



Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Gwynedd Council
Application reference no: CML2273

Swyddfa Penrallt,

Ffordd Pafiliwn,

Caernarfon,

Gwynedd,

LL55 1BN

Hirael Flood Protection Scheme

03 February 2023

Contents

Marine Licensing Decision	1
1. APPLICATION DETAILS	4
1.1. The Application.....	4
2. APPLICATION PROCEDURE	7
2.1. The Application.....	7
2.2. Documents considered	7
2.3. Commercial Confidentiality	7
2.4. Publicity and advertising	7
2.5. Environmental impact Assessment.....	7
3. CONSULTATION.....	8
3.1. Consultees	8
4. BASIS FOR OUR DECISION	9
4.1. The need to protect the environment:	9
4.1.1. Water Framework Directive, Groundwater Directive and Water Environment Regulations	9
4.1.2. Biodiversity and resilience of ecosystems duty.....	10
4.1.3. European Protected Sites and Ramsar Sites	10
4.1.4. European Protected Species	11
4.1.5. Marine Conservation Zones	12
4.1.6. Sites of Special Scientific Interest (SSSIs)	12
4.1.7. The Waste (England and Wales) Regulations 2011	13
4.1.8. Other matters considered relevant to the need to protect the environment	13
4.1.9. Conclusion of our considerations under the need to protect the Environment	14
4.2. The need to protect human health	14
4.3. The need to prevent interference with legitimate uses of the sea	15
4.4. Marine Policy Documents	15
4.5. Other matters NRW thinks relevant	16

Application Number: CML2273

4.5.2. Sustainable management of natural resources	16
5. Conclusions and Recommendations	17
6. AUTHORISATION	17
ANNEX 1	18

Application Number: CML2273

OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided grant the marine licence sought by the Application subject to the conditions set out in Annex 1.

This decision document:

- explains how the Application has been determined, having regard to the relevant legal framework outlined in section 4;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the 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 organisation set out below: Organisation name: Gwynedd Council Address: Swyddfa Penrallt, Ffordd Pafiliwn, Caernarfon, Gwynedd, LL55 1BN
Application Reference Number	CML2273
Date Application was duly made	8 December 2022
Proposal[s] covered by the Application	Enhancement of existing sea wall at Hiracl as part of the Hiracl Coast Protection Scheme. Consisting of the construction of a sheet piled retaining wall to replace the existing gabion wall at the promenade and addition of rock armour (adjacent to new sheet pile wall) shown to extend approximately 4m out into the bay (the Project).

Application Number: CML2273

Licensable marine activities	Construction of a retaining wall to replace the existing gabion wall. The new defence will be constructed through a sheet piling method. To allow the installation of the sheet pile wall as close to the existing wall as possible lower level gabion baskets and large stones will be removed. The space between the new sheet piled wall and the existing gabions will be backfilled by concrete (100-200mm). Sheet piles will be installed as close to the existing gabions as practicably possible. A concrete pile-cap and handrail will be installed on the new wall to provide edge protection. Rock armour (adjacent to new sheet pile wall) shown to extend approximately 4m out into the bay (the Proposed Activities)
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	CML2273 7720_Hirael – marine – works – application – form – updated v0.5 CML2273 7720_Temporary work area & rock armour coordinates (lat-long) CML2273 – 7720_Hirael_Red Line Map_v3 CML2273 20221121-Hirael FAS_Methodology Statement CML2273 – Hirael WNMP signposting doc CML2273 – 7720_EIA Screening Opinion Hirael_V0.2 CML2273 – 7720_Hirael_ECIA_v0.06 CML2273 – 190122_7720_Hirael_Habitat_Regulations Assessment_v0.03dh CML2273 – 7720_WFD_Hirael_V0.03 The relevant drawings to works below MHWS are: CML2273 – 60664880 – ACM – XX-XX-DR-C-1201-Promenade General Arrangements sheet 1 of 5. CML2273 – 60664880 – ACM – XX-XX-DR-C-1202-Promenade General Arrangements sheet 2 of 5.

Application Number: CML2273

	CML2273 – 60664880 – ACM – XX-XX-DR-C-1203-Promenade General Arrangements sheet 3 of 5. CML2273 – 60664880 – ACM – XX-XX-DR-C-1204-Promenade General Arrangements sheet 4 of 5. CML2273 – 60664880 – ACM – XX-XX-DR-C-1205-Promenade General Arrangements sheet 5 of 5. CML2273 – 60664880 – ACM – XX-XX-DR-C-1224-Promenade Sheet Pile Wall Cross Sections Sheet 4 of 5.
--	---

Application Number: CML2273

2. APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on **8 December 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

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

2.4. Publicity and advertising

As required by s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act), notice was given to Gwynedd Council on 13 December 2022.

As required by s. 68 of the 2009 Act NRW has required the Applicant to publish notice of the Application.

Public notice advertising the Project was placed in North Wales Chronicle on 21/12/2022. The application documents were made available to the public on NRW Public Register 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 28 days from the date of the Public Notice to provide comments on the Application.

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

2.5. 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 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 environmental impact assessment (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.

Having considered the Application NRW has determined that it does not constitute a development requiring EIA under the Regulations.

3. CONSULTATION

3.1. Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 13 December 2022 due to their particular expertise. These bodies were consulted for a period of 28 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	N	
NRW	Y	9 January 2023
MoD - Safeguarding Defence	Y	3 January 2023
Maritime & Coastguard Agency	Y	12 January 2023
Trinity House	Y	10 January 2023
Royal Yachting Association	Y	14 December 2022
Local Biodiversity Officer Gwynedd Council	N	
Local Planning Authority Gwynedd Council.	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Archaeological Trust	Y	20 December 2022 & 11 January 2023
Royal Commission on Historic Monuments Wales	Y	16 December 2022 & 11 January 2023
Cadw	Y	21 December 2022

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 4 of this decision document.

4. 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 4 below in accordance with the 2009 Act.

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

- the need to protect the environment (see section 4.1);
- the need to protect human health (see section 4.2);
- the need to prevent interference with legitimate uses of the sea (see section 4.3);
- 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 to be made of the works in question when constructed, altered or improved (considered, if relevant in sections 4.1 to 4.5 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 4.1 to 4.5 below); and
- such other matters as it thinks relevant (see section 4.5 below).

4.1. The need to protect the environment:

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

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

4.1.1. Water Framework Directive, Groundwater Directive and Water Environment Regulations

a) The legal framework

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

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

b) Factors relevant to our determination

Application Number: CML2273

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

- Menai Strait (GB681010120000)

A WFD Compliance Assessment has been undertaken for the regulated activities and taken into account in this decision. In light of the conclusions of the compliance assessment, and taking account of the advice received from NRW TE, NRW is satisfied that the project has no potential to cause deterioration of any waterbody or prevent a waterbody 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 regulated 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 provided that conditions are secured to the Marine licence including:

- Ensuring that pollution prevention best practices are adhered to in order to mitigate the impact on water quality, relevant mitigation will need to be incorporated into the Construction Environment Management Plan (CEMP) (condition 3.14-3.19 of Annex 1)
- In order to limit the spread of non-native species there will be a requirement to incorporate relevant protocol within the CEMP and ensure cleanliness of equipment coming to site (condition 3.17 and 3.18)

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

4.1.2. Biodiversity and resilience of ecosystems duty

a) The legal framework

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

b) Factors relevant to our determination

The WFD compliance assessment, WFD Hiraal v0.03, produced by the applicant considered potential impact on Mussel Beds. It concluded that as the works is being undertaken on an existing coastal structure and within the footprint of the existing wall it is not considered that the works would take land from the mussel bed or cause any significant changes to coastal processes that would impact upon these beds.

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

4.1.3. European Protected Sites and Ramsar Sites

a) The legal framework

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

Application Number: CML2273

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:

- Menai Strait and Conwy Bay SAC
- Traeth Lavan SPA
- North Anglesey Marine SAC
- West Wales Marine SAC
- Bristol Channel Approaches SAC
- Pembrokeshire Marine SAC (Marine Mammals only)
- Cardigan Bay SAC (Marine Mammals only)
- Pen Llyn a 'r Sarnau SAC (Marine Mammals only)

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

Subject to mitigation measures being secured in the Marine Licence, including a detailed Construction Environment Management Plan (CEMP) incorporating mitigation measures specified within the 7720_Hirael_Habitats Regulations Assessment_v0.03, specifically measures to avoid potential impact of underwater noise associated with piling and measure to avoid impact to wading and roosting birds NRW PS conclude that the proposed activities would not lead to an adverse effect on Site integrity, either alone or in-combination, on any marine features of designated sites. Further details are described within the Habitats Regulations Assessment.

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, i.e. condition 3.18 of Annex 1 – the production and adherence to a CEMP.

4.1.4.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.

4.1.5. 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.

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

Due to the location of the project and distance from the MCZ, NRW is satisfied that there is no significant risk of the Proposed

4.1.6. 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:

- Traeth Lafan SSSI
- Coedydd Afon Menai SSSI

Application Number: CML2273

NRW is satisfied that the Proposed Activities do not have the potential to impact on the above sites when undertaken in accordance with appropriate conditions, specifically adherence to a CEMP that incorporates mitigation proposed within the applicants 7720_Hirael_Habitats Regulations Assessment_v0.03, specifically pollution prevention measures and measure to avoid impact to wading and roosting birds. (see condition 3.18 of Annex 1). Appropriate consultation has been undertaken within NRW, as set out in section 3 and that subject to mitigation set out within 7720_Hirael_Habitats Regulations Assessment_v0.03 that the special interests of the sites will be safeguarded.

Therefore NRW is satisfied that the Proposed Activities are likely to damage the SSSI and that the method and mitigation proposed as part of the Application appropriately addresses any risks arising from the Proposed Activities.

4.1.7. The Waste (England and Wales) Regulations 2011**a) The legal framework**

The Waste (England and Wales) Regulations 2011 (as amended) 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.

4.1.8. Other matters considered relevant to the need to protect the environmentMarine Mammals

Concerns were raised by NRW TE surrounding the potential impact on marine mammals caused through the generation of underwater noise during piling activities. However, it has been agreed that this could be appropriately mitigated through the actions proposed within Hirael_Habitats Regulations Assessment_v0.03 submitted in support of the marine licence application. The applicant proposed the following mitigations:

- Piling and other related construction works scheduled to occur in dry conditions only;
- Piling will cease and standing time will be implemented during high tide;
- Preference for works to be scheduled within the summer months where tidal conditions are more favourable and there are more daylight hours, thus reducing on site piling period.

We consider that measures to avoid potential impact of underwater noise associated with piling can be incorporated in the CEMP which can be secured as set out within Condition 3.18 of Annex 1.

Ornithology

There is a potential impact pathway on wading and roosting birds particularly through increased disturbance during the construction period. Consideration has been given with the HRA set out in

Application Number: CML2273

section 4.1.3. Within the Hiraël_Habitats Regulations Assessment_v0.03 submitted with the Marine Licence application form, the following mitigation is proposed:

- Seasonal restrictions of the works to limit disturbance as this is likely to have a negative impact on important high tide roosts during the winter months.
- Activities that will generate high-level disturbance stimuli, notably percussive sheet piling (but less so 'silent piling' solutions), should be undertaken April-August when the impact on roosting waders will be minimal.
- Introduce disturbance buffers. Therefore, no heavy construction works to be undertaken during the autumn and winter months (from September through to the end of March) within 150m of Roost 1 or 2 and for a period extending 1.5 hours either side of high water (3 hours in total).
- Adoption of sensitive working methods such as operating plant and machinery slowly and plant operators only entering and exiting their vehicles at designated sites away from the roost locations.

We consider that these mitigation measure will be agreed as part of a CEMP and adherence will be secured through licence conditions (condition 3.18 of Annex 1).

Water Quality

To avoid impact on water quality we consider it appropriate to include pollution prevention measures condition 3.14-3.17 of Annex 1). Pollution prevention measure should also be incorporated within the CEMP (condition 3.18 of Annex 1).

Archaeology

Cadw confirmed that as works were being carried out to an existing defence the proposed development will not have a significant adverse impact on the settings of any designated historic asset.

Royal Commission on the Ancient and Historic Monuments of Wales (RCAHMW) and the Welsh Archaeological Trust (WAT) were satisfied with the Heritage Assessment submitted by the applicant. The RCAHMW and WAT agreed with its conclusions specifically that sections of the scheme may include elements from the old timber yard, as such a record of the existing seawall will need to be made prior to burial. Archeological Mitigation has been secured through Planning Permission C21/1174/11/LL, a variation to this consent has been submitted in order to reflect a change in design however we have no reason to believe that the archeological mitigation will be removed, and therefore do not consider it necessary to duplicate this provision with the marine licence.

NRW PS are therefore satisfied that cultural heritage has been appropriately assessed and that appropriate archaeological mitigation required can be secured within the developments Planning Permission C21/1174/11/LL.

4.1.9. 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.

4.2. The need to protect human health

Flood Risk

NRW TE confirmed that based on the information submitted the flood alleviation scheme demonstrated a reduction in flood risk to people and property.

NRW TE advise that during construction that the developer liaise with NRW TE in order to agree relevant procedures to ensure that culverts can be accessed and maintained and surrounding the use of the flood gates.

NRW PS have provided the advice received from NRW TE to Gwynedd Council who are relevant Risk Management Authority.

4.2.1. Conclusion of our considerations under the need to protect human health

IN SUMMARY, having considered the need to protect human health, 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.

4.3. 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 response received from MCA, NRW consider it necessary to include appropriate licence condition to ensure the safety of navigation which includes ensuring all relevant parties are notified prior to the commencement of Licensed Activities. These conditions are detailed in Annex 1.

4.3.1. 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.

4.4. 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)

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

Welsh National Marine Plan (WNMP)

Application Number: CML2273

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

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

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

Welsh National Marine Plan

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

Consideration has been given to the WNMP within Hiraef WNMP signposting doc submitted in support of the development. The works are in line with SOC_08 Resilience to coastal change and flooding, SOC_09 Effect on coastal change and flooding and as such are providing flood protection for people and property. Consideration of the Shoreline Management Plans are provided below.

Shoreline Management Plan

The works lie within Policy Development Zone 16 of the West of Wales Shoreline Management Plan, specifically policy unit 16.28. The proposal is in line with the policy recommendation for epoch 1 and 2 which are hold the line. Managed Realignment has been identified for the 3rd epoch due the increase in tidal flood risk as a result of sea level rise.

Should the applicant seek to maintain the defence into epoch 3 we would suggest that they seek a policy change to the Shoreline Management Plan and should contact the relevant coastal group.

4.5. Other matters NRW thinks relevant**4.5.1. 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.

4.5.2. Sustainable management of natural resources**a) The legal framework**

Application Number: CML2273

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

b) Our determination

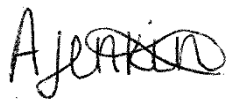
NRW is satisfied that this decision, when implemented in accordance with the attached conditions, is consistent with its general purpose of pursuing the sustainable management of natural resources in relation to Wales, and applying the principles of sustainable management of natural resources.

5. Conclusions and Recommendations

Based on all the information available, and having regard to all relevant considerations including the 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 4 and have also explained in section 4 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

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

6. AUTHORISATION

Report by: Abbie Jenkins Position: Marine Licensing Officer	Date: 16/01/2023	Signed: 
Authorised by: Peter Morrison Position: Lead Specialist Officer	Date: 03/02/2023	Signed: 

Application Number: CML2273

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

- 3.1.1** 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.

Application Number: CML2273

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 **zone31@hmcg.gov.uk**.

Reason: To ensure the safety of navigation.

3.5 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.

3.6 Notification of Completion

- 3.6.1** 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.

- 3.6.2** 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.

3.7 Accident or Emergency

- 3.7.1** 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.

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

- 3.7.2** 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

Application Number: CML2273

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.

3.8 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 with 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.

3.9 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

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

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,

Application Number: CML2273

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.

3.11 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.

3.12 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**3.13 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**3.14 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.

3.15 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 construction equipment into

Application Number: CML2273

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.

3.16 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.

3.17 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**3.18 Construction Environment Management Plan (CEMP)**

3.18.1 The Licence Holder must submit a CEMP to the Licensing Authority for written approval 6 weeks prior to commencement of the Licensed Activity. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority. The plan must incorporate the proposed mitigation identified within the CML2273 7720_Hirael_Habitats Regulations Assessment_v0.03 submitted on 24 November 2022, and include:

- Measures to avoid potential impact of underwater noise associated with piling activities
- Measure to avoid potential impacts on roosting waders/waterfowl
- Measure to avoid the spread of invasive non-native species

3.18.2 The Licence Holder must ensure that any actions outlined in the CEMP detailed in condition 3.18.1 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 put in place measures to reduce and avoid potential impact on the environment including;

- *Measures to avoid potential impact of underwater noise on marine mammals*
- *Measures to avoid potential impacts as a result of disturbance on roosting and wading birds*
- *Measures to avoid the spread of invasive non-native species.*
- *Pollution prevention measures to reduce potential impact on water quality*

3.19 Use of Concrete

- 3.19.1** 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.
- 3.19.2** 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.