



Marine Licensing Variation Decision

The Marine and Coastal Access Act (2009)

Applicant: Swansea University

Variation application reference no: CML2125v2

Porthdinllaen

Porthdinllaen Seagrass Restoration Project

19 June 2024

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OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided grant the variation to the Existing Marine Licence 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	CML2125v2
Existing Marine Licence reference number	CML2125v1
Date Variation Application was duly made	01 May 2024
Description of variation	To alter the experimental design of a seagrass harvester from an experimental area of 100m ² to 10,000m ² within the existing licensed area.
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. (the Project)
Licensable marine activities	Replanting of seagrass seeds using hessian bags and bamboo stakes. Collection of seagrass seeds using a tow harvester. (the Proposed Activities)
Marine Plan area	Welsh inshore region and Welsh offshore region
Variation Application documents:	<u>Variation application documents submitted XX</u> CML2125v2 – Application Form.pdf

	CML2125v2 - Request for changes to licence CML21252024.docx <u>Application document previous submitted during the determination of CML2125 and still considered relevant;</u> 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 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 CML2125v2 – Application Form.pdf CML2125v2 - Request for changes to licence CML21252024.docx
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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 **01 May 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 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 Variation Application was subject to commercial confidentiality and we have not received any information in relation to the Variation Application that appears to be commercially confidential.

2.4 Publicity and advertising

The application sought to harvest seeds within a larger experimental area, however this area remains within the existing Licenced Area. As works remain within the existing licenced area and there is no change to the methodology proposed no further notice was given to Local Authorities and no Public Notice was advertised for this Marine Licence variation.

3 CONSULTATION

3.1 Consultees

NRW considered it appropriate to reconsult the bodies listed in the table below on **07 May 2024** due to their particular expertise and the responses received from them during the original consultation. These bodies were consulted for a period of 28 days. For those bodies who have responded to the consultation an 'Y' can be found in the response received column, those who did not respond to consultation an 'N' can be found in the response received column:

Consultee	Response received (Y/N)	Date(s) of receipt
NRW	Y	21 May 2024
Maritime & Coastguard Agency	Y	16 May 2024
Trinity House	Y	10 June 2024

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 variation 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 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

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The Water Framework Directive Compliance Assessment conducted as part of determination of CML2125 has been reviewed and is still considered applicable. The assessment considered that the Proposed Activity when considered alone and in-combination, will not pose a risk to deterioration in the status of any waterbody or jeopardise its attainment of good surface water status. These conclusions have not been affected by this variation application and therefore are 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 recognise that the works look to enhance biodiversity through the restoration of seagrass.

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 may affect the following European Protected Site(s);

- Pen Llyn a'r Sarnau SAC

The Habitats Regulations Assessment conducted as part of the determination of CML2152 has been reviewed and updated to take account of the variation of the Proposed Activities, and NRW (as Statutory Nature Conservation Body) consulted on the HRA.

The following conclusions of the HRA have been considered by NRW in making this decision. In light of the conclusions of an appropriate assessment, and taking account of the advice received from

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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.

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 due to the distance between the proposed activities and 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:

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- Porth Dinllaen i Borth Pistyll SSSI

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

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.

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

NRW A made comment surrounding monitoring and long-term impacts of seagrass collection. NRW PS consider that a condition is already in place for submission of a monitoring report regarding impact of current operations. The current licence is due to expire on 30 September 2026, so any concerns regarding operation past this date will be considered in any subsequent application received to continue work.

No other comments or representations were received in relation to other matters considered relevant to the need to protect the environment.

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

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 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.

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Consultation was carried out with the MCA who had no objections to the project, subject to standard licence conditions being implemented these condition were already included in the original licence. These includes notification to local mariners and the coastguard. Since the original licence was issued it is now standard practice to include notification to the UKHO prior to commencement of each phase of works to ensure that navigation warnings can be issued to marine users and for the update of nautical charts where required. This has been included as licence condition 3.21 as 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 Variation Application.

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**

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**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

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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 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.

AUTHORISATION

Report by: Joe Thomas Position: Marine Licencing Officer	Date: 19 June 2024	Signed: 
Authorised by: Emmer Litt Position: Marine Licensing Team Leader	Date: 19 June 2024	Signed: 

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ANNEX 1 – Variation to the Marine Licence

Amendments to Licensed Activities Table 1

- Activities 2, quantities/dimensions have been amended from 100m² to 10,000m² of seagrass to be cropped by sled.

Additional Licence Conditions

3.21 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 Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence. The information supplied must include the start date and end date, a description of the works, positions of the work area (WGS84), and details of any marking arrangements.

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