

Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Natural Resources Wales
Application reference no: CML2401

Rhymney Great Wharf, Cardiff

Rhymney Great Wharf Habitat Restoration Polders
Enhancement Project

29th April 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: Natural Resources Wales Address: Welsh Government Offices, Cathays Park, King Edward VII Avenue, Cardiff, CF10 3NQ
Application Reference Number	CML2401
Date Application was duly made	23 January 2024
Proposal[s] covered by the Application	Rhymney Great Wharf Habitat Restoration Polders Enhancement Project (the Project)
Licensable marine activities	The Project seeks to restore/repair (along a length of approximately 260m of the existing polder system) and to extend the existing polder system westward by approximately 1600m. The polders are fences constructed of brushwood materials inserted between chestnut fence posts in a rectangular pattern across the mudflat to facilitate accretion of sediment with openings at existing creeks/channels to allow for drainage on receding tides. The Project will: • repair existing timber stakes of the previous polders scheme by installing and fixing brushwood. • Install brushwood bundles to a height of no more than 1000mm.

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	• Install stakes of 100mm diameter in pairs offset 300mm. • Install stakes with an approximate height of 1000mm above the existing seabed level. Install rope with U shaped staples to maintain compaction of brushwood. (the Proposed Activities)
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	CML2401 - Marine Licence Application Form 290063-ARP-00-RP-RP-NX-0008.pdf CML2401 - Appendix A- Site Location Plan 290063-ARP-XX-RP-DR-ZX-0004.pdf CML2401 Appendix B - Design Drawings v2.pdf CML2401 - Appendix C- Outline Construction Method Statement.pdf CML2401 - Appendix D- Project Environmental Report 290063-ARP-00-RP-RP-NX-0009.pdf CML2401 Appendix F WFD Compliance Assessment template poldersv4.docx CML2401 Appendix G 290063-ARP-00-RP-RP-NX-0010 - EAP P04.doc CML2401 Appendix H 290063-ARP-00-RP-RP-NX-0007 - HRA Stage 1 2 P02 LP.doc CML2401 - Appendix I- Biosecurity Plan.pdf CML2401 Revised Appendix J- Marine Licence Correspondence.pdf CML2401 - Appendix K- Environmental Constraints and Opportunities Plans.pdf CML2401 - Appendix L- Consideration for Welsh National Marine Plan 290063-ARP-00-RP-RP-NX-0011.pdf CML2401 - Appendix M- Coastal Process Study 290063-ARP-00-RP-RP-NX-0005.pdf CML2401 Appendix O- Simplified Marine Licence Area Coordinates.pdf CML2401 290063-ARP-00-RP-RP-NX-0006 - PEA_Ver1.docx CML2401 290063-ARP-00-RP-RP-NX-0009 - P03 - Project Environmental Reportv2.docx

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	CML2401 290063-ARP-00-RP-RP-NX-0011- P02- Consideration for Welsh National Marin.pdf CML2401 290063-ARP-00-RP-RP-NX-0016- Appendix O- Supplementary Archaeological No.pdf
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2. APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 23 January 2024. 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

As required by s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act), notice was given to Cardiff Council on 07 February 2024.

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 South Wales Argus on 16 February 2024. The application documents were made available to the public through the Online Public Register at [Public register - Customer Portal \(naturalresources.wales\)](#) and they could also be requested from Natural Resources Wales Marine Licensing Team.

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.

The Application was not considered by NRW to constitute a development requiring EIA under the Regulations, and a Screening Opinion (Reference SC2305) to that effect was issued on 09 October 2023.

3. CONSULTATION

3.1. Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 07 February 2024, 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	05 March 2024 and 23 March 2024
Ministry of Defence - Safeguarding Defence	Y	09 February 2024
Maritime & Coastguard Agency	Y	21 February 2024
Trinity House	Y	07 March 2024
Royal Yachting Association	Y	16 February 2024
Local Biodiversity Officer (Cardiff Council)	N	
Local Planning Authority (Cardiff Council)	N	
Local Harbour Authority (ABP, Cardiff Harbour Authority)	N	
Local Port Authority (Cardiff and Barry)	N	
Welsh Fishermen's Association	N	
National Federation of Fishermen's Organisations (NFFO)	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Government Marine Enforcement Officers	N	
Cadw	Y	28 February 2024 26 March 2024

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Welsh Archaeological Trust	N	
Royal Commission on the Ancient and Historical Monuments of Wales	Y	19 February 2024 and correspondence to the 26 March 2024
Environmental Public Health Wales	Y	23 February 2024
Chamber of Shipping	N	
NERL Safeguarding	Y	08 February 2024
Inshore Fisheries and Conservation Authorities (IFCA) (Devon & Severn)	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.

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4. BASIS FOR OUR DECISION

In determining this application, including the terms on which it was granted, and 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 seabed and the seashore, 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

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

- GB530905415401 - Severn Lower Transitional Water Body

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. The detailed compliance assessment (Stage 3) concludes that the activity/project has no potential to cause deterioration of any waterbody or prevent a waterbody or WFD Protected Area from meeting its objectives, taking into account any conditions or restrictions as applicable, either alone or in-combination with other activities.

Based on this assessment it is considered that the Proposed Activities when considered alone and in-combination, will not pose a risk to deterioration in the status of any of the above listed waterbodies or jeopardise their attainment of good surface water status when undertaken in accordance with appropriate conditions secured in the Marine Licensing including Condition 3.18 and 3.20 in Annex 1, which require the Licence Holder to:

- Adherence to mitigation measures proposed within approved plans and schemes:
 - Environmental Action Plan (CML2401 Appendix G 290063-ARP-00-RP-RP-NX-0010 - EAP P04 submitted the 02 February 2024);
 - Outline Construction Method Statement (CML2401 - Appendix C- Outline Construction Method Statement submitted the 03 January 2024);
 - Biosecurity Plan (CML2401 - Appendix I- Biosecurity Plan submitted the 03 January 2024);
 - Project Environmental Report (CML2401 290063-ARP-00-RP-RP-NX-0009 - P03 - Project Environmental Reportv2 submitted the 21 March 2024), and
 - Preliminary Ecological Appraisal (CML2401 290063-ARP-00-RP-RP-NX-0006 - PEA_Ver1 submitted the 21 March 2024)
- The production and implementation of a Construction Environmental Management Plan to minimise the risk of pollution incidents occurring by adopting best practice techniques and to ensure appropriate environmental mitigation are adhered too.

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

The Project is seeking to re-establish and protect priority saltmarsh habitats along the Rhymney Great Wharf and to support intertidal mudflats and sandflats by retaining sediment and restoring transition zones between the two habitats.

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 in or may affect the following European Protected Sites:

- Severn Estuary / Môr Hafren SAC UK0013030
- Severn Estuary / Môr Hafren Special Protection Area SPA UK9015022
- Severn Estuary / Môr Hafren Ramsar UK11081
- River Usk / Afon Wysg SAC UK0013007 – located approximately 9.7km to the north-east of the project.
- River Wye / Afon Gwy SAC- UK0012642- located approximately 32km to the north-east of the project.

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

The following conclusions of the HRA have been considered by NRW in making this decision. An appropriate assessment concluded that no coastal squeeze is predicted as a result of the proposed works and it is considered that any pollution or temporary deterioration of habitat condition can be appropriately mitigated. Hence, 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.

Further details are described within the Habitats Regulations Assessment.

NRW Marine Licensing Team have carefully considered the HRA report provided by the project delivery team, and we consider that it adequately addresses the potential implications for any

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European Designated sites affected by the project. We note that, where relevant, the necessary consultation has taken place with the relevant protected sites advisor(s) and that their representations have been properly taken into account. On this basis, we adopted the reasoning and conclusions of the HRA report provided.

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 secured in the Marine Licensing including Condition 3.18 and 3.20 in Annex 1, which require the Licence Holder to:

- Adherence to mitigation measures proposed within approved plans and schemes:
 - Environmental Action Plan (CML2401 Appendix G 290063-ARP-00-RP-RP-NX-0010 - EAP P04 submitted the 02 February 2024);
 - Outline Construction Method Statement (CML2401 - Appendix C- Outline Construction Method Statement submitted the 03 January 2024);
 - Biosecurity Plan (CML2401 - Appendix I- Biosecurity Plan submitted the 03 January 2024);
 - Project Environmental Report (CML2401 290063-ARP-00-RP-RP-NX-0009 - P03 - Project Environmental Reportv2 submitted the 21 March 2024), and
 - Preliminary Ecological Appraisal (CML2401 290063-ARP-00-RP-RP-NX-0006 - PEA_Ver1 submitted the 21 March 2024)
- The production and implementation of a Construction Environmental Management Plan to minimise the risk of pollution incidents occurring by adopting best practice techniques and to ensure appropriate environmental mitigation are adhered too.

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.

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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:

- Severn Estuary Site of Special Scientific Interest (SSSI)
- Rhymney and Peterstone SSSI.

NRW has assessed the impact of the Proposed Activities on the Severn Estuary Site of Special Scientific Interest (SSSI) by proxy through the HRA process of the Severn Estuary SAC, SPA and Ramsar site. The Rhymney and Peterstone SSSI will be disturbed as access through a track on this SSSI will be needed. A separate assent for access will be sought from NRW.

NRW is therefore satisfied that the Proposed Activities will not have the potential to impact *the site* when undertaken in accordance with appropriate conditions including Condition 3.18 and 3.20 in Annex 1, which require the Licence Holder implement the various plans and schemes approved as well as submit a Construction Environmental Management Plan to the Licensing Authority for approval.

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 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 when undertaken in accordance with the *CML2401 - Appendix C- Outline*

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Construction Method Statement and condition 3.20 to submit for approval and implement a Construction Environmental Management Plan in Annex 1.

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

Historic Environment

The Royal Commission on the Ancient and Historical Monuments of Wales (RCAHMW) raised a number of concerns in relation with the application. The proposed area of works lies within the Gwent Levels, a highly significant area of archaeological potential, as recognised by the designation of the 'Gwent Levels' by Cadw as an area of outstanding historic interest.

The RCAHMW did not consider the risk to the historic environment from the Project had been adequately assessed within the application. The RCAHMW considered there was a lack of reference to existing archaeological material found within the Project area (such as timber structures, footprints and artefact finds), as well as to the potential for further discoveries of archaeological material. RCAHMW considered that the works had the potential to significantly impacted on yet undiscovered archaeological material. The RCAHMW considered that this information was required in order to understand the need for any archaeological mitigation.

However, the RCAHMW appreciated the overall positive nature of the project in restoring sediment balance, which over time, will have a positive impact on the erosion rates of archaeological material in the area.

Following concerns raised by the RCAHMW, further information was submitted on the 8 March 2024, which included a Supplementary Archaeological Note and a further Consideration for Welsh National Marine Plan. A further amended version of the Preliminary Environmental Report (PER) was submitted on the 8 of March 2024 which required further amendments. On the 21 March 2024 a final PER was submitted (CML2401 290063-ARP-00-RP-RP-NX-0009 - P03 - *Project Environmental Report v2*), which committed to a walkover survey or a survey from a unmanned aerial vehicle (UAV) of the project area prior commencement of works, to identify any existing archaeological material that might need to be avoided and/or recorded. The RCAHMW was satisfied with the further information submitted and proposed mitigation. NRW consider that this can be appropriately secured through conditions in the licence specifically condition 3.18 which require the Licence Holder to work in line with the approved PER and 3.19 which requires the submission of the Archaeological Survey (Walkover or Unmanned Aerial Vehicle) for approval prior to commencement of works as 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

Public Health Wales advised that no risk to human health is expected provided the appropriate controls and procedures for notification of and response to unforeseen events involving the release of fuels or chemicals into the water are secured. NRW is satisfied that these controls are secured through standard conditions of the marine licence such as condition 3.7, 3.11, and 3.13 as set out in Annex 1

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

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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.

The Maritime & Coastguard Agency indicated that they have no objections to the Project as far as all maritime safety legislation is adhered to, and relevant controls are in place to ensure notification to relevant parties prior to and on completion of works. NRW are satisfied that this can be put in place through adherence to the marine licence conditions:

- Condition 3.1 (as seen in Annex 1) which requires the notification of commencement to local fishermen, local mariners and UK Hydrographic Office (UKHO)
- Condition 3.4 (as seen in Annex 1) which requires the notification of HM Coastguard
- Condition 3.6 (as seen in Annex 1) which requires the notification of completion to local fishermen, local mariners and UKHO

The Maritime & Coastguard Agency and the Trinity House indicated the requirement for a notification of the exact location of the polder fences to the UKHO, so they can be accurately charted for navigation safety purposes. Likewise, The Trinity House indicated that since project the project was landwards of an existing lateral aid to navigation, no additional marking were required. However, required that the developer informs the UK Hydrographic Office of the exact positions of the fences so they can be accurately charted. NRW consider that notification to the UK Hydrographic Office can be adequately controlled through conditions of the Marine Licence (conditions 3.1.4 and 3.6.3 as seen in Annex 1).

The MCA suggested an advisory of the provision of bunting or facilities to prevent pollution to the area. NRW is satisfied that this is controlled through standard pollution control conditions of the marine licence (e.g., condition 3.14 to 3.17 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)

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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

In response to the RCAHWW advice a revised and more detailed WNMP signposting document was provided 08 March 2024 to include more detailed assessments of SOC_05: Historic Assets to make reference to the Supplementary Archaeological Note which includes measures proposed to avoid and mitigate harm to archaeological features. The proposal also is in line and promotes the following policies: SOC_08: Resilience to coastal change and flooding, SOC_09: Effects on coastal change and flooding, SOC_10: Minimising climate change, ENV_01: Resilient marine ecosystems, and ENV_02: Marine Protected Areas.

NRW is satisfied that 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**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**

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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: Maria Alvarez Position: Marine Licensing Officer	Date: 23 April 2024	Signed: 
Authorised by: Position: Permitting Service Manager	Date: 29 April 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

- 3.1.1** 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.

- 3.1.4** 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 safety of navigation by allowing charts to be updated

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.

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

3.3 Notification of Agents/Contractors/Sub-contractors

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

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

3.4 Notification of HM Coastguard

The Licence Holder must ensure that HM Coastguard is made aware of the Licensed Activities at least **24 hours** prior to commencement by contacting The National Maritime Operations Centre at **zone27@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.

- 3.6.3** 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) within 10 days of the completion of the Licensed Activities. The information supplied must include latitude and longitude coordinates in WGS84 (ETRS89) datum of the installed

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works on and/or above the seabed, any changes to engineering drawings, and details of new or changed aids to navigation where applicable.

Reason: To permit the promulgation of Maritime Safety Information and the updating of nautical charts and publications to ensure other vessels in the vicinity can safely plan and conduct their passage.

3.7 Accident or Emergency

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

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

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

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

3.8 Distribution of Copies of this Licence

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

- All agents, contractors and subcontractors whose names have been provided to the Licensing Authority under condition 3.3 and
- The Masters of any vessels and transport managers responsible for the vehicles employed in accordance 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;

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- 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.

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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 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 Implementation of Schemes/Plans

The Licence Holder must implement any actions outlined in the following Schemes/Plans and detailed in section 2.3 as approved by the Licensing Authority:

- Environmental Action Plan (EAP): *CML2401 Appendix G 290063-ARP-00-RP-RP-NX-0010 - EAP P04* submitted the 02 February 2024.

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- Outline Construction Method Statement: *CML2401 - Appendix C- Outline Construction Method Statement* submitted the 03 January 2024.
- Biosecurity Plan: *CML2401 - Appendix I- Biosecurity Plan* submitted the 03 January 2024
- Project Environmental Report: *CML2401 290063-ARP-00-RP-RP-NX-0009 - P03 - Project Environmental Reportv2* submitted the 21 March 2024
- Preliminary Ecological Appraisal: *CML2401 290063-ARP-00-RP-RP-NX-0006 - PEA_Ver1* submitted the 21 March 2024

Any proposed changes to the actions outlined in the approved Schemes/Plans must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

Reason: To ensure compliance with agreed methodology, approach and mitigations.

3.19 Archaeological Survey Results

3.19.1 The Licence Holder must submit the results of an Archaeological Survey (Walkover or Unmanned Aerial Vehicle in line with *CML2401 290063-ARP-00-RP-RP-NX-0009 - P03 - Project Environmental Reportv2* submitted the 21 March 2024) 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.

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 mitigate any effects of the activity to the historic environment once they become known.

3.20 Construction Environmental Management Plan (CEMP)

3.20.1 The Licence Holder must submit a CEMP 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.

3.20.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.20.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

Reason: To minimise the risk of pollution incidents occurring by adopting best practice techniques. To ensure appropriate environmental mitigation are adhered too.