

# Marine Licensing Variation Decision

The Marine and Coastal Access Act (2009)

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**Applicant: *Minesto UK Limited***  
**Variation application reference no:**  
***ORML1618v2***

***Holyhead Deep***

Installation, operation, maintenance, and recovery of a single 0.5 MW Dragon 12 unit at Holyhead Deep, to the west of Anglesey.

**21 January 2022**

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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 variation to the Existing Marine Licence sought by the Variation Application dated 20 August 2021. The changes are set out in Annex 1.

This decision document:

- explains how the Variation 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 Variation 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 Variation Application.

## 1 APPLICATION DETAILS

### 1.1 The Variation Application

Applicant name and address	The Applicant is the person or organisation set out below:  Company/organisation name: Minesto UK Ltd Company number (if available): 03266902 Address: Celtic House 41-43 Market Street, Holyhead, Anglesey, Wales, Wales, LL65 1UN
Variation Application reference number	ORML1816v2
Existing Marine Licence reference number	ORML1816v1
Date Variation Application was duly made	07/09/2021
Description of variation	Minesto require the replacement of the DG500, with an updated Deep Green Unit (DGU) design called Deep Dragon 12 ("Dragon 12").  The Dragon 12 has been designed within the same design envelope parameters as assessed in the June 2016 EIA / ES of the DG500.

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	<p>The Dragon 12 will be flown with support of the existing offshore infrastructure at the current site. Minesto have requested a variation to Condition 1.2. of the Marine Licence in order to allow the deployment of Dragon 12 Device.</p> <p>Minesto also request the existing Marine Licence (ORML1618v1 valid until 11th April 2023) is extended for a year, in order account for Project delays to date and to enable future operational testing.</p>
<p>Proposal[s] covered by the Variation Application  (the <b>Project</b>)</p>	<p>Installation, operation, maintenance and decommissioning of a tidal energy device.</p>
<p>Licensable marine activities  (the <b>Proposed Activities</b>)</p>	<p>Installation, operation, maintenance and decommissioning of a single Dragon 12 unit generating at a capacity of 0.5MW, comprising of the following elements, as described in the variation application 21 August 2021 respectively:</p> <ul style="list-style-type: none"> <li>• Dragon 12 unit: composite materials, 12 m wingspan, 4.1 m height (winglets), 3.5 m average chord, weight 24 tonnes;</li> <li>• Tether between DGU and foundation: cable with plastic casing, up to 49.5 metres length;</li> <li>• Subsea umbilical: Braided steel cable, up to 200 metres on seabed + water depth (maximum of 100 metres) 100 mm width;</li> <li>• Gravity Base Structure Foundation: Concrete, up to 12 metres by 25 metres, approximately 1000 tonnes;</li> <li>• Scour protection: Rock armour, up to 15 metres<sup>2</sup>, approximately 1 metre in height around foundation;</li> </ul>
<p>Marine Plan area</p>	<p>Welsh inshore region and Welsh offshore region</p>
<p>Variation Application documents:</p>	<ul style="list-style-type: none"> <li>• Marine Licence ORML1618v1 Variation Environmental Report B01 KIOP003-MNT-760-REP-0002</li> <li>• DP Vessel Noise Modelling Assessment</li> <li>• ORML1618v2 Application form</li> </ul>

## **2 VARIATION APPLICATION PROCEDURE**

### **2.1 The Variation Application**

The Variation Application was accepted by Natural Resources Wales (**NRW**) considered duly made on **07 September 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 Variation 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 during any consultation, that NRW considered relevant.

### **2.3 Commercial Confidentiality**

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

## **3 CONSULTATION**

In determining this Marine Licence Variation Application, NRW Permitting Service carried out a consultation on the 08 September 2021 with NRW Technical Experts (NRW TE), Trinity House (TH) and the Marine and Coastguard Agency (MCA) for a period of 28 days. NRW TE responded to the consultation on 7/10/2021. TH responded on 07/10/2021 and MCA on the 18/10/2021.

MCA and a TH were consulted due to proposed changes to the proposed tether length. NRW TE were consulted in considering whether the proposed changes fell within the parameter previously assessed with the ES and on the updated HRA.

NRW PS 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.

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The Marine Works (Environmental Impact Assessment) Regulations 2007 (“the Regulations”) transpose the EIA Directive in Wales and England for marine licence applications.

The Marine Licence application required for the original 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 06 April 2017. NRW is satisfied that the information incorporated in the EIA Consent Decision is up to date at the time of this decision dated 06 April 2017. The variation application was supported by the documents listed in section 1 including an environmental report indicating the applied changes and how these fit within the parameters assessed (project design envelope) for the original project. NRW PS agree that the changes fall within the project design envelope assessed within the June 2016 EIA / ES and that the conclusion of the EIA Consent Decision dated 6 April 2017 remain valid.

## **5 BASIS FOR OUR DECISION**

In determining the marine licence variation application, NRW has taken regard of the decisions made in the EIA Consent Decision dated 06 April 2017. NRW is satisfied that this information is up to date at the time of this decision. However, where the changes outlined in the variation application have impacted on NRW’s decision making, this has been noted in the relevant paragraph of this section in the decision document.

### **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 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

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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 Marine Licence Variation Application dated 20 August 2021 requested the replacement of the DG500, with an updated Deep Green Unit (DGU) design called Deep Dragon 12 ("Dragon 12"). The Dragon 12 has been designed within the same design envelope parameters as assessed in the June 2016 EIA / ES. The Dragon 12 will be flown with support of the existing offshore infrastructure at the current site.

Following consultation, NRW TE identified a potential impact pathway through habitat loss due to scouring of the seabed through the movement of the tethers. As a result, the HRA assessment was updated to screen in this potential impact pathway. Likely significant effect for habitat loss was subsequently screened out as the loss is anticipated to be minimal given the small impact footprint (0.034 km<sup>2</sup>) in relation to the area of North Anglesey Marine / Gogledd Môn Forol SAC (3249.5 km<sup>2</sup>) and the small percentage this represents (0.00001%). Due to the small scale of the area of impact NRW PS are content that all impacts have been considered and no further information is required.

During consultation NRW TE advised that the potential in-combination effects to marine mammals should be reassessed using NRW's position on the use of Marine Mammal Management Units for screening and assessment in Habitats Regulations Assessments for Special Areas of Conservation with marine mammal features. This was undertaken and the project was screened for in-combination effects. NRW PS are content that this issue has been addressed and no further information is necessary.

NRW TE requested that bird density data be revisited to assess collision risk at this site using the best available evidence to inform the decision. In their response dated 18 November 2021, the applicant provides evidence that the data collected between August and July 2018 is still valid for this variation and is the best available evidence for concluding potential effects on birds. The conclusion of the assessment is that for either SPA, the additive mortality per annum do not approach the 1% change that could have the potential to have adverse effects on site integrity. NRW TE are in

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agreement with the conclusions of this assessment. As such, NRW PS is in agreement that the inclusion of the most up-to-date survey does not result in any discernible difference with the original assessment.

Clarity was sought by NRW TE regarding the reporting of scour monitoring. Confirmation was received by the applicant in their response dated 18 November 2021 that Scour monitoring and reporting will continue on an annual basis. NRW PS is content that this is captured in the Environmental Monitoring Strategy (EMS) conditioned in the licence (condition 8.3) and no further information is necessary.

Further information is outlined within ORML1618v2 HRA.

### **5.1.2 Other matters considered relevant to the need to protect the environment**

NRW TE advised that any changes to the methodology applied in the ORML1618v1 marine application that are not covered under the current biosecurity risk assessment (Document number DG500-MNT-520-PLN-0011) including type of vessel used, equipment and potential ports the vessel/s will be departing from, are updated in the biosecurity risk assessment that was submitted to NRW as part of the Marine Licence condition 8.8. Confirmation of this was received by the applicant in their response dated 18 November 2021. The biosecurity risk assessment will be updated prior to deployment as required under condition 8.8 of Marine Licence ORML1618v2. NRW PS are content that this has been addressed and no further information is necessary.

### **5.1.3 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 Variation Application.

## **5.2 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.

TH and MCA requested that the Licence Holder ensures that a minimum clearance depth of 20 meters below LAT (lowest astronomical tide) datum between the Dragon 12 unit and water surface is maintained at all times during operation to avoid risks to navigation. TH and MCA also requested evidence to confirm that the UK Hydrographic Office had been informed of previous works carried out under the Marine Licence, to permit the promulgation of Maritime Safety Information and the updating of nautical charts and publications. Evidence of communication was produced on 18 November 2021. Confirmation was received from the applicant that kite flights will continue to maintain under-keel clearance depths at 20 m at all states of tide and all modes of operation. Confirmation was also received that Notice to Mariners would be

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issued both locally and to the UKHO, and will continue in relation to the proposed operations covered under the Marine Licence. NRW PS is satisfied that this is covered under conditions 8.12 and 8.16 of the Marine Licence and are content that this issue has been addressed and no further information is necessary.

NRW TE, advised that the ERCoP is updated and agreed with HMCG prior to deployment. This has been confirmed and agreed with the applicant. Requirement to produce and adhere to an ERCoP is secured in condition 8.5.

During consultation, the MCA requested that suitable arrangements were made to ensure that the device remains secure to the seabed for the conditions expected in the area and that appropriate recovery arrangements are in place when necessary. Confirmation of these measures was received by the applicant in their response dated 18 November 2021. NRW PS are content that these issues have been addressed and no further information is necessary.

### **5.2.1 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 the marine licence (ORML1618v2)].

## **5.3 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**

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## **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.

### **5.4 Other matters NRW thinks relevant**

#### **5.4.1 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.

#### **5.4.2 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.

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## 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 variation to the Existing Marine Licence sought by the Variation 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.

### AUTHORISATION

<b>Report by:</b> Maria Alvarez (Will Cooke)  <b>Position:</b> Lead Specialist (Permitting Officer)	<b>Date:</b> 20/01/2022	<b>Signed:</b> 
<b>Authorised by:</b>  <b>Position:</b> Lead Specialist Officer	<b>Date:</b> 21/01/2022	<b>Signed:</b> 

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### Annex 1 – Changes to Marine Licence

Set out below are the changes made as set out by this decision.

#### 1 Changes to condition 1.2 to allow deployment of the Dragon 12 device:

- **ORML1618v1 Condition 1.2 reads:**

Details of the works requiring the deposit of the substances or articles as specified at paragraph 1.1 of this Schedule are:-

**Installation, operation, maintenance and decommissioning of a single Minesto Deep Green Utility (DGU) unit with a generating capacity of 0.5 MW, comprising of the following elements, as described in the application dated 16<sup>th</sup> June 2016 and in the variation application dated 20<sup>th</sup> June 2019:**

- **DGU unit: composite materials, up to 12 metres (wing span) by 3.3 metres, weighing between 10 and 16 tonnes;**
- **Tether between DGU and foundation: Dyneema cable with plastic casing, up to 105 metres length;**
- **Subsea umbilical: Braided steel cable, up to 200 metres on seabed + water depth (maximum of 100 metres) 100 mm width;**
- **Gravity Base Structure Foundation: Concrete, up to 12 metres by 25 metres, approximately 1000 tonnes;**
- **Scour protection: Rock armour, up to 15 metres<sup>2</sup>, approximately 1 metre in height around foundation;**
- **Anchor clump weights for barge, hook up barge or self-contained barge: Concrete or steel, 9 metres<sup>2</sup> per clump weight, eight anchors totalling 72 metres<sup>2</sup>**

**Any alterations to the parameters of the device or materials for deployment must be agreed in writing with NRW prior to their deployment taking place.**

- **ORML1618v2 Condition 1.2 reads:**

Details of the works requiring the deposit of the substances or articles as specified at paragraph 1.1 of this Schedule are:-

**Installation, operation, maintenance and decommissioning of a single Dragon 12 unit with a generating capacity of 0.5MW, comprising of the following elements, as described in the variation application 21 August 2021 respectively:**

- **Dragon 12 unit: composite materials, 12 m wingspan, 4.1 m height (winglets), 3.5 m average chord, weight 24 tonnes;**
- **Tether between Dragon 12 and foundation: Dyneema cable with plastic casing, up to 49.5 metres length;**

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- **Subsea umbilical: Braided steel cable, up to 200 metres on seabed + water depth (maximum of 100 metres) 100 mm width;**
  - **Gravity Base Structure Foundation: Concrete, up to 12 metres by 25 metres, approximately 1000 tonnes;**
  - **Scour protection: Rock armour, up to 15 metres<sup>2</sup>, approximately 1 metre in height around foundation.**
- 2 An extension of a year to the licence (to 11th April 2024) to allow for the deployment and testing of Dragon 12
  - 3 The email address for HM Coastguard has been changed to [zone31@hmcg.gov.uk](mailto:zone31@hmcg.gov.uk) in condition 8.15 to represent the current contact details to promulgate maritime safety
  - 4 Condition 8.1, 8.7, 8.10, 8.11 , 8.12 reference to DGU has been changed to Dragon 12 unit.