

Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant:	Cyngor Gwynedd
Application reference no:	CML2332

Barmouth

Barmouth Viaduct Flood Alleviation Scheme

27 February 2024

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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 4;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the Application;
- provides a record of the decision-making process; and
- sets out the reasons for any conditions imposed in connection with any marine licence granted pursuant to the Application.

1. APPLICATION DETAILS

1.1. The Application

Applicant Name and Address	The Applicant is the organisation set out below: Organisation name: Cyngor Gwynedd Address: Swyddfa'r Cyngor, Ffordd y Cob, Pwllheli, Gwynedd LL53 5AA
Application Reference Number	CML2332
Date Application was duly made	01 August 2023
Proposal[s] covered by the Application	Barmouth Viaduct Flood Alleviation Scheme (the Project)
Licensable marine activities	Activity 1 Removal and rebuild 60m of sea wall Activity 2 Construction of a new surface water pipe outfall which will protrude from the new sea wall. (the Proposed Activities)
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	CML2332-285699-ARP-XX-DR-GEN-100 Rev P02 CML2332-285699-ARP-XX-DR-GEN-110 Rev P02 CML2332-285699-ARP-XX-DR-GEN-120 Rev P02 CML2332 -285699-ARP-XX-DR-GEN-170 Rev P02

	CML2332 -285699-ARP-XX-DR-STR-360 Rev P02 CML2332 - 285699-ARP-RP-ENV-PEA-003 CML2332 - Copy of Viaduct Gardens WNMP signposting doc CML2332 - Viaduct Gardens_ Marine licence _MS rev01 CML2332 Marine Works EIA Screening Barmouth Viaduct Gardens_Final Issue_ update 31st July 2023.pdf CML2332-ARP-XX-RP-EcIA-004_P01.pdf CML2332 Screenshot of submitted evidence.png CML2332 Marine Licence Application Form_Barmouth Viaduct Gardens_0.03.docx CML2332 ARP-XX-DR-CIV-290 P03.pdf CML2332 ARP-XX-DR-GEN-150 Rev P03 - with co-ordinates.pdf CML2332 201123_8169_WFD_Viaduct Gardens_V0.02.pdf CML2332 Barmouth Viaduct Gardens Coastal Scheme_HRA_0.3doc.pdf CML2332 Viaduct Gardens CP Assessment For Use 23Nov23.pdf CML2332 Documents relating to alternative solutions appraisal.msg CML2332 Confirmation of coordinates and coordinate format.msg
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2. APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on **01 August 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 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

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

As required by s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act), notice was given to Cyngor Gwynedd on 10 August 2023.

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

Public notice advertising the Project was placed in Cambrian News on 11 August 2023. The application documents were made available to the public on our public register (<https://publicregister.naturalresources.wales/>) and they could also be requested from Natural Resources Wales Marine Licensing Team, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

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

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

2.5. Environmental impact Assessment

Council Directive 2011/92/EU (as amended) on the assessment of the effects of certain public and private projects on the environment aims to protect the environment and the quality of life by ensuring that projects which are likely to have significant environmental effects by virtue of their nature, size or location are subject to an environmental impact assessment (EIA) before permission is granted.

The Marine Works (Environmental Impact Assessment) Regulations 2007 ("the Regulations") transpose the EIA Directive in Wales and England for marine licence applications.

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

3. CONSULTATION

3.1. Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 10 August 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	Y	17 September 2023
NRW Advisory	Y	08 September 2023 13 December 2024 05 January 2024
Ministry of Defence - Safeguarding Defence	N	
Maritime & Coastguard Agency	N	
Trinity House	Y	07 September 2023
Royal Yachting Association	N	
Local Authority Biodiversity Officer : Cyngor Gwynedd	N	
Local Planning Authority: Cyngor Gwynedd	N	
Local Harbour Authority: Cyngor Gwynedd	N	
Local Port Authority: - ABPorts - Caernarfon Harbour	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Archaeological Trust	N	
Royal Commission on the Ancient and Historical Monuments of Wales	N	
Cadw	Y	31 August 2023
Department for Transport (DFT)	N	
Chamber of Shipping	N	
NERL Safeguarding	Y	15 August 2023
National Federation of Fishermen's Organisations	Y	12 September 2023

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Public Health Wales	N	
UK Hydrographic Office	N	

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

NRW has had regard to all consultation responses received in making its decision. Where these have impacted on NRW's decision making, this has been noted in the relevant paragraph in section 4 of this decision document.

4. BASIS FOR OUR DECISION

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

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

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

4.1. The need to protect the environment:

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

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

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

a) The legal framework

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

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

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b) Factors relevant to our determination

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

- GB511006407100 Mawddach
- GB621009600000 Cardigan Bay North

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. This assessment concludes that when taking account of the advice received from technical specialist advisors, it has been established that the activity/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, would 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 when undertaken in accordance with appropriate conditions secured in the Marine Licence including;

- Adherence to pollution prevention best practice in order to mitigate the impact on water quality (condition 3.14, 3.15 of Annex 1)
- Reducing potential introduction of Invasive Non-Native Species through ensuring that plant are cleaned before leaving the existing/preceding site and are clean on arrival onto the site (condition 3.17 of Annex 1)

Additionally, the applicant has stated within their shadow Water Framework Directive Assessment document (CML2332 201123_8169_WFD_Viaduct Gardens_V0.02.pdf) that:

- Vehicles to use biodegradable oils.
- The staff will be trained to constrain any oil/diesel clear up.

Adherence to action detailed in the applicant's shadow Water Framework Directive Assessment document is secured within the Marine Licence (condition 2.1 and 2.3)

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

4.1.2. Biodiversity and resilience of ecosystems duty

a) The legal framework

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

b) Factors relevant to our determination

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

The Project is located within the following European Protected Site(s)

- UK0013117 Pen Llyn a'r Sarnau/Lleyn Peninsula and the Sarnau SAC

And may also affect the following European Protected Site(s)

- UK90202327 Northern Cardigan Bay SPA

A Habitats Regulation Assessment (HRA) was carried out and concluded that adverse effects on the integrity of the Pen Llyn a'r Sarnau/Lleyn Peninsula and the Sarnau SAC could not be ruled out. A coastal squeeze assessment was undertaken to support the application which demonstrated that during the lifetime of the project, due to predicted sea level rises, the works would result in losses of Annex 1 intertidal habitat (0.75ha) as a result coastal squeeze. In addition to loss of habitat as a result of coastal squeeze approximately 0.0067ha of permanent habitat loss will also occur beneath the footprint of the new outfall which will be installed.

These losses were considered by both the applicant (Gwynedd County Council) and NRW as the Appropriate Nature Conservation Body to result in adverse effect on the Pen Llyn a'r Sarnau Special Area of Conservation (SAC). Specifically on the following features of the designated site:

- Mudflats and sandflats not covered by seawater at low tide
- Estuaries

Article 6(4) of the Habitats Directive provides a derogation to allow a plan or project to be approved in limited circumstances even though it would or may have an adverse effect on the integrity of a European site. Under article 6(4) (regulations 64 and 68 of Conservation of Habitats and Species Regulations 2017) a plan or project can only proceed provided three sequential **tests** are met:

1. There must be no feasible alternative solutions to the plan or project which are less damaging to the affected European site(s).

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2. There must be “imperative reasons of overriding public interest” (IROPI) for the plan or project to proceed.
3. All necessary compensatory measures must be secured to ensure that the overall coherence of the network of European sites is protected.

The developers have carried out a detailed option appraisal to inform their preferred option. The detailed option appraisal has been submitted as part of the application documentation, and the information was also summarised within Chapter 8 Alternative Solution of the Habitat Regulation Assessment presented by Gwynedd County Council. It was considered that the works proposed had a significantly better cost benefit ratio, allowing the betterment of the defence and minimising harm to the environment.

The applicant also set out the imperative need of the project, this includes that there are a number of key services located directly behind the sea wall as well as a number of properties.

The project is located within the ‘Barmouth South’ region of the West of Wales Shoreline Management Plan SMP2 and the relevant policy unit number within the SMP is 11.14. The policy for this unit of the coastline is to ‘Hold the Line’ for all three epochs. This means that the flood defence should be maintained, upgraded or replaced in their current position. Maintaining this asset is fully consistent with the relevant policies of the Shoreline Management Plan.

The losses incurred as part of this project will be compensated through the Welsh Government National Habitats Creation Programme (NHCP) which was established by Welsh Government to provide a mechanism for strategic compensation where required for coastal defence work carried out by NRW and Local Authorities, as set out in the Welsh Government policy clarification note of August 2021.

Based on the above, NRW MLT considered that the works were justified on grounds of no alternative solutions and ‘imperative reasons of overriding public interest’ (IROPI) and that compensation was secured. These considerations were set out in a Statement of Case for the project.

The Statement of Case was sent to Welsh Government on the 15 January 2024. Approval to grant a licence under Article 6(4) of the Habitats Directive was provided by Welsh Government on **13 February 2024**.

Further details are described within the Habitats Regulations Assessment.

4.1.4. European Protected Species

a) The legal framework

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

b) Factors relevant to our determination

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

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

4.1.5. Marine Conservation Zones

a) The legal framework

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

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

b) Factors relevant to our determination

NRW is satisfied that there is no significant risk of the Proposed Activities on the Skomer MCZ.

4.1.6. Sites of Special Scientific Interest (SSSIs)

a) The legal framework

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

b) Factors relevant to our determination

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

- Aber Mawddach / Mawddach Estuary

The Aber Mawddach SSSI contains features that are also part of the Pen Llyn a'r Sarnau SAC. Detailed consideration of the impact of the works on relevant features has been carried out within the Habitat Regulation Assessment, with relevant mitigation and compensation secured as detailed in section 4.1.3 of this Decision.

Appropriate consultation has been undertaken with NRW A. Notification of potential impact to the SSSI was provided to NRW A in consultation dated 10 August 2023. NRW A raised no specific concerns or objection in relation to the SSSI. As no objection was received NRW are satisfied to proceed and does not consider that any impacts of the Project are sufficient on their own to justify refusal of the Application provided that the Proposed Activities are implemented in accordance with the conditions set out in Annex 1.

4.1.7. 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

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

b) Factors relevant to our determination

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

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

Historic Environment

In their consultation response CADW highlighted that the Grade II listed properties of Anchor Cottage, St David's Church, Quay Cottage, and Quay Cottage's Former Wash-House lie within the vicinity of the project area. CADW then concluded that the works would expect to create a period of noise and disruption temporarily having a moderate adverse setting of the listed buildings. However, on completion visible change from them would be limited to that area of the viaduct gardens, which will not have any effect on the way that the listed buildings are experienced, understood, and appreciated. Consequently, the proposed development would not expect to have any permanent impact on the setting of grade II listed buildings and therefore CADW had no objections to the project.

Pollution Prevention

The applicant has proposed to produce a Construction Environment Management Plan (CEMP) detailing what measures will be in place to protect the surrounding environment. NRW welcome the commitment to produce a CEMP and consider that this can be secured to the Marine Licence (Condition 3.21 of Annex 1).

No further comments or representations were received in relation to other matters considered relevant to the need to protect the environment. However, NRW Marine Licensing considers it appropriate to include pollution control licence conditions to minimise impacts on the marine environment. These conditions are detailed in Annex 1.

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

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

4.2. The need to protect human health

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.

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

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

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

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

Comments received from National Federation of Fishermen's Organisations acknowledge the land based approach to the works, however highlighted concerns regarding the risk of the project's having an indirect effect upon the local commercial fishing businesses due to changes in access around the harbour. The consultee requested this be mitigated by maintaining good communication and liaison throughout the works to support minimisation of any potential disruption.

Communication requirements between the License Holder and local mariners, such as fishermen, can be secured through condition of the Marine Licence (see condition 3.1.3 of Annex 1)

Consultation responses were also received from Trinity House and NERL Safeguarding, with no objections to the proposed activities.

No further comments or representations were received in relation to the need to prevent interference with legitimate uses of the sea and no other concerns in this regard have been identified. However, NRW Marine Licensing considers it appropriate to include licence conditions to ensure the safety of navigation which includes ensuring all relevant parties are notified prior to the commencement of Licensed Activities. These conditions are detailed in Annex 1.

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

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

4.4. Marine Policy Documents

a) The Legal framework

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

UK Marine Policy Statement 2011 (MPS)

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

Welsh National Marine Plan (WNMP)

The WNMP 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.

Shoreline Management Plan

Shoreline Management Plan (SMP) SMPs are non-statutory policy documents with the purpose of providing a large-scale assessment to support coastal support management planning.

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. It is considered that the Project is in accordance with the WNMP and a signposting document was submitted by the applicant which demonstrated that the works complied with WNMP policies including

- SOC_02 Well-being of coastal communities,
- SOC_03 Marine pollution incidents,
- SOC_07 Consideration of Seascapes
- SOC_08&09 Resilience to/effects on coastal change and flooding, and
- SOC_11 Resilience to climate change.

The development has also considered its impact on the marine ecosystems and has where appropriate looked to avoid, minimise and mitigate potential impacts.

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

Shoreline Management Plan

Welsh National Marine Plan SOC_09 considers that project that align with the relevant Shoreline Management Plan and its policies are encouraged. The project is located within the 'Barmouth South' region of the West of Wales Shoreline Management Plan SMP2 and the relevant policy unit number within the SMP is 11.14. The policy for this unit of the coastline is to 'Hold the Line' for all three epochs. This means that the flood defence should be maintained, upgraded or replaced in their current position. Maintaining this asset is fully consistent with the relevant policies of the Shoreline Management Plan.

4.5. Other matters NRW thinks relevant

4.5.1. Well-being of Future Generations (Wales) Act 2015

a) The legal framework

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

b) Our determination

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

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

4.5.2. Sustainable management of natural resources

a) The legal framework

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

b) Our determination

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

5. Conclusions and Recommendations

Based on all the information available, and having regard to all relevant considerations including the consultation responses, NRW's decision is to grant the Marine Licence sought by the Application. We have reached this decision having had regard to the relevant legal framework outlined in section 4 and have also explained in section 4 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

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

6. AUTHORISATION

Report by: Chris Roscoe Position: Marine Licensing Officer	Date: 23 February 2024	Signed: 
Authorised by: Emmer Litt Position: Marine Licensing Team Leader	Date: 27 February 2024	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

- 3.1.2** 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 **zone30@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

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the methodology for such recovery or removal has been approved by the Licensing Authority.

Reason: To allow for the recovery of objects that have been accidentally dropped when carrying out the Licensed Activities.

3.8 Distribution of Copies of this Licence

The Licence Holder is required to ensure that a copy of this Licence is given to:

- **All agents, contractors and subcontractors whose names have been provided to the Licensing Authority under condition 3.3 and**
- **The Masters of any vessels and transport managers responsible for the vehicles employed in accordance with this Licence whose details have been submitted to the Licensing Authority under condition 3.2.**

Reason: To ensure that all agent(s), contractor(s), sub-contractor(s) and vessel Masters are aware of their obligations under the conditions established within this Licence to ensure compliance with the conditions.

3.9 Inspection of Documents

Copies of this Licence shall be made available at the following locations:

- **at the address of the Licence Holder specified in section 1.2;**
- **at any site office, located at or adjacent to the Licensed Area, used by the Licence Holder or its agent(s), contractor(s) or sub-contractor(s) responsible for the loading transportation or deposit of any substances or articles permitted as part of the Licensed Activities;**
- **on board each vessel or vehicle carrying out Licensed Activities.**

The documents referred to in this Condition shall be available at all reasonable times for inspection by officers appropriately authorised by the Licensing Authority and authorised Marine Enforcement Officers at the locations stated in that paragraph.

Reason: To ensure that all agent(s), contractor(s), sub-contractor(s) and vessel Masters may access the details of this Licence at all times and to ensure that the details of this Licence are available for inspection when required.

Vessels, Plant and Equipment

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

Only those agent(s), contractor(s), sub-contractor(s), vessels and/or vehicles whose details have been notified to the Licensing Authority may operate under the terms of this Licence. Any changes must be

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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

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the marine environment. Secondary containment must be used with a capacity of **no less than 110%** of the container's storage capacity

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

3.16 Prevention of Disposal of Man-made Debris

The Licence Holder must ensure that all reasonable precautions are taken to prevent the disposal of man-made debris to the marine environment. Such material must be removed immediately and be disposed of appropriately. If it is not possible to prevent manmade debris from entering the marine environment during the Licensed Activities, the Licensed Activities must cease immediately.

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

3.17 Cleanliness of Equipment

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

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

Activity-specific Conditions

3.18 Use of Render and Concrete

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.

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

3.19 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.

3.20 Construction, Alteration or Improvement – Returning to Original Profile

The Licence Holder must ensure the area is returned to the original profile, or as close as reasonably practicable, following the completion of works.

Reason: To ensure compliance with the Approved Application.

3.21 Construction Environmental Management Plan (CEMP)

- 3.21.1 The Licence Holder must submit a construction environment management plan to the Licensing Authority for written approval at least 6 weeks prior to commencement of the Licensed Activities. No Works may be undertaken prior to written approval from the Licensing Authority.

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- 3.21.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition(s) 3.21.1 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. To ensure appropriate environmental mitigation are adhered too.