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Wales

# Marine Licensing Decision

The Marine and Coastal Access Act (2009)

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**Applicant: The Port of Mostyn Limited**  
**Application reference no: CML2283**

**The Port of Mostyn, Flintshire**

**Construction and Dredge associated with the Mostyn  
Energy Park Extension Project**

***06 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 marine licence sought by the Application subject to the conditions set out in Annex 1.

This decision document:

- explains how the application has been determined, having regard to the relevant legal framework outlined in section 5;
- explains how relevant considerations have been taken into account and how each of the legal requirements have been considered in determining the Application;
- provides a record of the decision-making process; and
- sets out the reasons for any conditions imposed in connection with any marine licence granted pursuant to the Application.

## **1 APPLICATION DETAILS**

### **1.1 The Application**

Applicant Name and Address	The Applicant is the company set out below:  Company: The Port of Mostyn Limited Company number: 2804520 Address: The Port of Mostyn, Coast Road, Mostyn, Holywell, Flintshire, CH8 9HE
Application Reference Number	CML2283
Date Application was duly made	17 January 2023
Proposal[s] covered by the application  (the <b>Project</b> )	Port of Mostyn Energy Park Extension Project
Licensable marine activities	Port of Mostyn Energy Park Extension Project - The key elements of the project are detailed below; while further detail can be found within the Environmental Statement (ES) – (chapter 2 and 3) <ul style="list-style-type: none"><li>• Constructing a 360 m length of new quay wall as a combination pile wall</li><li>• Infilling the area that is reclaimed behind the new quay wall</li><li>• Relocation of four existing Ro-Ro dolphins (piles) at the Port of Mostyn to another area within the harbour area</li><li>• Dredging of a new berth pocket along a new quay wall</li><li>• Dredging the existing berth pocket and main navigation channel</li><li>• Reusing up to 500,000 m<sup>3</sup> (1,000,000 tonnes) of the suitable dredge arisings as infill material for reclamation activity</li><li>• Disposal of dredged material at the Mostyn Deep (IS102) and Mostyn Breakwater (IS103) disposal site</li><li>• Removal annually of up to 75,000 m<sup>3</sup> (150,000 tonnes) of maintenance dredge material ashore</li><li>• Implementation of compensation measures that support natural mudflat restoration</li></ul>

	<p>(the <b>Proposed Activities</b>)</p> <p>The application had initially included the potential construction of a RoRo linkspan however in email dated 3 October 2024 it was confirmed that the construction of the linkspan is no longer required. In addition, works at the Mostyn Scrape Back Site was presented as part of the initial proposal as environmental enhancement, however following the conclusion of the HRA, the environmental enhancement work are now proposed to contribute to provide an area for compensation alongside work at the Warwick foreshore remedial site. Further details surrounding the compensation measures are detailed with ABPmer Report (September 2024).</p>
<p>Marine Plan Area</p>	<p>Welsh inshore region and Welsh offshore region</p>
<p>Application documents:</p>	<p>The following document were submitted in support of the application;</p> <ul style="list-style-type: none"> <li>• Environmental Statement consisting of the following chapters;</li> <li>• Environmental Statement: Non-Technical Summary</li> <li>• Environmental Statement Chapter 1: Introduction</li> <li>• Environmental Statement Chapter 2: Proposed Development</li> <li>• Environmental Statement Chapter 3: Project Methodology</li> <li>• Environmental Statement Chapter 4: Legislative and Consenting Framework</li> <li>• Environmental Statement Chapter 5: Impact Assessment Approach</li> <li>• Environmental Statement Chapter 6: Physical Processes</li> <li>• Environmental Statement Chapter 7: Water and Sediment Quality</li> <li>• Environmental Statement Chapter 8: Nature Conservation and Marine Ecology</li> <li>• Environmental Statement Chapter 9: Fisheries</li> <li>• Environmental Statement Chapter 10: Commercial and Recreational Navigation</li> <li>• Environmental Statement Chapter 11: Flood Risk and Drainage</li> <li>• Environmental Statement Chapter 12: Cultural Heritage and Marine Archaeology</li> <li>• Environmental Statement Chapter 13: Cumulative and In-combination Effects</li> <li>• Environmental Statement Chapter 14: Summary</li> <li>• Environmental Statement Appendix 1.1: EIA Competency Statement</li> <li>• Environmental Statement Appendix 4.1: Marine Plan Conformance Assessment in NRW template</li> <li>• Environmental Statement Appendix 6.1: Waste Hierarchy Assessment</li> <li>• Environmental Statement Appendix 6.2: Model Calibration Report</li> <li>• Environmental Statement Appendix 7.1: Water Framework Directive Assessment</li> <li>• Environmental Statement Appendix 7.2: Sediment sample plan analysis results in NRW template</li> <li>• Environmental Statement Appendix 8.1: Benthic Ecology Survey Report</li> </ul>

- Environmental Statement Appendix 8.2: Fish and Marine Mammals Surveys
- Environmental Statement Appendix 8.3: Coastal Bird Surveys
- Environmental Statement Appendix 8.4: Underwater Noise Assessment
- Environmental Statement Appendix 8.5: Habitats Regulations Assessment
- Environmental Statement Appendix 10.1: Navigational Risk Assessment Terminology
- Environmental Statement Appendix 11.1: Flood Consequence Assessment
- Environmental Statement Appendix 12.1: Marine Archaeology Desk-Based Assessment
- Spreadsheet – Marine Licence Application co-ordinates
- Shapefile – Marine Licence areas
- Marine Works Application Form
- Dredge and Disposal Application Form

NRW requested further information from the applicant on the 24 March 2023, this was subsequently received on the 1 September 2023. A list of documents submitted following the further information request is listed below;

- R4238\_Final for Consultation\_29Aug2023 – ABPmer report detailing further information in support of Marine Licence Application CML2283
- AppendixA\_MEPE\_Comments\_log\_21Jul2023.xlsx
- MEPE NRW MLT Request for Further Information Comment Log
- MEPE NRW Advisory Signposting Document.
- Updated Marine Works Application Form
- Tracked version of Marine Works Application Form
- Updated Dredge and Disposal Application Form
- Tracked version of Dredge and Disposal Application Form

In addition, copies of the following key references that were mentioned in the further information report were provided

- Port of Mostyn Breakwater Quay Development Environmental Statement (ERM breakwater ES 2009)
- Mostyn Deep Sediment Transport Studies 2002 (HRW\_EX4630\_Sep2002.pdf)
- Maintenance of Navigation Mostyn Channel Monitoring Protocols r 1.pdf
- Mostyn Channel Monitoring Protocols (FINAL) Dec 08 rev 4 .pdf
- Port of Mostyn Re-Development (work Undertaken Following Public Inquiry) Environmental Statement Update and Cumulative Impact Assessment (Mostyn dock ES update final as issued 18.9.02.doc)
- Port of Mostyn Dredge and Disposal Operations for Maintenance of Navigation Environmental Statement 2007 (Port of Mostyn ES 24.10.07.pdf)

NRW subsequently requested further information from the applicant on the 12 January 2024, this was subsequently

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	<p>received on the 28 March 2024. A list of documents submitted following the further information request is listed below;</p> <ul style="list-style-type: none"><li>• Further Clarification Report dated 27 March 2024</li><li>• Appendix A – Further Clarification Comment Log</li></ul> <p>On the 2 August 2024, NRW provided the applicant with the opportunity to provide information to meet the requirements of Article 6(4) of the Habitat Directive, namely, there are no feasible alternative solutions, there is overriding public interest for the project to proceed, and that necessary compensation can be secured. On the 20 September 2024 the applicant submitted ABPmer Report (document reference R4606) providing the requested information.</p>
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## **2 APPLICATION PROCEDURE**

### **2.1. The Application**

The Application was accepted by Natural Resources Wales (**NRW**) and considered duly made on 17 January 2023. This means we considered it was in the correct form and contained sufficient information for us to begin our determination, but not that it necessarily contained all the information we needed to complete that determination, and the documents considered may therefore include documents provided after the Application was first made.

### **2.2. Documents considered**

In reaching its decision, NRW has considered the documents listed in section 1 of this decision document along with such other information provided by the Applicant or received by consultees as NRW considered relevant.

### **2.3. Commercial Confidentiality**

We have accepted the Applicants claim for commercial confidentiality on the grounds that disclosure of certain information on the public register would adversely affect the confidentiality of commercial or industrial information where such confidentiality is protected by law to protect a legitimate commercial interest. As such we have not included this information on the register.

### **2.4. Publicity and advertising**

In compliance with s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act) and regulation 16 of the Marine Works (Environmental Impact Assessment) Regulations 2007, a public notice advertising the Project was placed in The Leader newspaper on 27 January 2023 and 3 February 2023 (the Public Notices) and a notice was published on NRW's website. The application documents were made available to the public at Holywell Library, Holywell, Flintshire and on NRW online public register. They could also be requested from Natural Resources Wales Permitting Service.

The public were given a period of 42 days from the date of the first Public Notice to provide comments on the application.

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

Following a submission of further information received on the 1 of September 2023 a further public notice was placed in The Leader newspaper on 11 September 2023 and 18 September 2023 and a notice was published on NRW's website. The further information was made available to the public at Holywell Library, Holywell, Flintshire and on NRW online public register. They could also be requested from Natural Resources Wales Permitting Service.

The public were given a period of 42 days from the date of the first Public Notice to provide comments on the application.

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

Following a submission of further information received on the 28 of March 2024 a further public notice was placed in The Leader newspaper on 8 April 2024 and 15 April 2024 and a notice was published on NRW's website. The further information was made available to the public at Holywell Library, Holywell, Flintshire and on NRW online public register. They could also be requested from Natural Resources Wales Permitting Service.

The public were given a period of 42 days from the date of the first Public Notice to provide comments on the application.

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

### **3 CONSULTATION**

#### **3.1 Consultees**

NRW considered it appropriate to consult the bodies listed in the table below on 24 January 2023 due to their particular expertise. These bodies were consulted for a period of 42 days. For those bodies which responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

<b>Consultee</b>	<b>Response received (Y/N)</b>	<b>Date(s) of receipt</b>
The Crown Estate	N	
NRW Advisory	Y	7 March 2023
Ministry of Defence- Safeguarding Defence	Y	24 January 2023
Maritime & Coastguard Agency	Y	10 March 2023
Trinity House	Y	2 March 2023
Royal Yachting Association	Y	1 February 2023
Local Biodiversity Officer (Flintshire County Council)	N	
Local Planning Authority (Flintshire County Council)	N	
Local Harbour Authority – The Port of Mostyn	N	
Local Harbour Authority – The Dee Conservancy	Y	1 March 2023
Local Harbour Authority - NRW	Y	6 March 2023
Royal Society for the Protection of Birds (RSPB)	Y	7 March 2023
Cadw	Y	28 February 2023
Welsh Archaeological Trust	Y	24 January 2023
Royal Commission on the Ancient and Historic Monuments of Wales	Y	27 February 2023
National Federation of Fishermen's Organisations (NFFO)	N	
Cockle Fisheries NRW	Y	16 March 2023

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Welsh Fishermens Association (WFA)	N	
Chamber of Shipping	N	
NATS Safeguarding	Y	1 February 2023
Cefas - surrounding suitability of dredged material for disposal	Y	7 March 2023
Natural England	Y	14 March 2023
Environment Agency	Y	16 March 2023

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

Following a submission of further information, received on the 1 of September 2023, NRW consulted the bodies listed in the table below on the 11 September 2023, due to their particular expertise in matters arising in relation to this application. These bodies were consulted for a period of 42 days. For those bodies that responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

<b>Consultee</b>	<b>Response received (Y/N)</b>	<b>Date(s) of receipt</b>
The Crown Estate	Y	2 October 2023
NRW Advisory	Y	7 November 2023 and 16 November 2023
Ministry of Defence- Safeguarding Defence	Y	12 September 2023
Maritime & Coastguard Agency	Y	19 October 2023
Trinity House	Y	3 October 2023
Royal Yachting Association	Y	21 September 2023
Local Biodiversity Officer (Flintshire County Council)	N	
Local Planning Authority (Flintshire County Council)	N	
Local Harbour Authority – The Port of Mostyn	N	
Local Harbour Authority – The Dee Conservancy	Y	16 October 2023
Local Harbour Authority - NRW	N	
Royal Society for the Protection of Birds (RSPB)	Y	20 October 2023
Cadw	Y	18 October 2023

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Welsh Archaeological Trust	Y	11 September 2023
Royal Commission on the Ancient and Historic Monuments of Wales	Y	18 October 2023
National Federation of Fishermen's Organisations (NFFO)	N	
Fisheries Conservation Authority (IFCA)	Y	12 September 2023
Cockle Fisheries NRW	Y	20 October 2023
Welsh Fishermens Association (WFA)	N	
Chamber of Shipping	N	
NATS Safeguarding	Y	12 September 2023
Cefas - surrounding suitability of dredged material for disposal	Y	13 September 2023
Natural England	Y	2 October 2023 and 20 October 2023
Environment Agency	Y	27 November 2023
Welsh Government Fisheries and Marine Enforcement Division	N	

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

Following a submission of further information, received on the 28 of March 2024, NRW consulted the bodies listed in the table below on the 8 April 2024, due to their particular expertise in matters arising in relation to this application. These bodies were consulted for a period of 42 days. For those bodies that responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

<b>Consultee</b>	<b>Response received (Y/N)</b>	<b>Date(s) of receipt</b>
The Crown Estate	Y	17 May 2024
NRW Advisory	Y	21 May 2024
Ministry of Defence- Safeguarding Defence	Y	14 May 2024
Maritime & Coastguard Agency	Y	17 May 2024
Trinity House	Y	21 May 2024
Royal Yachting Association	N	
Local Biodiversity Officer (Flintshire County Council)	N	

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Local Planning Authority (Flintshire County Council)	N	
Local Harbour Authority – The Port of Mostyn	N	
Local Harbour Authority – The Dee Conservancy	Y	13 May 2024
Local Harbour Authority - NRW	N	
Royal Society for the Protection of Birds (RSPB)	Y	31 May 2024
Cadw	Y	16 May 2024
Welsh Archaeological Trust	N	
Royal Commission on the Ancient and Historic Monuments of Wales	Y	17 April 2024
National Federation of Fishermen's Organisations (NFFO)	N	
Fisheries Conservation Authority (IFCA)	Y	22 April 2024
Cockle Fisheries NRW	Y	16 May 2024
Welsh Fishermens Association (WFA)	N	
Chamber of Shipping	N	
NATS Safeguarding	Y	19 April 2024
Natural England	Y	16 May 2024
Environment Agency	N	
Welsh Government Fisheries and Marine Enforcement Division	Y	11 April 2024
Public Health Wales	Y	24 April 2024

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

Following a submission of ABPmer Report (document reference R4606) on 20 September NRW consulted the bodies listed in the table below on the 24 September 2024, due to their particular expertise in matters arising in relation to this application. These bodies were consulted for a period of 21 days. For those bodies that responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

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<b>Consultee</b>	<b>Response received (Y/N)</b>	<b>Date(s) of receipt</b>
The Crown Estate	N	
NRW Advisory	Y	10 October 2024
Ministry of Defence- Safeguarding Defence	Y	26 September 2024
Maritime & Coastguard Agency	Y	26 September 2024
Trinity House		
Royal Yachting Association	Y	14 October 2024
Local Biodiversity Officer (Flintshire County Council)	N	
Local Planning Authority (Flintshire County Council)	N	
Local Harbour Authority – The Port of Mostyn	N	
Local Harbour Authority – The Dee Conservancy	N	
Local Harbour Authority - NRW	N	
Royal Society for the Protection of Birds (RSPB)	Y	14 October 2024
Cadw	Y	8 October 2024
Welsh Archaeological Trust	N	
Royal Commission on the Ancient and Historic Monuments of Wales	Y	2 October 2024
National Federation of Fishermen's Organisations (NFFO)	N	
Fisheries Conservation Authority (IFCA)	Y	15 October 2024
Cockle Fisheries NRW	Y	2 October 2024
Welsh Fishermens Association (WFA)	N	
Chamber of Shipping	N	
NATS Safeguarding	Y	26 September 2024
Natural England	Y	3 October 2024
Environment Agency	Y	14 October 2024

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Welsh Government Fisheries and Marine Enforcement Division	Y	1 October 2024
Public Health Wales	N	

Network Rail were consulted on the 29 November 2024 following the identification of rail infrastructure and coastal defence assets in the vicinity of the Warwick Remedial Site compensation works. A meeting was held on 12 December 2024 between NRW and Network Rail to give an overview of the proposal and application process. Following this no response was provided.

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.

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## **4 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

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.

### **4.1 Screening**

The application was considered by NRW to constitute an EIA development under the Regulations, and a Screening Opinion (ref SC2107) was issued on 6 January 2022.

Pursuant to Regulation 8 of the Regulations, NRW considered that the proposed works fell under Schedule A2, para 63 of the Regulations on the assessment of the effects of the project on the environment, specifically:

63. Construction of harbours and port installations including fishing harbours

### **4.2 EIA**

The Marine Licence application required for the 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 Consent Decision. The Written Confirmation is available on the NRW website and the marine licensing public register. NRW is satisfied that the information incorporated in the EIA Consent Decision is up to date at the time of this decision.

In accordance with Regulation 24 of the Regulations, the following information is included in subsequent sections of this document:

- Conclusion of the EIA assessment
- Any conditions, mitigating and monitoring measures described in the regulatory decision
- Description of features/measures to avoid, prevent, reduce and offset likely significant adverse effects on the environment
- The main reasons and considerations on which this regulatory decision is based
- A summary of the results of consultations undertaken and how these have been incorporated into this regulatory decision

### **4.3 Conclusion of the EIA**

NRW issued a Written Confirmation of the EIA Consent Decision containing the conclusion about Environmental Impact arising from the project and the EIA Consent Decision. In reaching the conclusion, NRW considered the following information:

- The application for a Marine Licence
- The Environmental Statement submitted
- Any further information provided
- The responses to public consultation
- The responses to the technical consultation
- Any comments received from another EEA state
- Any features of the project, or proposed measures, to avoid, prevent, reduce or offset any likely significant adverse environmental effects

NRW considered the likely significant effects of the project, and reached a conclusion on the likely significant effects of the project with regard to the following:

- Population and human health
- Biodiversity
- Land, soil, water, air and climate
- Material assets, cultural heritage and landscape

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- Risk of major accidents and disasters relevant to the project
- Cumulative impacts and in-combination impacts

A summary of the conclusion on the likely significant effects of the project is incorporated below. Full details of the conclusion on the likely significant effects of the project can be found in the Written Confirmation of the EIA Consent Decision.

### **4.3.1 Population and human health**

The Project is looking to enhance and expand the facilities at the Port of Mostyn in order to allow the port to support and service the current and anticipated future growth in the offshore wind industry. Due to its ability to support offshore wind developments the proposal will support the UK's decarbonisation and transition to net zero emission, therefore having a positive impact on climate change and clean air. In addition, the proposal is expected to provide regional and local socio-economic benefits to the public through direct employment.

Any changes in local air quality associated with the operation of construction plant during the construction phase were considered to be temporary and negligible in scale and were scoped out of the assessment. The project is not anticipated to have an impact on human health.

### **4.3.2 Biodiversity**

The works are within and near to a number of protected sites. A Habitats Regulations Assessment (HRA) was carried out and concluded that the project had the potential to adversely affect the estuaries feature of the Dee Estuary SAC due to the permanent loss of habitat as a result of land reclamation activity. NRW considered that although adverse effect cannot be ruled out the project satisfied the requirements of Article 6(4) of the Habitat Directive, namely, there are no feasible alternative solutions, there is overriding public interest for the plan to proceed, and that necessary compensation measures have been proposed that will fully offset the damage which will be caused to the site.

The ES considered the potential further impact on biodiversity and identified a number of potential impacts including on marine mammals, ornithology, benthic and fish receptors where additional mitigation was required. NRW considered that although there is a potential impact on these features, any significant impact will be avoided through the implementation of appropriate mitigation as discussed in section 8 of the EIA Consent Decision. These include but are not limited to, adherence to a Construction Environment Management Plan (CEMP), measures to avoid or mitigate potential introduction of INNS, measures associated with piling activities and limit on the amount and manner in which dredge and disposals activities takes place.

### **4.3.3 Land, soil, water, air and climate**

There is an impact pathway to water quality and land through a pollution event. In addition, there is the potential to impact on water quality through increased sedimentation during dredge and disposal activities. The ES has assessed these impacts and proposed mitigation including adherence to a CEMP which incorporates pollution prevention best practices and a monitoring plan to monitor impact of the works on the estuary morphology and physical processes. Samples of the material to be dredged were chemically analysed and considered that the sediment was suitable for disposal at sea. NRW considered that the works have been appropriately assessed and subject to the mitigation identified no significant impact on water quality or land was predicted.

### **4.3.4 Material assets, cultural heritage and landscape**

The ES considered a number of impacts including direct impacts during construction activities, capital and maintenance dredging as well as indirect impacts due to altered sediment or hydrological processes on cultural heritage assets. Subject to appropriate mitigation significant effect on historic assets was not predicted. Mitigation include, production and adherence to a Written Scheme of Investigation (WSI) which would include but not be limited to a Protocol for Archaeological Discoveries (PAD) and establishment of an Archaeological Exclusion Zones (AEZ).

As the works are within an existing port it is considered that the proposed development would not result in any significant landscape effects, likewise the dredging and disposal operations are similar in character as that which take place under existing port operation therefore no significant change to the landscape character was predicted and were scoped out the assessment.

#### **4.3.5 Risk of major accidents and disasters relevant to the project**

A flood consequence assessment was carried out as part of the ES and demonstrated that the works were not anticipated to increase flood risk within the area.

Due to the nature and scale of the operation, the risk of a major accident or disaster is low. In addition, sufficient pollution prevention measures have been proposed to reduce the risk of a major accident or pollution event.

#### **4.3.6 Cumulative impacts and in-combination impacts**

NRW concluded that the potential cumulative impacts and in-combination impacts due to the project have been adequately addressed in the ES and that no significant cumulative and in-combination assessment effects are predicted.

### **4.4 EIA Consent Decision**

NRW issued a Written Confirmation of the EIA Consent Decision which provides a conclusion on the environmental impacts arising from the project. NRW concluded that the environmental impacts of the Project have been adequately identified, described and assessed. Accordingly, NRW concluded a favourable determination and that EIA consent for the project should be given.

### **4.5 Mitigation and monitoring requirements**

The Written Confirmation of the EIA Consent Decision issued by NRW highlighted the mitigation or monitoring requirements required to be attached to the regulatory consent. These are set out below:

- 4.5.1 To mitigate potential impact as a result of sedimentation, dredge disposal daily limit and the manner in which disposals are placed should be secured within a marine licence. These include;
- ensuring the material deposited does not exceed 24,000 tonnes (12,000m<sup>3</sup>) in any 24-hour period.
  - Ensure that the material is distributed evenly across the Mostyn Deep disposal site (IS102), to ensure this the site must be divided into 25 metre by 75 metre cells. The placement of material within these cells must follow a randomised sequence, excluding the perimeter cells designed to provide a safety margin. Each cell must initially only receive one 400 cubic metre load of dredged material; thereafter the sequence may then be repeated on a rolling basis
- Mitigation detailed above has been secured through condition 3.28 of the Marine Licence.
- 4.5.2 Production and adherence to a Monitoring Plan, in order to monitor impact of the works on the estuary morphology and physical processes. If potential for significant impacts are identified then mitigation will need to be proposed and implemented. This has been secured through condition 3.30 of the Marine Licence.
- 4.5.3 In order to mitigate potential impact to marine mammals as a result of underwater noise levels during piling activities the following mitigation will be required;
- Soft start procedures that will give marine mammals an opportunity to move away from the area before the onset of full impact.
  - Vibro piling will be used where possible, however percussive piling is likely to be required.
  - Use of a Marine Mammal Observer and adherence to the JNCC Statutory Nature Conservation Agency Protocol for minimising the risk of injury to marine mammals during piling (JNCC 2010), which includes;
    - Establishment of exclusion zones
    - Pre commencement search of exclusion zone prior to commencement of piling to determine that no marine mammals are within the exclusion zone prior to commencement.
    - Marine Mammal Observer will observe the exclusion zone during piling, and if marine mammals are seen in the vicinity the piling will be altered and cease while marine mammals remain in the zone.

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- If there is a pause in percussive piling, the pre-commencement search and soft start procedures should be repeated.

Mitigation detailed above has been secured through condition 3.18 of the Marine Licence.

- 4.5.4 In line with OSPAR guidelines condition will be required to ensure sediment sampling and re-analyse every 3 years in order to ensure material is suitable for disposal at sea. This has been secured through condition 3.25 of the Marine Licence.
- 4.5.5 The production of, and adherence to a CEMP and adherence to pollution prevention best practices in order to mitigate the impact on water quality. This has been secured through condition 3.18 of the Marine Licence.
- 4.5.6 In order to minimise impact on key fish species seasonal tidal restrictions will be required, and also night-time piling restrictions to minimise impact on fish species that migrate exclusively or preferentially at night (including river lamprey). This has been secured through condition 3.18 of the Marine Licence.
- 4.5.7 To mitigate potential impact as a result of noise and visual disturbance on waterbirds the following mitigation are considered necessary
- Piling activities are not to be undertaken in September (autumn bird passage) in any given year
  - Soft start procedure for piling
  - Cold weather construction restrictions
  - Acoustic barrier/visual screening
  - Noise suppression systems during percussive piling

Mitigation detailed above has been secured through condition 3.18 of the Marine Licence.

- 4.5.8 Production and adherence to a Biosecurity Plan to ensure that potential impact as a result of spread of marine Invasive Non-native species (INNS) is minimised or avoided. This has been secured through condition 3.19 of the Marine Licence.
- 4.5.9 Production and adherence to a Written Scheme of Investigation which would be produced post consent and would include but not be limited to a PAD and establish AEZ. This has been secured through condition 3.20 and 3.21 of the Marine Licence.

NRW has considered these requirements in making this regulatory decision. The conditions attached to the Marine Licence are set out in Annex 1, including reasons for the inclusion of each condition.

### 4.6 Consideration of consultations undertaken

The consultation process described in section 2.4 and section 3 of this document was undertaken to ensure comment was received from appropriate parties.

A Transboundary Screening Assessment did not identify potential for effects to any other EEA State.

NRW has had regard to consultation responses in making the regulatory 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.

### 4.7 Description of features/measures to avoid, prevent, reduce and offset likely significant adverse effects on the environment

NRW considered that the following features of the project, or measures included within the project proposal, as described in the application form, ES and other supporting information, would avoid, prevent, reduce or offset any likely significant adverse environmental effects.

- 4.7.1 The production of, and adherence to a CEMP and adherence to pollution prevention best practices in order to mitigate impact on water quality.

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- 4.7.2 Application of soft start procedures during piling in order to provide mobile features including fish, birds and marine mammals the opportunity to move away from the area prior to the offset of full impact.
- 4.7.3 Use of vibro-piling wherever possible to reduce the potential impact as a result of noise disturbance during construction.
- 4.7.4 The use of a Marine Mammal Observer in line with JNCC protocol to minimise the risk of injury to marine mammals during percussive piling.
- 4.7.5 A temporary cessation of piling and any activities taking place along the new quay wall to be implemented following seven consecutive days of freezing (zero or sub-zero temperature) weather conditions to minimise disturbance to coastal waterbirds which are considered particularly vulnerable during periods of extreme winter weather.
- 4.7.6 Installing an acoustic barrier/visual screen along the breakwater prior to the commencement of construction to reduce potential visual and/or noise disturbance stimuli to waterbirds on the Mostyn Bank or breakwater roost. This screen is proposed to remain in place initially during the operational phase, with a phased removal of the screens after 2 years.
- 4.7.7 A noise suppression system (consisting of a pile shroud or sleeve with noise insulating properties) is proposed to be used during percussive piling activities of the tube piles for the new quay wall to reduce noise levels on the Mostyn Bank or breakwater roost.
- 4.7.8 The potential interference with other users during construction will be managed by following the existing Port of Mostyn's and Dee Conservancy's Marine Safety Management System, including issuing Local Notices to Mariners.
- 4.7.9 To protect a record of potential archaeological interest, namely a charted wreck located on the edge of the maintenance dredge area, a precautionary AEZ of 100m is recommended.
- 4.7.10 A WSI, which includes a PAD, will be developed in line with guidance. This will detail the mitigation that will be in place during the construction and operation of the proposed development to minimise and/or avoid impacts on potential marine heritage receptors.
- 4.7.11 Seasonal tidal restrictions to avoid and/or minimise impact on key fish species, and also night-time piling restrictions to minimise impact on fish species that migrate exclusively or preferentially at night.

### 4.8 Main reasons for this regulatory decision

The main reasons for the regulatory decision made are described in section 5 of this decision document.

The conclusion of this regulatory decision is stated in section 6 of this decision document.

## 5 BASIS FOR OUR DECISION

In determining this application, including the terms on which it was granted, and the conditions attached to it, NRW has had regard to the factors set out in section 5 below in accordance with the **Marine and Coastal Access Act 2009** (the **2009 Act**).

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

- the need to protect the environment (see section 5.1)
- the need to protect human health (see section 5.2)
- the need to prevent interference with legitimate uses of the sea (see section 5.3)

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- in the case of an application for a licence to authorise construction, alteration or improvement of works within the UK marine licensing area, the effects of any use intended to be made of the works in question when constructed, altered or improved (considered, if relevant in sections 5.1 to 5.5 below)
- any representations which it has received from any person having an interest in the outcome of the application. (summarised in section 3 and where relevant considered in sections 5.1 to 5.5 below)
- such other matters as it thinks relevant (see section 5.5 below)

### **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 Water Framework Directive, Groundwater Directive and Water Environment Regulations 2017**

##### **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**

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

- Dee (North Wales) Transitional Waterbody (GB531106708200)
- North Wales Coastal Waterbody (GB641011650000)

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. This assessment concludes that the proposal, when considered alone and in-combination, will not pose a risk to deterioration of the above listed waterbodies or jeopardise its attainment of good surface water status when undertaken in accordance with appropriate mitigation which can be secured through the Marine Licence including;

- The production of, and adherence to a CEMP and adherence to pollution prevention best practices in order to mitigate the impact on water quality (condition 3.18 of the Marine Licence).
- A requirement to produce and implement a Biosecurity Plan to limit the spread of invasive non-native species (condition 3.19 of the Marine Licence).

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- Additional measures to minimise impact of underwater noise levels during piling on fish species these include seasonal tidal restrictions to avoid and/or minimise impact on key fish species, and also night-time piling restrictions to minimise impact on fish species that migrate exclusively or preferentially at night (condition 3.18 of the Marine Licence).

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

### **5.1.2 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 A raised initial concerns that Section 7 species had not been appropriately identified and assessed.

Additional information was provided by the applicant in order to signpost consideration of section 7 habitats and species within the Further Information Report (ABPmer, August 2023). Section 4.2 of the report identifies a number of waterbirds and fish features that are listed as section 7 species and have been considered within the ES.

Overall, the assessment concludes that subject to mitigation that has been implemented in relation to protection of the European Protected Site which are detailed within the HRA, that we are able to conclude that impacts on section 7 species and habitats will not be significant. A list of mitigation proposed by the applicant in relation to the project has been summarised in chapter 5 of the Further Information Report (ABPmer, August 2023) and are detailed within section 8 of the EIA Consent Decision.

These include for piling activities seasonal tidal restrictions to avoid and/or minimise impact on key fish species, and also night-time piling restrictions to minimise impact on fish species that migrate exclusively or preferentially at night. Following advice received from NRW A the applicant agreed to extend the restrictions to cover the higher potential risk of exposure to European smelt during the months of February and March and/or the higher potential risk to herring in September to November. NRW consider this mitigation can be secured through Marine Licence conditions. Further details surrounding this matter is provided in section 5.1.8 below.

NRW is satisfied 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.

### **5.1.3 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.

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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 proposal is located within a European Protected Site. The effects of the proposal on the following European Sites, their features and conservation objectives have been considered by NRW during the licence determination:

- Dee Estuary SAC
- Dee Estuary SPA
- Dee Estuary Ramsar
- Liverpool Bay SPA
- River Dee and Bala Lake SAC
- North Anglesey Marine SAC
- West Wales Marine SAC
- Bristol Channel Approaches SAC
- Pen Llyn a'r Sarnau SAC (bottlenose dolphin and grey seal features only)
- Cardigan Bay (bottlenose dolphin and grey seal features only)
- Pembrokeshire Marine (grey seal features only)
- Mersey Narrow and North Wirral Foreshore SPA and RAMSAR

A Habitats Regulations Assessment of the Proposed Activities has been undertaken, and NRW A and Natural England (as Statutory Nature Conservation Bodies) consulted on the HRA.

In light of the conclusions of the appropriate assessment, it has not been ascertained that the project will not adversely affect the integrity of any European Designated Site. Specifically adverse effect could not be ruled out on the Dee Estuary SAC for the reason set out below.

The proposed land reclamation would result in a direct permanent loss of 3.22ha of Annex I estuaries feature which is agreed by both NRW A and the applicant.

The conservation objective for the estuaries feature of the Dee Estuary SAC is to maintain the feature in favourable condition, as defined below;

*The estuaries feature will be considered to be in favourable condition when, subject to natural processes, each of the following conditions are met;*

- i. The aggregate total extent of all estuarine communities within the site is maintained*
- ii. The spatial distribution of estuarine communities within the site is maintained*
- iii. The extent of individual estuarine habitat features within the site is maintained*
- iv. The variety and relative proportion of sediment and rocky substates within the estuaries is maintained*
- v. The variety and extent of any notable subtidal sediment communities is maintained*
- vi. The variety and extent of notable intertidal hard substate communities is maintained*
- vii. The spatial and temporal patterns of salinity, suspended sediments and nutrients concentrations are maintained within limits sufficient to satisfy the requirement (i to iv).*

NRW considers that the conservation objective seeks to maintain the total extent of all estuarine communities within the site. NRW recognise that due to the size of the feature the loss represents only

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a small proportion of its total extent 0.024%, however we agree with NRW A that 3.22ha is not an insignificant area, and the permanent loss of 3.22ha is not considered to be trivial.

NRW consider that the direct permanent loss of 3.22ha of estuaries feature as a result of land reclamation activity go against the conservation objectives for the site and for this reason would lead to an adverse effect on the integrity of the site.

Where adverse affect cannot be ruled out approval for a project cannot be given unless the project satisfies the requirements of Article 6(4) of the Habitat Directive, this includes, consideration of alternatives, overriding reason of public interest and suitable compensatory measures being secured.

The applicant provided ABPmer Report (September 2024) with further information to demonstrate that the project meets the required test for derogation, namely, there are no feasible alternative solutions, there is overriding public interest for the plan to proceed, and that necessary compensation can be secured. Compensation was proposed across two sites referred to as the Mostyn Scrape Back site and Warwick Foreshore Remedial site. On both sites it is proposed to scrape back the foreshore which currently comprises discarded man-made debris to expose underlying natural habitat. The proposed compensation measures across the two sites cover an area of 3.3ha.

NRW A as the ANCB confirmed they agreed in principle that the measures outlined within ABPmer Report (September 2024) will be adequate to compensate for the loss in 'distribution and extent' of the estuaries feature of the Dee Estuary SAC, and that the measures proposed will allow the estuaries features 'distribution and extent' to remain in 'favourable' condition. Natural England confirmed they agreed with NRW A that the compensation put forward would be suitable.

NRW considered that the project meets the required test for derogation, namely, there are no feasible alternative solutions, there is overriding public interest for the plan to proceed, and that necessary compensation can be secured. The Statement of Case was sent to Welsh Government on the 25 October 2024 notifying Welsh Government of NRW intention to approve the project notwithstanding a negative assessment of its implications for the Dee Estuary SAC. Approval to grant a licence under Article 6(4) of the Habitats Directive was provided by Welsh Government on 28 January 2025.

Further details are described within the Habitats Regulations Assessment.

### **5.1.4 *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

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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 the following protected species may be impacted by the Project:

- Grey seal
- Harbour porpoise
- Bottlenose dolphin

NRW has taken into account the requirements for issuing an EPS licence in making this decision and is satisfied on the basis of the information it has considered that it is not unlikely that an EPS licence would be granted for 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.

**5.1.5 *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 MCZ due to the nature of the activities and distance from the MCZ.

**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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- Dee Estuary SSSI
- Gronant Dunes and Talacre Warren SSSI
- Shotton Lagoons and Reedbeds SSSI

NRW A raised initial concerns that SSSI species/habitats had not been appropriately identified and assessed.

Additional information was provided by the applicant in order to signpost consideration of SSSI habitats and species within the Further Information Report (ABPmer, August 2023). Additional consideration was given to the Breeding Little Tern which is a notified feature of the Gronant Dunes and Talacre Warren SSSI, and the breeding Common Tern notified feature of the Shotton Lagoons and Reedbeds SSSI. In both instances the assessment concluded that any impact on these species would not be significant.

NRW is satisfied that the proposed activities are not likely to damage the Gronant Dunes and Talacre Warren SSSI, or the Shotton Lagoons and Reedbeds SSSI and that the method statement proposed as part of the Application appropriately addresses any risks arising from the Proposed Activities.

A number of notified features of the Dee Estuary SSSI are also interest features under the Dee Estuary SAC/SPA and Ramsar sites. These have been considered as part of the HRA further detail is considered in section 5.1.3 above.

### **5.1.6 The Waste (England and Wales) Regulations 2011**

#### **a) The legal framework**

The Waste (England and Wales) Regulations 2011 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**

The applicant produced as part of the ES Appendix 6.1 Waste Hierarchy Assessment. The assessment considered the use/disposal of dredge material from the Mostyn Energy Park Extension Proposal.

The applicant proposed to dispose of dredged material at the Mostyn Deep disposal site and the Mostyn Breakwater disposal site.

Sediment sampling was undertaken and results presented within Table 7.2 – Table 7.7 of chapter 7 of the ES. The sample results demonstrated that contaminant concentrations were low with most values below Cefas Action Level 1. There were no instances where the concentrations exceeded the respective Cefas Action Level 2. Cefas confirmed following review of sampling and analysis undertaken that sediment was suitable for disposal at sea. Cefas also confirmed in line with OSPAR guidelines sediment sampling should be re-analysed every 3 years. NRW are satisfied that re-analysis of sediment can be secured through appropriate conditions of the Marine Licence (condition 3.25 of the Marine Licence).

The proposal to dispose of sediment at the listed disposal sites is in line with NRW position on The Sustainable Management of Marine and Coastal Sediment (PS012) which sets that the preferred option when undertaking activities that require marine and coastal sediment removal or relocation is to retain the sediment as close as possible from where it originated, within the same sediment system. It is considered that the proposal is in line with this position.

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In addition to the disposal of dredge material at sea the applicant is seeking to reuse up to 500,000m<sup>3</sup> (1,000,000 tonnes) as fill within the reclamation area. It is also proposed that up to 75,000m<sup>3</sup> per year (150,000 tonnes per year) of material dredged as part of their maintenance campaign is pumped ashore to be beneficially used in other projects.

Welsh National Marine Plan Policy D&D\_01 details;

The beneficial use of dredged material is encouraged. In accordance with the Waste (England and Wales) Regulations 2011, relevant authorities should apply the waste hierarchy. The disposal of dredged material (whether from navigation or environmental dredging) includes both deposition for beneficial uses (e.g. beach nourishment) and the use of at-sea disposal sites in licensed areas of seabed. Dredged material can be a valuable resource and the preference is, wherever possible, to re-use the material to support other activities, for example actions relating to ecosystem resilience, in engineering projects for construction materials, in flood defences, for land reclamation or for beach nourishment. In some cases, disposal to land may be appropriate.

NRW consider that the reuse of dredge material as fill for land reclamation activity is consistent with the Waste (England and Wales) Regulations 2011 (as amended) and the Welsh National Marine Plan (WNMP) where the reuse of material is encouraged.

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

### ***5.1.7 Other matters considered relevant to the need to protect the environment***

Issues not already discussed within this Decision Document but are considered relevant to the marine works are summarised below.

NRW have had regard for the issues raised by consultees. These are presented within Section 7 of the EIA Consent Decision and are summarised below with reference to specific mitigation required to be secured through the Marine Licence.

#### Coastal Processes

Consideration of physical processes is detailed within section 7.1 of the EIA Consent Decision.

NRW A raised initial concerns surrounding the assessment presented within the ES. Following the provision of further information, NRW A confirmed they were satisfied that concerns previously raised had been addressed. NRW A considered that a number of conditions from the existing dredge Marine Licences at the Port should be included in any future consent. Within Appendix A Clarification Comment Log dated 27 March 2024 the applicant confirmed the same project specific conditions as referenced by NRW A in relation to dredge disposal daily limit and manner in which disposals are placed should be transferred to the new Marine Licence. These include;

- ensuring the material deposited does not exceed 24,000 tonnes (12,000m<sup>3</sup>) in any 24-hour period.
- Ensure that the material is distributed evenly across the site Mostyn Deep disposal site (IS102), to do this the site must be divided into 25 metre by 75 metre cells. The placement of material within these cells must follow a randomised sequence, excluding the perimeter cells designed to provide a safety margin. Each cell must initially only receive one 400 cubic metre load of dredged material; thereafter the sequence may then be repeated on a rolling basis.

The applicant proposed a Monitoring Plan within section 6.1 of Clarification Report dated 27 March 2024. The plan proposed a reduced level of monitoring to that currently undertaken at the Port under existing consents. NRW A agree that monitoring is necessary but did not however agree with the

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reduction in frequency of the current monitoring schedule due to the increase in dredge depths and dredging expected to take place during the construction phase. Within letter dated 17 June 2024 the applicant agreed to undertake higher frequency monitoring and to review after 5 years following construction of the Mostyn Energy Park Extension (MEPE) project in order to consider whether a lower frequency monitoring schedule would be appropriate based on evidence collected.

NRW are satisfied that an appropriate assessment of Physical Processes has been carried out and no significant effects are predicted subject to mitigation, namely conditions relating to disposal limits and manner in which disposal are placed (see condition 3.28 of the Marine Licence). NRW consider that monitoring conditions will be required in order to ensure that disposed material continues to disperse as predicted (see condition 3.30 of the Marine Licence).

### Water and Sediment Quality

Sediment sampling was undertaken, and results presented within Table 7.2 – Table 7.7 of chapter 7 of the ES. The samples demonstrated that contaminant concentrations were low with most values below Cefas Action Level 1. There were no instances where the concentrations exceeded the respective Action Level 2. Cefas confirmed following review of sampling and analysis undertaken that sediment was suitable for disposal at sea. Cefas also confirmed in line with OSPAR guidelines sediment sampling should be re-analysed every 3 years. NRW consider that the requirement for further sediment sampling and analysis can be secured through licence conditions (see condition 3.25 of the Marine Licence).

NRW A agreed with the applicant that the proposed works did not pose a risk of deterioration to the Dee (N. Wales) or North Wales waterbodies due to the resuspension of contaminated sediment. NRW A agreed that there was no risk of deterioration to the shellfish waters due to bacterial releases, and that there was no risk of deterioration to nutrient concentrations as a result of the development. However, NRW A did not consider the assessment was sufficient to allow consideration of impacts of works on dissolved oxygen.

The applicant sought to address concerns surrounding assessment of suspended sediments and dissolved oxygen within Further Information Report (ABPmer, August 2023). The report referred to the physical process assessment (chapter 6 of the ES), which considered that although suspended sediment concentration would increase as a result of disposal activities, due to the highly dynamic nature of the estuary, and the natural high levels of sediment within the estuary, excess levels are likely to be reduced to below natural storm disturbance conditions very quickly, and likely return to background levels within a single tidal cycle. No further concerns were raised by NRW A in relation to dissolved oxygen.

NRW are satisfied that an appropriate assessment of water and sediment quality has been carried out and no significant effects are predicted subject to mitigation. NRW consider that mitigation required specifically a CEMP including pollution prevention measures can be secured through the provision of appropriate conditions within any Marine Licence issued (see condition 3.18 of the Marine Licence).

### Marine Mammals

Consideration of marine mammals is detailed within section 7.3.1 of the EIA Consent Decision.

NRW recognise that there remain points of disagreement between the applicant and NRW A surrounding the assessment carried out. However, both NRW A and the applicant agree that the impact of the proposal on marine mammals would not be significant. NRW are therefore satisfied that subject to the mitigation proposed that no significant effects are predicted on marine mammals. Mitigation required includes;

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- application of a soft-start procedure during piling
- using vibro-piling wherever possible
- adherence to the JNCC Statutory Nature Conservation Agency Protocol for minimising the risk of injury to marine mammals during piling (JNCC 2010)

NRW consider that the above mitigation must be incorporated within the CEMP and can be secured through appropriate Marine Licence conditions (see condition 3.18 of the Marine Licence).

### Fish and Shellfish

Concerns were raised by NRW A in relation to fish and shellfish these are detailed within section 7.3.2 of the EIA Consent Decision.

As detailed within the Appendix 8.5 of the ES (Habitats Regulations Assessment) the applicant proposed a number of mitigation measures that will be implemented during piling including;

- Soft start procedures that will give fish features an opportunity to move away from the area before the onset of full impact.
- use of vibro piling where possible, however percussive piling is likely to be required

In addition as detailed within the Further Information Report (ABPmer, August 2023) additional mitigation has been proposed to minimise adverse effect on fish species specifically;

- no percussive piling is to be undertaken 3 hours either side of high water [mid-April to mid-June] in any given year. Percussive piling operations that have already been initiated will, however, be completed where an immediate cessation of the activity would form an unsafe working practice.
- No percussive piling is to take place between 7pm and 7am on any given day. Percussive piling operations that have already been initiated will, however, be completed where an immediate cessation of the activity would form an unsafe working practice.

NRW A in representation dated 7 July 2023 considered that the seasonal timing restriction could be extended to protect a wider range of fish species. Within Further Clarification Report (ABPmer, March 2024) further review of impact of underwater noise on fish species was carried out, and considered that the piling restrictions between mid-April to Mid-June could be extended to cover the higher potential risk of exposure to European smelt during the months of February and March and to herring in September to November. NRW A welcomed this proposal. In letter dated 17 June 2024 the applicant agreed to extend the seasonal tidal restriction to February, March, September October and November to minimise impact on key fish species.

NRW A raised concerns in representation dated 3 March 2023, that the conditions as proposed by the applicant would not be effective as they would allow in some circumstances work to take place within the restricted period. NRW A advise that percussive piling activities should be suitably planned and timed so as to not need to contravene these timing restriction. Further discussion has continued between NRW A (NRW A response to clarification report dated 21 May 2024) and the applicant in letter dated 17 June 2024 surrounding appropriate timing to ensure that work within the restricted period is avoided/minimised. NRW consider that appropriate mitigation can be agreed as part of the CEMP approved post consent that will ensure that percussive piling is suitably planned and timed to avoid the need to work past the timing restriction unless for exceptional health and safety purposes.

NRW consider that mitigation can be secured within the Marine Licence to ensure seasonal tidal restrictions to avoid and/or minimise impact on key fish species, and also night-time piling restrictions to minimise impact on fish species that migrate exclusively or preferentially at night (including river

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lamprey). NRW consider that this mitigation can be secured through piling mitigation being incorporated into the CEMP which will require approval prior to commencement of works (see condition 3.18 of the Marine Licence).

### Ornithology

Concerns were raised by NRW A and RSPB in relation to Ornithology these are detailed within section 7.3.3 of the EIA Consent Decision.

Following further information submitted by the applicant NRW A confirmed that the proposed loss of habitat as a result of the works is unlikely to have an effect on the features of the Dee Estuary SPA. RSPB within representation dated 31 May 2024 confirmed they would defer to NRW A in respect of consideration associated with habitat loss.

A series of mitigation were proposed by the applicant within Further Clarification Report (ABPmer, March 2024) to mitigate potential impact as a result of noise and visual disturbance on waterbirds these included;

- Piling activities are not to be undertaken in September (autumn bird passage) in any given year
- Soft start procedure for piling
- Cold weather construction restrictions
- Acoustic barrier/visual screening
- Noise suppression systems during percussive piling.

Based on the suite of mitigation proposed NRW A were able to agree that noise levels are unlikely to have a significant effect on coastal birds. Likewise, RSPB welcomed proposed mitigation and consider that these should be adhered to.

NRW consider that the mitigation above can be secured through the Marine Licence, specifically through ensuring that the proposed mitigation are incorporated into the CEMP which will require approval prior to commencement of works (see condition 3.18 of the Marine Licence).

Both NRW A and RSPB advise that monitoring of construction noise and birds responses to this noise would be valuable. Both NRW A and RSPB agree that based on the mitigation measure proposed that significant effect on coastal birds can be ruled out. As neither NRW A or RSPB consider monitoring necessary in order to rule out significant effect, NRW do not therefore consider the need to require monitoring as part of the consent, however NRW would encourage the applicant to discuss the potential monitoring opportunities with NRW A and the RSPB.

As discussed in section 5.1.3 the applicant is required to implement compensatory measures in order to offset damage to features of the Dee Estuary SAC. In order to do this the applicant has proposed at two sites to scrape back the foreshore which currently comprises discarded man-made debris to expose underlying natural habitat. The proposed compensation measures across the two sites cover an area of 3.3ha. It is considered that this will improve the quality and function of the Annex I estuaries feature of the Dee Estuary SAC as well as potentially providing additional supporting habitat for bird features of the Dee Estuary SPA.

In both sites where compensatory measures are to take place mitigation has been proposed that work will take place outside the bird passage and overwintering periods to avoid adverse effect on waterbird features of the Dee Estuary SPA and Ramsar. NRW A agreed that the proposed compensation work should be undertaken outside the overwintering and passage periods (August- April). NRW consider

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that this can be incorporated into the CEMP and secured through marine licence conditions (see condition 3.18).

### Benthic Ecology

NRW A agreed that changes to habitat and species as a result of dredge disposal would not be significant subject to commitments to work within the disposal volume limits. NRW A considered that a number of conditions from the existing dredge marine licences at the port should be included in any future consent, such as restricting the maximum disposal of material to 24,000 tonnes (12,000m<sup>3</sup>) in any 24hrs. Within Appendix A Clarification Comment Log dated 27 March 2024 the applicant confirmed the same project specific conditions as referenced by NRW A in relation to dredge disposal daily limit and manner in which disposals are placed should be transferred to the new Marine Licence.

The applicant proposed a Monitoring Plan within section 6.1 of Clarification Report (ABPmer, March 2024). The plan proposed a reduced level of monitoring to that currently undertaken at the Port under existing consents. NRW A agreed that monitoring is necessary but did not however agree with the reduction in frequency of the current monitoring schedule due to the increase in dredge depths and dredging expected to take place during the construction phase. Within letter dated 17 June 2024 the applicant agreed to undertake higher frequency monitoring and to review after 5 years following to construction of the MEPE project in order to consider whether a lower frequency monitoring schedule would be appropriate based on evidence collected. NRW A consider that monitoring is required in order to ascertain the assumption made in the ES that the impact on benthic habitats as a result of maintenance dredge activities will be minor. NRW consider that production and adherence to an appropriate monitoring plan can be secured through the Marine Licence (see condition 3.30 of the Marine Licence).

NRW A agree with the applicant that a Biosecurity Risk Assessment and Biosecurity Plan is completed in relation to all marine operation activities associated to the proposal. NRW A highlight that the highly invasive species the Chinese mitten crab (*Eriocheir sinensis*) is present in the Dee Estuary and extra diligence is required to ensure the species is not spread further. NRW consider production and implementation of a Biosecurity Plan can be secured through the Marine Licence (see condition 3.19 of the Marine Licence).

As discussed in section 5.1.3 the proposed work will result in the permanent loss of 3.2ha of estuaries feature of the Dee Estuary SAC. The applicant is required to implement compensatory measures in order to offset damage to the designated site. The compensatory measures comprise of scraping back the foreshore at two locations which currently comprises discarded man-made debris to expose underlying natural habitat. Further detail of the proposed compensatory measures are presented within ABPmer Report (September 2024). NRW A as the ANCB confirmed they agreed in principle that the compensatory measures outlined within ABPmer Report (September 2024). NRW consider that the requirement to carry out the proposed compensatory measures can be secured with the Marine Licence (see condition 3.31 and 3.33 of the Marine Licence), likewise a final Monitoring Plan relating to the compensatory measure will need to be approved and implemented to verify the improvements at the site (see condition 3.32 of the Marine Licence).

### Historic Environment

Concerns were raised by Cadw and RCAHMW in relation to the historic environment these are detailed within section 7.7 of the EIA Consent Decision.

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In response to concerns raised by Cadw and RCAHMW the applicant produced report entitled “Mostyn Energy Park Extension Project: Stage 1 geoarchaeological assessment of 2022 geotechnical data” prepared by Wessex Archaeology which concludes: - “Both the geoarchaeological and archaeological potential of all deposits within the MEPE area are considered low due to deposition in full glacial, high-energy fluvial, or modern alluvial environments. Based on the results of this Stage 1 marine Geoarchaeological Assessment, Stage 2 Geoarchaeological Recording is not recommended”. Following submission of the report Cadw and RCAHMW are content with the assessment of the historic environment. RCAHMW agree that a WSI and PAD should be produced and adhered to. NRW consider that production and adherence to a WSI and PAD can be secured through conditions of the Marine Licence (see condition 3.20 and 3.21 of the Marine Licence).

Following the applicant’s proposal for compensatory measures proposed within ABPmer Report (September, 2024) RCAHMW confirmed that as the work has potential to discover archaeological material which may be buried beneath the scrape back and therefore that the PAD should encompass the compensatory works. NRW consider that production and adherence to a PAD can be secured through conditions of the Marine Licence (see condition 3.21 of the Marine Licence).

### **5.1.8 Conclusion of our considerations under the need to protect the Environment**

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

## **5.2 The need to protect human health**

### Flood Risk

Potential effects of the project on flood risk and drainage were presented within Chapter 11 of the ES. Appendix 11.1 of the ES included the Flood Consequence Assessment (FCA) conducted for the project. The FCA considered potential impacts of climate change on the proposal including sea level rise and risk of tidal flooding. The ES concluded that the project would not have a significant effect on flood risk.

NRW A made a number of comments surrounding the assessment carried out and considered there were some deficiencies within the FCA. However, they considered the FCA was broadly acceptable and given the scale of the proposal and the location considered it unlikely the project would significantly impact flood risk elsewhere.

Following the applicant’s proposal for compensatory measures presented within ABPmer Report (September, 2024) NRW A confirmed that further discussion was required with the applicant on the final profiling of the works at Warwick foreshore to ensure that the works to a coastal defence asset on the eastern side of the site is not compromised. NRW A believe it is achievable to produce a profile which will not compromise the coastal defence asset. NRW consider that approval of a final design profile can be secured through the Marine Licence (see condition 3.31 of the Marine Licence).

In addition, to address comments received by NRW A the applicant amended the boundary of compensation at Warwick foreshore to ensure that works did not impact a coastal defence asset on the eastern side of the site while continuing to provide the same level of compensation. NRW A confirmed they were satisfied with the amended boundary.

### Public Health

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Public Health Wales also confirmed in representation dated 24 April 2024 that they did not foresee any adverse risks to public health based on the information received and providing operations are undertaken in line with standard best practice procedures. The applicant has committed to a number of best practice procedures including the production of a CEMP. In addition, as a Statutory Harbour Authority the applicant is responsible for ensuring the safety of navigation and has existing procedures for operations at the port.

### **5.2.1 Conclusion of our considerations under the need to protect human health**

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

### **5.3 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.

#### Fisheries

Representation was made by NRW Cockle Officers, North Western Inshore Fisheries and Conservation Authority (NWIFCA) and Welsh Government Fisheries and Marine Enforcement Division, these are detailed in section 7.4 of the EIA Consent Decision.

The NWIFCA highlighted that the presence of invasive non-native Chinese Mitten Crab has been documented as present in the locality of the Dee Estuary, and that appropriate biosecurity steps should be put in place to minimise its distribution. NRW consider that appropriate conditions can be secured to the Marine Licence requiring the producing and implementation of a Biosecurity Plan (see condition 3.19 of the Marine Licence).

Within representation dated 16 May 2024 NRW Cockle Officer confirmed that uncertainty remained regarding potential impact of the works on the Cockle Beds and advised that regular monitoring is carried out. The applicant within letter dated 17 July 2024 confirmed that they would continue to monitor the estuary and main approaches in line with an agreed monitoring plan, this will enable any changes in bed elevation to be regularly monitored and reported. NRW consider that production and adherence to an appropriate monitoring plan can be secured through the Marine Licence (see condition 3.30 of the Marine Licence).

#### Commercial and Recreational Navigation

Representation was made by MCA, Trinity House, RYA and the Dee Conservancy in relation to commercial and recreational navigation, these are detailed in section 7.5 of the EIA Consent Decision.

NRW are content that the potential impacts on Navigational Safety have been sufficiently addressed by the applicant within the ES. NRW are content that as a Statutory Harbour Authority the applicant is responsible for ensuring the safety of navigation and has existing procedures in place and ways of working with the Dee Conservancy to ensure that safety of navigation is maintained. NRW consider that mitigation required specifically a CEMP to ensure pollution prevention best practices are in place can be secured through the provision of appropriate conditions of the Marine Licence (see condition 3.18 of the Marine Licence).

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**5.3.1 Conclusion of our considerations regarding the need to prevent interference with legitimate uses of the sea**

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

**5.4 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**

The applicant has considered the proposal by reference to the WNMP throughout the ES, and in addition submitted application document ES Appendix 4.1 Marine Plan Conformance Assessment.

The objective of the proposed MEPE is to allow the Port to offer further services to the offshore wind industry, both to meet its existing and future customer demands at the port.

The WNMP identifies offshore wind energy as a proven and strategically important technology with large scale development supported through policy ELC\_01.

Within the ES the applicant sets out that The Port of Mostyn is ideally placed to support the offshore wind sector and is already providing the operation and maintenance (O&M) base for RWE Npower's North Hoyle, Rhyl Flats and Gwynt y Môr windfarms. The Port benefits from a number of physical attributes that make it an attractive site for supporting the construction of offshore wind farms and the location of O&M facilities. The WNMP Ports and Shipping Policy P&S\_02 recognises the significance of the Port of Mostyn in supporting offshore wind construction and services 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.

The proposal is considered to comply with the relevant cross cutting general policies and has appropriately considered impact of the works including on marine ecosystems (Policy ENV\_01), water

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quality (Policy ENV\_06), underwater noise (ENV\_05), Invasive non-native species (ENV\_03) and Historic Assets (Policy SOC\_05) which topics are discussed above.

A HRA was carried out in order to consider the impact of the works on European Protected Site. As is detailed in section 5.1.3 that although adverse effect cannot be ruled out, the project meets the required test for derogation, namely, there are no feasible alternative solutions, there is overriding public interest for the plan to proceed, and that necessary compensation can be secured to offset damage to the site. NRW therefore consider the proposal is in line with Policy ENV\_02 Marine Protected Sites.

The proposal seeks to carry out dredge and disposal activities as it maintains the navigable channels to the Port. Policy D&D\_01 recognises the vital role of dredge and disposal for the effective operation of the Ports and Shipping Sector and is therefore considered an essential activity to support a wide range of other sectors. The Policy is therefore supportive of dredge and disposal operations that comply with other general policies. Compliance with general policies has been detailed above.

Due to the location and scale of the works the proposal is not considered to have the potential to have an adverse impact on any Tidal Stream Energy Strategic Resource Area (Policy SAF\_02).

This decision has been taken in accordance with marine policy as set out in the WNMP.

### **5.5 Other matters NRW thinks relevant**

#### **5.5.1 Well-being of Future Generations (Wales) Act 2015**

##### **a) The legal framework**

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

##### **b) Our determination**

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

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

#### **5.5.2 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) (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 Marine Licence sought by the Application. We

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have reached this decision having had regard to the relevant legal framework outlined in section 5. We 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.

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

**7 AUTHORISATION**

<b>Report by:</b> Peter Morrison  <b>Position:</b> Lead Specialist Officer (Marine Licensing)	<b>Date:</b> 05 February 2025	<b>Signed:</b> Peter Morrison
<b>Authorised by:</b> Emmer Litt  <b>Position:</b> Marine Licensing Team Leader	<b>Date:</b> 06 February 2025	<b>Signed:</b> 

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## **ANNEX 1**

Conditions imposed and reasons for those conditions.

*Note: Condition numbers used below reflect the condition numbers used in the licence.*

### **CONDITIONS**

#### Notification and Inspection

##### **3.1 Notification of Commencement**

- 3.1.1** The Licence Holder must notify the Licensing Authority no less than **10 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

*Reason: To ensure the Licensing Authority are aware of the commencement of Licensed Activities.*

- 3.1.2** The Licence Holder must notify Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) no less than **10 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

*Reason: To ensure the Marine Enforcement Officers are aware of the commencement of Licensed Activities.*

- 3.1.3** The Licence Holder must ensure that local mariners and fishermen's organisations are made fully aware of the Licensed Activities through local notices to mariners **10 days** prior to the commencement of the Licensed Activities.

*Reason: To minimise interference with other sea users and ensure other vessels in the vicinity can safely plan and conduct their passage.*

##### **3.2 Notification of Vessels and/or Vehicles**

The Licence Holder must ensure that the details of the vessels and/or vehicles utilised to undertake the Licensed Activities are submitted to the Licensing Authority and Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) at least **24 hours** prior to the commencement of the Licensed Activities.

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

##### **3.3 Notification of Agents/Contractors/Sub-contractors**

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

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

### **3.4 Notification of HM Coastguard**

The Licence Holder must ensure that HM Coastguard is made aware of the Licensed Activities at least **24 hours** prior to commencement by contacting The National Maritime Operations Centre at **zone32@hmcg.gov.uk**.

*Reason: To ensure the safety of navigation.*

### **3.5 Inspection of Licensed Activities**

The Licence Holder must allow Marine Enforcement Officers or any other person authorised by the Licensing Authority to inspect the Works at any reasonable time.

*Reason: To allow for inspection of the Licensed Activities to check compliance with the Licence.*

### **3.6 Notification of Completion**

- 3.6.1** The Licence Holder must notify the Licensing Authority within **10 days** of completion of the Licensed Activities.

*Reason: To ensure the Licensing Authority are aware of the completion of Licensed Activities.*

- 3.6.2** The Licence Holder must notify Welsh Government Marine & Fisheries Division (Control & Enforcement Branch) within **10 days** of completion of the Licensed Activities.

*Reason: To ensure the Marine Enforcement Officers are aware of the completion of Licensed Activities.*

### **3.7 Accident or Emergency**

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

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

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

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

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### **3.8 Distribution of Copies of this Licence**

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

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

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

### **3.9 Inspection of Documents**

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

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

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

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

## **Vessels, Plant and Equipment**

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

Only those agent(s), contractor(s), sub-contractor(s), vessels and/or vehicles whose details have been notified to the Licensing Authority may operate under the terms of this Licence. Any changes must be notified to and be approved by the Licensing Authority in writing prior to any such agent, contractor, subcontractors or vehicles carrying out any Licensed Activities pursuant to or otherwise operating under this Licence.

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

### **3.11 Refuelling of Plant and Equipment**

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The Licence Holder must ensure that plant, vehicles and machinery are not refuelled on the foreshore or in the sea.

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

### **3.12 Equipment, Structures and Access**

The Licence Holder must ensure that all equipment, temporary structures, access tracks, waste and/or debris associated with the Licensed Activities are removed on completion of the Licensed activities.

*Reason: To minimise impacts on the marine environment and other users of the sea/seabed.*

## **Safety**

### **3.13 Removal of Deposited Material**

If the Licensing Authority considers it necessary or advisable for the safety of navigation, the Licence Holder must remove any deposit specified by the Licensing Authority or Marine Enforcement Officers within one month of notice being given by the Licensing Authority, and shall not replace such material until the Licensing Authority has given its written approval.

*Reason: To ensure that any material which may pose a hazard to safe navigation has been removed.*

## **Pollution control**

### **3.14 Pollution Prevention**

The Licence Holder must ensure that pollution prevention best practice is adhered to at all times. Any incidents must be reported to the Licensing Authority as soon as possible using the hotline number **0300 065 3000**.

*Reason: To minimise the risk of pollution incidents and to ensure the timely report of such incidents to enable the Licensing Authority to take action as appropriate.*

### **3.15 Spillage of Pollutants**

The Licence Holder must employ bunding, storage facilities and spill kits to contain and prevent the release of fuel, oils and chemicals associated with the plant, refuelling and construction equipment into the marine environment. Secondary containment must be used with a capacity of **no less than 110%** of the container's storage capacity.

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

### **3.16 Prevention of Disposal of Man-made Debris**

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

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

### **3.17 Cleanliness of Equipment**

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

*Reason: To minimise the risk of spread of INNS.*

### **Activity-specific Conditions**

#### **3.18 Construction Environment Management Plan (CEMP)**

3.18.1 The Licence Holder must submit a CEMP to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority. The plan must incorporate the proposed mitigation identified within the Environmental Statement and Further Clarification Report (ABPmer March 2024) and include;

- measures that will be implemented during piling activities to avoid/reduce impact on fish, birds and marine mammals
- measures to minimise visual and noise disturbance during construction activities
- pollution prevention measures

3.18.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.18.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

*Reason: To minimise the risk of pollution incidents occurring by adopting best practice techniques. To ensure appropriate environmental mitigation are adhered too and to ensure that appropriate measures are put in place to avoid, and minimise impact on fish, birds and marine mammals during piling activities. To ensure appropriate measures are put in place to minimise visual and noise disturbance during construction activities.*

#### **3.19 Biosecurity**

3.19.1 The Licence Holder must submit a Biosecurity Plan to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

3.19.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.19.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

*Reason: To minimise the risk of spread of INNS*

#### **3.20 Written Scheme of Investigation (WSI)**

3.20.1 The Licence Holder must submit a WSI to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

3.20.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.20.1 are implemented as approved in writing by the Licensing Authority.

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

*Reason: To minimise impact to the Historic Environment and ensure the integrity of archaeologically important items are not compromised.*

### **3.21 Protocol for Archaeological Discoveries (PAD)**

3.21.1 The Licence Holder must submit a PAD to the Licensing Authority to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

3.21.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.21.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

*Reason: To minimise impact to the Historic Environment and ensure the integrity of archaeologically important items are not compromised.*

### **3.22 Use of Concrete**

3.22.1 The Licence Holder must ensure that no waste concrete slurry or wash water from the use of concrete or cement are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained and sited at least **10 metres** from any watercourse or surface water drain to minimise the risk of runoff entering a watercourse.

3.22.2 The Licence Holder must ensure materials used are suitable for use in the marine environment and works should be timed to ensure maximum concrete cure time.

*Reason: To minimise the risk of marine pollution incidents.*

### **3.23 Piling**

3.23.1 The Licence Holder must ensure that vibro-piling is used when inserting piles where operationally possible. Where this isn't possible, percussive piling may be used.

*Reason: To minimise the amount of impulsive noise in the marine environment.*

3.23.2 The Licence Holder must ensure that if percussive piling is used, soft-start procedures are used to ensure incremental increase in pile power over a set time period until full operational power is achieved. The soft-start duration should be a period of no less than **20 minutes**. Should piling cease for a period greater than **10 minutes**, then the soft start procedure must be repeated.

*Reason: To allow mobile sensitive receptors to move away from the source of acoustic disturbance in order to reduce the impact on sensitive receptors.*

3.23.3 The Licence Holder must ensure all precautionary recommendations outlined in the JNCC Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise August 2010 are implemented. Any proposed

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changes to the actions outlined in this document must be submitted to and approved in writing by the Licensing Authority prior to any changes being enacted.

*Reason: To minimise the impact on marine mammals from piling noise.*

### 3.24 UK Marine Noise Registry

- 3.24.1 The Licence Holder must complete an entry into the UK Marine Noise Registry detailing the proposed dates and locations and nature of the Percussive Piling at least **10 days** prior to its commencement.
- 3.24.2 The Licence Holder must amend the marine noise registry proposed activity form should the timing of the Percussive Piling alter or no longer remain part of the project.
- 3.24.3 The Licence Holder must complete an entry into the Marine Noise Registry detailing the actual dates, location(s) and nature of the Percussive Piling every **6 months** following the commencement of Percussive Piling until the completion of Percussive Piling with the final entry to be completed within **8 weeks** of completion of the noisy activity.

*Reason: To ensure noisy activities are recorded as part of the UK commitment to the Marine Strategy Framework Directive (MSFD).*

### 3.25 Sediment Sampling

- 3.25.1 The Licence Holder must request a sediment sampling plan from the Licensing Authority by **30 May 2025, 30 May 2028 and 30 May 2031**.
- 3.25.2 The Licence Holder must ensure that the sampling is undertaken in accordance with the sampling plan described in condition 3.25.1 and is analysed at an NRW approved laboratory.
- 3.25.3 The Licence Holder must submit the written results of the sediment sampling undertaken pursuant to condition 3.25.2 for written approval by the Licensing Authority within **2 months** of sampling taking place. This must include an outline of an assessment of alternative uses for the sediment that is to be disposed.
- 3.25.4 The Licence Holder must ensure no dredging is carried out after the following dates without written approval from the Licensing Authority: **30 November 2025, 30 November 2028 and 30 November 2031**.

*Reason: To determine the appropriate way to utilise or dispose of dredge material. To ensure that material remains acceptable for disposal at sea.*

### 3.26 Log of Operations

- 3.24.1 The Licence Holder must ensure that the Master or the Officer of the Watch of each vessel, as referred to in condition 3.2 of this Licence, undertaking the deposit of any substances or articles specified in Table 2 of this Schedule, shall maintain a written log of operations recording the following information:
- the name of the vessel;
  - the quantity and type of each substance or article loaded for deposit;

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- the date and time of departure from the port or site at which the substances or articles are loaded for deposit in the sea and time of arrival (and date if different) at the Deposit Area on each occasion that it proceeds to and from such area;
- latitude and longitude position (in degrees and minutes and decimal of a minute to at least one decimal place) of the deposit within the Deposit Area.

*Reason: To ensure that the material is disposed within the disposal site, and to ensure material is disposed evenly across the site.*

### 3.27 Record of Quantity of Deposited Material

- 3.27.1 The Licence Holder must keep a log detailing the time, date, location and quantity of material deposited at sea. This log must be available for inspection by appropriately authorised officers of the Licensing Authority and Marine Enforcement Officers

*Reason: To allow the Licensing Authority to check compliance with the Licence.*

### 3.28 Deposit Limits

- 3.28.1 The Licence Holder must ensure that the combined quantity of material deposited at the Permitted Deposit Locations does not exceed 24,000 tonnes (12,000m<sup>3</sup>) in any 24-hour period.

*Reason: To reduce potential impacts as a result of sedimentation.*

- 3.28.2 The Licence Holder must ensure that no more than 150,000 Tonnes / 75,000m<sup>3</sup>, (whichever is lower), of maintenance dredged material is removed from the estuary per calendar year.

*Reason: To ensure the deposit is within the environmental limits assessed in the application.*

- 3.28.3 The Licence Holder must ensure that Mostyn Deep disposal site (IS102), is divided into 25 metre by 75 metre cells. The placement of material within these cells must follow a randomised sequence, excluding the perimeter cells designed to provide a safety margin. Each cell must initially only receive one 400 cubic metre load of dredged material; thereafter the sequence may then be repeated on a rolling basis.

*Reason: To ensure material is distributed across the site.*

### 3.29 Returns

- 3.29.1 Certified returns of quantities of substances or articles deposited under this Licence (Activity 5) are required to be submitted by **31 June** and **31 January** each year. The returns must specify the full Licence number and amount deposited (tonnage) each calendar month at each authorised Deposit Area. Where no deposit is made in a given period a NIL return is required.
- 3.29.2 If this Licence expires during the course of the calendar year and is not superseded by a further Licence relating to the Licenced Activities, a certified return of quantities of substances or articles deposited under this Licence shall be submitted not later than **28 working days** after the Licence End Date.

*Reason: To allow Cefas to compile UK disposal records to OSPAR Commission to comply with the requirements of the OSPAR convention.*

### **3.30 Monitoring**

- 3.30.1 The Licence Holder must submit a Monitoring Plan to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.
- 3.30.2 The Licence Holder must ensure that any actions outlined in the Monitoring Plan detailed in condition 3.30.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.
- 3.30.3 The Licence Holder must submit environmental monitoring reports for approval to the Licensing Authority in accordance with the timetable approved within the Monitoring Protocol.

*Reason: To ensure that the material is being dispersed from the site to prevent accretion which may affect benthic features. To enable any changes in bed elevation that may impact cockle bed to be regularly monitored and reported. To mitigate any effects of the activity once they become known.*

### **3.31 Compensation Plan**

- 3.31.1 The Licence Holder must submit a Compensation Plan to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. The Compensation Plan must be in accordance with the ABPmer Report (R4606: Information to support Derogation September 2024). No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.
- 3.31.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.31 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

*Reason: To ensure appropriate compensation measures are implemented in order to offset damage to the designated site. To ensure that the final design profile of the proposed compensation is appropriate.*

### **3.32 Compensation Monitoring**

- 3.32.1 The Licence Holder must submit a Compensation Monitoring Plan to the Licensing Authority for written approval at least **6 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.
- 3.32.2 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.32.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.
- 3.32.3 The Licence Holder must submit compensation monitoring reports for approval to the Licensing Authority in accordance with the timetable approved within the Compensation Monitoring Plan.

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*Reason: To verify that compensatory measures at the site are effective.*

### **3.33 Commencement of Licenced Activities 1-3**

The Licence Holder must notify the Licensing Authority on completion of Licenced Activity 4, (implementation of compensatory measures). No Licensed Activities relating to Licensed Activity 1-3 may be undertaken prior to written approval from the Licensing Authority.

*Reason: To ensure that compensation is in place prior to loss of habitat occurring.*