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16 April 2020

**INITIAL REVIEW OF FURTHER INFORMATION**

Dear Graham Morley,

Marine Licence Application ORML1938 – Morlais Tidal Array

Thank you for your submission of further information on the 27 March 2020.

Whilst we note that some of the information requested in our letter of 02 March 2020 has been provided within your further submission, we are concerned that many of the issues raised do not appear to have been addressed. This information will need to be provided to enable us to proceed with determination of your marine licence application.

The information we require is detailed under the relevant subheadings below. However, as previously outlined in our letter of 02 March 2020, careful attention should also be given to all the original consultee comments, as the list provided below is not exhaustive.

It is also necessary to provide a clear signposting document and/or matrix (see below). This will help to ensure that the requested information has been provided, consultee comments have been addressed, maintain transparency of the process and expedite the determination.

Please provide the information requested below by 02 May 2020. Please contact me as soon as possible if additional time is required.

**General Comments**

The documents *000_Document Index* and *01_MOR-RHDHV-DOC-0107_Morlais Project Additional Environmental Information* were submitted by Menter Môn as part of the 27 March 2020 further information. Further to these, the document *MOR-RHDHV-DOC-0129 NRW Signposting Document* was provided on 3 April 2020. These documents indicate the location of information within the further submission package and, in the case of *01_MOR-RHDHV-DOC-0107_Morlais Project Additional Environmental Information,* provide a degree of context to the information that addresses some of the consultee comments. However, the content is far from comprehensive. It lacks the required detail and cross-referencing necessary to verify that the requested information has been provided and for

consultation bodies and the public to easily follow the updates and identify the further information, as provided in response to our request.

The signposting document should detail how and where a response has been made to each of the comments provided in the Regulation 14 request letter and all the consultation responses received. Accordingly, we require that a detailed signposting document is provided to demonstrate that all information requested has been addressed. We cannot proceed with determination of your application until such a detailed signposting document has been provided and would be grateful if you could arrange for this to be included with your submission

It is also recommended that all evidence of any additional stakeholder consultation, since initial submission, is provided within the detailed signposting document. This document will provide an important reference for this stage of the determination process, detailing how your response has addressed the comments of the relevant stakeholder(s).

However, we acknowledge and appreciate the clear signposting to comments that has already been provided within certain documents. For example, *MOR/RHDHV/DOC/0113 Benthic and Intertidal Ecology Issues Responses to NRW comments* and *MOR/RHDHV/DOC/0110 Terrestrial Ecology Assessment Update.*

Within the recently submitted *MOR-RHDHV-DOC-0129 NRW Signposting Document (*3 April 2020) there is reference to two documents which have not been provided to NRW Marine Licensing Team. These are *MOR/RHDHV/DOC/0127*, relating to the Project Design Envelope, and *MOR/RHDHV/DOC/0125*, relating to Cumulative Impact. We would be grateful if these documents are also included with your submission.

As detailed in our letter of 02 March 2020, it is essential that, where appropriate, changes made to your Environmental Statement (ES) and supporting marine licence application documents are reflected in the Non-Technical Summary (NTS) and the ES summary chapter (Chapter 27). These changes should reflect the recommendations and requirements made by NRW and other consultees, as appropriate.

The NTS must ensure that the assessment conclusions are clearly defined and align with the key mechanisms attributable to reducing environmental impacts. Acknowledging the importance of phased deployment and the essential implementation of a '*yet to be'* agreed Adaptive Environment Management Plan (AEMP) and monitoring programme, the detail of such activities, mitigation and management measures should be highlighted within the NTS and other summary documentation.

Within our letter of 02 March 2020, it was also requested that a document be produced to clearly demonstrate how and where the application has considered the relevant policies of the Welsh National Marine Plan (WNMP). An additional document *MOR/RHDHV/DOC/0128 Welsh National Marine Plan Comparison Note* was provided by Menter Môn as part of the 27 March 2020 further information; however, we note that a number of policies have not been included. For example, GEN01, SOC1, SOC4, SOC10,

ENV07. Could you please ensure that the document is updated accordingly and resubmitted.

Within *MOR-RHDHV-DOC-0120 Onshore Ornithology Response to Comments on Chough* there are figures which are marked “confidential”, however, no reference is made to these in the cover letter and no claim to confidentiality has been provided. All further information submitted will be placed on our Public Register; therefore, it is essential that you make clear within a cover letter supporting any submission if there are any documents you consider should not be made publicly available. You should give clear reason for this claim so that due consideration can be given. It would also be expected that you provide both a redacted and unredacted copy of any documents that contain such material.

**Project Design**

Further clarity was requested surrounding the Project Design (02 March 2020), including detail on the worst case scenario considered for each receptor, the scale of the first phase and detail on subsequent phases. This information, should be provided in addition to that presented in section 2 of *01_MOR-RHDHV-DOC-0107_Morlais Project Additional Environmental Information*.

We note that section 4 of *MOR/RHDHV/DOC/0118 Marine Mammals Addition Collision Risk Modelling* states that it is unrealistic that 620 devices would be deployed. However, 620 devices have been included within the project design envelope. We would be grateful for clarification on this issue and stress that the worst case scenario of deployments outlined within the project design envelope must be consistently applied throughout the assessment topics.

Noting the revision of proposed site layout, specifically Fig 4-2 (*MOR/RHDV/DOC/0101*), can you confirm if this is now the committed layout configuration. In particular, whether there would no longer be any consideration for deployment of surface emergent devices (or visually prominent) in the northern part of the MDZ.

**Adaptive Environment Management Plan (AEMP)**

Within our letter dated 02 March 2020, we requested further information on the content and development of the Adaptive Environmental Management Plan (AEMP). The management mechanisms within the plan are fundamental to the HRA. Therefore, it is essential that clear detail is provided on a suitable and realistic monitoring programme which would provide sufficient confidence to underpin the assessment conclusions. Recognising the technical nature of such a plan, we strongly recommended engagement with NRW on the specifics of these measures.

Submitted on 27 March 2020, minor amendments have been made to *MOR/AEC/DOC/0001 Outline Environmental Mitigation and Monitoring Plan* (EMMP) as well as the supplementary *MOR/RHDHV/DOC/0119 Marine Mammals Monitoring and*

*Mitigation Options.* The updated EMMP provides a broad framework of the EMMP process; however, further detail must be provided before it can be accepted as a robust mechanism upon which the assessment conclusions, specifically those carried out under the Habitats Directive, can refer to.

A number of uncertainties exist including but not limited to, the scale of the first phase of deployment, detail of how successive build-out will be timed and achieved, detail and potential commitment to the proposed monitoring and mitigation and thus how significant effects will be avoided. This must be considered for the potential full extent of the project. Consideration should also be given to the implications upon operational activities if collision occurred and/or if monitoring failed i.e. would trigger points exist for implementing further mitigation measures, ceasing operational activities or even removing a device or devices. An assessment of the likely potential success of all proposed mitigation measures should also be provided.

If you are unable to provide more detail and certainty within the EMMP, then we will not be able to consider adaptive management as a measure to remove or reduce adverse effects on European sites in our Habitats Regulations Assessment (HRA). If we cannot conclude no adverse effect on site integrity of a European site resulting from the project, when considered in its entirety, the project may only proceed if a derogation under Article 6(4) of the Habitats Directive can be secured. As before, we strongly recommend further engagement with NRW on the development of the AEMP. This will ensure sufficient detail is included in the AEMP to allow us to appropriately consider the effects of the project.

**Coastal Processes**

A number of the detailed comments provided have been addressed within *MOR/HRW/DOC/0001 HR Wallingford Coastal processes modelling report*, *MOR/RHDHV/DOC/0112 Metocean and Physical Processes Numerical Modelling Supplementary Note* and N*ote MOR/RHDHV/DOC/0111 Metocean and Physical Processes ES Supplementary Note.*

We note that the wave modelling has assumed a worst case of 60 surface emergent devices (*MOR/HRW/DOC/0001 HR Wallingford Coastal processes modelling report*); however, within the project description (Chapter 4 of ES), a figure of 130 surface emergent devices is put forward as a realistic worst case. Please could you clarify this discrepancy with due consideration to our comments on Project Design envelope (see above).

Within our letter dated 02 March 2020, we requested that the Partrac Hydrographic and Geophysical report (2018), which is referenced within the ES, should be provided. NRW Advisory also recommended that consideration be given to assessment of the pre-lay grapnel run. We were unable to find any acknowledgment to these clarifications within the further information submitted.

**Marine Mammals**

A number of additional documents have been submitted by Menter Môn to address the concerns raised in relation to potential impacts on marine mammals. These include *Underwater noise modelling MOR/RHDHV/DOC/0116*, *Marine Mammal Underwater Noise assessment MOR/RHDHV/DOC/0117* and *Marine mammal collision risk of phased deployment MOR/RHDHV/DOC/0118*.

We are content that a number of the clarification requests have been recognised, either through direct acknowledgement or through the provision of further information (e.g. noise modelling). However, it is not always possible to clearly see how or where the relevant comments have been addressed within the additional information. Furthermore, some of the original clarifications do not appear to have been addressed. For example, there is no information on the proposed ADD array configuration nor is there any justification for the allocation of 'low' sensitivity to disturbance for all marine mammal species.

**Seascape and Landscape**

We appreciate the clear signposting and acknowledgement to clarifications raised (Table x-1 of *MOR/SLR/DOC/0001*). However, there does not appear to be any acknowledgement to those comments raised specifically through the marine licencing process. For example, consideration of the seascape viewpoint from the perspective of small recreational craft.

**Socio-economics, Tourism and Recreation**

Although additional documents have been submitted these have not addressed all of the clarification points we raised. A large number of the public responses raised concerns in relation to kayaking and although some consideration has been given, the further information submitted does not fully acknowledge the general concerns of the kayaking community. Furthermore, it is difficult to see how the original assessment conclusions have acknowledged the consideration of kayaking issues.

A concern raised by the RYA under Navigation is also relevant to this topic, in that there is an under-representation of recreational craft due to the omission of any GIS tracks/routes from the assessment. This concern must be addressed.

**Cumulative Impacts**

We note that cumulative impacts associated with Coastal Processes and Marine Mammals have been revisited, at least in part, within the further information submitted by Menter Môn. However, it is unclear whether the cumulative assessment has been revisited for any other relevant topic. A full justification of which projects/plans have been screened in/out for cumulative impact assessment is required.

As noted above, the *MOR-RHDHV-DOC-0129 NRW Signposting Document* refers to *MOR/RHDHV/DOC/0125* in relation to cumulative impact assessment; however, this document has not been submitted to NRW Marine Licensing Team.

**HRA**

We note that further information relevant to the HRA has been submitted; specifically in relation to marine mammals (and associated modelling studies), consideration of habitat loss (seacliff) and chough. However, not all the clarification points in relation to HRA have been addressed. Notably, these relate to barrier effects (displacement) and the impacts on prey availability to marine mammals.

Fundamental to the assessment conclusions is the reliance on the AEMP and the suitability of the proposed mitigation, monitoring and management measures outlined therein. At this time, detail within the EMMP is not sufficient to provide confidence in the suitability of this as an adequate mitigation tool and consideration within the HRA (see above). This requires further development and detailed consultation with NRW.

**Navigation**

While we acknowledge the additional information submitted in relation to navigation, there remains considerable confusion around how and where the clarification points have been addressed.

A number of major issues with the initial submission documents (ES chapter and NRA) were raised by RYA (see letter dated 2 March 2020). No information has been provided that has addressed the concerns and clarifications raised by the RYA or Chamber of Shipping. As further consultation with RYA has not taken place and consultation with MCA and Trinity House is ongoing, there does not appear to be an agreed position on a number of points raised during the initial consultation process.

We note that within the newly submitted *01_MOR-RHDHV-DOC-0107_Morlais Project Additional Environmental Information* it states that the NRA that was originally submitted with the application was incorrect. The document *18UK1479-RN-MM-NRA-20_03*, submitted within the further information package, is specified as the correct NRA. To ensure transparency and facilitate the consultation process, a document outlining the differences between the new and old NRA must be provided.

Furthermore, *MOR/RHDHV/DOC/0124* makes no reference that the incorrect NRA was submitted with the original application. In one section detailing that there is no intention to revisit the NRA at this stage; while in another section it states '*the NRA is being reviewed with reference to this specific point and supplementary information regarding this point will be provided in due course'.* It is unclear whether the NRA is being reviewed and whether further information is expected at a later date. It is important that all further information is provided together. Providing further information at a later date may require further

consultation under Regulation 16 and 17 of the Marine Works (EIA) Regulations which could lead to delays in the determination.

A MGN 543 checklist was requested. The further information submitted states that this has been provided; however, we are unable to locate this document within the submission package or within Appendix 3 Chapter 15 of the application. Please submit or clearly signpost where this is located within the submission.

Please provide the information requested above by 02 May 2020. If NRW has not received this information by this date, application ORML1938 will be treated as having been withdrawn. Please contact me as soon as possible if additional time is required.

In the meantime, should you have any further queries, please do not hesitate to contact me.

Yours sincerely,

**Peter Morrison**
Marine Licensing Team
Natural Resources Wales