

Marine Licensing Variation Decision

The Marine and Coastal Access Act (2009)

Applicant: *Conwy County Borough Council*

Variation application reference no:
CML2272v2

***Kinmel Bay Coastal Defence Improvements
Scheme***

Upgrades to the current rock armour and
seawall, and beach access points at Towyn,
Kinmel Bay.

04 February 2025

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OUR DECISION

Based on all the information available, and having regard to all relevant considerations NRW has decided to grant the variation to the Existing Marine Licence sought by the Variation Application considered complete 03 December 2024 . The changes are set out in Annex 1.

This decision document:

- explains how the Variation Application has been determined, having regard to the relevant legal framework outlined in section 5;
- 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: Cyngor Bwrdfestref Sirol Conwy / Conwy County Borough Council Address: Environment, Roads & Facilities, Mochdre Offices, Conway Road, Mochdre, Conwy, LL28 5AB
Variation Application reference number	CML2272v2
Existing Marine Licence reference number	CML2272v1
Date Variation Application was duly made	03 December 2024
Description of variation	• Change two access points proposed at the eastern side of Towyn Bay Revetment (AP8 and AP9 proposed at Golden Sands Holiday Park) to a single beach access point (AP10) in the centre of the revetment. • Change to the original construction methodology proposed for the construction of the beach access points, from using vibration-

	free piling to use traditional vibro-hammer piling in the dry. • The removal of the requirement for piling across all other beach access points (AP3-7) across the scheme. • The installation of the access point AP10 will also require the placement of a temporary cofferdam.
Proposal[s] covered by the Variation Application (the Project)	Upgrades to the current rock armour and improvements to the existing seawall and beach access points at Towyn Revetment Temporary works at Kinmel Bay
Licensable marine activities (the Proposed Activities)	The new rock armour will be a height of 7.2mOD, the current 1 in 4 slope angles of the rock armour will be retained, with the height and width of the crest increasing. The new design will reuse and repurpose the current rock armour material where possible. The existing seawall will be raised by 0.75m, up to 8mOD and improvements will take place at the two beach access points. The deposit of construction vehicle tracking and movements. Minor movement of material for the placement of rock armour. Construction and removal of temporary cofferdam.
Marine Plan area	Welsh inshore region and Welsh offshore region
Variation Application documents:	CML2272v2 - Application Form CML2272v2 - NDD-JBA-XX-XX-RP-EN-0001-S3-P02-ES_addendum_for_piling_method CML2272v2 - NDD-JBA-XX-XX-RP-EN-0002-S3-P02-ES_addendum_for_piling_NTS CML2272v2 - Kinmel Bay CMS Addendum MS Rev 1 CML2272v2 20241202smb Marine Licence amendment_WFDHRA

2 VARIATION APPLICATION PROCEDURE

2.1 The Variation Application

The Variation Application was accepted by Natural Resources Wales (**NRW**) considered duly made on **03 December 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.

3 CONSULTATION

NRW considered it appropriate to consult the bodies listed in the table below on 10 December 2024, due to their particular expertise. These bodies were consulted for a period of 42 days. Those bodies 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
The Crown Estate / Swangrove Estate	Y	16 December 2024
NRW	Y	19 December 2024
MoD - Safeguarding Defence	Y	10 December 2024
Maritime & Coastguard Agency	Y	08 January 2025
Trinity House	N	
Royal Yachting Association	Y	15 January 2025

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Local Biodiversity Officer	N	
Local Planning Authority	N	
Local Harbour Authority	N	
Local Port Authority	N	
Royal Society for the Protection of Birds (RSPB)	N	
Fisheries / Marine Enforcement Officers	Y	11 December 2024
Cadw	N	
Welsh Archaeological Trusts	Y	23 January 2025
Royal Commission on Historic Monuments Wales	Y	09 January 2025
Environmental Public Health Service Wales	Y	10 December 2024
Chamber of Shipping	N	
NERL Safeguarding	Y	11 December 2024

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 5 of this decision document.

4 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 ("the EIA Directive") 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 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 Marine Licence application required for the original Project was accompanied by an Environmental Statement (ES). NRW assessed the project as an EIA development under the Regulations and issued a Written Confirmation of the EIA

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Consent Decision (*CML2272 EIA 2017 Written Confirmation of the EIA Consent Decision*) on 15 March 2023. NRW is satisfied that the information incorporated in the EIA Consent Decision is up to date at the time of this decision. The variation application was supported by the documents listed in section 1 including an environmental report indicating the applied changes and how these fit within the parameters assessed (project design envelope) for the original project. NRW PS agree that the changes represent only a small change to the project design envelope assessed within the Environmental Statement (*CML2272 - GKX-JBAB-00-00-RP-EN-0006-S3_P04-Environmental_Statement*) submitted on 23 November 2022 in support of the original application and that the conclusion of the EIA Consent Decision dated 15 March 2023 remains valid.

5 BASIS FOR OUR DECISION

In determining the marine licence variation application, NRW has taken regard of the decisions made in the EIA Consent Decision dated 15 March 2023. NRW is satisfied that this information is up to date at the time of this decision. However, where the changes outlined in the variation application have impacted on NRW's decision making, this has been noted in the relevant paragraph of this section in the decision document.

5.1 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.

5.1.1 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.

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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 Marine Licence Variation Application dated 10 December 2024 requested the change to the design of the project as follows:

- Change two access points at the eastern side of Towyn Bay Revetment (AP8 and AP9 proposed at Golden Sands Holiday Park) to one beach access point (AP10) situated in the centre of the revetment.
- Change to the original construction methodology for the construction of the beach accesses, to use traditional vibro-hammer piling in the dry at this access point (instead of vibration-free piling).
- The removal of the requirement for piling across all other beach access points (AP3-7) across the scheme.
- The installation of the access point AP10 will also require the placement of a temporary cofferdam.

Following consultation, NRW TE agree with the only identified potential impact pathway through noise disturbance to fish and marine mammals. NRW TE agree with the conclusions of the HRA, which states that that the variation will not adversely affect the integrity of any sites as vibro-piling will be undertaken outside of the water.

Further information is outlined within CML2272v2 HRA.

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

No issues were raised regarding impacts to the wider environment. NRW is satisfied that the conclusions of the EIA remain relevant and that the Proposed Activities will not result in any further impacts on the environment.

5.1.3 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.

5.2 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.

No issues were raised regarding impacts to the legitimate users of the sea. NRW is satisfied that the conclusions of the EIA remain relevant and that the Proposed Activities will not result in any further impacts to legitimate users of the sea.

5.2.1 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 the marine licence (ORML1618v2)].

5.3 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.

5.4 Other matters NRW thinks relevant

5.4.1 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.

5.4.2 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

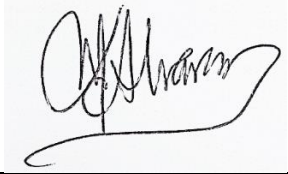
NRW is satisfied that this decision, when implemented in accordance with the attached conditions, is consistent with its general purpose of pursuing the sustainable management of natural resources in relation to Wales, and applying the principles of sustainable management of natural resources.

6 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 5 and have also explained in section 5 how each of the legal requirements have been considered. NRW has determined that a Marine Licence for the Proposed Activities should be granted.

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7 AUTHORISATION

Report by: Maria Alvarez Position: Lead Specialist (Permitting Officer)	Date: 27 January 2025	Signed: 
Authorised by: Emmer Litt Position: Marine Licensing Team Leader	Date: 04 February 2025	Signed: 

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Annex 1 – Changes to Marine Licence

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

Changes to table 2.3 Approved Supporting Documents to include the following documents:

Title/Description of Document	Date Submitted
CML2272v2 - Application Form	15 October 2024
CML2272v2 - NDD-JBA-XX-XX-RP-EN-0001-S3-P02-ES_addendum_for_piling_method	15 October 2024
CML2272v2 - NDD-JBA-XX-XX-RP-EN-0002-S3-P02-ES_addendum_for_piling_NTS	15 October 2024
CML2272v2 - Kinmel Bay CMS Addendum MS Rev 1	15 October 2024
CML2272v2 20241202smb Marine Licence amendment_WFDHRA	02 December 2024

Changes to Table 1 Licensed Activities:

Activity 2 - Temporary works at Kinmel Bay to include “Construction and removal of temporary cofferdam”