

Marine Licensing Variation Decision

The Marine and Coastal Access Act (2009)

Applicant: *Swansea University*
Variation application reference no: *CML2125v1*

Porthdinllaen

Porthdinllaen Seagrass Restoration Project

25 May 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 variation to the Existing Marine Licence (see Annex 2) sought by the Variation Application.

This decision document:

- explains how the Variation Application has been determined, having regard to the relevant legal framework outlined in section 4;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the Variation 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 Variation Application.

1 APPLICATION DETAILS

1.1 The Variation Application

Applicant name and address	The Applicant is the organisation set out below: Organisation name: Swansea University Address: College of Science, Swansea University, Singleton Park, SA2 8PP
Variation Application reference number	CML2125v1
Existing Marine Licence reference number	CML2125
Date Variation Application was duly made	17 May 2023
Description of variation	To alter the experimental design of a seagrass harvester from an experimental area of 80m ² to 100m ² , within the boundary licence.
Proposal[s] covered by the Variation Application	The planting and collection of seagrass seeds at Porthdinllaen as a restorative effect to recover seagrass lost due to mooring activity.
Licensable marine activities	Replanting of seagrass seeds using hessian bags and bamboo stakes. Collection of seagrass seeds using a tow harvester.
Marine Plan area	Welsh inshore region and Welsh offshore region
Variation Application documents:	Amended Marine Works Application for Porthdinllaen Seagrass Restoration (amended to include reference to the reporting of archaeological finds during scuba surveys) Appendix 1_Towed Seed Collector Design

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	Appendix 2_Survey Design
	Appendix 3_Impact Assessment
	Appendix 4_Biosecurity Assessment
	Appendix 5_OS Map
	Appendix 6_Latlong Areas of Interest
	Appendix 7_Porthdinllaen Area of Interest Seed Collection
	Appendix 8_Porthdinllaen Area of Interest Seed Planting
	Appendix 9_ Porthdinllaen Known Seagrass SHP File
	Appendix 10_Restoration Pathway of Seacology Project
	Appendix 11_wfd_scoping_template_Porthdinllaen_Seagrass Restoration
	Appendix 12_References
	CML2125v1 variation application
	CML2125v1 Request for changes to licence.

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2 VARIATION APPLICATION PROCEDURE

2.1 The Variation Application

The Variation Application was accepted by Natural Resources Wales (**NRW**) considered duly made on **17 May 2023**. 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 Variation 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 during any consultation, that 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.

3 CONSULTATION

3.1 Consultees

In determining this Marine Licence Variation Application, NRW Permitting Service carried out a consultation on the 17 May 2022 with NRW Technical Experts (NRW TE). NRW PS did not consider the nature and magnitude of the requested changes to the marine licence required any further consultation.

NRW has had regard to all consultation responses received in making its decision.

4 BASIS FOR OUR DECISION

In determining this variation application, including the terms on which it was granted, NRW has had regard to the factors set out in section 4 below in accordance with the 2009 Act.

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

- the need to protect the environment (see sub-section 4.1);
- the need to protect human health (see sub-section 4.2);
- the need to prevent interference with legitimate uses of the sea (see sub-section 4.3);
- in the case of an application for a licence to authorise construction, alteration or improvement of works within the UK marine licensing area, the effects of any use intended to be made of the works in question when constructed, altered or improved (considered, if relevant in sub-sections 4.1 to 4.5 below);
- any representations which it has received from any person having an interest in the outcome of the Variation Application (summarised in section 3 and where relevant considered in sub-sections 4.1 to 4.5 below); and
- such other matters as it thinks relevant (see sub-section 4.5 below).

4.1 The need to protect the environment:

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

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

4.1.1 Water Framework Directive, Groundwater Directive and Water Environment Regulations

(a) The legal framework

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

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

(b) Factors relevant to our determination

Please refer to CML2125 Decision Document for conclusions on Water Framework Directive, Groundwater Directive and Water Environment Regulations. NRW PS considers that the conclusions

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of the WFD compliance assessment are not affected by this variation application and therefore the WFD compliance assessment is still considered valid.

4.1.2 Biodiversity and resilience of ecosystems duty

(a) The legal framework

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

(b) Factors relevant to our determination

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

4.1.3 European Protected Sites and Ramsar Sites

(a) The legal framework

European sites are those designated under the Conservation of Habitats and Species Regulations 2017 (**Habitats Regulations 2017**) and the Conservation of Offshore Marine Habitats and Species 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

Please refer to CML2125 Decision Document for conclusions on Habitat Regulation Assessment. NRW PA considers that the conclusions of the HRA are not affected by this variation application and therefore the HRA is still considered valid.

Following consultation with NRW Technical Experts (NRW TE), no concerns were raised regarding the alteration of the method and NRW TE confirmed that the HRA from CML2125 was still valid for the variation. NRW advisories required that condition 3.23 in the original licence is kept within the licence variation.

4.1.4 European Protected Species

(a) The legal framework

The Habitats Regulations 2017 and the Offshore Habitats Regulations 2017 also confer protection on certain designated species (European Protected Species). A licence (EPS licence) must be obtained

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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

Please refer to CML2125 Decision Document for conclusions on European Protected Species. These conclusions have not been affected by this variation application and therefore are still considered valid.

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

4.1.5 Marine Conservation Zones**(a) The legal framework**

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

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

(b) Factors relevant to our determination

Please refer to CML2125 Decision Document for conclusions on Marine Conservation Zones. These conclusions have not been affected by this variation application and therefore are still considered valid.

4.1.6 Sites of Special Scientific Interest (SSSIs)**(a) The legal framework**

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

(b) Factors relevant to our determination

Please refer to CML2125 Decision Document for conclusions on Sites of Special Scientific Interest (SSSI). These conclusions have not been affected by this variation application and therefore are still considered valid.

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

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

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which gives an order of preference for how waste is dealt with (prevention, re-use, recovery for other purposes such as energy, and finally disposal).

(b) Factors relevant to our determination.

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

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

Please refer to CML2125 Decision Document for conclusions on other matters considered relevant to protect the environment. These conclusions have not been affected by this variation application and therefore are still considered valid.

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

IN SUMMARY, having considered the need to protect the environment, NRW does not consider that any impacts of the Project on the environment (either alone or in combination with other plans or projects) are sufficient on their own to justify refusal of the Variation Application.

4.2 The need to protect human health

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 Variation Application.

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

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

Please refer to CML2125 Decision Document for conclusions on the need to prevent interference with legitimate uses of the sea. These conclusions have not been affected by this variation application and therefore are still considered valid.

4.4 Marine Policy Documents**(a) The Legal framework**

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

UK Marine Policy Statement 2011 (MPS)

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

Welsh National Marine Plan (WNMP)

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**

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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.

4.5 Other matters NRW thinks relevant

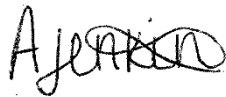
Please refer to CML2125 Decision Document for conclusions on any other matters relevant to this Project. These conclusions have not been affected by this variation application and therefore are still considered valid.

5 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 variation to the Existing Marine Licence sought by the Variation Application. We have reached this decision having had regard to the relevant legal framework outlined in section 4 and have also explained in section 4 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

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

AUTHORISATION

Report by: Abbie Jenkins Position: Permitting Officer	Date: 19/05/2023	Signed: 
Authorised by: Emmer Litt Position: Permitting Team Leader	Date: 25 May 2023	Signed: 

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ANNEX 1 – Changes to Marine Licence

Set out below are the changes made as set out by this decision.

Changes to Activity 2 in Table 1 Licensed Activities to change the collection of seagrass seeds

Activity 1 Planting of Seagrass seeds	
Type of Licensed Activity	Deposit.
Description	Replanting of seagrass seeds using hessian bags and bamboo stakes.
Material types to be removed or deposited	Other: Hessian sacks and bamboo
Quantities/Dimensions	12560m ² of seagrass over 5 years
Activity 2 Collection of Seagrass seeds	
Type of Licensed Activity	Removal
Description	Collection of seagrass seeds using a prototype sled.
Material types to be removed or deposited	Other: Seagrass seeds.
Quantities/Dimensions	100m ² of seagrass to be cropped by sled.

Changes to 2.3 Approved Supporting documents with the addition of variation application and supporting document.

Title/Description of Document	Date	Version No.
Amended Marine Works Application for Porthdinllaen Seagrass Restoration	19 July 2021	2
Appendix 1_Towed Seed Collector Design	24 May 2021	1
Appendix 2_Survey Design	24 May 2021	1
Appendix 3_Impact Assessment	24 May 2021	1
Appendix 4_Biosecurity Assessment	24 May 2021	1

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Appendix 5_OS Map	24 May 2021	1
Appendix 6_Latlong Areas of Interest	24 May 2021	1
Appendix 7_Porthdinllaen Area of Interest Seed Collection	24 May 2021	1
Appendix 8_Porthdinllaen Area of Interest Seed Planting	24 May 2021	1
Appendix 9_Porthdinllaen Known Seagrass SHP File	24 May 2021	1
Appendix 10_Restoration Pathway of Seacology Project	24 May 2021	1
Appendix 11_wfd_scoping_template_Porthdinllaen_Seagrass Restoration	24 May 2021	1
Appendix 12_References	24 May 2021	1
CML2125v1 variation application	09 May 2023	1
CML2125v1 Request for changes to licence	09 May 2023	1