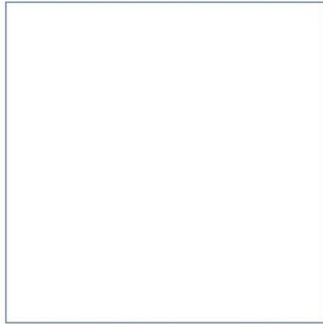
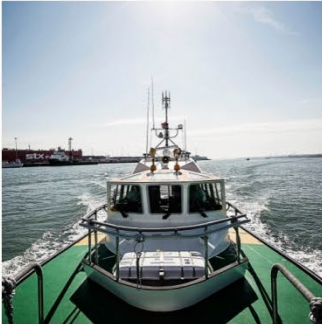
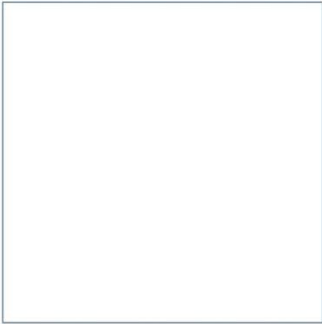
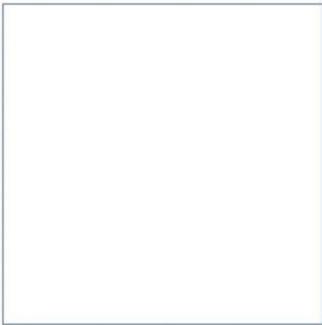


# Port of Mostyn

## Habitats Regulations Assessment

Information to Support 3 Legal Tests for a Derogation to be Granted

September 2024



Innovative Thinking - Sustainable Solutions

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# Habitats Regulations Assessment



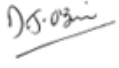
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# 1 Introduction

Following the advice of Natural Resources Wales (NRW) Advisory, NRW Marine Licensing Team (MLT) as competent authority has concluded that the footprint of the Mostyn Energy Park Extension (MEPE) reclamation will result in a permanent direct loss and change in the extent of the Annex I Estuaries feature of the Dee Estuary Special Area of Conservation (SAC).

The total area of this habitat feature that will be lost under the footprint of the reclamation is 3.22 ha, comprising 2.57 ha of intertidal habitat and 0.65 ha of subtidal habitat. According to the Dee Estuary Standard Data Form (JNCC, 2015), the Annex I Estuaries feature covers 83.87 % (13,255.88 ha) of the Dee Estuary SAC (total site area is 15,805.27 ha). The loss of this feature as a result of the MEPE reclamation represents 0.02 % of the total extent of this feature within the site. This area is within an operational harbour and is highly impoverished with a very low number of species recorded within it.

In the context of the site's conservation objectives, and following the advice of NRW Advisory, NRW MLT is of the view that the range of this habitat feature will not be maintained and there will be a discernible change to the extent of this feature. Overall, therefore, NRW MLT has concluded that there will be **an Adverse Effect on Integrity (AEOI)** on the Annex 1 Estuaries feature of the Dee Estuary/Aber Dyfrdwy SAC and Dee Estuary Ramsar site as a result of the MEPE Project.

Given that it is not possible to demonstrate that the MEPE Project will not have an AEOI, the proposed development can only proceed and a derogation granted if the following three legal tests are passed (Welsh Government, 2021; Defra *et al.*, 2021):

1. There are no feasible alternative solutions that would be less damaging or avoid damage;
2. The proposal needs to be carried out for imperative reasons of overriding public interest (IROPI); and
3. The necessary compensatory measures can be secured.

This report provides further information on each of these three tests to support NRW MLT's Habitats Regulations Assessment (HRA) and Marine Licence determination.

## 2 Test 1: Consideration of feasible alternative solutions

The availability of feasible alternative solutions is a key consideration under the HRA process in the event that a proposal is judged to have an AEOL of a European/Ramsar site (or where the possibility of such an effect cannot be excluded). This is enforced in England and Wales under Regulation 64 of the Conservation of Habitats and Species Regulations 2017 which requires the competent authority, NRW MLT, to be satisfied that there are no alternative solutions.

Reasonable alternative options that could potentially meet the identified need and objectives of the MEPE Project (as set out in Section 2.2 of the Environmental Statement (ES)) were considered in Section 2.3 of the ES as part of the requirements under the Marine Works EIA Regulations. This took account of relevant guidance and policy, including the National Policy Statement for Ports (NPSfP) guiding principles which currently remain in full effect (DfT, 2012; DfT, 2023).

Based on current guidance (Welsh Government, 2021; Defra *et al.*, 2021), an alternative solution should be considered acceptable if it:

- Achieves the same overall objectives as the original proposal;
- Is financially, legally and technically feasible; and
- Is less damaging to the European site and does not have an adverse effect on the integrity of this or any other European site.

The following sections set out the objectives of the MEPE Project and review the potential appropriateness of the alternatives identified in the ES as feasible alternative solutions that meet the identified need and objectives of the MEPE Project.

### 2.1 Objectives of Proposed Development

In order to identify feasible alternative solutions, it is important to clearly set out the objectives of the proposal. The principal objectives of the MEPE Project are to deliver infrastructure upgrades to enable it to support and service the current and anticipated future growth in the offshore wind industry off the northern coast of Wales and in the Irish Sea and beyond, and to also create jobs locally and enhance skills, supporting the UK Government's mission to secure economic growth and improve living standards in all nations and regions.

A major obstacle to meeting climate change targets is the lack of suitable construction ports for offshore wind as identified in the recently published Celtic Sea Blueprint (The Crown Estate, 2024). The MEPE Project will provide these essential port facilities and is critical in helping to overcome this barrier.

The MEPE Project is also key to delivering several UK and Welsh Government legal obligations, strategies and policies. These include the following:

- **Need to achieve UK net zero target to mitigate climate change** - The UK's legal obligations to reach net zero (i.e. ensure that net carbon emissions are at least 100 % lower than the 1990 baseline) by 2050 is set out in the Climate Change Act 2008 (2050 Target Amendment) Order 2019, the Energy White Paper (DESNZ and BEIS, 2020), The Ten Point Plan for a Green Industrial Revolution' (HM Government, 2020), the Net Zero Strategy: Build Back Greener (DESNZ and BEIS, 2021), and the Offshore Wind Net Zero Investment Roadmap (HM Government, 2023). This target is reflected in Wales by The Environment (Wales) Act 2016 (Amendment of 2050 Emissions Target) Regulations 2021. Further details of the Welsh approach to achieving net zero are set out in the Working Together to Reach Net Zero document (Welsh Government, 2022) and in Prosperity for All: A Low Carbon Wales (Welsh Government, 2019a). The Environment (Wales) Act 2016 is supported by the Natural Resources Policy (NRP) which focuses on the sustainable management of Welsh natural resources to maximise their contribution to achieving goals within the Well-being of Future Generations (Wales) Act 2015. The NRP sets out three National Priorities including 'increasing renewable energy and resource efficiency'. The Welsh Government has also recognised the need to support renewable energy to reduce carbon emissions in Planning Policy Wales 11 and Future Wales: the National Plan 2040;
- **Urgent need for decarbonisation and transitioning to clean energy through significant additional offshore wind capacity** - Following the UK's General Election in July 2024, the new UK Government is committed to a clean energy transition and proposes to introduce the Great British Energy Bill to set up a publicly owned clean power company, which will help accelerate investment in renewable energy such as offshore wind. Legislation will also be brought forward to help the country achieve energy independence and unlock investment in energy infrastructure (Prime Minister's Office and His Majesty King Charles III, 2024). The UK Government's commitment to transition to clean (non-fossil fuel) energy technologies such as renewables is set out in the Energy White Paper (DESNZ and BEIS, 2020), The Ten Point Plan for a Green Industrial Revolution' (HM Government, 2020) and Net Zero Strategy: Build Back Greener (DESNZ and BEIS, 2021). This is reflected in the UK Government's ambition of producing 50 GW of energy from offshore wind sector by 2030 as set out in the British Energy Security Strategy (HM Government, 2022) and Offshore Wind Net Zero Investment Roadmap (HM Government, 2023). Time is of the essence and action during the 2020s will be critical to meeting this target. The significant potential for offshore wind to contribute to renewable energy targets is also recognised by the Welsh Government in the Welsh National Marine Plan (WNMP) through the Energy – Low Carbon Sector Objective 1 of the WNMP and Policy ELC\_01 and Policy ELC\_01b (Welsh Government, 2019b). Paragraph 331 states that the WNMP area includes good wind resource in deeper water, and that offshore wind energy is a proven and strategically important energy technology and the costs of deployment are decreasing rapidly, making this a viable and attractive renewable energy option for Wales, with considerable scope. Paragraph 335 states that the Welsh Government has considered alternatives to the need for large scale deployment of marine renewable technologies and concluded that there is a strategic need to support the development of marine renewable energy generation capacity;
- **Energy security through a diverse mix of power generation** - Security of energy supply means ensuring that there is enough electricity generation capacity available to meet maximum peak demand (not just average demand), and with a safety margin or spare capacity to accommodate unexpectedly high demand and to mitigate risks such as unexpected plant closures and extreme weather events. More renewable generation capacity is required to meet demand than would be required of conventional generation, because of its intermittent nature. Russia's invasion of Ukraine has led to the UK pivoting away from importing energy from Russia

and towards its own energy production to maintain energy security. The Energy Security Plan sets out the steps the government is taking to ensure the UK is more energy independent, secure and resilient (DESNZ, 2023). As recognised in the British Energy Security Strategy (HM Government, 2022), recent world events have also brought into sharp focus that reducing dependency on foreign hydrocarbons has important security of supply, electricity cost and fuel poverty avoidance benefits. The Strategy plans to accelerate delivery of offshore wind by strengthening the renewable National Policy Statements (NPSs) to reflect the importance of energy security and net zero. Actions already urgently required in the fight against climate change are now required even more urgently for global political stability and to achieve national independence on energy imports. A diverse mix of all types of power generation helps to ensure security of supply, however, as noted in the Energy White Paper (DESNZ and BEIS, 2020), a low-cost, net zero consistent system is likely to be composed predominantly of wind and solar. Offshore wind has, and must continue to contribute, to security of supply for UK consumers by being a dependable supply of low carbon power;

- **Creation of jobs and enhancement of skills** - The UK Government's aim of creating jobs that support of the offshore wind sector and raising skills levels across the UK through the use of the Offshore Wind Sector Deal (BEIS, DESNZ and DBT, 2020) is stated in the Energy White Paper (DESNZ and BEIS, 2020). This is also reflected in one of the well-being goals of the Well-being of Future Generations (Wales) Act, 'A prosperous Wales', which aims for an innovative, productive and low carbon society which uses resources efficiently and proportionately and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities. The National Infrastructure Strategy (HM Treasury, 2020) includes commitments to support jobs and growth across the UK, in particular post-industrial and coastal towns, and build the UK's capability in new green industries, through infrastructure investment in offshore wind capacity and port infrastructure;
- **Fair and affordable energy** - The UK Government's actions in the Energy White Paper (DESNZ and BEIS, 2020) include the provision of a low-cost, clean electricity system by 2050 to ensure the transition to net zero is fair and affordable to consumers. UK policy and regulatory objectives seek to ensure affordability to consumers, through the Contract for Difference (CfD) auction process (generation assets) and Offshore Transmission Owner regime (offshore transmission assets). Both broadly seek to incentivise investment in low carbon electricity generation and transmission assets, ensure security of supply and help the UK meet its carbon reduction and renewables targets, whilst reducing cost to the consumer. As a result, UK Offshore Wind Farm (OWF) projects are increasing in capacity, and decreasing in unit cost. For this reason, the economic and technical competitiveness for offshore wind make it the preferential electricity supply to the consumer; and
- **Safeguarding future port capacity** - The Energy White Paper recognises that an increase in offshore wind generation will involve significant investment at ports (DESNZ and BEIS, 2020). The need for future port capacity to support the development of offshore sources of renewable energy and that ports have a vital role to play in the construction and servicing of offshore energy installations is also set out in the NPSfP (DfT, 2012). There is recognition by the UK and Welsh Governments, as noted in the NPSfP and supported by the WNMP, that the need for new port infrastructure depends not only on overall demand, but also on the need to retain flexibility that ensures that port capacity is located where it is required; the need to ensure effective competition in port operations; and the need to ensure effective resilience in port operations. Excluding the possibility of providing future capacity through new port infrastructure would be an outcome strongly against the public interest (DfT, 2012, paragraph 3.4.16).

## 2.2 'Do nothing' scenario

The 'do nothing' scenario would involve the use of facilities at the Port of Mostyn as they currently exist. This, however, would not meet the primary objectives of the project to deliver port infrastructure and capacity to support and service the current and future offshore wind energy development off the northern coast of Wales and in the Irish Sea and beyond, or to create jobs locally and enhance skills, supporting UK Government policy. As such it is considered to be against the public interest in terms of the UK's and Wales legal commitments, strategies and policies set out above, including net zero and offshore wind targets, as well as also running counter to national ports policy, and therefore is not a feasible option. In the absence of the MEPE Project, activity within the Port of Mostyn would continue to support the Operations and Maintenance (O&M) of existing OWFs but be unable to support the construction and O&M of future offshore windfarms (OWFs). In summary, the 'do nothing' scenario is not considered a feasible alternative option and is not considered further.

## 2.3 Alternative ports

The complexity of installing larger foundations and turbines in greater depths of water and further offshore increases demand on port infrastructure and capability. Furthermore, the ability for the land base to service the O&M needs of the OWF quickly and efficiently forms an important part of the overall consideration as to where the land base is located. These are all key considerations for delivering the UK's and Wales' legal commitments, strategies and policies set out above.

In line with the policies set out in the NPSfP, and supported by the WNMP, there is a need for port capacity to be located where it is required to retain flexibility, and there is a need to ensure effective competition and resilience in port operations (DfT, 2012; Welsh Government, 2019b). The Port of Mostyn is ideally placed and benefits from a number of physical attributes that make it an attractive site for supporting the construction of OWFs and the location of O&M facilities in the region. In particular, the MEPE Project would offer construction and assembly facilities close to current and anticipated future OWF sites in the North Coast of Wales and in the Irish Sea which would minimise the transport distances, speed of delivery and installation time.

The Port of Mostyn is the birthplace of the UK offshore renewable energy sector, having been appointed as the construction port for the first two major windfarms in UK waters at North Hoyle off Prestatyn in 2002 and the Robin Rigg OWF in the Solway Firth in 2003. The WNMP recognises the significance of the Port of Mostyn in supporting offshore wind construction and servicing, and identifies Mostyn as one of the ports in Wales that have the greatest competitive advantage in exploiting opportunities arising from low carbon and renewable energy generation (Welsh Government, 2019b). Other Welsh ports that are recognised by the WNMP as having this role are Holyhead, Milford Haven (including Pembroke Dock), Port Talbot, Newport and Swansea.

The Port of Holyhead is the only one of these other Welsh ports that is as geographically well positioned as the Port of Mostyn to service the offshore wind sector off the North Coast of Wales and in the Irish Sea. Holyhead has been developed by its owners Stena Line to be the leading ferry port between Ireland and the UK. Stena Line has recently been consented in 2021 to expand Holyhead Port through the reclamation of two areas (known as the Salt Island Expansion and Pelham Patch Development) to provide new berths and associated landside areas for port operations and to back cruise industry ambitions, as well as support planned windfarm developments (NRW, 2022; North Wales Live, 2023).

Beyond Wales, Associated British Ports (ABP) has unveiled ambitious plans for the Port of Barrow, including expansion of its role in the UK offshore wind industry (ABP, 2024). The Port of Barrow has already established a position as the leading O&M cluster on the west coast of England. ABP is now

planning for the construction of new O&M bases to accommodate the growing offshore wind sector, along with berths capable of handling larger vessels such as service operation vessels (SOVs). ABP would also like the Port of Barrow to provide facilities for the construction of offshore windfarms, supporting the expected £17Bn investments in wind energy expected to come to the Eastern Irish Sea under the Round 4 process.

Other ports that are seeking to service the offshore wind sector are at different stages of the planning process, however, it is recognised that all of these different projects will have varying environmental effects, the scale of which has yet to be identified.

Despite the growing number of ports that have aspirations to support the offshore wind sector in and around the Irish and Celtic Seas, it is recognised that multiple facilities at different ports in both the UK and Ireland will be required to meet the overall future high demand of this sector. In line with UK and Welsh policies, new port infrastructure and capacity is required not only to meet future demand, but also to retain the necessary flexibility required by ports, and to ensure effective competition and resilience in port operations. In addition, the MEPE Project is the only project that would deliver all the key objectives of the MEPE Project, including creating local employment and enhancing skills (Section 2.1). Overall, therefore, the use of an alternative port location to the Port of Mostyn is not considered a feasible alternative solution that will meet all the objectives of the proposed development.

## 2.4 Alternative locations within the Port of Mostyn

The identification of potential alternative solutions within the Port of Mostyn was considered in Section 2.3.3. of the ES. The proposed MEPE location is the only area within the Port Mostyn where the existing and anticipated future functional requirements for the offshore wind sector could be provided for the reasons set out below.

The location is within the existing harbour on the eastern and south-eastern side of the breakwater (i.e. at the former site of the Roll-on Roll-off (RoRo) Terminal and berth) and would minimise disruption to existing operations. The site of the MEPE reclamation is also preferable to other locations within the Port of Mostyn on an environmental basis, as this area has, until recently been regularly disturbed through ongoing maintenance dredging and RoRo operations. It is also in a sheltered, low flow area of the existing harbour, which (along with the proposed alignment and orientation of the quay wall and new berth pocket in relation to the baseline flow regime) will minimise the potential interaction and effects of the MEPE reclamation on estuary processes. In addition, the extension and modification of the no longer used RoRo Terminal and berth makes best use of the available under-utilised land within the Port that adjoins the marine licence application site.

In summary, there are no feasible alternative locations within the Port of Mostyn that would meet the primary objectives of the project and have less environmental effects on the Dee Estuary.

## 2.5 Alternative design options

When developing the design of the MEPE Project, early consideration was given to alternative options with a view to optimising the design and minimising the potential environmental effects on the Dee Estuary. A high level review of the potential alternative engineering design options within the Port of Mostyn is included in Section 2.3.3. of the ES.

The only alternative design option that was considered for the MEPE reclamation was found to be inappropriate because it would result in a larger reclamation (> 6 ha) and thus a greater loss in extent of Annex I Estuaries feature of the Dee Estuary SAC and Ramsar site. The MEPE Project also makes best use of existing available marine access to the Port and minimising the requirement for further dredging of the main navigational channel, and therefore impact and disturbance on the estuary, as much as possible. In summary, the design option presented as this project represents the optimal design that meets the primary objectives of the project and minimises adverse effects to the Dee Estuary SAC and Ramsar site. An alternative design option is therefore not considered a feasible alternative solution and is not considered further.

## 2.6 Summary

Overall, it is concluded, based on current guidance (Welsh Government, 2021; Defra *et al.*, 2021), that there are no feasible alternative solutions to the MEPE Project which would meet the primary objectives of the project and have less impact or avoid impact to the Dee Estuary SAC and Ramsar site. The proposed development is considered the best solution as it achieves all the required objectives of the project whilst minimising adverse effects to the environment by limiting the size of the reclamation and extent of loss as much as possible.

## 3 Test 2: Consider imperative reasons of overriding public interest

As there are no feasible alternative solutions, there is a need to demonstrate that there are imperative reasons of overriding public interest (IROPI) why the proposal must go ahead. These must justify the proposal, despite the impact it will or could cause to the European/Ramsar site. Current guidance (Welsh Government, 2021; Defra *et al.*, 2021) indicates that in order to meet the IROPI requirements, a development must be:

- Imperative - it's essential that it proceeds for public interest reasons;
- In the public interest - it has benefits for the public, not just benefits for private interests; and
- Overriding - the public interest outweighs the harm, or risk of harm, to the integrity of the European site that's predicted by the appropriate assessment.

This second test requires consideration of the different elements of the term IROPI and the objectives of the MEPE Project (see Section 2.2 of the ES). In this case, the proposed development does not have the potential to affect any priority interest features<sup>1</sup>, and, therefore, the competent authority, NRW MLT, can consider IROPI issues that relate to social or economic benefit, in addition to those of human health, public safety, or beneficial consequences of primary importance to the environment.

The following sections set out the IROPI case for the MEPE Project.

### 3.1 Imperative

The MEPE Project is essential to enable the Port of Mostyn to expand and enhance its current offering to the offshore wind sector in order to meet both existing and future customer demand. The advent of newer and larger wind turbines has made the existing marine facilities at the Port too small to cope with the larger vessels needed to build these wind turbines which require a longer uninterrupted length of quay and deeper berth.

The proposed development is necessary to provide the support that is required for the construction of fixed foundation Round 4 projects off the north coast of Wales which are scheduled to be constructed between 2025 and 2030, including Awel y Môr (AyM), Mona and Morgan OWFs. AyM will comprise an array of offshore Wind Turbine Generators (WTGs) in Welsh waters with an overall capacity greater than 350 Megawatts (MW) (PINS, 2022). Construction is anticipated to commence in 2026 and be fully operational and commissioned by 2030. In accordance with The Crown Estate's Offshore Wind Leasing Round 4 bid, the proposed capacity of the Mona OWF is 1.5 Gigawatts (GW), and the proposed capacity of Morgan OWF is 1.5 GW. All these projects will play a key role in the energy transition by delivering a significant volume of new offshore wind in support of the UK Government's net zero by 2050 target and commitment to deliver up to 50 GW of offshore wind by 2030.

The Port of Mostyn is currently the home of three O&M bases which employs around 240 people and contributes significantly to the local economy. The MEPE Project will provide additional O&M bases

<sup>1</sup> The only priority feature of the Dee Estuary/ Aber Dyfrdwy SAC is Fixed coastal dunes with herbaceous vegetation ("grey dunes") which is located outside of the marine environment above the Highest Astronomical Tide (HAT) and is not hydrodynamically linked to the proposed development. In other words, there is no potential for the MEPE Project to result in a likely significant effect (LSE) on this feature and it was, therefore, screened out of further assessment in the HRA (Appendix 8.5 of the ES).

that are required to support the offshore wind sector now and in the future to ensure the OWFs continue to operate at an optimum level, and that they generate an efficient and reliable electricity supply. As the offshore wind sector grows, so does the demand for the components and facilities that are required to build, operate, maintain and service a windfarm. There is, therefore, a clear need for additional O&M facilities at the Port of Mostyn to support the offshore wind industry to meet the planned growth of this sector over the next decade and beyond.

On the basis of the above, it is considered imperative that the MEPE project proceeds in order to support progress towards the UK government's net zero target.

## 3.2 In the Public Interest

As set out in the preceding sub-section, the MEPE Project will play a key role in achieving UK and Welsh national policy by supporting the growth of the offshore energy industry and is, therefore, considered in the public interest at a national scale. In particular, the ongoing development of the offshore wind industry to support the UK's decarbonisation and transition to net zero emissions will have prevailing long term human health and environmental benefits which are clearly in the national public interest to help mitigate climate change and transition to a secure supply of clean energy. Supporting the introduction of energy that is affordable to consumers will have socio-economic benefits and is also considered in the public interest.

In addition to national benefits, the MEPE Project will also provide regional and local socio-economic benefits for the public through the direct and indirect creation of jobs, as well as developing and raising skills levels. A significant number of jobs would be created at the Port during the construction phase of OWFs, with potential supply chain benefits. The growth and regeneration of the local community and wider region, which includes some of the most deprived areas in Wales<sup>2</sup>, will also support the UK Government's objectives.

Given the above, the MEPE project will contribute to strong public interest objectives.

## 3.3 Overriding interest

On balance, the imperative reasons of public interest of the MEPE Project that are presented above and the large-scale and long-term public health, environmental and socio-economic benefits served by the proposed development are considered to outweigh the permanent loss of 3.22 ha of the Annex I Estuaries feature and AEOI of the Dee Estuary SAC and Ramsar site. The loss of habitat represents 0.02 % of the total extent of the feature within the Dee Estuary SAC. The quality of this feature is considered of low ecological structural and functional value given that it overlaps a working harbour which, up until recently experienced frequent port operations at the RoRo Terminal and berth, and was regularly disturbed through ongoing maintenance dredging. As a result, the benthic community associated with the area of habitat that will be lost is impoverished and characterised by low numbers of species. Overall, this habitat is not characteristic of the protected habitat features of the wider Dee Estuary SAC and is considered to be of low quality and low ecological concern.

Overall, whilst the MEPE Project will result in the permanent direct loss of 3.22 ha of the Annex I Estuaries feature of the Dee Estuary SAC and Ramsar site, the proposed development is critically and urgently required in order to contribute to the delivery of a number of UK and Welsh Government commitments

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<sup>2</sup>. <https://www.gov.wales/welsh-index-multiple-deprivation>

and policies which are of national public interest, including achieving net zero, transitioning to clean energy and security of energy supply through an increase in offshore wind generation. The MEPE Project is also in the right location to provide the flexible, efficient and competitive facilities required to support the growth in offshore wind. Provided that these supporting facilities are available at the right time, the MEPE Project will also play a key role in delivering value to the offshore wind sector and reducing the overall cost of offshore wind energy. It will also generate new jobs and raise skill levels with associated socioeconomic benefits for the region and local community, supporting the UK Government's agenda.

The impact to the European/Ramsar site will be minor while the public interest benefits are large. The public interest benefits of the MEPE project are considered to greatly outweigh the impact to the European/Ramsar site.

### 3.4 Summary

Following available guidance (Welsh Government, 2021; Defra *et al.*, 2021), there is clear evidence that the proposed development is required to proceed for public interest reasons; it has benefits for the public, not just benefits for private interests; and the public interest outweighs the harm, or risk of harm, to the integrity of the European/Ramsar site. It is therefore concluded that there is an IROPI case for the MEPE Project.

## 4 Test 3: Secure compensatory measures

As there are no feasible alternative solutions, and IROPI applies, the competent authority, NRW MLT, will need to seek permission from Welsh Ministers to proceed with the project. Welsh Ministers may require compensatory measures to be delivered as part of the plan or project to ensure the overall coherence of Natura 2000 is protected (National Assembly for Wales, 2017). Compensatory measures must be practical, implementable, likely to succeed, proportionate and enforceable, and they must be approved by the Welsh Ministers. In accordance with guidance (Welsh Government, 2021; Defra *et al.*, 2021), these measures will need to fully offset the impact which will or could be caused to the site.

Compensatory measures appropriate to adverse effects on Natura 2000 sites consist of restoration, creation, enhancement and preservation of habitat stock (National Assembly for Wales, 2017). In accordance with guidance (Welsh Government, 2021; Defra *et al.*, 2021), it is necessary to consider the following:

- How technically feasible and effective the measures will be - based on scientific evidence and previous examples;
- How financially viable the measures are - the proposer must have enough funds to cover costs;
- How the compensation would be carried out, including how it'll be managed and monitored over the time that's needed, and how it's been secured;
- Distance from the affected site - compensation closer to the site is generally preferred, unless measures further away will benefit the network of European sites as a whole; and
- How long the compensatory measures will take to reach the required quality and amount of habitat.

### 4.1 Proposed compensatory measures

The entire Dee Estuary is already designated and it is recognised that there are limited straightforward compensatory opportunities within or near to the estuary. The Port of Mostyn has undertaken a thorough search of the nearby area and engaged with relevant stakeholders to identify feasible options, namely NRW Advisory, Natural England and Flintshire County Council. These options are reviewed against the evaluation criteria set out in guidance in Table 1.

**Table 1. Review of compensation options against evaluation criteria**

Evaluation criteria	Mostyn scrape back	Warwick foreshore remedial	Greenfield industrial site	Other options
<b>Description of option</b>	This option is located adjacent to the Port of Mostyn’s dock estate and comprises <i>circa</i> 1.5 ha of relatively barren rubble along the toe of the rock armour. The manmade material in this area is proposed to be scraped back to expose underlying natural mud habitat. This will improve the quality and function of the Annex I Estuaries feature of the Dee Estuary SAC, as well as potentially provide additional supporting habitat for bird features of the Dee Estuary Special Protection Area (SPA).	This option is located directly upstream of the Port of Mostyn and comprises <i>circa</i> 1.8 ha of discarded manmade debris and coarse mixed sediment. The manmade debris is proposed to be scraped back to expose underlying natural habitat. This will improve the quality of the Annex I Estuaries feature of the Dee Estuary SAC.	This option is located approximately 5 km upstream of the Port of Mostyn. It comprises an area of the foreshore with demolished industrial building debris that could potentially be remediated.	The other options that have been considered for the compensation of Annex I Estuaries feature of the Dee Estuary SAC are managed realignment schemes. These involve the deliberate breaching, or removal, of existing seawalls, embankments or dikes in order to allow the waters of adjacent coasts and estuaries to inundate the land behind, thus creating intertidal habitat.
<i>How technically feasible and effective the measures will be - based on scientific evidence and previous examples</i>	<p><b>Technically feasible and effective</b></p> <p>The Port of Mostyn owns this area of the foreshore and can easily access it from the Port so this option is considered technically feasible to implement.</p> <p>This option will enhance estuary habitat based on the relatively low ecological value of the existing area due to manmade rubble and the effective implementation of similar past precedents involving removal or scrape back of debris, e.g. Hafan y Môr (ABPmer, 2020).</p>	<p><b>Technically feasible and effective</b></p> <p>This area is within the Port of Mostyn’s freehold ownership boundary. It is accessible via the landside and therefore this option is considered technically feasible.</p> <p>This option will enhance estuary habitat based on the relatively low ecological value of the existing area due to manmade debris and the effective implementation of similar past precedents involving removal or scrape back of debris, e.g. Hafan y Môr (ABPmer, 2020).</p>	<b>Not technically feasible or effective</b>	<b>Unknown</b>

Evaluation criteria	Mostyn scrape back	Warwick foreshore remedial	Greenfield industrial site	Other options
<p><i>How <b>financially viable</b> the measures are - the proposer must have enough funds to cover costs</i></p>	<p><b>Fully funded</b> The Port of Mostyn has enough funds to cover the costs required to implement this option.</p>	<p><b>Fully funded</b> The Port of Mostyn has enough funds to cover the costs required to implement this option.</p>	<p><b>Unknown</b> This option has not been fully costed given that it is not considered a feasible option to take forward on the basis that it would damage saltmarsh habitat and likely result in an AEOI on the Dee Estuary SAC.</p>	<p><b>Unknown</b> Other options have not been fully costed given that it has not been possible to identify a suitable managed realignment option that is technically feasible.</p>
<p><i>How the compensation would be carried out, including how it'll be <b>managed and monitored</b> over the time that's needed, and how it's been secured</i></p>	<p>An excavator will relocate the debris higher up the shore onto the toe of the existing rock armour. These works will be timed outside of the bird passage and overwintering periods to avoid any potential adverse effects on bird features. An ecological clerk of works will be appointed to ensure that there are no significant effects on any existing key ecological features during the works. Further details are provided in Section 4.1.1.</p> <p>The site will be monitored through ongoing estuary LiDAR surveys which are undertaken twice in every 5 year period. In addition, a walkover survey is proposed to be undertaken immediately following completion of the works and one year after to record visual observations and collect particle size analysis (PSA) samples to confirm that it has been successfully implemented. Further details are provided in Section 4.1.3.</p>	<p>An excavator will be used to redistribute the debris to the upper shore to provide a new and/or improved bund or revetment. These works will be timed outside of the bird passage and overwintering periods to avoid any potential adverse effects on bird features. An ecological clerk of works will be appointed to ensure that there are no significant effects on any existing key ecological features during the works. Further details are provided in Section 4.1.2.</p> <p>The site will be monitored through ongoing estuary LiDAR surveys which are undertaken twice in every 5 year period. In addition, a walkover survey is proposed to be undertaken immediately following completion of the works and one year after to record visual observations and collect particle size analysis (PSA) samples to confirm that it has been successfully implemented. Further details are provided in Section 4.1.3.</p>	<p>This option is not considered a feasible option to take forward on the basis that it would result in damage to saltmarsh habitat and therefore a potential AEOI on the Dee Estuary SAC.</p>	<p>No other suitable options involving managed realignment have been identified.</p>

Evaluation criteria	Mostyn scrape back	Warwick foreshore remedial	Greenfield industrial site	Other options
<p><b>Distance</b> from the affected site - compensation closer to the site is generally preferred, unless measures further away will benefit the network of European sites as a whole</p>	<p><b>Short distance</b></p> <p>This option is within the MEPE Project marine licence application boundary and overlaps the Dee Estuary SAC.</p>	<p><b>Short distance</b></p> <p>This option is currently adjacent to the MEPE Project marine licence application boundary and overlaps the Dee Estuary SAC. It is anticipated that the marine licence application boundary can be modified to encompass this site.</p>	<p><b>Moderate distance</b></p> <p>This option is approximately 5 km from the MEPE Project marine licence application boundary and overlaps the Dee Estuary SAC.</p>	<p><b>Unknown (likely to be greater distance)</b></p> <p>Options involving managed realignment would primarily take place above mean high water springs (MHWS) and therefore outside the boundary of the Dee Estuary SAC. However, it has not been possible to identify a suitable managed realignment option within the Dee Estuary. Any option involving managed realignment would therefore be further from the MEPE Project compared to other options.</p>
<p><b>How long</b> the compensatory measures will take to reach the required quality and amount of habitat</p>	<p><b>Short timescale</b></p> <p>As soon as the scrape back works have been completed, the required quality and amount of improved estuary habitat (<i>circa</i> 1.5 ha) will have been created. Silt is anticipated to accrete in this area over time with the natural action of the tide, which will further improve the quality and function of the habitat as well as provide supporting habitat for bird features.</p>	<p><b>Short timescale</b></p> <p>As soon as the scrape back works have been completed, the required quality and amount of improved estuary habitat (<i>circa</i> 1.8 ha) will have been created. The profile of the foreshore will reform naturally over time with the natural action of the tide and sediment movements.</p>	<p><b>Unknown</b></p> <p>This option is not considered a feasible option to take forward on the basis that it would result in damage to saltmarsh habitat and therefore a potential AEOI on the Dee Estuary SAC.</p>	<p><b>Unknown (likely to be medium to long timescale)</b></p> <p>A significant amount of work would be required to be able to take forward any potential options involving managed realignment (e.g., engineering design work, ecological surveys and environmental assessments). Subject to landowner negotiations, it is estimated that a minimum of 2 years would be required to attain the necessary licences and consents if no significant issues are identified.</p>

The applicant has worked closely with NRW Advisory to try to identify and secure suitable compensatory measures. NRW Advisory initially suggested a possible Royal Society for the Protection of Birds (RSPB) site that may have been suitable but this option did not materialise. A discussion was then held with NRW Advisory on 29 August 2024 to discuss compensation requirements in more depth and the options that had been identified by the Port of Mostyn. These included the scrape back area next to the Port of Mostyn's estate that had been presented in the ES as a proposed environmental enhancement (referred to as 'Mostyn scrape back'), and another foreshore area within the Port's freehold ownership boundary (referred to as 'Warwick foreshore remedial') that could be improved. Both the areas cover a total area *circa* 3.3 ha which slightly exceeds the area that will be lost under the footprint of the MEPE reclamation (3.22 ha).

Other compensation options in the Dee Estuary (namely managed realignment schemes) were also discussed with NRW Advisory. These are discounted, however, given that no suitable option has been identified that is considered technically feasible. A significant amount of work would be required to take any such options should they be identified forward (e.g., feasibility studies, engineering design, ecological surveys, environmental assessment work, landownership permissions and obtaining licences/consents) and their viability and successful implementation would remain uncertain. It is not considered possible to secure and deliver any such schemes within the short timescales required for the MEPE Project to be in place to meet the need of the offshore wind industry.

Natural England was contacted to determine if there are any potential opportunities for compensation involving the enhancement, remediation and/or creation of new estuary habitat on the English side of the Dee Estuary. They confirmed that NRW Advisory is the appropriate Statutory Nature Conservation Body (SNCB) to lead on compensation options and discussions given that the loss will be undertaken on the Welsh side of the estuary.

The ecologist at Flintshire County Council suggested remediating the Greenfield industrial site located approximately 5 km upstream of the Port of Mostyn. It is understood that this site was shut down in *circa* 1980s and that industrial building structures were bulldozed into the river. This debris is now surrounded by fragmented saltmarsh habitat which itself is an interest feature of the Dee Estuary SAC. The heavy plant and machinery that would be required to scrape back and clear the debris would not be able to access the area without significantly damaging the existing saltmarsh habitat and therefore likely resulting in an AEOI. This option was therefore discounted and not considered any further due to environmental reasons.

No other suitable alternative options within or near to the estuary have been identified or suggested by any stakeholders.

A site visit with NRW Advisory was therefore arranged on 4 September 2024 to view the two potential compensation sites that had been identified by the Port of Mostyn. This site visit was attended by the applicant and five members of the NRW Advisory team. Following a walkover of the two sites, NRW Advisory considered these areas to be suitable for compensation. It was therefore agreed on the basis that there do not appear to be any other viable alternative options, that these two sites should be taken forward as compensatory measures for the MEPE Project.

As advised by NRW Advisory on the site visit, the following sections present further details of the proposed compensation sites and how they are proposed to be delivered.

### 4.1.1 Mostyn scrape back

The 'Mostyn scrape back' compensation site is located along the western section of the Port of Mostyn's dock estate (Figure 1). This area comprises *circa* 1.5 ha of relatively barren rubble (brick, debris, slag deposits, concrete etc.) along the toe of the rock armour exhibiting limited colonisation by characteristic macroalgae and epifaunal species (Image 1 to Image 3).

The manmade material in this area is proposed to be scraped back to expose underlying natural mud. Scraping back the manmade material will allow silt to settle in this area and support natural mudflat restoration on the upper sections of Mostyn Bank that are typically above mean high water neaps (MHWN). It will also potentially provide an increased area available for feeding and loafing waterbirds. This will improve the quality and function of the Annex I Estuaries feature of the Dee Estuary SAC, as well as potentially provide additional supporting habitat for bird features of the Dee Estuary SPA.

The scrape back works will involve the use of an excavator to dig out the debris and redistribute it higher up the shore onto the toe of the existing rock armour. These works will be timed outside of the bird passage and overwintering periods (i.e., August to April) to avoid any potential adverse visual and noise disturbance effects on waterbird features. An ecological clerk of works will be appointed by the contractor to ensure that there are no significant effects on any existing key ecological features during the remedial works, including the important roost site on the breakwater ledge.



Figure 1. Scrape back area at Mostyn



**Image 1.** View (east) of the southwest part of scrape back area



**Image 2.** View (northeast) of the central part of scrape back area



**Image 3.** View (northeast) of the northeast part of scrape back area

### 4.1.2 Warwick foreshore remedial

The ‘Warwick foreshore remedial’ compensation site is an area of foreshore directly upstream of the Port of Mostyn, situated seaward of the disused Warwick Chemicals site and redundant breeze block manufacturing works (Figure 2). This *circa* 1.8 ha area comprises discarded manmade debris, including rejected concrete breeze blocks, bricks and demolished building material, as well as coarse mixed sediment that appears to be of manmade origin (Image 4 to Image 7). This material is largely barren with limited colonisation of typical macroalgae and epifaunal species.



**Figure 2. Foreshore remedial area at Warwick**

The manmade debris in this area is proposed to be scraped back to expose underlying natural (i.e., non-manmade) habitat. This will improve the quality of the Annex I Estuaries feature of the Dee Estuary SAC. An excavator will be used to clear the site of debris. This will involve digging the existing manmade material down to a depth of *circa* 1 to 2 m to expose underlying natural material. The material that is excavated will be sorted by size and redistributed to the upper shore along the seaward edge of the existing landownership boundary (fence line) to provide a new and/or improved bund or revetment. A drawing showing a plan and cross-sections of the proposed works is included in Figure 3.

The works will take place outside the bird passage and overwintering periods (i.e., August to April) to avoid any potential adverse disturbance effects on waterbird features. An ecological clerk of works will also be appointed by the contractor to ensure that there are no significant effects on any existing environmental receptors or their supporting habitat during the remedial works, including roosting birds using the coarse mixed sediments.



**Image 4.** View (southeast) of the southeastern part of remedial area



**Image 5.** View (northwest) of the central part of remedial area



**Image 6.** View (southeast) of the northwestern part of remedial area



**Image 7.** View (northwest) of the northwestern part of remedial area

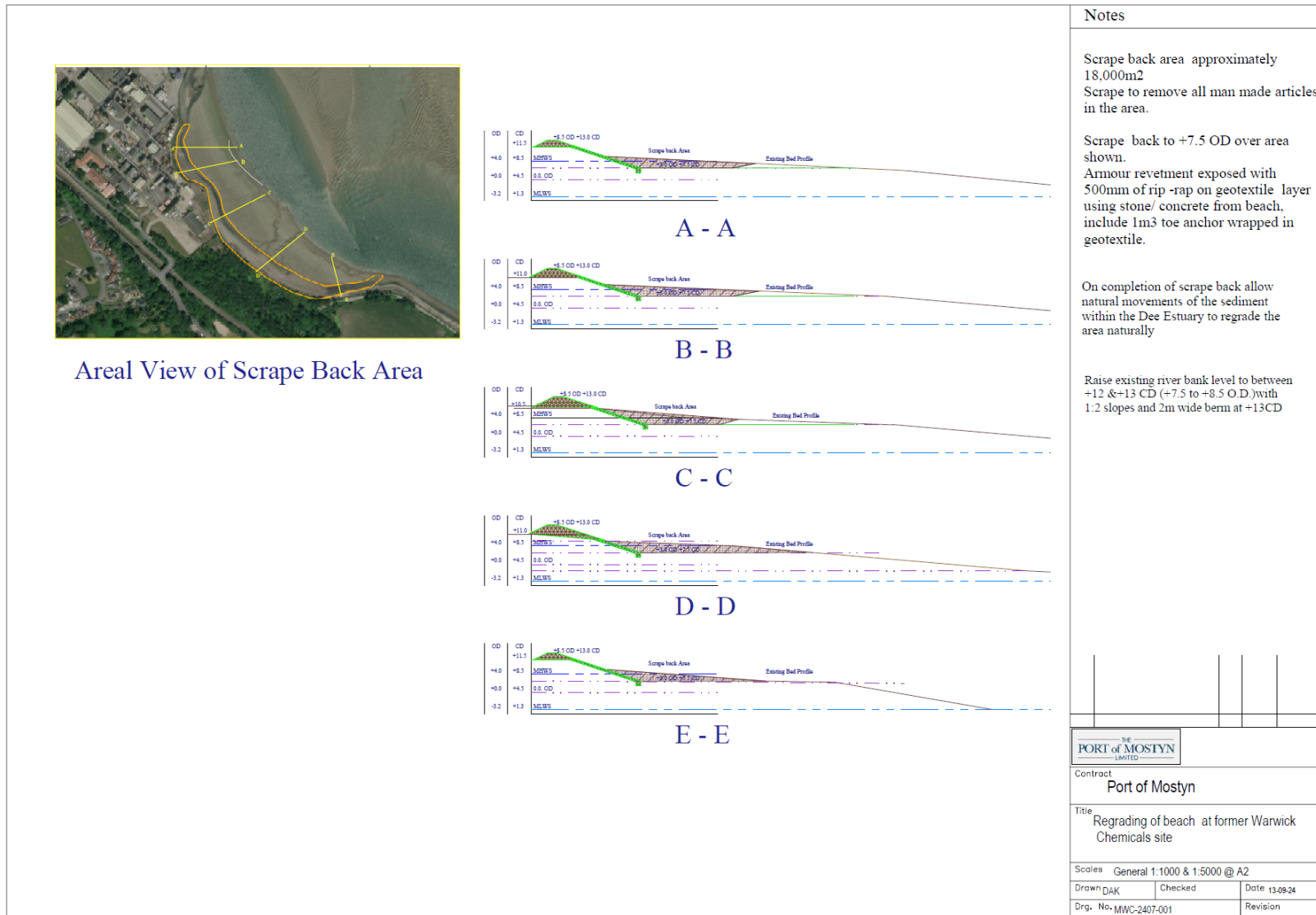


Figure 3. Plan and cross-sections of proposed foreshore remedial works at Warwick site

### 4.1.3 Monitoring plan

The compensation sites will be monitored as part of the proposed future monitoring schedule for the MEPE Project which covers the 7 year period of the licence application. This will include the ongoing Estuary LiDAR surveys which are undertaken twice in every 5 year period (i.e., approximately every 2 to 3 years).

In addition, a walkover ecological survey of the Mostyn scrape back area and Warwick foreshore remedial area is proposed to be undertaken immediately before and after the works have been completed and one year later. These surveys will record visual observations through fixed-point photographic evidence, and collect targeted particle size analysis (PSA) samples (minimum of 5) to confirm that the compensation measures at both sites have taken place and have been successfully implemented. Further ecological surveys would then only take place if any issues were identified.

A brief survey report will be provided to NRW MLT. This will be used to verify the extent of the scrape back and to describe the improvements made to estuary habitat at the compensation sites. The need for more surveys beyond this work can be agreed with NRW MLT in response to the findings as required.

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## 6 Abbreviations/Acronyms

ABP	Associated British Ports
AEOI	Adverse Effect on Integrity
BEIS	Department for Business Energy & Industrial Strategy
CD	Chart Datum
CfD	Contracts for Difference
DBT	Department for Business and Trade
DESNZ	Department for Energy Security & Net Zero
EIA	Environmental Impact Assessment
ES	Environmental Statement
GW	Gigawatts
HM	His Majesty's
HRA	Habitats Regulations Assessment
IROPI	Imperative Reasons of Overriding Public Interest
JNCC	Joint Nature Conservation Committee
MEPE	Mostyn Energy Park Extension
MHWN	Mean High Water Neaps
MHWS	Mean High Water Springs
MLT	Marine Licensing Team
MW	Megawatts
NRP	Natural Resources Policy
NRW	Natural Resources Wales
OD	Ordnance Datum
OWF	Offshore Wind Farm
PD	Project Director
PINS	Planning Inspectorate
PM	Project Manager
PSA	Particle Size Analysis
QM	Quality Manager
RSPB	Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SNCB	Statutory Nature Conservation Body
SPA	Special Protection Area
UK	United Kingdom
WNMP	Welsh National Marine Plan

Cardinal points/directions are used unless otherwise stated.

SI units are used unless otherwise stated.

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