

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

Title: Penclawdd Tidal Flood Alleviation Scheme

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

Operators: Natural Resources Wales

Report No: Ref: CRML1347

Location: Penclawdd, Swansea

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 Natural Resources Wales. 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 Natural Resources Wales.

Project Description

Natural Resources Wales has applied for a Marine Licence to construct a tidal flood alleviation scheme at Penclawdd.

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

- Construction of approximately 250 m of pre-cast concrete flood wall
- Raising the level of part of the existing car park

Additional works requiring Planning Permission under Town and Country Planning Act (1990) from the City and County of Swansea, that do not require a Marine Licence

- All works for the Tidal Flood Alleviation Scheme at Penclawdd above MHWS

Welsh Government was also notified as the Appropriate Authority as the works constituted for Imperative Reason Overriding Public Interest (IROPI).

The Environmental Statement (ES)

The Environmental Statement outlined possible impacts to all elements scoped in. The areas that were scoped out of the ES were: *Air, noise and climate* and *water* (quality and geomorphology) The elements scoped in are detailed below:

Environmental Impacts

Human Beings

This section looks at how the proposal may impact people including local residents, tourists and recreational users of Penclawdd.

- Cockle processing plant +1km away and 4.5km away from grazing marsh in Llanrhidian, potential pollution to the water course may impact these as they are down stream
- Loss of access to saltmarsh from rear of some properties
- Reduction in usable space within the car park during the construction phase
- During construction the footpath adjacent to the B4295 will be closed causing potential impacts to people
- Potential impacts to fishing within area. *Unlikely as scheme is restricted to the edge of Burry Inlet/Loughor Estuary.*
- Restricted access to informal slipway during construction, but returned to normal during operation of the scheme.

Biodiversity, Flora and Fauna

The section discusses the potential impacts on designated sites, habitats and species.

The potential issues that may occur *during construction* to **Designated Sites** are:

- Direct damage to habitat (saltmarsh) in Area East from proposed access route. Approximately 180m² of designated habitat
- Direct damage to habitat (saltmarsh) in Area West from proposed access route. Approximately 260m² of designated habitat
- Indirect negative impacts from run-off and pollution
- Disturbance to wintering birds from noise and visual disturbance
- Bored pilling in Area East causing noise and vibration disturbing SPA wintering birds

The construction will further increase the impacts of coastal squeeze (if sea levels rise as predicted), but contribution of the proposal is not yet known. Due to the size of the development it is considered potentially significant, but unlikely.

The potential impacts to **Habitats** are:

- Permanent loss of 0.2 ha of undesignated saltmarsh
- Temporarily impacted saltmarsh from the working footprint
- Potential for indirect negative impacts due to run-off and pollution
- Creation of dust that could settle on and damage saltmarsh and vegetation
- Coastal squeeze amplification from proposal

The potential impacts to **Species** are:

- The effects on wintering birds if construction works occur between November to May, in particular the Spotted Redshank *Tringa erythropus*.
- Loss of supporting habitat (saltmarsh) of wintering birds.
- The effects on breeding birds from noise and vibration, if construction works occur during the breeding period (March to August)
- Invasive Species precautions and procedure of what to do if found during construction works (Japanese Knotweed)

Landscape and Visual Amenity

In this section the potential impacts on the landscape and visual amenities are discussed. There are

no landscape designations within the area.

Potential impacts during *construction*

- Construction plants, cranes and operatives will potentially impact the **visual amenities** of the area.

Potential impacts during *operation*

- Adverse visual impacts for residents due to raising the level of the car park. Obscuring views of the estuary when vehicles are parked.
- The new seawall will be much the same height as the existing so there will be little change to the visual amenities

Cultural Heritage and Archaeology

This section focuses on the potential impact to statutory and non-statutory designations and non-designated cultural heritage as Glamorgan Gwent Archaeological Trust (GGAT) confirmed there is known heritage within the area.

During construction

- There will be no change to statutory & non-statutory designation and to non-designated cultural sites.

In operation

- Potential impacts to the Penclawdd Conservation Area as the project lies within it
- Potential change in visual and historic setting of the existing river wall

Water (Water Framework Directive)

This section looks at the implications of the proposal with respect to the Water Framework Directive and includes SAC and SPA (& Ramsar) Protected Areas.

- Potential to cause deterioration to the status of the Loughor transitional water body or any of the other water bodies, but this is not expected. Nor is it likely that the scheme will prevent any water body from achieving Good status.

Mitigation, Management and Monitoring

This section included in the ES, looks at each of the environmental impacts (above) and how it will be mitigated/managed/monitored.

Human Beings

Mitigation will only be needed during the construction phase. These will minimise the impact and are:

- Preparation of a Construction Environmental Management Plan (CEMP)
- Provision of an Environmental Clerk of Works

- Provision of a Public Liaison Officer from the contractor
- Regular discussions with the residents within Area East and Area West
- Provision of regular public engagement meetings
- Engagement with a nominated wider public contact
- Publicity in local paper and local shops/post office about restricted use of car park
- Monthly public newsletter

Biodiversity, Flora and Fauna

The mitigation measures in place will relate to the construction phases of the scheme only. They will be in place to: Eliminate/minimise the predicted adverse impacts; Enhance the biodiversity of resource, where practicable; and Document future commitments and responsibilities.

There will be a CEMP prepared and agreed with relevant authorities.

Designated site

- Use of only low ground pressure vehicles (e.g. tracked) on saltmarsh area; use of granular fill/geotextile along access routes; where possible bog mats and wooden boards instead of granular fill.
- Area West intertidal channel will be avoided through the use of a crane swing which will cover the intertidal channel.
- The eastern end of Area East intertidal channel is within the access route, measure in place to avoid direct impacts through use of an appropriate span of entire channel width with a single span crossing structure; reduce risk of sediment laden run-off by having a sealed/lined deck with edge upstand (e.g. sandbags, straw bales, timber) also on a slight gradient to ensure surface water is routed to site drainage.
- Temporary crossing may alter channel morphology so will be placed for the minimum period. The channel bank will be reinstated to original profile.

Compensatory habitat will be established 1.5km west at Crofty to compensate against the permanent loss of saltmarsh habitat. This will be 0.103 ha of saltmarsh delivered through the National Habitat Creation Programme Wales.

Habitats

Additionally to the measures above, the use of precast concrete units will reduce the disturbance to the saltmarsh habitat.

Species

Wintering Birds – Works will be restricted at Area West during spring tides to ensure no working; October to February; between 06:00 and 10:00 hours and 18:00 and 22:00 hours. Construction noise and movement of large machinery during spring high tide surges will also be restricted.

Breeding birds – To avoid disturbance to breeding birds or destruction of nests, the area will be surveyed by an ecologist no more than 24 hours before the works start in that area. If any are found, an appropriate buffer area will be established until the young have left the nest.

Landscape and Visual amenities

Landscape mitigation measures to avoid or reduce any possible adverse effects:

- Precast concrete units will have aggregate finish to encourage lichen to develop which will assist helping the material weather in.
- The new car park set back wall will include pennant stone capping which is a local material
- The surface and layout to the car park will be loose and informal, with the estuary edge of the car park loosely defined, such that grass will colonise this patch. Pennant stone blocks will delineate the offshore extent of parking and prevent vehicle access to the intertidal
- New pedestrian ramp in the west corner of the car park will improve access to views of the estuary.

Cultural Heritage and Archaeology

An archaeological watching brief will be required to mitigate potential adverse effects on the former slipway at Area West and stepping stones in the intertidal area. If archaeological features are exposed there will be a process to recording to preserve them by record.

The existing river wall will have permanent changes to its appearance; the wall should be subject to historic building recording prior to construction. This will aim to record the wall's fabric and detail the phases of post-medieval and modern re-building that the structure comprises.

Water Framework Directive

The assessment concludes that implementation of the Penclawdd Flood Risk Management Scheme is not expected to cause deterioration in the status of the Loughor transitional water body or any of other water bodies within the vicinity, nor prevent any water body from achieving its objectives including future Good Status.

Residual Effects

Human Beings

Through effective implementation of the mitigation measures, it is not anticipated that there will be any residual effects as a result of the proposed scheme.

Biodiversity, Flora and Fauna

Designated Sites

Undertaking works to ensure minimal damage to designated habitats and in accordance with PPG (*note that PPG's are Environment Agency documents*) and other relevant best practice (via CEMP), should ensure, that the residual impacts from potential damage, run-off, pollution and dust do not have a negative impact on the integrity of the site. The residual effects are therefore considered as *not significant at the international scale*.

Coastal squeeze and loss of designated habitat are considered as likely to be *not significant following the provision of compensatory habitat*.

Mitigation measures for wintering birds' disturbance from construction; the residual effects are considered as *not significant at the international scale*.

Habitats

The measure above for designated sites will also ensure, the residual impacts *do not have a negative impact* on the integrity of the adjacent habitat. The residual effects are therefore considered as *not significant at a county scale*.

Species

Mitigation measures for **wintering birds** to minimise disturbance from construction; the residual effects are considered as *not significant at the county scale*.

Mitigation measure for **breeding birds** to minimise disturbance from construction and to be in accordance with the Wildlife and Countryside Act 1981 (as amended).

Landscape and visual amenity

It is *not anticipated that there will be any residual effects* as a result of the proposed works.

Cultural Heritage and Archaeology

The only noted potential impact to the designated receptors listed above relate to a potential negligible impact (at most) on the character of the Penclawdd Conservation Area. This is not a significant impact as the form; design and function of proposed works are such as to fit within the existing environment. The table describes the anticipated residual effects.

Receptor	Description of Impact	Significance of predicted effect (adverse/beneficial)	Mitigation Measures	Significance of residual effect (adverse/beneficial)
Penclawdd Conservation Area	Potential setting impacts	Negligible	Early design works to avoid clashes with character of area. No mitigation measures recommended	Negligible
River Wall	Physical impacts and changes in setting	Adverse	Historic building recording prior to construction	Negligible
Slipway	Physical impacts	Adverse	Archaeological watching brief	Negligible
Stepping stones	Physical impact	Adverse	Archaeological watching brief	Negligible

Water Framework Directive

No residual effects are anticipated following mitigation of the impacts on water.

Cumulative Effects

In-combination effects within the Penclawdd Flood Risk Management Scheme primarily arise from multiple effects from a single action or activity. Due to the location and nature of the development the cumulative impacts during the construction phase will impact the residents, due to disruption to traffic, air quality and noise.

In-combination effects on residents cannot be fully mitigated against, therefore there will be a moderate impact on the residents during construction along Area East and Area West.

Environmental Sensitivities

The proposed development is located within the Carmarthen Bay & Estuaries SAC, Burry Inlet SPA and the Burry Inlet Ramsar designated site.

Natural Resources Wales Marine Licensing Team has agreed with the City and County of Swansea Planning department for Swansea to act as the Lead Competent Authority with regards to the Habitat Regulation Assessment. This is to avoid duplication of effort and as only a small percentage of the proposal is within the Marine Licensing Remit.

From the Test of Likely Significant Effect (TLSE) it concludes that there will be significant effects to the designated sites. An Appropriate Assessment was conducted and concluded that no plausible mitigation measures were available. As a result 0.103 ha of saltmarsh habitat will be permanently lost through coastal squeeze as sea level rises over the next 100 years. This project has to be referred to the Welsh Ministers as an Imperative Reason of Overriding Public Interest (IROPI) by the City and County of Swansea. Compensatory habitat, of 0.103 ha as required, will be created to the west of the site at Crofty.

Consultation

Public Notices

The public notice was advertised in the South Wales Evening Post on the 20th November 2013 and on the 27th November to notify interested parties of the proposed works and to give opportunity to make representation on the application. No public representations were received.

NRW, applicant, have also run three public consultation sessions at Penclawdd Community Centre on the 27th September 2011, 4th December 2012 and 9th July 2013. Comments raised by the local residents were incorporated into the scheme to address their concerns and take their views into account.

The marine works application was consulted on 1st November 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), Trinity House (TH), Cadw (Cadw) and Welsh Government Fisheries Branch Marine Enforcement Officers (MEO).

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.

Natural Resources Wales comments:

Comments dated 13th December 2013

The Penclawdd Scheme falls within the remit of the Conservation of Habitat and Species Regulations (2010), due to its proximity to the Carmarthen Bay and Estuaries Special Area of Conservation (SAC), as well as the Burry Inlet Special Protection Area (SPA) and Ramsar site. Therefore, a Habitat Regulations Assessment (HRA) will be required.

We note that an Appropriate Assessment has already been carried out and we have commented on this in our Planning Response to the Local Planning Authority (*which is due to be submitted imminently*). We are content with its conclusions, in which adverse effect cannot be ruled out and a loss of Atlantic Salt Meadow is identified, which would amount to 0.103 ha over the scheme's design life.

With an adverse effect identified, we understand that Welsh Government (WG) will need to progress with the development of an IROPI case. We have advised on this aspect of the process through our response to the Planning Application and without prejudice to any further formal consultation, would not anticipate any problems. We understand that suitable compensation measures have already been secured as part of the scheme proposals.

Flood Risk

We have reviewed the Flood Consequences Assessment (FCA) (Halcrow, dated 23 January 2013) submitted in support of this application and can confirm that we agree with the conclusion that this scheme will not impact on flood risk elsewhere. We are also satisfied that the scheme complies with the requirements of TAN15 (July 2004).

Flood Defence Consent

We note from section 1.1 of the ES that flood defence consents will be sought for the permanent and temporary works prior to construction. However, we would like to highlight that as a Marine Licence is likely to be required for the works, flood defence consents will not be required providing the Marine Licence covers all aspects of the scheme (both permanent and temporary).

Water Quality /Water Framework Directive (WFD)

In terms of WFD issues, we agree with the ES that the project will have a minimal effect on water quality.

Pollution prevention

The biggest risk to water quality will be during the construction phase, which will be short term in nature. All appropriate measures must be taken during the construction works to ensure the risk of pollution is appropriately managed.

We would strongly recommend that a Construction Method Statement detailing all necessary

pollution prevention measures to be implemented is undertaken. This could be included as a condition on any permission granted. The following wording is suggested.

CONDITION: No development approved by this permission shall be commenced until a Method Statement detailing all necessary pollution prevention measures to be implemented for the works has been submitted to and approved in writing by the Local Planning Authority.

REASON: To prevent pollution of the designated bathing waters.

Pollution prevention guidance notes (PPGs) are available on the Environment Agency's website at the following link:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>.

If the developer has any queries in regards to pollution prevention matters, they should contact our local Environment Officer, Owen Caughlin at our Llandarcy office on (01792) 325526.

Environmental Statement

We welcome the submission of the document entitled: '*Penclawdd Flood Risk Management Scheme; Environmental Statement;*' dated July 2013, by Natural Resources Wales.

We note that the Carmarthen Bay & Estuaries SAC, Burry Inlet SPA and Ramsar site and the Burry Inlet and Loughor Estuary SSSI are all listed within; '*Section 6 Assessment and Evaluation*' of the Environmental Statement; along with relevant species including; otter, bats, wintering birds and breeding birds. We are supportive of the sites and species chosen for detailed assessment, as highlighted in Table 8. In addition, we note the methodology used in terms of landscape and visual amenity and in particular the use of LANDMAP.

Habitat Regulations Assessment (HRA)

We note that the consultation documents make references to the Natural Resources Wales (NRW), Habitat Regulations Assessment (HRA). We note the conclusions of the Habitats Directive (Appendix 11) Assessment of Likely Significant Effect on a European Site and the suggested scope of the Appropriate Assessment. In addition, we acknowledge the conclusions of the Appropriate Assessment Record, identified in Table 4 of the; '*Habitats Directive (Supporting document for Appendix 12)*' and recommend that that the mitigation measures identified in Stage 3 – Agency Conclusion are suitable and should be implemented as enforceable planning conditions. However, we also note that, despite all available mitigation being implemented potential adverse effects on the integrity of the Carmarthen Bay Special Area of Conservation (SAC) Burry Inlet Special Area of Protection (SPA) and Ramsar site cannot be ruled out. NRW are happy to provide advice and guidance on this aspect of the HRA process, in principle and without prejudice to any comments we may wish to make if consulted by the Welsh Government, and we understand that suitable compensation measures have already been secured as part of the scheme proposals.

Mitigation, Management and Monitoring

We also note the impacts on biodiversity, flora and fauna noted in Section 6.2.2 and we are supportive of all the Mitigation, Management and Monitoring proposals laid down in Section 6.3.2. We advise that all the mitigation measures laid down in these paragraphs are made enforceable planning conditions. In addition, we wish to be consulted on the '*Construction Environmental Management Plan (CEMP)*' prior to its formal adoption.

NRW also note the provision of compensatory habitat and support the measures laid down in Section 3.5, Section 4 and Section 5 of the document entitled; '*Crofty Site Management and Monitoring Plan (Document Ref: 461512-005)*,' dated July 2013. Our advice depends on the proposal being implemented with the conditions described above.

To conclude, in our opinion, the development as proposed in its current form will fully address our concerns in relation to the natural heritage interests listed above and, consequently we do not object to the proposal. However, given the conclusions of the appropriate assessment, we

understand that this proposal cannot now proceed until the appropriate authority (in this case Welsh Government) has agreed that there are no alternatives to the scheme, there are Imperative Reasons of Over-riding Public Interest and a package of compensation measures is secured.

Please Note - Due to a recent problem with our IT System, it has not yet been possible to generate an Assent for this proposal. However, this issue is currently being investigated and an Assent for the works (with appropriate conditions) will be issued, as soon as this matter is resolved.

MLT: Requested a copy of the Appropriate Assessment that has been submitted to the LPA and note the comments made by NRW Advisory.

Cefas Comments:

Cefas provided comments (dated 19th November 2013) on the following areas under headings A-H:

A: Materials to be used

1. The materials to be used are concrete and granular infill. I am content for their use in the marine environment, subject to the recommended licence conditions at the end of this minute.

MLT Comments: noted

B: Shellfisheries

2. The proposal is adjacent to the Burry Inlet cockle (*C.edule*) commercial molluscan shellfishery area.
3. There is likely to be some re-suspension of sediments from the proposed works. Due to the intertidal nature and scale of these works, it is unlikely that the proposed works will have a significant adverse impact on this commercial molluscan shellfishery. I concur with the conclusion in the Environmental Statement (ES) that states that '*There will be no physical effects on shellfish beds, e.g. as a result of changes in the position of tidal channels or patterns of sediment transport*'.

MLT Comments: noted

C: Fish Resources

4. The proposal is within a broad area used for nursery grounds by anglerfish, herring, tope shark, plaice, sandeel, spotted ray, sole, thornback ray and whiting. The proposal is within a broad area used for spawning grounds by sandeel and sole.
5. Due to the intertidal nature and scale of these works, it is unlikely that there will be a significant adverse impact on local fish resources. I concur with the conclusion in the ES that states that '*the scheme will not impinge on any flow channel, nor result in the loss of saltmarsh with potential to provide spawning, nursery or feeding areas for fish*'.

D: Benthic ecology

6. I note that the ES states that '*a small area (c. 0.09 ha) of partly vegetated intertidal zone supporting benthic invertebrates will be lost under the footprint of the scheme*'. The mitigation proposed is to provide approximately 0.103 hectares of compensatory habitat at Crofty, approximately 1.5 km to the west of the scheme.

7. I defer to NRW (advisory) colleagues on whether the proposed mitigation is sufficient in order to compensate for the permanent loss of saltmarsh habitat and effects of coastal squeeze on saltmarsh and designated areas.

E: Coastal processes

8. The ES submitted with this application does not include an assessment of the potential impacts on coastal processes. If the potential impact from the proposed scheme on coastal processes has been scoped out, this should be stated in section 5.2.1 of the ES, along with the supporting evidence.
9. Clarification on this issue should be provided before a decision on this application is determined.

Applicant response dated 19th November 2013:

The site is within an estuary (not along the coast – and therefore not subject to coastal processes) a much less dynamic environment which enables the formation of intertidal saltmarshes and mudflats (rather than shifting sand or gravel beaches). The impact of the scheme on the intertidal habitats has been considered in the ES. See below extracts from the Penclawdd Tidal Flood Alleviation, Project Summary Report (Halcrow, 2011, p23 onwards):

Waves

The few long-period waves which enter the estuary break on the most seaward bars. Within the mid and inner estuary the wave regime is dominated by short period, locally generated wind waves (Lavernock Point to St Ann's Head SMP2, Appendix C: Baseline Processes Understanding, Halcrow, 2010). Due to the protection afforded by Whiteford Point at the mouth of the Loughor Estuary (Burry Inlet), see Figure 5.2, offshore swell waves, which typically approach from the south-west, will not propagate far enough into estuary to affect Penclawdd. The only waves which will impinge upon Penclawdd are locally generated wind waves, which are fetch limited (approx 3km) and depth limited within the estuary. Hindcasting preliminary analysis has determined that locally generated wind waves are currently likely to have a significant wave height (Hs) of up to 0.7m, based on existing sea levels.

Tidal Currents

Tidal currents are high at the mouth of the estuary due to the constraint provided by Whiteford Point, see Figure 5.3. Within the middle estuary adjacent to Penclawdd the tidal currents are more benign. The sandy intertidal flats are dominated by megaripples and sandwaves produced by flood and ebb tidal currents (Lavernock Point to St Ann's Head SMP2, Appendix C: Baseline Processes Understanding, Halcrow, 2010).

Sediment Regime

Sediment trend analysis undertaken by Posford Duvivier and ABP Research (2000) and Cooper and McLaren (2007) suggests there is an active sediment transport pathway from eastern Carmarthen Bay into the Loughor Estuary, although the flux was not quantified (Lavernock Point to St Ann's Head SMP2, Appendix C: Baseline Processes Understanding, Halcrow, 2010). The Loughor Estuary is still adjusting following significant human interventions over the last 200 years, see Figures 5.5 and 5.6. The tidal channel system is current re-establishing a higher degree of dynamic behaviour following the breakdown and abandonment of the training walls, see Figure 5.7. In recent decades the estuary has continued to show a tendency to import sediment, leading to a continuing reduction in tidal volume and marsh growth along the southern side. It is likely that this trend will

continue over the next 50 to 100 years, although probably at a reduced rate, due to the combined effects of sea level rise and an overall flood-dominant sediment transport regime (Lavernock Point to St Ann's Head SMP2, Appendix C: Baseline Processes Understanding, Halcrow, 2010). However it should be noted that the estuary could continue to infill with sand, with continued coastal squeeze of inter-tidal habitats at the fringes. The channels and intertidal sand banks of the Loughor Estuary have historically been highly mobile, and the channel pattern has changed considerably since 1830 due both to natural processes and human interventions.

F: Conservation designations

10. The proposed works are within the following designated sites:

- Carmarthen Bay and Estuaries SAC – Designated Annex I features are sandbanks which are slightly covered by seawater all the time, estuaries, mudflats and sandflats not covered by seawater at low tide, large shallow inlets and bays, *Salicornia* and other annuals colonising mud and sand and Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*);
- Burry Inlet SPA and Ramsar Site - Designated features are overwintering bird assemblages and regularly supporting at least 20,000 waterfowl;
- Burry Inlet and Loughor Estuary SSSI – Designated features are saltmarsh, mudflats, sandflats, rock pools, exposed sand shores and eelgrass.

11. I believe that the location and nature of the works do warrant an Appropriate Assessment (AA) under The Conservation of Habitats and Species Regulations 2010. I note that an AA has been conducted as part of the EIA for this scheme and I defer to NRW (advisory) regarding the conclusions of this assessment.

G: Requirement for EIA

12. I am of the opinion that the proposed works do fall under the scope of a 'relevant project' as defined in the Marine Works (Environmental Impact Assessment) 2007 Regulations (amended 2011), and therefore do warrant an EIA to be carried out. An EIA has been conducted for this scheme and the ES submitted along with the application. As stated in points 15 and 16 above, clarification is required on whether an assessment of the potential impacts on coastal processes has been conducted.

H: Summary

Based on my assessment of this application I consider that subject to the recommended licence conditions below and the above information on coastal processes being provided; that this proposal is not likely to cause any significant impact on the marine environment. The recommended licence conditions are as follows

MLT comments: The conditions that Cefas have provided have been put in the Marine Licence. Cefas was satisfied with the applicant's comments about coastal processes.

MCA Comments:

"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". (dated 8th November 2013) They have provided a number of conditions

MLT comments: Recommended conditions have been included that are considered suitable by the MLT. The following condition has not been included as it is a statement not a conditions:

The proposal is very close inshore, where navigation impact is minimal.

TH Comments:

“Trinity House have no objections to the proposed flood alleviation scheme at Penclawdd, as detailed.” (dated: 29th November 2013)

MLT Comments: Noted

RYA Comments:

The RYA had no objection to this application. (dated:18th November 2013)

MLT comments: Noted

TCE Comments:

The Crown Estate is not affected by the proposed works and we have no comments to make on the application. (dated: 29th November 2013)

MLT comments: Noted

The following bodies were consulted but did not respond, these consultees are assumed to have no comments, MoD, Local Biodiversity Officer, Local Harbour Authority, Local Planning Authority, MEO, Cadw and RSPB. However, it should be noted that the Local Planning Authority (City and County of Swansea) also have a planning permission application for the same scheme for the works above Mean High Water Springs and the MLT have been in discussions regarding the determination process.

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:

- The Licence Holder should ensure the local mariners’ and fishermen's organisations are notified. *Maritime and Coastguard Agency*
- The Licence Holder should notify the UK Hydrographic Office to permit the promulgation of maritime safety information and updating of nautical charts and publications. *Maritime and Coastguard Agency*
- The Licence Holder must provide a full Construction Method Statement detailing all necessary pollution prevention measures to be implemented for the works to be submitted to NRW acting on behalf of the Licensing Authority, for written approval at least 30 days prior to any activities commencing. *NRW Advisory and Cefas*
- The Licence Holder must install any bunding and/or storage facilities to contain and prevent the release of fuels, oils and chemicals associated with plant, refuelling and construction equipment, into the marine environment, i.e. secondary containment should be used with a capacity of not less than 110% of the containers storage capacity. *Cefas and Maritime and Coastguard Agency*

- The Licence Holder must ensure that during the works all wastes are stored in designated areas that are isolated from surface water drains, open water and bunded to contain any spillage. *Cefas*
- 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. *NRW Advisory*
- The Licence Holder must ensure that any coatings/treatments are 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). *NRW Advisory*
- The Licence Holder must ensure that no waste concrete slurry or wash water from concrete or cement works are discharged into the marine environment. Concrete and cement mixing and washing areas should be contained to prevent run off entering the water. *Cefas*
- The Licence Holder should ensure appropriate steps are taken to minimise damage to the foreshore by the works. *Maritime and Coastguard Agency*
- The Licence Holder should ensure the best method of practice is used to minimise re-suspension of sediment during these works. *Maritime and Coastguard Agency*
- The Licence Holder must ensure the works are maintained at all times in good repair. *Maritime and Coastguard Agency*
- The Licence Holder must ensure that any equipment, temporary structures, and/or debris associated with the works are removed within 6 weeks of completion of the works. *Cefas*
- The creation of the compensatory habitat ('Atlantic Salt Meadow') shall be implemented in accordance with the submitted Crofty Site Management and Monitoring Plan (Document ref: 461512-005- July 2013). This plan as approved shall be implemented, monitored and reviewed as indicated within the Plan and an updated document shall be submitted to NRW acting on behalf of the Licensing Authority following each review period. *Welsh Government for IROPI – this condition was not included within the licence as the document was not assessed by the Marine Licensing Team as the compensation measures are being dealt with by the City and County of Swansea Planning Permission*

Regulatory Evaluation and EIA consent decision

In considering the application for the construction of the Penclawdd Tidal Flood Alleviation Scheme 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.

Through consideration of these, a full and detailed assessment has been made of the potential direct and indirect effects of the proposals on human beings, biodiversity, fauna and flora, landscape and visual amenity, cultural heritage and archaeology and water (water framework

direct). The ES also considered possible mitigation measures on all those listed above. Many of the consultation responses suggested that if the mitigation measures within the ES are followed there will be less significant environmental effects.

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 have a significant adverse effect on the environment. However, this is an IROPI case that was approved by the Welsh Ministers on the 26th March 2014. The City and County of Swansea issued Planning Permission for the proposal on 2nd June 2014. As such, a favourable EIA consent decision can be issued to Natural Resources Wales for marine works as part of the Penclawdd Tidal Flood Alleviation Scheme.

Sign off

Produced by: Katherine Route-Stephens – Marine Licensing Team

Signed:



Date: 3rd June 2014

Approved by: Eleanor Smart – Marine Licensing Team Leader

Signed:



Date: 13 June 2014