

MARINE LICENSING DECISION

The Marine and Coastal Access Act (2009)

Applicant: Conwy County Borough Council

Application reference no: CML2108

Colwyn

Old Colwyn Coastal Defecne

22 October 2021

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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 Organisation set out below: Organisation name: Conwy County Borough Council Address: Conwy County Borough Council, Environment, Roads & Facilities, Mochdre Offices, Conway Road, Mochdre, LL28 5AB
Application Reference Number	CML2108
Date Application was duly made	12 May 2021
Proposal[s] covered by the application	The project is to provide increased coastal protection along a section of the frontage in Old Colwyn in order to protect the critical infrastructure which lies behind the existing seawall. The existing seawall is increasingly subject to undermining and localised damage.
Licensable marine activities	The licensable elements of the works consist of: • The importation and placement of: Primary rock armour (3-6t) approx. 152,700t of granite (or rock of similar physical properties and appearance) Underlayer (0.3 – 1t) 70,900t of granite or limestone. Core material (0.15 – 0.3t) of granite or limestone. • Creating a rock revetment. • Construction of 1 fishing platform. • Construction of 3 perpendicular access steps through revetment. • Outfall extensions and groyne enhancements. • Construction of an access build out.

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	Removal of existing corroded steel access steps and some small concrete landings associated with these steps.	
Marine Plan Area	Welsh inshore region and Welsh offshore region	
Application documents:		
Title/Description of Document	Date	Version No.
CML2108 NOWCIPP Marine Licence Application for HoS approval v2	18 February 2021	2
CML2108 Continuation Sheet Scheme Summary	12 March 2021	1
CML2108 Continuation Sheet Section 6a	12 March 2021	1
CML2108 Continuation Sheet Section 7a	12 March 2021	1
CML2108 WNMP signposting doc	07 May 2021	1
CML2108 Piling Locations	07 May 2021	1
CML2108 Scheme Coordinates	12 May 2021	1
CML2108 - 410895-MMD-N-R-00-XX-1700 - Wintering Bird Report	11 February 2020	1
CML2108 - 410895-MMD-N-R-00-XX-1701 - PEAR	July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1703_DesignatedSites_A3_Landscape	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1704_HeritageAndLandscape_A3_Landscape	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1705_WaterAndFlooding	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1706_SensitiveReceptors_A3_Landscape	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1707_RedlineBoundary_A3_Landscape	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1708_AreaOfPermChange_A3_Landscape	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1709_DesignatedSites_A3_Landscape_Sites_Outside_2k	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1711_AnticipatedPrincipalWorkingAreaandConstraints_A3_Landscape	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1712_SedimentTransportAndWavedirection	23 July 2020	1

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CML2108 - 415437-MMD-00-XX-DR-N-1713_Phase_1_Habitat_Survey	23 July 2020	1
CML2108 - 415437-MMD-00-XX-DR-N-1714_International_Designations_Within_2.0km	23 July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1720 - FCA	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1721 - WFD Assessment	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1722 - Bio-Sec RA	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1723 - D4RE Record	August 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1724 - Carbon Mgt Plan	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1725 - Transport Statement	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1726 - HRA	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1727 - Bat Report	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1728 - OEMP	July 2020	1
CML2108 - 415437-MMD-00-XX-RP-N-1729 - Outline SWMP	July 2020	1
CML2108 - 415437-MMD-C-R-00-XX-3000 P02 - Overtopping Assessment	15 June 2020	2
CML2108 - ENQ 29321 Response	12 March 2020	1
CML2108 - MMD-00-XX-RP-N-1703 ES V2 TA1 - Introduction	July 2020	1
CML2108 - MMD-00-XX-RP-N-1704 ES V2 TA2 - Alternatives	July 2020	1
CML2108 - MMD-00-XX-RP-N-1705 ES V2 TA3 - Scheme Description	July 2020	1
CML2108 - MMD-00-XX-RP-N-1706 ES V2 TA4 - Scheme Construction	July 2020	1
CML2108 - MMD-00-XX-RP-N-1707 ES V2 TA5 - Consultation	July 2020	1
CML2108 - MMD-00-XX-RP-N-1709 ES V2 TA8 - Biodiversity	July 2020	1
CML2108 - MMD-00-XX-RP-N-1710 ES V2 TA9 - Climate	July 2020	1
CML2108 - MMD-00-XX-RP-N-1711 ES V2 TA10 - Coastal	July 2020	1
CML2108 - MMD-00-XX-RP-N-1712 ES V2 TA11 - Landscape	July 2020	1
CML2108 - MMD-00-XX-RP-N-1715 ES V2 TA14 - Pop and HH	July 2020	1
CML2108 - MMD-00-XX-RP-N-1716 ES V2 TA15 - Other	July 2020	1
CML2108 - MMD-00-XX-RP-N-1717 ES V3 NTS	July 2020	1
CML2108 - MMD-00-XX-RP-N-1719 ES V1 - Main text	July 2020	1

2. APPLICATION PROCEDURE

2.1 The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 12 May 2021. 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

The Applicant made no claim that any information forming part of the Application was subject to commercial confidentiality and we have not received any information in relation to the Application that appears to be commercially confidential.

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 North Wales Pioneer on 10 June 2021 and 17 June 2021 (the Public Notices) and a notice was published on NRW's website. The application documents were made available to the public at via the [public register](#) and they could also be requested from Natural Resources Wales Marine Licensing Team, Ty Cambria, 29 Newport Road, Cardiff, CF24 0TP.

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 28 May 2021, due to their particular expertise. These bodies were consulted for a period of 42 days. Those bodies have responded to the consultation an 'Y' can be found in the response received column, those who did not respond to consultation an 'N' can be found in the response received column:

Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate	N	
NRW	Y	09 July 2021
MoD - Safeguarding Defence	Y	29 June 2021
Maritime & Coastguard Agency	Y	24 June 2021

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Trinity House	Y	09 June 2021
Royal Yachting Association	N	
Local Biodiversity Officer	Y	19 July 2021
Local Planning Authority	Y	19 July 2021
Local Harbour Authority	N	
Local Port Authority	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Government / Marine Enforcement Officers	N	
Welsh Archaeological Trust	Y	01 June 2021
Royal Commission on Historic Monuments Wales	N	
Cadw	Y	07 June 2021
Department for Transport (DFT)	N	
Chamber of Shipping	N	
NERL Safeguarding	Y	04 June 2021

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.

4. ENVIRONMENTAL IMPACT ASSESSMENT

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 CML2108) was issued on 13 May 2021.

Pursuant to Regulation 5 of the Regulations, it was agreed between NRW and Conwy County Borough Council that the proposed works constitute an EIA development under the Regulations.

4.2 EIA assessment

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 on 22 October 2021. 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 assessment

NRW issued a Written Confirmation of the EIA Consent Decision on 22 October 2021, 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
- Risk of major accidents and disasters relevant to the project
- Cumulative impacts and in-combination impacts

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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 ES has assessed the impact on population and the human environment. Due to the embedded mitigation detailed in section 8.1 of the consent decision, and the scale and nature of the project, significant impact on population is not predicted during the construction phase. The ES also considered that during the construction phase there was the potential to generate impact in terms of traffic and transportation, noise and air quality and visual impact, however NRW PS consider that considering the design of the project and mitigation proposed that there will be no significant impact on population or human health as a result of the project.

4.3.2 Biodiversity

The project is located within the Liverpool Bay SPA and in proximity of a number of other designated areas. NRW PS carried out a Habitat Regulation Assessment and concluded that, subject to appropriate conditions detailed in section 8.2 of the consent decision, the Licensed Activities will not adversely affect the integrity of any of the European Sites.

The ES considers the potential further impact on biodiversity including that of a pollution event, or increased sedimentation caused during excavation. NRW PS conclude that considering mitigation proposed within the ES and the licence conditions outlined in section 8 of the consent decision related to pollution prevention best practice and adherence to a CEMP, no significant impact on biodiversity is predicted.

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 sediment disturbance during excavation and vehicle movements during construction phase. The ES has assessed these impacts and proposed mitigation including adherence to a CEMP which would include pollution prevention best practice. NRW consider that the works have been appropriately assessed and that considering mitigation proposed within the ES and the licence conditions outlined in section 8 of the consent decision, that no significant impact on water quality is predicted.

There is an impact pathway to air during the construction phase, such as production of dust during demolition operations and depositing of material, however it is considered that the ES has adequately considered the impact and based on mitigation proposed by the applicant, including that detailed within section 8.1 of the consent decision, and adherence to best practice, significant impact is not predicted.

Potential impact on climate has been considered within the ES, an increase in carbon emission is predicted during the construction phase and mitigation is proposed within the ES to reduce the project emissions.

4.3.4 Material assets, cultural heritage and landscape

The ES has assessed the impact on material assets, cultural heritage and landscape. NRW PS consider that due to the design, installation methods and previous assessments carried out as detailed in section 7.10 of the consent decision, there will be no adverse effect on material assets, cultural heritage and landscape as a result of the project.

4.3.5 Risk of major accidents and disasters relevant to the project

Due to the nature of the operation, the pollution prevention measures proposed to reduce the risk of a major accident or pollution event, and conditioned within the marine licence, stated in section 8.2 of the consent decision, NRW PS consider the risk of a major accident to be negligible.

4.3.6 Cumulative impacts and in-combination impacts

As detailed in section 3.2.4 of the consent decision, NRW PS carried out a Habitat Regulation Assessment, as part of which an in-combination assessment was carried out and concluded subject to appropriate mitigation that the works would not cause a significant impact alone or in combination on a European designated site. NRW PS concluded that the potential impacts due to the project have been adequately addressed in the ES.

4.4 EIA Consent Decision

NRW issued a Written Confirmation of the EIA Consent Decision on 22 October 2021, containing the conclusion about Environmental Impact arising from the project and the EIA Consent Decision. 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 on 22 October 2021, highlighted the mitigation or monitoring requirements required to be attached to the regulatory consent. These are set out below:

Licence conditions will be required to ensure that pollution prevention best practice will be adhered to, this would include the installation of appropriate bunding and storage facilities to contain and prevent the release of fuel, oils and chemicals associated with the plant, refuelling and construction equipment into the marine environment. This will reduce impacts on water quality.

Licence conditions will be required to ensure a Construction and Environmental Management Plan (CEMP) is submitted to the Licensing Authority for approval prior to commencement of Licensed Activities. This will ensure appropriate pollution preventions are implemented.

Licence conditions will be required to ensure all delivery of materials is made via the land and not the sea. This will ensure no impacts on marine mammals through underwater noise and mitigate the risk of spread and introduction of marine INNS.

Licence conditions will be required to ensure the UK Hydrographic Office are notified before and after the commencement and completion of Licensed Activities. This will ensure the promulgation of Maritime Safety Information and the updating of nautical charts and publications to ensure other vessels in the vicinity can safely plan and conduct their passage.

Licence conditions will be required to ensure the area is returned to the original profile, or as close as reasonably practicable, following the completion of the Licensed Activities. This will ensure the profile does not pose a hazard to safe navigation.

Licence conditions will be required to ensure the appropriate use of render and concrete to minimise risk of damage to the marine environment by wet concrete contamination.

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

Piling works would be undertaken at exposed low tides. This would avoid piling within the marine water body, therefore avoiding the propagation of underwater noise through the water column.

Enhancement measures have been built into the Scheme design including new rocky shore habitats and biodiverse landscaping.

Throughout the construction and operational phases, best practice guidance in reference to pollution prevention would be followed.

Should vessels be used, the core wintering bird season (October to March inclusive) would be avoided for the delivery of revetment rock via barge. They would also not be allowed to drop anchor and instead barges would be guided and positioned by tugs or small support vessels. This would avoid any potential impact on mussel bed or Sabellaria alveolata habitat as a result of coming into contact with anchors.

A CEMP will be produced by the contractor which will include measures to manage and reduce potential risks to the environment. The CEMP will also include a Materials Management Plan, Waste Management Plan, Dust Management Plan.

During construction, to reduce short term negative impact on hydrodynamics and the sediment transport regime, materials, such as rock armour used for revetment construction, should be stored as high up the beach as practicable.

Primary mitigation and enhancement measures have been incorporated into the Scheme proposals, in terms of working methodology and Scheme design to reduce impact on population and human health.

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

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to be made of the works in question when constructed, altered or improved (considered, if relevant in sub-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 sub-sections 5.1 to 5.5 below)
- such other matters as it thinks relevant (see sub-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:

- North Wales

NRW PS have conducted a Water Framework Directive Compliance Assessment and concluded that the Proposed Activities, when considered alone and in-combination with other activities, will not pose a risk of deterioration or jeopardise the attainment of “good” status of the above listed waterbody when conducted in line with the CEMP (condition 3.18). The CEMP will ensure that appropriate pollution prevention measures are implemented.

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

5.1.2 Biodiversity and resilience of ecosystems duty**(a) The legal framework**

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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 is satisfied that in this case, 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.

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 Project may affect the following European Protected Sites.

- Liverpool Bay SPA
- Menai Strait and Conwy Bay SAC

The Harbour Porpoise (*Phocoena phocaena*), Grey Seal (*Halichoerus grypus*) and Bottlenose Dolphin (*Tursiops*) have been assessed in the following protected sites due to the high mobility of these features following NRW position on the use of Marine Mammal Management Units for screening and HRA on mammal features:

- North Anglesey Marine Special Area of Conservation (SAC)
- West Wales Marine SAC
- Bristol Channel Approaches SAC
- Pen Llyn a'r Sarnau SAC
- Cardigan Bay SAC
- Pembrokeshire Marine SAC

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

The following conclusions of the HRA have been considered by NRW in making this decision. In light of the conclusions of an appropriate assessment, and taking account of the advice received from protected sites advisors, it has been established that the project will not adversely affect the integrity of

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any Natura 2000/Ramsar site, taking into account any conditions or restrictions as applicable, either alone or in-combination with other plans and projects.

NRW is therefore satisfied that the Proposed Activities, either alone or in combination with other plans or projects, will not adversely affect the integrity of European Site(s) when undertaken in accordance with appropriate conditions; i.e. conditions 3.18 and 3.19.1 which requires the applicant to submit prior to commencement of Licensed Activities and work in line with and approved CEMP for approval and avoid delivery of materials by sea.

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 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 no protected species are likely to be impacted by 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 distance to Skomer.

5.1.6 Sites of Special Scientific Interest (SSSIs)

(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

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NRW is satisfied that there is no impact pathway to any SSSI within the marine licensing area.

5.1.7 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

NRW is satisfied that the Proposed Activities meet the requirements of The Waste (England and Wales) Regulations 2011 when undertaken in accordance with appropriate conditions.

5.1.8 Other matters in considered relevant to the need to protect the environment

Consultation responses were received from both Archaeological Trust and Cadw. However, neither raised any concerns regarding impacts from the proposed activities on the historical environment.

Conditions have also been included to ensure the appropriate use of concrete which will minimise the risk of damage to the marine environment by wet concrete contamination. This has been secured through licence condition 3.22 set out in Annex 1.

5.1.9 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

No comments or representations were received in relation to the need to protect human health and no other concerns in this regard have been identified.

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.

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Consultation responses were received by Trinity House and MCA. Trinity House had no objections or comments to the proposed Licensed Activities. The MCA requested that licence conditions be included to ensure local marine users, HM Coastguard and UK Hydrographic Office are made aware of the Licensed Activities prior to commencement. MCA also requested that UK Hydrographic office is notified following completion of the Licensed Activities. MCA also stated that the profile must be returned to its original profile following completion of the Licensed Activities. This has all been secured through the inclusion of conditions 3.1.1, 3.1.3, 3.4, 3.20 and 3.21 set out in Annex 1.

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 (WNMP)

The activity has been assessed against the relevant marine plan policies and the decision been taken in accordance to these policies, as set out in the WNMP. This is supported by the submission of the WNMP Assessment, dated May 2021.

Shoreline Management Plan (SMP)

SMPs are non-statutory policy documents with the purpose of providing a large-scale assessment to support coastal support management planning.

The proposed works lie within Policy Unit 2.2 of the Western Wales SMP2. The policy for the unit is Hold The Line. Therefore, the enhancement of the Old Colwyn Coastal Defence is in line with the SMP policy for the area.

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

AUTHORISATION

Report by: Joe Thomas	Date:	Signed:
Position: Permitting Officer	22/10/2021	
Authorised by: Wendy Dodds	Date:	Signed:
	22/10/2021	

Application Number: CML2108

Position: Permitting Team Leader		
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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 **nmoccontroller@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 and 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.

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 air dried before deployment and before moving between locations.

Reason: To minimise the risk of spread of invasive non-native species.

Activity-specific Conditions

3.18 Construction Environmental Management Plan (CEMP)

3.18.1 The Licence Holder must submit a CEMP to the Licensing Authority for written approval at least **8 weeks** prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

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 ensure appropriate pollution preventions and Sabellaria alveolata mitigation are implemented. It will also ensure an appropriate method for rock stock piling and sediment management is adhered to.

3.19 Delivery of Materials

3.19.1 The Licence Holder must ensure all delivery of materials is made via the land. No barge deliveries of material may be undertaken via the sea prior to written approval from the Licensing Authority.

Reason: To ensure no impacts on marine mammals through underwater noise and and mitigate the risk of spread and introduction of marine INNS.

3.19.2 The Licence Holder must ensure that no vessels are used between **01 October** and **31 March** inclusive, without prior written approval from the Licensing Authority.

Reason: To avoid the wintering bird season.

3.19.3 The Licence Holder must ensure that no vessel drops anchor in the intertidal area and instead barges would be guided and positioned by tugs or small support vessels.

Reason: To avoid any potential impact on mussel beds or Sabellaria alveolata habitat.

3.20 Notification of UK Hydrographic Office

3.20.1 The Licence Holder must notify the UK Hydrographic Office no less than **5 days** before the commencement of the Licensed Activities, or an individual phase of the Licensed Activities, is expected to commence.

3.20.2 The Licence Holder must notify the UK Hydrographic Office within **5 days** of completion of the Licensed Activities.

Reason: To permit the promulgation of Maritime Safety Information and the updating of nautical charts and publications to ensure other vessels in the vicinity can safely plan and conduct their passage.

3.21 Construction, Alteration or Improvement – Returning to Original Profile

The Licence Holder must ensure the area is returned to the original profile, or as close as reasonably practicable, following the completion of Licenses Activities.

Reason: To ensure the profile does not pose a hazard to safe navigation.

3.22 Use of Render and 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 that if concrete is to be sprayed in the vicinity of the marine environment (e.g. bridges, retaining walls, etc.), suitable pollution prevention measures are taken to prevent rebounded or windblown concrete from entering the water environment.

Reason: To minimise risk of damage to the marine environment by wet concrete contamination.