

Sent via email

24 March 2023

REQUEST FOR FURTHER INFORMATION - THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007 (AS AMENDED)

Dear Mr O'Toole,

Marine Licence Application CML2283 – Construction and Dredge Works associated with the Mostyn Energy Park Extension Project

The Port of Mostyn Limited has applied to Natural Resources Wales (NRW) for a Marine Licence under the Marine and Coastal Access Act 2009 for Construction and Dredge Works associated with the Mostyn Energy Park Extension Project. NRW is required to consider such requests in accordance with the Marine Works (Environmental Impact Assessment) (EIA) Regulations 2007 (as amended) (“the Regulations”).

Request for further information

In accordance with Regulation 14 of the Regulations, NRW considers that further information is required to properly consider, or come to a conclusion on, the likely significant environmental effects of the project. NRW will not proceed with the consideration of the environmental impact or the determination of the Marine Licence until this information is provided.

General Comment

The consultation responses received during determination have been shared with you and you will note a number of significant concerns which should be addressed. Based on the comments made across a range of topic areas further assessment will be required, you may wish to consider withdrawing the application in its current state and resubmit following further engagement with stakeholders. However; as detailed below, should you wish to continue with the determination we consider the following information necessary to allow us to properly consider the potential effects of the project. We would expect that you engage with all relevant stakeholder as you look to address concerns and comments made to ensure that any further information is sufficient, as we would not envisage any further opportunity to provide substantive information following this.

It is strongly recommended that you review and look to respond accordingly to the points raised by the various consultees. We would request that a signposting matrix and relevant

supporting documents should be provided to allow cross-referencing against this information request letter and the consultation responses received.

Physical Processes

Further assessment and evidence is required in order to provide confidence that Mostyn Deep disposal site is able to accept the volumes of material proposed, and that the potential impacts of disposal of this quantity of material over the time period proposed has been properly assessed. This concern has been raised by both Statutory Nature Conservation Bodies (SNCB): NRW Advisory (NRW A) and Natural England (NE). Further detail is provided below.

NRW A have raised concerns that the amount of capital dredge proposed to be deposited exceeds the volumes currently consented within existing licences. There is also concern whether the assessment has considered the ability of the disposal site to disperse the large quantity of material that would be produced during the construction period, which has the potential to alter the morphological and ecological features of the Mostyn Deep site as well as the surrounding sand banks and Dee Estuary through sediment transport and deposition.

There is an inconsistency in the conversion factor used between m^3 and tonnes for dredge material. In email dated 23 February 2023 it was confirmed that this was due to the difference between in situ seabed material ($2\text{tns}/m^3$) versus dredge material landed ashore ($1.5\text{tns}/m^3$). However, this had led to inaccuracies within the Environmental Statement (ES) which must be rectified as this leads to confusion when referring to and comparing what has previously been consented under existing licences and what is being proposed. For example, as highlighted by NRW A, in their consultation response in reference to ES chapter 3 section 3.2.1, if the same conversion factor was used for the existing licences and the ES then the maintenance disposal tonnage would in fact exceed the limits of the current licence rather than be in line with it as stated in the ES. We request that the ES is reviewed, and a consistent conversion factor used, as your email dated 23 February 2023 suggests and as recommended by NRW A, we would ask that a specific gravity conversion of 2 is used, to remain consistent with the existing licences.

Clarification is required to the queries raised by NRW A in relation to the modelling carried out relating to Section 6.7.1 of the ES. We would advise that you discuss these with NRW A in advance of submission, as if the clarification provided raises concerns surrounding the modelling used we would expect that this is addressed at this stage prior to submission of further information. This includes providing clarification surrounding the timing of successive disposal events that has been used within the assessment.

We request that you provide disposal returns for the Mostyn Deep disposal site and any other evidence, in order to support the statement made in section 6.7.2 of the ES *the effect of the deposition of capital dredge arisings on the seabed bathymetry will be similar to that which already occurs as a result of ongoing maintenance dredging and disposal*. Based on disposal return held by the Marine Licensing Team It is considered that the disposal

volumes proposed exceed the volumes that have been deposited at the Mostyn Deep site in recent years.

In addition, NRW A have raised concern that the Salisbury Approach channel has not been assessed particularly for SSC plume dispersal and deposition during the capital dredge operation. An assessment should be carried out in order to show where the plume and subsequent settling of sediment could have an indirect impact to receiving receptors.

We would draw your attention to NRW A consultation response, which has been shared with you, and would ask that you address the points raised. We would strongly recommend that you engage with both NRW A and NE who have raised concerns surrounding the assessment within the area, to ensure that any revision to assessment is sufficient.

Benthic Ecology

NRW A have raised concerns that insufficient evidence has been presented to rule out impacts on benthic habitats as a result of changes to the hydrodynamic and sedimentary regimes. We request that further assessment is carried out or justification provided to support the conclusions of the ES. We would again encourage you to discuss this with NRW A prior to making your submission, ensuring that if any justification or further assessment addresses the concerns raised.

Further information is required surrounding the area proposed from scrape back along the western side of the dock. This should include the expected area of mudflat that this would expose.

NRW A and RSPB disagree with conclusion of the assessment relating to direct loss of intertidal habitat as a result of works to the quay wall and capital dredge. We request that you review the comment made by NRW A and RSPB and provide a response to comments made.

Further information is required in order to understand the potential impact of the works on the cockle beds, this should include both the dredge and disposal activity. Maps denoting known cockle beds overlaid with the predicted sediment plume should be provided. If the plume extends over the cockle beds any potential impacts from sediment deposition must be assessed.

Concerns have been raised by NRW A that an assessment of potential impact to benthic habitats from the capital dredge of the main navigation channel has not been provided, including as a result of sediment deposition and changes in water and sediment quality. An assessment of impact of capital dredging of the main navigation channel on benthic features must be carried out.

NRW A disagree that no assessment is required in relation to indirect changes to the seabed habitat and species as a result of changes to hydrodynamics. We would direct you to comment provided by NRW A in their representation and consider that further assessment or evidence is required to support the conclusion presented.

In line with NRW A comment in relation to Appendix 8.1 Benthic Survey Report we ask that you provide a revised figure which includes subtidal habitats.

We would also draw your attention to comments raised below in relation to the Habitat Regulations Assessment (HRA), surrounding assessing impacts against the conservation objectives of the site, which is relevant to benthic features and needs to be addressed.

Marine Ornithology

We would direct you to comments raised by NRW A and RSPB. Although impact on birds through permanent loss of habitat and through disturbance has been identified, further information is required to understand the full nature and extent of these impact. At this stage there are significant concerns from NRW A and the RSPB that the assessment within the ES on Marine Ornithology is insufficient.

We would advise that you review representation made by NRW A and the RSPB and look to address the concerns raised. We would strongly recommend that you engage with both stakeholders to ensure that future information provided is sufficient. The key concerns raised which must be addressed include;

- Further assessment of the wider impacts of loss of roosting habitat, and loss of foraging resource
- More information to understand how conclusion of the ES in relation to effect of habitat loss and disturbance have been reached
- Further assessment is required to understand how impacts on bird habitats will be affected by changes in physical processes
- Impact of the works against the specific conservation objectives of the relevant designated sites must be carried out

There is a lack of information presented for the associated works, including pontoon construction, and the location of dolphins and/or piles. Further information regarding these works should be provided and fed into the assessment.

Water Quality and WFD

NRW A have raised concerns surrounding the WFD assessment provided in addition to the assessment of water quality within the ES. We would ask that you review the detailed comment made and provide the clarification requested. These include;

- Assessment of impact of the proposed works on the mitigation measures of the Dee Transitional water body
- Further evidence of impact of the works on suspended sediment, which has potential impact including on Dissolved Oxygen, and phytoplankton.
- The WFD should make clear if any impacts identified are in relation to the construction phase, maintenance phase or both.

- Calculation demonstrating the total area of the water bodies that will be impacted by the development
- Consideration should be given in the WFD to accidental spills
- Assessment of higher sensitivity habitats including cockles
- Clarity on whether the navigation channel has been considered within the assessment of impact on habitat.
- Section 7 habitat – effects on priority species included in Section 7 of the Environment (Wales) Act 2016 must be assessed.

Fish

Concerns have been raised by NRW A surrounding the assessment on sandeels. Further evidence is required to support the conclusion presented. The assessment should consider the potential impact upon sandeel habitat as a result of the proposed development. NRW A currently advise that the assessment of impact on sandeel as a result of habitat loss, habitat damage, direct uptake and smothering is insufficient. We would advise that you review all comment made as you seek to address this concern.

NRW A propose additional mitigation including timing restriction surrounding percussive piling activity in order to minimise impact to fish species. Please provide any comment you have on the proposed mitigation.

NRW A note that a number of fish species that are considered under Section 7 of the Environment (Wales) Act 2016 have not been appropriately assessed. Please see detailed comment within NRW A representation and look to address these.

NRW A advise that Fish have not been considered sufficiently within Appendix 7.1 WFD compliance assessment. Further consideration is required of potential impact on fish species upstream of the works, and impact to sandeel should be considered.

Fisheries

NRW Cackle Fisheries Management Officer has significant concern surrounding the assessment carried out for impact of the works on cockle fisheries. These comments must be reviewed and addressed. These include;

- Correct identification and assessment of harvesting areas which are in the vicinity of the docks.
- Following further consideration of physical process (see comments above), a further assessment to consider potential impact of the works on the harvesting beds must be presented.

North Western Inshore Fisheries and Conservation Advisor (NWIFCA) have highlighted the presence of nearby Mussel Fisheries in the vicinity of the development. Following addressing comments made around the assessment of physical processes, including impact of sedimentation and water quality, further consideration must be given to impact of the works on commercial mussel fisheries.

Marine Mammals

Clarification has been sought by NRW A surrounding the noise modelling methodology used for piling. This should be provided.

HRA

In relation to Appendix 8.5 Habitat Regulation Assessment this will need to be revisited based on the results of comments above.

RSBP and NRW A have raised that the HRA produced does not assess the works appropriately against the conservation objectives for the site. The assessment must be revisited ensuring that impacts of the works on the conservation objectives of the sites are fully considered.

A number of comments have been raised in relation to the assessment of physical processes. Any revision of this assessment should be drawn through to the relevant topics of the ES as well as the HRA. This may lead to further consideration of potential indirect losses and or degradation of habitats as a result of;

- Capital dredge disposal at Mostyn Deep
- Removal of 600,000 m³ of sediment ashore to use in the reclamation
- Maintenance dredge
- Indirect impacts to benthic habitats from changes in hydrodynamics from the operation/presence of the quay wall

NRW Advisory as the SNCB considered the impact on designated features to be significant. We would remind you that should we come to the conclusion that adverse effect on site integrity cannot be ruled out the project may only proceed in line with the derogation process under article 6(4) of the Habitat Directive.

Navigation

A number of comments requiring clarification have been made by the Dee Conservancy. Please review the comments made and provide a response.

We would also draw your attention to comment made by the Dee Conservancy in relation to location of the operational area; clarification is required in order to understand overlap between the maintenance dredge regime and the riverbed owned by the Dee Conservancy..

Please confirm whether consideration has been given on potential impact of sediment dispersal on other developments including Connah's Quay.

Archaeology

Both Cadw and RCAHMW agree with the proposal to establish an archaeological exclusion zone around the recorded shipwreck and to implement a protocol for archaeological discoveries and an associated Written Scheme of Investigation.

However, both Cadw and RCAHMW consider that geoarchaeological assessment of the existing geotechnical material has not been completed and therefore the assessment carried out in support of the application is incomplete. Please address concerns raised. We would advise that you liaise with both Cadw and RCAHMW to ensure that the geoarchaeological assessment is provided and is sufficient.

Please provide the information requested above by **23 June 2023**. We have allowed 3 Months due to the substantive further information request above, and to ensure opportunity for you to engage with relevant stakeholder as you seek to address concerns raised. If NRW has not received this information by this date, in accordance with regulation 14 application CML2283 will be treated as having been withdrawn. Please contact me as soon as possible if additional time will be required to collate this information. If the information is available before this date NRW will be able to accept it prior to the deadline date.

Please note that further information must be publicised in accordance with the requirements stipulated in Regulation 16 of the Regulations. Therefore, once this information is received by NRW, you will be provided with a public notice to publish in the same newspaper as the project was previously publicised at your own expense.

In the meantime, should you have any queries please do not hesitate to contact me via peter.morrison@naturalresourceswales.gov.uk

Yours sincerely



Peter Morrison
Marine Licensing Team
Natural Resources Wales