

Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Industrie Cartarie Tronchetti UK Limited

Application reference no: CML2279

River Dee

New outfall construction associated with the new
Paper Mill Production Facility on the River Dee

12 April 2023

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OUR DECISION

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

This decision document:

- explains how the application has been determined, having regard to the relevant legal framework outlined in section 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	<p>The Applicant is the company set out below:</p> <p>Company name: Industrie Cartarie Tronchetti UK Limited Company number: 11539626 Address: C/O Wright Hassall, Olympus Avenue, Leamington Spa, CV34 6BF</p>
Application Reference Number	CML2279
Date Application was duly made	19 December 2022
Proposal covered by the application	Construction of a new outfall on the River Dee
Licensable marine activities	<p>Subbase will be laid in layers and compacted in accordance with the temporary works design up to the required depth. The slope off the ramp is not to exceed 45 degrees.</p> <p>A 50T long reach excavator with a Movax attachment will be used to install the sheet piles. Sheet pile installation works will be carried out at low tide to mitigate the risk of noise and vibration into the water. The excavator will work on the crane mat alongside the embankment when working out of the footprint of the cofferdam, and on the riverbank in the footprint of the cofferdam. The existing sheet piled wall and tie beam will remain in place. The works will but up to the existing sheet piled wall. Access to the sheet pile position for operatives will be via a cherry picker. For the first few piles the existing embankment will be used for access at low tide. The corner sheet piles will be butted against the existing sheet piled wall. No existing sheets will be removed and the cofferdam being installed is structurally independent of the existing sheet piled wall.</p> <p>Excavation will be carried out within the cofferdam and the frame installed. The cofferdam will be excavated using a 21T excavator and spoil loaded into Articulated Dump Trucks or muck away wagons. The excavator will sit upon a crane mat to protect the berm and embankment. Pumps will be set up in the corners of the cofferdam to control groundwater. The ground</p>

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	<p>water will be pumped through settlement tanks and discharged to the swales within the site boundaries. The sheet pile clutches will be sealed.</p> <p>Once the excavation works have been completed, internal pipework will be set up on pipe bedding and concreted into position. Pipework will be lifted into and positioned using a 21T excavator. Precast headwalls are to be used for both the lower and upper headwalls. They are to be lifted over the protruding pipework and concreted into position. A 300mm diameter pipe will cross the line of the existing sheet piles. A hole will be cut in the sheets through which the pipe can pass. Any void in sheet around the pipe will be filled with concrete.</p> <p>The excavation will be backfilled as the works progress. Fill material will be placed with the excavator. Once the pipework is complete, headwalls installed, stairs cast and backfilled to frame level, the sheets will be removed. This is to be done using the excavator in a reverse of the installation process.</p>
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	<p>CML2279 - marine-works-application-form-updated_ArcadisNov2022_P1, submitted 01 December 2022</p> <p>CML2279 - WNMP Nov 2022, submitted 01 December 2022</p> <p>CML2279 - 063721 Effluent Discharge - C1405-207 P1, submitted 01 December 2022</p> <p>CML2279 - 063721 Location Plan - 12500-AEW-SI-XX-DR-A-0501_P3, submitted 01 December 2022</p> <p>CML2279 68252-100 T3, submitted 19 January 2023</p> <p>CML2279 C1405-217 P3 Effluent Discharge Headwall to D Morgan Survey-Layout1, submitted 19 January 2023</p> <p>CML2279 - CEMP Headwall Final, submitted 01 December 2022</p> <p>CML2279 - ICT WFD March 2022, submitted 01 December 2022</p> <p>CML2279 - Marine Discharge Assessment (September 2021), submitted 01 December 2022</p> <p>CML2279 - WFD Scoping_Construction Discharge, submitted 01 December 2022</p> <p>CML2279 - WFD Scoping_Operational Discharge, submitted 01 December 2022</p>

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2 APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 19 December 2022. This means we considered it was in the correct form and contained sufficient information for us to begin our determination, but not that it necessarily contained all the information we needed to complete that determination, and the documents considered may therefore include documents provided after the Application was first made.

2.2. Documents considered

In reaching its decision, NRW has considered the documents listed in section 1 of this decision document along with such other information provided by the Applicant or received by consultees as NRW considered relevant.

2.3. Commercial Confidentiality

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

2.4. Publicity and advertising

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 Wrexham Leader on 05 January 2023 (the Public Notices) and a notice was published on NRW's website. The application documents were made available to the public via the [Public Register](#) and they could also be requested from Natural Resources Wales Marine Licensing Team, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

The public were given a period of 28 days from the date of the first Public Notice to provide comments on the application.

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

3 CONSULTATION

3.1 Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 06 January 2023, due to their particular expertise. These bodies were consulted for a period of 28 days. For those bodies which responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate	N	
NRW	Y	03 February 2023
MoD - Safeguarding Defence	Y	23 January 2023
Maritime & Coastguard Agency	Y	01 February 2023

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Trinity House	N	
Royal Yachting Association	N	
Local Biodiversity Officer	N	
Local Planning Authority	N	
Local Harbour Authority	Y	24 January 2023
Local Port Authority	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Archaeological Trust	Y	09 January 2023
Royal Commission on Historic Monuments Wales	Y	09 January 2023
Cadw	Y	26 January 2023
Chamber of Shipping	N	
NERL Safeguarding	Y	20 January 2023

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

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

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.

NRW considers that the proposed works fall under Schedule A2 52 of the Regulations, as stated in the intent to defer letter dated 17 January 2022 sent to the applicant.

52. Industrial plants for the production of paper and board

4.2 EIA assessment by another authority

The project also requires a Planning Permission from the Flintshire County Council under the Planning Act 2008. In accordance with The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 the Flintshire County Council must not grant a consent for EIA development unless an EIA has been carried out in respect of that application.

Under Regulation 10(1)(b) of the Regulations, NRW may determine that an EIA is not required, for the purposes of determining the Marine Licence application, if we are satisfied that an assessment of any effects on the environment of the project in question has been by another consenting authority and the assessment is or will be sufficient to meet the requirements of the EIA Directive in relation to that project.

NRW has determined, under Regulation 10(1)(b) of the Regulations, that EIA is not required, as EIA consent has been determined by Flintshire County Council on 30 March 2022. In accordance with Regulations 4A and 4E of the Regulations, the following information is included in subsequent sections of this document:

- Conclusion of EIA assessment
- Conditions considered necessary in relation to likely significant environmental effects
- Description of features/measures to avoid, prevent, reduce and offset likely significant adverse effects on the environment
- Monitoring measures considered necessary by the authority determining the EIA consent
- Any further comments from the authority determining the EIA consent relating to the regulated activity
- 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

Flintshire County Council issued a Written Confirmation of the EIA Consent Decision on 30 March 2022, containing the conclusion about Environmental Impact arising from the project and the EIA Consent Decision. In reaching the conclusion, Flintshire County Council considered the following information:

- The application for a Planning Permission
- The Environmental Statement submitted
- Any further information provided
- The responses to public consultation

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- 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

Flintshire County Council 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 EIA Consent Decision issued by Flintshire County Council on 30 March 2022.

4.3.1 Population and human health

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

The Council has had due regard to its public sector equality duty under the Equality Act 2010.

The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

4.3.2 Biodiversity

The application site is located within a zone of influence which includes eight statutory and non-statutory nature conservation sites. The closest of these is the River Dee and Bala Lake Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI) which is located directly to the southern boundary of the site. Although the proposed main buildings are some distance away from these sites, the boundary extends to the River Dee to allow the discharge of waste water.

The applicant and planning officers engaged with Natural Resources Wales Advisory and the County Ecologist with regards to the ecological implications of the development. Due to the scale and operational design of the proposed papermill there is a potential for significant ecological issues which have been addressed at length. Those issues include:

- The impact on the SAC/SSSI
- Water environment and environmental management
- Impact on fish
- Ornithology
- Air quality
- Bats
- Otters and water vole
- Biosecurity

The application has been supplied with a comprehensive technical paper and initial Construction Environmental Management Plan (CEMP) to provide analysis and mitigation on any likely effects to these and wider designated areas. The proposed mitigation relates to the potential operational impacts on the River Dee SAC/SSSI arising from the discharge into the Dee and ensures that the proposed effluent would not significantly alter the condition of the river. Natural Resources Wales Advisory confirmed that subject to the inclusion of a number of ecological conditions to any planning consent then they raise no objection to the proposal.

4.3.3 Land, soil, water, air and climate

Once operational, the papermill will produce a total of 24MW of onsite generated electricity. Air quality assessments for the development concluded the impacts arising from airborne nitrogen deposition on the River Dee SAC and Dee Estuary SAC / Ramsar would be insignificant and none of the estuarine habitats listed for the Dee Estuary SAC which are sensitive to nitrogen deposition. The assessment demonstrates that any air quality impacts from the proposal would be insignificant on protected species or designations.

An updated Marine Discharge Assessment has been supplied which indicates that there will be a negligible rise of 0.5 degree rise in river temperature arising from the discharge. However, the assessment does fail to consider the potential release of contaminated sediment as a result of construction works. It is recommended that this information can be secured by way of a condition requiring a full CEMP to be submitted. Subject to the suitably worded condition there are no issues from a water quality perspective.

From a fisheries perspective, the construction and more importantly operational phases of the development could have a significant affect on fish features of the River Dee and Bala Lake SAC (Atlantic salmon) and Dee Estuary SAC (river lamprey and sea lamprey). However the minimal temperature increase and mitigation as proposed in the outline CEMP are considered satisfactory.

4.3.4 Material assets, cultural heritage and landscape

The application site is not directly adjacent to any Listed Buildings or historic parks and gardens. However, the Grade II Listed John Summers Building and the Shotton Steelworks Garden historic park and garden border the neighbouring former Corus land. The scale of this development is such that consideration of any negative impact must be deliberated.

CADW and the Councils Conservation Officer have been consulted on the application which has been supplied with a technical paper. The paper concludes that there will be minor/slight but not significant, adverse impact on the setting of either the Listed Building or the historic parks and gardens.

Both CADW and the Council concurred with the findings of the technical paper. As above, the development will give rise to a minor appearance on the landscape, this must be weighed against the wider context of the site. In the case of the Grade II Listed Building, wider vistas of the site include Tata Steel, Deeside Industrial Park and the Deeside Power UK Station. Additionally, the outline planning permission and approved masterplan for the former Corus site indicated the provision of commercial/industrial units to the rear of the Grade II Listed Building.

Taking all the above into consideration the impact of the proposed new paper mill is not felt to give rise to any significant impact on the setting of historical assets close to the site.

4.3.5 Risk of major accidents and disasters relevant to the project

The ES submitted to Flintshire County Council comprehensively assessed the risk of major accidents and disasters relevant to the project. Additionally, Flintshire County Councils decision includes a requirement for a CEMP (which will be required to include an Emergency Response Plan) to be submitted and approved.

Taking this into account, the risk of any significant impact as a result of accident/disaster is considered not likely.

4.3.6 Cumulative impacts and in-combination impacts

The ES submitted to Flintshire County Council comprehensively assessed any potential cumulative impacts and in-combination impacts of the project. No concerns regarding the assessment carried out were raised by Flintshires County Council within the consent decision..

Flintshire County Council also carried out a full HRA which concluded that there were no other plans or projects in the area are likely to cause a significant effect on site integrity.

4.4 EIA Consent Decision

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

4.5 Mitigation and monitoring requirements

The EIA Consent Decision issued by Flintshire County Council on 30 March 2022, highlighted the mitigation or monitoring requirements required to be attached to the regulatory planning consent.

The conditions attached to the Planning Decision include the following conditions:

- Compliance with the approved plans
- Noise assessment
- Construction Traffic Management Plan
- Full Travel Plan and Transport Implementation Strategy.
- Sealand Bank Culvert upgrade works completed satisfactorily
- Construction Environmental Management Plan
- Protected Species (Otter) protection
- Submission of a Biosecurity scheme
- Landscaping scheme implementation
- Completion of off-site highway works prior to occupation of the building

Flintshire County Council has considered these requirements in making this regulatory decision and applied them to the associated planning permission.

The conditions attached to the Marine Licence are set out in Annex 1, including reasons for the inclusion of each condition.

4.6 Summary of Consultation

In coming to a decision Flintshire County Council has had regard to consultation responses in making the regulatory decision. The consultation process carried out and a summary of the responses received is detailed in section 3 of the EIA Consent Decision issued by Flintshire County Council.

The consultation process described in section 2.4 and section 3 of this document described the consultation undertaken in relation to the Marine Licence application to ensure comment was received from appropriate parties

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

Descriptions of features/measures are detailed in section 8 (Key Mitigations) of the ES which was submitted to Flintshire County Council. These features/measures will need to be adhered to as they are listed as approved plans/documents on the planning decision, a number of these key mitigation have also been secured through condition of the planning consent as detailed in section 4.5.

4.8 Further comments from the authority determining the EIA consent relating to the regulated activity

No further comments were made to NRW from the Flintshire County Council.

4.9 Main reasons for this regulatory decision

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

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

5 BASIS FOR OUR DECISION

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

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

- the need to protect the environment (see section 5.1)
- the need to protect human health (see section 5.2)
- the need to prevent interference with legitimate uses of the sea (see section 5.3)
- in the case of an application for a licence to authorise construction, alteration or improvement of works within the UK marine licensing area, the effects of any use intended to be made of the works in question when constructed, altered or improved (considered, if relevant in sections 5.1 to 5.5 below)
- any representations which it has received from any person having an interest in the outcome of the application. (summarised in section 3 and where relevant considered in sections 5.1 to 5.5 below)
- such other matters as it thinks relevant (see section 5.5 below)

5.1 The need to protect the environment:

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

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

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

a) The legal framework

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

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

b) Factors relevant to our determination

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

- Dee (N. Wales) - GB531106708200

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A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. This assessment concludes that the activity/project have been ruled out as not requiring any further WFD assessment.

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.

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

5.1.2 Biodiversity and resilience of ecosystems duty

a) The legal framework

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

b) Factors relevant to our determination

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

5.1.3 European Protected Sites and Ramsar Sites

a) The legal framework

European sites are those designated under the Conservation of Habitats and Species Regulations 2017 (**Habitats Regulations 2017**) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (**Offshore Habitats Regulations 2017**) as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs).

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 require that any project that is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects) must be subject to an appropriate assessment. NRW undertakes a Habitats Regulation Assessment (HRA) to establish whether an appropriate assessment is required.

In addition NRW must exercise its functions under the 2009 Act so as to secure compliance with the requirements of the relevant European Directives. NRW also has a duty under the Habitats Regulations 2017 to support wild birds by protecting habitats and avoiding pollution.

A Ramsar site is a wetland which has been designated under the Ramsar Convention. The Ramsar Convention does not place specific legal requirements on its parties (though Ramsar sites are often SSSIs or SPAs, considered below), however Ramsar status is considered by NRW as matter of policy in its decision making.

b) Factors relevant to our determination

The Project may affect the following European Protected Sites.

- Dee Estuary SPA
- Dee Estuary SAC
- Dee Estuary Ramsar
- River Dee and Bala Lake

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

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

NRW is therefore satisfied that the Proposed Activities, either alone or in combination with other plans or projects, will not adversely affect the integrity of European Sites when undertaken in accordance with appropriate conditions. Licence Conditions have been included to ensure key migratory periods are avoided for lamprey and Atlantic salmon for all piling activities only. Additionally, no Licensed Activities are authorised to take place two either side of hightide during the over wintering bird season to minimise disturbance. The licence holder must also ensure that a nesting bird survey and management plan is submitted to the licensing authority for approval prior to commencement of Licensed activities between 01 March and 30 September. All conditions discussed above are detailed in Annex 1 under condition 3.18 and 3.19.

Further details are described within the Habitats Regulations Assessment.

5.1.4 European Protected Species

a) The legal framework

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

b) Factors relevant to our determination

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

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

5.1.5 Marine Conservation Zones

a) The legal framework

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

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

b) Factors relevant to our determination

NRW is satisfied that there is no significant risk of the Proposed Activities on the MCZ due to the distance between the proposed activities and the nearest MCZ.

5.1.6 Sites of Special Scientific Interest (SSSIs)

a) The legal framework

Sites of Special Scientific Interest are designated under the Wildlife and Countryside Act 1981 (**1981 Act**) and protected by law to conserve their wildlife or geology. NRW must take reasonable steps, consistent with the proper exercise of its functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which an SSSI is of special scientific interest.

b) Factors relevant to our determination

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

- River Dee SSSI

NRW is satisfied that the Proposed Activities do not have the potential to impact on the River Dee SSSI.

5.1.7 The Waste (England and Wales) Regulations 2011

a) The legal framework

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

b) Factors relevant to our determination

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

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

No comments or representations were received in relation to other matters considered relevant to the need to protect the environment. However, NRW Permitting Service considers it appropriate to include pollution control licence conditions and conditions to ensure the appropriate use of concrete to minimise impacts on the marine environment. These conditions are detailed in Annex 1.

5.1.9 Conclusion of our considerations under the need to protect the Environment

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

5.2 The need to protect human health

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

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

IN SUMMARY, having considered the need to protect human health, NRW does not consider that any impacts of the Project (either alone or in combination with other plans or projects) are sufficient on their

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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.

Following Consultation with the MCA, conditions were requested to ensure the safety of navigation that included notification to local mariners and the coastguard prior to commencement of Licensed Activities, these were already included in the licence as standard conditions and are detailed in Annex 1. The MCA also requested the UKHO be notified prior to commencement of Licensed Activities to ensure that navigation warnings can be issued to marine users and for the update of nautical charts., and this has been included as licence condition 3.22, as detailed in Annex 1.

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

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

5.4 Marine Policy Documents

a) The Legal framework

NRW is required to take its decision in accordance with the appropriate marine policy documents unless relevant considerations indicate otherwise:

UK Marine Policy Statement 2011 (MPS)

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

Welsh National Marine Plan (WNMP)

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

b) Our determination

UK Marine Policy Statement 2011

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

Welsh National Marine Plan

This decision has been taken in accordance with marine policy as set out in the Welsh National Marine Plan. NRW PS agree with the conclusions set out in 'CML2272 - GKX-JBAU-00-00-PC-EN-0001-S4_P02-ML_WMNP', submitted 23 November 2023.

5.5 Other matters NRW thinks relevant

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

a) The legal framework

In making its decision, NRW is required to take all reasonable steps to meet its published well-being objectives, which are designed to maximise NRW's contribution to achieving each of the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015. NRW must also act in accordance with the principles of sustainable development.

b) Our determination

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

NRW is also satisfied that its decision is consistent with the sustainable development principle i.e. seeking to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

5.5.2 Sustainable management of natural resources

a) The legal framework

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

b) (b) Our determination



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

6 Conclusions and Recommendations

Based on all the information available, and having regard to all relevant considerations including consultation responses, NRW's decision is to grant the Marine Licence sought by the Application. We have reached this decision having had regard to the relevant legal framework outlined in section 5. We have also explained in section 5 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

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

7 AUTHORISATION

Report by: Joe Thomas	Date: 12 April 2023	Signed: 
Position: Permitting Officer		
Authorised by: Emmer Litt	Date: 13 April 2023	Signed: 
Position: Permitting Team Leader		

ANNEX 1

Conditions imposed and reasons for those conditions.

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

CONDITIONS

Notification and Inspection

3.1 Notification of Commencement

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

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

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

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

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

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

3.2 Notification of Vessels and/or Vehicles

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

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

3.3 Notification of Agents/Contractors/Sub-contractors

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

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

3.4 Notification of HM Coastguard

The Licence Holder must ensure that HM Coastguard is made aware of the Licensed Activities at least **24 hours** prior to commencement by contacting The National Maritime Operations Centre at **zone32@hmcg.gov.uk**.

Reason: To ensure the safety of navigation.

3.5 Inspection of Licensed Activities

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

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

3.6 Notification of Completion

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

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

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

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

3.7 Accident or Emergency

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

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

- 3.7.2** If it is necessary for the Licence Holder to recover or remove any equipment, plant or machinery used to undertake the Licensed Activities that have been dropped as a result of an accident or emergency, the Licence Holder is permitted to do so provided that 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.

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 Refuelling of Plant and Equipment

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

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

3.12 Equipment, Structures and Access

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

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

Safety

3.13 Removal of Deposited Material

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

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

Pollution control

3.14 Pollution Prevention

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

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

3.15 Spillage of Pollutants

The Licence Holder must employ bunding, storage facilities and spill kits to contain and prevent the release of fuel, oils and chemicals associated with the plant, refuelling and construction equipment into the marine environment. Secondary containment must be used with a capacity of **no less than 110%** of the container's storage capacity

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

3.16 Prevention of Disposal of Man-made Debris

The Licence Holder must ensure that all reasonable precautions are taken to prevent the disposal of man-made debris to the marine environment. Such material must be removed

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immediately and be disposed of appropriately. If it is not possible to prevent manmade debris from entering the marine environment during the Licensed Activities, the Licensed Activities must cease immediately.

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

3.17 Cleanliness of Equipment

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

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

Activity-specific Conditions

3.18 Timing Restrictions

3.18.1 The Licence Holder must ensure that no Licensed Activities take place within two hours either side of high tide between **September 01** and **March 31** inclusive, without prior written approval from the Licensing Authority.

Reason: To minimise/avoid disturbance to over wintering bird species.

3.18.2 The Licence Holder must ensure that no Piling Activities take place during **night time hours**, without prior written approval from the Licensing Authority.

Reason: To minimise/avoid disturbance to over Lamprey and Salmon.

3.18.3 The Licence Holder must ensure that no Piling Activities take place between **01 June** and **31 October** inclusive, without prior written approval from the Licensing Authority.

Reason: To minimise/avoid disturbance to over Lamprey and Salmon.

3.19 Nesting Bird Survey and Management Plan

3.19.1 If any Licensed Activities take place between **01 March** and **30 September** inclusive, the Licence Holder must submit a Nesting Bird Survey and Management Plan to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

3.19.2 The Licence Holder must ensure that any actions outlined in the documents 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.

Reason: To minimise/avoid disturbance to nesting birds.

3.20 Use of Render and Concrete

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

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

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

3.21 Concrete Cure Time

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

Reason: To minimise the risk of marine pollution incidents.

3.22 Notification of UKHO

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

Reason: To ensure that navigation warnings can be issued to marine users and for the update of nautical charts.