

Sent by e mail

12/03/2020

Dear NRW Colleague,

MARINE AND COASTAL ACCESS ACT 2009: PART 4 MARINE LICENSING

DIFFUSER REPLACEMENT AT PORT OF MOSTYN

The Natural Resources Wales Permitting Service (NRW PS) has received an application from Lubrizol, for a Marine Licence under Part 4 of the Marine and Coastal Access Act 2009, to undertake the above stated works.

A copy of the application and supporting information is attached for your review.

I would be grateful for any views that you may have regarding the significance of these works taking into account the:

- protection of the environment,
- protection of human health,
- prevention of interference with other legitimate uses of the sea,
- protection of the local biodiversity,
- minimisation of noise and nuisance,
- potential impacts on navigation, such as obstruction or endangerment,
- need for any special lighting or markings,
- potential impacts on marine archaeology interests or sites.

Please assess the application over a calendar year to highlight any potential seasonal issues that could arise as a result of the proposal.

In accordance with our responsibilities under national and European legislation, your advice should also take into account the following provisions:

Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)

To comply with the requirements of the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended), the NRW PS is consulting the bodies whom it considers have an interest in the project by reason of their environmental responsibilities, or local or regional competences, in order that we can determine whether the proposed works

constitute a “relevant project” as described within Schedule A1 or A2 of the above regulations.

From my initial review of the application, I am of the opinion the Directive is not applicable to these works, however; if you disagree, please indicate the Annex that you consider the works fall within (screening opinion) and advise of the specific information that you would expect the Environmental Statement to include (scoping opinion), should one be required.

Conservation of Habitats and Species Regulations 2017 – Regulation 63

The site of the proposed work lies within or adjacent to the boundary of an area designated as a European site of conservation importance under the provisions of the Conservation of Habitats and Species Regulations 2017.

The area being:

Dee Estuary SAC

Dee Estuary SPA

Dee Estuary RAMSAR

In accordance with the Regulations ‘competent authorities’, are required to consider whether the proposals, either alone or in combination with other projects, is likely to have a significant effect on the sites and/or on any European protected species, and if necessary, to carry out an Appropriate Assessment of the implications for the sites and/or species having regard to their conservation objectives.

To assist in making the judgement of likely significant effect, I would appreciate your views on whether the proposed works are likely to have a significant effect on the European sites and /or species either alone, or in combination with other plans or projects and, if so, whether an Appropriate Assessment will be required.

If you consider an Appropriate Assessment is necessary, please indicate:

- what species and/or features are likely to be affected by the proposals and why,
- what, if any, potential measures may be used to mitigate the impact, and
- what other, ‘relevant’ plans or projects you are aware of that should be considered in combination with the proposed works.

Alternatively, if you are of the opinion that the works are unlikely to present a significant risk to the integrity of the European sites and/or species, or that any such risk would be substantially mitigated by attaching certain conditions to any licence granted in due course, please advise what conditions you consider would be necessary.

European Protect Species (EPS)

Do you consider this proposal to have the potential to impact European Protected Species in the manner outlined in 41 (1) of the Conservation of Habitats and Species Regulations (as amended)? If so, please provide details reasoning of why they are potential impacts to EPS.

Wildlife and Countryside Act 1981, as amended by the Countryside and Rights of Way Act 2000

Under the Wildlife and Countryside Act 1981, Statutory Authorities are required to give notice of operations likely to damage any of the flora, fauna or geological or physiographical features by reason of which a site of special scientific interest (SSSI) is of special interest.

The proposal is within or has a potential pathway to the Dee Estuary SSSI.

This letter should therefore be taken as notification of the proposed work and that the authority will wait until the expiry of the period of 28 days from the date of this letter before deciding whether to grant its consent, unless we are notified that a decision may be taken before then.

Biodiversity Duty under the Environment (Wales) Act 2016

Under section 6 of the Environment (Wales) Act 2016 ('the 2016 Act'), a public authority in Wales must seek to maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.

In complying with the duty under section 6 of the 2016 Act, a public authority must take account of the resilience of ecosystems, in particular—

- (a) diversity between and within ecosystems;
- (b) the connections between and within ecosystems;
- (c) the scale of ecosystems;
- (d) the condition of ecosystems (including their structure and functioning);
- (e) the adaptability of ecosystems.

If you consider the proposed works will impact upon ecosystem(s), please advise NRW as to:

- the ecosystem(s) that you consider would be affected;
- how you consider that the ecosystem(s) would be affected; and,
- mitigation measures that would avoid adverse impacts to the ecosystem(s) identified.

In complying with the duty under section 6 of the 2016 Act, a public authority must also have regard to any list of the living organisms and types of habitat which in their opinion are of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales published by the Welsh Ministers under section 7 of the 2016 Act. The Welsh Ministers have published interim lists of habitats and species, for the purposes of section 7 of the 2016 Act, which are available from the Biodiversity Wales Partnership:

<https://www.biodiversitywales.org.uk/Environment-Wales-Bill>

If you consider the proposed works will impact upon listed species and / or habitat(s) listed under the 2016 Act, please advise NRW as to:

- any species and / or habitat listed under section 7 of the 2016 Act that you consider would be affected; and,

- mitigation measures that would avoid adverse impacts to the species and / or habitats identified.

Marine and Coastal Access Act Part 5: Nature Conservation

Section 126 of the Marine and Coastal Access Act places duties relating to Marine Conservation Zones on public authorities determining Marine Licence (and other) applications. From my initial review of the application, I am of the opinion there is no significant risk of the proposed works hindering the achievement of the conservation objectives stated for Skomer Marine Conservation Zone. If you disagree please indicate:

- what features (and/or ecological or geomorphological processes that the conservation of any feature is dependent on) are likely to be affected by the proposals and why,
- what, if any, information could be provided to satisfy you that there is no significant risk of the works hindering the achievement of the conservation objectives
- what, if any, potential measures may be used to mitigate the impact.

EU Water Framework Directive (Directive No.2000/60/EC)

The applicant has completed the Water Framework Directive checklist as part of the application process (copy attached).

I would be grateful if you could advise whether the proposed works are likely to have any potential impacts on Water Framework Directive status or targets for relevant water bodies.

Consultation Response Due

A response to this consultation letter is required within **28 days** of the date of this letter, this being **09/04/2020**, for any comments you may have.

If I do not hear from you by this date I shall assume you have no comments to make.

Please send your response electronically where possible to:

sion.c.roberts@naturalresourceswales.gov.uk

Public Register

I would advise you that any information you provide in relation to the application is liable to be made available through our Public Register unless you specifically request otherwise.

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Should you wish to discuss any aspect of this application please do not hesitate to contact me quoting reference number: **CML1958**

Thank you for your assistance.

Yours sincerely

Sion Roberts
Marine Licensing Team
Natural Resources Wales