

Redacted

North Ayrshire Council (NAC)
By Email Only

Our ref Redacted
Telephone
E-mail

8 May 2017

Dear Redacted

**Clarification to our Request for a Screening Opinion under Regulation 6 of the Town and Country Planning Environmental Impact Assessment (Scotland) Regulations 2011 ("EIA Regulations")
Hunterston Marine Construction Yard**

Further to our discussions of 3 May 2017 we have provided below the information requested with regard to: the development and its relation to the EIA Regulations Schedules 1 and 2; information related to previous consultation for elements of the currently proposed development; and other permitting requirements.

1. EIA Regulations Schedules 1 and 2

Schedule 1

It is our view that the development is not Schedule 1 Development. For most paragraphs of Schedule 1 this is self-explanatory. We have however described our view with regard to two specific paragraphs below.

Paragraph 5 (5(c) in particular)

Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—

- (a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;*
- (b) for friction material, with an annual production of more than 50 tonnes of finished products; and*
- (c) for other uses of asbestos, utilisation of more than 200 tonnes per year.*

Our view of this paragraph is as follows:

- This is intended for installations specifically for the extraction, processing and transformation of asbestos;
- While it is expected that there will be asbestos within components for decommissioning, the operations are not specifically just for asbestos;

- The operations proposed are recovery, reuse, recycling and disposal operations and will not involve extraction, processing or transformation, simply handling and storage of the material prior to appropriate disposal.

We therefore consider that this paragraph was neither intended to address, nor applicable to, the operations proposed and therefore the development does not fall under this paragraph of Schedule 1.

Paragraph 8 (2)

8.—(1) Inland waterways and ports for inland -waterway traffic which permit the passage of vessels of over 1,350 tonnes.

(2) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.

Our view of this paragraph is as follows:

- The development is not, and would not be, a trading port which this paragraph is intended to address, it would be a construction and decommissioning yard, and the proposed activity is a recovery, reuse and recycling operation, not trading goods;
- The same proposed development (the refurbishment of the existing quay and associated dredging) was screened jointly by Marine Scotland and North Ayrshire Council in 2012 (under the same EIA Regulations) and considered not to be EIA Development.

We do not consider that this paragraph was intended to relate to small scale refurbishment or upgrade of quaysides. Interpretation as such would mean that any repair or small modification to any quayside in Scotland would require EIA which would be overly excessive in regulation terms. Therefore we do not consider that the development as proposed is Schedule 1 Development. The previous decision (described in Section 2 below) we consider to be correct.

Schedule 2

Our letter of 20 February 2017 acknowledged that the development could be considered Schedule 2 development and noted some of the potentially applicable paragraphs. Other potentially applicable paragraphs discussed on 3 May 2017 include:

1 (e) – reclamation of land from the sea

The modifications to the quay will result in a very small area of 'reclamation' adjacent to the quay.

Schedule 2 Paragraphs discussed which we do not consider applicable to the development are:

4(d) Installations for the smelting, including the alloyage, of non -ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.);

There will be no smelting, alloyage, refining or casting etc. of metals on the site.

4(e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process;

This relates to surface coating of metals as we understand and similarly to 4(d) no such activity is proposed or required.

10 (c) Construction of intermodal transshipment facilities and of intermodal terminals;

Intermodal transshipment facilities are facilities where containers or other goods holding vehicles are transferred to a different mode of transport without handling the goods being transported. A container terminal is an example. No such activities are proposed as part of this development. The uses of the quay would be related to the construction and decommissioning activities unless otherwise permitted by another regulated activity.

2. Previous Screening of Part of the Development

In 2011 designs were developed to upgrade the existing hammerhead quay at the Hunterston Marine Construction Yard. This upgrade also included associated dredging to achieve required depths of water (refer to Drawings within the attached letter of 27 January 2012 for quay and dredging proposals).

In 2012 a screening request for the proposed development was issued to Marine Scotland and copied to North Ayrshire Council. This request is attached (letter dated 27 January 2012).

The decision letter from Marine Scotland which confirmed the development did not require an EIA is also attached (letter dated 15 March 2012).

It is noted that the upgrades currently proposed to the hammerhead quay and associated dredging to access the quay are exactly the same as proposed in 2012.

3. Other Permitting Requirements

There are a number of other regulatory and permitting requirements that would require to be adhered to, and addressed, should the development achieve planning permission. We have not listed all of those here, however of particular note are the requirements of the Pollution Prevention and Control (Scotland) Regulations 2012.

For the operational phase the proposed activities will fall under the Pollution Prevention and Control (Scotland) Regulations 2012 as the activities will potentially involve 'the recovery of hazardous waste with a capacity exceeding 10 tonnes per day' and certainly 'the recovery of non-hazardous waste with a capacity exceeding 75 tonnes per day'. As such a Pollution Prevention and Control permit will be required from SEPA (PPC permit).

The PPC permit is based on the application of Best Available Techniques (BAT) for the operation of the process and the prevention or control of emissions. The application process will include providing assessments of the potential for significant human health and environmental effects as a result of the proposed activities emissions to land, air and the water environments. This also takes into account the potential for the activity to have a significant effect on a European Conservation Site for the purposes of the Conservation (Natural Habitats etc.) Regulations 1994.

Management Plans detailing how the operator plans to manage the facility to meet all the environmental requirements of the PPC Regulations will require to be proposed and agreed with SEPA prior to the permit being issued. The application process includes also how waste will be managed, stored and handled, energy consumption and efficiency, noise control and methods of monitoring emissions to the environment.

Once the permit is granted SEPA will regulate the facility through the Permit and ensure it is operated to the agreed BAT standards.

The preparation of this detailed management planning for a PPC permit application would be carried out in the future, in all likelihood by, or in conjunction with, the Operator. This information would also be used to address Condition 2 and 3 of planning consent N/16/00268/PP which require

information on management of wastes, effluents and other environmentally related issues to be approved by the council in writing prior to any work on the site beginning.

We trust the above is of assistance. Should you require further information to assist in this matter please do not hesitate to contact us.

Yours sincerely
for EnviroCentre Ltd

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Enc: 1. EnviroCentre letter dated 27 January 2012
2. Marine Scotland letter dated 15 March 2012

CC: Redacted Marine Scotland (by email) and Redacted Peel Ports, (by email)

Redacted

Marine Scotland
PO Box 101
375 Victoria Road
Aberdeen
AB11 9DB

Ref: 161511j/cgf/008

27 January 2012

Regional Offices

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belfast@envirocentre.co.uk

Dear Reda

Clydeport - Hunterston Port

**Proposed Upgrade and Extension to Existing Quay on North of Construction Yard
and Associated Dredging**

11 Bridgefield
Stonehaven
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Tel: 01569 760 661
Fax: 01569 760 662

We write on behalf of our client Clydeport with reference to the proposed upgrade and extension of the existing quay at the Construction Yard at Hunterston and dredging associated with the proposed works (NGR: 218768 653325).

Following our earlier discussions regarding this project, we understand that the construction activities and perhaps the dredging (if considered a capital dredge) will require a licence from Marine Scotland under the Marine Scotland Act 2010. We are aware that Marine Scotland can request the licence application to be accompanied by an EIA under The Marine Works (Environmental Impact Assessment) Regulations 2007 (as amended 2009, 2011); referred to as the "Marine Works Regulations", and we would like to request a Screening Opinion from Marine Scotland as to whether the proposed development is an EIA development.

We have provided the relevant information to support this request as described in Schedule 2 of the 'Marine Works Regulations'.

We are aware that the majority of the development area is within the marine environment but acknowledge that there is a terrestrial section over which North Ayrshire Council (NAC) has jurisdiction. Therefore we would also request that Marine Scotland, in consultation with NAC, confirm to us who is the consenting authority for the proposed development. We are willing to meet to discuss the details of the project further if this is useful.

Description of the Project

This development will upgrade and extend the existing quay at the construction yard at Hunterston through the construction of a rectangular quay extension. Please refer to the enclosed Arch Henderson drawings; Drawing No. 105069/001 shows the existing situation at the site and Drawing No. 105069/002 shows the proposed development.

The Construction Yard is an industrial facility that has planning consent and the majority of the works are within the 1979 Boundary, only the tail end of the dredged area extends outside the 1979 boundary a short distance. As the existing quay is part of the yard infrastructure, and is an operational port feature, there will be no change of land/marine use associated with the development. It should also be noted that the existing berth at the quay has been dredged in recent years and is included within the existing maintenance dredging licence for Clydeport Operations. The extension will sit at an angle slightly offset to the existing quay in order to better facilitate vessel berthing and the approach to the quay will be dredged, refer to Drawing No. 105069/003 for deck plan and elevation.

The upgrade and construction of the quay will comprise the placement of a deeper line of sheet piles on the face of the existing quay (or in close proximity to it), the extension of the quay to approximately 100m in length (an increase of approximately 33m) and the placement of a concrete deck. The sheet piling will be backfilled with dredged material won from the dredging of the approach to the quay. Additionally the development includes the installation of one or two mooring dolphins on either side of the new quay (refer to Drawing No. 105069/003) which will also be flanked by rock armour.

The dredging will take the channel to a depth of -10m CD to accommodate vessels approaching from the North West, and will extend as far as the natural -10m CD bathymetric contour. The top of the stable 1:6 dredge slope at the eastern edge will be below Mean Low water Springs (MLWS).

Environmental Considerations

We are aware of the environmental sensitivities at Hunterston, and do not consider that the proposed development has the potential to have an overall significant adverse effect on the local environment. The main environmental topics are briefly discussed in the following paragraphs.

Being an industrial site the quay is generally well away from residential properties and therefore the sensitivity of neighbours is somewhat reduced. With regard to air quality, in this coastal environment the limited emissions to air from construction activities are highly unlikely to be sufficient to negatively impact air quality to a significant degree.

It is acknowledged that there is potential for construction noise, mainly related to piling activities, to impact negatively on local receptors and also wildlife. The applicant considers that this deserves some attention and will seek to notify and consult with NAC Environmental Health in order to ensure that noise is managed satisfactorily. A statement regarding potential noise sources plus mitigation proposals would form the basis for discussion with the regulators. It is recognised that marine mammals including otter and cetaceans are at risk from certain noise effects and it is likely that during piling works management will be required to mitigate any effects. This would be documented and included in an environmental management plan.

With further regard to ecology the applicant would undertake the necessary survey and take precautions to ensure that the construction works meet with the legal requirement to protect natural heritage. The proposed development footprint will be outside the proposed Portencross SSSI boundary which we are led to understand does not include the Construction Yard. It is however immediately adjacent to the current Portencross SSSI boundary. In either case the proximity to the SSSI boundary will be considered and a statement made with reference to maintaining the integrity of the SSSI as required under Habitats Regulations. There are no identified protected habitats within the footprint of the quay extension area and

given that the dredge area does not encroach on the intertidal areas no significant ecological direct (footprint) or indirect (water quality related) effects on the SSSI is anticipated.

A significant amount of ornithological data is available that can be used to support the licence application that shows this area is not of prime importance for bird life. Additionally construction works would be programmed to ensure protection of birds.

Otter survey recently undertaken confirms that otter activity is generally focused on Burn Gill. However, given the activity of otter in the area the applicant would undertake pre-construction survey to ensure that otter would not be affected by the construction works.

An environmental management plan (EMP) prepared for the site would cover all the issues to ensure that the works were properly carried out with the necessary safeguards for the protection of the environment and best practice employed.

Water quality management would follow existing management control for dredging or would be subject to new licence controls which are likely to be similar. The quay construction operations would be subject to best practice management controls with regard to emissions with potential to affect water quality. This can be provided with the licence submission as management proposals.

The proposed development will not change the landscape character or visual amenity of the area as it is an extension of an established land use. The probability of any visual impact is very low as the low profile of the quay and its location at the edge of the coastline reduces the number and sensitivity of potential receptors. A brief review of the landscape and visual aspects of the development would be provided as a supporting statement.

The applicant is not aware of any archaeological features that would be affected by the development. This is a made environment that has been significantly disturbed by previous activities at the Construction Yard.

With regard to coastal processes the dredging requirement is limited to the approach and the seabed adjacent to the quay extension. It does not encroach on intertidal areas as illustrated on the drawings provided. A coastal appraisal can be undertaken to ensure that the dredge area will not impact the intertidal zone or the Portencross SSSI and a statement provided to the regulators of the predicted outcomes.

It is therefore proposed that if the consenting authority should decide that an EIA is not required the applicant would provide an Environmental Review to support the licence application in order to ensure that environmental considerations and legal requirements were met.

Having considered the topics usually addressed in a full EIA, as outlined above, we would conclude that most of the topics can be addressed through environmental appraisal or review to include:

- Desk study;
- Identification of mitigation through environmental management and the production of an EMP; and
- Provision of a summary statement.

We trust that we have provided sufficient information to allow an EIA Screening decision to be taken, and will be pleased to provide more detail on request if this is considered appropriate.

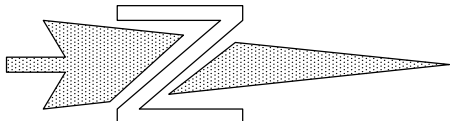
Yours sincerely,
for EnviroCentre Ltd.

Redacted

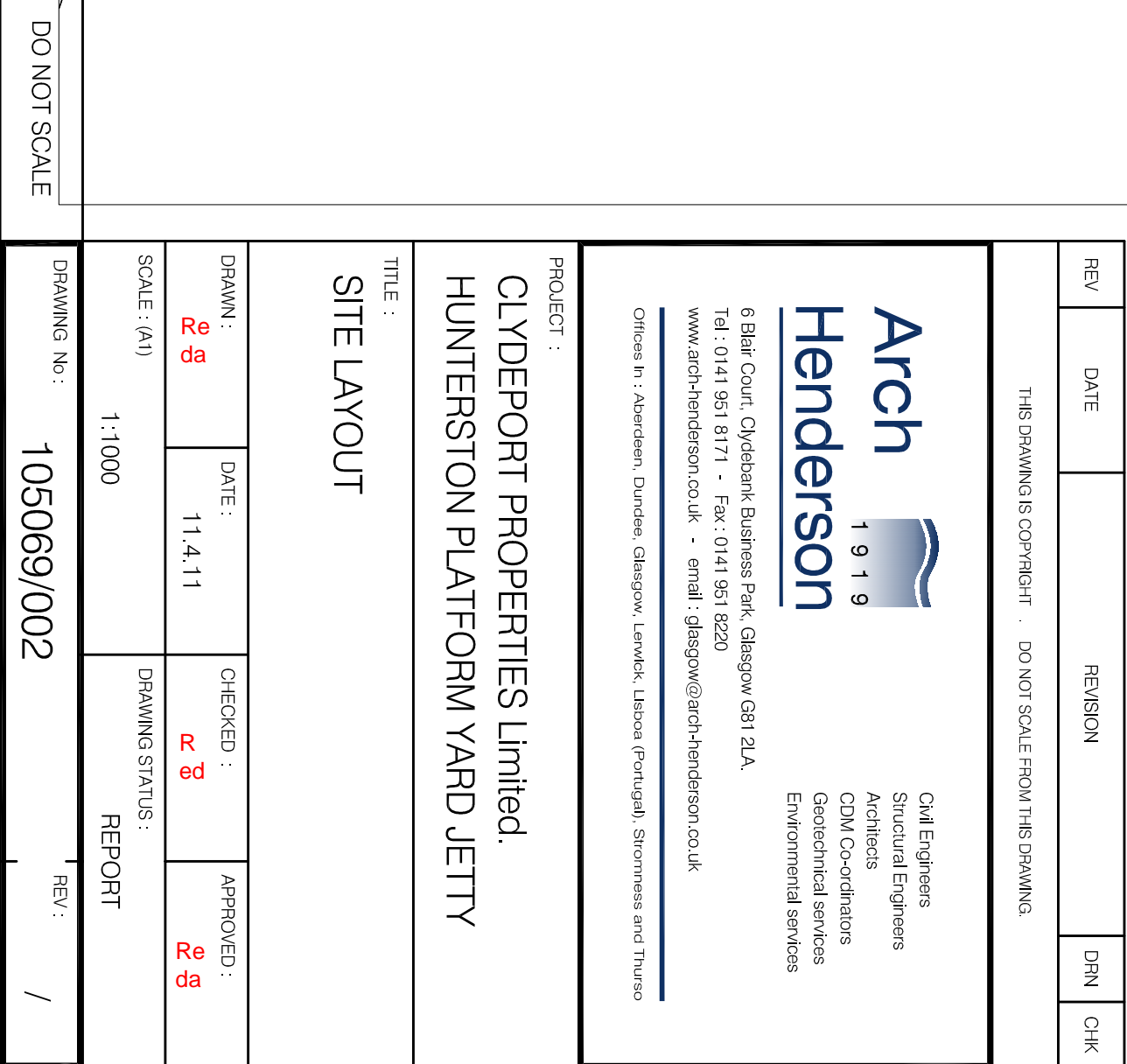
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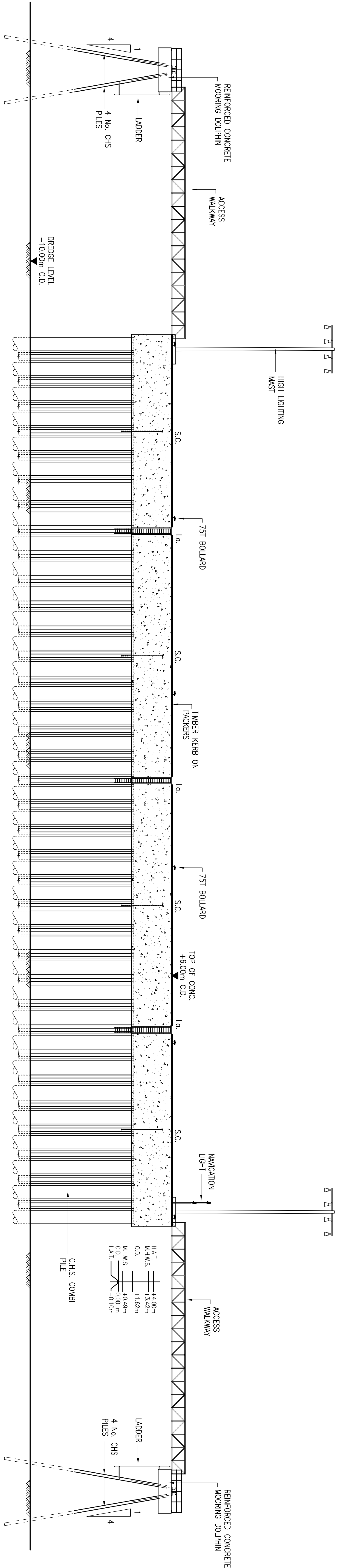
Enc: 1. Drawing No. 105069/001 (A1 printed at A3)
2. Drawing No. 105069/002 (A1 printed at A3)
3. Drawing No. 105069/003 (A1 printed at A3)

cc: 1. North Ayrshire Council Redacted

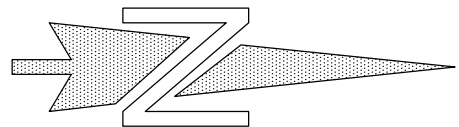
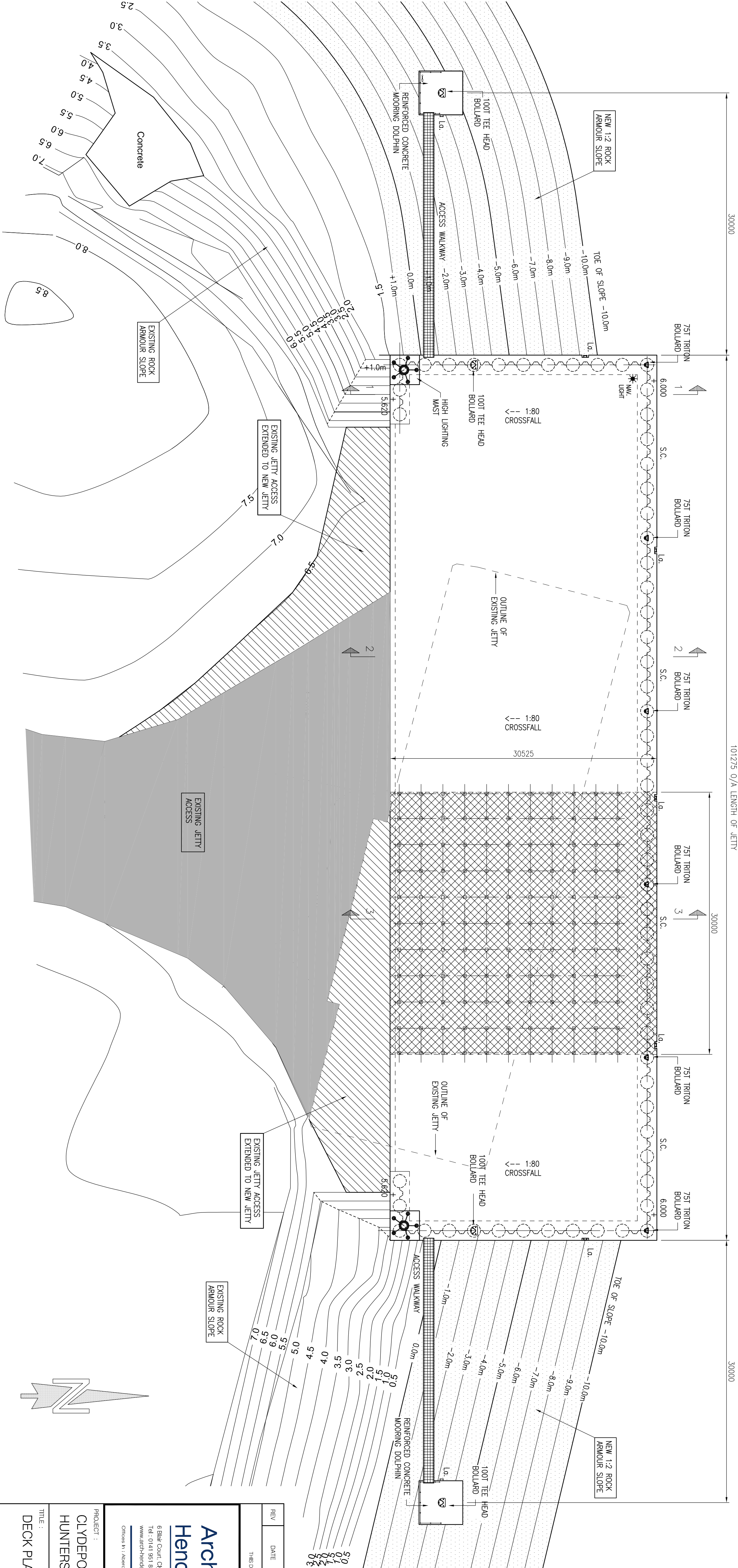


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DRAWN : Re dac				
DATE : 28.3.11				
CHECKED : Re da				
APPROVED : Re dac				
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REV : /				





JETTY ELEVATION
(SCALE 1:250)



Arch

1919

Old Engineers

Structural Engineers

Architects

CDM Co-ordinators

Geotechnical services

Environmental services

PROJECT :

CLYDEPORT PROPERTIES Limited

HUNTERSTON PLATFORM YARD JETTY

TITLE :

DECK PLAN AND ELEVATION

DRAWN :

DATE :

4.4.11

CHECKED :

DATE :

4.4.11

APPROVED :

SCALE : (A1)

1:250

DRAWING STATUS :

REPORT

DRAWING No. :

105069/003

REV :

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Redacted

Envirocentre
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G4 9XA

15 March 2012

Dear Redacted

**SCREENING DECISION UNDER PART 2, REGULATION 11 OF THE MARINE WORKS
(ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2007 (AS AMENDED)**

**CLYDEPORT – HUNTERSTON PORT, PROPOSED UPGRADE AND EXTENSION TO
EXISTING QUAY ON NORTH OF CONSTRUCTION YARD AND ASSOCIATED DREDGING**

Thank you for the submission of the document titled Clydeport – Hunterston Port, Proposed Upgrade and Extension to Existing Quay on North of Construction Yard and Associated Dredging in which you request a Screening Opinion from Marine Scotland.

I can confirm that, following consultation with the Scottish Environment Protection Agency, Scottish Natural Heritage and North Ayrshire Council, Marine Scotland do not consider that an Environmental Impact Assessment will be required for this project.

Marine Scotland Licensing Operations Team have been advised to request an Environmental Review that gives more detailed consideration of the following issues.

1. There is potential for the presence of eel grass beds featuring *Zostera noltii* and *Z. marina* on the site of the proposed dredge pocket. These are Scottish Biodiversity Strategy/List priority habitats. There is also the potential for UKBAP horse mussels within the proposed dredging footprint. The presence of horse mussels and *zostera* should be checked and, if present, mitigation proposals to maximise the conservation of these habitats/species incorporated in the application.
2. The habitats within the adjacent Sites of Special Scientific Interest (SSSI) are dependant on the nature of the soft sediments and the profile of the beach levels. Mitigation should be in place such that the sides of the dredge pocket will not be subject to slumping which could in turn alter the beach profiles and habitats within the adjacent SSSI and that the pocket could act as trap for fine mobile particles removing them from the intertidal ecosystem.
3. A study into the stability of the dredge pocket sides and the local sediment transport systems should be undertaken. Should the study show that impacts on the SSSI are likely, appropriate mitigation measures should be incorporated into the design of the upgrade and extension proposals.

4. Accidental introduction of Marine Non-Native Species (MNNS) has been highlighted as a risk for water body degradation. Controls should be included in development planning for MNNS in line with Water Framework Directive and Marine Strategy Framework Directive objectives, and EU Biodiversity Strategy targets.

5. Accidental introduction of MNNS can occur via attachment to construction plant, specialised equipment and moorings as these are moved from one area to another. A protocol or method statement to remove the risk of introducing MNNS into a particular area during the construction, operational or decommissioning phases of a project should be drawn up.

6. Guidance that may be drawn upon includes:

- The alien invasive species and the oil and gas industry guidance produced by the Oil & Gas industry (www.ogp.org.uk/pubs/436.pdf).
- SNH web-based advice on Marine non-native species (www.snh.gov.uk/land-and-sea/managing-coasts-and-sea/marine-nonnatives/)
- Marine Non-Native guidance from the GreenBlue (recreation advice) (www.thegreenblue.org.uk/clubs_and_training_centres/antifoul_and_invasive_species/best_practice_invasive_species.aspx).

7. The Firth of Clyde is currently subject to a Biosecurity plan consultation (Firth of Clyde Biosecurity) being undertaken by the Firth of Clyde Forum. It is recommended that the developers consult this plan and consider local measures that would prevent the spread of MNNS into the area.

8. The environmental review should provide information on the likely timings of the works and in combination effects with other developments/activities in the vicinity e.g. marine works associated with the new Hunterston coal fired power station.

9. The review should provide information on the area of seabed within the dredge and quay extension footprints, dredging history of the site, sediment type, presence of contamination and quantities of sediment to be removed.

10. Further consideration should be given to how the dredging will change sediment erosion and deposition patterns in the vicinity of the works and how the risk of erosion/drawdown during the operational phase will be minimised.

11. To safeguard pollution prevention and marine ecology interests it is vital that good working practice is adopted and appropriate steps taken to prevent water pollution and minimise disturbance to sensitive receptors.

12. Information on dredging techniques and mitigation measures to minimise water quality impacts should also be provided.

The applicant should refer to the appropriate sections in the following guidance:

- SEPA's Pollution Prevention Guidelines (PPGs) (www.sepa.org.uk/about_us/publications/guidance/ppgs.aspx)
- CIRIA Guidance, in particular C584 - Coastal and Marine Environmental Site Guide (www.ciria.org)

All waste materials originating from construction works should be removed and disposed of at a licensed onshore site.

Thank you for consulting with us on this matter and if you require any further assistance or information on marine licensing matters please do not hesitate to contact the Licensing Operations Team at MS.MarineLicensing@scotland.gsi.gov.uk.

Yours sincerely,

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