

Ein cyf/Our ref: ORML1938

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14 October 2020

## **REQUEST FOR FURTHER INFORMATION - THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007 (AS AMENDED)**

Dear Graham Morley,

Marine Licence Application ORML1938 – Morlais Tidal Array

Menter Môn Morlais Ltd has applied to Natural Resources Wales (NRW) for a Marine Licence under the Marine and Coastal Access Act 2009 for the proposed Morlais Tidal Array (MTA) project to develop 240MW of tidal generating capacity within the Morlais Demonstration Zone.

NRW is required to consider such requests in accordance with the Marine Works (Environmental Impact Assessment) (EIA) Regulations 2007 (as amended) (“the Regulations”).

On the 2 March 2020 we issued a further information request to you as we considered further information was required to properly consider the environmental effects of the project. Further information was subsequently provided and the final submission was made on the 8 July 2020. As set out in the Regulations we consulted with a number of expert bodies and the public in order to seek their view on the submission.

Following review of the further information as well as representation received during the consultation period we consider that a number of concerns previously raised have now been addressed. However, a number of key issues remain and we consider that further information is required in order to allow us to progress with the determination.

### **Request for further information**

In accordance with Regulation 14 of the Regulations, NRW considers that further information is required to properly consider, or come to a conclusion on, the likely significant environmental effects of the project. NRW will not proceed with the consideration of the environmental impact or the determination of the marine licence until this information is provided.

We draw your attention to the response from the Maritime and Coastguard Agency (MCA) (2 September 2020) which states how they are unable to provide comment upon the marine licence application until the updated Navigation Risk Assessment (NRA) and revised EIA chapter have been formally submitted. Although we welcome the submission of the updated NRA and EIA Shipping and Navigation chapter, as received on 30 September 2020; this new information was not consulted upon during the second round of consultation which commenced on 22 July 2020 and closed on the 2 September 2020.

Following the second round of consultation responses you will note a number of concerns which must be addressed and/or clarified. It is strongly recommended that you review and respond accordingly to all the points raised by the various consultees during the second consultation round. Within this letter specific attention is given to a number of the clarification points and responses, of which many will need to be addressed before the marine licence process progresses. However, this list is not exhaustive and consideration must be made to all the consultee comments. As done previously, a signposting matrix and relevant supporting documents should be provided to allow cross-referencing against the responses.

## **1. General Comments**

A recurring comment made by the consultees relates to the clarity around the Project Design Envelope (PDE) and, in particular, detail on the first phase (Phase 1). While it is appreciated that a Rochdale Envelope approach is required by this proposal, limiting the initial scale of deployment is considered a key mitigation measure and is presented as such within the outline Environmental Mitigation and Monitoring Plan (oEMMP). The oEMMP details that the first phase will be at an installed capacity at which no significant impact is predicted on marine mammals and diving birds as determined through modelling outputs. However, NRW Advisory have significant concerns on the reliance on modelling outputs alone in defining the initial phase. Acknowledging the reduced scale required to reduce uncertainty and provide necessary confidence that adverse ecological effects will be avoided during Phase 1; greater detail must be provided to clearly define the scale of initial deployment. Narrowing the scope would strengthen confidence in the assessments and address concerns raised by multiple consultees. Currently, we do not consider that you have adequately defined Phase 1.

We have engaged with you on several occasions around the oEMMP, including an overview of our concerns (5 June 2020) and attendance at several meetings (12 June 2020; 26 June 2020) and acknowledge that further information has been provided. However, we still have significant concerns about the lack of detail within the oEMMP. We expect the comments made by the consultees during the second round of consultation to be further considered.

Assurance is made within the oEMMP to produce appropriate trigger points for marine mammals. However, commitment and detail on the trigger points and their implementation must be provided at this stage to understand how these would

trigger action in real time and link to a rapid response to prevent possible collisions and an adverse effect from occurring. We also highlight the need for a greater level of detail on the monitoring and mitigation measures for marine mammals and seabirds. There is still considerable uncertainty on the effectiveness of some of the measures outlined.

There is considerable reliance and referral to the Advisory Group (AG) within the oEMMP, despite its structure, responsibilities and way of working still needing to be agreed. This results in added uncertainty around the measures implemented to avoid adverse effects. We consider that the reliance and detail on the AG, within the oEMMP, must be removed in order to provide the necessary clarity and confidence on the measures proposed. We do, however, encourage you to engage with relevant stakeholder and experts throughout both the development and implementation of the EMMP.

## **2. Coastal Processes**

Acknowledging the complex modelling which has been used to derive the assessment conclusions can you confirm how monitoring will be carried out to validate the modelling. If no monitoring is being proposed you will need to provide justification for us to consider.

We strongly recommend that clarification is given to how and where the findings from the coastal processes modelling are considered within the NRA and Shipping and Navigation chapter.

Further information has recently been submitted in relation to the Holyhead Port Expansion marine licence application (ref; CML1931) and is available on our public register. Additional consideration should be given within the cumulative impact assessment to the potential inter-relationships with the Holyhead Port proposal from changes in hydrodynamics, waves and sediment pathways.

## **3. Marine Water and Sediment Quality**

We recommend that the potential impacts on marine water quality in relation to surface water runoff to the Beddmanarch Bay SFW and Holyhead Strait WFD waterbody be detailed within the Surface Water Drainage Strategy. This should include how the potential increases in suspended sediment and contaminants will be mitigated.

Clarification should be provided on where background suspended sediment concentration (SSC) for the project area has been sourced. Likewise clarification is required surrounding the values used for volumes of sediment generated by foundation installation, see NRW Advisory response for further detail.

## **4. Benthic and Intertidal Ecology**

Continuing concerns have been raised around the potential to mitigate adverse effects on Section 7 features present within the MDZ. A strong reliance is placed on the possible micro-siting of devices and related infrastructure as a measure to avoid or reduce impacts; however, the feasibility of the approach is questioned by NRW Advisory. We strongly recommend that consideration is given to this issue along with commitment to carry out pre-construction surveys and deploy devices in a manner that minimises the potential impacts on Section 7 features.

Subject to a positive determination the need to complete a biosecurity risk assessment and management plan would be required before the commencement of works. We acknowledge that an outline Invasive Non-native Species Management Plan was submitted with the application and recommend that the comments received in relation to INNS are considered as you develop this document.

Further information has recently been submitted in relation to the Holyhead Port Expansion (see above). Additional consideration should be given to the potential cumulative effects with the Holyhead Port proposal on benthic features.

## **5. Fish and Shellfish Ecology**

Consideration should be given to all the comments raised in relation to fish and shellfish.

## **6. Marine Ornithology**

We recommend that further detail and full working is provided around the collision risk modelling calculations. This will provide greater confidence in the conclusions.

To provide confidence in the oEMMP and the assessments which have been made based on the outcomes of operational monitoring measures, the detail on monitoring and mitigation measures needs to be sufficient pre-consent. There is concern that some of the measures proposed in the oEMMP have not been tested and are still under development, therefore further information on these measures are required in the oEMMP. Examples include but are not limited to: monitoring collisions of diving birds with turbines; GPS tagging.

It is important that the oEMMP can be referred to directly and relied upon to contain all relevant information to support the assessment of no adverse effect. Thus sufficient detail on monitoring and mitigation measures key to reducing adverse effects should be encompassed within the oEMMP.

As with marine mammals, careful consideration should be given against the monitoring requirements and likely data needs that would be required to ensure further deployments (phases) could potentially progress in a manner that is realistic to the continued development of the Morlais Project testing site. Comments provided

by NRW Advisory suggest that it may take a number of years of data acquisition before moving to the next phase could even be considered.

A comment has been raised by NRW Advisory as to whether you plan on using the original baseline boat surveys or new vantage point type surveys to inform change in use of area by birds pre and post installation. Please provide clarification on this point.

Further engagement with NRW and RSPB is recommended on the continued development of the oEMMP.

## **7. Marine Mammals**

In our letter dated 2 March 2020, it was recommended that the sensitivity categorisation for marine mammal species was revisited due to failure to incorporate location importance and value judgements into the impact assessment methodology. While we recognise your acknowledgment to NRW Advisory's comment (22 May 2020), please note that this point has been raised and sensitivity categorisation questioned again by NRW Advisory during this second round of consultation.

Due to uncertainties on CRM/ERM, avoidance rates and other parameters there is not enough information to conclude that the scale of Phase 1, as broadly outlined within the oEMMP and other documents, represents sufficient mitigation to rule out AEOSI. We strongly recommend that consideration is given to a reduction in the scale of Phase 1 and a clearer more committed description of Phase 1 must be provided (see General Comments above). Currently, the description of Phase 1 is wholly defined upon the modelling outputs and hence there exists considerable uncertainty around the assessments made, particularly in relation to bottlenose dolphin.

Consequently, we consider that monitoring and additional mitigation are required during Phase 1. Details of the measures applied during Phase 1 and how these will reduce the potential for an adverse effect should be clarified within the oEMMP and across all other relevant documents.

The oEMMP details the intention to remove monitoring and mitigation requirements over the lifetime of the project. Monitoring will likely be required throughout the operational phase to detect any collisions and mitigation should be available in the event of a collision.

Further detail is required within the oEMMP on the implementation of trigger points and how these would trigger action in real time to prevent possible collisions and an adverse effect from occurring. It should be acknowledged in the oEMMP that a rapid response would be required even if a single collision is detected.

As detailed for seabirds, careful consideration should be given against the monitoring requirements and likely data needs that would be required to ensure further deployments could potentially progress in a manner that is realistic to the continued development of the testing site (see Marine Ornithology).

There exists significant concerns regarding the operational underwater noise assessments of turbines and Acoustic Deterrent Device's (ADD's). Clarification is sought on where these operational noise levels were sourced from, and whether it is realistic to assume that noise from the large rotor device will scale from the small rotor device. We also query whether these two source levels adequately consider the multiple different device types with potentially different noise characteristics. It is therefore not currently possible to assess whether the information presented is a realistic worst case. Furthermore, given the uncertainty over the accuracy of the information presented and the lack of information on the likely deployment and configuration of the ADD array, it is currently not possible to assess the likely impacts from ADDs. Further information is required to address these uncertainties.

Detail surrounding the monitoring methods proposed in the oEMMP must be revisited to acknowledge the considerable uncertainties around how the monitoring will be implemented, and whether it will be effective. ADD's should be considered as mitigation rather than monitoring and it is strongly recommended that the comments made on ADD's by NRW Advisory are carefully acknowledged within the oEMMP including their configuration and deployment.

NRW Advisory have raised a concern around the approach used to assess barrier effects on marine mammals. Please clarify accordingly.

It is strongly recommended that further engagement is sought with NRW Advisory and JNCC regarding the monitoring and mitigation measures and how these would be implemented.

## **8. Onshore Ecology**

We recommend that careful consideration is given to INNS including the commitment to manage INNS (in particular those species highlighted by the consultation responses) within the biosecurity risk assessment before work begins.

If trenching is required we strongly recommend that early consideration is given to NRW Advisory comments on permanent habitat loss of any vegetated seacliff habitat, noting that NRW Advisory have concluded that the effect on this qualifying feature would lead to AEOSI.

## **9. Seascape and Landscape**

As noted by Isle of Anglesey County Council (IoACC) the Device Deployment Protocol should consider the cumulative effects of deployments on seascape and landscape.



In relation to NRW Advisory's comment, can you confirm your commitment to monitoring the effects of development within the seascape on the AONB.

Further detail should be provided around the lighting requirements for construction/support vessels and this should be assessed accordingly, particularly in relation to the potential effect on the Anglesey AONB.

We note that IoACC requires the securing of adequate compensation measures, including enhancement of features, to balance the effects of adverse impacts of the project as confirmed in the ES on Seascape, Landscape and Visual receptors. The compensation package should be developed in agreement with IoACC and NRW Advisory.

It is strongly recommended that the varied comments made by NRW Advisory in relation to the content of the Outline Landscape and Management Plan (OLMP) are clarified and additional detail provided, as required. This includes the renaming of the OLMP to include 'seascape' in the title.

Clarification is required to address how consideration has been given to assessing the increased visibility of surface emergent structures during spring tides.

## **10. Socio-economics, Tourism and Recreation**

The implications of losing and/or significantly restricting a recognised boating area should be assessed with consideration against the Sector Supporting Policy T&R\_01b of the WNMP, in addition to the general policies such as SOC\_01 and SOC\_02.

Clarification should be given to support why the Supplementary Tourism and Recreation Assessment did not encompass interviews with RYA affiliated clubs in the area, nor did it consider training or cruising activity.

We expect the applicant to provide justification around the approach to assessing the economic importance of marine tourism and recreation, in particular why consideration against the recommendations of the Seabed User and Developer Group (SUDG) have not been demonstrated.

A number of objections on the tourism assessment were received which specifically question the approach and methodology. These should be considered and justified, as required.

## **11. Navigation**

As noted above (General Comments), the updated Navigation Risk Assessment (NRA) and EIA Shipping and Navigation chapter were received on 30 September 2020. This information was received following the closing of the second round of

consultation and thus has not been consulted upon. Therefore, it should be acknowledged that the comments in this section are based upon earlier versions of these documents.

During the second round of consultation a number of concerns were raised upon the quality and content of the information used to inform the NRA and EIA navigation chapter. These encompassed but are not limited to:

- Failure to consider all possible maritime safety impacts to recreational craft
- Not including data covering the peak recreational period
- No consideration of non-AIS equipped recreational craft
- Failure to follow MGN 543 leading to an incomplete and inaccurate NRA
- Not assessing the full implications of the MDZ on recreational boating
- Failure to apply the Rochdale Envelope in a manner which aligns with guidance

We would expect you to consider the above concerns. It is strongly recommended that you review and respond accordingly to all the points raised in the consultation and ensure that the documentation provided on the 30 September 2020 addresses these concerns.

In relation to safety impacts on recreational craft, we require further justification why a discrete hazard assessment for kayakers has not been carried out within the NRA and is not considered within the EIA chapter. Such an assessment would consider the effects of hydrodynamic changes upon recreational boating (including kayakers) and the risk to kayakers of being swept into the MDZ and surface emergent devices.

We require clarity surrounding the use of traffic data that was more than 12 months out of date at the time of the Marine Licence application submission, and defining the 'peak' period for recreational boating as occurring from the end of August into September.

As things progress, it is strongly recommended that further engagement with MCA and RYA is sought to discuss navigation risk and their respective concerns. We recommend that the outcomes of any such engagement are communicated to NRW.

## **12. Underwater Noise**

Clarification should be provided as to whether the Lofitech Seal Scarer can be considered a representative worst case scenario given that there are other known ADDs with higher source level.

Further information on the particular noise characteristics of the ADD that has been modelled (Lofitech Seal Scarer), such as the likely duration, rise-time, sound pressure impulse signature should also be provided.

## **13. Cumulative Impacts**



Further evidence is required to justify why an in-combination air quality assessment is not considered necessary.

Further information has recently been submitted in relation to the Holyhead Port Expansion (see above). Additional consideration should be given to the potential cumulative effects with the Holyhead Port proposal on benthic features.

A number of inconsistencies and gaps have been identified by NRW advisory in relation to the cumulative and in-combination effects, such as the lack of consideration of developments within and around Holyhead. These require revisiting, consideration and inclusion, as relevant, before a robust conclusion can be made on the potential effects. It is recommended that the CIA screening matrix and CIA addendum are updated to ensure alignment with all documents, including HRA and WFD, where appropriate. Any changes and justifications should be clearly outlined in a signposting document

#### **14. Documents requiring approval**

Within the application and supporting information as well as responses from consultees, a number of references are made to documents which are intended to be submitted for approval prior to commencement of works. These include but are not limited to, DDP, deployment specific NRA and CEMP. We recommend that a comprehensive list of these documents is provided.

We would also request clarification of where a single document is being proposed to cover the project or where separate documents are being proposed for each deployment.

For documents which cover both the marine and terrestrial area, such as the biosecurity risk assessment and management plan it would be useful to understand whether it is proposed that a single document is developed, or separate documents for the marine and terrestrial aspects of the proposal.

Reference is also made within supporting documentation to a Marine Mammal Mitigation Protocol, please could you clarify the relationship between this document and the EMMP.

Once you have had the opportunity to review the above we will look to discuss and agree with you a realistic deadline for the provision of information. If NRW has not received this information by the agreed date, application ORML1938 will be treated as having been withdrawn. Please can you contact me as soon as possible if additional time will be required to collate this information.

Please note that further information must be publicised in accordance with the requirements stipulated in Regulation 16 of the Regulations. Therefore, once this

information is received by NRW, you will be provided with a public notice to publish in the same newspaper as the project was previously publicised, at your own expense.

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Morrison'.

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