

**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**

**Clydeport Operations Limited**

**Hunterston Construction Yard**

**February 2024**

## Contents

<b>1. Introduction</b> .....	<b>3</b>
1.1 Background .....	3
<b>2. The Proposed Development</b> .....	<b>4</b>
2.1 Introduction .....	4
2.2 Description of the Proposed Development.....	4
2.3 Onshore Planning .....	5
2.4 The Scottish Ministers' Comments .....	6
<b>3. Contents of the EIA Report</b> .....	<b>9</b>
3.1 Introduction .....	9
3.2 EIA Scope .....	9
3.3 Mitigation and Monitoring .....	9
<b>4. Consultation</b> .....	<b>10</b>
4.1 The Consultation Process .....	10
4.2 Responses received .....	11
<b>5. Interests to be considered within the EIA Report</b> .....	<b>12</b>
5.1 Introduction .....	12
5.2 Accidents and Natural Disasters .....	12
5.3 Accidents and Natural Disasters .....	13
5.4 Archaeology and Cultural Heritage .....	13
5.5 Biodiversity.....	13
5.6 Designated sites.....	13
5.7 Marine & Freshwater Aquatic Habitats.....	15
5.8 Ornithology.....	17
5.9 Carbon, Climate Change & Greenhouse Gases .....	18
5.10 Seascape, Landscape and Visual .....	18
5.11 Socio-Economic .....	19
5.12 Terrestrial Noise.....	19
5.13 Traffic, Shipping and Navigation .....	19
5.14 Water Environment and Coastal Processes .....	20
5.15 Population and Human Health .....	21
5.16 Material Assets and Waste.....	22
<b>6. Application and EIA Report</b> .....	<b>23</b>
6.1 General.....	23
<b>7. Multi-Stage Consent and Regulatory Approval</b> .....	<b>24</b>
7.1 Background .....	24

<b>Appendix I: Consultation Responses &amp; Advice.....</b>	<b>25</b>
<b>Appendix II: Gap Analysis .....</b>	<b>26</b>

## 1. Introduction

### 1.1 Background

- 1.1.1 On 06 October 2023, the Scottish Ministers received a scoping report (“the Scoping Report”) from Clydeport Operations Limited (“the Applicant”) as part of its request for a scoping opinion relating to Hunterston Construction Yard (“the Proposed Works”). The Scottish Ministers considered the content of the Scoping Report as sufficient and in accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“2017 MW Regulations”).
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the EIA Regulations (“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.
- 1.1.3 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.
- 1.1.4 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”).
- 1.1.5 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 Development**

### **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 Development**

2.2.1 The Hunterston Construction Yard ("HCY") is located in the River Clyde estuary, approximately 1.9 kilometres ("km") from the village of Fairlie in the northeast. The island of Great Cumbrae is approximately 1.4km to the northwest and the Hunterston Power Station lies approximately 1km to the south. The Proposed Works site has one of the deepest sea entrances on the Firth of Clyde and can accommodate large capacity vessels.

2.2.2 The HCY is being developed, with a view to providing a facility, to support the offshore wind industry, which may include the assembly of components utilised in the construction of offshore wind farms including gravity base structures, jacket construction, turbine assembly and associated activities including storage of components.

2.2.3 The Proposed Works will involve the redevelopment of the existing quay and dry dock structures and associated capital dredging. The proposal comprises of the construction of a new quay and associated quayside infrastructure to berth vessels.

2.2.4 Options for the new quay include: -

- a) construction on a 450 metre ("m") quay wall on the northwest edge of the site with an additional 150m quay wall to the east or;
- b) construction of a 450m quay wall on the site western edge with a 150m quay wall to the southwest or;
- c) creation of a 250m quay wall on the western edge of the site.

2.2.5 Formation of new quay walls will likely involve driving tubular piles into the existing seabed which may require securing to the rock substructure using rock sockets, affixing sheet piles between the tubular piles, secured to existing quay structure and a reinforced concrete capping beam to encompass the existing quay structure.

- 2.2.6 The Proposed Works also include the capital dredging of the quay approaches with the dredged material potentially being repurposed, to infill the existing dry dock, this is dependent on quantity and quality of dredged material.
- 2.2.7 Options for the capital dredge include:-
- a) dredged area based upon an overall width of 250m, of constructed harbour wall. Dredged area will extend northwest from the constructed harbour wall, extending out to the -12m level contour. The area is approximately 90,539 square metres ("m<sup>2</sup>").
  - b) dredged area based upon an overall width of 450m of constructed harbour wall. Dredged area will extend northwest from the constructed harbour wall, extending out to the -12m level contour. The area is approximately 265,420m<sup>2</sup>.
- 2.2.8 As part of the Proposed Works, the Applicant intends to redevelop the existing dry dock. It is anticipated that this will involve the removal of the concrete base from the dry dock and infilling with dredge materials in addition to reinforcement of the dock using tubular piles driven vertically into the existing strata. The tubular piles may require affixing to the existing rockhead utilising rock sockets, these may consist of poured concrete. To provide stability and reinforcement to the structure; sheet piles will be installed vertically between the previously installed steel piles and using anchor piles and horizontal, or inclined tie rods. The quay wall will be capped using concrete reinforced beams and tying it into the existing quay wall.
- 2.2.9 Approximately 1.4 million cubic metres ("m<sup>3</sup>") of fill material is required for the dry dock infill. If the dredge of the quay area does not yield sufficient quantities of material, additional dredged material could be utilised from other routine maintenance dredge activities within the River Clyde. It is anticipated that materials would be transported to site via barge.
- 2.2.10 The Applicant has indicated that the Proposed Works will take up to 2 years to complete with the aspects below Mean High Water Springs ("MHWS") and dry dock infill estimated to take up to 1 year to complete.

## **2.3 Onshore Planning**

- 2.3.1 The Scottish Ministers are aware the Applicant has sought a separate scoping opinion from North Ayrshire Council for the associated onshore construction 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. The EIA Report for the Proposed Works must consider the cumulative impacts with the onshore works.

- 2.3.2 The Scottish Ministers advise that the EIA Report must explicitly detail the licensable marine activities to be carried out below MHWS as part of the Proposed Works and identify which activities overlaps with North Ayrshire Council's remit.

## **2.4 The Scottish Ministers' Comments**

### *Description of the Proposed Works*

- 2.4.1 There is a lack of detail provided in respect of the design of the Proposed Works and the methodology. The Applicant has not included details or estimations for the commencement nor the timings of the Proposed Works. The Applicant has included multiple estimations of the quantities of materials to be used in the dredging activities however, quantities or estimation of quantities of materials to be used in the construction have not been included. If any of these are unknown at the time of application, maximum estimates should be provided. The Scottish Minister's advice can only be based on the information provided. In particular the lack of detail provided is reflected in the limited scoping advice the Scottish Ministers have been able to provide in respect of biodiversity.
- 2.4.2 The methodology for the dry dock works is not clear to the Scottish Ministers. As such the Scottish Ministers cannot determine if the dry dock works will require a marine licence or if they will be within North Ayrshire Council's jurisdiction. The Applicant should engage further with the North Ayrshire Council and MD-LOT to identify what permissions are required for the dry dock work.
- 2.4.3 The Scottish Ministers note that the Applicant proposes to dredge between approximately 90,539m<sup>2</sup> and 265,420m<sup>2</sup> of material as part of the Proposed Works, with the material to be considered for use as infill within the Proposed Works. The Applicant must consider the worst-case scenario should the dredge material be considered unsuitable for use whereby all of the dredged material requires to be deposited at sea, subject to no contamination issues being found, and all infill material requires to be sourced from alternative locations and transported to site. If any 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 and the Applicant must set out the best practicable environmental option for the dredge material which must clearly detail all options that have been considered.
- 2.4.4 The Scottish Ministers note that the potential impact of contaminant release due to sediment disturbance during dredging and deposit activities must be assessed by the Applicant and sediment sampling must be undertaken prior to dredging, given the location of the Proposed Works and the proximity to the now decommissioned Hunterston Power Station. The Scottish Ministers advise that

the results of this sampling should be incorporated within the EIA Report and that the impacts of material assets and waste be scoped into the EIA Report.

- 2.4.5 The Scottish Ministers note the Applicant's intention to focus the EIA Report on only the construction phase of the Proposed Works. Responses received from NatureScot, Maritime and Coastguard Agency, Royal Yachting Association Scotland and Transport Scotland, as provided in Appendix I of this Scoping Opinion, advise that the post-construction and operational phases of the Proposed Works must also be included in assessments. The impacts from the post-construction and operational phases must be detailed in EIA Report and licence applications. The Scottish Ministers advice can only be based on the information provided.

### *Design Envelope*

- 2.4.6 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 must apply a worst-case scenario, as set out in Section 2 of the Scoping Report.
- 2.4.7 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.
- 2.4.8 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 consent and 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.
- 2.4.9 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*

- 2.4.10 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 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.
- 2.4.11 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(s), 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.

## 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 22 November 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**
- **Scottish Environment Protection Agency**
- **North Ayrshire Council**
- **Maritime and Coastguard Agency (“MCA”)**
- **Northern Lighthouse Board (“NLB”)**
- **Historic Environment Scotland (“HES”)**
- **Royal Society for the Protection of Birds Scotland (“RSPB Scotland”)**
- *Peel Ports*
- Clyde Marine Planning Partnership
- Fairlie Community Council
- Cumbrae Community Council
- West Kilbride Community Council
- UK Chamber of Shipping
- Crown Estate Scotland
- *Defence Infrastructure Organisation*
- Ayrshire Rivers Trust
- Fisheries Management Scotland
- Fishery Office, Ayr
- Health and Safety Executive
- South West Coast Regional Inshore Fisheries Group
- Marine Safety Forum
- National Trust for Scotland
- **Office for Nuclear Regulation (“ONR”)**
- Ports and Harbours
- **Royal Yachting Association (“RYA”)**
- *Scottish Fishermens Federation*
- Scottish Fishermens Organisation
- Scottish Water
- Scottish Whitefish Producers Organisation
- Scottish Wildlife Trust
- Visit Scotland
- Whale and Dolphin Conservation

- Scottish and Southern Electricity Networks
- Friends of the Firth of Clyde

4.1.2 Specific advice was sought from Marine Directorate – Science, Evidence, Data and Digital (“MD-SEDD”), 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 nine responses were received. Advice was also provided by MD-SEDD, MAU and 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 EIA 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 MAU, MD-SEDD and 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 Accidents and Natural Disasters**

5.2.1 The Applicant has considered accidents and natural disasters within Section 3 of the Scoping Report with consideration of potential impact on accidents and natural disasters in Section 3.3. The Applicant proposes that accidents and natural disasters are scoped out.

5.2.2 The Scottish Ministers acknowledge the Applicant's consideration of the Institute of Environmental Management and Assessment ("IEMA") 'Major Accidents and Disasters in EIA: A Primer' to assess whether or not to scope in accidents and natural disasters. However, the Scottish Ministers do not consider that the Applicant has provided sufficient evidence to justify scoping out the risk of accidents and natural disasters. Additionally the Scottish Ministers note that the Applicant has only provided consideration of the construction phase. Consequently, accidents and natural disasters must be scoped in for further assessment in the EIA Report for construction and operational phases.

5.2.3 In doing so, the Applicant must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Works to major accidents and disasters within the EIA Report. The Applicant should make use of appropriate guidance, including the IEMA 'Major Accidents and Disasters in EIA: A Primer', as referenced in the Scoping Report, to better understand the likelihood of an occurrence and the Proposed Works' vulnerability to or ability to cause a potential accident or disaster.

5.2.4 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.

5.2.5 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.

### **5.3 Air Quality**

5.3.1 The Applicant considers air quality in Section 4 of the Scoping Report with consideration of potential impact on air quality in Section 4.3. The Applicant proposes that air quality can be scoped out.

5.3.2 The Scottish Ministers agree that the assessment of air quality can be scoped out of the EIA Report for all phases. The Scottish Ministers are satisfied with the Applicant's proposal to develop of a site specific Construction Dust Management Plan.

### **5.4 Archaeology and Cultural Heritage**

5.4.1 The Applicant considers the potential impact of the Proposed Works on archaeology and cultural heritage in Section 5 of the Scoping Report, with due consideration of the impacts during the construction phase in Section 5.2.2. The Applicant has detailed potentially significant effects in Section 5.3 and proposes archaeology and cultural heritage is scoped out.

5.4.2 The Scottish Ministers are satisfied with the proposal to scope out archaeology and cultural heritage and are in agreement with the advice from HES that this topic can be scoped out of further assessment in the EIA Report.

### **5.5 Biodiversity**

5.5.1 The Applicant considers the potential impact of the Proposed Works on biodiversity in Section 6 of the Scoping Report. Specifically, this includes consideration of potential effects on designated sites, marine & freshwater aquatic habitats and ornithology.

5.5.2 The Scottish Ministers will consider these marine ecology receptors individually within this Scoping Opinion in Sections 5.5 through to 5.7. Further, the Scottish Ministers will consider marine species, benthic habitats and species, priority marine features and marine invasive non native species individually within the wider consideration of marine and freshwater aquatic habitats.

### **5.6 Designated sites**

5.6.1 The Applicant considers the potential impacts of the Proposed Works on designated sites in Section 6.2.1 of the Scoping Report.

5.6.2 The Scottish Ministers direct the Applicant to representation from NatureScot and its detailed response highlighting the potential project specific and cumulative

impact of the Proposed Works on the Southannan Sands Sites of Special Scientific Interest (“SSSI”) and advise that this advice must be fully considered and addressed within the EIA Report.

- 5.6.3 In particular, the Scottish Ministers direct the Applicant to points 1.8-1.10 of NatureScots representation and note that the dredging operations could lead to indirect impacts on the Southannan Sands SSSI. The Scottish Ministers advise that the EIA Report must assess the impact of the Proposed Works on the Southannan Sands SSSI objective of designation and the overall integrity of the SSSI.
- 5.6.4 The Scottish Ministers direct the Applicant to Section 5.7.4 of this Scoping Opinion and the requirement of the Applicant to undertake benthic assessments and surveys. The Scottish Ministers advise that, in line with representation from NatureScot, the assessments and surveys must consider the impacts on the Southannan Sands SSSI and must include the extent of the impacts and the longevity of the effects.
- 5.6.5 The Scottish Ministers direct the Applicant to Section 5.14 of this Scoping Opinion and the requirement of the Applicant to undertake assessment of the magnitude of hydro-sedimentary effects. The Scottish Ministers advise that the magnitude of those effects must be combined with the sensitivity of the Southannan Sands SSSI sandflat habitat in order to predict the degree and significance of the impact. This view is supported by representation from NatureScot.
- 5.6.6 The Scottish Ministers advise that an assessment of the potential impacts on the Southannan Sands SSSI and its notified features must also consider project specific and cumulative impacts on the recently discovered mussel reef, supporting a native oyster bed and the other Priority Marine Features (“PMF”) identified in Section 6.2.3 of the Scoping Report. This view is supported by representation from NatureScot.
- 5.6.7 The Scottish Ministers advise that the lack of detail provided within the Scoping Report makes it difficult to identify what potential impacts on the intertidal interests of Kames Bay SSSI and Ballochmartin Bay SSSI need to be assessed. The Applicant proposes that effects are highly unlikely on these sites and as such can be scoped out from the EIA Report. However, the Scottish Ministers advise that due to the potential for the Proposed Works to cause atmospheric and water-based pollution impacts as well as impacts arising from marine Invasive Non-Native Species (“mINNS”) and changes to coastal processes, these impacts must be assessed and where necessary mitigation should be proposed. The assessment must assess the impact of the Proposed Works on the objectives of the designations and overall integrity of the areas. The Scottish Ministers direct

the Applicant to representation from NatureScot and advise that the potential physical-process connection will need to be examined through the coastal processes modelling, as detailed in Section 5.14 of this Scoping Opinion, unless the Applicant provides sufficient further written clarification on the reasoning for scoping out. The Scottish Ministers direct the Applicant to points 1.22-1.24 of NatureScots representation for further information regarding this. Beyond this, without more specific information, the Scottish Ministers cannot comment on the impacts proposed to be scoped in or out of the Scoping Report.

- 5.6.8 The Scottish Ministers agree with the NatureScot representation that designated sites receptors during both construction and operational phases of the Proposed Works are scoped into the EIA Report. Detailed advice has been provided by NatureScot indicating its preferred methodology in the production of assessments as provided in Appendix I of this Scoping Opinion. In addition, the Scottish Ministers strongly recommend the Applicant consults NatureScot in relation to the assessment methodologies as per NatureScots representation.

## **5.7 Marine & Freshwater Aquatic Habitats**

- 5.7.1 The Applicant considers the potential impacts of the Proposed Works on marine and freshwater aquatic habitats in Section 6.2.3 of the Scoping Report.

### Marine Species

- 5.7.2 The Scottish Ministers highlight that land based activities, such as piling and rock armour removal, as well as the deposit of dredge material, all have the potential to cause auditory injury impacts to a suite of marine species, including basking shark, cetaceans and seals. The Scottish Ministers agree with the inclusion of a 1km radius exclusion zone for cetaceans during the lifespan of the piling works.
- 5.7.3 The Scottish Ministers direct the Applicant to the NatureScot representation regarding the relevance of the data used to establish the presence of marine mammals in the vicinity of the Proposed Works. The Scottish Ministers agree with NatureScot and agree with the proposal to produce a Marine Mammal Protection Plan ("MMPP") however, advise that the MMPP should include more recent data to fully inform the assessment. Additionally, any mitigation measures put in place should be applied to all species. The Scottish Ministers highlight that the proposed method for carrying out underwater noise modelling to inform a risk assessment for marine mammals is very briefly detailed in the Scoping Report and recommend that the Applicant consults NatureScot to ensure its validity. Finally, the Scottish Ministers advise that a cumulative impact assessment must be undertaken and should take into account any activities which may also cause injury and/or disturbance to marine mammals in addition to piling activities. The Scottish Ministers direct the Applicant to NatureScots advice in this regard and advise that it is fully considered within the EIA Report.



### Benthic Habitats and Species

- 5.7.4 The Scottish Ministers broadly agree with the proposed receptors scoped in for further assessment in relation to benthic habitats and species, and with the proposed investigations. The Scottish Ministers advise however that clarity is needed on the volume of dredge material predicted to be removed and estimate timings for dredge operations. The dredge plume dispersal from the dredge work associated with the construction of the quay and subsequent maintenance dredging that will be carried out during the operation of the port also needs included in the coastal modelling study. The outputs should include likely sedimentation levels, turbidity (SSC) and impacts on benthic species and habitats, including habitat loss/change. The coastal modelling study should also include assessment of changes to hydrodynamics as a result of changes to bathymetry and quay construction.
- 5.7.5 If the Applicant proposed to deposit dredge material at a deposit site, then the Applicant must assess if there is connectivity with designated sites or protected species and habitats. The Scottish Ministers also advise that in addition to the review of existing data, surveys will be required both in the footprint of Proposed Works site and in the zone of influence of site for example the dredge plumes and areas of predicted changes to hydrodynamics. Additionally, the Scottish Ministers advise that data is limited for some designated habitats and species and the eelgrass and horse mussel survey that has been referenced in Annex 3 of the Scoping Report are not fit for purpose as the subtidal survey methods used in this study were not standard. The Scottish Ministers direct the Applicant to the JNCC website for an example of standard survey methodologies. This view is supported by NatureScot representation. The Scottish Ministers direct the Applicant to representation from NatureScot on benthic habitats and species and advise that it is fully considered within the EIA Report.

### Priority Marine Features

- 5.7.6 The Scottish Ministers direct the Applicant to NatureScot representation regarding the requirement for an assessment of the presence and extent of the PMF and impact of the Proposed Works on the PMFs found in the Southannan Sands SSSI and beyond the boundary of the SSSI. The Scottish Ministers advise that this must be assessed within the EIA Report for both construction and operational phases. The Scottish Ministers direct the Applicant to NatureScots representation in this regard and advise that it is fully considered.

### Marine Invasive Non-Native Species

- 5.7.7 The Scottish Ministers advise that mINNS are scoped in for further assessment in the EIA Report for both the construction and operational phases of the

Proposed Works and advise that a site-based biosecurity plan should be developed in line with best practice Marine Biosecurity Planning guidance and the Firth of Clyde Biosecurity Plan. The Scottish Ministers direct the Applicant to representation from NatureScot on mINNS and advise that this is fully considered in the EIA Report. In addition to the NatureScot representation, the Scottish Ministers direct the Applicant to the advice from MD-SEDD and advise that this is fully considered.

### Marine & Freshwater Aquatic Habitats Summary

- 5.7.8 The Scottish Ministers agree with the NatureScot representation that marine and freshwater aquatic habitats receptors during both construction and operational phases of the Proposed Works are scoped in for further assessment within the EIA Report. In addition, the Scottish Ministers strongly recommend the Applicant consults NatureScot in relation to the assessment methodologies as per NatureScots representation.

## **5.8 Ornithology**

- 5.8.1 The Applicant has considered the potential impacts of the Proposed Works on ornithology within Section 6.2.4 of the Scoping Report.
- 5.8.2 The Scottish Ministers direct the Applicant to the NatureScot representation regarding the relevance of the data used to determine bird use of the general area of the Proposed Works. The Scottish Ministers advise that as this is relatively outdated and to properly assess potential impacts, additional Wetland Bird Surveys must be carried out, covering the entire coastline of the Southannan Sands SSSI to provide current data with which to compare to the historic records. This view is supported by NatureScots representation and the Scottish Ministers advise the Applicant to consult with NatureScot after one year to determine if the information gathered provides the necessary level of detail.
- 5.8.3 On the advice of NatureScot the Scottish Ministers advise that an updated assessment of the potential impacts of the two year development phase and subsequent operational phase is required to assess disturbance levels on birds within and around the site of the Proposed Works.
- 5.8.4 The Scottish Ministers agree with the NatureScot representation that ornithology receptors during both construction and operational phases of the Proposed Works are scoped in for further assessment within the EIA Report. The Scottish Ministers advise the Applicant to review and fully address the NatureScot advice within the EIA Report.

## **5.9 Carbon, Climate Change & Greenhouse Gases**

- 5.9.1 The Applicant has considered the potential impacts of the Proposed Works on carbon, climate change & greenhouse gases within Section 7 of the Scoping Report and proposes to scope in a carbon impact assessment.
- 5.9.2 The Scottish Ministers agree with the Applicant's proposal to scope in carbon, climate change and greenhouse gases however do not consider the Applicant's proposed scope to be sufficient.
- 5.9.3 The Scottish Ministers are 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 advise 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.
- 5.9.4 The Scottish Ministers advise that carbon, climate change and greenhouse gases are scoped in for further assessment within the EIA Report for all phases.

## **5.10 Seascape, Landscape and Visual**

- 5.10.1 The Applicant details the potentially significant effects on landscape, seascape and visual amenity during the Proposed Works in Section 8. The Scottish Ministers agree with the Applicants proposed receptors to scope in and out as detailed in Section 8.4 and with the assessment methodology detailed in Section 8.5.
- 5.10.2 The Scottish Ministers broadly agree with the proposed viewpoints to be included for further assessment, as detailed in Table 8.1 of the Scoping Report. However, direct the Applicant to the North Ayrshire Council representation and advise that the advice should be fully considered and the addition of a viewpoint from Millport should be included in the assessment. The cumulative impacts should also be considered.

- 5.10.3 The Scottish Ministers agree that the identified impacts are scoped in for further assessment within the EIA Report.

## **5.11 Socio-Economic**

- 5.11.1 The Applicant considers the potential socio-economic impacts of the Proposed Works in Section 10 of the Scoping Report, with due consideration of the impacts during the construction phase in Section 10.3.
- 5.11.2 The Applicant proposes to scope out socio-economics from further assessment within the EIA Report. The Scottish Ministers however do not agree with this approach and direct the Applicant to advice from the MAU which recommends that a Socio-Economic Impact Assessment (“SEIA”) be scoped into the EIA Report. The Scottish Ministers agree with MAU advice and advise that socio-economic impacts are scoped in for further assessment in the EIA Report for both construction and operational stages and a SEIA must be undertaken in line with MAU advice. The Scottish Ministers further direct the Applicant to MAU advice, as provided in Appendix I of this Scoping Opinion, and advise that it must be fully addressed within the EIA Report, including evidence of stakeholder engagement.

## **5.12 Terrestrial Noise**

- 5.12.1 The Applicant considers the potential terrestrial noise impact of the Proposed Works in Section 11 of the Scoping Report, with consideration of the impacts during the construction phase in Section 11.3.
- 5.12.2 The Scottish Ministers agree with the approach to the assessment of terrestrial noise as detailed in Section 11.5 of the Scoping Report and with the proposed inclusion of a construction noise impact assessment and the mitigation proposed in Section 11.4 of the Scoping Report. The North Ayrshire Council representation agrees that there will be a likely impact from construction noise and highlights the Applicant’s commitment to consult with North Ayrshire Council Environmental Health Department to agree a methodology for a noise impact assessment.
- 5.12.3 To the extent that the effects relate to the marine licensable activities of the Proposed Works, the Scottish Ministers agree that terrestrial noise is scoped in for further assessment within the EIA Report.

## **5.13 Traffic, Shipping and Navigation**

- 5.13.1 The Applicant identifies the potential impacts of traffic, shipping and navigation in Section 12 of the Scoping Report. The Applicant identifies potential significant effects in Section 12.3 and receptors that are proposed to be scoped in and out in Section 12.4. This Scoping Opinion will only address aspects below MHWS.

However, the Scottish Ministers advise that all transport concerns must be addressed to the satisfaction of the consultees in the EIA Report.

- 5.13.2 The MCA in its representation acknowledge that the Proposed Works fall within the jurisdiction of Clydeport Operations Limited who are both the Applicant and a Statutory Harbour Authority (“SHA”). The MCA highlight that the SHA is responsible for maintaining the safety of navigation within its waters during the construction and operational phase of the Proposed Works. Further, the MCA note that the Applicant proposes to scope out further assessment of the impacts associated with shipping however, the MCA advise that the impact on both recreational and commercial navigation should be considered. The Scottish Ministers agree with the MCA advice and advise that assessment of the impact of the Proposed Works on recreational and commercial navigation is scoped in for assessment within the EIA Report.
- 5.13.3 The Scottish Ministers acknowledge the Applicants proposal to undertake a Navigational Risk Assessment and direct the Applicant to representation from RYA Scotland and the MCA which both provide advice on what should be included in the assessment. The Scottish Ministers refer to the detailed response from the MCA and RYA Scotland within Appendix I provided with this Scoping Opinion and advise that the advice is fully addressed within the EIA Report.
- 5.13.4 The Scottish Ministers advise that impacts on traffic, shipping and navigation are scoped in for further assessment in the EIA Report.

#### **5.14 Water Environment and Coastal Processes**

- 5.14.1 The Applicant considers water environment and coastal processes in Section 13 of the Scoping Report. The Applicant identifies potential effects in Section 13.3 and receptors that are proposed to be scoped into the EIA Report in Section 13.4.
- 5.14.2 The Scottish Ministers highlight representation from NatureScot which questions whether, once the Proposed Works are completed, the proposed new bathymetry, and quay wall, could cause sufficient change to hydrodynamics resulting in the Southannan SSSI sandflat habitat suffering a net loss of extent. NatureScot highlights confusion in the Scoping Report and emphasises that there must be clarity over how potential hydro-sedimentary effects of the Proposed Works are handled in the EIA Report. The Scottish Ministers agree with NatureScots view and advise that the Applicant must assess the magnitude of hydro-sedimentary effects. The Scottish Ministers direct the Applicant to points 1.13-1.15 of NatureScots representation for advice on what to include and consider in this assessment.

- 5.14.3 The Scottish Ministers advise that although the Applicants proposal to assess the changes to tidal currents, waves and sediment transport separately is reasonable, the Applicant must assess the magnitude of any likely changes in sandflat extent and extent of sub-habitats due to changes to the above three factors in combination. Additionally, the Scottish Ministers advise that the Applicant must assess the potential physical effects of a dredging-induced sediment plume as a separate effect. These views are supported by NatureScot representation.
- 5.14.4 Further, the Scottish Ministers highlight NatureScots representation in respect to explicitly separating out the effects of the construction phase from those in the post-construction and operational phases and advise that this must clearly be done within the EIA Report. The Scottish Ministers refer to point 1.18 in NatureScots representation for further clarity on this which must be addressed in the EIA Report. Additionally, as per point 1.19 of NatureScots representation, the Applicant must assess the potential effects of side-slope relaxation on the Southannan Sands SSSI sandflat feature as a separate operational-phase effect. The Scottish Ministers highlight that this could require a full geotechnical assessment and strongly advise the Applicant to consult NatureScot in relation to its proposed methodology.
- 5.14.5 The Scottish Ministers direct the Applicant to point 1.20 of NatureScots representation and advise that the Applicant adhere to NatureScots advice and undertake a further technical consultation on the scope and detailed method of both the changes to tidal currents and waves during the operational phase, and dredging plum dispersion, with assessment of changes to sediment transport. This should include consideration of semi-quantitative assessment of sediment transport changes using empirical formulae.
- 5.14.6 The Scottish Ministers agree with representation from NatureScot and advise that water environment and coastal processes are scoped in for further assessment in the EIA Report for both construction and operational phases. The Scottish Ministers direct the Applicant to representation from NatureScot in Appendix I and advise that it is fully addressed within the EIA Report. The Scottish Ministers strongly advise the Applicant consults NatureScot in relation to the proposed assessment methodology as per NatureScots advice.

## **5.15 Population and Human Health**

- 5.15.1 The Applicant considers the potential effects of population and human health within Section 14.1 of the Scoping Report and has indicated that this receptor would be scoped out.

- 5.15.2 The Scottish Ministers however, do not agree with this approach and direct the Applicant to advice from the MAU which recommends that population and human health is scoped in for further assessment in the EIA Report. The Scottish Ministers agree with MAU advice and advise that population and human health is scoped in for further assessment in the EIA Report for both construction and operational stages. The Scottish Ministers direct the Applicant to the MAU advice, as provided in Appendix I of this Scoping Opinion, and advise that it must be fully addressed within the EIA Report. The Scottish Ministers note that population and human health can be assessed in combination with socio-economic impacts.
- 5.15.3 The Scottish Ministers advise the Applicant to liaise with the emergency planning function in South Ayrshire Council, Magnox Ltd and EDF Energy Nuclear Generation Ltd to address the points raised by the ONR. These topics must be fully addressed within the EIA Report.

## **5.16 Material Assets and Waste**

- 5.16.1 The Applicant considers the potential effects of materials and waste in Section 14.1 of the Scoping Report and indicates that material assets and waste will be scoped out.
- 5.16.2 The Applicant has identified that waste from the Proposed Works will potentially be construction waste, waste soils and dredge arisings. The Applicant has indicated that they are applying for a separate dredge deposit licence from Marine Directorate. The Scottish Ministers agree with the Applicants proposal to scope out material assets and waste but direct the Applicant to Section 2.4.3 of this Scoping Opinion for advice on what must be assessed in relation to sea deposit. The Scottish Ministers support to proposal to produce a Site Waste Management Plan.

## **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 Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.
- 6.1.2 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 the Applicant must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.



## 7. Multi-Stage Consent and Regulatory Approval

### 7.1 Background

- 7.1.1 The EIA Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage consent or regulatory 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 principal decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 EW Regulations is as follows (the definition in the 2017 MW Regulations provides for the same but in relation to “regulatory approvals”): “application for multi-stage consent” 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 development permitted by the Electricity Act consent may be begun”.
- 7.1.3 A section 36 consent or marine licences, 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 consent or regulatory 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 consent or regulatory approval the Scottish Ministers consider that the development 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 EIA Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed

23 February 2024

Authorised by the Scottish Ministers to sign in that behalf.

**Appendix I: Consultation Responses & Advice**

**Appendix II: Gap Analysis**

Applicant to complete:

<b>Consultee</b>	<b>No.</b>	<b>Point for Inclusion</b>	<b>EIA Report Section</b>	<b>Justification</b>
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