

**Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended), Regulation 22
- EIA Consent Decision**

Title: Removal and associated works of the Kimberley Road Combined Sewer Overflow (CSO) Marine Outfall

Regulatory Approval: Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)

Operators: Morgan Sindall (Infrastructure) Plc

Report No: Ref: CRML1338

Location: Kimberley Road CSO – grid ref: ST 23292 77585

Introduction

This document constitutes an EIA consent decision under Regulation 22 of the Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended) (MWR), in respect of an application submitted by Morgan Sindall (Infrastructure) Plc. The application was supported by an Environmental Statement. The Marine Licensing Team has considered the application and information provided in support of the application and is now in a position to make an EIA consent decision to Morgan Sindall (Infrastructure) Plc.

Project Description

Morgan Sindall (Infrastructure) Plc has applied for a Marine Licence for the removal of a long sea outfall pipeline with associated works.

Works that require a Marine Licence under Marine and Coastal Access Act (2009) will involve:

- The removal of the redundant length of long sea outfall pipeline;
- Installing a new safety grill on the long sea outfall discharge point (to prevent public access);
- Replacing the short sea outfall safety grill; and
- Jetting of the long sea outfall and the remaining short sea outfall to remove estuarine sediment.
- Removal of buoy

The Environmental Statement

The Environmental Statement outlined possible impacts as summarised below and detailed in documents references: Volume I: Non Technical Summary – 20th August 2013 and Volume II: Environmental Statement and Appendices – 20th August 2013.

Environmental Impacts

Coastal Processes & Geomorphology

The Coastal Processes and Geomorphology assessment considered the potential effects of the proposed development on coastal hydrodynamics and geomorphology during construction and operation. The changes and effects on coastal processes were considered negligible. The same conclusion was reached for the operation phase of the development, as the new discharge consent location and the absence of the pipeline is expected to result in negligible and temporary changes in local seabed elevation and sediment transport patterns.

Water and Sediment Quality

The Water and Sediment Quality assessment considered the potential effects on water and sediment quality as a consequence of the proposed development during its construction and operation phases. For both construction and operation phases of the development, the effects on water and sediment quality were considered negligible. This is based on construction activities lasting for a short duration and over a relatively small area. Hence, this should result in a very brief

and highly localised sediment disturbance and suspended sediment load.

Since the natural environment of the estuary is characterised by frequent and regular sediment exchanges between the seabed and water column, construction effects should not be discernible from the existing conditions. The WFD Compliance Assessment also concluded that the proposed development is compliant with WFD requirements, based on the sensitive construction methodology and no change in the existing discharge characteristics.

Flora and Fauna

The Flora and Fauna assessment considered the potential construction and operational impacts on ecological features of the Severn Estuary from the proposed development. The assessment has determined that the proposed development would have a negligible impact on flora and fauna due to the small scale nature of the proposed works, the limited potential for disturbance and the large expanse of alternative habitat present within the Severn Estuary.

Historic Environment

The Historic Environment assessment considered the potential construction and operation impacts on historic features from the proposed development. The assessment indicated that any archaeological remains are likely to have been impacted on by the original construction of the outfall pipe. Therefore, the likely effect of the proposed development is assessed as negligible. Mitigation and residual effects include sensitive construction methods to reduce the likelihood that the proposed development would impact upon any archaeological remains.

Consultation

Public Notices

The public notice was advertised in the South Wales Echo on the 24th and 31st October 2013 to notify interested parties of the proposed works and to give interested parties an opportunity to make representation on the application as necessary. No public representations were received.

The marine works application was consulted on 7th October 2013 and sent to the following:

The Natural Resources Wales – ‘advisory functions’ (NRW), The Centre for Environment, Fisheries and Aquaculture Science (Cefas), Ministry of Defence (MoD), Maritime and Coastguard Agency (MCA), The Crown Estate (TCE), Local Planning Authority (LPA), Local Harbour Authority (LHA), Local Biodiversity Officer (LBO), Royal Yachting Association (RYA), Royal Society for the Protection of Birds (RSPB), Welsh Government Fisheries Branch, Marine Enforcement Officers (MEO). Cadw (Cadw), Trinity House (TH) and The Glamorgan-Gwent Archaeological Trust Ltd.

Representations Received

As a result of the technical consultations a number of representations were received as outlined below. Each comment requiring a response has been sent to the applicant for comment on which the technical advisor provided additional comments. Marine Licensing Team comments for each issue can be found at the end of each section.

The Local Harbour Authority:

Comments dated 26/04/13:

ABP South Wales have no comments on the proposal other than the need to issue a Notice to Mariners prior to the works commencing.

MLT response: Noted

Maritime & Coastguard Agency:

Comments dated 01/11/13:

Thank you for the opportunity to comment on the potential impact of the above proposed works on the interests of navigation.

The proposal has been examined by staff of the Navigation Safety Branch and it can be noted that the works are unlikely to have an adverse impact, with regards to safety of navigation, provided:

1. A copy of this consent must be given to each contractor appointed to carry out part or all of 'the works' in order that they are clear about the extent of 'the works' for which consent has been given and the conditions that are attached to the consent.
2. The Consent Holder should ensure appropriate steps are taken to minimise damage to the beach/foreshore/river bank/seabed by the works.
3. The Consent Holder should ensure that any equipment, temporary works and/or debris associated with the works are removed from the foreshore upon completion of the works.
4. The Consent Holder should ensure the best method of practice is used to minimise re-suspension of sediment during these works.
5. The Consent Holder should ensure suitable bunding, storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.
6. The Consent Holder must ensure the beach/foreshore/riverbank/seabed is returned to the original profile, or as close as reasonably practicable, following the completion of the works.
7. The Consent Holder should ensure the local mariners' and fishermen's organisations are notified.
8. The Consent Holder should notify the UK Hydrographic Office to permit the promulgation of maritime safety information and updating of nautical charts and publications.
9. If in the opinion of the Secretary of State the assistance of a Government Department, including the broadcast of navigational warnings, is required in connection with the works or to deal with any emergency arising from the failure to mark and light the works as required by the consent or to maintain the works in good order or from the drifting or wreck of the works, the owner of the works shall be liable for any expense incurred in

securing such assistance.

10. Officers of the MCA, or any other person authorised by the Secretary of State, should be permitted to inspect the works at any reasonable time.
11. The site is within port limits and the developer should consult with the responsible local navigation authority and the Harbour Authority/Commissioners where appropriate, who may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works during the construction. Additionally, they may need to review their Port Marine Safety Code risk assessments.
12. The matter is an issue for the local harbour authority with conservancy responsibilities. They have the responsibility within their port limits for ensuring their harbour is fit for use by, for example, not permitting the spoil to foul navigable channels thus assuring the safety of navigation.
13. The works, and any associated temporary works, should be marked and lighted in accordance with the requirements of the General Lighthouse Authority in this case Trinity House Lighthouse Service.

If these conditions are met I am able to advise you that the Maritime and Coastguard Agency (MCA) has no objection to consent being granted provided that measures are also taken to ensure that details of the proposed works are promulgated to maritime users through notice to mariners and/or navigational warnings.

Please note, however, that a charge will be levied on the developers where appropriate, by MCA, for the transmission of maritime safety information, via Navtex or Coastguard VHF radio network, in respect of the proposed works. Agreement by the developers to pay any such charges should, ideally, be a condition of the consent if they are likely to be used.

MLT response: We are in agreement and relevant conditions and advisory comments have been included in the marine licence and covering letter respectively.

Royal Yachting Association:

Comments received 13/11/13:

The RYA has no comments/objections to make to the above application.

Natural Resources Wales:

Comments received 14/11/13:

Thank you for your Marine Licensing consultation dated 7 October 2013 for the above proposal. The comments in this letter from the Cardiff and Newport District Team and the Environmental Planning Team in NRW.

We note that Dŵr Cymru Welsh Water (DCWW) are seeking planning permission from Cardiff Council(CC) for works located landward side of Mean Low Water (MLW) and a Marine Licence is sought from Natural Resources Wales (NRW) for works located seaward of Mean High Water

Springs (MHWS). Therefore there is overlap between the two permissions being sought as detailed on Figure 3.1 'Planning Application boundary and existing site layout'.

In summary, we concur with the conclusion of the Habitats Regulations Assessment and Environmental Statement, that providing the proposals are carried out in the manner and location specified, we are of the view that they are not likely to have a significant effect on the Severn Estuary designated sites.

We welcome the work that has gone into the Environmental Statement (ES) and Habitats Regulations Assessment (HRA) submitted with this consultation to detail the works proposed at the site and address the issues raised in our previous letters to DCWW, Arup and CC.

Protected Sites

Severn Estuary Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar site and Site of Special Scientific Interest (SSSI)

The advice below is offered by the Cardiff and Newport District Team (acting as the appropriate consultation body) to assist Marine Licensing in reaching a view on the possible significant effect of the works on the Severn Estuary European designated sites in the context of Regulation 61 of the Conservation of Habitats and Species Regulations 2010.

Over-wintering birds

We welcome that works will not take place during the over-wintering bird period of the Severn Estuary (1 October-31 March). We note works are proposed to commence in early April 2014 and will take 8-12 weeks, so this should provide ample time for works to be completed before the 1 October 2014. We therefore concur with the conclusion of the HRA, that the proposed works are not likely to have a significant effect on the over-wintering bird features of the Severn Estuary protected sites.

Saltmarsh habitat and mudflats

We welcome that the long outfall pipe removal and grill replacements will take place from a barge as outlined in the Application for a Marine Licence document dated 20 August 2013. We received confirmation from Arup that the method identified in the Kaymac Method statement (dated 19 November 2012) has since been revised to ensure that the excavator does not land on the mudflats. We have no concerns with the 25m wide route for the barge that is specified in Figure 2.3 'Site and surrounding area'. However, if this route is altered we recommend that NRW are re-consulted.

Coastal processes

We note that following removal of the long sea outfall pipe, a recycling jetter will be used to clear estuarine sediment from the outfalls. We welcome that this should minimise erosion due to the lower pressures needed. Our preference would be that provided that the testing outlined in section 6.6 of the ES shows the sediment is non-contaminated it is returned to the estuarine system. We note that section 2.2.3 of the HRA states that a recycling jetter will retain some of the

estuarine sediment.

Environmental Management

In a letter dated 16 May 2013 to CC, we raised concerns that not all high tide levels would reach that of the invert level of the proposed new discharge point; and that as a result any spillage from the outfall would be left 'unwashed' on the immediate foreshore until the next sufficiently high tide. The ES reports on a relevant tidal assessment, stating in Section 3.4.3 that the greatest duration between the invert and adjacent mudflats being submerged would be approximately 24 hours. We therefore confirm that this concern has been addressed.

Conclusion on HRA

We concur with the conclusion of the HRA, that providing the proposals are carried out in the manner and location specified, we are of the view that they are not likely to have a significant effect on the Severn Estuary Special Protection Area (SPA), Special Area of Conservation (SAC). Similarly providing the proposals are carried out in the manner and location specified, they are not likely to have a significant effect on the Ramsar Site.

Severn Estuary Site of Special Scientific Interest (SSSI)

We consider that this consultation constitutes giving notice to NRW of proposed operations likely to cause damage to the Severn Estuary Site of Special Scientific Interest (SSSI) under section 28I of the Wildlife and Countryside Act 1981 (as substituted by section 75 and schedule 9 of the Countryside and Rights of Way Act 2000).

The comments made above with regards to the Severn Estuary European designated sites are applicable to the Severn Estuary SSSI, namely that providing the proposals are carried out in the manner and location specified there is unlikely to be a significant adverse impact on the SSSI.

Water Framework Directive

We welcome that the Water Framework Directive (WFD) Assessment and section 5 of the ES (Coastal Processes and Geomorphology) covers the main objectives of a WFD assessment. We note the ES appears to show that longshore drift is not significant at this location, and therefore the removal of the long outfall pipe will subsequently have negligible impact on coastal geomorphology.

MLT response to applicant: we will be conditioning the Kimberley CSO license with regard to a) the testing of the sediment that resides in the land-based pipe. This is something that you are proposing to do as per section 6.6 of the ES.

What isn't clear is what you will do if the sediment is contaminated therefore we are proposing another condition b) that if it shows contamination, the sediment must not be released into the estuary.

Applicants response:

We have no objections to the conditions that you have proposed.

CADW:

Comments received 15/11/13:

Thank you for this consultation

I am content that the ES is adequate for this project, and do not think that Cadw have concerns to raise at this point.

I note from the documentation that the project will also require planning consent, and I am content that the Glamorgan-Gwent Archaeological Trust, in their capacity as archaeological advisors to the planning authority, will deal with any residual historic environment issues which they may identify.

MLT response: *Noted*

Conditions

Following consideration of all relevant information, including the ES and the outcome of the consultations, the Marine Licensing Team considers that the following conditions must be included in any licence granted for this project:

8. Project Specific Conditions

- 8.1 The Licence Holder must ensure appropriate steps are taken to minimise damage to the foreshore by the works.
- 8.2 The Licence Holder must ensure that any equipment, temporary works and/or debris associated with the works are removed from the foreshore upon completion of the works.
- 8.3 The Licence Holder must ensure suitable bunding, storage facilities are employed to prevent the release of fuel oils, lubricating fluids associated with the plant and equipment into the marine environment.
- 8.4 The Licence Holder must ensure the foreshore is returned to the original profile, or as close as reasonably practicable, following the completion of the works.
- 8.5 The Licence Holder must ensure the local mariner's and fishermen's organisations are notified at least 10 days prior to commencement of the works
- 8.6 If in the opinion of the NRW acting on behalf of the Licensing Authority the assistance of a Government Department, including the broadcast of navigational warnings, is required in connection with the works or to deal with any emergency arising from the failure to mark and light the works as required by the consent or to maintain the works in good order or from the drifting or wreck of the works, the owner of the works shall be liable for any expense incurred in securing such assistance.
- 8.7 The Licence holder must ensure Environment Agency Pollution Prevention Guidelines – works and maintenance in or near water: PPG5 - are adhered to at all times. Any incidents should be reported immediately to Natural Resources Wales using their hotline number: 0800 807060.

- 8.8 The Licence Holder must ensure that any coatings and/or treatment used is suitable for use in the marine environment and are used in accordance with best environmental practice, e.g. approved by HSE, EA Pollution Prevention Control Guidelines.
- 8.9 The Licence Holder must notify the UK Hydrographic Office to permit the promulgation of maritime safety information and updating of nautical charts and publications through the national Notice to Mariners system.
- 8.10 The Licence Holder must test the sediment that resides in the land-based pipe for any contaminants as proposed in section 6.6 of the Environmental Statement. If the results show contamination, the sediment must not be released into the estuary.

Through consideration of these, a full and detailed assessment has been made of the potential direct and indirect effects of the proposals on Coastal Processes and Geomorphology, Water and Sediment Quality, Fauna and Flora, and the Historic Environment including any risk to the integrity of nearby sites of conservation importance.

The Marine Licensing Team endorses the findings of the ES, subject to the inclusion in any licence issued of the conditions referred to above and compliance with them.

Accordingly, the Marine Licensing Team acting for and on behalf of the Licensing Authority concludes that the project will not have a significant adverse effect on the environmental. As such, a favourable EIA consent decision can be issued to Morgan Sindall (Infrastructure) Plc for marine works for the removal and associated works of the Kimberley Road (CSO) long sea outfall.

Sign off


Produced by: Louise Wild – Senior Permitting Officer

Signed:



Date: 04/02/14

Approved by: Eleanor Smart – Marine Licensing Team leader

Signed: 

Date: 06/02/14