

Historic Environment Scotland

Additional Information Consultation

Response



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

By email to:

MS.MarineLicensing@gov.scot

Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
HMConsultations@hes.scot

Our case ID: 300051634
Your ref: 00009818 and 00009819
[REDACTED] 2022

Dear Marine Scotland

The Transport and Works (Scotland) Act 2007 (Environmental Impact Assessment)
Regulations 2017

00009818 and 00009819 - Forth Ports Ltd (Per Royal Haskoning DHV) - Construction
and Capital Dredge and Sea Deposit - Port of Leith Outer Berth

Thank you for your consultation which we received on 30 September 2022. We have considered the additional information relating to these 2 Marine Licences and the accompanying EIA Report Addendum in our role as a consultee under the terms of the above regulations and have reviewed it for our historic environment interests. Our remit is world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, and gardens and designed landscapes (GDLs) and battlefields in their respective inventories. Under the Marine (Scotland) Act 2010 our historic environment interests also cover Historic Marine Protected Areas (HMPAs) and undesignated marine cultural heritage features

Our Advice

As you will be aware, in our response to these Marine Licence applications and their accompanying EIA Report (dated 27 June 2022) we noted that we were content that the historic environment had been scoped out of the assessment. We have therefore considered the additional information received and can confirm that we do not have any comments to make on the proposals or addendum.

Our decision not to provide comments should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.

Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**



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[support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](#). Technical advice is available through our Technical Conservation website at www.englished.org.

Please contact us if you have any questions about this response. The officer managing this case is Andrew Stevenson who can be contacted by phone on [REDACTED] or by email on [REDACTED]

Yours faithfully

Historic Environment Scotland

Marine Scotland Science

Additional Information Advice

T: +44 (0)131 244 2500
E: MSS_Advice@gov.scot

Judith Horrill
Marine Scotland Licensing Operations Team
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

28 October 2022

00009818/ 00009819 FORTH PORTS LTD (PER RHDHV) - CONSTRUCTION AND CAPITAL DREDGE AND SEA DEPOSIT - PORT OF LEITH OUTER BERTH - REQUEST FOR ADVICE ON ADDITIONAL INFORMATION

Marine Scotland Science (MSS) have reviewed the relevant documentation and have provided the following comments.

**No Comments = "We have considered the request and have no advice to provide."*

Marine Ornithology

MSS have reviewed the report "Port of Leith – Outer Berth Environmental Impact Assessment Report Addendum (including additional information to support the Habitats Regulations Appraisal)(Reference: PC2045-RHD-ZZ-XX-RP-Z-0010)" received 7 September 2022. MSS have considered the responses provided in Table 2-1 (Response to Consultation Comments, p2), and provide the following specific advice in relation to ornithology:

The description of the Proposed Development states that the existing structures must be removed as part of 'enabling works'. We request a full description of these enabling works and in particular the methodology for removing the existing structures. This should include a full assessment of the potential environmental impacts these works may have and necessary mitigation measures in light of the impacts identified. The assessment should include but not be limited to in air and underwater noise and consider if the mitigation would reduce impact ranges for marine mammals and fish as well as birds.

MSS are content with the response provided and that given the limited effects of the enabling works (outlined in Appendix B - Dolphin Removal), that this activity will have limited environmental impacts on ornithological receptors.

The Scottish Ministers request further information in relation to the impact on bird species at the site of the Proposed Development caused by artificial lighting during both the operational and construction phases of the Proposed Development. This should include a description of the lighting plan during both the construction and operation phases, any potential impacts particularly in relation to bird species, including but not limited to breeding terns, and any required mitigation in light of the impacts identified.

MSS consider the use of a Construction Environmental Management Plan to cover potential impacts of lighting on birds appropriate, via discussions with appropriate

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consultees. MSS also welcome the operational lighting plan (Appendix C) and additional information provided regarding lighting (shielded lighting of work area using 3000°K), and are satisfied that this will minimise impacts on breeding birds outside the development footprint, in particular nesting common terns at Leith Docks SPA. However, in line with NS advice (Table 2-1: comment 31), MSS reiterate that ideally works should be undertaken outside the bird breeding season to avoid impacts on ornithological receptors.

The Scottish Ministers request that you provide details of anticipated vessel traffic activity during the construction phase of the Proposed Development, in particular relating to the required vessel movements required to transport materials necessary to complete the Proposed Development and vessel movements required to transport dredge material. This should include an assessment of the impacts caused upon marine mammal and bird receptors as a result of increased vessel presence and movements and any mitigation required in light of the impacts identified.

Given these limited increases in vessel traffic (Proposed Development: +2% compared to 2019; Dredge Transport: +13%) and the temporal extent of the construction phase, MSS do not consider that the increased vessel movements will have significant impact on ornithological receptors.

We request further clarification as to the levels and variations in baseline noise and visual disturbance across the site is provided as it relates to birds. This should include information regarding predicted levels of activity at the Eastern Breakwater during both the construction and operation phases, and comparing this to the current baseline.

MSS agree that given the proximity to the Port of Leith approach channel and the limited berth usage (2-4 times a month; 24 hours), that visual and noise disturbance during construction and operation phases will be generally similar to current baseline conditions.

Marine Mammals

MSS have reviewed Port of Leith –Outer Berth Environmental Impact Assessment Report Addendum (including additional information to support the Habitats Regulations Appraisal) Ref PC2045-RHD-ZZ-XX-RP-Z-0010. MSS are content with the additional information supplied in response to our queries regarding marine mammals and underwater noise. In section 3 Summary of Additional Mitigation Measures it is stated that the requirement for a 500m mitigation zone for marine mammals will be considered further and agreed via the CEMP. We would again advise that a 500m mitigation zone is established.

Diadromous fish

MSS have considered the additional information and have no further comments in relation to diadromous fish

Benthic Ecology

MSS have considered the request and have no advice to provide with regard to benthic ecology.

Physical environment / coastal processes

MSS have considered the additional information and have no further comments in relation to the physical environment/coastal processes.

Hopefully these comments are helpful to you.

Yours sincerely,

Renewable Energy Environmental Advice group
Marine Scotland Science

NatureScot

Additional Information Consultation Response

Judith Horrill
Marine Licensing Officer
Marine Scotland
MS.MarineLicensing@gov.scot

28 October 2022

Our ref: CLC168619/A3854683

Dear Judith

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017
("THE EIA REGULATIONS") - ADDITIONAL EIA INFORMATION

00009818 AND 00009819 - FORTH PORTS LTD (PER ROYAL HASKONING DHV) – HARBOUR
DEVELOPMENT - PORT OF LEITH OUTER BERTH

Thank you for your consultation of 30 September 2022, with the additional EIA information and updated HRA. Our advice below relates to the additional information in the context of our response to the application.

Advice

We acknowledge that our comments at the application stage have been addressed and largely taken on board, and mitigation applied accordingly.

In summary, we note:

- Use of a piling shroud at all times through the tern breeding season, not just during the post breeding phase
- If piling works are undertaken during the tern breeding season, then an ecological clerk of works will oversee the works
- That our requested pre-piling search area of 500m, rather than a reduced 200m, will be considered further in the production of the CEMP. We acknowledge the applicant's response and will be happy to discuss this further in due course.

We also requested some further information, to clarify some areas that we felt had not been as sufficiently addressed as they could be. This was to ensure all potential impacts had been considered fully and to ensure no additional mitigation measures were required:

- We note the information provided on expected additional vessel movements to the spoil site, against existing movements, and also acknowledge that this increase lies within the applicant's existing powers. We are content that expected increased traffic is not likely to be significant, and therefore confirm there will be no significant disturbance of the qualifying species, and therefore no adverse effect on site integrity, with regards the Outer Firth of Forth and St Andrews Bay Complex SPA.
- We also asked for some clarification of the enabling works to ensure all impacts and mitigation had been identified. We are content with the information provided and the conclusion that the works will not raise any significant impacts requiring additional mitigation.

Should you wish to discuss these comments further then please do not hesitate to contact me at my e-mail address.

Yours sincerely,

Carolyn Clark

Operations Officer - South



Royal Society for the Protection of Birds
Additional Information Consultation
Response

Judith Horrill
Marine Scotland – Marine Planning & Policy
Marine Laboratory, 375 Victoria Road, Aberdeen, AB11 9DB
Email: MS.marinelicensing@gov.scot



31st Oct 2022

Dear Ms Horrill

Forth Ports Limited - Harbour Development - Port of Leith Outer Berth – Response to additional information from RSPB Scotland
Ref: 00009818 and 00009819

Thank you for consulting RSPB Scotland on the additional information for the above Marine Licence application. We have set out our response to the key issues below:

1. Increase in activity at Eastern Breakwater (site of the proposed Outer Berth)

In our original response of 15th July 2022, we expressed concern that the proposed development would lead to an increase in activity at the eastern breakwater (site of the proposed Outer Berth) and resulting additional disturbance to the birds using the area. We welcome confirmation from the applicant that the improved berth is only likely to be used 2 – 4 times a month and there will be no significant difference in the level of activity there from the existing baseline.

2. Construction impacts on post-breeding groups of loafing or roosting terns

Whilst we still have some concerns about the potential impact of the development on loafing or roosting terns, we are content that, with the use of noise dampening shrouds, the presence of an Ecological Clerk of Works (ECOW) and the provision of alternative sites in the form of platforms at the West Pier, it will not have an adverse effect the integrity of the Imperial Dock Lock, Leith SPA.

For the avoidance of doubt, the EcOW should independent environmental professional with direct responsibility for monitoring and reporting on compliance with planning consents, environmental permits, legislation, and mitigation. The ECOW should provide feedback as to compliance against the plans and mitigation via a written report (made publicly available by the consenting authority) within a specified timescale.

3. Pre and post construction monitoring and provision of enhancements to West Pier

We welcome confirmation that there will be a programme of pre and post construction monitoring and annual reporting of this. We also welcome the commitment to enhance the West Pier for breeding and post breeding birds, through the provision of nesting platforms. We would be pleased to work with the applicants on the details of this and any other potential enhancement measures.

RSPB Scotland Headquarters
2 Lochside View
Edinburgh Park
Edinburgh
EH12 9DH

Tel: 0131 317 4100
Facebook: @RSPBScotland
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rspb.org.uk



The RSPB is part of BirdLife International, a Partnership of conservation organisations working to give nature a home around the world.

Given the comments above, and the securing the appropriate conditions as part of any consent, we are prepared to withdraw our objection to the proposed development. Without such conditions, our position should be treated as one of objection to the development.

I hope these comments are useful. Please do not hesitate to contact me should you require further information or explanation.

Yours sincerely



Toby Wilson
Senior Conservation Officer – Central Scotland

Cc Carolyn Clark NatureScot

RSPB Scotland Headquarters
2 Lochside View
Edinburgh Park
Edinburgh
EH12 9DH

Tel: 0131 317 4100
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The RSPB is part of BirdLife International, a Partnership of conservation organisations working to give nature a home around the world.

Transport Scotland

Additional Information Advice

Judith Horrill
Marine Scotland - Marine Planning & Policy
Scottish Government
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Your ref:
00009818 and
00009819

Our ref:
GB01T19K05

Date:
28/10/2022

ms.marinelicensing@gov.scot

Dear Sirs,

MARINE (SCOTLAND) ACT 2010, PART 4 MARINE LICENSING

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

FORTH PORTS LTD (PER ROYAL HASKONING DHV) - CONSTRUCTION AND CAPITAL DREDGE AND SEA DEPOSIT - PORT OF LEITH OUTER BERTH

With reference to your recent correspondence on the above development, we acknowledge receipt of the Addendum Information prepared by Royal HaskoningDHV in support of the above development.

This information has been passed to SYSTRA Limited (SYSTRA) for review in their capacity as Term Consultants to Transport Scotland – Roads Directorate. Based on the review undertaken, Transport Scotland would provide the following comments.

Proposed Development

In April 2022, two Marine License Applications (MLAs) for the proposed Port of Leith – Outer Berth Development were submitted to Marine Scotland Licencing Team (MS LOT), supported by an Environmental Impact Assessment Report (EIAR). Transport Scotland was consulted on the applications and provided comment on the EIAR in a letter dated 29th June 2022. In this, we concluded that Transport Scotland was satisfied that the proposed development would not give rise to any significant environmental impacts on the trunk road network.

We understand that following the submission of the EIAR, Scottish Ministers have requested that supplementary information be submitted. The Addendum Information (AI) has been prepared in response to this request, comprising further detail on construction methodology, vessel traffic, noise and birds.

Having reviewed this AI, we note that it does not relate to potential traffic impacts on the trunk road network or to any associated environmental impacts. We can confirm, therefore, that the conclusions of our review of the original application remain valid.

I trust that the above is satisfactory but should you wish to discuss, please do not hesitate to contact me or alternatively, Alan DeVenny at SYSTRA's Glasgow Office on [REDACTED]

Yours faithfully



Gerard McPhillips

**Transport Scotland
Roads Directorate**

cc Alan DeVenny – SYSTRA Ltd.

Marine Coastguard Agency

From: navigation safety <navigationsafety@mcga.gov.uk>
Sent: 24 October 2022 11:01
To: MS Marine Licensing
Subject: RE: 00009818/ 00009819 - Forth Ports Ltd (Per RHDHV) – Harbour Development - Port of Leith Outer Berth- Additional Information Consultation- Response required by 30 October 2022

Dear Judith,

Thank you for the opportunity to comment on the Marine Licence application 00009818 and 00009819 for the harbour development, capital Dredging and sea Deposit at Port of Leith outer berth. The UK Technical Services Navigation team of the Maritime and Coastguard Agency has reviewed the documents received and would like to comment as follows:

We note that the works fall within the jurisdiction of a Statutory Harbour Authority (SHA) - Forth Ports Ltd and that the disposal of the material is within a designated disposal site. Therefore they are responsible for the safety of navigation within their waters.

The MCA confirms we have no objections to a licence being granted on this occasion. This is on the understanding that all maritime safety legislation is adhered to, and that the following risk mitigation measures take place:

Conditions:

None

In addition, the following advice should be provided to the applicant to facilitate the proposed works:

Advisories:

1. Bunding and/or storage facilities must be installed to contain and prevent the release of fuel, oils, and chemicals associated with plant, refuelling and construction equipment, into the marine environment.
2. The site is within port limits and the applicant should gain the approval/agreement of the responsible local navigation authority or the Harbour Authority/Commissioners/Council. They may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works, as deemed necessary.
3. A local notification must be sent to the Harbour Authority who will decide if a Port NM is necessary. Details required: start date/ end date, work to be done, positions of the work area (WGS84), marking of the work area. UKHO will then review the subsequent Port NM to see if action is required.
4. The site is within port limits and the Harbour Authority may wish to issue local warnings to alert those navigating in the vicinity to the presence of the works, as deemed necessary. Any change data including engineering drawings, hydrographic surveys, details of new or changed aids to navigation must then be passed onto the UKHO as per guidance in 'Harbour Master's Guide to Hydrographic and Maritime Information Exchange' published on the UKHO website.
5. A local notification must be sent to the Harbour Authority on completion of the work. Any change data including engineering drawings, hydrographic surveys, details of new or changed aids to navigation must then be sent to the Harbour Authority who will review the info and determine what action to take. ref the harbour guide

The MCA has considered the relevant Marine Plan as part of its assessment of this application.

If you have any questions on this response, please let us know.

Kind Regards

Sam Chudley

Maritime Licence Advisor
Marine Licensing and Consenting
UK Technical Services Navigation



Maritime &
Coastguard
Agency

Maritime & Coastguard Agency

Bay 2/25, Spring Place
105 Commercial Road,
Southampton SO15 1EG



Safer Lives, Safer Ships, Cleaner Seas

www.gov.uk/mca

Scottish Environmental Protection Agency

From: Planning South East <PlanningSouthEast@sepa.org.uk>
Sent: 30 September 2022 17:43
To: MS Marine Licensing
Subject: SEPA Ref 6656 - 00009818/ 00009819

OFFICIAL

Thank you for the above consultation. Based on the information provided, it appears that this application falls below the thresholds for which SEPA provide site specific advice. Please refer to our standing advice and other guidance which is available on our website at www.sepa.org.uk/environment/land/planning. In addition, please also refer to our *SEPA standing advice for the Department for Business, Energy and Industrial Strategy and Marine Scotland on marine consultations* available at [lups-gu13.pdf \(sepa.org.uk\)](#)

If there is a significant site-specific issue, not addressed by our guidance or other information provided on our website, with which you would want our advice, then please reconsult us highlighting the issue in question and we will try our best to assist.

Jess Taylor

Planning Officer
Planning Service

SEPA Stirling Office, Strathallan House, Castle Business Park, Stirling FK9 4TZ

email: planningsoutheast@sepa.org.uk

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Northern Lighthouse Board

From: Adam Lewis [REDACTED] on behalf of navigation
<navigation@nlb.org.uk>
Sent: 03 October 2022 14:42
To: MS Marine Licensing
Subject: RE: [EXT] 00009818/ 00009819 - Forth Ports Ltd (Per RHDHV) – Harbour Development - Port of Leith Outer Berth- Additional Information Consultation- Response required by 30 October 2022

Good afternoon,

Thank you for providing NLB with the additional information relating to the construction methodology, vessel traffic, noise and bird impacts of the proposed construction and dredging works at the Leith Outer Berth construction project.

NLB have no additional comment to make with regard to these updates.

Regards

Adam

Official - Northern Lighthouse Board Email

Adam Lewis
Coastal Inspector

UK Chamber of Shipping

From: Robert Merrylees [REDACTED]
Sent: 17 October 2022 13:17
To: MS Marine Licensing
Subject: RE: 00009818/ 00009819 - Forth Ports Ltd (Per RHDHV) – Harbour Development - Port of Leith Outer Berth- Additional Information Consultation- Response required by 30 October 2022

Dear Judith,

Thank you for opportunity to respond to the below proposed ML.

The UK Chamber of Shipping has no comments in this instance.

Kind regards,
Robert
Robert Merrylees
Policy Manager (Safety & Nautical) & Analyst

UK Chamber of Shipping
30 Park Street, London, SE1 9EQ





 www.ukchamberofshipping.com



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Royal Yachting Association

From: Pauline McGrow 
Sent: 05 October 2022 17:13
To: MS Marine Licensing
Subject: RE: 00009818/ 00009819 - Forth Ports Ltd (Per RHDHV) – Harbour Development - Port of Leith Outer Berth- Additional Information Consultation- Response required by 30 October 2022

Hi Judith,

I write to inform you that RYA Scotland has no comment that they wish to make on this application.

Kind Regards

Pauline

Pauline McGrow
Senior
Administrator Mob:



Royal Yachting Association Scotland
T: 0131 317 7388



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