



gwerth mewn gwahaniaeth
delivering on distinction

Morlais Project

Morlais letter to the RYA

Applicant: Menter Môn Morlais Limited
Document Reference: MOR-EVS-DOC-0022
Document Title: Morlais letter to the RYA

Morlais Document No.: MOR-EVS-DOC-0022
File No.: MMC583

Status:
Final

Version No:
F1

Date:
Jan 2021

© 2021 Menter Môn

This document is issued and controlled by:

Morlais, Menter Môn. Registered Address: Llangefni Town Hall, Anglesey, Wales, LL77 7LR, UK

Unauthorised copies of this document are NOT to be made

Company registration No: 03160233 Requests for additional copies shall be made to Morlais Project

Richard Hill
Royal Yachting Association
RYA House
Ensign Way
Hamble
Southampton
Hampshire, SO31 4YA

Date: 8 January 2021
Your ref: DNS/3234121 - Morlais Demonstration Zone
Our ref: MUTTONKZ\312534-000015
Direct: +44 115 931 7557
Email: karenmutton@eversheds-sutherland.com

BY EMAIL ONLY TO richard.hill@rya.org.uk

Dear Sirs

**Transport and Works Act 1992
Transport and Works Act (Application and Objections Procedure) (England and
Wales) Rules 2006
The Transport and Works (Inquiries Procedure) Rules 2004**

**Application by: Graham Morley (Menter Mon)
Site Address: Morlais Demonstration Zone, Anglesey**

We write further to discussions at the round table session on navigation held on 18 December 2020, and in particular with regard to allegations made by the RYA that the Applicant had not undertaken a visual survey to inform its navigational risk assessment.

Those allegations followed the submission of late evidence from the RYA on 16 December 2020 which introduced new information to the Inquiry, and which did not specify the reason for doing so in relation to the point taken at the round table on data related to the alleged absence of a visual survey.

The allegation that the Applicant had not undertaken a visual survey did not feature in any consultation response made by the RYA. Whilst the RYA's statement of case did refer to the need to undertake a standalone visual survey, and that the RYA had not seen any evidence that one had been undertaken, it was not a point subsequently taken up in Mr Hill's Proof of Evidence. Furthermore, his rebuttal proof whilst stating that the Applicant had confirmed that no visual survey had been undertaken (which the Applicant denies) does not seek to raise any point in relation to it. The first occasion that the Applicant was aware that any point was sought to be established in relation to the issue was therefore at the round table session itself. Contrary to what was intimated by Mr Hill at the round table session at no stage did the RYA specifically request details of the survey be provided.

In addition, since the undertaking of a visual survey is not a requirement of navigation risk assessment under MGN543 there was no reason for the Applicant to assume that the RYA would seek to establish any substantive point from its alleged absence.

The Applicant made it clear in correspondence to PINS on 17 December 2020 that, in the event that it needed to undertake further work to make submissions in response, it would seek an award of costs against the RYA due to its unreasonable behaviour in submitting late evidence.

During the round table session, the Inspector invited the Applicant and the RYA to have further discussions which might address the concerns raised by the RYA, without the need for further work, thereby averting a potential claim for costs.

bir_prop2\8483925\3\mailep

Eversheds Sutherland (International) LLP is a limited liability partnership, registered in England and Wales, under registration number OC304065, registered office One Wood Street, London EC2V 7WS and is authorised and regulated by the Solicitors Regulation Authority. A list of the members' names, together with those who are non-members, but are designated as partners is available for inspection at the above office, together with details of their professional qualifications.

Eversheds Sutherland (International) LLP and Eversheds Sutherland (US) LLP, together with their controlled, managed, affiliated and member firms are separate legal entities that operate globally in combination under the name and brand Eversheds Sutherland. For a full description of the structure and a list of offices, please visit www.eversheds-sutherland.com.

As with all surveys that are conducted to support navigation risk assessments of this complexity and detail, the Morlais surveys comprised two separate elements:

Firstly a confirmatory visual survey to confirm the electronically reported identity of detected AIS contacts. It is important to identify radar contacts because radar detection only confirms the presence of a vessel (or object), in order to confirm the type and identity of a vessel it is necessary for a visual categorisation by a suitably competent and experienced observer to be achieved.

Secondly and separately, a visual survey was conducted to identify and specifically to record the smaller and non-radar conspicuous vessels that do not carry AIS. In the case of the Morlais survey, example include the recorded detections of jet skis and kayakers.

Accordingly, the Applicant encloses the following documents to evidence that visual surveys were undertaken:

1. Extracts from the Summer Maritime Traffic Survey, South Stack, Anglesey (Anatec, 16 November 2017); and the Maritime Traffic Survey – April 2019, South Stack, Anglesey (Anatec, 26 April 2019). These extracts comprise Chapter 5 of both documents which set out details of the visual traffic survey undertaken. Specifically both documents state:

"These targets were not broadcasting on AIS and were not able to be reliably tracked on radar for at least part of their transit, mainly due to their small size".
2. A letter from Anatec confirming the visual survey undertaken
3. An email from the MCA to the Applicant dated 4 January 2021 confirming that, having had sight of the extracts referred to at (1) above, they are *"content that visual observations were conducted as part of the survey"*. The Applicant also met with the MCA on 7 January 2021, and the MCA re-affirmed its stated position at page 15 of the Statement of Common Ground¹ that *"the vessel traffic data acquired for the project and presented in the NRA and ES is fully compliant with their requirements and those of MGN 543"*

When undertaking a navigation risk assessment, Marico maritime risk practitioners follow the specific International Maritime Organisation endorsed Formal Safety Assessment methodology which outlines methods for collecting analysing and risk assessing the large amounts of information to inform their hazard assessment and risk scoring.

The NRAs conducted for the Morlais project included traffic survey data collected by Anatec which included AIS, RADAR and visual observations. It should be noted that:

- Not all craft carry AIS, so a compliant survey must be augmented by a radar survey.
- A radar survey is of limited value unless supplemented by a visual survey to identify detected radar contacts.
- Some vessels / contacts (paddleboarders / dinghies / jet skis etc) are too small to be detected by radar (and don't carry AIS) and thus will only be detected by a separate standalone visual survey.

The NRA also incorporated:

- Extensive consultation and vessel traffic analysis undertaken by Marico.
- Incident analysis and relevant local publications and information sources to inform, temper and shape the risk assessment process.
- RYA Coastal Atlas Data.


¹ MDZ/L8

The risk assessors themselves have extensive relevant professional experience in the subject matter of the NRA to make informed assessments of the data and in particular, to be able to interpret and apply common sense to the results and mitigations that emerge. Where concerns may exist around the under representation of vessel types, Marico risk practitioners understand this and scored hazards appropriately based on the relevant data available in response to MGN 543, findings determined through consultation, as well as their subjective experience/understanding of these complex systems

Having provided this confirmation, the Applicant trusts that the RYA will now be in a position to withdraw its evidence submitted on 16 December 2020. Should it do so, and notify the Applicant accordingly in writing by 5pm on 15 January 2021, then the Applicant confirms that it will not seek to make an application for an award of costs in respect of the submission of the late evidence and the Applicant's need to respond to it.

Should such confirmation not be forthcoming, then the Applicant will undertake further work with a view to submitting a written response to the allegations made at the round table session in reliance upon the late evidence, and will seek to pursue an award of costs against the RYA which will allege unreasonable behaviour arising from the submission of late evidence and the additional expense to which the Applicant has been put in responding.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Eversheds Sutherland', is written over a light blue rectangular background.

Eversheds Sutherland (International) LLP

cc Planning Inspectorate
Gus Lewis - RYA Legal & Government Affairs Manager

APPENDIX 1A
Summer Maritime Traffic Survey, South Stack, Anglesey (Anatec, 16 November 2017)

5. Visual Observations

Figure 5.1 presents visual observations identified over the 14 day survey period, colour-coded by date recorded. These targets were not broadcasting on AIS and were not able to be reliably tracked on radar for at least part of their transit, mainly due to their small size.

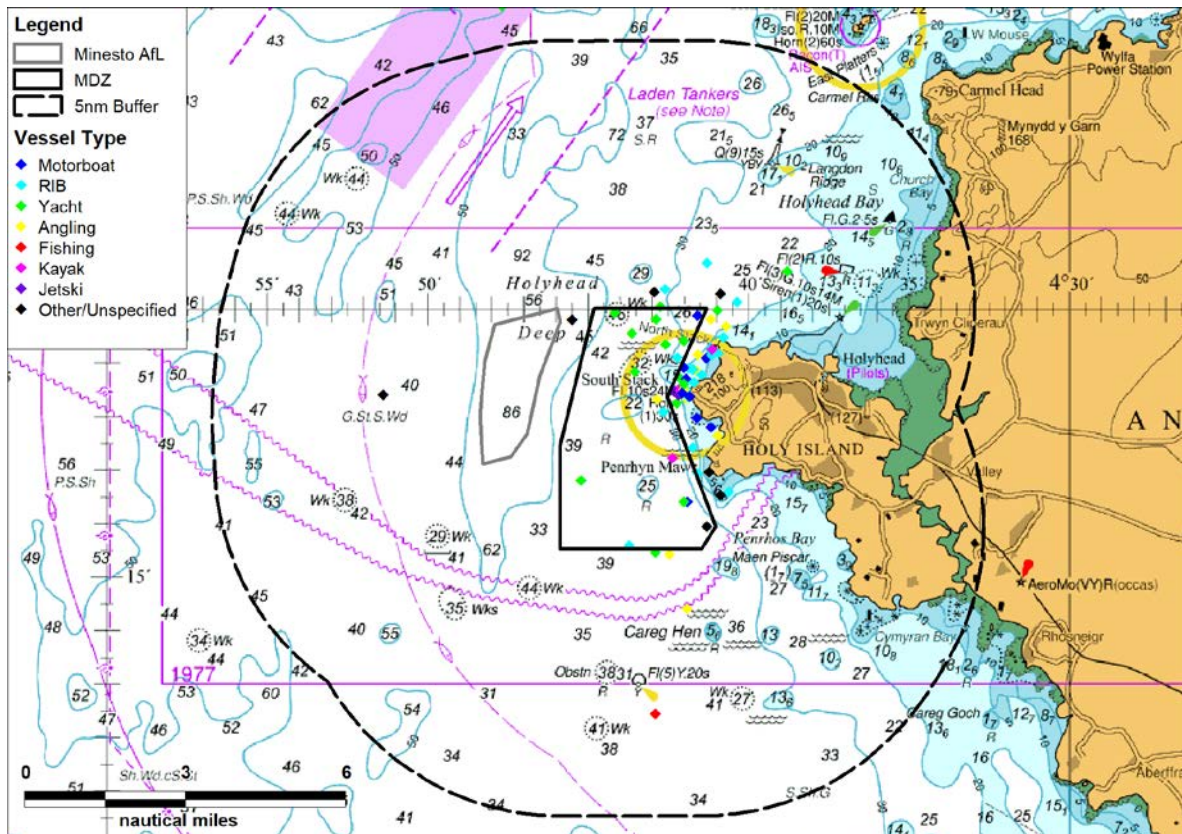


Figure 5.1 Visual Observations by Type

There were 76 unique targets visually identified over the survey period, 70 of which were recreational vessels. These included motorboats, yachts, sea anglers, kayaks and jet skis. Other vessels included fishing vessels, one police launch and one unspecified vessel. Figure 5.2 to Figure 5.5 presents visually observed vessels over the survey period.



Figure 5.2 Yacht Survey Image (6th September 2017)



Figure 5.3 Jetski Survey Image (26th August 2017)



Figure 5.4 Kayaks Survey Image (1st September 2017)



Figure 5.5 *My Way* Sea Angling Charter Vessel (29th August 2017)

APPENDIX 1B
Maritime Traffic Survey – April 2019, South Stack, Anglesey (Anatec, 26 April 2019)

5 Visual Observations

Figure 5.1 presents visual observations identified over the 14 day survey period, colour-coded by vessel type. These targets were not broadcasting on AIS and were not able to be reliably tracked on radar for at least part of their transit, mainly due to their small size.

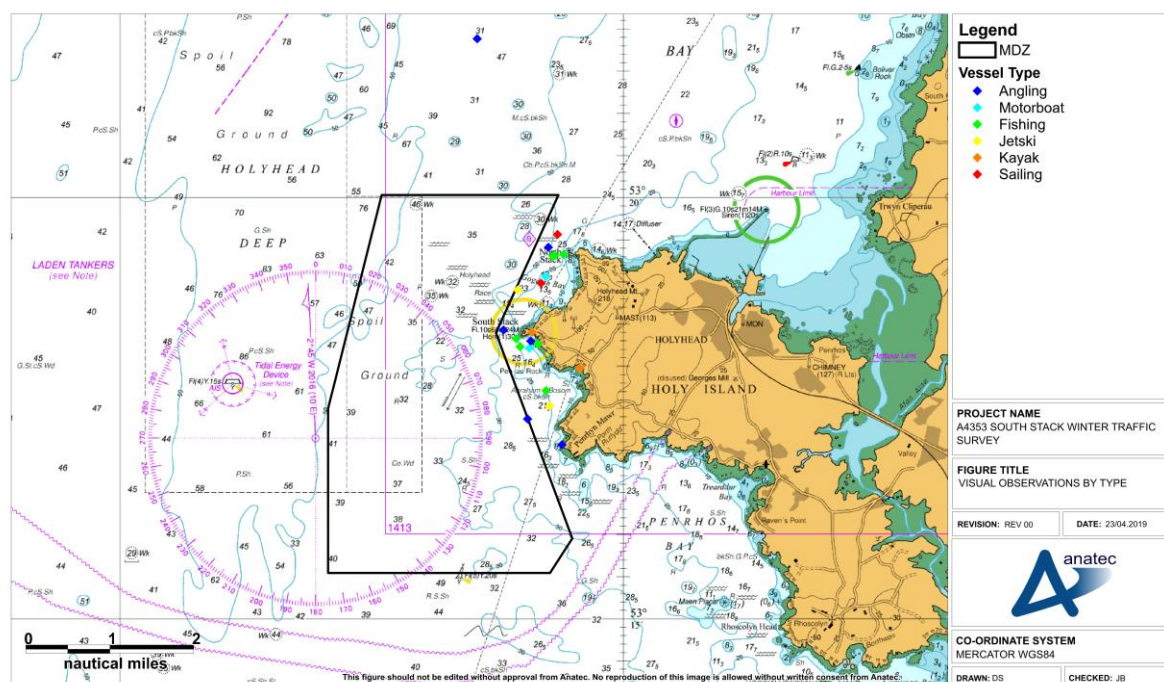


Figure 5.1 Visual Observations by Type

There were 22 unique targets visually identified over the survey period, seven of which were fishing vessels and six of which were chartered angling vessels. Other vessels included sailing vessels, motorboats, jet skis and kayaks. Figure 5.2 and Figure 5.3 present visually observed vessels over the survey period.



Figure 5.2 Jet skis Survey Photograph (6th April 2019)



Figure 5.3 Kayaks Survey Photograph (6th April 2019)

APPENDIX 2
Letter from Anatec confirming the visual survey undertaken

**To:**

Morlais
Menter Môn
Town Hall
Bulkeley Square
Llangefni
LL77 7LR

From:

Anatec Limited,
10 Exchange Street,
Aberdeen,
AB11 6PH
Tel: +44 1224 253700
e: aberdeen@anatec.com
Web: www.anatec.com

Date: 22 December 2020

Visual Observations during Maritime Traffic Surveys of Morlais Site

Anatec Limited were commissioned to collect 2 x 14 days of vessel traffic data covering the Morlais Demonstration Zone (MDZ) located to the west of Anglesey.

The two survey periods (each comprising 14 x 24 hours) were from:

- 5 to 19 April 2019
- 26 August to 9 September 2017

The survey were carried out to meet the requirements of the Maritime and Coastguard Agency (MCA) Marine Guidance Note 543 (Merchant and Fishing), Safety of Navigation Offshore Renewable Energy Installations (OREIs) - Guidance on UK Navigational Practice, Safety and Emergency Response Issues.

As required by the guidance, the surveys recorded all the vessel types found in the area using a combination of AIS, Radar and visual observations.

The watchkeepers were based at the Fog Signal Building of South Stack Lighthouse (approx. coordinates 53° 18.405' North, 004° 41.979' West (WGS84)). This provided excellent line-of-sight of the sea area of interest.

The AIS and Radar tracks were recorded on PC. For smaller tracks which did not broadcast on AIS, and which either did not appear on Radar, or had too weak an echo to be acquired and plotted, visual observations were taken and manually logged by the survey watchkeepers, who were present daily between 06:30 and 23:30 hrs (BST) approximately.

The visual logs were assisted by the use of marine binoculars. The effective range of observations was dependent upon visibility at the time, as well as the range, size and aspect of the target passing the observation point. (Detailed weather logs, including visibility, are contained in the survey reports.)



The visually logged positions are summarised in Section 5 of the Anatec survey reports, including photographs of a selection of the vessels / craft that were manually recorded.

The survey report references are as follows:

- Anatec Limited - Summer Maritime Traffic Survey, South Stack, Anglesey, Report No. A3955-MOR-TS-1 Rev 02, 16 November 2017.
- Anatec Limited, Maritime Traffic Survey – April 2019, South Stack, Anglesey, Report No. A4353-MM-TS-1 Rev 00, 26 April 2019.

Yours sincerely,
On behalf of Anatec Limited

John Beattie
Principal Risk Analyst

APPENDIX 3
Email from the MCA to the Applicant dated 4 January 2021

James, Stephanie - REPG

From: Nick Salter <Nick.Salter@mcga.gov.uk>
Sent: 04 January 2021 11:00
To: 'James Orme'
Cc: Phil Durrant; Maile, Paul; Paul Brown
Subject: RE: Morlais Visual Survey

Good morning James,

Happy New Year.

Thank you for sending the two survey reports. I can confirm I am content that visual observations were conducted as part of the survey.

Best regards,

Nick

Nick Salter
Offshore Renewables Lead
Marine Licensing and Consenting
UK Technical Services Navigation

+44 (0) 20 3817 2554
+44 (0) 7766 922630
nick.salter@mcga.gov.uk



Maritime & Coastguard Agency
c/o Falmouth Marine Office
Pendennis Point
Castle Drive, Falmouth
Cornwall, TR11 4WZ



Safer Lives, Safer Ships, Cleaner Seas
www.gov.uk/mca

From: James Orme <james.orme@junoenergy.co.uk>
Sent: 18 December 2020 17:49
To: Nick Salter <Nick.Salter@mcga.gov.uk>
Cc: Phil Durrant <Phil.Durrant@marinespace.co.uk>; 'Maile, Paul' <PaulMaile@eversheds-sutherland.com>; Paul Brown <paul.brown@marico.co.uk>
Subject: Morlais Visual Survey

Dear Nick,

Further to my rather hurried email earlier on today, I note that one of the reports sent has tracked changes. Please find attached the final pdf versions for your records instead.

In section 5, of each document, it presents visual observations identified over the 14 day survey period, colour-coded by date recorded. These targets were not broadcasting on AIS and were not able to be reliably tracked on radar for at least part of their transit, mainly due to their small size.

Please can we agree with you that there were visual surveys as the existence of these surveys has been brought into question by RYA at the Inquiry as you know.

We would be very grateful if you could respond by return email that you agree the visual survey has been undertaken.

Best regards,

James



Juno Energy Ltd, The Lighthouse, Heugh Road, North Berwick EH39 5PX

tel +44 (0) 131 2026995
mob +44 (0) 7917 713170
email james.orme@junoenergy.co.uk

(Company No. 05696030) Registered Office at Dynevor House, 5-6 De La Beche Street, Swansea, SA1 3HA
This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager at info@junoenergy.co.uk. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of the company. Finally, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email.

This email has been scanned by the BT Assure MessageScan service
The service is delivered in partnership with Symantec.cloud

For more information please visit <http://www.globalservices.bt.com>

=====