

**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**

Forth Ports Limited

**Approach Channel Deepening Works, Port of Leith, Outer
Berth**

September 2023

Contents

1. Introduction	2
1.1 Background	2
2. The Proposed Works	4
2.1 Introduction	4
2.2 Description of the Proposed Works	4
2.3 Onshore Planning	5
2.4 The Scottish Ministers' Comments	5
3. Contents of the EIA Report	7
3.1 Introduction	7
3.2 EIA Scope	7
3.3 Mitigation and Monitoring	7
3.4 Approach to the Supplementary EIA Report	8
4. Consultation	9
4.1 The Consultation Process	9
4.2 Responses received	9
5. Interests to be considered within the EIA Report	11
5.1 Introduction	11
5.2 Coastal Processes	11
5.3 Marine sediment and water quality	11
5.4 Ornithology	12
5.5 Benthic ecology	12
5.6 Fish and Shellfish Ecology	13
5.7 Marine mammals	13
5.8 Marine Archaeology and Cultural Heritage	13
5.9 Cumulative Impacts	14
5.10 Topics Scoped Out of the Supplementary EIA Report	14
6. Application and EIA Report	15
6.1 General	15
7. Multi-Stage Regulatory Approval	16
7.1 Background	16
Appendix 1: Chart showing proposed capital dredging area	17
Appendix 2: Consultation Responses & Advice	19
Appendix 3: Gap Analysis	20

1. Introduction

1.1 Background

- 1.1.1 On 29 June 2023, the Scottish Ministers received a scoping report from Forth Ports Limited (“the Applicant”) as part of its request for a scoping opinion relating to approach channel deepening works at the Port of Leith Outer Berth (“the Proposed Works”). An updated scoping report (“the Scoping Report”) was received on 6 July 2023. 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 The Proposed Works are to be undertaken as part of the works currently ongoing to construct the Port of Leith Outer Berth for which marine licences were granted in December 2022 (“the Licensed Works”). An Environmental Impact Assessment Report was submitted to support the applications for marine licences for the Licensed Works (“the 2022 EIA Report”).
- 1.1.3 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 for the Proposed Works (“the Supplementary EIA Report”). 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 Supplementary 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 Licensed Works involve redeveloping an existing berth on the inner edge of the eastern breakwater at the Port of Leith with associated capital dredging and sea deposit of dredged material. The construction works include removal of existing infrastructure, construction of a 125 metre berth and provision of a hardstanding area for loading and unloading vessels. The berth will be piled with a suspended concrete deck. The dredging involves 101,000 metres cubed ("m³") of material being removed and either used on site or deposited at the Narrow Deep offshore deposit site. This would create a berth pocket of -9.3 metres ("m") chart datum ("CD").

2.2.2 The purpose of the Proposed Works is to allow deeper drafted vessels, used in the construction and maintenance of infrastructure related to the offshore renewables industry, to be able to access the newly developed outer berth and to gain access to the port over a wider tidal window.

2.2.3 The Proposed Works consist of 4 main elements:

- Capital dredging of the approach channel to -8.0 m CD;
- Capital dredging of the Outer Berth dredge pocket to -12 m CD;
- Deposit of dredge material at the Narrow Deep B (FO038) sea deposit site unless the Best Practicable Environmental Option report identifies a better suitable alternative uses for the dredged material; and
- Construction of a retaining wall at the toe of the Eastern Breakwater.

2.2.4 The approach channel will be dredged by less than a metre down to -8 m CD . The Outer Berth pocket is being dredged to -9.0 m CD under the Licensed Works but it has been determined that this should be increased to a depth of -12.0 m CD and re-positioned northwards. In total the additional dredge under consideration is around 695,000 m³ and is expected to take approximately 3 months to complete. A chart showing the location of the dredge area is provided in Appendix 1.

- 2.2.5 It is anticipated that the dredge material will be deposited at the Narrow Deep B Deposit site (FO038) but a Best Practicable Environmental Option assessment will be presented prior to dredging to determine the most appropriate method and site of disposal.
- 2.2.6 As a result of the Proposed Works the Applicant predicts that the annual maintenance dredge requirement will increase from 25,000 m³ to approximately 62,000 m³.
- 2.2.7 The retaining wall, of approximately 50 m in length, shall be constructed to ensure the stability of the Eastern Breakwater following the repositioning and deepening of the outer berth dredge pocket. It is proposed that this will be constructed between the dredge pocket and the toe of the breakwater. It is considered likely that it will be constructed using land-based plant working from the Outer Berth and will involve the use of either vibration or impact piling. To get access for the crane, there may be a requirement to construct a small working area through infilling the area behind where the retaining wall will be situated. The size of the area needed will depend on the size of the crane to be used. The working area would either be removed following completion of piling or suitably protected with rock armour and left in-situ. Decisions made on the use of infill and whether this is to be left in situ must be detailed in the Supplementary EIA Report. Construction is expected to take around 4 weeks and may be carried out concurrently with the approach channel dredging work.

2.3 Onshore Planning

- 2.3.1 The Licensed Works were carried out under permitted development and therefore did not require planning permission. The Proposed Works do not alter the terrestrial elements and therefore there is no change to the planning requirements.

2.4 The Scottish Ministers' Comments

Description of the Proposed Works

- 2.4.1 The Scottish Ministers highlight that although the activities identified by the Applicant as requiring a marine licence are the construction of the piled wall at the toe of the breakwater and the deposit of the dredge material, the capital dredging itself will also require a marine licence and must be fully assessed in the Supplementary EIA Report.
- 2.4.2 There is little detail provided in the Scoping Report as to the method of construction for the piled wall. Greater detail of this work and materials to be used, including the proposed infill discussed in paragraph 2.2.7, should be

provided in the Supplementary EIA Report as well as information regarding possible impacts of this process.

- 2.4.3 The Applicant mentions only the intention to deposit dredged material at the Narrow Deep B deposit site. However, this may not be the most appropriate method of disposal of this significantly larger volume of material than was agreed under the Licensed Works. Furthermore, following chemical analysis of the sediment to be dredged to measure the concentration of contaminants that may be present, the material may not be suitable for this method of disposal. The Applicant must provide a full assessment of the beneficial use options for the dredged material in line with the waste hierarchy as part of the EIA Report and the BPEO, alongside the results from the sediment analysis. If deposit of dredged material at sea is proposed, a full justification for this must be provided. The impacts from the selected use of the dredged material must be detailed in the application.

Alternatives

- 2.4.4 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'.
- 2.4.5 The Scottish Ministers acknowledge that alternatives were considered to the Port of Leith outer berth development as a whole in the 2022 EIA Report. However, for the avoidance of doubt, the Scottish Ministers advise that the Supplementary 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 Supplementary 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 options, 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 Supplementary 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 Supplementary 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 Supplementary EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The Supplementary 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 Supplementary 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 Supplementary 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 Supplementary EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the Supplementary EIA Report and accounts for the representations and advice attached in Appendix 2.
- 3.3.4 Where potential impacts 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 Supplementary 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 Approach to the Supplementary EIA Report

3.4.1 The Scottish Ministers acknowledge that a number of the impacts from the Proposed Works have already been assessed in the 2022 EIA Report for the Licensed Works and where relevant, mitigation measures have been identified. On this basis, the Applicant has proposed that these topics are scoped out of the Supplementary EIA Report. The Scottish Ministers advise that where modelling and assessments from the 2022 EIA Report are relevant to the Proposed Works, a summary of this information should be provided in the Supplementary EIA Report with specific reference to the 2022 EIA Report for full details. All relevant mitigation measures for the Proposed Works must be fully detailed in the Supplementary EIA Report.

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 14 July 2023. 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:

- **NatureScot, operating name of Scottish Natural Heritage**
- **Scottish Environment Protection Agency**
- *Edinburgh City Council*
- **Historic Environment Scotland (“HES”)**
- **Maritime and Coastguard Agency**
- ***Northern Lighthouse Board***
- Leith Harbour and Newhaven Community Council
- UK Chamber of Shipping
- Crown Estate Scotland
- ***Ministry of Defence***
- Fisheries Management Scotland
- Forth DSFB
- Forth Rivers Trust
- Fishery Office Eyemouth
- ***North and East Coast Inshore Fisheries Group***
- Marine Safety Forum
- Marine Policy and Planning
- National Trust for Scotland
- **Royal Yachting Association**
- Royal Society for the Protection of Birds
- Scottish Creel Fishermen’s Federation
- ***Scottish Fishermen’s Federation***
- Scottish Fishermen’s Organisation
- **Scottish Water**
- Scottish White Fish Producers Association
- Scottish Wildlife Trust
- Transport Scotland
- Visit Scotland
- Whale And Dolphin Conservation
- Scottish Southern Electricity Networks – Transmission

4.1.2 Specific advice was sought from Marine Directorate Science, Evidence, Data and Digital (“MD-SEDD”), formerly known as ‘Marine Scotland Science’ until 26 July 2023, the Marine Directorate – Marine Analytical Unit (“MAU”) and Transport Scotland (“TS”).

4.2 Responses received

- 4.2.1 From the list above a total of 11 responses were received. Advice was also provided by MD-SEDD and MAU. 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 Supplementary 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 Supplementary EIA Report and any marine licence applications. The representations and advice received are attached in Appendix 2 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 to be scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from MAU and MD-SEDD 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 Coastal Processes

5.2.1 The Applicant has considered potential impacts on coastal processes in section 4.3 of the Scoping Report. Specifically, this includes consideration of potential effects on bathymetry, waves and tidal currents and sediment transport. Sediment transportation has been scoped in for further assessment in the Supplementary EIA Report due to potential short term increases in suspended sediment concentrations during dredging activity of the approach channel and berth pocket and potential changes in seabed level. Bathymetry has been scoped out as hydrodynamic modelling indicates that no further assessment is required. The increased maintenance dredging requirement during the operational phase is also considered however the Applicant concludes that no further assessment of this on coastal processes is required. Waves and tidal currents have been scoped out as the Applicant has assessed that the risk of adverse effects on the seabed and the coast is low.

5.2.2 The Scottish Ministers agree with the content and approach to the assessment of coastal processes proposed in the Scoping Report and advise that this must be included in the Supplementary EIA Report. This is supported by the MD-SEDD advice.

5.3 Marine sediment and water quality

5.3.1 The Applicant discusses marine sediment and water quality in section 4.4 of the Scoping Report. The Applicant proposes that the potential impact of contaminant release due to sediment disturbance during dredging and deposit activities is scoped into the EIA. In order to assess this potential impact, the Applicant proposes to conduct a sediment sampling campaign prior to commencing dredging. The Scottish Ministers advice that the results of this sampling must be presented within the Supplementary EIA Report along with an assessment of any predicted impacts.

- 5.3.2 The Scottish Ministers are in agreement with the Applicant that the topic of marine sediment and water quality in relation to potential release of contaminants is scoped in to the EIA for the Proposed Works

5.4 Ornithology

- 5.4.1 The Applicant proposes, in the consideration of potential ornithological impacts in section 4.5 of the Scoping Report, that further surveys are not required and the existing data may be used in the current setting. Potential impacts proposed to be scoped in for further assessment are visual disturbance to birds caused by the increase in vessel activity at the deposit site and changes in water quality and prey availability as a result of the sediment plume arising from dredging.
- 5.4.2 The Scottish Ministers note the previous concerns that were raised by NatureScot in relation to the impact of the Licensed Works, in particular the use of the Narrow Deep deposit site, on the conservation objectives of the Outer Firth of Forth and St Andrews Bay Complex Special Protection Area. The Scottish Ministers advise that consideration is given to this in relation to the Proposed Works and that this should be included within the Supplementary EIA Report.
- 5.4.3 Noise generated by piling works for the construction of the retaining wall are proposed to be scoped out as they will be of lower magnitude than previously assessed in the 2022 EIA Report and therefore will not cause any greater disturbance. Disturbance to waterbirds by dredging activity has also been scoped out because it will be within an already busy shipping area and so it is judged that the disturbance caused by increased activity will not have an impact on the birds in the area.
- 5.4.4 The Scottish Ministers are in agreement with the elements proposed by the Applicant to be scoped in for and out from further assessment in the Supplementary EIA report and that further surveys are not required.

5.5 Benthic ecology

- 5.5.1 The Applicant has considered the potential impacts on benthic ecology in section 4.6 of the Scoping Report. Direct loss of benthic habitat/communities within the proposed dredge footprint, the release of contaminants during dredging and deposit and smothering of benthic communities as a result of the deposition of suspended sediment during dredging and deposit have been scoped in for further assessment in the Supplementary EIA Report. Potential impacts during the operational phase of the Proposed Works have been scoped out from further assessment by the Applicant.

- 5.5.2 The Scottish Ministers agree with the content and approach to the assessment of benthic ecology proposed in the Scoping Report and advise that this must be included in the Supplementary EIA Report.

5.6 Fish and Shellfish Ecology

- 5.6.1 The Applicant has considered the potential impacts on fish and shellfish ecology in section 4.7 of the Scoping Report. Underwater noise during dredging activity, the potential for increased suspended sediment concentration during dredging and deposit and release of contaminants during dredging and deposit have been scoped in for further assessment in the Supplementary EIA Report. As the 2022 EIA Report assessed the potential effects on changes to habitat availability on fish and shellfish species as negligible no further assessment is deemed to be required. In addition, piling noise from the construction of the proposed retaining wall is predicted to be of a lower magnitude than previously assessed in the 2022 EIA Report and therefore the Scoping Report concludes that no further assessment is required.
- 5.6.2 The Scottish Ministers agree with the content and approach to the assessment of fish and shellfish ecology proposed in the Scoping Report and advise that this must be included in the Supplementary EIA Report.

5.7 Marine mammals

- 5.7.1 The Applicant has considered potential impacts on marine mammals in section 4.8 of the Scoping Report. The potential for auditory injury and/or behavioural impacts from underwater noise during dredging works has been scoped in for further assessment in the Supplementary EIA Report. In addition, changes in water quality and prey availability as a result of sediment plume from dredging is scoped in for further assessment. Considering the previous assessment and mitigation measures detailed in the 2022 EIA Report and noting that the piling for the Proposed Works will be temporary and of short duration, no further assessment of the potential impacts from piling on marine mammals is proposed.
- 5.7.2 The Scottish Ministers agree with the content and approach to the assessment of marine mammals proposed in the Scoping Report and advise that this must be included in the Supplementary EIA Report. The Scottish Ministers highlight that any mitigation measures that are relevant to the Proposed Works must be included in the Supplementary EIA Report.

5.8 Marine Archaeology and Cultural Heritage

- 5.8.1 The Scoping Report identifies that the Proposed Works may have an impact on marine archaeology and cultural heritage due to greater extent of the dredge

activities. The assessment of the potential impacts can be found in section 4.9 of the Scoping Report. It concludes that marine archaeology and cultural heritage can be scoped out of further assessment in the Supplementary EIA Report but that a geoarchaeological method statement and Protocol for Archaeological Discoveries (“PAD”) will be produced.

5.8.2 In its representation, HES stated that it was content that the Proposed Works will not result in significant impacts on its interests and therefore marine archaeology and cultural interests could be scoped out of the Supplementary EIA Report. HES welcomed the proposed consultation with it regarding the geotechnical method statement and PAD should archaeological remains be identified during the dredging process.

5.8.3 The Scottish Ministers are in agreement with the Applicant and HES that this topic is scoped out of further assessment in the Supplementary EIA Report for the Proposed Works but that a geoarchaeological method statement and PAD should be submitted alongside the EIA.

5.9 Cumulative Impacts

5.9.1 In section 5 of the Scoping Report the Applicant details their approach to the consideration of potential cumulative impacts. The Scottish Ministers agree with the proposed approach and the list of projects to be included.

5.10 Topics Scoped Out of the Supplementary EIA Report

5.10.1 The Applicant proposed that a number of topics were scoped out of the Supplementary EIA Report on the basis that either there is no pathway for effect from the Proposed Works or that any impacts can be controlled by standard mitigation measures already in place for the Licensed Works. A list of these topics can be found in section 4.2 of the Scoping Report. No representations or advice was received to disagree with the conclusion of the Scoping Report. However, the Scottish Ministers direct that where relevant mitigation was identified in the 2022 EIA Report, this should be included in the Supplementary EIA Report.

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 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 3 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.

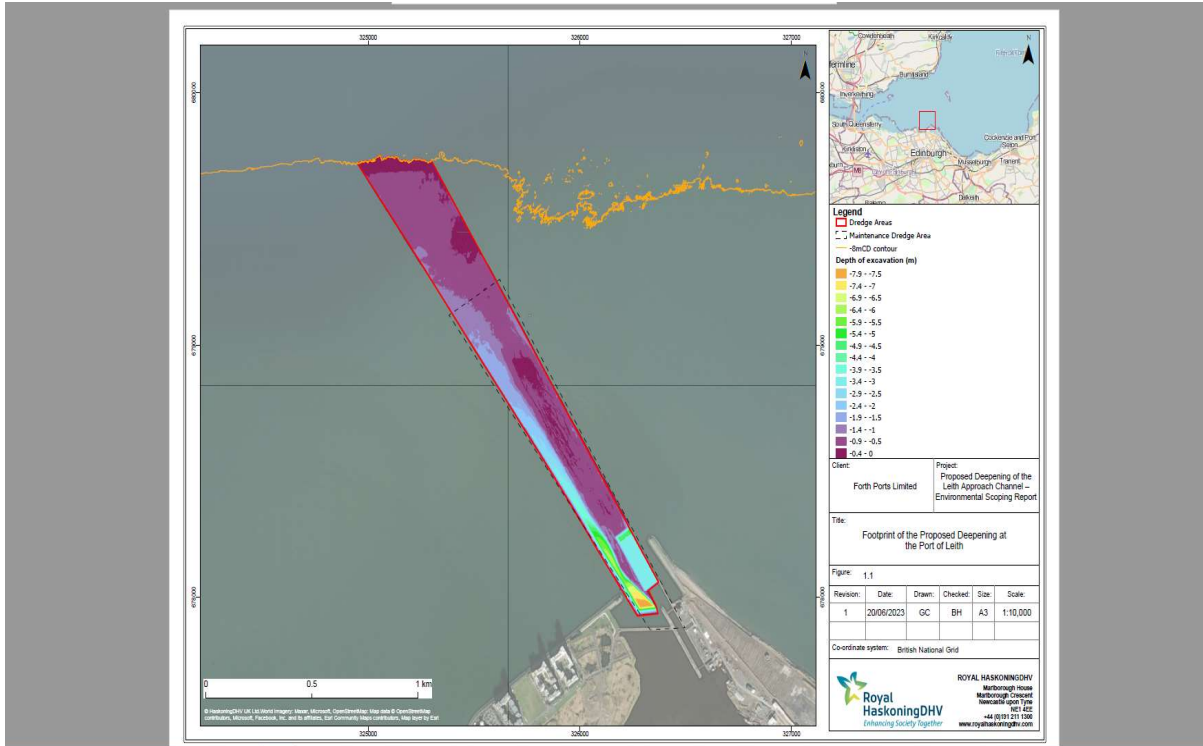
Signed

Anni Mäkelä
Marine Licensing Group Leader
29 September 2023

Authorised by the Scottish Ministers to sign in that behalf.

Appendix 1: Chart showing proposed capital dredging area

Marine Directorate - Licensing Operations Team: Scoping Opinion for Approach Channel Deepening Works, Port of Leith Outer Berth - September 2023



Appendix 2: Consultation Responses & Advice

Edinburgh City Council

From: Keith Miller [REDACTED]
Sent: 08 August 2023 08:37
To: MS Marine Licensing; Judith Horrill
Subject: FW: SCOP-0027- Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction - Port of Leith, Outer Berth- Consultation on Request for Scoping Opinion – Response Required by 13 August 2023

Good morning Judith,
Thank you for consulting the Council with regard to the scoping report associated with the above proposal. The Council has considered the report, and supports the proposed approach. It has no other comments or suggestions.
Kind regards
Keith Miller

Keith Miller | Senior Planning Officer | Development Planning | Planning & Building Standards | Sustainable Devt | Place Directorate | The City of Edinburgh Council | Waverley Court, Level G3, 4 East Market Street, Edinburgh, EH8 8BG | [REDACTED] | www.edinburgh.gov.uk

You can access our services at www.edinburgh.gov.uk/planning-building and follow the [Planning Edinburgh](http://www.edinburgh.gov.uk/planning-building) blog for updates on our service.



Marine Coastguard Agency

From: navigation safety <navigationsafety@mcga.gov.uk>
Sent: 15 August 2023 14:23
To: MS Marine Licensing
Subject: RE: SCOP-0027- Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction - Port of Leith, Outer Berth- Consultation on Request for Scoping Opinion – Response Required by 13 August 2023

Objective: -1

Dear Judith

SCOPING OPINION FOR THE PROPOSED Additional dredge and construction - Port of Leith, Outer Berth.

Thank you for your email dated 14 July 2023 in which you invited our views on the Scoping Report for the additional dredge and construction at the Port of Leith outer berth. Apologies for our delay in replying due to staff overlap on annual leave. The scoping report has been examined by staff from Technical Services Navigation Branch and we would like to comment as follows:

It is our understanding is that the Scoping Report addresses the following proposed works under the project:

- the deepening of the approach channel to -8.0m CD;
- the deepening of the Outer Berth berth pocket to -12.0m CD;
- the disposal of dredge material at a suitable location; and
- the installation of a retaining wall at the toe of the Eastern Breakwater.

We note that the works are taking place within a Statutory Harbour Authority - the Port of Leith and therefore they are responsible for the safety of shipping and navigation during the construction work and during the operational phase of the berth. The MCA would expect to see the works carried out in accordance with the Port Marine Safety Code and its' Guide to Good practice. The port's Marine Safety Management System should be updated to incorporate the additional works.

We would expect that UKHO be informed about any changes to the seabed in order to update their charts and we recommend this is in accordance with the [Harbour Master's Guide to Hydrographic and Maritime Information Exchange](#).

We note that the impact on shipping and navigation has been scoped out of this report, on the basis that *“the Proposed Scheme only differs from the Outer Berth development by way of the increased dredge footprint / volume and the (limited) additional piling associated with installation of the retaining wall. Therefore there is no pathway for effect with the Proposed Scheme; and / or ii) any impacts could be controlled by standard measures already implemented for the Outer Berth development”*.

The MCA would expect any works below the MHWL to be subject to appropriate marine licensing conditions under the Marine Scotland Act 2010 and / or Marine and Coastal Access Act 2009. This should include consideration of the impact of works on other marine users. We are likely to be content that any navigational safety concerns can be addressed by suitably worded conditions in any consent at the formal application stage on this occasion.

Kind regards
Navigation Safety Branch

Helen Duncan

Marine Licensing Project Lead
Marine Licensing and Consenting
UK Technical Services Navigation  navigationsafety@mcga.gov.uk



Maritime &
Coastguard
Agency

Maritime & Coastguard Agency
Spring Place, 105 Commercial Road,
Southampton, SO15 1EG

Safer Lives, Safer Ships, Cleaner Seas
www.gov.uk/mca





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-0027
Our Ref: GB/ML/F1_01_230

Judith Horrill
Marine Licensing Casework Officer
Licensing Operations Team - Marine Directorate
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

20 July 2023

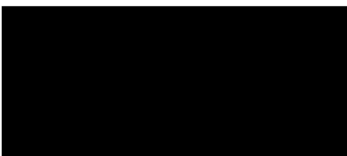
THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 ("THE MW EIA REGULATIONS") - CONSULTATION UNDER PART 4, REGULATION 14(4) OF THE MW EIA REGULATIONS

SCOP-0027- Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction - Port of Leith, Outer Berth

Thank you for your e-mail correspondence dated 14th July 2023 relating to the EIA Scoping opinion submitted by Forth Ports Ltd (per Royal Haskoning DHV) for their proposals for additional dredge and construction at Port of Leith, Outer Berth.

Northern Lighthouse Board are content with the proposed EIA study and will respond in full to the Marine Licence application or variation.

Yours sincerely



Peter Douglas
Navigation Manager

NLB respects your privacy and is committed to protecting your personal data.
To find out more, please see our Privacy Notice at www.nlb.org.uk/legal-notice/

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

14 August 2023

Our ref: CEA171787/A4165451

Dear Judith

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-0027- FORTH PORTS LTD (PER ROYAL HASKONING DHV) - ADDITIONAL DREDGE AND
CONSTRUCTION - PORT OF LEITH, OUTER BERTH

Thank you for your EIA scoping consultation of 14 July 2023 regarding additional dredge and
construction in relation to the Outer Berth development at the Port of Leith.

As we understand, this consists of deepening the approach channel and outer berth pocket,
disposal of the dredged material, and construction of a retaining wall at the end of the Eastern
Breakwater.

Advice

The scoping report is comprehensive and clear with regards the topics and potential issues to be
scoped in or scoped out, and with what further assessments are to be carried out. Having
reviewed the information we are content with the topics scoped into the EIA and the approach to
assessments, which largely follow those carried out for the Outer Berth project EIA.

It's noted that some of the topics scoped out of the EIA are because modelling or assessments
have already been completed and potential impacts concluded as non-significant, or because
assessments undertaken/mitigation applied in the original EIA are still relevant. It will be useful to
summarise or refer to this information within the EIA document also, to keep all the information
together for ease of reference.

We note that the HRA will be updated alongside the EIA and the results replicated within the EIA and we are content with this.

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

Yours sincerely,

Carolyn Clark

Operations Officer - South



NatureScot, Meadowbank House, 6th Floor South, 153 London Road, Edinburgh, EH8 7AU
Correspondence address: NatureScot, Battleby House, Redgorton, Perth PH1 3EW
NàdarAlba, Taigh Bruach an Àilein, 6mh Làr a Deas, 153 Rathad Lunnainn, Dùn Èideann, EH8 7AU
Seòladh puist: NàdarAlba, Taigh Battleby, Ràth a' Ghoirtein, Peairt, PH1 3EW

0131 316 2600 nature.scot

NatureScot is the operating name of Scottish Natural Heritage

Scottish Environment Protection Agency

From: Planning South <Planning.South@sepa.org.uk>
Sent: 17 July 2023 14:16
To: MS Marine Licensing
Cc: Judith Horrill
Subject: SEPA Ref: 9827 - SCOP/0027

OFFICIAL

Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 SCOP/0027

Additional dredge and construction Port of Leith, Outer Berth

Dear Judith

Thank you for the above consultation. Based on the information provided, it appears that this application falls below the thresholds for which SEPA provide site specific advice. Please refer to our standing advice and other guidance which is available on our website at www.sepa.org.uk/environment/land/planning.

Section 3 of our [Standing Advice on Marine Consultations](#) is advice for Marine Scotland. The advice provided applies to all development where applicable. The onus is on you (Marine Scotland), to assess the scope of the proposed marine works and to determine which sections are applicable.

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

I trust these comments are of assistance - please do not hesitate to contact me if you require any further information.

Kind regards,
Jonathan Werritty
Senior Planning Officer

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](#).

OFFICIAL



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

By email to:

MS.MarineLicensing@gov.scot

Marine Scotland
Marine Laboratory
375 Victoria Road
Aberdeen
AB11 9DB

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

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

Our case ID: 300051634
Your ref: SCOP-0027
10 August 2023

Dear Marine Scotland

The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017
Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction
Port of Leith, Outer Berth - Scoping Report

Thank you for your consultation which we received on 14 July 2023 about the above scoping report. 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 (HMPAs).

Proposed Development

We understand that the proposed amendment to the Outer Berth development comprises the increase of the depth and offshore extent of the approach channel to the port. Much of the proposed works lie within an area subject to periodic maintenance dredging and impacts on marine archaeology and cultural heritage were Scoped out of the Outer Berth EIA.

Scope of assessment

We are content that the proposed development would not result in significant impacts on our interests. We are therefore content for Marine Archaeology and Cultural Heritage to be scoped out of the EIA for the proposals. We welcome that HES will be consulted on the geotechnical method statement and Protocol for Archaeological Discoveries would be produced should archaeological remains be identified during the dredging process.

Further information

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes. Technical advice is available on our Technical Conservation website at <https://conservation.historic-scotland.gov.uk/>.

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

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**



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ALBA

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Sam Fox and they can be contacted by phone on 0131 668 6890 or by email on [REDACTED]

Yours faithfully

Historic Environment Scotland

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

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**

Sunday, 23 July 2023



Marine Licensing
375 Victoria Road

Aberdeen

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

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



Dear Customer,

Port of Leith - Scoping Report, Leith, EH6 6PG
Our Ref: DSCAS-0091014-NL6
Proposal: Proposed Deepening of the Leith Approach Channel

Please quote our reference in all future correspondence

Audit of Proposal

Scottish Water has no objection to this planning application; however, 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:

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.

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 contact Scottish Water at the earliest opportunity

with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- ▶ 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

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,

Angela Allison

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."

Ministry of Defence

From: DIO-Safeguarding-Offshore (MULTIUSER) <DIO-Safeguarding-Offshore@mod.gov.uk>
Sent: 21 August 2023 14:55
To: MS Marine Licensing
Subject: 20230821 SCOP-0027 Port of Leith Approach Channel Deepening, Forth Ports Ltd (Royal Haskoning DHV) DIO10059336

Objective: -1

Good afternoon Judith

Thank you for your email below with regards to the intention to undertake additional dredge and construction works at the Port of Leith, Outer Berth.

Following a review of your notification, I can confirm that the MOD Safeguarding have no objections to this activity however, we request that the Developer notifies our team at DIO-Safeguarding-Offshore@mod.gov.uk once all work is complete.

Kind regards

[REDACTED]

Anne McGarva | Assistant Safeguarding Officer
Defence Infrastructure Organisation
Estates | Safeguarding
DIO Head Office | St George's House | DMS Whittington | Lichfield | Staffordshire | WS14 9PY
Skype: +44 (0)3001623630 | [REDACTED] | [REDACTED]



 Please consider the environment before printing this e-mail

North and East Coast Regional Inshore Fisheries Group

From: Jennifer Mouat [REDACTED]
Sent: 11 August 2023 16:49
To: MS Marine Licensing
Subject: Re: SCOP-0027- Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction - Port of Leith, Outer Berth- Consultation on Request for Scoping Opinion – Response Required by 13 August 2023

Good afternoon

The NECRIFG have no comments to make on this application.

Kindest

Jennifer

Sent from my iPhone

On 11 Aug 2023, at 13:12, MS.MarineLicensing@gov.scot wrote:

Scottish Fishermen's Federation

From: Elspeth Macdonald [REDACTED]
Sent: 15 August 2023 18:30
To: MS Marine Licensing; Judith Horrill
Subject: FW: SCOP-0027- Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction - Port of Leith, Outer Berth- Consultation on Request for Scoping Opinion - Response Required by 13 August 2023

Objective: -1

Dear Judith

With apologies for the late response, SFF submits a nil response on this occasion.

Kind regards

Elspeth

Elspeth Macdonald
Chief Executive

Scottish Fishermen's Federation

24 Rubislaw Terrace | Aberdeen | AB10 1XE

T: +44 (0) 1224 646944 | M: [REDACTED]

E: [REDACTED] | sff.co.uk

Follow us: [Facebook](#) | [Twitter](#)



Registered Address | Scottish Fishermen's Federation (SFF) | 24 Rubislaw Terrace | Aberdeen | AB10 1XE

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Royal Yachting Association

From: Pauline McGrow [REDACTED]
Sent: 08 August 2023 09:57
To: MS Marine Licensing
Subject: RE: SCOP-0027- Forth Ports Ltd (per Royal Haskoning DHV) - Additional dredge and construction - Port of Leith, Outer Berth- Consultation on Request for Scoping Opinion – Response Required by 13 August 2023

Hi Judith,

I write to inform you that RYA Scotland agrees that tourism and recreation should be scoped out of the EIA.

Kind Regards

Pauline

Pauline McGrow
Senior Administrator
Mob: [REDACTED]

Royal Yachting Association Scotland
T: 0131 317 7388
E: [REDACTED]





Scottish Government
Riaghaltas na h-Alba
gov.scot

T: +44 (0)131 244 2500

E: MSS_Advice@gov.scot

Judith Horrill

Marine Directorate Licensing Operations Team

Marine Laboratory

375 Victoria Road

Aberdeen

AB11 9DB

15 August 2023

LEITH APPROACH CHANEL DEEPENING – SCOPING REPORT

Marine Directorate advisers have reviewed the request from MD-LOT and provide the following advice.

Commercial fisheries

MD-SEDD are content that commercial fisheries can be scoped out of the EIA.

Physical environment / coastal processes

MD-SEDD are content that some components of coastal processes will be scoped into the EIA (as described in section 4.3.2) and others will be scoped out (as described in section 4.3.3). MD-SEDD agree with the proposed approach of the assessment (as described in section 4.3.4).

Yours sincerely,

Marine Laboratory, 375 Victoria Road,
Aberdeen AB11 9DB
www.gov.scot/marinescotland



INVESTORS
IN PEOPLE



Science, Evidence, Data and Digital (SEDD) advisers

Marine Directorate

Marine Analytical Unit

From: Inga Freimane
Sent: 11 August 2023 14:03
To: Judith Horrill
Cc: Amy McQueen; Kathleen Allen; Kay Barclay; William Ellison; Reme Diaz
Subject: RE: Request for MAU advice on scoping

Dear Judith,

Apologies for not replying earlier.

The report suggests to scope out socio-economics. The MAU agrees with this assessment.

Kind regards,
Inga

Appendix 3: Gap Analysis

Applicant to complete:

Consultee	No.	Point for Inclusion	EIA Report Section	Justification
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