



Appendix A

Screening Opinion

On behalf of



**Shetland
Islands
Council**

Project Ref:332511168| Rev: A | Date: March 2023

Front Cover Photograph provided by Brian Gray

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Shetland Islands Council

Executive Manager: Iain S McDiarmid
Director: Neil Grant

Janet Burns
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[redacted]

Planning
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Telephone: 01595 744293
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If calling please ask for:
Dawn C Stewart
Planning Officer – Development
Management
[redacted]

Our Ref: **2022/088/SCR**

Date: 26 May 2022

Dear Ms Burns

Town and Country Planning (Environmental Impact Assessment)(Scotland) Regulations 2017

Development **Proposed Grutness Harbour Improvement Works**
Location **Grutness Pier, Virkie, Shetland.**
Applicant Name **Janet Burns**

I can advise you that the Authority has, on the basis of the submitted information, adopted a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, and concludes that the development will not require to be subject to a formal Environmental Impact Assessment. However any planning application submitted will require to be accompanied by an Environmental Report that sets out the environmental issues and mitigations as outlined in the Screening Report for the proposed development.

As the proposal is likely to have a significant effect on the protected features of Sumburgh Head Special Protection Area (SPA) resulting from loss of part of the marine area of the site, disturbance of birds in the vicinity of the works and increased turbidity hampering foraging, Shetland Islands Council as competent authority will be required to carry out an appropriate assessment of the implications of the proposal for the SPA in view of the site's conservation objectives. To allow the Council to carry out this assessment, sufficient environmental information is required to be submitted in support of any planning application to include the following:

- details of the timing of the proposed works;
- anticipated levels of aerial and underwater noise; and

- the likely extent of turbidity resulting from the dredging.

For the basis of this decision, please see the attached screening opinion.

Yours faithfully

[redacted]

for
Dawn C Stewart
Planning Officer – Development Management

088_Screening_Letter.doc

Explanatory Information

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

Proposed Development

Shetland Islands Council are currently developing design options for the re-development of the Grutness to Fair Isle ferry route, which will include a new vessel and upgrading the landside infrastructure at both harbours. This re-development will provide improved transport links between Fair Isle and the Shetland mainland by increasing the resilience of both the vessel and ferry terminal infrastructure.

The proposed development, subject to consent under the provisions of the Town and Country Planning (Scotland) Act 1997 (as amended) comprises work to upgrade/extend the existing Grutness Pier at Grutness Harbour in Virkie, Shetland in order to provide shelter for a new linkspan structure that will be used for the new Ro-Ro Vessel (as identified on Figure 2.1 of Appendix A).

Provision of the 2017 Regulations

The proposed development is not of a type or scale identified in Schedule 1 of the Regulations, meaning that an Environmental Impact Assessment (EIA) is not automatically required. However, the proposed development falls under Schedule 2 of the EIA Regulations, under Column 1 of Category 10, 'Infrastructure projects', sub-paragraph 10 (g) 'Construction of harbours and port installations including fishing harbours' and (m) 'Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example of dykes, moles, jetties and other sea defence works, including the maintenance and reconstruction of such works'. The threshold for (g) is the area of work exceeding one hectare, whilst the threshold for (m) is all development.

Schedule 3 of the Regulations sets out the selection criteria that must be taken into account in determining whether an EIA is required. The criteria falls into 3 groups:

- (a) The character of the development;
- (b) The environmental sensitivity of the site location; and
- (c) The characteristics of the potential impact.

The EIA Regulations also expressly provide that a developer may, when requesting a screening opinion, include a description of any features of the proposed development, or proposed measures, envisaged to avoid, or prevent significant adverse effects on the environment, and the Planning Authority must take this information into account in reaching a screening opinion.

The Screening Report submitted outlines the measures that will be incorporated into the design and execution of the project to avoid or prevent adverse impacts on the environment.

Assessment of Proposal in Relation to Schedule 3 Criteria

Characteristics of the Development

Although the precise characteristics of the proposed development have yet to be confirmed, in overall terms, the proposed scope of the works comprise:

- An extension to the existing pier and rock armour protection in a 'dog-leg' shape to provide shelter for a new linkspan structure that will be used by the new Ro-Ro vessel;
- An increase to the height of the existing rock armour to the north of the pier to reduce the frequency and severity of swell overtopping during storm events;
- Dredging to provide a sufficient water depth for new vessel around the proposed pier extension and linkspan; and
- Improved marshalling facilities.

Size and Design

The proposed development involves extending the length and height of the existing pier and would therefore require only relatively limited land-take. On this basis, the Screening Report provided considers that the scale of the proposed development is not likely to result in significant environmental effect, as the design will be sympathetic to the surrounding environment.

Cumulative Development

The site area is not known to benefit from any relevant and extant planning permissions and there are no known approved developments within the vicinity of the site which would interact with the proposed development. The Screening Report states that following adoption of mitigation measures, no significant effects are considered likely in relation to the cumulative impact with other development.

Soil, Water and Biodiversity

Based on the absence of sources of potential contamination and sensitive human health receptors, the Screening Report states that a Construction Environment Management Plan (CEMP) will be prepared to accompany the planning application/s to protect the water environment. It is not anticipated that there will be any potentially significant effects from ground conditions on stability or contamination.

Waste

All waste management practices during construction will comply with appropriate regulations and any unsuitable or contaminated materials encountered during the construction process would be extracted and disposed of in accordance with regulatory requirements, including by way of obtaining appropriate SEPA licences if necessary. No significant environmental effects related to waste production are

considered likely. The adequate disposal and management of site waste can also be controlled by way of planning conditions.

Pollution

Machinery/plant used in the construction phase of the proposed development will adhere to best practice techniques to ensure that air based pollutants are minimised and appropriately mitigated where possible. Exhaust gas emissions and adverse noise effects on sensitive receptors from machinery/plant are likely to be minimal given the nature and scale of the proposed development and the rural location of the site. According to the Screening Report, notwithstanding this information, any likely adverse effects on air quality, soundscapes and vibration including the operation of machinery and plant during standard construction hours will be controlled to an acceptable level via standard site management and construction practices to minimise the risk of any environmental effects and reduce risks associated with noise and air based pollutants.

Standard ecological and pollution control mitigation measures and procedures will be deployed during the construction phase to safeguard the water environment from accidental pollution. Baseline ecological surveys and the provision of an Ecological Appraisal is to be submitted in support of the planning application/s. Subject to controlling conditions, the Screening Report anticipates that appropriate environmental mitigation measures will be specified and implemented via the CEMP.

Major Accidents

According to the Screening Report, no significant environmental effects are considered likely due to the implementation of standard construction mitigation measures, best practice construction management techniques and adherence of all applicable regulations.

Human Health

There is a slight risk to human health during the construction of the project with respect to water contamination at the existing site, however the likelihood is considered to be very low with mitigation.

The primary potential impact on air quality is the risk of deterioration in local air quality due to windblown dust, however the site is not in proximity to any Air Quality Management Area. Again, the Screening Report refers to the implementation of standard construction mitigation measures, best practice working techniques and applicable regulation adherence, and considers that no significant environmental effects are therefore considered likely.

Location of Proposed Development

The site of Grutness ferry terminal is located near to Sumburgh Head on the southern tip of the Shetland mainland opposite Sumburgh Airport in Dunrossness. The harbour is generally sheltered from the south and west by land and open to the north and east. The harbour is very exposed from the east through to the north-east.

Land use at the site consists of the existing pier and approach road and bay. The land use is not considered to be sensitive in this respect as the works are to extend the existing pier and introduce a small linkspan to accommodate the new vessel. As such, the proposed development is compatible with existing and approved land uses on site.

The site proposed for development lies within the Sumburgh Head Special Protection Area (SPA) and Sumburgh Head Site of Special Scientific Interest (SSSI) protected for its breeding Arctic tern, kittiwake and fulmar populations and for its seabird colony.

Characteristics of Potential Impact

The proposal is likely to have a significant effect on the protected features of the Sumburgh Head SPA resulting from loss of part of the marine area of the site, disturbance of birds in the vicinity of the works and increased turbidity hampering foraging.

Air Quality, Noise, Vibration and Climate Change

- Noise from piling operations and plant activities.

An airborne noise assessment from the construction works will be undertaken. Strategies to minimise adverse noise impacts on nearby sensitive receptors will be considered in conjunction with the phasing of works, delivery of rock and construction working hours on site. The Screening Report concludes that subject to appropriate mitigation incorporated within the Ecological Appraisal, the proposed development is unlikely to have a significant effect.

- Dust emissions from construction of the pier.

Dust from on-site activities and off-site trackout by construction vehicles has the potential to impact on sensitive human and ecological receptors within the study area. The main potential impact is loss of amenity (as a result of dust soiling) and deterioration of human health (as a result of particle concentrations). However, the Screening Report considers that appropriate dust mitigation measures will be implemented on site and given that there are no receptors in close proximity to the site, the effects of the proposed development in relation to construction dust will not be significant.

Ground Conditions, Land Use

- Disturbance to ground conditions/land use during construction or operation.

The Screening Report advises that there is no likelihood of significant effects arising in relation to land use, ground conditions and geology as a result of the proposed development given that a CEMP will be prepared to provide construction mitigation measures during both the construction and operational phases of the project.

Ecology

- Nature Conservation Protected Areas and Species

The extent of the proposed works overlap Sumburgh Head Special Protection Area (SPA) and are close to Sumburgh Head Site of Special Scientific Interest (SSSI) which is notified for its geological interest and bird breeding colonies.

The Screening Report considers that construction and operational activities of the proposed development are unlikely to damage the natural features of the SSSI as the works are not undertaken within the SSSI.

Water depth at the location of the proposed works is <5m Below Chart Datum (BCD) with few sightings of marine mammals, predominantly seals within the bay where the pier is located. Outside the bay and around Sumburgh Head, marine mammals are frequently recorded. The Screening Report advises that a Marine Ecological Survey will be carried out in 2022 to better understand the potential ecological value of the marine habitats in the vicinity of the proposed works, with a benthic survey programme to incorporate an intertidal and subtidal survey. The findings of these surveys will be incorporated into the Ecological Appraisal.

The Screening Report advises that two to four weeks prior to the commencement of construction works, an otter survey will be undertaken to inform of any current otter activity and holt occupancy. Should it be the case that breeding or active holts are confirmed within 250m of the construction works, NatureScot will be contacted directly to confirm if a species licence to disturb otter is required.

- Terrestrial Environment

The majority of the proposed works are to be carried out within the marine environment or from the existing pier, however a small area of the rocky upper intertidal and supralittoral will be lost to accommodate the linkspan. A small area of scrub land adjacent to the existing road and parking area will also be lost.

Lay down areas will be secured on the existing parking areas available around the pier.

Otter surveys will be undertaken to determine if otter are likely to be present in the area.

- Marine Environment

A Marine Ecological Survey will be carried out in 2022 to better understand the potential ecological value of marine habitats in the vicinity of the proposed works. A Sub-Tidal Survey will also be carried out around the jetty to determine broad habitats and identify the presence of any Priority Marine Features in the vicinity, outputs from which shall be incorporated into an Ecological Appraisal to support the Marine Licence application.

The footprint of the works covers approximately 1.44ha, resulting in loss of gravelly sand habitats. However, the extension of the jetty will provide suitable substrata for epibiont colonisation and shelter for juvenile inshore fish.

Changes in water and sediment quality as a result of the extended pier structure and additional rock armouring are anticipated to be negligible and not of a scale that will result in any significant effects on marine ecology features. Any potential risks during construction will be managed via best practice pollution preventative measures.

Any changes to physical processes are also anticipated to be negligible and not of a scale that will result in any significant effects on marine ecology features, given the relatively small area identified for dredging of 12,000m² which will be a temporary activity.

Rock armouring is present in the intertidal area around the pier which is rocky in nature and provides poor foraging habitat for waders and seabirds. Operation of the ferry at the pier and the frequent movement of aircraft to the west means that birds present in this area are habituated to visual presence of humans, ferry movements, buses and loud noise from aircraft, thus no significant impact is anticipated on seabirds and waders as a result of the proposed development.

Marine and land-based plant (if appropriate) will be thoroughly cleaned to remove biofouling prior to delivery on site and again prior to leaving the site for use at their next location to minimise the export of Invasive Non Native Species in line with best practice management measures.

No significant adverse impacts are anticipated from underwater noise on marine mammals or fish due to the small scale and highly temporary nature of the piling activities.

Any potential risks to the marine environment during the construction will be managed by adherence to best practice pollution prevention guidelines.

Hydrology and Flood Risk

- Additional flood risk as a result of the scheme or pollution to water quality.

Appropriate mitigation measures and procedures to protect against flood risk and the release of pollutants into the sea are to be embedded in the final design details of the proposed development and in the construction methodology to be adopted.

Socio-economics, Tourism and Recreation

The construction phase is likely to generate some direct employment, but the scale and temporary nature of these works to extend an existing operational pier are unlikely to have any material impact on the wider socio-economic effects and is unlikely to have a significant impact on the economy, employment or land use effects.

Traffic, Transport and Material Assets

Given that all materials are likely to be consolidated at an appropriate port or ports, any land based traffic impacts associated with the construction of the proposed development are expected to be negligible.

Human Health

Potential health effects are expected to be minimal in terms of noise effect arising from the pier construction. Noise and ground conditions assessments will be carried out to identify, assess and mitigate potential effects associated with construction activities. These assessments will identify any required mitigation to safeguard human health.

Cultural Heritage

- Grutness lighthouse store (including boundary wall, gate and gate piers) is a Category C listed building that is located adjacent to the existing Grutness Pier.

However, no works are proposed to the heritage assets and the design and construction methodology to be adopted is to incorporate appropriate mitigation measures to ensure that the proposal has not adverse impact on the character, integrity nor setting of this Category C listed building.

Landscape and Visual

The proposed development is to be located within an existing functional ferry terminal in which the elements comprising the proposed development are already present and therefore the proposed works are unlikely to have any significant landscape/seascape or visual effects during the construction or operational phases of the development.

The design and construction methodology to be adopted will incorporate appropriate mitigation measures to minimise landscape and visual impacts by maintaining an orderly and tidy site, thereby having no residual effects on the landscape nor visual amenity of the area.

Provision of Circular 1/2017

The Planning Authority is obliged to assess the proposal against the indicative criteria in Schedule 3 of the Regulations to determine whether or not the proposed development is likely to have significant effects on the environment. Planning Circular 1/2017 provides guidance on the EIA (Scotland) Regulations 2017 and states that in reaching a screening determination on a Schedule 2 development, the basic question to be asked is "Would this particular development be likely to have significant effects on the environment?" This is examined in terms of factors such as its nature, size or location and the sensitivity and capacity of the surrounding environment as discussed above.

Screening Opinion

The review of the Screening Report has identified that taking account of proposed mitigation measures, the proposed works are unlikely to result in any significant environmental effects. Some environmental issues are identified as being relevant, however these local effects can be dealt with by the application of good environmental practice by the developer to ensure that any potential adverse environmental effects will be 'designed out' or otherwise minimised during the design process. Other supporting documentation will also be submitted in support of the planning application to explain how relevant design principals and mitigation measures have been applied and to demonstrate accordance with Shetland Local Development Plan (2014) Policies and other relevant material considerations. Furthermore, appropriate planning conditions can be applied to ensure that mitigation measures are secured.

Based on the small scale of the proposed works to be carried out in the location of an existing ferry terminal, the residual effects on the environment of construction and operating the Proposed Development are assessed as being limited, provided that identified control and mitigation measures are implemented.

Conclusion

It is concluded based on the criteria above that the Proposed Development, whilst falling within the definition of a Schedule 2 project under Class 10 (g) and (m) of Schedule 2 of the EIA Regulations, does not constitute 'EIA development' in the context of these regulations.

Having examined the proposed development in relation to the relevant criteria in the Environmental Impact Assessment (Scotland) Regulations 2017 and the advice given in Circular 1/2017, it is considered that there is **not** a requirement to submit an Environmental Impact Assessment Report with any future planning application for the development as proposed and set down in the Screening Report received. However, given that the proposed works have the potential to have a significant effect on the protected features of the Sumburgh Head SPA, sufficient environmental information is required to be submitted in support of any planning application. This is to allow the Council as competent authority, to carry out an appropriate assessment of the implications of the proposal for the SPA in view of the site's conservation objectives, which shall include:

- details of the timing of the proposed works;
- anticipated levels of aerial and underwater noise; and
- the likely extent of turbidity resulting from the dredging.

The Planning Authority reserves the right to review this opinion should the proposed development be subject to change in the future or should the circumstances of the site change before a planning application is submitted.

This screening opinion is provided in terms of the Council's responsibilities as a Planning Authority under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

Dawn C Stewart
Planning Officer – Development Management
Shetland Islands Council
25 April 2022

T: +44 (0)300 244 5046
E: ms.marinelicensing@gov.scot

Janet Burns
Stantec UK Ltd
3rd Floor
Randolph House
4 Charlotte Lane
Edinburgh
EH2 4QZ

Date: 14 June 2022

Dear Ms. Burns,

SCREENING OPINION UNDER THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017

Thank you for your screening opinion request dated 08 April 2022, in regards to the proposed harbour improvement works, including a sheet piled pier extension and linkspan, capital dredging and dredged material deposit at Grutness Harbour, Shetland Islands (“the Proposed Works”).

The Scottish Ministers consider the Proposed Works to fall under paragraph 10(g) of schedule 2 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 MW Regulations”), with the Proposed Works meeting the corresponding threshold described in column 2 of schedule 2. Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Works are, or are not, an Environmental Impact Assessment (“EIA”) project under the 2017 MW Regulations.

Under regulation 10(5) of the 2017 MW Regulations, the Scottish Ministers have consulted with NatureScot (“NS”) (formerly Scottish Natural Heritage), the Scottish Environment Protection Agency (“SEPA”), Shetland Islands Council and Historic Environment Scotland (“HES”) as to their view on whether the Proposed Works are an EIA project. Copies of the consultation responses received are attached for your review (at Appendix I).

When making a determination as to whether schedule 2 works are an EIA project, the Scottish Ministers must take into account such of the selection criteria set out in schedule 3 of the 2017 MW Regulations as are relevant to the Proposed Works. In this regard, the Scottish Ministers have considered the following:

Characteristics of the works

The Proposed Works are to carry out improvements to upgrade the infrastructure at Grutness Harbour, Shetland. The Proposed Works include a pier extension with rock armour protection in a 'dog-leg' shape to provide shelter for a new linkspan structure, that will be used by the new Ro-Ro vessel which will be employed on the Grutness to Fair Isle ferry service.

The Proposed Works include an extension to the existing 30 metre("m") pier. The new pier will be 78m long and 9m wide and will be constructed using 300 sheet piles, installed through a combination of vibro and impact piling. The area will be infilled with 5,090m³ of material and rock armour installed for the pier. The height of the rock armour on the existing pier will also be increased to the north of the pier to reduce the frequency and severity of swell overtopping during storm events.

The Proposed Works also include capital dredging and deposit of dredge material at a designated sea deposit site to provide a sufficient water depth for the new vessel around the proposed pier extension and linkspan. The area of dredging is approximately 12,000m² to bring the depth to 4/4.5m below chart datum.

The Proposed Works are anticipated to take place over two consecutive summers with the pier extension being carried out in the first year and the linkspan being carried out in the second year.

Location of the works

The Proposed Works are located within the Sumburgh Head Special Protection Area ("SPA") which is designated for breeding arctic tern, kittiwake, fulmar, guillemot and sea bird assemblage. NS advised that the proposed works have potential to disturb or displace the qualifying interests however this would not be significant and can be dealt with through the Habitat Regulations Appraisal ("HRA") process as part of the marine licence application.

NS concluded that an EIA was not required for the Proposed Works however did identify the assessments which should be provided to support the HRA process and Stantec are directed to the NS consultation response in Appendix I for further details.

NS confirmed any mitigation necessary to minimise disturbance to cetaceans could be secured through the European Protected Species ("EPS") licence process without the need for EIA. NS also confirmed should otters be identified in the vicinity of the Proposed Works, Stantec should seek further advice from NS with regards to the need for an EPS licence.

HES noted the impacts on the historic environment as a result of the Proposed Works are not considered significant and therefore do not require an EIA. HES recommended that an archaeological mitigation scheme, should be submitted for consideration as part of the marine licence application.

Characteristics of the potential impact

Shetland Islands Council have issued a negative screening for the related terrestrial based components and advised that they have no further comments on the marine aspects of the Proposed Works.

SEPA advised they had no comments to make on the aspects of the Proposed Works that fall within their remit.

Conclusion

In view of the findings above, the Scottish Ministers are of the opinion that the Proposed Works are not an EIA project under the 2017 MW Regulations and, therefore, an EIA is not required to be carried out in respect of the Proposed Works.

If you increase, alter or extend the Proposed Works, you are advised to contact Marine Scotland - Licensing Operations Team again to confirm if the screening opinion is still valid.

A copy of the screening opinion has been forwarded to Shetland Islands Council planning department. The screening opinion has also been made publicly available through the [Marine Scotland Information](#) website.

If you require any further assistance or advice on this matter, please do not hesitate to contact me.

Yours sincerely

Thomas Inglis

Marine Scotland - Licensing Operations Team

Appendix One

Consultation Responses

Scottish Environment Protection Agency

Hutchison D (David) (MSC)

From: Planning.North <Planning.North@sepa.org.uk>
Sent: 12 May 2022 14:00
To: MS Marine Licensing
Subject: RE: SCR-0034 – Stantec – Harbour Development – Grutness Harbour - Response required by 13 May 2022 - SEPA Response 5068

OFFICIAL

Hi Thomas,

Hope you are well. Unfortunately, this type of development falls below our consultation thresholds. Instead please refer to Section 2.3 and Table 1 of our standing advice which are available on our website - [Marine Scotland – SEPA standing advice for Marine Scotland on marine licence consultations](#).

If you are seeking advice on something specific then please re-consult us specifying what advice you require.

Many thanks

Cerian

Cerian Baldwin
Planning Officer - Planning Service North
Graesser House, Dingwall Business Park, Dingwall
[redacted] [redacted]

[Who's whom in Water and Planning?](#)

Please note my working days are Tuesday to Thursday only.

Disclaimer

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From: MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>

Sent: 22 April 2022 17:18
[redacted]

Subject: SCR-0034 – Stantec – Harbour Development – Grutness Harbour - Response required by 13 May 2022

CAUTION: This email originated from outside the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

Historic Environment Scotland



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

By email to: ms.marinelicensing@gov.scot

Thomas Inglis
Marine Licensing Casework Manager
Marine Scotland (Aberdeen Office)

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

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

Our case ID: 300058112
Your ref: SCR-0034

23 May 2022

Dear Thomas Inglis

[The Marine Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017
Grutness Harbour - Stantec - Harbour Development - Marine Licence
Request for Screening Opinion](#)

Thank you for your consultation which we received on 22 April 2022 seeking our comments on an Environmental Impact Assessment (EIA) screening opinion for the above proposed development. This letter contains our comments for our historic environment interests. Under the Marine (Scotland) Act 2010 our historic environment interests cover Historic Marine Protected Areas (HMPAs) and undesignated marine cultural heritage features. In terms of the terrestrial planning system our interest include world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, gardens and designed landscapes and battlefields on their respective Inventories. Advice on impacts on terrestrial historic environment assets should also be sought from Shetland Islands Council's archaeology and conservation services.

The Proposal

We understand that this screening report is in support of an application for the redevelopment of the Grutness to Fair Isle ferry route. The project will provide improved transport links by increasing the resilience of both the vessel and terminal infrastructure. Regarding the Grutness development, this will upgrade and extend the existing pier to provide shelter for a new linkspan structure to allow for the berthing of a new vessel type. The proposals will require marine licence consent and planning permission.

Our Screening opinion

We note from the screening report that impacts on the historic environment as a result of the proposal are not considered to be significant. We agree that there are unlikely to be impacts on our historic environment interests of a level that would require consideration through the Environmental Impact Assessment (EIA) process.

We note that a Construction Environmental Management Plan is to be submitted and we would recommend that this document should include an archaeological mitigation



HISTORIC
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SCOTLAND

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EACHDRAIDHEIL
ALBA

scheme to account for potential impacts on undesignated archaeological remains and a Protocol for Archaeological Discoveries provided to deal with stray finds.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Samuel Fox and they can be contacted by phone on [redacted] or by email on [redacted]

Yours sincerely

Historic Environment Scotland

Shetland Islands Council

Hutchison D (David) (MSC)

From: [redacted]
Sent: 25 April 2022 14:47
To: MS Marine Licensing
Cc: marine.planning@shetland.gov.uk; [redacted]
Subject: development.management@shetland.gov.uk
RE: SCR-0034 – Stantec – Harbour Development – Grutness Harbour - Response required by 13 May 2022

Dear Sir/Madam,

Thank you for the opportunity to comment on the above Screening Opinion.

The Council's Coastal and Marine Planning Team are aware that the Council's Development Management section has been consulted on the land based elements of this proposal under the Town and Country Planning EIA Regulations and will be providing a response in due course on behalf of the Planning Authority. I have copied them in for awareness.

With regards to the request under the Marine Works EIA Regulations my team has no comments to make other than:

- There will be no works licence required under the Zetland County Council Act 1974 for this development by Shetland Islands Council, as the Council is the developer in this instance.
- We are aware of the environmental designations that exist at and adjacent to the location and would advise that the views of NatureScot are sought to inform the screening opinion.

Kind regards

Simon

Simon Pallant | Coastal Zone Manager – Coastal & Marine Planning Team | Shetland Islands Council | Development Services
8 North Ness Business Park | Lerwick | Shetland | ZE1 0LZ
[redacted]

From: MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>

Sent: 22 April 2022 17:18
[redacted]

Subject: SCR-0034 – Stantec – Harbour Development – Grutness Harbour - Response required by 13 May 2022

Dear Sir/Madam,

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017 (AS AMENDED) (“the EIA Regulations”)

CONSULTATION UNDER PART 2, REGULATION 10(5) OF THE EIA REGULATIONS

NatureScot

Thomas Inglis
Marine Licensing Casework Manager
Marine Scotland – Marine Planning and Policy
Scottish Government Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

12 May 2022

Our ref: CEA166739

By email to ms.marinelicensing@gov.scot

Dear Mr Inglis

THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017
(AS AMENDED) (“THE EIA REGULATIONS”)

CONSULTATION UNDER PART 2, REGULATION 10(5) OF THE EIA REGULATIONS

SCR-0034 – STANTEC – PIER CONSTRUCTION AND ASSOCIATED DREDGE – GRUTNESS HARBOUR

Thank you for your email of 22 April, consulting us on this screening request.

Summary

We are content that a full EIA is not required, but detail information required to assess the key environmental concerns within our remit.

Background

We gave a screening opinion on this development to Shetland Islands Council on 31 December 2021 (2021/329/SCR). Our conclusion was that a full EIA was not needed, but the planning application should be supported by sufficient information to allow an appropriate assessment under the Habitats Regulations.

Appraisal and advice

Sumburgh Head SPA

The proposal is within Sumburgh Head Special Protection Area (SPA) protected for its breeding Arctic tern, fulmar, guillemot, kittiwake, and seabird assemblage.

The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the 'Habitats Regulations') apply or, for reserved matters, The Conservation of Habitats and Species Regulations 2017. Consequently, Marine Scotland is required to consider the effect of the proposal on the SPA before it can be consented (commonly known as Habitats Regulations Appraisal). The NatureScot website has a summary of the legislative requirements (<https://www.nature.scot/doc/legislative-requirements-european-sites>).

The following information should be provided to allow Marine Scotland to carry out this appraisal:

- An assessment of disturbance impacts (particularly during construction) on SPA birds nesting nearby (Arctic tern and fulmar), the magnitude and duration of these impacts, and mitigation proposed to minimise impacts.
- An assessment of the likely impacts of disturbance and displacement of SPA birds using the sea area affected (for loafing and feeding), particularly during construction, including dredging.
- The area of sea lost to the development, and its significance in the context of the conservation objectives of the SPA.

4.4.8 of the Screening Request Report states "Piling operations will not take place during the early breeding season (April and May) to allow nest establishment". This is questionable for two reasons:

- a) Most of this period is before Arctic terns and fulmars settle to nest, and
- b) Commencement of a disturbing activity once birds are settled is perhaps more likely to have greater impacts than allowing birds to habituate to existing activity.

Otters

Offences with regards to otters include deliberately or recklessly:

- capturing, injuring or killing an otter
- harassing an otter or group of otters
- disturbing an otter in a holt or any other structure or place it uses for shelter or protection
- disturbing an otter while it is rearing or otherwise caring for its young
- obstructing access to a holt or other structure or place otters use for shelter or protection, or otherwise deny the animal use of that place
 - disturbing an otter in a manner or in circumstances likely to impair its ability to survive, breed or reproduce, or rear or otherwise care for its young

It is also an offence to:

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- damage or destroy a breeding site or resting place of such an animal (whether or not deliberately or recklessly)

Otter shelters are legally protected whether or not an otter is present.

(This is not an exhaustive list).

If the development is likely to result in any of the above, the applicant must apply for a licence from NatureScot.

Cetaceans

We recommend that the applicant applies to Marine Scotland for EPS licence, due to potential impacts on cetaceans (whales, dolphins and porpoises).

The Ecological Appraisal Report should include noise modelling to help inform likely impacts and mitigation required.

Conclusion

Taking account of proposed mitigation measures, we are content that a full EIA is not required (for interests within our remit). The proposed Ecological Appraisal Report (incorporating baseline ecological surveys), Habitat Regulations Assessment and Construction Environmental Management Plan should take into account all of the above.

Yours sincerely,

Juan Brown
Operations officer

Hutchison D (David) (MSC)

From: [redacted]
Sent: 06 June 2022 10:30
To: Hutchison D (David) (MSC)
Subject: RE: SCR-0034 - Stantec - Pier construction and associated dredge - Grutness Harbour - NatureScot response - 12 May 2022 (A3728861)

Hi David

We have concluded that an EIA is not required, but more information and assessment is required to enable the determination of the impacts of the proposal at the application stage.

The mitigation referred to is that in the Screening Request Report submitted by the applicant.

Regards

Juan

Juan Brown | Operations Officer

NatureScot | Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, Shetland LE1 0LL | [redacted]

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From: [redacted]
Sent: 06 June 2022 09:25
To: Juan Brown [redacted]
Subject: RE: SCR-0034 - Stantec - Pier construction and associated dredge - Grutness Harbour - NatureScot response - 12 May 2022 (A3728861)

Hi Juan,

Thank you for your response. I would just like to confirm your view as to whether or not an EIA is required? Your response implies that this is not an EIA project but that this view is potentially reliant on mitigation measures being implemented. If this is the case, I am not clear from your response, exactly what these mitigation measures are. Please could you confirm if your view is that it is not an EIA project but this is based on mitigation, what the specific mitigation measures are that you are referring to?

Thanks

David

David Hutchison

Marine Licensing Casework Officer

Marine Scotland - Marine Planning & Policy

Scottish Government | Marine Scotland | 375 Victoria Road | Aberdeen | AB11 9DB

Email: [redacted]
Telephone: [redacted]
Website: <http://www.gov.scot/marinescotland>

COVID-19: Marine Scotland - Licensing Operations Team(MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond