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Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Stena Line Ports Limited

Application reference no: CML2143

Holyhead

Holyhead Breakwater Refurbishment Scheme

02 August 2022

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OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided to grant the marine licence sought by the Application subject to the conditions set out in Annex.

This decision document:

- explains how the application has been determined, having regard to the relevant legal framework outlined in section 5;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the 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 Application.

1 APPLICATION DETAILS

1.1 The Application

Applicant Name and Address	The Applicant is the company set out below: Company name: Stena Line Ports Limited Company number: 01593558 Address: Stena Lime Ports Limited, Stena House, Holyhead, Anglesey, LL65 1DQ
Application Reference Number	CML2143
Date Application was duly made	16 August 2022
Proposal[s] covered by the application (the Project)	Holyhead Breakwater Refurbishment Scheme
Licensable marine activities (the Proposed Activities)	The proposed scheme comprises of the following: <ul style="list-style-type: none">• Seaward side – installation of concrete armour onto the existing rubble mound along the length of the Breakwater, in the form of 18.1m³. Tetrapod units and reinforcing 120-tonne Z-shaped concrete units to prevent displacement;• Breakwater roundhead (i.e. the terminal section of the Breakwater on which the lighthouse stands) – rock placement to widen the existing rubble mound, with installation of Tetrapod units and reinforcing Z-shaped blocks on tops; and• Leeward side – restoration of the existing rubble mound along sections of the Breakwater through the installation of an articulated concrete block mattress (ACBM), and a rock revetment where the existing rubble mound is too steep to accommodate the ACBM.
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents (Title/Description of Document)	Date Submitted
CML2143 Marine works application form UPDATED	26 May 2022

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CML2143 HH Breakwater RLB-RH-WGS84	05 August 2021
CML2143 Fig 1.1 Location Plan RH	05 August 2021
CML2143 PB29014-RHD-BW-XX-DR-C-0074-0082 Roundhead Sections	05 August 2021
CML2143 PB9014-RHD-BW-XX-DR-C-0083-0084 Trunk Sections	05 August 2021
CML2143 PB9014-RHD-BW-XX-DR-C-0087 Site Boundary	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme EIA NTS	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme Technical Appendices Part1	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme Technical Appendices Part2	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme Technical Appendices Part3	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme Technical Appendices Part4	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme Technical Appendices Part5	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme EIA Report Part1	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme EIA Report Part2	05 August 2021
CML2143 Holyhead Breakwater Refurbishment Scheme oBRA v2	08 April 2022
CML2143 Holyhead Breakwater Refurbishment Scheme WNMP Assessment	05 August 2021

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2 APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 16 August 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 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 by consultees as NRW considered relevant.

2.3. Commercial Confidentiality

We have accepted the Applicants claim for commercial confidentiality on the grounds that disclosure of certain information on the public register would adversely affect the confidentiality of commercial or industrial information where such confidentiality is protected by law to protect a legitimate commercial interest. As such we have not included this information on the register.

2.4. Publicity and advertising

In compliance with s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act) and regulation 16 of the Marine Works (Environmental Impact Assessment) Regulations 2007, a public notice advertising the Project was placed in Bangor and Anglesey Mail on 13 April 2022 and 20 April 2022 (the Public Notices) and a notice was published on NRW's website. The application documents were made available to the public via the public register ([Public register - Customer Portal \(naturalresources.wales\)](https://publicregister-customerportal.naturalresources.wales)) and they could also be requested from Natural Resources Wales Marine Licensing Team, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

The public were given a period of 42 days from the date of the first Public Notice to provide comments on the application.

No public responses were received in response to the Public Notice.

3 CONSULTATION

3.1 Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 06 September 2022, due to their particular expertise. These bodies were consulted for a period of 42 days. For those bodies which responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate	Y	08/09/2021
NRW	Y	18/10/2021
MoD - Safeguarding Defence	Y	01/10/2021

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Maritime & Coastguard Agency	Y	18/10/2021
Trinity House	Y	27/09/2021
Royal Yachting Association	Y	29/09/2021
Local Biodiversity Officer	N	
Local Planning Authority	Y	15/10/2021
Local Harbour Authority	N	
Local Port Authority	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Government / Marine Enforcement Officers	N	
Welsh Archaeological Trust	Y	19/10/2021
Royal Commission on Historic Monuments Wales	Y	12/10/2021
Cadw	Y	21/10/2021
Department for Transport (DFT)	N	
Chamber of Shipping	N	
NERL Safeguarding	Y	08/09/2021

Consultees who did not provide a response were assumed to have no comment.

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 5 of this decision document.

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4 ENVIRONMENTAL IMPACT ASSESSMENT

Council Directive 2011/92/EU (as amended) on the assessment of the effects of certain public and private projects on the environment (“the EIA Directive”) aims to protect the environment and the quality of life by ensuring that projects which are likely to have significant environmental effects by virtue of their nature, size or location are subject to an EIA before permission is granted.

The Marine Works (Environmental Impact Assessment) Regulations 2007 (“the Regulations”) transpose the EIA Directive in Wales and England for marine licence applications.

4.1 Screening

The application was considered by NRW to constitute an EIA development under the Regulations, and a Screening Opinion (ref SC2002) was issued on 23 July 2020.

Pursuant to Regulation 8 of the Regulations, NRW considered under SC2002 that the proposed works fell under Schedule A2, Paragraph 69 of the Regulations on the assessment of the effects of the project on the environment, specifically:

“69. Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works”

4.2 EIA

The Marine Licence application required for the Project was accompanied by an Environmental Statement (ES). NRW assessed the project as an EIA development under the Regulations and issued a Written Confirmation of the EIA Consent Decision on 02 August 2022. The Written Confirmation is available on the NRW website and the marine licensing public register. NRW is satisfied that the information incorporated in the EIA Consent Decision is up to date at the time of this decision.

In accordance with Regulation 24 of the Regulations, the following information is included in subsequent sections of this document:

- Conclusion of the EIA assessment
- Any conditions, mitigating and monitoring measures described in the regulatory decision
- Description of features/measures to avoid, prevent, reduce and offset likely significant adverse effects on the environment
- The main reasons and considerations on which this regulatory decision is based
- A summary of the results of consultations undertaken and how these have been incorporated into this regulatory decision

4.3 Conclusion of the EIA

NRW issued a Written Confirmation of the EIA Consent Decision on 02 August 2022, containing the conclusion about Environmental Impact arising from the project and the EIA Consent Decision. In reaching the conclusion, NRW considered the following information:

- The application for a Marine Licence
- The Environmental Statement submitted
- Any further information provided
- The responses to public consultation
- The responses to the technical consultation
- Any comments received from another EEA state
- Any features of the project, or proposed measures, to avoid, prevent, reduce or offset any likely significant adverse environmental effects

NRW considered the likely significant effects of the project, and reached a conclusion on the likely significant effects of the project with regard to the following:

- Population and human health
- Biodiversity
- Land, soil, water, air and climate

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- Material assets, cultural heritage and landscape
- Risk of major accidents and disasters relevant to the project
- Cumulative impacts and in-combination impacts

A summary of the conclusion on the likely significant effects of the project is incorporated below. Full details of the conclusion on the likely significant effects of the project can be found in the Written Confirmation of the EIA Consent Decision.

4.3.1 Population and human health

The ES has assessed the impact on population and the human health. Due to the nature of the operation, the measures proposed to reduce the impacts on population and human health, and conditions attached to the marine licence, NRW PS consider the risk of impacts on population and human health to be extremely low.

4.3.2 Biodiversity

The project has the potential to impact the following designated sites:

- Anglesey Terns SPA
- Holy Island Coast SPA
- Holy Island Coast SAC
- Pen Llyn a'r Sarnau SAC
- Cardigan Bay SAC
- Pembrokeshire Marine SAC
- North Anglesey
- West Wales Marine SAC
- Bristol Channel Approaches SAC
- Menai Strait and Conwy Bay SAC

NRW PS carried out a Habitat Regulation Assessment and concluded, subject to appropriate conditions detailed in Section 8 of the consent decision, the Licensed Activities will not adversely affect the integrity of any of the European Sites.

The ES considers the potential further impact on biodiversity including that of a pollution event and the spread of INNS. NRW PS conclude that considering the mitigation proposed within the ES and the licence conditions outlined in Section 8 related to pollution prevention best practice and adherence to a CEMP and BRA, no significant impact on biodiversity is predicted.

4.3.3 Land, soil, water, air and climate

There is an impact pathway to water quality through a pollution event and through the spread of INNS. The ES has assessed these impacts and proposed mitigation including adherence to a CEMP and a BRA.

NRW consider that the works have been appropriately assessed and that, subject to the mitigation proposed within the ES and the licence conditions outlined in section 8 of the consent decision, no significant impact on water quality is predicted.

Potential impact on climate, air, soil and land have been appropriately considered within the ES and no significant impact is predicted.

4.3.4 Material assets, cultural heritage and landscape

The ES identified two listed structures and has carried out a detailed assessment on potential impacts on the structures and their settings. The developer has looked to reduce impact through design and the use of appropriate mitigation as is discussed within section 7.9 of the consent decision. These include the implementation of a written scheme of investigation and a protocol for reporting archaeological discoveries. As discussed in section 7.9 of the consent decision, NRW PS consider that the impact on the listed structures have been appropriately assessed within the ES and that although impact on the setting of historic asset remains, there has been a clear and convincing case set forward for proceeding.

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4.3.5 Risk of major accidents and disasters relevant to the project

Due to the nature of the operation, the measures proposed to reduce the risk of a major accident or pollution event, and conditions attached to the marine licence, NRW PS consider the risk of a major accident or disaster to be extremely low.

4.3.6 Cumulative impacts and in-combination impacts

As detailed in Section 3.2.4 of the consent decision, NRW PS carried out a Habitat Regulation Assessment, as part of which an in-combination assessment was carried out and concluded subject to appropriate mitigation that the works would not cause a significant impact alone or in combination on a European designated site.

NRW PS concluded that the potential impacts due to the project have been adequately addressed in the ES.

4.4 EIA Consent Decision

NRW issued a Written Confirmation of the EIA Consent Decision which provides a conclusion on the environmental impacts arising from the project. NRW concluded that the environmental impacts of the Project have been adequately identified, described and assessed. Accordingly, NRW concluded a favourable determination and that EIA consent for the project should be given.

4.5 Mitigation and monitoring requirements

The Written Confirmation of the EIA Consent Decision issued by NRW on 02 August 2022, highlighted the mitigation or monitoring requirements required to be attached to the regulatory consent. These are set out below:

The Licence Holder will be required to submit a BRA for the construction phase for approval prior to commencement of the Licensed Activities. Any actions outlined in the BRA must be implemented as approved by the Licensing Authority.

The Licence Holder will be required to submit a CEMP for approval prior to commencement of the Licensed Activities. Any actions outlined in the CEMP must be implemented as approved by the Licensing Authority.

The Licence Holder will be required to submit a PAD for approval prior to commencement of the Licensed Activities. Any actions outlined in the PAD must be implemented as approved by the Licensing Authority.

The Licence Holder must ensure the area is returned to the original profile, or as close as reasonably practicable, following the completion of Licensed Activities.

The Licence Holder must also ensure that any rock misplaced below Mean High Water Springs that cannot be recovered is located, and its position notified to appropriate authorities.

The Licence Holder must ensure that concrete is used in an appropriate manner.

The Licence Holder must ensure that any vessels/jack-up barges exhibit signals in accordance with the UK Standards Marking Schedule for Offshore Installation.

The Licence Holder must ensure that appropriate notification is given to the UKHO before and after the commencement of Licensed Activities.

NRW has considered these requirements in making this regulatory decision. The conditions attached to the Marine Licence are set out in Annex 1, including reasons for the inclusion of each condition.

4.6 Consideration of consultations undertaken

The consultation process described in section 2.4 and section 3 of this document was undertaken to ensure comment was received from appropriate parties.

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A Transboundary Screening Assessment did not identify potential for effects to any other EEA State

A summary of responses from the consultation are included in Annex 2 of this document. NRW has had regard to consultation responses in making the regulatory decision. Where these have impacted on NRW's decision making, this has been noted in the relevant paragraph in section 5 of this decision document.

4.7 Description of features/measures to avoid, prevent, reduce and offset likely significant adverse effects on the environment

Archaeological Exclusion Zones have been implemented 50m from three named wreck: Kirkmichael (NPRN 271901), Osseo (NPRN 272227) and HMS Campina (NPRN 272401). No Licensed activities which contact the seabed (i.e., placement of jack-ups or anchors) are undertaken within these boundaries.

Best practice dust minimisation and suppression techniques will be implemented.

An ecological site walk-over will be carried out to confirm the absence of badgers prior to commencement of Licensed Activities. However, this mitigation is not enforced through the marine licence due to this taking place landward of MHWS.

Good practice guidelines from the Bat Conservation Trust and Institute Lighting Professionals will also be followed to reduce impacts on Bats.

An ecological site walk-over will be carried out to confirm the absence of Common Lizard/Slow Worm prior to commencement of Licensed Activities. However, this mitigation is not enforced through the marine licence due to this taking place landward of MHWS.

Invasive species management plan, toolbox talks, and biosecurity measures will be implemented to reduce the risk of spread of Japanese Knotweed. However, this mitigation is not enforced through the marine licence due to this taking place landward of MHWS.

A Written Scheme of Investigation will be produced and approved by the licensing authority prior to the commencement of any Licensed Activities.

4.8 Main reasons for this regulatory decision

The main reasons for the regulatory decision made are described in section 5 of this decision document.

The conclusion of this regulatory decision is stated in section 6 of this decision document.

5 BASIS FOR OUR DECISION

In determining this application, including the terms on which it was granted, and the conditions attached to it, NRW has had regard to the factors set out in section 5 below in accordance with the **Marine and Coastal Access Act 2009** (the **2009 Act**).

Under the 2009 Act NRW is required to have regard to the following:

- the need to protect the environment (see section 5.1)
- the need to protect human health (see section 5.2)
- the need to prevent interference with legitimate uses of the sea (see section 5.3)
- in the case of an application for a licence to authorise construction, alteration or improvement of works within the UK marine licensing area, the effects of any use intended

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to be made of the works in question when constructed, altered or improved (considered, if relevant in sections 5.1 to 5.5 below)

- any representations which it has received from any person having an interest in the outcome of the application. (summarised in section 3 and where relevant considered in sections 5.1 to 5.5 below)
- such other matters as it thinks relevant (see section 5.5 below)

5.1 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.

5.1.1 Water Framework Directive, Groundwater Directive and Water Environment Regulations 2017

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

NRW has considered the potential effect of the Proposed Activities on the following WFD waterbodies:

- Caernarfon Bay North
- Holyhead Bay

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. This assessment concludes that in light of the conclusions of a detailed compliance assessment (Stage 3) and taking account of the advice received from technical specialist advisors, it has been established that the activity/project has no potential to cause deterioration of any water body or prevent a water body or WFD Protected Area from meeting its objectives, taking into account any conditions or restrictions as applicable, either alone or in combination with other activities.

Based on this assessment it is considered that the Proposed Activities when considered alone and in combination, will not pose a risk to deterioration in the status of any of the above listed waterbodies or jeopardise their attainment of good surface water status when undertaken in accordance with appropriate conditions. Licence condition 3.18 and 3.21 have been included to ensure the impact of the introduction of INNS and spread of INNS is mitigated, as detailed in Annex 1. There are potential impacts for the introduction of INNS during the construction phase of the proposed activities. There is

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also the potential for the spread of INNS (primarily *Didemnum vexillum*) due to the introduction of artificial materials. Licence conditions 3.18 and 3.21 will ensure appropriate mitigation is undertaken and a full Biosecurity Risk Assessment be agreed with the Licensing Authority prior to the commencement of any Licensed Activities.

There are also international and port-level control measures in place, and a requirement to adhere to the Holyhead Port Biosecurity Plan which will enforce appropriate biosecurity measures. This will also cover the operational phase of the breakwater.

Further details are described within the Water Framework Directive Compliance Assessment.

5.1.2 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.

5.1.3 European Protected Sites and Ramsar Sites

a) The legal framework

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 Project may affect the following European Protected Sites.

- Anglesey Terns SPA
- Holy Island Coast SPA
- Holy Island Coast SAC
- Pen Llyn a'r Sarnau SAC

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- Cardigan Bay SAC
- Pembrokeshire Marine SAC
- North Anglesey
- West Wales Marine SAC
- Bristol Channel Approaches SAC
- Menai Strait and Conwy Bay SAC

A Habitats Regulations Assessment of the Proposed Activities has been undertaken, and NRW (as Statutory Nature Conservation Body) consulted on the HRA.

The following conclusions of the HRA have been considered by NRW in making this decision. In light of the conclusions of an appropriate assessment, and taking account of the advice received from protected sites advisors, it has been established that the project will not adversely affect the integrity of any Natura 2000/Ramsar site, taking into account any conditions or restrictions as applicable, either alone or in-combination with other plans and projects.

NRW is therefore satisfied that the Proposed Activities, either alone or in combination with other plans or projects, will not adversely affect the integrity of European Site(s) when undertaken in accordance with appropriate conditions. Licence condition 3.20 has been included to ensure a full Construction and Environmental Management Plan is agreed with the Licensing Authority prior to the commencement of any Licensed Activities, as detailed in Annex 1. Additionally NRW PS consider it appropriate to add licence conditions 3.24 and 3.25 to ensure the appropriate use of concrete and render, as detailed in Annex 1.

Further details are described within the Habitats Regulations Assessment.

5.1.4 European Protected Species

a) The legal framework

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 also confer protection on certain designated species (European Protected Species). A licence (EPS licence) must be obtained in order, whether deliberately or accidentally, to capture, kill, disturb or injure such a species, damage or destroy their breeding or resting places or obstruct access to their resting or sheltering places.

b) Factors relevant to our determination

NRW considers that no protected species are likely to be impacted by the Project

Any determination made as part of this decision are without prejudice to the consideration NRW is required to give an EPS licence application as the body with a statutory responsibility for its determination and do not constrain or bind NRW in exercising this function. Should an application for an EPS licence in relation to the Project be made it will be determined by NRW based on all the relevant information available to NRW at that time.

5.1.5 Marine Conservation Zones

a) The legal framework

Marine Conservation Zones (MCZ) were established under the 2009 Act to protect nationally important, rare or threatened habitats and species. The only currently designated MCZ in Wales is Skomer.

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Under the 2009 Act, NRW must exercise its functions in the manner which it considers best furthers the conservation objectives stated for any MCZ or, where that is not possible, in the manner which it considers least hinders the achievement of those objectives.

b) *Factors relevant to our determination*

NRW is satisfied that there is no significant risk of the Proposed Activities on the MCZ **due** to the distance from the proposed works.

5.1.6 *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*

NRW has considered the impact of the Project on the following sites:

- Holy Island Coast SSSI

NRW is satisfied that the Proposed Activities do not have the potential to impact on the Holy Island Coast SSSI.

Appropriate consultation has been undertaken within NRW, as set out in section 3, and the response indicated that providing the proposals are carried out in the manner and location specified, the special interests of the Holy Island Coast SSSI can be safeguarded.

Therefore, NRW PS is satisfied that the Proposed Activities are not operations likely to damage the SSSI and that the method statement proposed as part of the Application appropriately addresses any risks arising from the Proposed Activities.

5.1.7 *The Waste (England and Wales) Regulations 2011*

a) *The legal framework*

The Waste (England and Wales) Regulations 2011 establish a legal framework for treating waste. This is designed to protect the environment and human health by emphasising the importance of proper waste management, recovery and recycling techniques to reduce pressure on resources and improve their use. Waste generated by a project or activity must in general terms be dealt with in an environmentally friendly way. To achieve this the Regulations describe a waste hierarchy which gives an order of preference for how waste is dealt with (prevention, re-use, recovery for other purposes such as energy, and finally disposal).

b) *Factors relevant to our determination*

NRW is satisfied that the Proposed Activities meet the requirements of The Waste (England and Wales) Regulations 2011.

5.1.8 *Other matters considered relevant to the need to protect the environment*

The ES submitted identified two listed structures and has carried out a detailed assessment on potential impacts on the structures and their settings. The developer has looked to reduce impact through design

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and the use of appropriate mitigation. These include the implementation of a Written Scheme of Investigation (WSI) and a protocol for reporting archaeological discoveries which have been included as licence conditions 3.22 and 3.23, as detailed in Annex 1. There will also be a requirement to avoid known wrecks by implementing an exclusion zone of 50m around them. This will be a requirement to be included in the WSI. NRW PS consider that the impact on the listed structures have been appropriately assessed within the ES and that although impact on the setting of historic asset remains, there has been a clear and convincing case set forward for proceeding.

5.1.9 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 application provided that the Proposed Activities are implemented in accordance with the conditions set out in Annex 1.

5.2 The need to protect human health

No comments or representations were received in relation to the need to protect human health and no other concerns in this regard have been identified.

5.2.1 Conclusion of our considerations under the need to protect human health

In summary, having considered the need to protect human health, NRW considers that the impacts of the Project on human health (either alone or in combination with other plans or projects) are not acceptable and that the application should therefore be refused.

5.3 The need to prevent interference with legitimate uses of the sea

Legitimate uses of the sea include (but are not limited to): navigation (including taking any steps for the purpose of navigational safety); fishing; mineral extraction; and amenity use.

Following consultation with the Maritime and Coastguard Agency (MCA) a number of conditions were requested to be attached to the licence to minimise the risk to navigation. Licence condition 3.19 has been included to ensure the Licence Holder returns the area to the original profile, or as near to as possible. Licence conditions 3.1.3, 3.4 and 3.5 have been included to ensure marine users the MCA and the UK Hydrographic Office are notified prior to and following completions of the Licensed Activities. NRW PS also consider it appropriate to include licence conditions 3.24 and 3.27 to ensure miss placed rock position is recorded and any vessels/jack-up barges used are they exhibit the correct signals. All conditions referred to above are detailed in Annex 1.

5.3.1 Conclusion of our considerations regarding the need to prevent interference with legitimate uses of the sea

In summary, having considered the need to protect interference with legitimate uses of the sea, NRW does not consider that any impacts of the Project (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the application provided that the Proposed Activities are implemented in accordance with the conditions set out in Annex 1.

5.4 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)

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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

The activity has been assessed against the relevant marine plan policies and the decision been taken in accordance with these policies, as set out in the WNMP. This is supported by the submission of the WNMP Assessment, submitted 05 August 2021.

5.5 Other matters NRW thinks relevant

5.5.1 *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.

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.

5.5.2 *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) *(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.

6 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 Marine Licence sought by the Application. We have reached this decision having had regard to the relevant legal framework outlined in section 5. We

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have also explained in section 5 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.

7 AUTHORISATION

Report by: Joe Thomas Position: Permitting Officer	Date: 02 August 2022	Signed: 
Authorised by: John Wheadon Position: Permitting Service Manager	Date: 02 August 2022	Signed: 

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ANNEX 1

Conditions imposed and reasons for those conditions.

Note: Condition numbers used below reflect the condition numbers used in the licence.

CONDITIONS

Notification and Inspection

3.1 Notification of Commencement

- 3.1.2** The Licence Holder must notify the Licensing Authority no less than **10 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

Reason: To ensure the Licensing Authority are aware of the commencement of Licensed Activities.

- 3.1.2** The Licence Holder must notify Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) no less than **10 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

Reason: To ensure the Marine Enforcement Officers are aware of the commencement of Licensed Activities.

- 3.1.3** The Licence Holder must ensure that local mariners and fishermen's organisations are made fully aware of the Licensed Activities through local notices to mariners **10 days** prior to the commencement of the Licensed Activities.

Reason: To minimise interference with other sea users and ensure other vessels in the vicinity can safely plan and conduct their passage.

3.2 Notification of Vessels and/or Vehicles

The Licence Holder must ensure that the details of the vessels and/or vehicles utilised to undertake the Licensed Activities are submitted to the Licensing Authority and Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) at least **24 hours** prior to the commencement of the Licensed Activities.

Reason: To ensure that the Licensing Authority are made aware, in a timely manner, of the vessels and/or vehicles operating under this licence to enable the Licensing Authority to comply with the reporting obligations in the Marine Licensing (Register of Licensing Information (Wales) Regulations 2011 as amended.

3.3 Notification of Agents/Contractors/Sub-contractors

The Licence Holder must ensure that details of any agent(s), contractor(s) or sub-contractor(s) utilised to undertake the Licensed Activities are submitted to the Licensing Authority at least **24 hours** prior to the commencement of Licensed Activities.

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Reason: To ensure that the Licensing Authority are made aware, in a timely manner, of the agent(s), contractor(s) or sub-contractor(s) operating under this licence and in order to enable the Licensing Authority to comply with the reporting obligations in the Marine Licensing (Register of Licensing Information (Wales) Regulations 2011 as amended.

3.4 Notification of HM Coastguard

The Licence Holder must ensure that HM Coastguard is made aware of the Licensed Activities at least **24 hours** prior to commencement by contacting The National Maritime Operations Centre at nmoccontroller@hmcg.gov.uk.

Reason: To ensure the safety of navigation.

3.5 Notification of UK Hydrographic Office (UKHO)

3.5.1 The Licence Holder must ensure that notification is sent to The Source Data Receipt team, UKHO (email: sdr@ukho.gov.uk; Tel: 01823 337900) at least **10 days** prior to commencement of the Licensed activities. The information supplied must include the start date and end date, a description of the works, positions of the work area (WGS84), and details of any marking arrangements.

3.5.2 The Licence Holder must notify the UKHO of the Licensed Area and the Licensed Activities within **10 days** of the completion of the Licensed Activities.

3.6 Inspection of Licensed Activities

The Licence Holder must allow Marine Enforcement Officers or any other person authorised by the Licensing Authority to inspect the Works at any reasonable time.

Reason: To allow for inspection of the Licensed Activities to check compliance with the Licence.

3.7 Notification of Completion

3.7.1 The Licence Holder must notify the Licensing Authority within **10 days** of completion of the Licensed Activities.

Reason: To ensure the Licensing Authority are aware of the completion of Licensed Activities.

3.7.2 The Licence Holder must notify Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) within **10 days** of completion of the Licensed Activities.

Reason: To ensure the Marine Enforcement Officers are aware of the completion of Licensed Activities.

3.8 Accident or Emergency

3.8.1 If, by reason of force majeure any substances or articles are deposited otherwise than as permitted as part of the Licensed Activities or in the Licensed Area full details of the circumstances shall be notified to the Licensing Authority within **48 hours** of the incident occurring.

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Reason: To allow the Licensing Authority to take appropriate action to ensure the appropriate removal of the unlicensed deposit.

- 3.8.2** If it is necessary for the Licence Holder to recover or remove any equipment, plant or machinery used to undertake the Licensed Activities that have been dropped as a result of an accident or emergency, the Licence Holder is permitted to do so provided that the methodology for such recovery or removal has been approved by the Licensing Authority.

Reason: To allow for the recovery of objects that have been accidentally dropped when carrying out the Licensed Activities.

3.9 Distribution of Copies of this Licence

The Licence Holder is required to ensure that a copy of this Licence is given to:

- All agents, contractors and subcontractors whose names have been provided to the Licensing Authority under condition 3.3 and
- The Masters of any vessels and transport managers responsible for the vehicles employed in accordance of this Licence whose details have been submitted to the Licensing Authority under condition 3.2.

Reason: To ensure that all agent(s), contractor(s), sub-contractor(s) and vessel Masters are aware of their obligations under the conditions established within this Licence to ensure compliance with the conditions.

3.10 Inspection of Documents

Copies of this Licence shall be made available at the following locations:

- at the address of the Licence Holder specified in section 1.2;
- at any site office, located at or adjacent to the Licensed Area, used by the Licence Holder or its agent(s), contractor(s) or sub-contractor(s) responsible for the loading transportation or deposit of any substances or articles permitted as part of the Licensed Activities;
- on board each vessel or vehicle carrying out Licensed Activities.

The documents referred to in this Condition shall be available at all reasonable times for inspection by officers appropriately authorised by the Licensing Authority and authorised Marine Enforcement Officers at the locations stated in that paragraph.

Reason: To ensure that all agent(s), contractor(s), sub-contractor(s) and vessel Masters may access the details of this Licence at all times and to ensure that the details of this Licence are available for inspection when required.

Vessels, Plant and Equipment

3.11 Notified Contractors, Vessels and/or Vehicles only to Carry out Licensed Activities

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Only those agent(s), contractor(s), sub-contractor(s), vessels and/or vehicles whose details have been notified to the Licensing Authority may operate under the terms of this Licence. Any changes must be notified to and be approved by the Licensing Authority in writing prior to any such agent, contractor, subcontractors or vehicles carrying out any Licensed Activities pursuant to or otherwise operating under this Licence.

Reason: To ensure that the Licensing Authority are made aware, in a timely manner, of the agent(s), contractor(s), sub-contractor(s) operating under this Licence to enable the Licensing Authority to comply with the reporting obligations in the Marine Licensing (Register of Licensing Information (Wales) Regulations 2011 as amended.

3.12 Refuelling of Plant and Equipment

The Licence Holder must ensure that plant, vehicles and machinery are not refuelled on the foreshore or in the sea.

Reason: To minimise the risk of fuels/other contaminants entering the marine environment.

3.13 Equipment, Structures and Access

The Licence Holder must ensure that all equipment, temporary structures, access tracks, waste and/or debris associated with the Licensed Activities are removed on completion of the Licensed activities.

Reason: To minimise impacts on the marine environment and other users of the sea/seabed.

Safety

3.14 Removal of Deposited Material

If the Licensing Authority considers it necessary or advisable for the safety of navigation, the Licence Holder must remove any deposit specified by the Licensing Authority or Marine Enforcement Officers within one month of notice being given by the Licensing Authority, and shall not replace such material until the Licensing Authority has given its written approval.

Reason: To ensure that any material which may pose a hazard to safe navigation has been removed.

Pollution control

3.15 Pollution Prevention

The Licence Holder must ensure that pollution prevention best practice is adhered to at all times. Any incidents must be reported to the Licensing Authority as soon as possible using the hotline number **0300 065 3000**.

Reason: To minimise the risk of pollution incidents and to ensure the timely report of such incidents to enable the Licensing Authority to take action as appropriate.

3.16 Spillage of Pollutants

The Licence Holder must employ bunding, storage facilities and spill kits to contain and prevent the release of fuel, oils and chemicals associated with the plant, refuelling and

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construction equipment into the marine environment. Secondary containment must be used with a capacity of **no less than 110%** of the container's storage capacity

Reason: To minimise the risk of fuels/other contaminants entering the marine environment.

3.17 Prevention of Disposal of Man-made Debris

The Licence Holder must ensure that all reasonable precautions are taken to prevent the disposal of man-made debris to the marine environment. Such material must be removed immediately and be disposed of appropriately. If it is not possible to prevent manmade debris from entering the marine environment during the Licensed Activities, the Licensed Activities must cease immediately.

Reason: To minimise the amount of man-made materials disposed of at sea.

3.18 Cleanliness of Equipment

The Licence Holder must ensure that equipment, machinery and PPE are washed with freshwater and/or thoroughly airdried before deployment and before moving between locations.

Reason: To minimise the risk of spread of invasive non-native species.

Activity-specific Conditions

3.19 Construction, Alteration or Improvement – Returning to Original Profile

The Licence Holder must ensure the area is returned to the original profile, or as close as reasonably practicable, following the completion of Licensed Activities.

Reason: To ensure the safety of navigation.

3.20 Construction Environmental Management Plan (CEMP)

3.20.1 The Licence Holder must submit a CEMP to the Licensing Authority for written approval at least **8 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approved from the Licensing Authority.

3.20.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.20.1 are implemented as approved in writing by the Licensing Authority. 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.

Reason: To minimise the risk of impacts to the marine environment.

3.21 Biosecurity Risk Assessment (BRA)

3.21.1 The Licence Holder must submit a BRA to the Licensing Authority for written approval at least **8 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approved from the Licensing Authority.

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3.21.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.21.1 are implemented as approved in writing by the Licensing Authority. 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.

Reason: To minimise the risk of spread of invasive non-native species.

3.22 Protocol for Archaeological Discoveries (PAD)

3.22.1 The Licence Holder must submit a PAD to the Licensing Authority for written approval at least **8 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approved from the Licensing Authority.

3.22.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.22.1 are implemented as approved in writing by the Licensing Authority. 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.

Reason: To ensure all archaeological finds are reported and historical environment is protected.

3.23 Written Scheme of Investigation (WSI)

3.23.1 The Licence Holder must submit a WSI to the Licensing Authority for written approval at least **8 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approved from the Licensing Authority.

3.23.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.23.1 are implemented as approved in writing by the Licensing Authority. 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.

Reason: To ensure all archaeological finds are reported and historical environment is protected.

3.24 Misplaced Rock

The Licence Holder must ensure that any rock misplaced below Mean High Water Springs that cannot be recovered is located, and its position notified to the Welsh Government Marine & Fisheries Division (Control & Enforcement Branch), Maritime and Coastguard Agency, Trinity House, local mariners and fishermen's organisations and the UKHO and the Licensing Authority within **24 hours**.

Reason: To ensure the safety of navigation.

3.25 Use of Render and Concrete

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3.25.1 The Licence Holder must ensure that no waste concrete slurry or wash water from the use of concrete or cement are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained and sited at least **10 metres** from any watercourse or surface water drain to minimise the risk of runoff entering a watercourse.

3.25.2 The Licence Holder must ensure that if concrete is to be sprayed in the vicinity of the marine environment (e.g. bridges, retaining walls, etc.), suitable pollution prevention measures are taken to prevent rebounded or windblown concrete from entering the water environment.

Reason: To minimise risk of damage to the marine environment by wet concrete contamination.

3.26 Concrete Cure Time

The Licence Holder must ensure materials used are suitable for use in the marine environment and works should be timed to ensure maximum concrete cure time.

Reason: To minimise the risk of marine pollution incidents.

3.27 Use of Jack-up Barge/Vessel

Any jack up barges or jack up vessels utilised during the Works, when jacked up, must exhibit signals in accordance with the UK Standards Marking Schedule for Offshore Installation.

Reason: To ensure the safety of navigation.