

Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Blue Gem Wind Ltd
Application reference no: ORML2170

Project Erebus Floating Offshore Wind Farm

Pembrokeshire

16 February 2023

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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 1.

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 person or organisation set out below: Company name: Blue Gem Wind Ltd Company number 11116383 Address: Bridge Innovation Centre, Pembrokeshire Science and Technology Park, Pembroke Dock, SA72 6UN.
Application Reference Number	ORML2170
Date Application was duly made	07/01/2022
Proposal[s] covered by the application	Project Erebus Floating Offshore Wind Farm (the Project)
Licensable marine activities	Construction of up to 10 Wind Turbine Generators (WTG) on semi-submersible floating platforms associated moorings and catenary, inter-array cables and export cables to landfall. Removal of boulders and sand wave levelling for cable burial and installation and drilled piles for foundation of mooring structures (the Proposed Activities)
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	A list of all application documents is presented within Annex 2.

2 APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales Permitting Service (NRW PS) considered duly made on 07 January 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 PS has considered the documents listed in Annex 2 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 received information in relation to the Application that appears to be commercially confidential on the grounds that disclosure of the 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 Western Telegraph on 16 February and 23 February 2022 (the Public Notices) and a notice was published on NRW's website. The application documents were made available to the public at Haverfordwest Library and the Bridge Innovation Centre, Pembrokeshire Science and Technology Park, Pembroke Dock and they could also be requested from Natural Resources Wales Marine Licensing Team.

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.

Following submission of further information on 24 August 2022 a public notice advertising the Project was placed in Western Telegraph on 07 September and 14 September 2022 (the Public Notices) and a notice was published on NRW's website. The application documents were made available to the public at Haverfordwest Library and the Bridge Innovation Centre, Pembrokeshire Science and Technology Park, Pembroke Dock and they could also be requested from Natural Resources Wales Marine Licensing Team.

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 PS considered it appropriate to consult the bodies listed in the table below on 10 February 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	03/03/2022
NRW	Y	21/04/2022
JNCC	Y	22/04/2022
MoD - Safeguarding Defence	Y	23/03/2022
Maritime & Coastguard Agency	Y	01/03/2022
Trinity House	Y	25/03/2022
Royal Yachting Association	N	
Local Biodiversity Officer (Pembrokeshire)	Y	14/04/2022
Local Planning Authority Pembrokeshire County Council	Y	14/04/2022
Local Planning Authority Pembrokeshire Coast National Park Authority	Y	20/04/2022
Local Harbour Authority: Tenby	N	
Local Harbour Authority: Porthclais	N	
Local Harbour Authority: Saundersfoot	N	
Local Port Authority: Milford Haven Port Authority	N	
Local Port Authority: ABPorts	N	

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Local Port Authority: Stenaline	N	
Royal Society for the Protection of Birds (RSPB)	Y	24/04/2022 and further letter dated 07/07/2022 (wet storage)
Welsh Government / Marine Enforcement Officers	N	
Welsh Archaeological Trust	Y	03/03/2022
Royal Commission on Historic Monuments Wales	Y	14/03/2022
Cadw	Y	23/02/2022
The Welsh Wildlife Trust	Y	15/03/2022
Department for Transport (DFT)	N	
Chamber of Shipping	Y	21/03/2022
NERL Safeguarding	Y	14/02/2022
Cefas	Y	21/03/2022
NFFO	Y	22/04/2022
Welsh Fisherman's Federation	N	
DE&T Transport	N	
BEIS	Y	02/03/2022
National Trust	Y	22/03/2022
Ofcom	N	

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

Consultation on Further Information (31/08/2022- 12/10/2022)

Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate	Y	14/09/2022
NRW	Y	10/10/2022
JNCC	Y	12/10/2022 and 19/10/2022
MoD - Safeguarding Defence	N	
Maritime & Coastguard Agency	Y	05/10/2022

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Trinity House	Y	12/10/2022
Royal Yachting Association	Y	17/10/2022
Local Biodiversity Officer (Pembrokeshire)	N	
Local Planning Authority Pembrokeshire County Council	N	
Local Planning Authority Pembrokeshire Coast National Park Authority	Y	01/11/2022
Local Harbour Authority: Tenby	N	
Local Harbour Authority: Porth clais	N	
Local Harbour Authority: Saundersfoot	N	
Local Port Authority: Milford Haven Port Authority	N	
Local Port Authority: ABPorts	N	
Local Port Authority: Stenaline	N	
Royal Society for the Protection of Birds (RSPB)	Y	12/10/2022
Welsh Government / Marine Enforcement Officers	N	
Welsh Archaeological Trust	N	
Royal Commission on Historic Monuments Wales	Y	29/09/2022
Cadw	Y	05/10/2022
The Welsh Wildlife Trust	Y	13/10/2022
Department for Transport (DFT)	N	
Chamber of Shipping	N	
NERL Safeguarding	N	
NFFO	Y	12/10/2022

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Welsh Fisherman's Federation	N	
DE&T Transport	N	
BEIS	Y	11/10/2022
National Trust	N	
ZSL (Dr C Horsewill)	N	
Ofcom	N	

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

Technical Clarification Consultation (24/11/2022- 13/12/2022)

Consultee	Response received (Y/N)	Date(s) of receipt
NRW	Y	13/12/2022
JNCC	Y	21/11/2022 and 14/12/2022
RSPB	Y	13/12/2022
TWWT	N	

NRW PS has had regard to all consultation responses received in making its decision. Where these have impacted on NRW PS's decision making, this has been noted in the relevant paragraph in section 5 of this decision document.

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 SC1905) was issued on 11 October 2019.

Pursuant to Regulation 8 of the Regulations, NRW considered under SC1905 that the proposed works fell under Schedule A2, paragraph 21 of the Regulations on the assessment of the effects of the project on the environment, specifically:

- Schedule A2, para 21. Installations for the harnessing of wind power for energy production (wind farms)

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 16 February 2023. 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 16 February 2023, 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

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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
- 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 environment. The ES carried out a detailed assessment of potential impact on seascapes and landscapes as a result of the development. As discussed within Section 7.8 of the EIA consent decision; whilst NRW PS conclude that visual impacts have been appropriately assessed within the ES, it is considered that a potential impact on visual receptors remains after consideration of mitigation. Within Section 1.2.5 of the ES, the Applicant sets out the need for the Project including its benefit to the renewable sector including contributing to UK commitment to deliver 50GW of offshore wind capacity by 2030, some of which in the form of Floating wind. In addition, the Applicant has agreed to a potential compensation package with the PCNPA to secure measures for landscape enhancement.

NRW PS consider that the impacts to seascape and visual receptors from the Project have been adequately addressed within the ES and all other information presented or obtained. In our conclusion, the adverse effects of the proposed development to seascape and visual receptors are significant. We accept the evidence that these effects cannot be completely avoided, minimised or mitigated; and, we are satisfied that the Applicant has presented a clear and convincing case for proceeding with the proposed development.

As discussed in Section 7.20 of the EIA consent decision; NRW PS are satisfied that the potential impacts and concerns on socio-economics, tourism and recreation have been appropriately assessed within the ES.

Risks to navigational safety and human life, were considered in the ES chapter 15 (Volume I) and NRA (addendum) and assessed as ALARP or lower with the necessary risk controls and mitigation in place. This includes the necessary markings and lighting, agreement of turbine layout and requirement to monitor AIS data for a three-year period post-construction.

NRW PS are satisfied that population and human health have been adequately addressed and considering the mitigation and licence conditions outlined in Section 8 of the EIA consent decision. NRW PS are satisfied that there will be no impact of significant effect on population or human health as a result of the project apart from potential visual impact that may remain. As set out in Section 7.19 of the EIA consent decision, NRW PS are satisfied that although visual impacts remain, there has been a clear and convincing case set forward for proceeding with the development by the Applicant.

4.3.2 Biodiversity

The works are within and/or overlap with a number of designated European sites and have the potential to impact these sites. However, a HRA carried out by NRW PS concluded that the licensable activities seaward of MHWS would not lead to an Adverse Effect on Site Integrity to these sites or any other sites with relevant marine features taking into account all of the mitigation measures proposed.

The ES considered the impact on biodiversity and identified a number of potential impacts including on marine mammals, ornithology, and benthic habitats where additional mitigation was required. NRW PS consider that although there is a potential for an impact on these features, relying upon the proposed mitigation measures and the implementation of appropriate conditions (see Annex 1), significant effects will be avoided. Key mitigation identified include the production and adherence to a Project Environmental Management Plan (PEMP), Construction Environmental Management Plan (CEMP), Marine Pollution Control Plan (MPCP), Vessel Management Plan (VMP), Marine Mammal Mitigation Plan (MMMP) and Environmental Monitoring and Mitigation Plan (EMMP); these will ensure an impact of significant effect is avoided.

The ES considers the potential for further indirect impacts on biodiversity through possible pollution events and the introduction and/or spread of invasive non-native species. NRW PS consider that biodiversity has been appropriately assessed and conclude that through the mitigation and licence conditions outlined in Annex I, a significant effect on biodiversity will be avoided.

4.3.3 Land, soil, water, air and climate

The purpose of the Project, as stated by the Applicant, is to support the development of FLOW within the Celtic Sea for electricity generation to contributing to UK commitment to deliver 50GW of offshore wind capacity by 2030, some of which in the form of Floating wind. Therefore, the Project aims to positively contribute towards climate change and assist with reducing greenhouse gas emissions.

There is, however, an impact pathway to water quality through a potential pollution event, and/or sedimentation during the construction period. The ES has assessed these impacts and proposed mitigation; including adherence to a PEMP, and a MPCP which would include pollution prevention best practices. NRW PS consider that the works have been appropriately assessed and that with the mitigation proposed within the ES and proposed conditions outlined in Annex I, no significant effect on water or sediment quality will occur.

4.3.4 Material assets, cultural heritage and landscape

The ES has assessed the impact on material assets, including archaeological heritage, valued for socio-economic or heritage reasons and impacts on landscape and seascape. A Written Scheme of Investigation (WSI) will be required and offshore and onshore works will need to be carried out in line with the WSI.

NRW PS can conclude that the ES has appropriately assessed the impacts in relation to material assets, cultural heritage and landscape and with the application of mitigation and that the potential impact can be managed by adherence to the Marine Licence conditions (Annex I). NRW PS consider that although visual impacts remain, offsetting measures can be agreed and secured as part of the Section 36 consent and deemed planning permission and there has been a clear and convincing case set forward for proceeding with the development by the Applicant.

4.3.5 Risk of major accidents and disasters relevant to the project

The risk of a major accident or pollution event has been adequately assessed in the ES and identified as a low risk with the application of mitigation and conditioned management measures (see Annex I).

NRW PS are satisfied that the submitted Flood Consequence Assessment provides a true reflection of flood risks from the Project and conclude that these can be appropriately managed.

NRW PS have concluded that the potential risk of major accidents and disasters relevant to the project have been adequately addressed within the ES and supplementary documentation.

4.3.6 Cumulative impacts and in-combination impacts

After considering the information in the ES and associated documents, the responses from consultees, and the potential impacts from other plans and projects, the conclusion of NRW PS is that the potential cumulative impacts and in-combination impacts have been adequately assessed, are unlikely to be significant and are within acceptable limits.

The HRA completed by NRW PS concluded that the works would not cause a significant effect either alone or in-combination on a European designated site.

NRW PS have concluded that the potential cumulative impacts due to the project have been adequately addressed within the ES and supplementary documentation.

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 PS highlighted the mitigation or monitoring measures that need to be secured under/by condition in the regulatory consent. These are set out below:

Licence conditions will be required to ensure a pre-construction and post-construction monitoring programme is carried out post consent and in agreement with NRW TE, to assist with the validation of the conclusions within the ES

Given that full details of the cable installation are currently unknown, there will be a requirement to submit a Cable Installation Plan, along with a Cable Operation and Maintenance Plan and Cable Management Plan for approval by NRW PS prior to commencement of licensed activities to minimise the impact on habitats and protected species.

Licence conditions will be required to ensure that navigational safety is not compromised as a result of reducing water depth through cable protection activities (referenced to Chart Datum).

Licence conditions will be required to ensure that the developer produces an appropriate monitoring scheme to assess navigational safety.

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To ensure navigational safety, licence conditions will require an Aids to Navigation Plan (AtNP) to be developed, submitted to and approved by NRW PS prior to commencement of licensed activities.

Licence conditions will be required to ensure that the Marine Pollution Contingency Plan (MPCP) is submitted to and approved by the NRW PS prior to commencement of licensed activities. The conditions will ensure that pollution prevention best practice is adhered to, including that appropriate bunding and storage facilities are installed to contain and prevent the release of fuel, oils and chemicals associated with the plant, refuelling and construction equipment into the marine environment. This will reduce the potential for a significant impact on water quality and features of the SAC.

Licence conditions will be required to ensure that the PEMP is submitted to and approved by NRW PS prior to commencement of licensed activities. This document will detail management measures to reduce impacts during the construction phase such as adherence to pollution control legislation and guidance. The PEMP should also include Vessel Management Plan (VMP) which will reduce collision risk to marine mammals.

To reduce impact on navigation and other uses of the sea, a licence condition will be required to ensure mariners and fishermen's organisations are made aware of the activity and that the HM Coastguard and United Kingdom Hydrographic Office (UKHO) are notified of licensed activities.

Licence conditions will be required to ensure that the WTGs and associated structures and moorings are regularly inspected and maintained. In case of damage or disrepair, relevant authorities including the MCA and TH will need to be notified and relevant steps taken to maintain safety of navigation such as aids to navigation and lighting.

Licence conditions will be required to ensure that all structures in the development are coloured as directed by TH to ensure safety of navigation.

Licence conditions will be required to ensure that all structures in the development have required lighting as directed by MOD to ensure safety of aviation.

To ensure navigation safety, licence conditions will be required to ensure that works are surveyed and charted as required by UKHO. On completion of these surveys the results and a corresponding report of survey must be supplied to the UKHO to allow for the updating of charts.

To reduce impact on the historic environment, licence conditions will be required to ensure that no licenced activities (including geotechnical investigations or other preliminary works affecting the seabed) take place until an Archaeological Mitigation Strategy has been approved. This should include:

- a Protocol for Archaeological Discoveries to be submitted to and approved in writing by NRW PS before any marine works can commence;
- providing a WSI for a staged programme of archaeological work.

Licence conditions will be required to ensure that the outline Marine Biodiversity Enhancement Strategy is submitted and approved by NRW PS (through the EMMP) pre-commencement of marine construction activities. This will ensure that pre-construction benthic intertidal and subtidal monitoring surveys are carried out. These surveys will include provision for surveying Annex I and OSPAR/Section 7 habitats to help inform placing of infrastructure.

Licence conditions will be required to ensure that the outline Invasive Non-Native Species (INNS) Management Plan is submitted and approved prior to commencement of works.

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Licence conditions will be required to ensure that construction and post-construction monitoring surveys cover marine mammal monitoring; operational underwater noise monitoring, scour monitoring; cable burial risk assessment and bathymetric surveys.

To prevent injury to marine mammals during construction, licence conditions will be required to ensure that a Marine Mammal Mitigation Protocol (MMMP) is submitted to and approved in writing by NRW PS prior commencement of works.

Licence conditions will be required to ensure that the detailed EMMP is submitted to and agreed by NRW PS pre-commencement of any device deployment. The detailed EMMP will be written in accordance with the requirements of the outline operational monitoring plan (as submitted with the application) and will include detail on the monitoring and mitigating measures used to understand and minimise operational effects upon receptors.

NRW PS has considered these conditions 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.

A Transboundary Screening Assessment did not identify potential for significant effects to any other EEA State. Consequently, no material was provided to other EEA member States in relation to the application.

NRW PS 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

In reaching the Conclusion about Environmental Impact (Regulation 21A of the Regulations), NRW PS must consider any features of the project, or proposed measures, to avoid, prevent, reduce or offset any likely significant adverse environmental effects (regulation 21A (1)(f)).

NRW PS considers that the following features of the project, or measures included within the project proposal, as described in the application form, Environmental Statement, further submitted information and clarification and other supporting information, would avoid, prevent, reduce or offset any likely significant adverse environmental effects:

The Project has committed to the following standard mitigation measures:

- Site selection and route of the Export Cable Corridor (ECC) to avoid sensitive features (as proposed within ES chapters: Chapter 6 Marine and Coastal Processes; Chapter 9 Marine and Coastal Ecology; Chapter 10 Fish and Shellfish Ecology; Chapter 13 Seascape and Landscape Visual Impacts);
- Scour protection to be used where infrastructure cannot be buried and seabed is erodible (Chapter 6 Marine and Coastal Processes);

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- Deposition of dredged material within 200m of extraction site (Chapter 6 Marine and Coastal Processes);
- Cable burial risk assessment and development of cable specification and installation plan (Chapter 6 Marine and Coastal Processes; Chapter 9 Marine and Coastal Ecology);
- Preferred use of HDD rather than open cut trenching at the cable landfall area (Chapter 6 Marine and Coastal Processes; Chapter 9 Marine and Coastal Ecology; Chapter 20 Terrestrial and Coastal Ecology);
- Preferred use of mooring anchors rather than drilling/piling (Chapter 9 Marine and Coastal Ecology);
- Minimum 22m air gap between rotor tip and mean sea level at all tidal states to avoid collisions with birds flying at lower heights (Chapter 11 Offshore Ornithology);
- Wherever possible; doorway and walkway lighting on semi-submersible floating platforms will be sensor activated (Chapter 11 Offshore Ornithology)
- Production of an Invasive Non-Native Species Plan (Chapter 9 Marine and Coastal Ecology);
- Marine Biodiversity Enhancement Strategy to be developed to account for any loss of key habitats (Chapter 9 Marine and Coastal Ecology);
- Production of a Project Environmental Management Plan (PEMP) to include pollution contingency plans (Chapter 9 Marine and Coastal Ecology; Chapter 10 Fish and Shellfish Ecology);
- Best practices techniques throughout all construction, operation and maintenance and decommissioning activities (Chapter 9 Marine and Coastal Ecology);
- Environmental Mitigation and Monitoring Plan (EMMP) to be produced prior to construction (Chapter 11 Offshore ornithology, Chapter 9 Marine & Coastal Ecology)
- Aim to conduct work within a shortest time period as logistically possible to reduce disturbance (Chapter 10 Fish and Shellfish Ecology);
- Soft-start approach for any piling activities (Chapter 12 Marine Mammals Chapter 10 Fish and Shellfish Ecology);
- UXO low order deflagration only and pre-deflagration mitigation (e.g., route cable around identified UXO) (Chapter 10 Fish and Shellfish Ecology; Chapter 11 Offshore Ornithology);
- Remotely Operated Vehicle (ROV) inspections of moorings and substructures (Chapter 11 Offshore Ornithology);
- Use of additional datasets to inform the baseline and assessment (Chapter 11 Offshore Ornithology);
- Implementation of a Vessel Management Plan (VMP) (Chapter 11 Offshore Ornithology; Chapter 12 Marine Mammals);

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- Where possible, lighting on walkways and doorways of Project infrastructure will be sensor activated (Chapter 11 Offshore Ornithology);
- Implementation of piling, UXO and decommissioning Marine Mammal Mitigation Plans (MMMP) (Chapter 12 Marine Mammals).

5 BASIS FOR OUR DECISION

In determining this application, including the terms on which it was granted, and the conditions attached to it, NRW PS 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 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.

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

- Pembrokeshire South (Coastal)- GB611008590003
- Milford Haven Outer (Coastal)- GB641008220000
- Milford Haven Inner (Transitional)- GB531006114100
- Pembrokeshire Carboniferous Limestone (Ground)- GB41002G206000

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. In light of the conclusions of a detailed compliance assessment (Stage 3), and taking account of the advice received from technical specialist advisors (NRW TE), NRW PS are satisfied 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 provided that conditions are secured to the Marine Licence including;

- Ensuring that a Project Environmental Management Plan (PEMP) containing a Marine Pollution Contingency Plan (MPCP) is produced and implemented to manage construction methods and operations, and that construction best practice guidance is adhered to in order to mitigate the impacts on receptors (Condition 3.37 of Annex 1).
- In order to limit the spread of non-native species there will be a requirement to produce and implement an Invasive Non-native Species Management Plan (Condition 3.38 of Annex 1).

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*

Concerns were raised during consultation that the assessment of sediment plumes and subsequent deposition had not considered the sensitive habitats located within Milford Haven; in particular the Maerl beds and native oyster beds (Section 7 Environment (Wales) and OSPAR species and habitats). Further analysis and assessment presented by the Applicant within the EIA Addendum (August 2022) showed there to be no impact from elevated suspended sediment concentrations and subsequent deposition resultant from construction activities during installation of the export cable. Further clarification was also required to ensure no significant impacts to migratory fish species and

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elasmobranchs would be incurred from the Project. Upon provision of this clarification¹, NRW TE were satisfied that only minor adverse impacts would occur.

NRW PS considers that the s6 duty has been satisfied in the determination of the application for a Marine Licence under the 2009 Act

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 PS 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

A Habitats Regulations Assessment of the regulated activities has been carried out by NRW PS, and NRW TE and JNCC (as Statutory Nature Conservation Bodies) have been consulted.

The Habitats Regulations allow co-ordination where more than one competent authority is involved (Regulation 67 (2)). These provisions allow the competent authority to forego assessing the implications of a plan or project where they are satisfied that the implications would be more appropriately assessed by another competent authority. The landward works of the proposal fall outside the marine licensable area and are assessed as part of the HRA assessment carried out under the determination for a Section 36 consent (and deemed planning permission). Therefore, only the marine elements (those seaward of MHWS) would be given consideration within the HRA carried out by NRW PS as part of the Marine Licence determination.

The Project is located in, and/or overlaps with the following European Protected Sites:

- Pembrokeshire Marine SAC
- West Wales SAC

• ¹ ORML2170 Project Erebus Technical and General Consultation Responses SEI Response Further Clarifications v2.0

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Within the HRA carried out by NRW PS a likely significant effect (LSE) from the proposed activities seaward of MHWS could not be ruled out on the following sites with marine features;

- Pembrokeshire Marine SAC
- Cleddau Rivers SAC
- Carmarthen Bay and Estuaries SAC
- Cardigan Bay SAC
- Pen Llŷn a'r Sarnau/Lleyn Peninsula and the Sarnau SAC (bottlenose dolphin only)
- West Wales SAC
- Cardigan Bay SAC

NRW PS conclude that the Project would not lead to an adverse effect on Site integrity, either alone or in-combination, on any marine features of designated sites subject to suitable mitigation measures being secured through conditions of the Marine Licence. Further details are described within the Habitats Regulations Assessment.

NRW PS are 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 these include the requirement to produce and implement;

- detailed Project Environmental Management Plan (PEMP) containing a Marine Pollution Contingency Plan (MPCP) and Vessel Management Plan (VMP) (Condition 3.28 in Annex 1)
- Marine Mammal Mitigation Protocol (MMMP) (Condition 3.30 in Annex 1),
- INNS biosecurity plan to prevent the introduction and/or spread of INNS (Condition 3.29 in Annex 1)
- and the Environmental Mitigation and Monitoring Plan (EMMP) (Condition 3.31 in Annex 1).

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

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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 PS considers that the following protected species have the potential to be impacted by the Project:

- Otter
- Cetaceans including; Harbour porpoise, Bottlenose dolphin, Risso dolphin, Common dolphin, Minke whale.

NRW PS has taken into account the requirements for issuing an EPS licence in making this decision and is satisfied on the basis of the information it has considered that it is not unlikely that an EPS licence would be granted for 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.

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*

The Project does not overlap with the Skomer MCZ and NRW PS are satisfied that there is no significant risk of the Proposed Activities on the Skomer MCZ when undertaken in accordance with appropriate conditions, to mitigate any impacts on the mobile feature including Grey Seal refer above (HRA).

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

- Arfordir Penrhyn Angle/Angle Peninsula Coast SSSI

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- Milford Haven Waterway SSSI
- Dale and South Marloes Coast SSSI
- Broomhill Burrows SSSI
- Castlemartin Range SSSI
- St Bride's Bay South SSSI
- Skokholm SSSI
- Skomer Island and Middleton SSSI
- Stackpole SSSI

The ES has considered the potential impact of the works on SSSI's. The Project will overlap with approximately 0.1km² of the Arfordir Penrhyn Angle/Angle Peninsula Coast SSSI. As stated within the ES landfall will take place on the beach so as to avoid impacts to the maritime grasslands and maritime rock-crevice communities of the SSSI..

NRW PS are satisfied that the regulated activities are not likely to damage a SSSI when undertaken in accordance with appropriate conditions.

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 are satisfied that the regulated activities meet the requirements of The Waste (England and Wales) Regulations 2011 when undertaken in accordance with appropriate conditions, i.e. production and adherence to a PEMP as set out in Condition 3.28 of Annex 1. The PEMP would be expected to demonstrate appropriate waste management measure are in place.

Following advice from Cefas and sediment sample analysis, NRW PS is content that the proposals are in line with the relevant OSPAR guidelines for the management of dredged material and that dredge material is suitable for disposal at sea. The proposed disposal sites for deposition of material from the levelling of sand waves are considered to be suitable; having no overlap with existing disposal sites and being in close proximity to the works to allow sediment to be retained within the system.

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

NRW PS have had regard for the issues raised by consultees. These are presented within Section 7 of the EIA Consent Decision.

Issues not already discussed within this Decision Document but are considered relevant to the marine works are summarised below.

Coastal Processes

Concerns were raised by the consultees in relation to the adequacy of the coastal processes assessment. However, following the submission of justifications and clarifications from the Applicant, it was concluded by NRW TE that a considered appraisal of the impacts could be reached with the baseline characterisation being greatly expanded upon. This allowed an informed view on the potential impacts of the cable installation and associated cable protection on the Annex I sand bank features of the Pembrokeshire Marine SAC. The re-modelling of sediment plumes from cable landings within Milford Haven also confirmed both the limited extent and duration of elevated suspended sediment concentrations and predicted minimal accumulated depth from subsequent deposition. To minimise potential impact to Turbot Bank the Applicant has commitment to cable protection mitigation specifically that any cable protection would be non-continuous to allow sediment to overtop and flow around and that on the north and south sides of Turbot Bank the height of the cable protection will not exceed 1.5m to reduce the barrier to sediment flow. Additionally, the Applicant has committed to monitoring to confirm the conclusions of the ES, in particular the movement of sediment around and overtopping the cable protection on Turbot Bank and the sediment characteristics of the cable route corridor. Having regard for the comments received, NRW PS considers the need to include Condition 3.42 (EMMP) as set out in Annex 1, in order to ensure that monitoring is carried out as proposed, and Condition 3.17 and 3.37 to ensure that the cable protection on the Annex I sand banks is non-continuous and does not exceed 1.5m in height.

Benthic Ecology

The ES proposes to adhere to a PEMP and Marine Pollution Contingency Plan (MPCP). In addition, the Applicant proposes to submit a full installation methodology for agreement prior to carrying out cable installation works or WTG installation. NRW PS consider that these can be secured through licence conditions set out in Condition 3.37 of Annex 1.

In order to limit the spread of invasive non-native species there will be a requirement to produce and implement an Invasive Non-native Species Management Plan that can be secured through Condition 3.38 (INNS) of Annex 1.

The Applicant has committed to environmental monitoring of the benthic and intertidal habitats in order to confirm the conclusions of the ES and demonstrate environmental recovery and confirm the temporary nature of any impact, this has been secured through Condition 3.42 of Annex 1.

Fish and Shellfish

Based on information provided, NRW TE advised that the assessment carried out in relation to impacts on fish and shellfish was appropriate. NRW TE advised that the commitments within the Marine Mammal Mitigation Protocol (MMMP) and Environmental Mitigation and Monitoring Plan (EMMP) in relation to entanglement and ghost fishing gear would also be appropriate for minimising risk to larger fish species and elasmobranchs. Additionally, the PEMP (Condition 3.37) and MPCP (also Condition 3.37) will ensure best working practices are adhered to, and will provide measure to reduce any impact of an accidental pollution events on fish and shellfish ecology. NRW PS consider that the requirement to produce and implement a detailed EMMP, which accords with the requirements of the outline monitoring plan as provided with the further information submission can be secured through licence Condition 3.42 set out in Annex 1.

Marine Ornithology

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Concerns were raised by consultees in relation to the methodology of the assessment carried out within the ES and omission of wet storage areas and screening out of certain species. Further details on this can be found within Section 7.6 of the EIA Consent Decision. Initially NRW TE and JNCC were unable to agree the conclusions of the ES based on the information presented and analysis carried out by the Applicant. Concerns surrounding the methodology carried out by the Applicant included but is not limited too;

- The displacement and mortality rate used
- Assumption around age structures used in the model
- The number of simulations carried out as part of the model
- How cumulative impact of collision and displacement was considered
- How cumulative collision impact is considered

However, NRW TE and JNCC were able to use the data presented in order carry out their own analysis using a different methodology, which subsequently led to agreement with the conclusion of the ES.

The Applicant has removed the 9.5MW x10 WTG scenario from the Project Design. The Applicant also proposes that the appropriate use of monitoring methods to validate the conclusions of the ES and the exact detail of monitoring will be confirmed with NRW PS during development of the detailed EMMP (Condition 3.42) potential monitoring may include (but not be limited to) bird tagging, collision sensors, and long-term demographic studies.

Having regard to the comments received, NRW PS consider the need to include Condition 3.42 as set out in Annex 1, to ensure that a detailed EMMP is produced.

Mitigation is also secured through Condition 3.37 which incorporates the Vessel Management Plan (VMP).

Marine Mammals

Concerns were raised by the consultees in relation to the assessment carried out within the ES and the potential impact of the proposed works on marine mammals, in particular from potential entanglement and disturbance through underwater noise.

Following provision of further information and assessment and advice from NRW TE and JNCC, NRW PS are satisfied that no significant impacts to marine mammals will be incurred. The Applicant has committed to a suite of mitigation to reduce the risk of any physical or auditory injury to marine mammals during the construction, operation and decommissioning phases of the Project. This includes no concurrent piling activity and a commitment to soft-start. This will be delivered through the Marine Mammal Mitigation Plan (MMMP). NRW PS consider the need to include Condition 3.40 as set out in Annex 1, to ensure that a MMMP is produced and implemented and have also included Condition 3.41 to as mitigation for UXO, should this be required.

To mitigate the potential impact on marine mammals through collision with vessels during construction and maintenance activities it is expected that a Vessel Management Plan will need to be produced and adhered to, NRW PS consider the need to include Condition 3.37, Annex I.

Offshore Archaeology and Cultural Heritage

Cadw, Welsh Archaeological Trust (WAT) and RCAHMW agreed with the Applicant's assessment of impacts on the historic environment and concurred that a mitigation was required to avoid and minimise

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the potential impact of the construction of the cable route upon marine and coastal archaeology. Within the ES, the Applicant proposes the following mitigation;

- Requirement for an Archaeological Mitigation Strategy and a Protocol for Archaeological Discoveries that provides a system for reporting and investigating unexpected discoveries during the course of the development.
- To provide a Written Scheme of Investigation for a staged programme of archaeological work.
- Both of the above to be submitted to and approved in writing by NRW PS before any marine works can commence.

Having regard to the comments received from Cadw, WAT and RCAHMW, NRW PS consider the need to include Condition 3.27 as set out in Annex 1 to secure the mitigation detailed above.

Seascape, Landscape and Visual Impact

Concerns were raised by NRW TE, Pembrokeshire County Council (PCC) and Pembrokeshire Coast National Park Authority (PCNPA) and The National Trust in relation to the potential impact of the regulated activities on seascape and landscape by the consultees. Concerns were mainly with regard to the potential impacts on seascape, particularly in view from the Pembrokeshire Coastal National Park (PCNP). Further details on this can be found within Section 7.8 of the EIA Consent Decision.

NRW TE were concerned that adverse effects from the Project on seascape and visual receptors within the Pembrokeshire Coast National Park had been underestimated within the assessment.

NRW PS acknowledge that significant concerns remain by NRW TE on the effects on the seascape, landscape and visual receptors remain despite the mitigation measures committed to by the Applicant.

NRW PS consider that the Applicant, in line with Policy SOC_07 and SOC_06 of the WNMP, has taken into account the potential impact on seascape, landscape and visual receptors within the ES and relevant supporting documentation. The Applicant has sought to avoid and minimise impacts where possible and proposed suitable mitigation. NRW PS note that the Applicant has committed to provide compensation to be secured through the conditions of the deemed Planning Permission to offset these impacts. PCC have agreed draft condition for the Planning Permission and expect PCNPA to be consulted on any compensation package.

NRW PS note that the potential for a significant impact on visual receptors remains after mitigation. However, within Section 1.4.3 of Chapter 1 of the ES, the Applicant sets out the need for the project including its benefit to the local economy and the renewable sector. This includes supporting UK commitment to deliver 50GW of offshore wind capacity by 2030, some of which in the form of Floating wind. In addition, PCC have agreed draft conditions in order to secure compensation measures through the Planning Permission. and PCNPA will review and agree a potential compensation package with the Applicant. NRW PS consider that although impacts remain, there has been a clear and convincing case set forward for proceeding with the development by the Applicant. The Applicant has committed to mitigation and an enhancement package. PCC have agreed draft condition for the Planning Permission with the Applicant therefore we are satisfied that this mitigation can be secured through the Planning Permission.

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

To avoid interaction with Unexploded Ordnance (UXO), the Applicant must carry out a survey to identify any UXO and establish whether any further investigation is required prior to carrying out the marine works. This is secured through the PEMP (Condition 3.37) and through bathymetric surveys as outlined within Condition 3.29 within Annex 1.

As the Project is located within a zone designated for low-flying aircraft, the MOD have advised for the need for specific conditions in relation to lighting of the structures. NRW PS agree and have secured this as Condition 3.26 within Annex 1.

Risk to navigation safety and thus human life has been discussed further in section 5.3 below.

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 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.

5.3 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.

Consultees on Shipping and Navigation agreed with the conclusions of the assessment but raised a number of concerns relating to navigational safety. Following consideration of the application documents and consultation responses received, NRW PS consider that a number of additional mitigation will also be required in order to ensure navigational safety which includes:

- Sufficient notifications through notice to mariners during construction activities and at least 14 days before any planned operations and maintenance works and supplemented with VHF radio broadcasts agreed with the MCA in accordance with the construction and monitoring programme (secured through Conditions 3.1 and Condition 3.37 (PEMP))
- The development of an Aids to Navigation Plan (AtnP) (Condition 3.19 of Annex I).
- Production and implementation of an Emergency Response Cooperation Plan (ERCoP) (Condition 3.27 of Annex I).
- A monitoring scheme to assess navigational safety (Condition 3.28 and 3.29 of Annex I).
- A load line exemption must be obtained from the MCA prior to any towage of floating infrastructure (Condition 3.22 of Annex 1).
- A Third-Party Verification of the mooring arrangements for all floating devices will be required prior to construction to provide assurance that the moorings are suitable for the expected Metocean conditions at the location (Condition 3.23 of Annex 1)
- Assurance that the devices are regularly inspected and maintained. In case of damage to, or destruction or decay of, relevant authorities including the MCA and TH will need to be notified and relevant steps taken such as aids to navigation and lighting requirements to maintain safety of navigation (Condition 3.28, of Annex I).
- Assurance that all structures display such lights, marks, sounds, signals and other aids as required to ensure safety to navigation (Condition 3.19, 3.24, 3.25 and 3.26 of Annex I).
- Assurance that navigational safety is not compromised as a result of reducing water depth through licensed activities (Condition 3.21 of Annex I)
- A study must be undertaken to establish the electromagnetic deviation, affecting ship compasses and other navigating systems, of the high voltage cable route to the satisfaction of

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the MCA and Milford Haven harbour authority. On receipt of the study, the MCA reserves the right to request a deviation survey of the cable route post installation (Condition 3.29 of 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)

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

Within Chapter 5: Policy and Legislation- section 5.4.3 of the ES the Applicant had demonstrated how the Project accords with the Marine Policy Statement.

NRW PS consider this decision has been taken in accordance with marine policy as set out in the UK Marine Policy Statement 2011.

Welsh National Marine Plan

Within Chapter 5: Policy and Legislation- section 5.4.4 of the ES, the policies of the Welsh National Marine Plan have been summarised by the Applicant with signposting provided within Table 5.5 to indicate where these were considered within each topic chapter of the ES.

The Applicant states that the Project promotes renewable energy growth and in so doing minimising climate change through allowing commercial demonstration of FLOW technology and its contribution to the Welsh Offshore Renewable Energy Sector. In addition, a key objective of the project is to support economic growth in Wales, including the potential for job creation.

NRW PS consider that this decision has been taken in accordance with marine policy as set out in the Welsh National Marine Plan.

5.5 Other matters NRW thinks relevant

5.5.1 *Well-being of Future Generations (Wales) Act 2015*

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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*

Within Chapter 5: Policy and Legislation- section 5.3.7 of the ES the Applicant has considered the project against the goals set out in the Well-being of Future Generations (Wales) Act 2015.

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

NRW PS 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 PS 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 PS'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 have also explained in section 5 how each of the legal requirements have been considered. NRW PS 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: Seran Davies Position: Senior Permitting Officer- Marine Licensing	Date: 16 February 2023	Signed: 
Authorised by: John Wheadon Position: Permitting Service Manager	Date: 16 February 2023	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

- 3.1.1** The Licence Holder must notify the Licensing Authority no less than **14 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 **14 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, UKHO and other local stakeholders are made fully aware of the Licensed Activities through local notices to mariners **14 days** prior to the commencement of the Licensed Activities, or an individual phase of the Licensed Activities. The notice should detail the start date of the works and expected vessel routes from the port to the location.

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

- 3.1.4** The Licence Holder must notify The Kingfisher Information Service of Seafish no less than **14 days** prior to the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

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

- 3.1.5** The Licence Holder must notify The Ministry of Defence safeguarding no less than **14 days** prior to the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

Reason: To minimise interference with low flying aircraft and ensure the MOD 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.

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 **zone28@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 or an individual phase 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, or a phase of the Licensed Activities.

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

- 3.6.3** The Licence Holder must notify the UK Hydrographic Office within **10 days** of completion of the Licensed Activities, or an individual phase 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.

- 3.6.4** The Licence Holder must notify The Kingfisher Information Service of Seafish as soon as reasonably practicable and no later than **24 hours** after completion of the Licensed Activities or an individual phase 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.

- 3.6.5** The Licence Holder must notify the Ministry of Defence safeguarding as soon as reasonably practicable and no later than **24 hours** after completion of the Licensed Activities or an individual phase of the Licensed Activities.

Reason: To minimise interference with low flying aircraft and ensure the MOD can safely plan and conduct their passage.

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 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 of this Licence whose details have been submitted to the Licensing Authority under condition 3.2.

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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, 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 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

3.12 Removal of Deposited Material

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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

3.13 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.

3.14 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 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.

3.15 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.

3.16 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

3.17 Project Parameters

3.17.1 The Licence Holder must ensure that all Project structures constructed/deployed fall within the parameters set out within Environmental Statement Chapter 4 Project Description (ORML2170 ES Vol1 Chapter 4) and

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the ORML2170 Supplementary Environmental Information- EIA Addendum, and as detailed in Table 1 and Appendix 1 and 2.

- 3.17.2** The Licence Holder must ensure that cabling and cable protection must fall within the parameters set out within Environmental Statement Chapter 4 Project Description (ORML2170 ES Vol1 Chapter 4) and as detailed in Table 1 and Appendix 3.

Reason: To ensure that the impacts of all activities are within the limits of those assessed within the Environmental Statement.

3.18 Project Layout Plan

- 3.18.1** The Licence Holder must submit a Project Array Layout Plan to the Licensing Authority for written approval at least **6 months** prior to the commencement of Licensed Activities. The Plan should set out the proposed details of the authorised project, including the:

- i. number, dimensions, specification, foundation type(s) and depth for each WTG and offshore platforms;
- ii. the grid coordinates of the centre point of the proposed location for each WTG and offshore platforms;
- iii. proposed layout of all cables; and
- iv. location and specification of all other aspects of the Licensed Activities.

- 3.18.2** The Licence Holder must ensure that any actions outlined in the Project Array Layout Plan detailed in condition 3.18.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the action 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 that the infrastructure to be constructed remain within the limits of those assessed within the Environmental Statement and further information submissions.

3.19 Aids to Navigation

- 3.19.1** The Licence Holder must submit an Aids to Navigation Management Plan (AtNP) to the Licensing Authority for written approval at least **4 months** prior to commencement of Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority. The AtNP must consider all stages of the Licensed Activities and provide details on location and specification of all infrastructure and aspects of the Project, navigation lights and marking of Project infrastructure, in addition to any additional aids to navigation required.

- 3.19.2** The Licence Holder must ensure that any actions outlined in the AtNP detailed in condition 3.19.1 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.

3.19.3 The Licence Holder must submit a report to the Licensing Authority on the availability of aids to navigation in accordance with the timetable approved within the AtNP.

3.19.5 The Licence Holder must ensure that the Licensed Activities exhibit such lights, marks, sounds, signals and other aids to navigation and to take such steps for the prevention of danger to navigation as directed by Trinity House.

Reason: To ensure the safety of navigation.

3.20 Navigation Risk Assessment (NRA)

3.20.1 The Licence Holder must submit an updated Licensed Area NRA for written approval at least **4 months** prior to the commencement of any Licensed Activities. This should include the Tow-out passage plan risk assessment.

3.20.2 The Licence Holder must ensure that any actions outlined in the updated Licensed Area NRA 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 ensure the safety of navigation.

3.21 Depth Reduction

The Licence Holder must ensure that any depth reductions resulting from cable protection activity do not compromise safe navigation and that there is no more than 5% reduction in surrounding depth referenced to Chart Datum at any location within the Licensed Area without prior written approval from the Licensing Authority.

Reason: To ensure the safety of navigation.

3.22 Load line Exemption

The Licence Holder must ensure that a load line exemption is obtained from the MCA prior to any towage of floating infrastructure.

Reason: To ensure the safety of navigation.

3.23 Mooring verification

The Licence Holder must at all times ensure that the Licensed Activities are maintained in a safe condition that does not present a danger to the environment, or other marine users. Floating devices and any devices suspended in the water column must have a Third-Party verification of the mooring arrangements prior to construction to provide assurance that the moorings are suitable for the expected Metocean conditions at the Project's Array location.

Reason: To ensure the safety of navigation.

3.24 Colouring of Infrastructure

The Licence Holder must paint all infrastructure in the Licenced Area as directed by Trinity House.

Reason: To ensure the safety of navigation.

3.25 Coatings

The Licence Holder must ensure that any coatings/treatments used in carrying out the Licensed Activities are suitable for use in the marine environment and are used in accordance with best environmental practice.

3.26 Aviation lighting

3.26.1 The Licence Holder must submit an Aviation Lighting Scheme Plan to the Licensing Authority for written approval, at least **4 months** prior to commencing of Licenced Activities. This plan should confirm lighting requirements necessary for both civil and military aviation safety and detail how they will be implemented for the lifetime of the Project. No Licenced Activities may be undertaken prior to written approval from the Licensing Authority.

3.26.2 The Licence Holder must ensure that any actions outlined in the aviation lighting scheme plan detailed in condition 3.26.1 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 the safety of aviation.

3.27 Emergency Response

3.27.1 The Licence Holder must submit an Emergency Response Co-operation Plan (ERCoP) to the Licensing Authority for written approval at least **4 months** prior to commencing Licensed Activities. The ERCoP must include a Search and Rescue (SAR) checklist based on requirements outlined within MGN654 Annex 5. No Licenced Activities may be undertaken prior to written approval from the Licensing Authority.

3.27.2 The Licence Holder must ensure that any actions outlined in the ERCoP detailed in condition 3.27.1 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 the safety of navigation.

3.28 Navigational Safety

3.28.1 The Licence Holder must ensure a regular programme of monitoring of device condition. In case of damage, destruction or decay of any device or part of a device, the Licence Holder shall, as soon as possible and no later than **24 hours** after becoming aware of such damage, destruction or decay, notify Trinity House, Maritime and Coastguard Agency, Kingfisher Information Service of Seafish, UKHO and the Licensing Authority.

3.28.2 In the event of cable exposure on or above the seabed, the Licence Holder must issue a notice to mariners and notify the Kingfisher Information Service of the location and extent of exposure no later than **3 days** following its identification. Copies of all said notices must be provided to the Licensing Authority, Trinity House and Maritime and Coastguard Agency.

Reason: To ensure the safety of navigation.

3.29 Navigation Monitoring

3.29.1 The Licence Holder must submit a Navigation Monitoring Specification for construction and post construction navigation monitoring survey to the Licensing Authority for written approval at least **4 months** prior to commencement of any Licensed Activity. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority. The survey specification must include;

(i). Pre-construction bathymetric survey of the Licensed Area extending to an appropriate buffer around the array site and all proposed cable routes;

(ii). post-construction bathymetric survey of the installed export cable route and post-decommissioning swath bathymetric survey of the Licensed cable route and array area.

(iii). All bathymetric surveys to IHO Order 1a standard and be in compliance with MGN654 (Hydrographic Guidelines for Offshore Renewable Energy Developers), which includes the requirement for the full density data and reports to be delivered to the MCA and the UKHO for the update of nautical charts and publications.

(iv). Vessel traffic monitoring by Automatic Identification System (AIS) for the duration of the construction phase

(v). Vessel traffic monitoring by Automatic Identification System (AIS) for a 3 year period post-construction phase

(vi) A study to establish the electromagnetic deviation, affecting ship compasses and other navigating systems, of the high voltage cable route with follow up deviation survey of the export cable post-construction if necessary.

(vii). Detail of the programme/timetable of monitoring and reporting.

- 3.29.2** The Licence Holder must ensure that any actions outlined in the Navigation Monitoring Specifications detailed in condition 3.29.1 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.
- 3.29.3** In line with condition 3.29.1 the Licence Holder must submit a report to the Licensing Authority for written approval in line with the timetable agreed in the Navigation Monitoring Specification.
- 3.29.4** In accordance with condition 3.29.1 hydrographic surveys of the Licensed Area must be submitted to the UKHO, with notification to the MCA and Licensing Authority.

Reason: To ensure the safety of navigation.

3.30 Cable Specification and Installation Plan

- 3.30.1** The Licence Holder must submit a Cable Specification and Installation Plan to the Licensing Authority for written approval at least **4 months** prior to commencement of any Licensed Activity. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority. The plan must include;

- (i) Technical specification;
- (ii) Location, including outlines of cable crossings, burial and surface laid sections;
- (iii) Timings, including duration of intertidal works;
- (iv) Burial risk assessment to ascertain burial depth;
- (v) The proposed locations, types, and quantities of cable protection to be deposited;
- (vi) Installation and cable laying techniques;
- (vii) Cable crossing armouring methodology;
- (viii) Installation machinery failure contingency plan;
- (ix) Location, type, and quantity of any wet-stored cabling and/or cable protection and the proposed duration of the wet storage;
- (x) Proposals for monitoring offshore cables including cable protection during the operational lifetime of the authorised scheme which includes a risk based approach to the management of unburied or shallow buried cables; and
- (xi) Confirmation any rock protection across Turbot Bank is non-continuous.

3.30.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.30.1 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 agreed in writing by the Licensing Authority prior to any changes being enacted.

3.30.3 The Licence Holder must provide to the Licensing Authority the following information within **4 months** of completion of the licensable activity for written approval:

(i) The final locations (in WGS84) and technical specifications of the cables;

(ii) The final locations (in WGS84) of buried and surface-laid sections of the cables;

(iii) The final locations (in WGS84), types, and quantities of cable protection used, deposited or installed; and

(iv) Identification of potential dangers to navigation.

In the event that any potential danger to navigation is identified following the completion of the licensable activities the Licence Holder must propose measures to ensure the safety of navigation in writing to the Licensing Authority for written approval. The measures must be implemented as approved.

Reason: To ensure the safety of navigation, that the installation of infrastructure is in line with those assessed for within the Environmental Assessment and to minimise risk to Annex I Sand bank features of the SAC and the marine environment.

3.31 Rock Protection

3.31.1 The Licence Holder must ensure that rock protection is only used where adequate burial cannot be achieved and that exact locations are reported as per condition 3.30.3

3.31.2 The Licence Holder must ensure that any rock misplaced or lost below Mean High Water Springs is reported to the Welsh Government Marine Enforcement Office, Maritime and Coastguard Agency and the Licensing Authority within **48 hours**, and located and recovered as directed by the Licensing Authority.

Reason: To ensure the safety of navigation.

3.32 Cable Maintenance & Repair

3.32.1 The Licence Holder must submit a Cable Maintenance Method to the Licensing Authority for written approval **8 weeks** prior to commencement of Licenced Activity 3 listed in **Table 1**. Licensed Activity 3 may not be undertaken prior to written approval from the Licensing Authority. The Plan must include;

- i. detail of methodologies for operations and maintenance including the methods to be used for re-laying and re-burial of repaired cable and removal and reinstatement of any cable protection; and
- ii. a timescale for the periodic review of the document.

3.32.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.33.1 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 agreed in writing by the Licensing Authority prior to any changes being enacted.

Reason: To ensure the safety of navigation, ensure works are within parameters assessed for within the Environmental Impact Assessment and minimise impacts to marine environment.

3.33 Disposal Returns

3.33.1 Certified returns of quantities of substances or articles deposited under this Licence are required to be submitted by **31 January** and **31 July** each year. The returns must specify the full Licence number and amount deposited (in m³ and tonnage) each calendar month at each authorised Deposit Area. Where no deposit is made in a given period a NIL return is required.

3.33.2 If this Licence expires during the course of the calendar year and is not superseded by a further Licence relating to the Licenced Activities, a certified return of quantities of substances or articles deposited under this Licence shall be submitted not later than **28 working days** after the Licence End Date.

Reason: To ensure the compliance with Licensed dredge disposal amounts and locations and reporting to OSPAR.

3.34 Quantity of Disposal

3.34.1 The Licence Holder must ensure that the disposal of material to the licensed deposit areas as specified in **Table 2** does not exceed 1,549,190 tonnes.

3.34.2 All deposit vessels are required to carry an Admiralty Chart of appropriate scale to be used in navigation on which the co-ordinates of the licensed Deposit Area(s), as specified in **Table 4** should be marked.

Reason: To ensure the compliance with Licensed dredge disposal amounts and locations.

3.35 Record of Quantity of Deposited Material

The Licence Holder must keep a log detailing the time, date, location and quantity of material deposited at sea. This log must be available for inspection by appropriately authorised officers of the Licensing Authority and Marine Enforcement Officers.

Reason: To ensure the compliance with Licensed dredge disposal amounts and locations.

3.36 Noisy Activities

- 3.36.1** The Licence Holder must complete an entry into the UK Marine Noise Registry detailing the proposed dates and locations and nature of any piling activities or UXO clearance at least **10 days** prior to the commencement of the Licensed Activities.
- 3.36.2** The Licence Holder must amend the UK Marine Noise Registry proposed activity form should the timing of any piling activities or UXO clearance alter or no longer remain part of the Project.
- 3.36.3** The Licence Holder must complete an entry into the UK Marine Noise Registry detailing the actual dates and locations and nature of any piling activities or UXO clearance within **8 weeks** of completion of the noisy activity.

Reason: To minimise the risk to marine environment from anthropogenic noise.

3.37 Project Environmental Management Plan (PEMP)

- 3.37.1** The Licence Holder must submit a PEMP to the Licensing Authority for written approval at least **6 months** prior to commencement of Licensed Activities. The PEMP must be in accordance with the outline PEMP (as submitted with application documents) and include all Project considerations and method statements in accordance with those assessed within the environmental statement and include the Construction Environmental Management Plan (CEMP), Marine Pollution Contingency Plan (MPCP) and Vessel Management Plan (VMP), all best practice guidelines and techniques. No construction and/or deployment may be undertaken prior to written approval from the Licensing Authority.
- 3.37.2** The Licence Holder must ensure that any actions outlined in the PEMP detailed in condition 3.38.1 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 pollution incidents occurring by adopting best practice techniques.

3.38 Biosecurity

- 3.38.1** The Licence Holder must submit an Invasive Non-native Species (INNS) Management Plan to the Licensing Authority for written approval at least **6 weeks** prior to commencement of Licensed Activities. The plan must be in accordance with the outline INNS Plan (submitted as Technical Appendix 9.4 within Volume 3 of the ES and include further information as identified within the SEI ES Addendum submitted August 2022). No construction may be undertaken prior to written approval from the Licensing Authority.
- 3.38.2** The Licence Holder must ensure that any actions outlined in the INNS Management Plan detailed in condition 3.38.1 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 INNS incidents occurring by adopting best practice techniques.

3.39 Bathing Water Mitigation Plan

3.39.1 Should open cut trenching be required as part of cable installation, the Licence Holder must submit a Bathing Water Mitigation Plan to the Licensing Authority for written approval **8 weeks** prior to its commencement. No open cut trenching may be undertaken prior to written approval from the Licensing Authority.

3.39.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.39.1 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 agreed in writing by the Licensing Authority prior to any changes being enacted.

Reason: To minimise risk to bathing water quality during cable installation works via open-cut trenching

3.40 Marine Mammal Mitigation Plan (MMMP)

3.40.1 The Licence Holder must submit a MMMP to the Licensing Authority for written approval at least **4 months** prior to commencement of Licensed Activities. The MMMP must detail mitigation for all elements of the project construction; as well as the operational phase and decommissioning period. No construction or deployment may be undertaken prior to written approval from the Licensing Authority.

3.40.2 The Licence Holder must ensure that any actions outlined in the MMMP detailed in condition 3.40.1 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 to Marine Mammals.

3.41 UXO specific Marine Mammal Mitigation Plan (MMMP)

3.41.1 The Licence Holder must submit a UXO specific MMMP to the Licensing Authority for written approval at least **4 months** prior to commencement of Licensed Activities should one UXO clearance be required (as per Licensed Activities 7). The MMMP must detail mitigation suitable for a UXO clearance event. No construction or deployment may be undertaken prior to written approval from the Licensing Authority.

3.41.2 The Licence Holder must ensure that any actions outlined in the UXO specific MMMP detailed in condition 3.41.1 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 to Marine Mammals.

3.42 Environmental Mitigation and Monitoring Plan (EMMP)

3.42.1 The Licence Holder must submit a specification for environmental mitigation monitoring surveys to the Licensing Authority for written approval at least **4 months** prior to the commencement of Licensed Activities. The monitoring specification must include the following unless otherwise agreed with the Licensing Authority;

- i. Timetable for monitoring and reporting;
- ii. marine mammal monitoring;
- iii. scour monitoring;
- iv. bathymetric surveys of Array site, Export Cable Corridor, sand wave levelling, rock protection and Annex I sand bank features;
- v. benthic and coastal ecological monitoring;
- vi. Marine Biodiversity Enhancement Strategy implementation;
- vii. underwater operational noise;
- viii. ghost-fishing gear entanglement;
- ix. ornithological monitoring.

3.42.2 The Licence Holder must ensure that any actions outlined in the specification for the construction and post-construction monitoring survey detailed in condition 3.42.1 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.

3.42.3 The Licence Holder must submit environmental monitoring reports for approval to the Licensing Authority no later than **12 months** from the survey dates specified within the approved monitoring programme as detailed in condition 3.42.1.

Reason: To ensure that information collated during pre- and post-construction monitoring is robust and tailored towards detecting changes from the baseline data, testing predictions outlined in the appropriate assessment and Environmental Statement, and monitoring recovery and re-colonisation of fauna and flora communities.

3.43 Marine Archaeology

3.43.1 The Licence Holder must submit a Protocol for Archaeological Discoveries (PAD) to the Licensing Authority for written approval at least **4 months** prior to

commencement of any Licensed Activity. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

3.43.2 The Licence Holder must ensure that any actions outlined in the PAD detailed in condition 3.43.1 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.

3.43.3 The Licence Holder must submit a Written Scheme of Investigation (WSI) to the Licensing Authority for written approval at least **4 months** prior to commencement of any Licensed Activity. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority. The WSI must detail the archaeological assessment and mitigation works offshore and within the inter-tidal area.

3.43.4 The Licence Holder must ensure that any actions outlined in the WSI detailed in condition 3.43.3 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 impacts to the historic environment.

3.44 Decommissioning

3.44.1 The Licence Holder must submit a Decommissioning Programme for the approval of the Licensing Authority at least **4 months** prior to commencement of construction. The Decommissioning Programme must include a timetable and decommissioning method statement. No construction and/or deployment of the parts of the Licensed Activities above may be undertaken prior to written approval from the Licensing Authority.

3.44.2 The Licence Holder must review and submit an updated Decommissioning Programme for the approval of the Licensing Authority at least **4 months** prior to any decommissioning work taking place. No decommissioning work can take place prior to written approval from the Licensing Authority.

3.44.3 The Licence Holder must ensure that any actions outlined in the Decommissioning Programme detailed in condition 3.44.1 and 3.44.2 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.

3.44.4 The Licence Holder must ensure that all WTG, cables and associated infrastructure are decommissioned prior to the Licence End Date.

Reason: To minimise the impacts to the marine environment and ensure the safety of navigation.

3.45 Compliance Report

The Licence Holder must produce and submit a report on compliance with the conditions in this Marine Licence for the approval of the Licensing Authority at least

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2 months prior to commencement of Licensed Activities. The report must identify where the monitoring has been or is to be undertaken and identify relevant plans and how conditions have been and are to be addressed. No construction and/or deployment of the parts of the Licensed Activities above may be undertaken prior to written approval from the Licensing Authority.

Reason: To ensure compliance with the licence.

ANNEX 2

Submitted documents in support of Marine Licence Application ORML2170

Submitted 17 December 2021

ORML2170 - Erebus ES Vol 1 Chapter 1 Introduction.pdf • ORML2170 - Figure 1.1.pdf
ORML2170 - Erebus ES Vol 1 Chapter 2 Overview of EIA Methodology_final.pdf
ORML2170 - Erebus ES Vol 1 Chapter 3 Site Selection and Alternatives final.pdf • ORML2170 - Figure 3.1.pdf • ORML2170 - Figure 3.2.pdf • ORML2170 - Figure 3.3.pdf • ORML2170 - Figure 3.4.pdf • ORML2170 - Figure 3.5.pdf • ORML2170 - Figure 3.6.pdf • ORML2170 - Figure 3.7.pdf • ORML2170 - Figure 3.8.pdf
ORML2170 - Erebus ES Vol 1 Chapter 4 Proposed Development Description final.pdf • ORML2170 - Figure 4.1a.pdf • ORML2170 - Figure 4.1b.pdf • ORML2170 - Figure 4.2.pdf • ORML2170 - Figure 4.3.pdf • ORML2170 - Figure 4.4.pdf • ORML2170 - Figure 4.5.pdf • ORML2170 - Figure 4.6.pdf • ORML2170 - Figure 4.7.pdf • ORML2170 - Figure 4.8.pdf • ORML2170 - Figure 4.9.pdf • ORML2170 - Figure 4.10.pdf
ORML2170 - Erebus ES Vol 1 Chapter 5 Policy and Legislation final.pdf
ORML2170 - Erebus ES Vol 1 Chapter 6 Marine and Coastal Processes_final.pdf • ORML2170 - Figure 6.1.pdf • ORML2170 - Figure 6.2.pdf • ORML2170 - Figure 6.3.pdf • ORML2170 - Figure 6.4.pdf • ORML2170 - Figure 6.5.pdf • ORML2170 - Figure 6.6.pdf • ORML2170 - Figure 6.7.pdf • ORML2170 - Figure 6.8.pdf • ORML2170 - Figure 6.9a.pdf • ORML2170 - Figure 6.9b.pdf • ORML2170 - Figure 6.10.pdf • ORML2170 - Figure 6.11.pdf • ORML2170 - Figure 6.12.pdf • ORML2170 - Figure 6.13.pdf • ORML2170 - Figure 6.14.pdf • ORML2170 - Figure 6.15.pdf • ORML2170 - Figure 6.16.pdf • ORML2170 - Figure 6.17.pdf • ORML2170 - Figure 6.18.pdf
ORML2170 - Erebus ES Vol 1 Chapter 7 Marine Seabed and Water Quality_final.pdf • ORML2170 - Figure 7.1.pdf • ORML2170 - Figure 7.2.pdf • ORML2170 - Figure 7.3.pdf

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Documents submitted on 24 August 2022 following request for further information under Regulation 14 in support of Marine Licence Application ORML2170

- ORML2170 Project Erebus Supplementary Environmental Information (ES Addendum)
- ORML2170 Project Erebus Technical and General Consultation Responses SEI Response
- ORML2170 Project Erebus Draft Outline Environmental Monitoring Plan (OEMP)

Documents submitted by Applicant on 18 November 2022 following request for technical clarification in support of Marine Licence Application ORML2170

- ORML2170 Project Erebus Further Clarifications Report
- ORML2170 Project Erebus Technical and General Consultation Responses SEI Response Further Clarifications v2.0
- ORML2170 Project Erebus Additional Bathymetric Analysis (for Technical Clarification) Report