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Scottish Government
Riaghaltas na h-Alba

# Marine Directorate - Licensing Operations Team Scoping Opinion

# Scoping Opinion adopted by the Scottish Ministers under Part 4 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

## Repsol Resources UK Limited

## Flotta Ultra Deep Water Quay

## March 2025

# Contents

# 1. Introduction

## 1.1 Background

1.1.1 On 16 February 2024, the Scottish Ministers received a scoping report ("the Scoping Report") from Repsol Resources UK Limited ("the Applicant") as part of its request for a scoping opinion relating to Flotta Ultra Deep Water Quay ("the Proposed Works"). In accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 MW Regulations") the Scottish Ministers considered the content of the Scoping Report to be sufficient.

1.1.2 This scoping opinion is adopted by the Scottish Ministers under the 2017 MW Regulations ("the Scoping Opinion") in response to the Applicant's request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Directorate in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report ("EIA Report") for the Proposed Works. The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the 2017 MW Regulations, taken into account the information provided by the Applicant, in particular, information in respect of the specific characteristics of the Proposed Works, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken. In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Works. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Applicant to submit additional information in connection with any EIA Report submitted with applications for marine licences under the Marine (Scotland) Act 2010 ("the 2010 Act"). In the event that the Applicant does not submit applications for marine licences under the 2010 Act for the Proposed Works within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Applicant seeks further advice from them regarding the validity of the Scoping Opinion.

# 2. The Proposed Works

## 2.1 Introduction

2.1.1 This section provides a summary of the description of the Proposed Works provided by the Applicant in the Scoping Report together with the Scottish Ministers' general comments in response. The details of the Proposed Works in the Scoping Report have not been verified by the Scottish Ministers and are assumed to be accurate.

## 2.2 Description of the Proposed Works

2.2.1 The Proposed Works will include land reclamation and consist of a 600 metre ("m") long quay, with lay down and offshore decommissioning areas. This could include storage, assembly, operation and maintenance facilities for offshore wind.

2.2.2 The Applicant has set out two options. The first option is smaller, consisting of a lay down area of 24.8 hectares ("ha"), offshore decommissioning area of 4.5 ha, with total site area of 32.1 ha, requiring 1.8 million cubic metres ("$m^3$") of cut and fill material. This will have a quay depth set at -15 m chart datum ("CD"), which may require backhoe dredging of approximately 140,000 $m^3$ of material, subsequently to be transferred by split hopper barge and used as infill or, if unsuitable for that purpose, deposited at sea. The alternative option would have a total site area of 47.1 ha and include 2.9 million $m^3$ of cut and fill material. The quay depth for this option would be -20 m CD, and no dredging would be required to achieve this. In the Scoping Report, the Applicant has primarily considered the second, larger option as the area it covers includes the entire footprint of the smaller option.

2.2.3 Construction of the laydown site will involve clearance of all inert materials from the land, excavation, levelling, drilling and the use of explosives. Suitable stockpiled material from this activity will be the main inert material fill source for the reclamation and quay works.

2.2.4 The land reclamation work will commence with the formation of a perimeter bund. The bund slope faces would have geotextile, along with silt booms placed in the sea, with primary and secondary rock armour placed over it. It is likely that the majority of secondary armour stone will be imported to the site by either road or sea to cover a rock armour slope area in two interlocking layers.

2.2.5 The current intention for the main quay berth face, subject to final construction methodology, is a solid quay constructed of steel tubular piles with interlocking sheet piles forming a combi-wall solution with a further inner tied sheet pile anchor wall. This wall will support a concrete cope, and deck directly behind, followed by general hard core surfaced laydown reclamation area and drainage outside the immediate wall active wedge area.

2.2.6 Piling will require drilled rock sockets to provide suitable pile toe fixity below the relevant quay depth. Bauer BG41 Drill rigs or similar are proposed to work over water from temporary piling platforms. The works will be carried out from the reclamation bund or a jack-up barge with silt booms placed to the seaward side to ensure no discharge into the sea or watercourse. Tubular piles and sheet piles are expected to be vibro-hammered to the required depth for 20 to 40 minutes per day. Piles will then be filled with tremie concrete. The Applicant does not anticipate that impact hammers will be used.

2.2.7 After the compaction of reclamation fill and acceptable plate bearing tests of fill is undertaken, tie rods will be installed and secured between the front face and rear sheet pile wall and precast and in-situ concrete cope placed.

2.2.8 Once suitable vibro-treatment of quay fill has been undertaken to compact and reduce future consolidation and settlement, the concrete deck will be placed immediately behind the quay face, with the remaining reclamation and laydown area capped and compacted with graded hardcore surface.

2.2.9 Overall, the construction phase is expected to take 36 months to complete. Subsequently, the ultra deep water quay will primarily be used for offshore wind projects and the decommissioning of oil and gas assets. Maintenance dredging will be required as and when required as part of ongoing operations over the course of the operational phase of the Proposed Works.

## 2.3 Onshore/Planning/Harbour Revision Order

2.3.1 The Scottish Ministers are aware the Applicant has been granted a separate scoping opinion from Orkney Islands Council for the associated onshore works. It is essential that the EIA Report concerning onshore works will be available at the time that the EIA Report for the Proposed Works is being considered so that all the information relating to the project as a ‘whole’ is presented. Any elements of the Proposed Works which relate to wholly onshore works contained within the Scoping Report have not been addressed further in this EIA Report. The EIA Report for the Proposed Works must consider the cumulative impacts with the onshore works

## 2.4 The Scottish Ministers' Comments

Description of the Proposed Works

2.4.1 Scottish Ministers note that two options have been proposed within the Scoping Report, and the Applicant has indicated that the larger second option has been considered for the purpose of the EIA as its area includes the footprint of the smaller option. However, the option which has not been fully considered is likely to include dredging. Should this remain an option when the EIA Report is produced, full consideration of the impacts of this aspect of the Proposed Works should be included in the assessment. The Applicant has also outlined that under this option, dredged material may be used as infill for the construction work, or if unsuitable, deposited at sea. The EIA Report should include full assessment of both possibilities, on a worst case scenario basis if the suitability of material has yet to be assessed at that stage of the process. Impacts relating to any sea deposit site, and transportation of dredged material should also be given full consideration.

2.4.2 The impacts from ongoing maintenance dredging over the lifespan of the completed quay should also be included in the EIA Report.

2.4.3 Given the proposed usage following construction, the Applicant should also assess all impacts from the operational phase in the EIA Report, including the likelihood of the presence and / or construction of large wind turbines and other major structures at the quay.

Unexploded Ordnance

2.4.4 While it has not been addressed in the Scoping Report, the Scottish Ministers are aware of the presence of unexploded ordnance ("UXO") close to or within the vicinity or the Proposed Works. In line with the representation made by Orkney Islands Council – Marine Services, the EIA Report should consider the presence and impacts of UXOs in relation to the Proposed Works. The EIA Report should refer to relevant guidance including the Joint UK protocol for In-Situ Underwater Measurement of Explosive Ordnance Disposal for UXO (Version 2, September 2020).

Design Envelope

2.4.5 The Scottish Ministers note the Applicant's intention to apply a 'Design Envelope' approach. Where the details of the Proposed Works cannot be defined precisely, the Applicant will apply a worst case scenario, as set out in Section 2.4.1. of the Scoping Report.

2.4.6 The Scottish Ministers advise that the Applicant must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Works should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Works must be clearly and consistently defined in the applications for the marine licences and the accompanying EIA Report.

2.4.7 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement ("CMS") to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage regulatory approval. The CMS will 'freeze' the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.

2.4.8 It is a matter for the Applicant, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Works or any associated activities materially change prior to the submission of the EIA Report, the Applicant may wish to consider requesting a new Scoping Opinion.

Alternatives

2.4.9 The EIA Regulations require that the EIA Report include 'a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Applicant, which are relevant to the proposed works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects'. The Scottish Ministers acknowledge section 2.3.1 and 2.4.1 of the Applicant's Scoping Report setting out the consideration of alternatives to date together with the planned activities that are proposed to inform the EIA Report further.

2.4.10 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an up to date consideration of the reasonable alternatives studied as the parameters of the Proposed Works have been refined. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Works and the reasoning for the selection of the chosen option, including a comparison of the environmental effects.

# 3. Contents of the EIA Report

## 3.1 Introduction

3.1.1 This section provides the Scottish Ministers' general comments on the approach and content of information to be provided in the Applicant's EIA Report, separate to the comments on the specific receptor topics discussed in section 5 of this Scoping Opinion.

## 3.2 EIA Scope

3.2.1 Matters are not scoped out unless specifically addressed and justified by the Applicant and confirmed as being scoped out by the Scottish Ministers. The matters scoped out should be documented and an appropriate justification noted in the EIA report.

## 3.3 Mitigation and Monitoring

3.3.1 Any embedded mitigation relied upon for the purposes of the assessment should be clearly and accurately explained in detail within the EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The EIA Report must identify and describe any proposed monitoring of significant adverse effects and how the results of such monitoring would be utilised to inform any necessary remedial actions.

3.3.2 The EIA Report should clearly demonstrate how the Applicant has had regard to the mitigation hierarchy, including giving consideration to the avoidance of key receptors. The Scottish Ministers advise that where the mitigation is envisaged to form part of a management or mitigation plan, the EIA Report must set out these plans or the reliance on these in sufficient detail so the significance of the residual effect can be assessed and evaluated. This should also include identification of any monitoring and remedial actions (if relevant) in the event that predicted residual effects differ to actual monitored outcomes. Commitment to develop plans without sufficient detail is not considered to be suitable mitigation in itself.

3.3.3 The EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the EIA Report and accounts for the representations and advice attached in Appendix I.

3.3.4 Where potential impact on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

## 3.4 Cumulative Impacts

3.4.1 Within Chapter 3.4. of the Scoping Report, the Applicant indicates their intention to consider cumulative impacts within the EIA Report but do so within each individual topic of the EIA Report and not within a separate chapter.

3.4.2 The Scottish Ministers have no objection to this approach. The Applicant is directed to the Orkney Islands Council – Marine Services and NatureScot representations and is advised to address their comments in full when considering cumulative impacts within the EIA Report.

## 3.5 Risks of Major Accidents and/or Disasters

3.5.1 While the Scottish Ministers note the intention of the Applicant to scope out Major Accidents and/or Disasters, the Scottish Ministers are of the opinion that the EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Works to major accidents and disasters. The Applicant should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment ("IEMA") 'Major Accidents and Disasters in EIA: A Primer', to better understand the likelihood of an occurrence and the Proposed Works susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Works to a potential accident or disaster and also the Proposed Works potential to cause an accident or disaster.

3.5.2 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from your baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.

3.5.3 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

### 3.6 Climate and Greenhouse Gases

3.6.1 The Scoping Report proposes that the impact of climate change effects will be considered via a carbon impact assessment within the EIA Report and there will be no standalone topic or chapter on climate. The Scottish Ministers are however mindful that Greenhouse Gas (“GHG”) emissions from all projects contribute to climate change. In this regard, the Scottish Ministers highlight the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”), which states that “GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit, as a such any GHG emissions or reductions from a project might be considered significant.” The Scottish Ministers have considered this together with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the requirement of the EIA Regulations to assess significant effects from the Proposed Works on climate. The Scottish Ministers therefore agree with the Applicant that the EIA Report must include a GHG Assessment which should be based on a Life Cycle Assessment (“LCA”) approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight however that this should include the pre-construction, construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Works.

# 4. Consultation

## 4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the 2017 MW Regulations, initiated a 30 day consultation process, which commenced on 24 April 2024. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- **Northern Lighthouse Board ("NLB")**
- **Maritime and Coastguard Agency ("MCA")**
- UK Chamber of Shipping
- Crown Estate
- **NatureScot - North**
- Royal Yachting Association
- **Historic Environment Scotland**
- Royal Society for the Protection of Birds
- **Scottish Fisherman's Federation ("SFF")**
- Whale and Dolphin Conservation
- Ministry of Defence
- National Trust for Scotland
- Scottish Fishermen's Association
- Scottish White Fish Producers Association
- **Scottish Water**
- Scottish Wildlife Trust
- **Orkney Islands Council**
- Orkney Regional Inshore Fisheries Group
- Northlink Ferries
- Fisheries Office – Kirkwall
- Orkney Marine Planning Partnership
- **Scottish Environment Protection Agency ("SEPA")**

4.1.2 Specific advice was sought from Transport Scotland ("TS").

## 4.2 Responses received

4.2.1 From the list above a total of 8 responses were received. Advice was also provided by TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers' consideration of which potential effects should be scoped in or out of the EIA Report.

4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the 2017 MW Regulations. The sections below highlight issues which are of particular importance with regards to the EIA Report and any marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.

# 5. Interests to be considered within the EIA Report

## 5.1 Introduction

5.1.1 This section contains the Scottish Ministers' opinion on whether the impacts identified in the Scoping Report are scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from TS must be considered in conjunction with the Scoping Opinion and with the expectation that recommendations and advice as directed through this Scoping Opinion are implemented.

## 5.2 Air Quality

5.2.1 The Applicant considers air quality in Chapter 3.3.1. of the Scoping Report with consideration of potential impact on air quality during the construction phase. The main impact was identified as dust plant and vehicle emissions from the internal site road and dust emissions during the construction phase. The Applicant proposes that air quality can be scoped out due to the temporary nature of the impacts identified and that any impacts could be controlled through a site-specific Dust Management Plan to be submitted as part of a Construction Environmental Management Plan ("CEMP").

5.2.2 The Scottish Ministers would draw the Applicant's attention to the advice provided by Orkney Islands Council – Marine Services which contends that the factors identified above do not account for the impacts caused through the operation of the Proposed Works, particularly in regards to offshore decommissioning activities. The response highlights the levels of pollutants expected to arise from the activities planned to take place at the quay as well as the potential for significant impacts upon air quality, ecosystem health, and public wellbeing. The response in particular highlights the significant levels of airborne dust generated from decommissioning activities and the threat this poses to quay workers and the surrounding ecosystem.

5.2.3 The Scottish Ministers concur fully with the points raised by Orkney Islands Council – Marine Services in relation to air quality and dust generation and, as such, agree that a full assessment of the impacts on air quality arising from the construction and operation phases of the Proposed Works must be scoped in to the EIA Report to ensure that there are no significant impacts upon this receptor arising from the Proposed Works. In line with advice provided by the Council this assessment must include the potential for dust generation and dispersion during quay operations and implements appropriate mitigation measures such as dust suppression techniques and effective monitoring protocols.

### 5.3 Material Assets and Waste

5.3.1 The Applicant considers the impacts upon material assets and waste arising from the excavation activities in Chapter 3.3.3. of the Scoping Report. The Scoping Report states that any impacts in relation to waste will be mitigated within a Site Waste Management Plan and following best practice measures, and therefore this topic can be scoped out of inclusion within the EIA Report.

5.3.2 The Scottish Ministers are content with this approach, and provided that a suitable Site Waste Management Plan is submitted alongside any application for the Proposed Works, this topic may be scoped out of the EIA Report.

### 5.4 Water Environment

5.4.1 The Applicant considers the water environment (comprising hydrology, hydrogeology and water quality) as well as coastal processes (comprising tides, waves and sediment transport processes) in Section 4 of the Scoping Report. Potential significant impacts upon the marine environment and coastal processes were identified during both the construction and operation phases of the Proposed Works. These impacts include impacts upon wave action, tidal charges, sediment transport, flood risk, and, drainage in relation to coastal processes. In relation to the water environment the impacts were identified as potential contamination of the water environment and the effects that these impacts may have on ecology. Potentially significant impacts were also identified during the operational phases of the Proposed Works include: impact to coastal processes including wave action tidal currents and sediment transport, potential contamination of the water environment from wastewater, site discharge and/or traffic, and, the effects that these impacts may have on ecology.

5.4.2 Flood Risk has been scoped out within the Scoping Report due to data showing that fluvial flood risk is low and a lack of impact upon sea levels as a result of the proposal. Contamination to the marine environment has been scoped out on the basis that measures and best practice can be employed to mitigate the potential for any such effects to occur.

5.4.3 The Scottish Ministers are content with the approach proposed by the Applicant, and therefore are content that further assessment of impacts upon the water environment should be scoped into the EIA Report. Impacts on flood risk or impacts arising from contaminants being introduced to the water environment can be scoped out.

### 5.5 Biodiversity

5.5.1 The Applicant considers the impacts on biodiversity, both terrestrial and marine, from the Proposed Works in Chapter 5 of the Scoping Report. The

Scoping Report establishes a baseline for all ecological features within 10 kilometres ("km") of the Proposed Works and, due to a number of potential negative impacts at both the construction and operation stages of the Proposed Works, the Applicant has scoped in the following biodiversity receptors:

- The Scapa Flow Special Protection Area ("SPA")
- Terrestrial Habitats and Species
- Terrestrial Invasive Non-Native Species ("INNS")
- Birds
- Marine Habitats
- Marine INNS
- Marine Mammals
- Basking Sharks
- Flapper Skate
- Other Fish (marine, diadromous and commercial fisheries)
- The impacts upon the above species and habitats from underwater noise.

5.5.2 The Scottish Ministers are in broad agreement that all of these receptors should be scoped into the EIA Report for both the construction and operational phases, however, based on the consultation responses received would make the further comment on the scope of several of these topics.

5.5.3 In regards to the impacts upon designated sites, Scottish Ministers agree that the impacts upon the Scapa Flow SPA should be included in the EIA Report for all qualifying species, the assessment should also include full assessments of the impacts upon Hoy SPA, the Orkney Mainland Moors SPA, the Pentland Firth Islands SPA and the North Orkney SPA. While these sites are outside of the 10 km assessment scope stated in the Scoping Report, qualifying species of these sites have connectivity with the site of the Proposed Works. On the same basis, a full assessment should also be carried out against for the impacts upon the Sanday Special Area of Conservation ("SAC") and the Loch of Stenness SAC. An outline of the species affected as well as advice regarding potential impacts that should be addressed in the EIA Report can be found within the NatureScot advice provided in the Appendix below.

5.5.4 It is unclear from the list of receptors scoped in by the Applicant whether pinnipeds are to be included within the EIA Report. For the avoidance of doubt, the Scottish Ministers advise that impacts upon seals, in particular grey and harbour seals, should be fully considered in the EIA Report. In line with the view of NatureScot, this assessment should include autumn pupping surveys of grey seals covering the whole headland to be able to fully assess the impacts arising from the loss of haul-out grounds due to the laydown construction.

5.5.5 In relation to other marine mammals, the Scottish Ministers are largely content with the scope of the EIA Report, however as per the NatureScot advice; common dolphins and humpback whales should also be included within the scope of the assessment.

5.5.6 For marine habitats and Priority Marine Features ("PMF"), the Scottish Ministers would draw the Applicant's attention to the advice provided by NatureScot. NatureScot state that the data used in the Scoping Report to identify the PMFs present within the area of the Proposed Works is limited and will not provide a full picture of the PMFs that are actually present. Given the likelihood of other PMFs being present, the Scottish Ministers therefore advise that benthic surveys are undertaken to determine what species are present and then full assessments for any species identified should be undertaken in the EIA Report.

5.5.7 Finally, while the Applicant has committed to bird surveys within the Scoping Report, the Scottish Ministers would draw the Applicant's attention to and endorse the advice in relation to the scope and methodology for bird surveys to be undertaken outlined in NatureScot's advice appended below.

### 5.6 Airborne Noise

5.6.1 The Applicant considers the impacts from airborne noise associated with the construction and operation phases of the Proposed Works in Chapter 6 of the Scoping Report. Due to impacts arising from various activities during both construction and operation on both ornithological and human receptors, the Applicant has proposed to include this topic in the scope of the EIA Report.

5.6.2 The Scottish Ministers agree with the approach taken by the Applicant insofar as the advice provided elsewhere in this scoping opinion in relation to identifying both ornithological and human receptors is applied in relation to this topic as well, and agree that airborne noise be scoped into the EIA Report for further assessment.

### 5.7 Archaeology and Cultural Heritage

5.7.1 The Applicant considers the archaeology and cultural heritage impacts from the Proposed Works in Chapter 7 of the Scoping Report with consideration of potential impacts arising from both the construction of the Proposed Works. The Applicant noted a number of nationally important monuments in the vicinity of the Proposed Works and noted that two of them which are adjacent to the Proposed Works may suffer structural damage or have their settings affected as a result of the construction activities. While these monuments are terrestrial in nature, given the potential impacts on them arising from the marine activities proposed and in line with the HES response, the Scottish Minister are content for them to be included in any potential EIA Report.

5.7.2 The Applicant also acknowledged the potential for significant effects on unknown prehistoric assets. However the Applicant proposed mitigation strategies that they would intend to agree and implement prior to construction such as walkover surveys and an archaeological watching brief which could be used to avoid any potential impacts. On this basis, while the Applicant proposed to scope in archaeological and cultural heritage impacts into the EIA Report for the potential impacts to monuments, they would intend to scope out impacts on unknown heritage assets, pre-historic or otherwise from the EIA report. The Scottish Minsters would draw the Applicant's attention to the response from HES which outlines issues with the assessment and methodology used in the Scoping Report as well as a lack of assessment in relation to known, but undesignated, cultural heritage assets. A full and proper assessment of unknown prehistoric assets should therefore be included in the EIA Report.

5.7.3 The Scottish Ministers would further draw the Applicant's attention to the HES response generally which noted that the Scoping Report only dealt with terrestrial cultural heritage concerns and did not include any discussion in regards to the impact upon marine features nor any conclusion as to how they would be assessed in the EIA Report. This includes a lack of consideration of assets within the Proposed Scapa Flow Historic Marine Protected Area, which was also highlighted by Orkney Islands Council – Marine Services.

5.7.4 The Scottish Ministers agree with HES that marine cultural heritage features should be scoped in to the EIA Report alongside the terrestrial features outlined above and advise that any assessment must follow the requirements set out in HES's advice.

### 5.8 Seascape, Landscape and Visual

5.8.1 Impacts upon seascape, landscape and visual aspects are considered in Chapter 8 of the Scoping Report with consideration of potential impacts arising from both the construction and operation of the Proposed Works. The Applicant proposes to scope in impacts upon landscape, seascape and visual aspects for further assessment in the EIA Report due to potentially permanent impacts upon nearby visual receptors, including the Hoy and West Mainland National Scenic Area, and impacts upon the character of the landscape. The Scottish Ministers note that the approach taken by the Applicant is consistent with the response provided by NatureScot as well as Orkney Islands Council – Marine Services.

5.8.2 The Scottish Ministers are therefore content that impacts upon landscape, seascape and visual aspects should be scoped into the EIA Report for further assessment. The Applicant is advised to consider the advice provided by Orkney Islands Council – Marine Services in section 10 of their representation as to what this assessment should consider.

## 5.9 Shipping and Navigation

5.9.1 Impacts upon shipping and navigation are considered in Chapter 10 of the Scoping Report with consideration of potential impacts arising from the Proposed Works. The Applicant has proposed to scope in shipping and navigation due to increased vessel movements during both the operational and construction phases of the Proposed Works. The approach taken by the Applicant is broadly aligned with the representations made by the NLB and MCA. The Scottish Ministers therefore agree with the intention of the Applicant to scope in these receptors for further assessment in the EIA Report, and direct the Applicant to the representation provided by the MCA in Appendix 1 for advice on the methodology that should be used.

## 5.10 Traffic Assessment

5.10.1 The Applicant scoped out further assessment of the impact upon traffic due to a lack of identified impact on local residents. However, the Scottish Ministers would direct the Applicant to Section 5 of the response provided by Orkney Islands Council – Marine Services which argues that given the low baseline traffic in the area, the introduction of extra traffic arising from the construction and operation of the Proposed Works will be significant and may impact local infrastructure, road-safety and community well-being. As such, Orkney Islands Council – Marine Services advise that a full traffic assessment should be included in the EIA Report.

5.10.2 The Scottish Ministers concur with the arguments put forward by Orkney Islands Council – Marine Services and advise that a full traffic assessment should be scoped in to the EIA Report. As per the advice provided by Orkney Islands Council – Marine Services, this assessment should make sure to consider vehicular and passenger demand on the ferry services to Flotta and Hoy.

## 5.11 Socio-Economics, Population and Human-Health

5.11.1 Impacts upon socio-economics, population and human health are considered in Chapter 11 of the Scoping Report with consideration of potential impacts arising from both the construction and operation of the Proposed Works. The Applicant has proposed to scope in socio-economics due to the potentially significant positive impacts that increased employment opportunities arising from the Proposed Works will bring. The Scottish Ministers agree with this approach which is in alignment with the representation made by Orkney Islands Council – Marine Services. The Scottish Ministers would direct the Applicant to section 13 of that representation in which the Council advises that the Applicant should consult with these other marine users, including the statutory harbour authority to help inform the socioeconomic assessment.

5.11.2 The Applicant proposes to scope out impacts upon population and human health from the EIA Report. The Scottish Ministers are content that any impacts upon human health, such as impacts arising from changes in air quality, can be dealt with in the assessments of other impacts and do not require a separate chapter. As such, the Scottish Ministers are in agreement that population and human health can be scoped out of the EIA Report. The Scottish Ministers note the concerns raised by Orkney Islands Council – Marine Services in relation to not including consideration of population in the EIA Report, however, the Scottish Ministers are of the opinion that the impacts listed in section 10 of its representation are best considered within the seascape, landscape and visual assessments outlined above.

# 6. Application and EIA Report

## 6.1 General

6.1.1 The EIA Report must be in accordance with the 2017 MW Regulations and the Scottish Ministers draw your attention in particular to, regulation 6. In accordance with the 2017 MW EIA Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.

6.1.2 The Scottish Ministers note the need to carry out an assessment under the The Conservation (Natural Habitats, &c.) Regulations 1994. This assessment must be coordinated with the EIA in accordance with the 2017 MW Regulations.

6.1.3 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that Applicant must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

# 7. Multi-Stage Regulatory Approval

## 7.1 Background

7.1.1 The 2017 MW Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage approval process arises where an approval procedure comprises more than one stage; one stage involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage.

7.1.2 The definition in the 2017 MW Regulations is as follows: “application for multi-stage regulatory approval” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the works permitted by the regulatory approval may be begun”.

7.1.3 A marine licence, if granted, by the Scottish Ministers for the Proposed Works, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage approval the Applicant must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.

7.1.4 If during the consideration of information provided in support of an application for multi-stage regulatory approval the Scottish Ministers consider that the works may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the 2017 MW Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed

DAY MONTH YEAR

Authorised by the Scottish Ministers to sign in that behalf.

## Appendix I: Consultation Responses & Advice

# Appendix II: Gap Analysis

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

**By email:** md.marinelicensing@gov.scot

Neil Macleod
Marine Licensing Casework Officer
Marine Directorate (Aberdeen Office)
Marine Planning & Policy

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EH9 1SH

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

Our case ID: 300072444
Your ref: SCOP-0042
28 August 2024

Dear Neil Macleod

## The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017
## SCOP-0042 -Repsol Resources UK Limited (per EnviroCentre) - Flotta Ultra Deep Water Quay - Flotta, Orkney
## Comments on scope of proposed Environmental Impact Assessment

Thank you for consulting us on this Environmental Impact Assessment (EIA) scoping report, which we received on 13 August 2024. We have reviewed the details in terms of our historic environment interests. This covers World Heritage Sites, scheduled monuments and their settings, category A listed buildings and their settings, inventory gardens and designed landscapes, inventory battlefields and Historic Marine Protected Areas. In this case our advice also includes matters relating to marine archaeology outwith the scope of the terrestrial planning system.

## Proposed development

We understand that the proposed development comprises the construction of a 600m long quay with a work area suitable for the laydown of materials, plus associated infrastructure. Two design options are being considered to offer berthing depths of either 15m or 20m with footprints of 32.1ha and 47.1ha respectively. The development could accommodate functions relating to offshore wind development and the decommissioning of oil and gas infrastructure. Our comments are based on the impact of the larger of the two options but are equally applicable to the 15m depth berth.

## Scope of assessment

Scoping Report
Whilst we welcome cultural heritage effects being scoped into this assessment, we have significant concerns about the consideration of cultural heritage matters within the Scoping Report. There is very little information in the report about how impacts on marine

heritage assets will be assessed. We have provided further comments on this issue in the attached Annex.

<u>Our Interests</u>
The proposed development appears likely to have a significant adverse impact on a number of cultural heritage assets. As this consultation relates to Marine Works EIA Regulations, our comments focus on the marine assets affected.

The construction of either quay option would destroy a substantial section of an area proposed for designation as part of the Scapa Flow Historic Marine Protected Area. This draft HMPA proposal is currently with Scottish Ministers pending a decision on designation.

While we note that the proposed development is at an early stage, we have identified likely significant adverse impacts on our historic environment interests. We wish to advise Marine Directorate that we would be very likely to object to this application as we consider it would result in effects that would be contrary to National Marine Plan Policy Gen 6. Further detail on this matter is provided in the attached Annex. This also includes our requirements for information to be included in the EIA Report.

We also wish to note that if this development proposal progresses, the applicants should ensure they comply with the regulatory requirements of the relevant terrestrial and marine Environmental Impact Assessment regulations, including the need for their Environmental Impact Assessment Report to be prepared by competent experts.

## Further information

Decisions that affect the historic environment should take the Historic Environment Policy for Scotland (HEPS) into account as a material consideration. HEPS is supported by our Managing Change guidance series. In this case we recommend you consider the advice in the Setting guidance note.

We also recommend that the applicant refers to the EIA Handbook for best practice advice on assessing cultural heritage impacts.

We hope this is helpful. If you would like to submit more information about this or any other proposed development to us for comment, please send it to our consultations mailbox, hmconsultations@hes.scot .If you have questions about this response, please contact Deirdre Cameron at deirdre.cameron@hes.scot

Yours sincerely

**Historic Environment Scotland**

## ANNEX: Our Detailed Comments

## Relevant policy and guidance

The following policies and guidance are particularly relevant to this case and our assessment of the material submitted in this consultation.

National Marine Plan

Policy GEN 6 states

> Development and use of the marine environment should protect and, where appropriate, enhance heritage assets in a manner proportionate to their significance.

The Plan goes on to provide further details as follows –

> 4.23 To achieve this, marine planners and decision makers should consider implications and opportunities for the historic environment taking into account the potential impacts of development and use on:
> - Designated heritage assets – representing sites of national or international significance for which statutory requirements apply. Designated assets should be protected in situ within an appropriate setting. Substantial loss or harm to designated assets should be exceptional and should only be permitted if this is necessary
> - Undesignated heritage assets – those that meet designation criteria or make a positive contribution should also be protected in situ, wherever possible, and consideration given to the potential for new discoveries of historic or archaeological interest to arise.

Historic Environment Policy for Scotland
While all the policies in HEPS apply to this case, the following are particularly relevant –

- HEP1: Decisions affecting any part of the historic environment should be informed by an inclusive understanding of its breadth and significance.
- HEP2: Decisions affecting the historic environment should ensure that its understanding and enjoyment as well as its benefits are secured for present and future generations.
- HEP4: Changes to specific assets and their context should be managed in a way that protects the historic environment. Opportunities for enhancement should be identified where appropriate. If detrimental impact on the historic environment is unavoidable, it should be minimised. Steps should be taken to demonstrate that alternatives have been explored and mitigation measures should be put in place.

Guidance documents

- The Environmental Impact Assessment Handbook (Scottish Natural Heritage and Historic Environment Scotland, 2018)
- Managing Change in the Historic Environment: Setting (Historic Environment Scotland 2020)

## Scoping Report

While we welcome the inclusion of cultural heritage within the Report, and the opportunity to comment on this scoping exercise, we have fundamental concerns about the lack of basic information provided in the Report and the approach to cultural heritage issues. In particular, this scoping report only addresses the terrestrial impacts of the proposed development and does not set out how impacts on cultural heritage assets in the marine environment will be assessed.

Chapters 1 and 2 describe the development and outline the background to the proposal but provide no consideration of alternative site options and no explanation of why this specific area on Flotta has been chosen for development.

Chapter 3 covers the appraisal of potentially significant environmental effects for terrestrial cultural heritage assets but does not explain how those effects will be quantified and assessed. There is no methodology for the assessment of impact or effect on marine heritage assets. We would have expected a clear methodology setting out the assessment criteria in accordance with the advice provided in the Environmental Impact Assessment Handbook.

Chapter 7 covers Archaeology and Cultural Heritage with supporting information provided in

- Appendices A and B (location/layout plans showing cultural heritage assets)
- Appendix C (a gazetteer of sites within the study area)
- Appendix D (environmental sensitivity map showing scheduled monuments and listed buildings within the proposed study area).

We welcome the inclusion of a baseline gazetteer of cultural heritage assets and records in Appendix D and can confirm that it is an accurate representation of existing records. However, the subsequent use of that baseline information to identify, assess and mitigate impacts and their effects on those assets is inadequate.

The following issues are of particular note or concern –

- There is no listing of, or reference to, relevant legislation, policy or guidance relating to cultural heritage and the chapter demonstrates no clear knowledge or understanding of such documents.
- There is no methodology for the assessment of significance of effect. It is therefore unclear how environmental impacts and effects will be assessed.
- 7.2 outlines a study area of 2km. No explanation is given for this limit. We note that the Seascape, Landscape and Visual Assessment (SLVIA) study area is

15km. We would expect any assessment of setting impacts on cultural heritage assets to use the Zone of Theoretical Visibility (ZTV) developed for the SLVIA assessment as an initial mechanism to help identify such impacts.

- 7.4 aims to identify potentially significant effects on cultural heritage assets. The only impact identified for assets within HES's remit is vibration from construction works which is considered to be a possible risk factor for structural damage to the scheduled military remains "or their settings". While we note and welcome the reference in section 7.5 to a vibration assessment to identify potential impacts on the scheduled monuments, the lack of detail raises concerns as to the nature and possible impact of that assessment.
- 7.4 goes on to note that there is a "negligible likelihood" for impacts on unknown post-prehistoric remains that are not designated. It does not address impacts that would result on known undesignated remains of this period, including 20th century military remains associated with two scheduled monuments adjacent to the development or to the subsea remains currently proposed for designation as part of a Scapa Flow Historic Marine Protected Area (HMPA). These assets are not considered in the Report beyond their inclusion in Appendix C.
- 7.6 summarises the Assessment methodology proposed. While the individual bullet point entries provide basic outlines of good practice, the apparent lack of understanding of the basis for, and process of, that practice throughout the preceding chapter raises significant concerns for our interests. We recommend the assessment process should follow the guidance laid out in the Environmental Impact Assessment Handbook and our Managing Change Guidance Note on Setting.
- It is unclear from the Scoping Report how impacts and effects on underwater cultural heritage will be identified and assessed. This information should be included in any future consultations for this proposed development to allow the competent authorities considering the proposals to reach a fully informed decision on the scheme.

## Our interest

The proposed development has the potential to affect underwater heritage remains currently proposed for designation as part of the Scapa Flow Historic Marine Protected Area.

The construction of the quay would impact on an area containing the remains of a rare maritime protection scheme dating from World War II. The asset (Canmore site 102201) comprises the remains of at least two Anti-Torpedo Close Protection Pontoons (ATCPPs) plus associated debris forming part of the pontoon defences lying on the seabed. The ATCPPs represent a highly unusual type of military wreck. Dating from 1941, they were used as close protection for vessels in Scapa Flow. The remains of other ATCPPs occur on the seabed in close proximity to the proposed Ultra-Deep Water Quay site (Canmore sites: 377940; 377935) where they may be adversely impacted during the construction phase. Further ATCPP remains (Canmore site: 249683) are located to the east near Roan head with two sections of an ATCPP in the intertidal zone and another section resting perpendicular in the water. These remains represent one of only a few known surviving examples for this type of structure or vessel; the others are located around the coast of Scapa Flow. The remains are of significant technological interest and offer the potential to investigate the marine defensive network of Scapa Flow.

The potential for, or assessment of, impacts from works within the marine environment are not considered in any detail in the Report. While it is not possible at this stage to understand exactly what the effect of the development would be on the ATCPPs, it is reasonable to infer from the information provided in section 2.5.1 of the scoping report that the reclamation and quay works would result in a significant detrimental impact to the cultural significance of this candidate Historic Marine Protected Area.

The proposed terrestrial element of the development would also be likely to result in significant adverse physical impacts on at least two scheduled monuments on Flotta. As this consultation relates to Marine Works EIA Regulations, this matter is not discussed in this response. We would be happy to provide further details if requested by Marine Directorate.

## Our position

The proposed development is likely to result in significant adverse impacts to scheduled monuments and a proposed Historic Marine Protected Area. The Scoping Report does not demonstrate an understanding of the cultural heritage assets that could be affected by the development; the legislation, regulations and guidance relevant to them; the potential effects on cultural heritage assets that could arise from the development; or the measures necessary to mitigate such effects. It does not address the likely impacts of the proposed development on cultural heritage within the marine environment.

If the applicants wish to proceed with the Environmental Impact Assessment process they should ensure the EIA Report is based on our comments above and includes the following

- The application of an appropriate assessment methodology for the determination of effects on cultural heritage assets, including marine heritage assets. We recommend the methodology should follow the guidance provided in the EIA Handbook.
- Comprehensive assessments and descriptions of the physical and setting impacts on cultural heritage assets that would result from the development. These should be based on an understanding of the assets themselves and the processes that could affect them. Technical reports such as structural surveys and the results of the proposed vibration assessment should be used to inform these assessments and provided as background information within the report. We recommend the setting assessment should follow the guidance offered in the Managing Change guidance on Setting, and be supported by photomontage visualisations showing relevant views to and from assets where significant setting impacts are likely.

- A detailed mitigation strategy demonstrating how adverse impacts have been addressed.

It would also be helpful for any further consultation to be supported by information on the site selection process for this site, particularly why this specific location has been chosen on Flotta, and how the development relates to other deep water quay proposals in Orkney Islands waters and beyond.

## Conclusion

Based on the information available in the Scoping Report, the proposed scheme appears likely to result in a significant adverse impact of major magnitude to both onshore and offshore heritage assets of national importance. If this scheme were to be submitted for planning consent in its current form, we would have to object as the proposals are contrary to National Planning Framework Policy 7 and National Marine Plan Policy Gen 6, and no exceptional circumstances have been demonstrated.

Historic Environment Scotland
28 August 2024

**Planning Authority Reference: 24/079/SCO**

**Scoping opinion request to construct an ultra-deep water quay including reclamation, and an access road.**

**Flotta Oil Terminal (Land Near),**

**Flotta,**

**Orkney,**

**KW16 3NP**

**Response from Orkney Islands Council, Marines Services**

**1 May 2024**

## 1: Legislative Framework

The Orkney County Council Act of 1974 authorised Orkney Islands Council to exercise jurisdiction as a Statutory Harbour Authority (SHA) and defined the areas in which the new authority was empowered. These were Scapa Flow and its approaches, Wide Firth and Shapinsay Sound and included Stromness, Kirkwall. The Scapa Flow area includes what would become and is Flotta Oil Terminal and the area for the proposed works. Further amendments extended the areas under the jurisdiction of the Statutory Harbour Authority.

In order to administer its responsibility as a Statutory Harbour Authority, Orkney Islands Council formed the Department of Harbours in 1975. As a SHA, the Council's aim, through (now) Marine Services and Transportation, is to ensure (amongst others) that Orkney's piers and harbours are operated in a safe and cost effective manner. It operates under the same legislation, guidance, guide lines and practices as all other Ports and Harbours in the UK.

This legislative framework should be made clear and fully considered in terms of the EIA. The Orkney County Council Act 1974 should be added to the list and due consideration given in the relevant sections of the EIA.

## 2: Navigational Risk Assessment (NRA)

We consider that these works may have a significant impact on navigational aspects within Scapa Flow. It is essential that the following navigational themes (as a minimum) are fully considered as part of a Navigational Risk Assessment working in conjunction with the SHA**:**

- Vessel routing.
- Contact / allision risk.
- Collision risk and visual navigation.

- Communication, radar and positioning systems.
- Mooring systems.
- Commercial and recreational activities.
- Cumulative impacts.

A NRA, with inclusion of the impacts on other marine users, and a Safety Management System must be considered and initial details included in the EIA Report.

## 3: Historic Marine Protected Areas

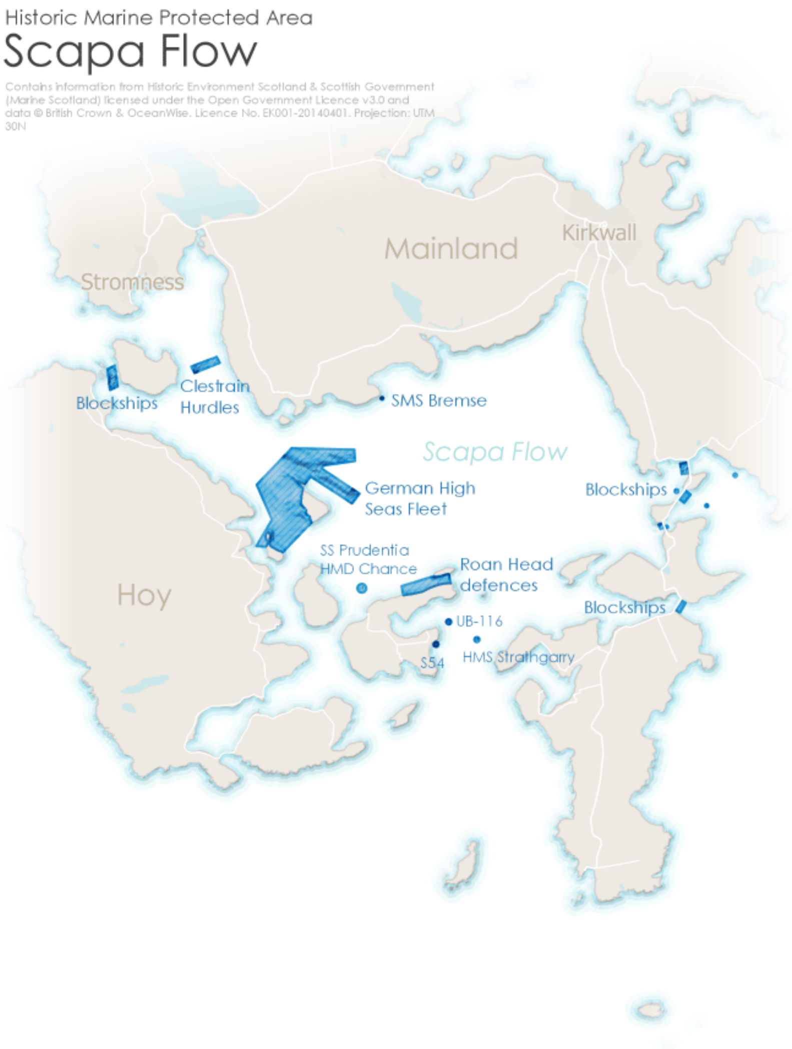
In 2019, Historic Environment Scotland invited feedback on their advice to Scottish Government on the designation of historic marine protected areas (HMPA) under the Marine (Scotland) Act 2010. The two proposed sites that were considered for HMPAs were:

- The Queen of Sweden, Shetland
- Scapa Flow, Orkney

Further details on the proposed HMPA for Scapa Flow are available here: [The proposals - Proposal to designate two historic marine protected areas: consultation - gov.scot (www.gov.scot)]().

It is understood that the HMPAs could become live within the lifetime of the EIA and consenting process and therefore should be considered materially within the EIA process and report.

The status of the HMPA for Scapa Flow, which includes the marine area along the northern Golta peninsular, should be fully considered as part of any future development in this area. This is in addition those already stated.



## 4: Air Quality

In assessing the environmental impact of the proposed Ultra Deep Water Quay, it is imperative to include air quality considerations within the EIA framework. While much attention is directed towards the construction phase, it is equally crucial to scrutinise the ongoing operation of the proposed facility. The operation of such a quay and facility may introduce various pollutants into the air, including emissions from ships, machinery, and associated transport activities, as well as the methodologies used for decommissioning oil and gas assets, such as blasting. These pollutants can have significant implications for local air quality, ecosystem health, and public well-being. Therefore, a comprehensive EIA must account for potential air quality impacts, outlining mitigation measures and ensuring sustainable practices throughout both the construction and operational phases of the quay. Such considerations are paramount in safeguarding the environmental integrity of Scapa Flow and its surrounding areas for current and future generations, which is one of many primary focuses of the SHA.

Air quality during construction and operation of this proposed development should not be scoped out.

## 5: Traffic Assessment

It will be necessary to incorporate a comprehensive traffic assessment into the EIA for the proposed development. The operation of such a facility is likely to introduce increased vehicular traffic, including heavy goods vehicles transporting goods to and from the quay and facility. While the baseline traffic is low, any introduction of extra traffic will therefore be significant, and will need to include consideration of relevant road weight limits etc. particularly on Flotta where limits exist. Any limits on the local ferry terminal infrastructure should also be considered.

This heightened traffic flow can have significant implications for local infrastructure, road safety, and community well-being. By integrating a thorough traffic assessment into the EIA process, impacts can be identified and effectively mitigated.

Specifically, the traffic assessment should also include vehicular and passenger demand on the ferry services to Flotta and Hoy. Car deck capacity on the inter-island ferry service is a problem now through much of the year, with particularly the 0910 and 1640 sailings ex-Lyness and the 1015 and 1730 sailings ex-Houton most frequently capacity constrained, highlighting the commuter and day visitor nature of the routes to Hoy and Flotta. Furthermore, data presented as part of Business Case development for the Ferry Replacement Programme, highlights that, despite good frequency services throughout the day, the Houton – Lyness – Flotta route records the second highest number of standby bookings after Westray, suggesting a high element of unmet demand already in the base case.

As such, a full and detailed Traffic Assessment should be scoped in for the purposes of the EIAR.

## 6: COMAH

The EIAR should recognise and consider that the proposed site is next to / is joined on at least one boundary to a Control of Major Accident Hazards (COMAH) site, and therefore it will be necessary to consider and take all necessary measures as to what may happen if a major accident involving dangerous substances (as an example) happened at the Flotta Oil Terminal site – this may include limiting the consequences to people and the environment of any major accidents which do occur, not just on / at the proposed development but in the event of a major incident etc at Flotta Oil Terminal.

Major Accidents etc should not be scoped out.

### 7: Operational Arrangements

Full consideration and appropriate assessment will be necessary and presentation of the nature of activities to be undertaken on and surrounding the proposed Ultra Deep Water Quay; how will decommissioning oil and gas structures and offshore wind activities be undertaken and managed? It is indicated in the documentation the decommissioning is a small part of the land area – this needs to be confirmed along with working details and examples from other similar sites. There is a need for clarification on the detail of the operational arrangements, and how all activities will interact, taking into consideration air quality as an example.

### 8: Marine Non-Native Species

To minimise the potential for pollution resulting from oils (refined and possibly crude), chemicals, heavy metals, the transfer of non-native aquatic organisms and pathogens which may be contained within ships ballast water and associated sediments - Marine Services, has a strict policy on the control and management of ships' ballast water; to provide protection of the marine environment and the rich natural marine biodiversity within Scapa Flow.

Any additional activity that will involve the discharge of ballast water whilst within Scapa Flow will require to be discussed in detail with the SHA and in particular the Marine Environmental Unit, and a plan established. This may include supplementary monitoring, identified as part of the EIAR, and to be documented within the Orkney Harbours Ballast Water Management Policy.

Biosecurity and mINNS should be scoped in for construction and operational phases of the proposed works and site-based biosecurity plans should be produced for both phases of the proposed works to assist with managing the spread and introduction of mINNS.

### 9: Unexploded Ordnance

Unexploded Ordnance (UXO) will require to be considered. The EIA should refer to the relevant guidance, including the Joint UK protocol for In-Situ Underwater Measurement of Explosive Ordnance Disposal for UXO. NPL_2020_-_Protocol_for_In-Situ_Underwater_Measurement_of_Explosive_Ordnance_Disposal_for_UXO.pdf (publishing.service.gov.uk)

### 10: Population and Landscape Impacts

The location of the existing Flotta Oil Terminal site was strategically chosen to mitigate the impact on the surrounding population, including both the residents of Flotta itself and adjacent communities on the Orkney Mainland and Caithness. This careful selection process took into account various factors, such as minimising visual and environmental disruption while ensuring efficient logistical access for maritime operations. As such, any new proposal for an Ultra Deep Water Quay must similarly prioritise landscape preservation and community well-being. The assessment of such a proposal should thoroughly evaluate potential impacts on the local landscape, including visual aesthetics, ecological integrity, and cultural significance. By incorporating landscape considerations into the planning and design phases, measures can be implemented to minimise visual intrusion, preserve natural habitats, and maintain the cultural heritage of the area. This proactive approach would ensure that the development aligns with sustainable principles, respects the unique character of the Orkney Islands, and fosters harmonious coexistence with the surrounding environment and communities.

The ethos used during the planning and construction of Flotta Oil Terminal should be maintained ie: no change to the natural site lines from both Orkney and the Caithness coast, as an example.

This should not be scoped out.

**11: Dust and Noise**

The impact of dust must be carefully considered in the EIAR not just during the relatively short construction period, but also during the much longer period of the operational phase of the proposed Ultra Deep Water Quay, particularly due to the nature of decommissioning activities. Decommissioning processes often involve activities such as dismantling structures, abrasive blasting, and handling of materials that can generate significant amounts of dust. This airborne dust not only poses potential health risks to workers but also has the potential to disperse over surrounding areas, affecting air quality and ecosystem integrity. Therefore, it is imperative that the EIA thoroughly assesses the potential for dust generation and dispersion during quay operations and implements appropriate mitigation measures. These may include dust suppression techniques, such as water spraying or covering materials, as well as effective monitoring protocols to ensure compliance with air quality standards. By proactively addressing the impacts of dust emissions, the proposed Ultra Deep Water Quay can operate in a manner that safeguards both human health and environmental quality.

Similarly, the impact of noise must be rigorously assessed during the operational phase of the proposed Ultra Deep Water Quay, particularly considering the activities associated with the oil and gas industry's decommissioning processes. These activities often involve heavy machinery, vessel movements, and construction work, all of which can generate significant levels of noise. The constant presence of such noise can not only disturb local wildlife but also impact the quality of life. A thorough evaluation of potential noise impacts should be conducted, considering factors such as the intensity, duration, and frequency of noise-generating activities.

This section is closely linked with the air quality section, both of which should not be scoped out.

**12: Climate Change**

Climate Change and Resilience should be scoped in in terms of the proposed development. The proposal could see the removal of large amounts of peat from hill. Peatlands are crucial ecosystems that provide essential ecosystem services, including carbon storage, water regulation, and biodiversity conservation. The extraction of peat for construction purposes can result in significant ecological damage, including habitat loss, carbon emissions, and disruption to hydrological processes. Therefore, it is essential to assess the potential impacts of peat removal on local ecosystems.

**13: Socio- Economic**

Given the probable impact on other marine users and sectors in Scapa Flow, the applicant should consult with these other marine users, including the SHA, in terms of understanding the impacts of the proposed works. Social and Economic Impacts during construction and operational phases should be further assessed within the EIA Report.

**14: Alternative Sites**

Further details are required on the consideration of alternative sites for the proposed Ultra Deep Water Quay, in terms of the environmental impacts. Identifying alternative locations allows for a comparative analysis of potential environmental, social, and economic impacts associated with each site. This should be fully considered and documented.

**15: Cumulative Impact Assessment**

It is essential that the EIA considers the cumulative impacts of the proposed works in respect to the variety of other major and local projects that are in various stages of development in Orkney. This includes the proposed Scapa Deep Water Quay, Hatston Logistics Base, and the Orkney Transmission Link (SSEN) as examples.

Furthermore, specifically in relation to the use of Scapa Flow, in terms of cumulative impacts, the proposed Ultra Deep Water Quay EIA should consider the Harbour Authority operational plans in respect to all business activities in keeping with its role as the Statutory Harbour Authority for Scapa Flow. This will include, for example, the exploration of the role of Scapa Flow in supporting the offshore wind industry with regard to wet storage, which is the subject of preparatory work in terms of baseline environmental monitoring and exploration of development with Marine Directorate.

Cumulative impacts should be considered in each relevant chapter within the EIA report.

Helen Duncan
**Maritime and Coastguard Agency**
Bay 2/24
Spring Place
105 Commercial Road
Southampton
SO15 1EG

www.gov.uk/mca

Your Ref: SCOP-0042

14 August 2024

Via email: md.marinelicensing@gov.scot

Dear Neil

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 ("the MW EIA Regulations")**

**CONSULTATION UNDER PART 4, REGULATION 14(4) OF THE MW EIA REGULATIONS**

Thank you for your email dated 13th August 2024 inviting the Maritime and Coastguard Agency (MCA) to comment on the Scoping Report provided by Repsol Resources UK for the proposed Flotta Ultra Deep Water Quay Development. The Scoping Report has been considered by representatives of UK Technical Services Navigation and we would like to respond as follows:

The MCA has an interest in the works associated with the marine environment, and the potential impact on the safety of navigation, access to ports, harbours and marinas and any impact on our search and rescue obligations.

We note the proposed scheme is to develop a dual-purpose ultra deep water quay (UDWQ) facility adjacent to Flotta Terminal, to establish decommissioning capability and support the offshore renewables industry and includes (but is not limited to):

- A 600m long quay with -15m CD depth (another layout option includes a 600m long quay with -20m CD depth);
- the general laydown area will be 24.8 ha;
- an Offshore decommissioning area of 4.5 ha;
- the total area of the site will be 32.1 ha and will include 1.8 million $m^3$ of cut and fill material;
- the main quay berth face is currently proposed as a solid quay constructed of steel tubular piles with interlocking sheet piles;
- dredging may be required to form the -15mCD options using backhoe dredging.

Creation of the laydown site and quay will require a marine license to construct in the marine area, and the proposed dredge will also require a marine license for dredging and disposal. It is our understanding that the site falls within the jurisdiction of a Statutory Harbour Authority (SHA) – Orkney Islands Harbour Authority (Scapa Flow). The SHA is responsible for maintaining the safety of navigation within their jurisdiction during the construction and the operational phase of the project.

Chapter 10 considers the potential effects of the proposed development during the construction and operational phases in respect to traffic, shipping and navigation around the proposed Flotta Ultra Deep Water Quay. We note that shipping and navigation risk has been included in the scope of the the Environmental Impact Assessment (EIA) as construction materials will also be transported to the site by sea which will increase marine traffic in the wider area for both the construction and operation phases. It is not yet clear from this Scoping report which methodology for formal risk assessment is to be used for the EIA, the MCA would recommend the IMO's Formal Safety Assessment methodology.

Whilst we understand that through the Planning process, engagement may have been made with Orkney Islands Council, it is not clear from the Scoping Report whether the SHA has been consulted in preparation of the report from the safety of navigation perspective. The MCA would expect the applicant to work with the SHA to determine the need for a proportionate Navigation Risk Assessment and produce a robust safety management system for the project in accordance with the Port Marine Safety Code (PMSC) and its associated Guide to Good Practice. It may also be useful for a hazard identification workshop to be held, to bring together relevant navigational stakeholders for the area to discuss the potential impacts on navigational safety during the construction and operational phase. Decisions relating to further controls should be agreed in consultation with other interested parties to determine whether the As Low As Reasonably Practicable (ALARP) status has been met for each risk.

The MCA is content with the scoping report at this stage as the basis for an Environmental Impact Assessment from the shipping and navigation perspective and would expect the applicant to work with the SHA to ensure all hazards and associated risks to other marine users are reduced to ALARP. The MCA would expect no effects to be scoped out of the assessment with regards to shipping and navigation, pending the outcome of the proportionate Navigation Risk Assessment and further discussion with the SHA.

We hope you find this information useful at scoping stage.

Yours sincerely,

[Redacted]

Helen Duncan
Marine Licensing Project Lead
UK Technical Services Navigation

Neil MacLeod
Marine Licensing Casework Manager
**Marine Directorate –** Licensing Operations Team

By email to: MS.marinelicensing@gov.scot
Cc: Neil.MacLeod3@gov.scot

Our ref: CEA176674

20th August 2024

Dear Neil

SCOP-0042 - REPSOL RESOURCES UK LIMITED (PER ENVIROCENTRE) - FLOTTA ULTRA DEEP WATER QUAY - FLOTTA, ORKNEY

Thank you for your email of 13th August 2024, requesting our scoping advice for the above proposal.

**Summary**

We advise that there is the potential for this proposal to result in significant adverse effects on Scapa Flow Special Protection Area (SPA). **If it is not possible to mitigate these impacts then we may object to the proposal**.

**Scoping Advice**

Based on the information provided in the Scoping Report, we have concerns that potentially significant impacts to the natural heritage from this proposed development have not been recognised.

There are potentially significant impacts on ecological interests of international importance that may be difficult to mitigate, particularly the protected features of Scapa Flow SPA. We have provided some initial advice to the applicant on the assessment of these impacts, particularly bird survey methods, but have not yet seen a final methodology from the applicant and it is not clear from the scoping report to what extent our advice has been taken on board. The Vantage Point (VP) surveys have been extended to include Pan Hope as we advised, however we also had concerns about the VPs being close to sea level and areas to the north and east of the Calf of Flotta not being visible from any VP. The Scoping Report does not explain how these are to be addressed. The Scoping Report states that eight counts have been made monthly during winter 2023-24 and two counts will be made at each vantage point between April and September 2024. Our pre-scoping advice was that four counts should be made from each VP monthly, winter and summer, and this remains our position.

In addition to the above, we now consider that an additional VP will be required to cover the area to the west of Flotta, particularly to identify flight movements and distribution of red throated diver, black throated diver, and Hoy SPA designated features in order to assess possible impacts of increased vessel movements in that area.
We are keen to continue to support the applicant in progressing the EIA and in the development of mitigation where possible.

At this stage, due to the location and scale of the development, and with no details on proposed construction methodology and mitigation, it is not possible in our opinion to scope out the majority of ecological receptors from full assessment. Furthermore, it is unclear how impacts from certain construction activities such as dredge spoil disposal and use of explosives to reconfigure coastline will be assessed as these options will not be determined until later in the process following site investigations.

Therefore, at this stage it is not possible to judge likely impacts unless a clear worst-case scenario (Rochdale envelope approach) be defined with respect to these and other relevant aspects of the proposal against which potential impacts can be assessed.

Details of the key natural heritage issues and specific comments on the scope of work required in relation to these is provided in the annex to this letter. Our advice is proportionate to the information presented in the Scoping Report.

Our advice is given without prejudice to a full and detailed consideration of the impacts of the proposal if it is submitted as a formal application.

The advice in this letter is provided by NatureScot, the operating name of Scottish Natural Heritage.

I hope you find these comments helpful. Should you wish to discuss this response then please don’t hesitate to contact me.

Yours sincerely

Jonathan Swale
Operations Officer, North
[Redacted]

**Annex 1**

**European Protected Areas**

Special Protection Areas

The report scopes in impacts on designated sites within 10 km of the development, however consideration of European sites should be based on their connectivity with the site, rather than simply distance. Consequently, we advise that the EIA should consider the following sites and features:

- Scapa Flow SPA – all qualifying species.
- Hoy Spa – all features except peregrine.
- Orkney Mainland Moors SPA – red-throated diver.
- Pentland Firth Islands SPA – Arctic tern.
- North Orkney SPA – red-throated diver, great northern diver, Slavonian grebe.

In each case the EIA should address impacts arising from the permanent displacement of birds from the development footprint; disturbance of birds in the vicinity of the proposal during site investigation, construction and operational phases and the temporary or permanent loss of or damage to prey-supporting habitats in the vicinity of the development and at dredge spoil disposal sites. This should include the effects of underwater acoustic noise and shock during piling, blasting, drilling or dredging leading to altered behaviour, this could include lethal and sub-lethal impacts on diving birds and their prey species.

Assessment of the impacts of the development during operation should include the associated increased levels of vessel traffic that are the intended consequence of the proposal. Many of the features of these sites exhibit high or very high levels of behavioural sensitivity to vessel movements and the potential for impact on site integrity is highest for those species with relatively high levels of habitat specialisation and/or relatively small populations within this site. This includes black-throated diver, red-throated diver and Slavonian grebe. It remains unclear how the nature, routing and frequency/volume of vessel traffic through the Scapa Flow SPA are anticipated to change as a consequence of this development. Therefore, it is important that the EIA and HRA also includes an assessment of these wider operational phase impacts.

With regard to Switha SPA, we consider that the proposal is not likely to have a significant impact on the Greenland barnacle goose feature.

Special Areas of Conservation

The development is within foraging range of harbour seals from Sanday SAC. Therefore, we would consider any harbour seal present within Scapa Flow to be connected to this SAC and impacts on the site should be assessed.

There is also connectivity between the proposal and the Loch of Stenness SAC, designated for its coastal lagoon feature and the potential that invasive non-native species could be introduced during construction or operation. We therefore advise that the EIA should address the potential for significant effects on this protected area.

Cumulative impacts

Cumulative assessment of impacts on European sites should not solely focus on projects in the vicinity but should include any projects which may impact on the relevant designated features of the sites.

Given that the proposed Hatston development, which is within North Orkney SPA, could occur concurrently with the Scapa Deep Water Quay development and Flotta Deep Water Quay, the cumulative and in-combination assessment needs to be assessed to consider the potential impacts on the qualifying features.

Cumulative assessment also needs to take into consideration other sectors including aquaculture, renewable energy developments, cable installations, ship-to-ship oil transfers etc. and should consider in particular existing impacts from vessel movements since the July 2016 baseline for the site.

In order to comply with the Habitats Regulations, **Habitats Regulations Appraisals will have to demonstrate that the proposed development will not adversely affect the integrity of European Sites**. The EIA must therefore provide sufficient information for the Competent Authority to be able to undertake appropriate assessments in view of these sites' conservation objectives for their qualifying interests. Details of qualifying interests, seabird foraging ranges and conservation objectives for European sites can be found on our website.

**Seals and Designated Seal Haul-outs**

The Scoping Report identifies the four designated seal haul-outs in the immediate vicinity of the development, although the Flotta Terminal haul-out, identified as being for harbour seals, is also designated as a breeding colony for grey seals.

The report suggests that the development would permanently remove a 'small section' of the Roan Head haul-out. However, the site layout plans in the appendices show a loss of perhaps 20-25% of the coastline and, bearing in mind that grey seals may pup well inland, the total loss from the haul-out including from the laydown area may be much more than this. To understand how this site is used by grey seals, the EIA should include autumn pupping surveys of grey seals covering the whole headland. This will give a better indication of the times of use and the areas used which would help inform the level of impact and suitable mitigation that may be required. We would be happy to work with the applicant to design a suitable survey.

In addition to the potential impacts on seals identified in the report we advise that the EIA should also consider disturbance/displacement arising from increases in airborne (dredging, piling, blasting, plant movement, etc.) and visual stimuli (personnel and plant movement, etc.) due to construction activities, and increased, and insensitive artificial lighting.

Impacts on harbour seals should be considered in relation to Sanday SAC but also to the wider management unit.

**European Protected Species (EPS)**

Otter

It is noted and welcomed that an otter survey will be undertaken. We have advice on survey requirements, mitigation and licensing on our website. If any impacts on otters are identified then mitigation measures should be provided in a Species Protection Plan.

Cetaceans (whales and dolphins)

Cetaceans should be scoped in for all phases of the development. We previously provided advice on underwater noise modelling as part of the consultation on the Orkney Harbour Masterplan and can provide further advice to the applicant if required. Mitigation should be proposed relating to the findings of this modelling and the applicant should be made aware that they may require a licence.

The Scoping Report lists seven species of cetacean however this appears to be mostly based on national datasets or fact sheets. Ideally, the report should refer to the Orkney Marine Mammal Research Initiative for recent and more relevant information about species using the area. Two additional species that are commonly seen in Scapa Flow should be included in the EIA: common dolphin and humpback whale.

**Priority Marine Features (PMFs)**

There is limited existing information available regarding benthic species and habitats present in the vicinity of the proposal. The Scoping Report identifies two PMFs (although only one of these is mapped), and states that none is within the footprint of the development, however this is based on limited survey data and can't be taken as proof that they don't occur on the site. NMPi also shows several other PMFs in the vicinity of the development, particularly flame shell beds, fan mussel and ocean quahog, which could be affected by suspended sediment fallout.

Given the limited data and scale of the proposal we recommend survey work is undertaken to inform the EIA. The purpose of surveys would be to establish the benthic habitats and species present at the development location with particular focus on identifying presence of any PMFs. Where PMFs are identified, the extent and quality (e.g. condition, density etc.) of the features should be confirmed to help inform assessment. A combination of video/photo methods and grab sampling would be appropriate, but of these two methods collection of video/photo data would be the priority. We can provide further advice to the applicant on video survey methodology if required.

**Ornithology**

As noted above, the proposal has the potential to affect a number of SPAs designated for marine birds. Although we have provided pre-scoping advice on surveys it is not clear from the scoping report what terrestrial and marine bird surveys are proposed and in which season. Surveys between September/October and April will be required for wintering waterbird features of Scapa Flow SPA and during spring and summer to determine usage of the development footprint and surrounding area by red-throated divers in the main chick-rearing period (late June to mid-August) and by breeding birds with connectivity to other SPAs. We have previously provided advice to the applicant on aspects of the marine survey work required we have not yet seen a final survey methodology.  Therefore, we would be keen to review methodology prior to survey work commencing to ensure that it is sufficient to inform the EIA.

For a development of this scale and location we would recommend two years of bird survey to inform impacts to marine birds.  However, one year may be sufficient depending on the results of the first year's survey.  We recommend that the applicant provides details of the findings of the first relevant year's surveys, including full analyses and consideration of any relevant additional contextual or supporting information, in sufficient time to enable us to advise on the requirement for a second year's survey.

The Scoping Report states that breeding bird surveys will be carried out but refers only to great skua and Arctic skua.  These surveys should cover all bird species within the development site and buffer.  We also recommend that all blanket bog areas on Flotta are surveyed for nesting red-throated diver.

**Marine Invasive Non-Native Species (mINNS)**

The report states that there no marine invasive non-native species have been recorded in Orkney.  This is incorrect - a number of mINNS are already present in Orkney waters and activities during construction and operation could facilitate their spread and potentially introduce new species.  We therefore recommend that the potential impacts of mINNS be considered in the EIAR.  and that site-based biosecurity plans for the proposal at the construction and operational phases to assist with managing the spread and introduction of mINNS are produced.  There are a wide range of additional potential biosecurity measures that could be developed and we would be happy to advise further and on biosecurity plans if required.

**Landscape and Visual Impact**

Due to the location and scale of the proposal, including the potential for large vertical structures to be present during construction and operation, we recommended that the EIA considers potential impacts on the Hoy and West Mainland National Scenic Area (NSA).

Northern Lighthouse Board

84 George Street
Edinburgh EH2 3DA

Tel: 0131 473 3100
Fax: 0131 220 2093

Website: www.nlb.org.uk
Email: enquiries@nlb.org.uk

Your Ref: SCOP-0042
Our Ref: GB/ML/PJMS_017_24

Neil Macleod
Marine Licensing Casework Manager
Licensing Operations Team - Marine Directorate
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

13 August 2024

***THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 ("THE MW EIA REGULATIONS") - CONSULTATION UNDER PART 4, REGULATION 14(4) OF THE MW EIA REGULATIONS***

***SCOP-0042 -Repsol Resources UK Limited (per EnviroCentre) - Flotta Ultra Deep Water Quay - Flotta, Orkney***

Thank you for your e-mail correspondence dated 13th August 2024 relating to the EIA Scoping opinion submitted by **Repsol UK Limited (per Envirocentre)** for their proposals to construct an ultra deep water quay and land reclamation on the Island of Flotta, Scapa Flow, Orkney Islands.

Northern Lighthouse Board note that Shipping and Navigation are scoped in to the proposed EIA study, and advise the following:

- **Repsol UK Limited** undertake a Navigation Risk Assessment (NRA) and Navigation Management Plan (for the construction works) in conjunction with Orkney Island Council Harbours as the Statutory Harbour Authority.
- A consultation exercise with local stakeholders should be completed as part of the NRA process. Northern Lighthouse Board would be willing to participate in this exercise.

Yours sincerely

[redacted]

Peter Douglas
Navigation Manager

Tuesday, 20 August 2024

Marine Licensing
375 Victoria Road

Aberdeen

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - 0800 3890379
E-Mail - DevelopmentOperations@scottishwater.co.uk
www.scottishwater.co.uk

Follow Us

Dear Customer,

**Flotta Ultra Deep Water Quay, Flotta, Orkney, KW16 3NP**
**Planning Ref: SCOP-0076**
**Our Ref: DSCAS-0115910-6XB**
**Proposal: Scoping Report - Flotta Ultra Deep Water Quay Development - SCOP-0076**

**Please quote our reference in all future correspondence**

Scottish Water has no objection to this planning application. The applicant should be aware that this does not confirm that the proposed development can currently be serviced.

Please read the following carefully as there may be further action required. Scottish Water would advise the following:

## Water Assessment

- According to our records there is no public water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private options.

## Foul Assessment

- According to our records there is no public waste water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

## Please Note

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works. When planning permission has been granted and a formal connection application has been submitted, we will review the availability of capacity at that time and advise the applicant accordingly

## Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should refer to our guides which can be found at https://www.scottishwater.co.uk/Help-and-Resources/Document-Hub/Business-and-Developers/Connecting-to-Our-Network which detail our policy and processes to support the application process, evidence to support the intended drainage plan should be submitted at the technical application stage where we will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will typically require surface water to be eliminated from any new discharges of trade effluent.

## Drinking Water Protected Areas

A review of our records indicates that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed activity.

## Next Steps:

- **Non Domestic/Commercial Property:**

  Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

- **Trade Effluent Discharge from Non-Domestic Property:**

  Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.

If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject “Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found here.

Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.

For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.

The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 5kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter, please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

**Ruth Kerr**
Development Services Analyst
PlanningConsultations@scottishwater.co.uk

**Scottish Water Disclaimer:**

*“It is important to note that the information on any such plan provided on Scottish Water’s infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*

## Supplementary Guidance

- Scottish Water asset plans can be obtained from our appointed asset plan providers:

    - Site Investigation Services (UK) Ltd
    - Tel: 0333 123 1223
    - Email: sw@sisplan.co.uk
    - www.sisplan.co.uk

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Development Operations department at the above address.

- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.

- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or a Sustainable Drainage System (SUDS) proposed to vest in Scottish Water is constructed.

- Please find information on how to submit application to Scottish Water at our Customer Portal.

Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

Jamie Macvie
Planning Department
Orkney Council

By email only to: planningconsultation@orkney.gov.uk

Our Ref: PCS-20001191
Your Ref: 24/079/SCO

SEPA Email Contact:
planning.north@sepa.org.uk

30 April 2024

Dear Jamie Macvie

**Town and Country Planning (Scotland) Acts**
**24/079/SCO - Scoping Opinion Request to Construct an Ultra Deep Water Quay Including Reclamation and an Access Road**
**Flotta Oil Terminal (Land Near), Flotta, Orkney, KW16 3NP**

Thank you for consulting SEPA for an Environmental Impact Assessment (EIA) scoping opinion in relation to the above development on 09 April 2024.

## Advice for the planning authority / determining authority

To **avoid delay and potential objection** the future EIA submission must contain a scaled plan of sensitivities, for example peat, GWDTE, overlain with proposed development. This is necessary to ensure the EIA process has informed the layout of the development to firstly avoid, and then reduce then mitigate significant impacts on the environment. We consider that the issues covered in Appendix 1 below must be addressed to our satisfaction in the EIA process. This provides details on our information requirements and the form in which they must be submitted.

We have also provided site specific comments in the following section which provides pre-application advice and can help the developer focus the scope of the assessment.

**1. Site specific comments**

1.1 As a large proportion of the site is on peat, we will expect the application to be supported by a comprehensive site specific Peat Management Plan.

1.2 And as much of the site is likely to be peatland, we suggest a National Vegetation Classification survey (NVC) survey is undertaken without carrying out Phase 1. For further information on assessments please refer to SEPA Guidance LUPS- GU31, in particular sections 2.10 to 2.14. NatureScot also provides useful information on NVC survey method and mapping requirements.

**2. Regulatory advice for the applicant**

2.1 Details of regulatory requirements and good practice advice, for example in relation to construction drainage, can be found on the regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the local compliance team at: NHNI@sepa.org.uk.

If you have queries relating to this letter, please contact us at planning.north@sepa.org.uk including our reference number in the email subject.

Your sincerely,

Zoe Griffin
Senior Planning Officer
Planning Service

Ecopy to: Agent, JShah@envirocentre.co.uk, Case officer jamie.macvie@orkney.gov.uk

Disclaimer: This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages - www.sepa.org.uk/environment/land/planning/](http://www.sepa.org.uk/environment/land/planning/)

## Appendix 1: Detailed scoping requirements

This appendix sets out our minimum information requirements and we would welcome receipt and discussion around these prior to formal submission to avoid delays. There may be opportunities to scope out some of the issues below depending on the site. Evidence must be provided in the submission to support why an issue is not relevant for this site to **avoid delay and potential objection.** If there is a significant length of time between scoping and application submission the developer should check whether our advice has changed.

The SEPA guidance referenced in this response is being reviewed and updated to reflect the new policies in National Planning Framework 4 (NPF4). It will still provide useful and relevant information, but some parts may be updated further in the future.

### 1. Site layout

1.1 All maps must be based on an adequate scale with which to assess the information. This could range from OS 1: 10,000 to a more detailed scale in more sensitive locations. Each of the maps below must detail all proposed upgraded, temporary and permanent infrastructure. This includes all tracks, excavations, buildings, borrow pits, pipelines, cabling, site compounds, laydown areas, storage areas and any other built elements. Existing built infrastructure must be re-used or upgraded where possible. The layout should be designed to minimise the extent of new works on previously undisturbed ground. For example, a layout which makes use of lots of spurs or loops is unlikely to be acceptable. Cabling must be laid in ground already disturbed such as verges. A comparison of the environmental effects of alternative locations of infrastructure elements, such as tracks, may be required.

### 2. Disturbance and re-use of excavated peat and other carbon rich soils

2.1 Where proposals are on peatland or carbon rich soils the following should be submitted to address the requirements of NPF4 Policy 5:

a. layout plans showing all permanent and temporary infrastructure, with extent of excavation required, which clearly demonstrates how the mitigation hierarchy outlined in NPF4 has been applied. These plans should be overlaid on:

  i. peat depth survey (showing peat probe locations, colour coded using distinct colours for each depth category and annotated at a usable scale);

  ii. peat depth survey showing interpolated peat depths;

  iii. peatland condition mapping;

  iv. National Vegetation Classification survey (NVC) habitat mapping.

b. an outline Peat Management Plan (PMP);

c. an outline Habitat Management Plan (HMP)

2.2 In order to protect peatland and limit carbon emissions from carbon rich soils, the submission should demonstrate that proposals:

- Avoid peatland in near natural condition, as this has the lowest greenhouse gas emissions of all peatland condition categories;
- Minimise the total area and volume of peat disturbance. Clearly demonstrate how the infrastructure layout design has targeted areas where carbon rich soils are absent or the shallowest peat reasonably practicable. Avoid peat > 1m depth;
- Minimise impact on local hydrology; and
- Include adequate peat probing information to inform the site layout and demonstrate that the above has been achieved. As a minimum this should follow the requirements of the Peatland Survey – Guidance on Developments on Peatland (2017).

2.3 The Peatland Condition Assessment photographic guide lists the criteria for each condition category and illustrates how to identify each condition category. This should be used to identify peatland in near natural condition and can be helpful in identifying areas where peatland restoration could be carried out.

2.4 In line with the requirements of Policy 5d of NPF4, the development proposal should include plans to restore and/or enhance the site into a functioning peatland system capable of achieving carbon sequestration.

2.5 The outline PMP should also include:

- Information on peatland condition;
- Information demonstrating avoidance and minimisation of peat disturbance;
- Excavation volumes of acrotelmic, catotelmic and amorphous peat. These should include a contingency factor to consider variables such as bulking and uncertainties in the estimation of peat volumes;
- Proposals for temporary storage and handling;
- Reuse volumes in different elements of site reinstatement and restoration.

2.6 Handling and temporary storage of peat should be minimised. Catotelmic peat should be kept wet, covered by vegetated turves and re-used in its final location immediately after excavation. It is not suitable for use in verge reinstatement, re-profiling/ landscaping, spreading, mixing with mineral soils or use in bunds.

2.7 Disposal of peat is not acceptable. It should be clearly demonstrated that all peat disturbed by the development can be used in site reinstatement (making good areas which have been disturbed by the development) or peatland restoration (using disturbed peat for habitat restoration or improvement works in areas not directly impacted by the development, which may need to include locations outwith the development boundary).

2.8 The faces of cut batters, especially in peat over 1m, should be sealed to reduce water loss of the surrounding peat habitats, which will lead to indirect loss of habitat and release of greenhouse gases. This may be achieved by compression of the peat to create an impermeable subsurface barrier, or where slope angle is sufficiently low, by revegetation of the cut surface.

2.9 The outline HMP should include:

- Proposals for reuse of disturbed peat in habitat restoration, if relevant;

- Details of restoration to compensate for the area of peatland habitat directly and indirectly impacted by the development;
- Outline proposals for peatland enhancement in other areas of the site;
- Monitoring proposals.

2.10 To support the principle of peat reuse in restoration the applicant should demonstrate that they have identified locations where the addition of excavated peat will enhance the wider site into a functional peatland system capable of achieving carbon sequestration. The following information is required:

- Location plan of the proposed peatland re-use restoration area(s), clearly showing the size of individual areas and the total area to be restored;
- Photographs, aerial imagery, or surveys to demonstrate that the area identified is appropriate for peat re-use and can support carbon sequestration. This should include consideration of an appropriate hydrological setting and baseline peatland condition.

2.11 In addition, if any proposed re-use restoration areas are outwith the ownership of the applicant, information should be provided to demonstrate agreement in principle with the landowner, including agreed timescales for commencement of the works, and proposed management measures to ensure the restored areas can be safeguarded in perpetuity as a peatland.

2.12 NatureScot's technical compendium of peatland restoration techniques provides a useful overview of the procedural and technical requirements for peatland restoration.

## 3. Disruption to GWDTE and existing groundwater abstractions

3.1 Groundwater Dependent Terrestrial Ecosystems (GWDTE) are protected under the Water Framework Directive. Excavations and other construction works can disrupt groundwater flow and impact on GWDTE and existing groundwater abstractions. The layout and design of the development must avoid impacts on such areas. A National Vegetation Classification survey which includes the following information should be submitted:

a. A map demonstrating all GWDTE and existing groundwater abstractions are outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m and proposed groundwater abstractions. The survey needs to extend beyond the site boundary where the distances require it.

b. If the minimum buffers cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. Please refer to Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems for further advice and the minimum information we require to be submitted.

## 4. Flood risk

4.1 Please refer to our Flood Risk Standing Advice for advice on flood risk. If it is considered the development could result in an increased risk of flooding to a nearby receptor then a Flood Risk Assessment (FRA) must be submitted. Our Technical flood risk guidance for stakeholders outlines the information we require to be submitted in an FRA.

## 5. Borrow pits

5.1 If there is a future need for borrow pits, the following information should also be submitted for each borrow pit:

a. A map showing the location, size, depths and dimensions;

b. A map showing any stocks of rock, overburden, soils and temporary and permanent infrastructure including tracks, buildings, oil storage, pipes and drainage, overlain with all lochs and watercourses to a distance of 250m. You need to demonstrate that a site specific proportionate buffer can be achieved. On this map, a site-specific buffer must be drawn around each loch or watercourse proportionate to the depth of excavations and at least 10m from access tracks;

c. Sections and plans detailing how restoration will be progressed including the phasing, profiles, depths and types of material to be used.

## 7. Pollution prevention and environmental management

7.1 A schedule of mitigation supported by the above site specific maps and plans should be submitted. These must include reference to best practice pollution prevention and construction techniques (for example, limiting the maximum area to be stripped of soils at any one time) and regulatory requirements. They should set out the daily responsibilities of Ecological Clerk of Works, how site inspections will be recorded and acted upon and proposals for a planning monitoring enforcement officer. Please refer to the Guidance for Pollution Prevention (GPPs) and our water run-off from construction sites webpage for more information.

## 8. Life extension, and decommissioning

8.1 Proposals for life extension, repowering and/or decommissioning must demonstrate accordance with SEPA Guidance on the life extension and decommissioning of onshore wind farms. Table 1 of the guidance provides a hierarchical framework of environmental impact based upon the principles of sustainable resource use, effective mitigation of environmental risk (including climate change) and optimisation of long term ecological restoration. The submission must demonstrate how the hierarchy of environmental impact has been applied, within the context of latest knowledge and best practice, including justification for not selecting lower impact options when life extension is not proposed.

8.2 The submission needs to state that there will be no discarding of materials that are likely to be classified as waste as any such proposals would be unacceptable under waste management licensing. Further guidance on this may be found in the document Is it waste - Understanding the definition of waste

SCOTTISH FISHERMEN'S FEDERATION

Our Ref: FH-FUDWQ SR/24-0001

Your Ref: SCOP-0042

Scottish Fishermen's Federation
24 Rubislaw Terrace
Aberdeen, AB10 1XE
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E: sff@sff.co.uk

www.sff.co.uk

E-mail:
md.marinelicensing@gov.scot

27 August 2024

Dear Neil Macleod,

**SFF Response Repsol Resources UK Limited- Flotta Ultra Deep Water Quay, Orkney - Scoping Consultation**

This response to the scoping request is presented by the Scottish Fishermen's Federation on behalf of the 450 plus fishing vessels in membership of its constituent associations, the Anglo Scottish Fishermen's Association, Fife Fishermen's Association. Fishing Vessel Agents and Owners Association, Mallaig & North West Fishermen's Association, Orkney Fisheries Association, Scottish Pelagic Fishermen's Association, the Scottish White Fish Producer's Association and Shetland Fishermen's Association.

The SFF appreciate this opportunity for consultation and confirm that we have read the Scoping Report and have the following comments to make.

**Commercial fisheries**

SFF notes from section 'Fish Species' (p26) of the Scoping Report that only Sea Trout has been mentioned as one of the commercial fish species at Orkney coastline and the existence of other key commercial species such as crab, lobster, scallops, and Nephrops in Orkney coastline and the impact of the development on the mentioned species have not been mentioned. Therefore, SFF propose that the impact of development on commercial fisheries, especially crab, scallops and Nephrops should be scoped in at the EIA stage (under section 5.6.5 Marine Habitats, Mammals and Fish of this Scoping Report).

**Shipping and navigation**

SFF welcomes Applicant's plan on scoping in the Shipping and Navigation as stipulated in Chapter 10. 'Traffic, Shipping and Navigation'. However, we note that this will only cover the construction phase of the project that will last for approximately 36 months (as all the construction material and resources will be mostly imported via sea route and may increase marine traffic in the area). As the development would be used for decommissioning of oil and gas infrastructures as well as for construction of offshore windfarm components, we are of the view that it will result in a remarkable increase in traffic and disruption to shipping and navigation around the quay. Therefore, we propose that the long-term effects of the development on fishing and fishing vessel transits in the project's study area to be also scoped in.

Sincerely yours

Mohammad Fahim Hashimi
**Offshore Energy Policy Manager**
**Scottish Fishermen's Federation**

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|---|---|
| **From:** | [Redacte |
| **To:** | MD Marine Licensing |
| **Cc:** | [Redacted] [Redacted] |
| **Subject:** | SCOP-0042 -Repsol Resources UK Limited (per EnviroCentre) - Flotta Ultra Deep Water Quay - Flotta, Orkney - Scoping Consultation Request - Response Required by 15th May 2024 |
| **Date:** | 13 May 2024 12:42:53 |
| **Attachments:** | image001.png<br>image002.png<br>image003.png<br>image004.png<br>image005.png |

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Neil Macleod

Thank you for the opportunity for Transport Scotland to respond on the proposed Scope for the Flotta Ultra Deep Water Quay, Orkney. I understand this is for the marine licence application and does not relate to the onshore elements of the works. I also note that there are no trunk roads on Orkney, therefore, I can confirm that Transport Scotland would have no objection to this aspect of the application and does not require any further information in this regard.

Regards

George Smith
Development Management
Network Operations
Roads Directorate

transport.gov.scot
Transport Scotland, 2nd Floor, George House, 36 North Hanover St, Glasgow, G1 2AD

Applicant to complete:

| Consultee | No. | Point for Inclusion | EIA Report Section | Justification |
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