

Marine Licensing Decision

The Marine and Coastal Access Act (2009)

Applicant: Seaweedology

Application reference no: DEML2041

Establishment of a 4 hectare seaweed farm off the coast of Tenby and Caldey Island, Pembrokeshire

10 November 2021

Contents

Marine Licensing Decision	1
1. APPLICATION DETAILS	4
1.1. The Application.....	4
2. APPLICATION PROCEDURE	6
2.1. The Application.....	6
2.2. Documents considered	6
2.3. Commercial Confidentiality	6
2.4. Publicity and advertising	6
2.5. Environmental impact Assessment.....	6
3. CONSULTATION.....	7
3.1. Consultees	7
4. BASIS FOR OUR DECISION	10
4.1. The need to protect the environment:	10
4.1.1. Water Framework Directive, Groundwater Directive and Water Environment Regulations 10	
4.1.2. Biodiversity and resilience of ecosystems duty.....	11
4.1.3. European Protected Sites and Ramsar Sites	11
4.1.4. European Protected Species	13
4.1.5. Marine Conservation Zones	13
4.1.6. Sites of Special Scientific Interest (SSSIs)	14
4.1.7. The Waste (England and Wales) Regulations 2011	14
4.1.8. Other matters considered relevant to the need to protect the environment	14
4.1.9. Conclusion of our considerations under the need to protect the Environment	15
4.2. The need to protect human health	15
4.3. The need to prevent interference with legitimate uses of the sea	15
4.4. Marine Policy Documents	16

Application Number: DEML2041

4.4.2. Our determination.....	17
4.5. Other matters NRW thinks relevant	17
4.5.2. Sustainable management of natural resources	17
5. Conclusions and Recommendations	18
6. AUTHORISATION	18
ANNEX 1.....	19

Application Number: DEML2041

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 4;
- 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 company set out below: Company name: Seaweedology Company number: 12794046 Address: Suite 3, 90-92 High Street, Henley-In-Arden, England, B95 5BY
Application Reference Number	DEML2041
Date Application was duly made	10 September 2020
Proposal[s] covered by the application	Establishment of a 4-hectare seaweed farm off the coast of Tenby and Caldey Island, Pembrokeshire. (the Project)
Licensable marine activities	The licence is for the establishment of a 4-hectare seaweed farm off the coast of Tenby and Caldey Island. The licenced activities are: Deposit of six sea cubes to form the outline of the farm, the seacubes will sit at a depth of approximately 15-19 metres. Up to 525 buoys will be placed within the farm area, with seed line deposited between the buoys. The buoys will be marked in accordance with Trinity House guidelines. The ropes will be spaced at ten-metre intervals.

Application Number: DEML2041

	Deployment of scientific equipment. Decommissioning activities including the reverse of the installation process. (the Proposed Activities)
Marine Plan Area	Welsh inshore region and Welsh offshore region
Application documents:	Application Form 01 December 2020 v2 Carmarthen Bay Report 05 August 2021 v4 Consultation Response 3 05 August 2021 v3 Biosecurity Plan 15 February 2021 v2 Navigational Risk Assessment 11 October 2021 v3 Construction Plan 09 September 2020 v1 Location Map with Features 09 September 2020 v1 Nautical Chart Small 17 November 2020 v1 Nautical Chart Large 17 November 2020 v1

Application Number: DEML2041

2. APPLICATION PROCEDURE

2.1. The Application

The Application was accepted by Natural Resources Wales (**NRW**) considered duly made on 10 September 2020. 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

As required by s. 68 of the Marine and Coastal Access Act 2009 (the 2009 Act), notice was given to Pembrokeshire County Council on 16 September 2020.

As required by s. 68 of the 2009 Act NRW has required the Applicant to publish notice of the Application.

Public notice advertising the Project was placed in Tenby Observer on 25 September 2020 and was readvertised on 4 December 2020 due to a change in the project location. In light of the public health situation surrounding COVID-19, a hard copy of the application and supporting documents were not made available during this period; however, copies of the application documents were made available on the NRW public register.

The public were given a period of 28 days from the date of the Public Notice to provide comments on the application.

Two public responses were received in response to the Public Notice. All representations have been considered in coming to our decision. Details of our considerations can be found in section 4.

2.5. 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 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 environmental impact assessment (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.

Having considered the Application NRW has determined that it does not constitute a development requiring EIA under the Regulations.

3. CONSULTATION

3.1. Consultees

NRW considered it appropriate to consult the bodies listed in the table below on 16 September 2020 due to their particular expertise. These bodies were consulted for a period of 28 days. For those bodies which responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate	Y	16 September 2020
NRW	Y	28 October 2020
Natural England	Y	17 November 2020
MoD - Safeguarding Defence	Y	27 October 2020
Maritime & Coastguard Agency	Y	21 October 2020
Trinity House	Y	22 October 2020
Royal Yachting Association	Y	05 October 2020
Local Biodiversity Officer <i>[Pembrokeshire County Council]</i>	N	
Local Planning Authority <i>[Pembrokeshire County Council]</i>	N	
Local Harbour Authority <i>[Tenby]</i>	N	
Local Port Authority <i>[Saundersfoot and Tenby]</i>	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Archaeological Trust	N	
Royal Commission on Historic Monuments Wales	N	
Cadw	Y	06 October 2020
Chamber of Shipping	N	
NERL Safeguarding	N	
Welsh Government – Marine Planning and Licensing	N	

Application Number: DEML2041

Welsh Fishermans Association (WFA)	N	
------------------------------------	---	--

Following consideration of the consultation response from the MoD, the applicant changed the project location to move outside of the MOD Pendine Range.

Due to this change, NRW considered it appropriate to re-consult the bodies listed in the table below on 17 November 2020, due to their particular expertise. These bodies were consulted for a period of 28 days. For those bodies that responded to the consultation an 'Y' can be found in the response received column, and those which did not respond to the consultation an 'N':

Consultee	Response received (Y/N)	Date(s) of receipt
The Crown Estate	Y	04 December 2020
NRW	Y	21 December 2020
Natural England	Y	21 December 2020
JNCC	Y	05 January 2021
MoD - Safeguarding Defence	N	
Maritime & Coastguard Agency	Y	25 November 2020
Trinity House	Y	20 November 2020
Royal Yachting Association	N	
Local Biodiversity Officer <i>[Pembrokeshire County Council]</i>	N	
Local Planning Authority <i>[Pembrokeshire County Council]</i>	N	
Local Harbour Authority <i>[Tenby]</i>	N	
Local Port Authority <i>[Saundersfoot and Tenby]</i>	N	
Royal Society for the Protection of Birds (RSPB)	N	
Welsh Archaeological Trust	N	
Royal Commission on Historic Monuments Wales	N	
Cadw	Y	03 December 2020
Chamber of Shipping	N	

Application Number: DEML2041

NERL Safeguarding	N	
Welsh Fishermans Association (WFA)	Y	16 December 2020

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 4 of this decision document.

Application Number: DEML2041

4. 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 4 below in accordance with the 2009 Act.

Under the 2009 Act NRW is required to have regard to the following:

- the need to protect the environment (see section 4.1);
- the need to protect human health (see section 4.2);
- the need to prevent interference with legitimate uses of the sea (see section 4.3);
- 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 to be made of the works in question when constructed, altered or improved (considered, if relevant in sections 4.1 to 4.5 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 sections 4.1 to 4.5 below); and
- such other matters as it thinks relevant (see section 4.5 below).

4.1. 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.

4.1.1. Water Framework Directive, Groundwater Directive and Water Environment Regulations

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

Application Number: DEML2041

NRW has considered the potential effect of the Proposed Activities on the following WFD waterbodies:

- Carmarthen Bay Coastal Waterbody

A Water Framework Directive Compliance Assessment has been undertaken for the Proposed Activities and taken into account in this decision. This assessment concludes that the proposed development will not lead to a deterioration of the assessed elements within any affected water body, nor prevent any water body from meeting its WFD objectives, subject to adherence to best practice pollution measures and a biosecurity plan.

Based on this assessment it is considered that the Proposed Activities when considered alone and in combination, will not pose a risk to deterioration in the status of any of the above listed waterbodies or jeopardise their attainment of good surface water status when undertaken in accordance with appropriate conditions that includes adherence to a biosecurity plan as set out in condition 3.17.2 in Annex 1.

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

4.1.2. Biodiversity and resilience of ecosystems duty

a) The legal framework

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

Concerns were raised over potential impact on marine species due to entanglement with the project infrastructure, this includes potential impact on, Leatherback Turtle, Risso Dolphin, Minke Whale, Harbour Porpoise, Grey seal and Bottlenose Dolphin. To mitigate this, a Marine Mammal Entanglement Protocol (MMEP) will be adhered too and is included as condition 3.21 (shown in Annex 1). More information on the MMEP is contained within section 4.1.3.

Potential impact on Common Scoter is discussed in section 4.1.3.

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.

4.1.3. 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.

Application Number: DEML2041

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:

- Carmarthen Bay / Bae Caerfyrddin ac Aberoedd SAC/SPA
- Bristol Channel Approaches / Dynesfeydd Môr Hafren SAC
- North Anglesey Marine / Gogledd Môn Forol SAC
- West Wales Marine / Gorllewin Cymru Forol SAC
- Pembrokeshire Marine SAC / Sir Benfro Forol SAC
- Pen Llyn a'r Sarnau SAC / Llyn Peninsula and the Sarnau SAC
- Cardigan Bay SAC / Bae Ceredigion SAC

A Habitats Regulations Assessment of the Proposed Activities has been undertaken, and the relevant Statutory Nature Conservation Bodies (NRW, Natural England and the JNCC) were consulted on the HRA.

The following conclusions of the HRA have been considered by NRW in making this decision.

The project is located 0.3 kilometres outside of the Carmarthen Bay SPA, however, there remains an impact on Common Scoter (*Melanitta nigra*) through disturbance caused during movement of vessels to the site. To rule out effect on site integrity, the frequency of site visits were reduced from once every week to once every three weeks, this is set out in condition 3.22.1 shown in Annex 1. Impact through disturbance and displacement was also reduced through agreement of a specific vessel route which will be adhered to while making site visits increasing the distance of the vessels from the SPA, this is shown in Appendix 2 of the marine licence and is set out in condition 3.22.2 in Annex 1. Based on the mitigation proposed, the reduction of site visits and adherence to a vessel route plan the potential impact is considered negligible. Although planned visits must be restricted to a maximum of once every three weeks, there may be a need to visit a site in cases of emergency, e.g. damage to infrastructure resulting in potential risk to navigation, in these instances the Licence Holder must also log and detail all emergency visits to the project site and submit this to NRW annually this is set out in condition 3.22.3 in Annex 1.

The project had potential impacts on marine mammal species (harbour porpoise *Phocoena phocoena*, grey seal *Halichoerus grypus* and bottlenose dolphin *Tursiops truncatus*) through entanglement with site infrastructure, including ropes. To mitigate this, impact a Marine Mammal Entanglement Protocol (MMEP) will be adhered. The MMEP sets out that risk of entanglement will be monitored through requiring visual and subsurface inspections of the infrastructure once every three weeks, along with photo and video camera monitoring. The MMEP sets out that if a first entanglement

Application Number: DEML2041

occurs, extra mitigations will be implemented based on the species that was entangled, this may include acoustic deterrents. If there is a further entanglement event, the farm infrastructure will be hauled out of the water. Farm infrastructure will also be removed from the water if the mitigation measures mentioned within the MMEP are not ready for immediate deployment. NRW consider the need to include condition 3.21.1 as set out in Annex 1 in order to ensure that a MMEP is produced and implemented.

The reduction in site visits required to reduce impact on Common Scoter (*Melanitta nigra*), reduced the potential frequency to monitor for entanglement during site visits, therefore, a Passive Acoustic Monitoring (PAM) system will also be used at the site, a PAM Plan will be submitted for approval to NRW prior to deployment of infrastructure to ensure the proposed monitoring system is sufficient. NRW consider the need to include condition 3.21.3 as set out in Annex 1 in order to ensure that a Remote Video and PAM Plan is produced and implemented.

Further details are described within the Habitats Regulations Assessment.

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 Sites when undertaken in accordance with appropriate conditions, including condition 3.21 and 3.22 of the marine licence, stated in Annex 1.

4.1.4. 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 the following protected species are likely to be impacted by the Project:

- Grey seal (*Halichoerus grypus*)
- Cetaceans including; Harbour porpoise (*Phocoena phocoena*), Bottlenose dolphin (*Tursiops truncatus*), Risso dolphin (*Grampus griseus*), Common dolphin (*Delphinus delphis*), Minke whale (*Balaenoptera acutorostrata*).

NRW has taken into account the requirements for issuing an EPS licence in making this decision and is satisfied on the basis of the information it has considered that it is not unlikely that an EPS licence would be granted for 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.

4.1.5. Marine Conservation Zones

a) The legal framework

Application Number: DEML2041

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 Skomer MCZ, this is due to the small scale nature of the project and the distance between the project and Skomer MCZ.

4.1.6. 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

NRW is satisfied that there is no impact pathway to any SSSI.

4.1.7. The Waste (England and Wales) Regulations 2011

a) The legal framework

The Waste (England and Wales) Regulations 2011 (as amended) 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.

4.1.8. Other matters considered relevant to the need to protect the environment

During the public notice period responses were received regarding concerns over several issues which are summarised below.

Expansion of the seaweed farm

Concerns were raised by the Welsh Fishermans Association (WFA) over the possible future expansion of the seaweed farm above that which described in the application. Following consideration

Application Number: DEML2041

of the application, the licence sets out the Licensed Area and Licenced Activities that can be conducted. Any expansion of the site above that which has been set out in the marine licence would require a new application, and therefore, be consulted upon.

Biodiversity issues

Concerns were raised surrounding impact of the works on local flora and fauna including, through the possibility of genetic modification of kelp within the project area due to the species being used. However, the applicant has stated that no genetic modification will be occurring during the project. The National Biodiversity Network Atlas (NBN Atlas) was also used to identify what species of seaweed would be best to use, it was identified that wild sugar kelp (*Saccharina latissima*) is regularly reported in Carmarthen Bay, therefore, it is not likely the seaweed farm will negatively impact the local biodiversity.

In addition to mitigate potential impact on biodiversity, there will be a requirement to adhere to pollution best practice measures as well as adherence to a biosecurity plan included in condition 3.17.

4.1.9. 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.

4.2. 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.

4.2.1. 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.

4.3. 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.

Impacts to navigation were raised during the determination of the licence from consultees. This includes potential risk through damage, destruction or decay to project infrastructure, impacts on fishing, and marking requirements.

Concerns had been raised surrounding the adequacy of the assessment carried out in relation to potential impact on navigation, this included concerns surrounding the engagement with local marine users in carrying out the assessment.

Further information was submitted specifically a Navigational Risk Assessment (NRA), which demonstrated that further engagement had been sought with marine users. The NRA concluded that the risk was as low as reasonably practicable (ALARP). The MCA were satisfied with the assessment carried out (condition 3.20 of marine licence).

To reduce impact on recreational users, the lines and buoys will be removed in April and will remain out of the water during the summer peak recreational use of Carmarthen Bay, with just yellow marker

Application Number: DEML2041

buoys and sea cubes (weights) remaining in the water. Anchors that are not attached to the yellow marker buoys will be marked with a warning buoy whilst the farm is not operating. This can be secured through licence condition 3.19.8 set out in Annex 1.

Following consideration of the application documents and consultation responses received, NRW PS consider that a number of additional mitigation will also be required in order to ensure navigational safety this includes;

- A requirement to notify relevant organisations and marine users prior to commencement of any phase of licensed activities and upon completion (condition 3.1 and 3.6 of Marine Licence).
- In response to concerns from the WFA and MCA assurance that the devices are regularly inspected and maintained. In case of damage to, or destruction or decay of, relevant authorities including the MCA and TH will need to be notified and relevant steps taken such as aids to navigation and lighting requirements to maintain safety of navigation (condition 3.19.1 and 3.19.2, of Marine Licence).
- An Emergency Action Response Card is required and is to be updated as more vessels are used on the project for harvesting and diving operations, this is to ensure should a search and rescue occur the HM coastguard has the correct details (condition 3.19.3 of marine licence).
- An operations and maintenance plan is a requirement to ensure the MCA is aware of the specifics of the project in terms of maintenance inspections and site layout to ensure the safety to navigation (condition 3.19.5 of marine licence).

Decommissioning

Issues were raised from Trinity House regarding decommissioning. It is a condition of the marine licence that a decommissioning plan must be agreed and that all infrastructure is removed implemented prior to the end of the licence. This is shown in Annex 1 under condition 3.23.

Concerns were raised by Trinity House in relation to the decommissioning of the site should the applicant go into administration. NRW consider it has taken all reasonable steps to ensure decommissioning takes place through addition of conditions to a marine licence as set out above.

Other navigational issues

The project is also within a close proximity of the MOD Pendine Range Control, there is a requirement within the licence to notify the MOD when the applicant is within the vicinity. This is set out in Condition 3.18 of Annex 1.

4.3.1. 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.

4.4. 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.

Application Number: DEML2041

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

This decision has been taken in accordance with marine policy as set out in the Welsh National Marine Plan. This project is in line with policy AQU_01a and AQU_01b in relation to supporting new aquaculture projects in Wales.

4.5. Other matters NRW thinks relevant

4.5.1. 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.

4.5.2. 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.

5. Conclusions and Recommendations

Based on all the information available, and having regard to all relevant considerations including the 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 4 and have also explained in section 4 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.

6. AUTHORISATION

Report by: Jodie Pullen Position: Permitting Officer	Date: 13 October 2021	Signed: 
Authorised by: Wendy Dodds Position: Permitting Team Leader	Date: 10 November 2021	Signed: 

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.

- 3.1.4** The Licence Holder must notify the UK Hydrographic Office **10 days** before commencement of the Licensed Activities. The notification must include start and end date, work to be completed and coordinates of the working area (coordinates should be provided in WGS84).

Reason: To ensure nautical charts are up to date.

3.2 Notification of Vessels

The Licence Holder must ensure that the details of the vessels utilised to undertake the Licensed Activities are submitted to the Licensing Authority and Welsh Government Marine &

Application Number: DEML2041

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.

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 zone28@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 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.

- 3.6.3** The Licence Holder must notify the UKHO and Trinity House of the completion (**within 5 days**) of the authorised project or any part thereof in order that all necessary amendments are made to nautical charts.

Reason: To ensure nautical charts and records on navigational aids are up to date.

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 and Vessels only to Carry out Licensed Activities

Only those agent(s), contractor(s), sub-contractor(s) and vessels 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

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 Biosecurity

3.17.1 The Licence Holder must ensure that equipment, machinery and PPE are washed with freshwater and/or thoroughly airdried before deployment and before moving between locations.

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

3.17.2 The Licence Holder must ensure any actions outlined in “Biosecurity Plan v2 dated 15 February 2021” are implemented. Any proposed changes to the actions outlined in the document must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

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

Activity-specific Conditions

3.18 Ministry Of Defence Notification

The Licence Holder must notify Pendine Range Control when in the vicinity of the Pendine Range. The notice must include details of the activity including dates and timings.

Reason: To ensure that the Ministry of Defence are aware of vessels/activity within the area.

3.19 Navigation

3.19.1 The Licence Holder must ensure that the project exhibit such lights, marks, sounds, signals and other aids to navigation and to take such steps for the prevention of danger to navigation as directed by Trinity House.

Reason: To ensure the correct navigational aids are used for safety of legitimate users of the sea.

3.19.2 The Licence Holder must provide notification to Trinity House detailing the availability of aids to navigation.

Reason: To notify Trinity House to the quality of aids being used.

3.19.3 The Licence Holder must submit a Marine Emergency Action Card (MEAC) to the Licensing Authority for written approval at least 6 weeks prior to commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

Reason: To ensure the MEAC is up to date with vessels to be used for the project, this is for health and safety reasons.

3.19.4 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.19.3 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 any changes are agreed by the relevant consultees.

3.19.5 The Licence Holder must submit the Operations and Maintenance plan (OMP) for inspections and recovery operations to the Licensing Authority for written approval.

The Operations and Maintenance Plan (OMP) must include the following:

- details of the deployments, and site layout;
- lighting and marking of the site;
- maintenance and inspection plans for the site, including frequency of visits;
- monitoring and plans in the event of a problem including recovery arrangements.

Reason: To ensure the MCA are up to date with operations and inspections of the site.

3.19.6 The Licence Holder must ensure that any actions outlined in the documents detailed in condition 3.19.5 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 the updated documents have been approved by the Licensing Authority.

3.19.7 In the event of damage, destruction or decay of the authorised project, the Licence Holder must notify the Licensing Authority, Marine and Coastguard Agency, Trinity House, the Kingfisher Information Service of Seafish and the UK Hydrographic Office within **24 hours**.

Reason: To ensure there are no navigational risks to legitimate users of the sea.

3.19.8 The Licence Holder must ensure the lines and buoys (with the exception of buoys marking the anchors) are removed by 30 April each year and are not redeposited until after the 01 October. The yellow marker buoys (buoys at the corners) and weights must remain in the water for the duration of the licence. Anchors that are not attached to the yellow marker buoys must be marked with a warning buoy whilst the farm is not operating.

Reason: To ensure there are no navigational risks to legitimate users of the sea.

3.20 Navigational Risk Assessment

The Licence Holder must ensure any actions outlined in “Navigational Risk Assessment dated 11 October 2021” are implemented. Any proposed changes to the actions outlined in the document must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

Reason: To ensure that all mitigations to prevent impacts to legitimate users of the sea are conditioned and adhered too.

3.21 Marine Mammal Entanglement Protocol

- 3.21.1** The Licence Holder must submit a Marine Mammal Entanglement Protocol (MMEP) to the Licensing Authority for written approval at least 6 weeks prior to the commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

Reason: To allow the Licensing Authority to approve of a final and updated version of the MMEP prior to commencement of licensed activities. This will include mitigations to prevent adverse effects to marine mammals.

- 3.21.2** The Licence Holder must ensure that any actions outlined in the documents detailed in conditions 3.21.1 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 no changes are made to the MMEP without approval from the Licensing Authority.

- 3.21.3** The Licence Holder must submit a Remote Video and Passive Acoustic Monitoring Plan to the Licensing Authority for written approval at least 6 weeks prior to the commencement of the Licensed Activities. No Licensed Activities may be undertaken prior to written approval from the Licensing Authority.

Reason: To allow the Licensing Authority to approve of a Remote Video and Passive Acoustic Monitoring Plan prior to commencement of licensed activities. This will outline how the monitoring will work alongside the licence.

- 3.21.4** The Licence Holder must ensure that any actions outlined in the documents detailed in conditions 3.21.3 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 no changes are made to the Remote Video and Passive Acoustic Monitoring Plan without approval from the Licensing Authority.

- 3.21.5** The Licence Holder must submit annual Entanglement Reports discussing monitoring data collected and any recommended mitigation for future works, to the Licensing Authority by the 30 June each year for written approval.

Reason: To ensure all entanglement events are logged and reported to the Licensing Authority for review.

- 3.21.6** The Licence Holder must undertake all mitigation identified in Entanglement Report detailed in condition 3.21.5 as approved by the Licensing Authority.

Reason: To ensure the Licence Holder implements the agreed mitigation in relation to marine mammals.

- 3.21.7** The Licence Holder must not carry out any further deposits after, 01 October 2022, 01 October 2023, 01 October 2024 without prior written approval from the Licensing Authority.

Reason: To ensure all reports and plans have been actioned and that there is no adverse effect to any protected site/species.

3.22 Site Visits

- 3.22.1** The Licence Holder must ensure no more than one site visit occurs every three weeks, (excluding emergency visits).

Reason: To ensure there is limited disturbance on the Common Scoter in the Carmarthen Bay SPA during site visits.

- 3.22.2** The Licence Holder must ensure that the approved vessel routing plan, shown in Appendix 2 is adhered too during all site visits.

Reason: To ensure there is limited disturbance on the Common Scoter in the Carmarthen Bay SPA during site visits.

- 3.22.3** The Licence Holder must submit a log detailing the number of vessel visits to the site, (including both routine and emergency visits) to the Licensing Authority by the 30 June each year.

Reason: To provide the Licensing Authority the information on how many routine and emergency visits were necessary.

3.23 Decommissioning

- 3.23.1** The Licence Holder must submit a decommissioning Plan for the approval of the Licensing Authority at least 6 weeks prior to commencement of the Licensed Activities. No work may be undertaken prior to written approval from the Licensing Authority.

Reason: To ensure the Licensing Authority can review and approve of a decommissioning plan in line with the relevant consultees such as the MCA and Trinity House.

- 3.23.2** The Licence Holder must ensure that any actions outlined in the document detailed in condition 3.23.1 are implemented as approved in writing by the Licensing Authority. Any proposed changes to the actions outlined in the

Application Number: DEML2041

documents must be submitted to, and approved in writing by the Licensing Authority prior to any changes being enacted.

Reason: To ensure the applicant completes the plan that would be approved by the Licensing Authority.

3.23.3 The Licence Holder must ensure that all infrastructure and associated equipment are decommissioned prior 18 December 2025.

Reason: To ensure the site is decommissioned by the end of the marine licence period.