all legal obligations relating to compliance with environmental licences/permits and legislation will continue to apply. NRW on behalf of Welsh Ministers will continue to issue licenses in line with our current practice.

0.10. You must ensure that reference is made to and consideration of compliance with the UK Marine Policy Statement and the now published Welsh National Marine Plan and its associated policies within the submitted ES, alongside any further regional planning documentation. The published Welsh National Marine Plan can be found here: [Welsh National Marine Plan: document | GOV.WALES](#) Implementation guidance for the Welsh National Marine Plan can also be found here: <https://gov.wales/welsh-national-marine-plan-implementation-guidance>.

1. Non-technical Summary

1.1. As identified within the Scoping report (Table 2), the ES must include a Non-Technical Summary (NTS).

2. Introduction and Project Description

2.1. You must ensure that the submitted ES fully clarifies the timescales for all Project stages and therefore ensure that the timeline being assessed is clear.

2.2. An overall Figure to understand the estuary scale, particularly the outer estuary distances offshore, would also be useful to provide context.

3. Legislation and Consenting Framework

3.1. We are satisfied that the scoping report comprehensively identifies the relevant policy and legislation which must be considered within the ES;

3.2. The requirement for a Habitats Regulation Assessment (HRA) and Water Framework Directive (WFD) assessment are correctly identified.

3.3. Section 3.2 (Seabed Owner Consent), and Figure 4 (Pg. 8) of the scoping report shows a landownership boundary. NRW as the Statutory Harbour Authority for the Dee Conservancy own the surrounding riverbed and foreshore and expect the Project to consider potential localised impacts on its neighbours. Whilst the proposed port extension work is contained within the Port Harbour jurisdiction and freehold, the wider maintenance dredge area in the Mostyn Operational Area does incorporate Dee Conservancy riverbed. A management system exists for the survey and dredge of the channel in the Mostyn Operational Area, with oversight from the Dee Conservancy Harbour Master.

- 3.4. A protected species licence (section 3.7) may be required depending upon the outcome of the EIA.
- 3.5. As noted within the scoping report (section 3.9); you must ensure the submitted ES makes reference to and considers any impacts under the Wellbeing of Future Generations (Wales) Act 2015 and complies with the UK Marine Policy Statement, the Welsh National Marine Plan (and its associated policies) (refer paragraph 0.10 above), alongside any further regional planning documentation.
- 3.6. In reference to section 3.8.6 (waste hierarchy assessment); please note that sediment retention is regarded as a preferred management option in relation to dredged material if it is environmentally, technically, socially, and economically feasible to do so (see section 5.2 Physical processes below and Annex 1). This approach is advocated within the Welsh National Marine Plan D&D_01: Dredging and Disposal (supporting) policy and within the OSPAR Guidelines for the Management of Dredged Material at Sea (Agreement 2014-06. Recognition of the importance of dredged sediment to the natural sediment cycle is the driving force behind this approach. The following reference may be useful: *Manning, W.D., Scott, C.R and Leegwater. E. (eds) (2021). Restoring Estuarine and Coastal Habitats with Dredged Sediment: A Handbook. Environment Agency, Bristol, UK. [Restoring-Coastal-Habitats V8.pdf \(catchmentbasedapproach.org\)](#)*

4. Proposed EIA Methodology

- 4.1. We consider the proposed methodology for the EIA (as detailed within Section 4) to be appropriate. However, we would recommend that the parameters of the Project are assessed using a 'realistic worst-case scenario' to address any uncertainty relating to Project design.
- 4.2. All impacts on nature conservation interests must be fully described, assessed and the significance of impacts clearly explained in the ES. The mitigation hierarchy should be followed to avoid, mitigate or compensate for biodiversity losses. All impacts predicted should include fully worked up possible mitigation within the ES. Where applicable, monitoring should be utilised to verify predictions of impact significance and quantify any unexpected impacts.

5. Scoping Review

5.1. Key issues and approach to scoping;

We generally agree with the topics that the report has scoped into the EIA. We have provided specific comment below. Where no comment has been provided the assessment should be carried out as detailed within the scoping report.

5.2. Physical processes

5.2.1. It is recommended that you follow the NRW GN41 guidelines with specific reference to Data Requirements for EIA Baseline Characterisation, which can be obtained from the NRW website or from the link below:

[guidance-on-best-practice-for-marine-and-coastal-physical-processes-baseline-survey-and-monitoring-requirements-to-inform-eia-of-major-development-projects.pdf \(naturalresources.wales\)](#)

5.2.2. Additionally, if using numerical model simulations within the assessment of environmental effects for physical processes, we recommend following the NRW GN41 guidelines with specific reference to 'Advice to Inform Development of Guidance on Marine, Coastal and Estuarine Physical Processes Numerical Modelling Assessments'. Which can be accessed from the following link:

[Contents \(naturalresources.wales\)](#)

5.2.3. NRW TE are in the process of developing a position around the sustainable management of marine and coastal sediment, and it is likely to encourage retention of sediment, followed by beneficial uses which support ecosystem resilience ahead of other options. The position statement is likely to be available by Spring 2022; however, we are currently providing general advice to applicants ahead of this formal position statement. This advice has been presented within Annex 1.

5.2.4. Within Section 5.2.1 (Legislation, policy and guidance position) we would recommend the following:

- TAN14 [Technical advice note \(TAN\) 14: coastal planning | GOV.WALES](#) and TAN15 [Technical advice note \(TAN\) 15: development, flooding and coastal erosion | GOV.WALES](#)
- SMP2 North West and Wales – section 11a5 Dee Estuary
- Marine Physical Processes Guidance to inform Environmental Impact Assessment (EIA) [marine-physical-processes-guidance-to-inform-environmental-impact-assessment-eia.pdf \(cyfoethnaturiol.cymru\)](#)

5.2.5. We agree with the impacts scoped into the assessment but advise that the following impacts must also be considered:

- Coastal squeeze through HTL activities in relation to SMP2 North West and Wales (section 11a5 Dee Estuary).
- Removing sediment from the estuary system, if the option to use the sediment as infill is progressed.
- The increased need for maintenance dredging, the capacity for the disposal sites to sustainably dissipate material and the additional environmental disturbance it may cause.

5.2.6. When discussing 'local' impacts, we recommend further definition is placed here.

- 5.2.7. A discussion of present monitoring requirements will also aid understanding on the current license conditions (DML2001 and DML1542v2) and how that will relate to the project application and proposal moving forward.
- 5.2.8. We advise that the Marine Physical Processes Guidance to inform Environmental Impact Assessment (EIA) is followed (link provided within 5.2.4 above).

5.3. Water and Sediment Quality

- 5.3.1. We agree with the potential impacts identified within section 5.2.35 and 5.2.36 of the scoping report. These must be considered within the ES.
- 5.3.2. We agree with the scoping report that the risk of spills can be scoped out of the EIA due to mitigation and NRW TE recommend a Construction Environment Management Plan (CEMP) is drawn up to manage the risk of spills to the marine environment. We also recommend the applicant take note of the Guidance for Pollution Prevention (GPP) (particularly GPP5 although others are also relevant). However; please note that the risk of spills cannot be screened/scoped out of the HRA or WFD compliance assessment and a full assessment will be required for both.
- 5.3.3. The disposal ground location should be included within the Figures.

5.4. Nature Conservation & Marine Ecology

Benthic ecology

- 5.4.1. NRW TE have advised that the survey detailed within Section 5.4.2: "*The Mostyn Energy Park Biotope Survey: The Mostyn Energy Park Biotope Survey was undertaken in November 2012 jointly by staff members from both ABPmer and NRW. The survey extent approximately covered the Port of Mostyn Statutory Harbour Area (Port of Mostyn, 2013)*" may be useful to inform the EIA, it is also likely the data could be out of date given the highly dynamic environment of the Dee Estuary. For instance, areas that were subtidal and "Estuaries" feature during the 2012 survey may now be part of the intertidal now and thus potentially another feature e.g., "Mudflat and sandflat not covered by seawater at low tide". We therefore advise any data derived from the 2012 survey to inform the EIA should be used with caution and that the recent survey data should be used to define the existing extent of the benthic features that might be potentially impacted by the development. It will be important to have an up to date understanding of the extent of these features in relation to the Project to accurately quantify any potential habitat losses within the specific designated features of the Dee Estuary SAC that might potentially arise as a result of the development.
- 5.4.2. We agree with the impact pathways scoped in for benthic ecology for the construction phase; however, NRW TE have advised that the impact pathway "*Direct changes to benthic habitats and species as a result of capital dredging*"

and dredge disposal” should be defined further to consider habitat modification - adjacent habitats indirectly affected by activities and infrastructure e.g., scour, change in hydrodynamics, increased sedimentation and/or smothering and introduction of INNS.

- 5.4.3. We also agree with the impact pathways scoped in for the operational phase and, as above, also advise that “*Direct changes to benthic habitats and species as a result of capital dredging and dredge disposal*” should be defined further to consider habitat modification.
- 5.4.4. The impact pathway “Indirect changes to benthic habitats and species as a result of changes to hydrodynamic and sedimentary processes during operation;” should also consider potential indirect habitat losses resulting from coastal squeeze through HTL activities (see Section 5.2.5 above).
- 5.4.5. We agree with the zone of influence being determined by the outputs of the physical processes modelling and highlight the linkage between topics (as referred to within Section 5.4.4) with the extent of secondary impacts to the benthic habitats and features of the Dee Estuary being informed by the outcomes of other assessments such as coastal processes and water & sediment quality assessments.
- 5.4.6. There is the potential for impacts from the Project, particularly those in relation to direct habitat loss of “Mudflats and Sandflats not covered by seawater at low tide” feature, to result in an adverse effect on the site integrity (AEOSI) of the Dee Estuary SAC. NRW TE advise when preparing the EIA and the report to inform appropriate assessment the applicant carefully considers the distribution of habitats in the SAC and quantifies the potential losses resulting from the development to the “Estuaries” and to the “Mudflats and Sandflats not covered by seawater at low tide” features of the Dee Estuary SAC separately.
- 5.4.7. The applicant should also consider and assess as noted above, the potential for changes in hydrodynamics and impacts from coastal squeeze to result in indirect habitat loss of the designated features of the Dee Estuary SAC. Indirect habitat losses to designated features also have the potential to result in an adverse effect on the site integrity (AEOSI) of the Dee Estuary SAC.

Fish & shellfish

- 5.4.8. It is unclear whether the scope of the Quarterly demersal fish surveys will adequately characterise the fish community for the assessment. Some species, such as sandeels, will be poorly represented by the gears used and no shellfish data has been identified or dedicated shellfish surveys proposed, although beam trawling will collect some epifaunal species.
- 5.4.9. Effects on the fish features of the River Dee and Bala Lake SAC should be scoped into the assessment as they may be migrating through the Dee Estuary and interact with the Project. European smelt (*Osmerus eperlanus*) are also present within the Dee Estuary.

- 5.4.10. NRW TE would like to bring to your attention that a Bangor University PhD project has recently conducted fish eDNA monitoring of the Dee Estuary, which may be of use to inform the assessment (the PhD project is being managed by Professor Simon Creer).
- 5.4.11. A list of receptor species should be defined within the ES considering the available data and species present, which are of conservation, commercial or recreational importance in the Dee Estuary. NRW TE advise that fish are then assessed by species to ensure the importance/value, sensitivity and magnitude criteria reflects species-specific biological traits and appropriate population scales.
- 5.4.12. Impacts on sub-tidal habitats and secondary impacts to fish species should be scoped in to the assessment and consideration also given to habitat loss due to increased disposal volumes.
- 5.4.13. We also advise that underwater noise disturbance resulting from dredging is scoped in.
- 5.4.14. As the scoping out of indirect impacts to fish species and habitats resulting from hydrodynamic changes is dependent upon the physical processes assessment we cannot, at this stage, confirm that it is appropriate to scope this impact pathway out of the assessment.

Marine mammals

- 5.4.15. Please note that updated estimates of Marine Mammal Management Unit populations are available from IAMMWG (2021)² and should be used in place of older estimates where appropriate.
- 5.4.16. We would expect the following species to be scoped into the EIA for this Project:
- Harbour porpoise (*Phocoena phocoena*)
 - Bottlenose dolphin (*Tursiops truncatus*)
 - Grey seal (*Halichoerus grypus*)
 - Minke whale (*Balaenoptera acutorostrata*)
 - Common dolphin (*Delphinus delphus*)
 - Rissos's dolphin (*Grampus griseus*)
- 5.4.17. We consider the Marine Mammal Management Unit (MMMU) as the most appropriate spatial scale to assess populations of marine mammals and to scope in relevant protected sites. For each Annex II marine mammal species, the SACs in Wales within the relevant MMMU are as follows:

² IAMMWG (2021) Updated abundance estimates for cetacean Management Units in UK waters. JNCC Report No. 680, JNCC Peterborough, ISSN 0963-8091. Available at; <https://hub.jncc.gov.uk/assets/3a401204-aa46-43c8-85b8-5ae42cdd7ff3>

Harbour porpoise

Management Unit: Celtic & Irish Sea

SACs in Welsh waters with harbour porpoise as a feature within the Management Unit:

- Gogledd Môn Forol / North Anglesey Marine
- Gorllewin Cymru Forol / West Wales Marine
- Dynesfeydd Môr Hafren / Bristol Channel Approaches

Bottlenose dolphin

Management Unit: Irish Sea

Welsh SACs with bottlenose dolphin as a feature within the Management Unit:

- Pen Llŷn a'r Sarnau / Lleyn Peninsula and the Sarnau
- Cardigan Bay / Bae Ceredigion

Grey Seal

Management Unit: OSPAR Region III

Welsh SACs with grey seal as a feature within the Management Unit:

- Pen Llŷn a'r Sarnau / Lleyn Peninsula and the Sarnau
- Cardigan Bay / Bae Ceredigion
- Pembrokeshire Marine / Sir Benfro Forol

5.4.18. During the construction phase Injury from underwater noise must be scoped into the assessment, in addition to disturbance.

5.4.19. We also recommend the inclusion of increased collision risk to marine mammals during both the construction and operational phases as a direct result of the increase in vessel activity or change in vessel type and/or size.

Underwater noise modelling

5.4.20. NRW TE have advised that a precautionary, conservative model should be used to ensure noise levels aren't underpredicted. They also recommend the following;

5.4.21. In the referenced NPL good practice guide, it's recommended that when making estimates of Energy Source Level SLE for piling activity, it is advisable to base the estimate on measurements made on piles driven under similar conditions (e.g. hammer energy, water depth, sediment type, geographical location) – a semi-empirical approach. Information should be presented on how the source level was determined (including where the original measurements were from), in order to outline its suitability to inform an assessment of the potential environmental effects.

5.4.22. Farcas et al (2016)³ demonstrate how the use of geometric spreading laws can lead to substantial errors if applied to the more complex environments typical of coastal and inland waters. Examples of approaches that can be taken to model pile driving in shallow water are available in literature, such as Zampolli et al (2013)⁴, and Thompson et al (2020)⁵. Context and reasoning for approaches taken should be presented.

5.4.23. If the NMFS calculator (NMFS 2021)⁶ is used then the variables chosen and the justifications for these should be provided.

Coastal waterbirds

5.4.24. NRW TE were unable to comment on this section of the report; however, we consider the information provided on protected sites for ornithology is correct and the pathways through the construction phase and operating phase have been identified correctly.

5.4.25. The RSPB have also highlighted the Dee Estuary as being one of the top five sites for wintering water birds in the UK and have requested that additional site-specific ornithological surveys are undertaken to inform understanding of the coastal bird usage within the vicinity of the Project at different periods of the tide to inform the assessment.

5.5. Fisheries

5.5.1. The Dee Estuary has a stock of cockles which is commercially fished. No other comments were received from consultees in relation to commercial fisheries and the ES should therefore include an assessment of impacts on commercial fisheries, as set out in the scoping report.

5.6. Commercial and Recreational Navigation

5.6.1. We note that the site falls within the jurisdiction of Port of Mostyn and Dee Conservancy, as the Statutory Harbour Authority (SHA) for the Port of Mostyn and the Dee Conservancy. Port of Mostyn is also the Competent Harbour

³ Farcas, A., Thompson, P. M., & Merchant, N. D. (2016). Underwater noise modelling for environmental impact assessment. *Environmental Impact Assessment Review*, 57, 114-122.

⁴ Zampolli, M., Nijhof, M. J., de Jong, C. A., Ainslie, M. A., Jansen, E. H., & Quesson, B. A. (2013). Validation of finite element computations for the quantitative prediction of underwater noise from impact pile driving. *The Journal of the Acoustical Society of America*, 133(1), 72-81.

⁵ Thompson, P. M., Graham, I. M., Cheney, B., Barton, T. R., Farcas, A., & Merchant, N. D. (2020). Balancing risks of injury and disturbance to marine mammals when pile driving at offshore windfarms. *Ecological Solutions and Evidence*, 1(2), e12034.

⁶ NMFS (2021) <https://www.fisheries.noaa.gov/southeast/consultations/section-7-consultation-guidance>

Authority (CHA) with respect to pilotage for the Port of Mostyn and the River Dee.

- 5.6.2. We agree with the scope of the assessment relating to shipping and navigation. However; the proposed study area for the assessment on navigation only includes Mostyn dredge, disposal and transit areas, and does not factor in potential impacts on channels further upstream used by commercial fishermen, recreational craft and other users. We would therefore expect the study area for the assessment to include the navigable channel up to Greenfield (as a minimum).
- 5.6.3. Greater consideration should be given to the collision of passing vessels and grounding risk within the assessment, given the narrow channels.
- 5.6.4. We agree with the inclusion of a Navigation Risk Assessment (NRA) on the impact of the works on shipping and navigation to support your assessment. This should be considered and agreed by the Port of Mostyn in its role as the Statutory Harbour Authority (SHA) and in accordance with the Port Marine Safety Code and its Guide to Good Practice. The NRA should establish how the phases of the project are managed to a point where risk is reduced and considered to be 'as low as reasonably practicable' (ALARP). The NRA may be provided as an appendix to the Environmental Impact Assessment Report and the outputs will inform the Project's Environmental Impact Assessment Report's chapter for the commercial and recreational navigation topic.
- 5.6.5. To address the ongoing safe operation of the marine interface for this project, the MCA would like to highlight the Port Marine Safety Code (PMSC) and its Guide to Good Practice. Under this code you will need to liaise and consult with the SHA and develop a robust Safety Management System (SMS) for the project.
- 5.6.6. Additionally, there is a British Standards Institution publication on Road Lighting, BS5489. Part 8 relates to a code of practice for lighting which may affect the safe use of aerodromes, railways, harbours and navigable Inland waterways.
- 5.6.7. The Dee Conservancy have also advised that the survey works undertaken within the Dee Conservancy Authority area (outside Mostyn Docks limits) will require approval of Risk Assessments and Method Statements by the Dee Conservancy Harbour Master. They also note that within Figure 4 (para 3.2) afloat activity within this area comes wholly under the jurisdiction of the Dee Conservancy Harbour Master and therefore reference to Dee Conservancy should be included in the Figure.
- 5.6.8. Additionally, within para 5.5.2 (Vessels), please note the statement is incorrect and that port owned and operated vessels are registered at Mostyn. Finally, within para 5.6.2 (Commercial Shipping Activity) the A380 operations have now ceased and reference to them should be removed.

5.7. Flood Risk and Drainage

- 5.7.1. We welcome that additional information and assessments in the form of a Flood Consequences Assessment (FCA) will be prepared in support of the EIA.

This FCA will need to be prepared in accordance with Technical Advice Note 15 (TAN15): Development, flooding and coastal erosion, December 2021. The FCA will need to assess the flood risk posed to the site and also consider the impact of the proposals on flood risk elsewhere.

- 5.7.2. The FCA would also need to demonstrate that the reclaimed area of land which is to be used for storage, workshop or office space is raised above expected flood levels for the 0.5% Annual Exceedance Probability (AEP) event with a 75 year allowance for climate change, in accordance with the requirements of Section 11.6 of TAN15. Consideration will also need to be given to the flood risk posed to the site in the 0.1% AEP event with an allowance for climate change, (as outlined in Sections 11.10 and Figure 9 of TAN15 2021).

5.8. Cultural Heritage and Archaeology

- 5.8.1. Cadw have provided a list of designated historic assets that are located within 3km of the proposed development (presented in Annex 2). We agree that any impact on the setting of the designated historic assets is likely to be similar to the visual impact, given the distance between them and that the impact of the proposed development on the setting of designated historic assets can be scoped out of the EIA.
- 5.8.2. We disagree that effects on landside heritage assets during construction and operation can be scoped out of the assessment as the proposed works are located in an area which, as noted on page 65 of the scoping report, has a potential for prehistoric archaeology to be present. This material is likely to be waterlogged and well preserved but of a fragile nature. Whilst the covering of such artefacts may appear to be non-intrusive, the increased weight on them and the new environmental regime they will be contained in could have a significant impact on them. Consequently, the effects on landside heritage assets during construction and operation should be included within the assessment.
- 5.8.3. Section 5.8.4 of the scoping report indicates the sources that will be used in the preparation of a desk-based assessment and we agree that these are appropriate sources: however; we would also recommend the inclusion of a visual inspection of the study area and where possible a walkover survey of any areas that are not covered by water, to inform the assessment.
- 5.8.4. RCHMW have advised that consideration of potential for historic assets, both shipwrecks and crashed aircraft, with a currently unknown location should be scoped into the assessment. These should be considered alongside, and as equal, to the known sites derived from sources such as the UKHO. For example, the 'Dee Estuary Maritime Named Location' contains the records for 12 losses. The exact location of these losses is not precisely known, but they have at least some potential to be within the Project area. There are a number of other individual sites located in proximity to and within the extent, of the proposed development that should also be treated in the same way (e.g., the FAME <https://coflein.gov.uk/en/site/525306/>). The assessment area for documented

shipwreck/aircraft losses with the potential to be 'discovered' should be extended to the whole Dee Estuary (as for the UKHO data), rather than a 500m buffer around the development.

5.8.5. The assessment should include reference to a 'Protocol for Archaeological Discoveries' as part of the coverage of cultural heritage.

5.8.6. Please note that Cadw have brought to our attention that in the list of key data sources that will be used for the study there is reference to "Historic Environment Records (HER) held by Archwilio (2021)". Archwilio provides online access to core information held in the Historic Environment Record and is intended for use for information and research purposes only and should not be used for development control purposes or as part of a commercial project. It is therefore not recommended that this data set be used and instead the Historic Environment Record maintained by the Clwyd-Powys Archaeological Trust, on behalf of the Welsh Ministers under their duties required by the Historic Environment (Wales) Act 2016, should be used.

5.9. Cumulative impacts and in-combination effects

5.9.1. The ES must include an assessment of cumulative and in-combination effects.

5.9.2. The following data sources may provide useful information on other projects for the assessment of cumulative effects:

- The Nationally Significant Infrastructure Projects register:
<https://infrastructure.planninginspectorate.gov.uk/projects/register-of-applications/>
- The Developments of National Significance Register:
<http://gov.wales/docs/desh/publications/180312-dns-register-en.pdf>
- Planning Policy e.g. Local Development Plans, Transport Plans (National and Local) and National Policy Statements.
- An up to date list of marine licensable developments can be found at the following link:
<http://lle.gov.wales/catalogue/item/MarineLicences>

5.9.3. We advise that limiting projects for cumulative/in-combination assessment to within 2km of the project is not sufficient for mobile species such as fish and, as per our comments above, we consider MMMUs the appropriate scale to consider impacts on marine mammals.

No comments were received from consultees in relation to the following topics of the scoping report and therefore the assessment should be carried out as detailed within the report:

- Air Quality
- Climate

- Geology and Soils
- Landscape and Visuals
- Materials and Waste
- Population and Health
- Traffic, Transport and Access

The ES should include an assessment of the impacts on Traffic, Transport and Access if the materials to construct the new Port area are to be transported by road rather than vessel and this elevates the traffic levels above the threshold limit presented. We also do not agree with Terrestrial ecology being scoped out at this stage, without further evidence, due to the presence of Otter (*Lutra lutra*) within the Dee Estuary and the potential for disturbance from the construction phase (airborne noise, lighting, movements of plant and personnel etc).

We agree that landscape and visual impacts and air quality can be scoped out at this stage based upon the information presented within the scoping report

Please note our scoping opinion is based on the information available to us at this time. The information provided is not a definitive list of the ES / EIA requirements and further information may be required following an application for this project, to ensure a full assessment is carried out.

Please do not hesitate to contact me should you require any clarification or would like to discuss any aspect of this scoping opinion.

Yours sincerely



Seran Davies
Marine Licensing Team
Natural Resources Wales

Approved by:



Peter Morrison
Lead Specialist Officer
Date: 06 January 2022

Natural Resources Wales

Cc: All Consultation Bodies

Annex 1: Sustainable management of marine and coastal sediment

NRW TE are in the process of developing a position around the sustainable management of marine and coastal sediment, and it is likely to encourage retention of sediment, followed by beneficial uses which support ecosystem resilience ahead of other options.

The position statement is likely to be available by Spring 2022 and will likely to be framed around the below principles with the caveat that it is without prejudice to any formal position that may be presented in the future:

- Sediment budgets affect the condition, structure, function and processes of marine and coastal ecosystems, and the services which we derive from them.
- If sediment is permanently removed or lost from the environment (or outside the coastal cell, estuary or offshore sediment system) through human activities, it can present potential negative impacts and consequences, such as: coastal flooding and erosion; loss of habitats and species; degradation of beaches, impacts on landscape and seascape which can in turn affect tourism, recreation, well-being, industry and businesses.
- Climate change is likely to exacerbate these pressures, and we will need more rather than less sediment to adjust to sea-level rise, and to safeguard ecosystems and the services we derive from them. This is further compounded by the fact that whilst there are some contemporary sources of sediment, much of the marine and coastal sediment is glacially derived and considered to be a finite resource.
- It is more important than ever that we secure sustainable management of sediment as a natural resource, to safeguard the environment and to benefit society now and for future generations, and there is a wide range of legislation, plans and policies already in place to help achieve this (e.g. Environment (Wales) Act (2016) , Wellbeing of Future Generations Act (2015), Wales National Marine Plan).
- Whilst it may be possible to demonstrate that there are no adverse effects or significant impacts (under Conservation/EIA Regulations) associated with specific proposals to remove sediment from the marine and coastal environment for construction or other purposes, we would still encourage, as part of our advice under the Environment (Wales) Act (2016) in particular, that sediment is retained within the same sediment system to support ecosystem resilience.

Annex 2: Designated Historic Assets

Scheduled Monuments

FL214 Llanerch-y-mor Lead Smelting Chimney

Registered Parks and Gardens

PGW(C)3(FLT) Downing (grade II)

PGW(C)14(FLT) Mostyn Hall (grade II*)

PGW(C)38(FLT) Talacre (grade II*)

Listed Buildings/ Conservation Areas:

300	Orchard Wall at Berthymaen Farm	II*
330	Isglan	II
331	Barn and cow house at Isglan Farm	II
332	The Old Tavern Inn	II
334	Mostyn Hall Ice House	II
335	The Lletty Hotel	II
337	Plas Uchaf	II*
340	Mertyn Abbot Farmhouse	II
341	Farm Building at Mertyn Abbot	II
352	Drybridge Lodge	II*
512	Stokyn Hall	II*
520	Point of Ayr Lighthouse	II
527	Garth Mill and Mill House	II
531	Pen-y-Glasdir	II
544	Station Building, Mostyn Station	II
545	Goods Shed to SE of Mostyn Station	II
578	Clocktower Hall	II
579	Plassau	II
	Main Range to W side of former Stable Courtyard at	
583	Downing Hall	II
584	Former Coach House Range at Downing Hall	II
593	Former Ffynnongroyw School	II
597	Mostyn No. 1 Signal Box	II
14878	Mertyn Isaf	II
14887	Berthymaen	II*
21516	Porth Mawr, Mostyn Hall	I
21517	Mostyn Hall	I
22366	Llys Mair	II
22367	Range of Outbuildings on N side of yard of Llys Mair	II
22368	Stable/Cartshed Range on S side of yard to Llys Mair	II
22369	Former Cartshed in rear yard of Llys Mair	II
24439	Mertyn Downing	II
25075	Church of All Saints	II

25098	Llinegar Farmhouse	II
25118	Barn with attached cart shed at Berthymaen	II
25136	Picton Yard Farm	II
25245	Pentre Ffynnon Mill	II
25246	Pentre Ffynnon Farmhouse	II
25249	Plas Uchaf Bach	II
25255	Cart-Shed at Plas Uchaf	II
25256	Barn at Plas Uchaf	II
	Walls to kitchen garden, including gardener's cottage, at	
26262	Mostyn Hall	II
26263	Entrance piers, gates and bridge to Mostyn Hall	II
26264	Mostyn Lodge Hotel	II
26265	Dovecote and adjoining range at Mostyn Hall	II*
26266	Weighbridge House and weighbridge at Mostyn Hall	II
26267	South-west Farm Building at Mostyn Hall Farm	II*
26268	Christ Church	II
	North-east Barn at Mostyn Hall Farm with adjoining stable	
26269	range and flanking wall	II*
26270	North-west Range at Mostyn Hall Farm	II*
26271	Pennsylvania Lodge	II
26272	Gate piers and flanking walls at Pennsylvania Lodge	II
26273	Keepers House, including outbuildings & yard wall	II
26274	Penrho Hall	II
26275	,1,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26276	,2,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26277	,3,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26278	,4,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26279	,5,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26280	,6,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26281	,7,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26282	,8,Lloyds Crescent,Tre-Mostyn,,,CH8 9AY	II
26283	Telephone Call-box at Tre-Mostyn	II
26284	Ivy House	II
26285	Gate piers and gates at rear of Ivy House	II
26286	Penlan Lodge	II
26287	Gate piers, gates and railings at Penlan Lodge	II
26288	Seaview Lodge	II
26289	Gate piers, gates and railings at Seaview Lodge	II
26290	Gate piers and garden wall at Isglan Farm	II