

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

- 1.1 Title:** Area 476, Marine Minerals Dredge
- 1.2 Regulatory Approval:** Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended)
- 1.3 Operators:** Llanelli Sand Dredging Ltd
- 1.4 Marine Licence Application No:** MMML1548
- 1.5 Location:** Area 476, Nobel Banks, Outer Bristol Channel

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## **3. Purpose**

- 3.1** 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 a Marine Licence application (ref: MMML1548) submitted by Llanelli Sand Dredging Ltd. 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 Llanelli Sand Dredging Ltd.
- 3.2** In accordance with Regulation 22 of the MWR, the Natural Resources Wales Marine Licensing Team, as appropriate authority have considered the application, environmental statement (ES), representations of consultation bodies and members of the public and have had regard to the relevant legislation. Following the conclusion of a Transboundary Screening Assessment it was determined that consultation with other EEA states was not necessary.

#### **4. Application**

- 4.1** Llanelli Sand Dredging Limited is applying for a Marine Licence to continue to extract marine aggregates from Area 476, Nobel Banks. The details of this application are listed below;
- 15 Year Licence
  - Maximum of 7.5 million tonnes
  - Maximum annual extraction of 2 million tonnes
  - Average annual rate of 500,000 tonnes
  - Method – Trailer-suction-hopper-dredge.
  - A 500m exclusion zone exists either side of the SOLAS telecommunication cable
  - Operational monitoring (PSA & bathymetry) will be conducted in years 1,4,9 and 14 of the licence term

#### **5. The Environmental Statement (ES) – MWR 12 (1)(d)**

- 5.1** The Environmental Statement outlined the possible impacts of the proposed project organised under the following topic headings:
- 5.2** Technical chapters:
- The physical environment
  - Oceanography
  - Geomorphology, geology and sediments
  - Coastal morphology
  - Water quality
  - Air quality
  - Cumulative impact assessment
  - Summary of impacts
  - The biological environment
  - Introduction
  - Plankton
  - Benthic ecology
  - Fish ecology
  - Marine mammals
  - Ornithology
  - Designated sites
  - Cumulative impacts
  - Summary of impacts
  - Human environment
  - Commercial fisheries
  - Infrastructure
  - Marine recreation
  - Navigation and shipping
  - Maritime archaeology and cultural heritage
  - Cumulative impact assessment

- Summary of impacts
- Summary conclusions
- Effects on the physical environment
- Effects on the biological environment
- Effects on the human environment
- Overall conclusions
- Proposed licence conditions and monitoring
- Tonnages, dredging location and exclusion zones
- Preparation, control and distribution of reports
- Pre-dredge survey
- Commencement of activity under marine licence
- Working arrangements
- Monitoring programme
- Cessation of dredging

**5.3.** The ES is considered to satisfy the requirements of Regulation 12 (1)(d) and Schedule 3 of the MWR

## **6. Public Notices – MWR Regulations 16(2)(g)**

**6.1** These were advertised to notify interested parties of the proposed works and give any interested parties or members of the public an opportunity to make representation on the application as necessary.

**6.2** The application documents were made available as follows;

- A translated public notice was placed in the Fishing News on 3<sup>rd</sup> December 2015 & 10<sup>th</sup> December 2015
- The application documents were made available to the public at: City and County of Swansea Civic Centre, Oystermouth Road, Swansea SA1 3SN, for 49 days following the publication of the first public notice.
- No public representations were received

## **7. Consultation – MWR Regulations 17(1)(a)(iv)**

**7.1** The Marine Licence application was consulted upon on 30<sup>th</sup> November 2016 for a period of 42 days. It was sent to the following consultation bodies:

**7.2** Natural Resources Wales Technical Experts (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 Authorities (LPA) for Swansea, Neath Port Talbot and Pembrokeshire, Local Harbour Authorities, Associated British Ports and Neath Port Authority, Local Biodiversity Officers (LBO) for Swansea, Neath Port Talbot, Pembrokeshire and North Devon, Royal Yachting Association (RYA), Royal Society for the Protection of Birds (RSPB), Trinity House (TH), Cadw, Welsh Government Fisheries Branch, Marine Enforcement Officers (MEO) Natural England (NE), The Environment Agency (EA) and The Royal Commission of Historic Monuments Wales.

7.3 The following organisations submitted comments: NRW, MCA, The Crown Estate, The Royal Commission of Historic monuments Wales, Swansea County Borough Council and Cefas

7.4 Consultees who did not provide a response were assumed to have no comment

## 8. European Protected Sites

8.1 The proposed dredging location is not within a European Protected Site.

8.2 However, the effects of proposal on the following European Sites, their features and conservation objectives have been considered by NRW during the licence determination:

- Carmarthen Bay & Estuaries SAC
- Carmarthen Bay SPA
- Bury Inlet SPA
- North Anglesey Marine pSAC
- West Wales Marine pSAC
- British Channel Approach pSAC

8.3 A test of likely significant effect (TLSE) was undertaken and potential significant effects on features of the European Sites listed above could be ruled out. It was concluded that the proposal, when considered alone and in-combination, will not adversely affect the integrity of the European site(s) concerned.

8.4 Further details are described within the Habitats Regulations Assessment.

## 9. Issues arising for consideration of the Environmental Statement, Marine Licence Application and representatives received

9.1 In taking a Regulation 22 EIA consent decision, we have considered the issues that have been identified following consideration of the ES, representations from consultation bodies, and any resultant supplementary information provided in response by the applicant.

9.2 The material issues that were highlighted by the ES and consultation process and the extent to which they have been addressed are detailed in this section

9.3 **The following organisations provided no comment;** Trinity House, The Royal Yachting Association, Local Biodiversity Officer – Neath Port Talbot, The Environment Agency, North Devon Council, MOD.Natural England replied to the consultation process and ensuring the various protocols referred to within the ES were implemented had no further comments to make.

### 9.4 Designated Sites

- 9.4.1** NRW raised concerns about the absence of the ebb tide only buffer zone around the European Marine Site (EMS)
- 9.4.2** In section 4.4 – It is stated that there is an exclusion zone for the SOLAS cable, however there is no mention of the European Marine Site (EMS) ebb tide only buffer zone to the east of the Prime Target Area (PTA) which was identified for the previous extraction license. Similarly it has not been included in the proposed license conditions in 9.2.1. In contrast it has been included on chart 476-01. MLT requested clarification on whether this exclusion zone is to be removed and if so why this is no longer required. The Applicant responded as follows: A precautionary approach was adopted within the previous licence and a buffer zone applied in proximity to the SAC. Following further monitoring it was concluded that deposition of fine sediment from the plume is predicted to be minimal, deposition of sand from the plume will occur within the plume footprint and will not cause any significant substrate change and the footprint of the dredging is not predicted to extend into the Carmarthen Bay and Estuaries SAC.
- 9.4.3** NRW satisfied with this response that the European Marine Site ebb tide buffer zone is no longer necessary. MLT will not be conditioning a EMS ebb tide buffer zone.
- 9.4.4** NRW requested grey seals to be included in the HRA as features of Cardigan Bay SAC and Pen Llyn a'r Sarnau SAC. Harbour Poirpoise to be considered as part of the proposed pSAC areas at Bristol Channel Approach, West Wales Marine and North Anglesey Marine. NRW concluded that no additional impacts are considered.
- 9.4.5** MLT updated the HRA document to include the additional grey seal sites and pSACS. HRA returned to NRW technical experts who were satisfied that no adverse effects on site integrity would occur.

## **9.5 Benthic ecology**

- 9.5.1** Slipper limpet (*Crepidula fornicata*) has been included on the list of species under Schedule 9. Scrutiny of epibenthic survey results from previous monitoring reports of Area 476 did not reveal any positive records of this species, however, there is a possibility that Area 476 may contain slipper limpet as the species is now prevalent in other areas of South Wales.
- 9.5.2** NRW have requested that a programme of epibenthic trawls should be included in line with the previous monitoring undertaken for the last license. This will also help identify the presence or absence of slipper limpet as discussed above. Applicant responded highlighting that the species is found on a range of seabed types and is most abundant in areas of muddy seabed, with areas of hard surfaces such as shells and cobbles. It also prefers areas sheltered from wave action such as inlets, bays and estuaries. Area 476 is predominantly sand and sandy gravel and the previous surveys in Area 476 did not indicate the presence of the species. Given this they conclude that further monitoring is not necessary. NRW satisfied with this response.
- 9.5.3** MLT will place a condition in the licence which states that any material returned to the seabed must be so in the area it was removed.

## **9.6 Working arrangements**

- 9.6.1** NRW requested further clarification on why previous advice by HR Wallingford in the 2002 CIS suggesting limiting dredging to -32m CD has now been changed to -36m. The applicant responded; The previous modelling was based on the capabilities of the dredger used, technologies have since improved and the vessel can now dredge to -36m below CD in the prime target area. NRW satisfied with this response.

**9.6.2** MLT consider it appropriate to condition the licence to a depth of -36m below CD.

## **9.7 Commercial Fisheries**

**9.7.1** Cefas noted that the use of VMS and overflight data will likely result in a significant underestimate of <10m vessel activity. Up until 2013 VMS was only mandatory on vessels over 15m in length. For this reason it is important that industry consultation be carried out to ensure that the key fishing areas are highlighted which could otherwise be missed if relying on overflight or VMS data. There isn't any evidence of industry consultation in either the main ES text or the appendices. The assessment of impact from exclusion of vessels should be made in the context of this potential underrepresentation of the potting fleet. The applicant responded: the limitations on landings and VMS data is recognised and referred to in the ES (Section 7.2.1). Information on all vessels including the less than 10m vessels, was obtained through consultations with fishing communities for the 2004 ES and updated for the 2009 licence variations. Throughout the current licence fishing liason has been provided by an independent organisations and a low level of fishing activity has been identified. We consider that the conclusion of the ES that there will be no significant impacts in fishing activities from continued dredging in Area 476. Cefas satisfied with the response and had no further comments.

**9.7.2** MLT are satisfied with the responses and require no further fisheries data.

## **9.8 Monitoring Programme**

**9.8.1** NRW requested a meeting to be set up between NRW Technical Experts, Llanelli Sand Dredging Ltd and their advisors and the Marine Licensing Team. This occurred via telecom on Thursday 31<sup>st</sup> March and was attended by; Laura Tunwell (MLT), Katherine Route-Stephens (MLT), James Moon (NRW), Ian Taylor (Llanelli Sand Dredging Ltd) and Mark Irvine (ERM).

**9.8.2** NRW and Cefas both raised concerns over the lack of monitoring in the early stages of the licence term. NRW requested that benthic infaunal sampling is undertaken within the first year of activity to be used as a reference dataset. In addition to infaunal sampling NRW requested a programme of epibenthic trawls to be included in line with the previous monitoring undertaken for the last license. Cefas requested that a full survey be undertaken in year 2 of the licence to inform the year 4 monitoring and the 5 year substantive review. The applicant responded highlighting that a number of benthic surveys have already been undertaken including benthic grab and epibenthic traws in 2001 and 2006 as well as monitoring surveys in 2008 and 2010. As dredging at Area 476 is not a new activity and has been progressing over the last 10 years it is not considered that a new separate 'baseline' survey is required. The applicant agreed with Cefas's comments that a full bathymetric survey would be conducted in year 2. It was agreed between NRW and applicant during the telecom that surveying of both bathymetry and PSA would occur in years 1, 4, 9, 14.

**9.8.3** MLT considered it was acceptable to ask for a full survey programme in year 1 over year 2 to provide baseline data for future monitoring. It was felt acceptable to ask for this considering the licence application was for a longer time frame, a greater tonnage and because the monitoring programme has been significantly decreased in comparison to the last licence.

**9.8.4** Both NRW and Cefas commented on the need for monitoring to be in line with the Regional Seabed Monitoring Programme (RSMP) once it has been implemented.

- 9.8.5** The applicant is currently in discussions with Cefas on a suitable specification for a RSMP approach to monitoring at Area 476. As part of that process the previous surveys are being reviewed in order to produce an analysis of any gaps that may need to be filled in subsequent surveys. NRW and Cefas satisfied that the applicant will adopt the RSMP approach. During the telecom the applicant expressed concerns over having to remonitor if the approach is not implemented before the licence is issued. Following further correspondence with NRW it has been accepted that if the approach is not in place at the time the licence is issued then no further monitoring will be expected of the applicant until year 4 of the licence term.
- 9.8.6** MLT received information from the applicant and Keith Cooper which outlined the survey design for Nobel banks RSMP approach. A meeting was held between NRW Technical Experts, members of the MLT and Keith Cooper to discuss adopting this approach for Area 476, Nobel Banks. Both NRW Technical experts and the applicant were in support of adopting the approach.
- 9.8.7** MLT updated the monitoring conditions to reflect the survey design as written by Keith Cooper.
- 9.8.8** NRW and City & county of Swansea Council suggested that a wider survey coverage be undertaken to encompass the sensitive area to the North of the PTA. Monitoring proposals in table 9.4 suggest a 500m wide perimeter around active dredge areas however given that the survey frequency is proposed to be reduced to 3 surveys over the license duration (years 4, 9 and 14) NRW requested that the size of the area be increased to the north. This would enable the reviewer to better understand any morphological changes in the more sensitive areas to the North outside the license area. The applicant was not clear why the area to the north is being considered 'sensitive'. They do not agree that in the context of seabed stability the area is in any way 'sensitive'. They see no justification for extending farther northwards. The issue was discussed during the telecom, applicant agreed to extend monitoring to the north to 1000m beyond the cumulative dredge footprint. NRW justified request due to information provided in the ES annex B (coastal impact study), the increase in length of licence, tonnage and the decrease in operational monitoring compared to the last licence.
- 9.8.8** MLT consider it appropriate to condition the survey area to 1000m to the north, beyond the cumulative dredge footprint as informed by the previous 4 years EMS data.

## **9.10 Maritime archaeology and cultural heritage**

- 9.10.1** The Royal Commission on the Ancient and Historic Monuments Wales (RCAHMW) suggested that anomalies identified within the ES (MS-1001-5) may be partially buried fuselage of Spitfire BL989 which is known to have been downed in the vicinity. RCAHMW have requested ground truthing of these anomalies to confirm what these features actually are via dive surveys, ROV or drop down camera. RCAHMW have stated that if these anomalies are of archaeological interest then ongoing seabed monitoring should be put in place. The applicant was reluctant to carry out any ground truthing on the 3 anomalies as, once plotted it became evident that they fall outside of the current active dredge zone, 100m east of Active Dredge Zone 3 and 350m east of the proposed Active dredge Zone 3. The applicant response was forwarded to RCAHMW who did not wish to retract their request for ground truthing. RCAHMW have suggested a precautionary approach may be adopted where by bathymetric reports submitted in years 2, 6, 10 and 15 of the licence be sent to LSDL archaeological consultant for review to allow for comparison.

**9.10.2** MLT consider it un reasonable to ask for ground truthing of the 3 anomolies highlighted within the ES. This is on account of the annomolies not being located within the active dredge zone. If they are not within the active dredge zone it is unclear as to what the effects to the potential spit fire would be. MLT are happy to include RCHAMW into consultation on the monitoring reports to record any movements or changes within the area.

**9.10.3** RCHAMW requested that LSDL provide NRW with details of what direct training they had received from the Protocol Implementation Service and that in the new licence NRW should condition training to be refreshed every 5 years.

**9.10.4** MLT would not request details of training from the applicant as it is not within their role acting on behalf of the Licensing Authority. MLT have asked RCHAMW to suggest service providers of training for MLT to put within the cover letter of the licence.

### **Regulatory Evaluation and EIA consent decision**

In considering the application for marine mineral dredging at Area 476 the following has been considered:

- The ES, including the mitigation measures proposed;
- The relevant provisions of Marine and Coastal Access Act 2009 and
- The representations received.

The Marine Licensing Team has determined that the environmental impacts of the marine minerals dredge have been adequately identified, described and assessed and that mitigation can be secured which would be sufficient to allow the dredging licence application to be approved.

### **Sign off**

Signed: 

**Laura Tunwell – Marine Licensing Officer**

**Date:** 16 June 2016

Approved by: 

**Adam Cooper – Senior Permitting Officer (acting up for Team Leader under Scheme of Delegation)**

**Date:** 17 June 2016