

Ardersier Port Ltd  
Ardersier Port Approach  
Ardersier  
IV2 7XQ  
United Kingdom

Date: 02 July 2024

Dear Dr Fleming,

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

Thank you for your screening opinion request dated 27 March 2024 in regards to the proposed variation of Ardersier Port Ltd's marine licence to: allow dredging and deposit of dredged material to be carried out until September 2026; to allow deposit of dredge material at new deposit sites; and to extend the restricted time period for dredging the outer channel at Ardersier Port, Ardersier, Nairn ("the Proposed Works").

The Proposed Works at Ardersier Port are to be undertaken as part of the capital dredging and dredge material deposit activities, for which the most recent marine licence was granted on 15 March 2024 ("the Licensed Works"). The Licensed Works are part of an Environmental Impact Assessment ("EIA") project, therefore the Scottish Ministers consider the Proposed Works to fall under paragraph 14 of schedule 2 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 ("the 2017 MW Regulations"), on the basis that they constitute a change to schedule 1 works already authorised. The Proposed Works are being carried out in a sensitive area, as defined by the 2017 MW Regulations. Consequently, the Scottish Ministers are obliged to adopt a screening opinion as to whether the Proposed Works are, or are not, an Environmental Impact Assessment project under the 2017 MW Regulations.

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

When making a determination as to whether schedule 2 works are an EIA project, the Scottish Ministers must provide their reasons in a written statement, taking into account the selection criteria set out in schedule 3 of the 2017 MW Regulations, as are relevant to the Proposed Works. This is set out below.

### **Characteristics of the works**

The Licensed Works currently have a valid marine licence authorising dredging and deposit of 3.9 million cubic metres ("m<sup>3</sup>") of dredge material - equating to 8.6 million wet tonnes - to create a navigation channel and berth for the redevelopment of Ardersier Port. The current marine licence is valid until 30 September 2025 and the dredge material licensed for deposit above Mean High Water Springs ("MHWS"), less 150,000m<sup>3</sup> (400,000 wet tonnes), which is

licensed for the restoration of Whiteness Head Spit. The Licensed Works also include a condition restricting the dredging of the outer channel to 1 – 30 April inclusive. The Proposed Works are to extend the duration of the marine licence by one year to September 2026; to expand the area of spit restoration on Whiteness Head Spit; to extend the licensed deposit area at marine deposit sites Whiteness Sands B and C; to include the option of sea deposit of dredge material at marine deposit sites Burghead and Sutors; and to extend the restricted time period for dredging the outer channel by 15 days.

The Proposed Works aim to increase the options available for the deposition of dredge material below MHWS. It is proposed that of the 3.9 million m<sup>3</sup> of material to be dredged as part of the Licensed Works, only 1.4 million m<sup>3</sup> will be brought above MHWS for beneficial use on land. The remaining material will be deposited below MHWS at Whiteness Head Spit, and at the sea deposit sites: Whiteness Sands B, Whiteness Sands C, Burghead, and Sutors.

The Proposed Works at Whiteness Head Spit are to extend the 2018 restoration works to the north-west to mitigate against the natural thinning of the spit which have occurred as a result of coastal processes. The Proposed Works will see approximately 280,000m<sup>3</sup> of dredge material deposited to restore the area of concern.

It is proposed that a total of 120,000m<sup>3</sup> of dredged material will be deposited at sea deposit sites Whiteness Sands B and C. The Proposed Works would consist of depositing a thin layer of dredge material below Mean Low Water Springs, at depths of no more than -5m Chart Datum to allow natural sediment transportation processes to redistribute the material for intertidal recharge to the west. It is proposed that the deposit will be undertaken via bottom dumping from barges or deposition using a spreader pontoon. Deposit will only take place during periods of high water. Monitoring of deposits at Whiteness Head Spit and Whiteness Sands is proposed as part of the Sediment Transport Monitoring Plan and will be undertaken using bathymetric and aerial drone surveys. The information gathered will be used to inform material deposit in subsequent maintenance dredging campaigns.

The Proposed Works include the deposit of up to 2,100,000m<sup>3</sup> of dredge material at sea deposit sites Burghead and/or Sutors. The preferred option is to deposit all the material at Burghead, but approximately 200,000m<sup>3</sup> is proposed to be deposited at Sutors, if required.

Additionally, the Proposed Works include an extension to the restricted period conditioned in the Licensed Works, for dredging the outer channel. It is proposed that the timescale for dredging the outer channel be extended by 15 days to cover the period 1 April to 15 May inclusive. Dredging activities will take place 24 hours a day, with the exception of the period 1 - 15 May inclusive, when activities will be restricted to daylight hours only.

## **Location of the works**

The Proposed Works are located in Ardersier Port which is within the Inner Moray Firth Special Protection Area (“SPA”), Moray Firth SPA, Moray Firth Special Area of Conservation (“SAC”) and Whiteness Head Site of Special Scientific Interest (“SSSI”).

NatureScot advised that the potential disturbance effects to bottlenose dolphins in the Moray Firth SAC are unlikely to occur due to the timing and short duration of the Proposed Works and the implementation of additional mitigation outlined in the Marine Mammal Protection Plan, dated April 2024, including the use of existing shipping lanes to minimise disturbance from vessel movements. NatureScot note the monitoring exercise to be undertaken during

the Proposed Works and welcome the use of Passive Acoustic Monitoring to inform future proposals. NatureScot advised that the use of licensed deposit sites for the deposit of dredge material is unlikely to have adverse impacts in the subtidal sandbank habitat of the Moray Firth SAC.

NatureScot noted that the Whiteness Sands deposit sites overlap with a recognised harbour seal haul-out zone. It advised that although disturbance effects would be minimised by deposit activities taking place at hightide, young pups may still be disturbed by the Proposed Works during the most sensitive periods. NatureScot advised mitigation in the form of restricting deposit activities at the Whiteness Sands sites after 1 June. The Scottish Ministers are content that this can be addressed as part of the marine licensing process. NatureScot also advised that the proposed use of bottom-opening barges at hightide means disturbance effects on any waterfowl using Whiteness Sands are unlikely.

NatureScot advised that to avoid disturbance and displacement of non-breeding seaducks in the Inner Moray Firth SPA and Moray Firth SPA, deposit activities should not take place at Burghead and Sutors until after the end of April. All deposit activities between the commencement of dredging in March and the end of April must take place at Whiteness Sands or Whiteness Spit. The Scottish Ministers are content that this can be conditioned as part of the marine licensing process.

NatureScot confirmed that their advice for the Licensed Works relating to the breeding common tern non-disturbance buffer zone of 400m is still applicable for the Proposed Works, and provided updated timings for when the buffer zone should be employed. The Scottish Ministers are content that this mitigation can be secured as part of the marine licensing process.

NatureScot advised that further clarification regarding deposit methodologies for Whiteness Head Spit restoration is required to avoid adverse impacts on the Whiteness Head SSSI. Clarification is required on the location of dredge material deposits and the access points of any heavy plant proposed to deposit and shape dredge material. Consideration must be given to the impact of plant on shingle, dune and saltmarsh habitats. It further advised that a methodology for the proposed 'rainbowing' of deposit material is required to avoid adverse impacts arising from smothering of habitats and coastal features, which may arise from 'splashing' of dredge material during deposit. NatureScot advise that a detailed method statement for all spit reinstatement is submitted including mapping, cross-sections and methodology. The Scottish Ministers are content that this can be done as part of the marine licensing process.

NatureScot concluded that although it is possible that the Proposed Works could result in effects on designated interests, many of the issues have already been addressed as part of the Licensed Works and remaining issues can be managed through the marine licensing process. On this basis, NatureScot advised that it does not consider that an EIA is required for the Proposed Works.

The Highland Council are content that matters related to the marine environment are best regulated through the marine licencing process and have no comment to make regarding the requirement for an EIA.

## **Characteristics of the potential impact**

HES advised that impacts from the Proposed Works on marine heritage in the vicinity of the deposit sites Sutors and Burghead should be considered as part of the marine licence process. However, they are content that there will be no significant impacts on historic environmental interests by the Proposed Works and an EIA is not required.

SEPA also advised that an EIA is not required for the Proposed Works.

## **Conclusion**

In view of the findings above, the Scottish Ministers are of the opinion that an EIA is not required to be carried out in respect of the Proposed Works providing the mitigation detailed above is implemented.

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

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

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

Yours sincerely,

Neil MacLeod  
Marine Directorate - Licensing Operations Team

## Appendix One – Consultation Responses



To Whom It May Concern,

Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017

SCR-0081

Ardersier Port Ltd (per Envirocentre) - Capital Dredging and Sea Deposit - Ardersier Port -  
Screening Request

Ardersier Port

Thank you for the above consultation. We do not consider that EIA is required in relation to our interests. Please refer to SEPA standing advice for the Department for Business, Energy and Industrial Strategy and Marine Scotland on marine consultations which is available [here](#). In addition, please refer to our standing advice and other guidance which is available on our [website](#).

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

Kind regards,  
Barbara Olszowy  
Planning Officer



For the future of our environment



Good Afternoon

I note the legislative requirement is for the planning authority to provide a view as to whether the proposed works are an EIA project or not. However, given that these works are exclusively Marine in nature and the clear division of responsibilities between Marine and Terrestrial regulators as laid out in Planning Circular 1/2025, the planning authority is content to allow the Marine Directorate to come to a conclusion on this matter and does not consider it is in a position to comment.

Kind regards

**Mark Harvey**

**Planning Team Leader**

**Skye, Wester Ross, Strathpeffer & Lochalsh + Highland-wide Aquaculture**

**Planning, Infrastructure, Environment & Economy Service**

Our Ref: CEA 175541

Your Ref: SCR – 0081 (MS-00009479/06860)

## **The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 Capital Dredge & Sea Deposit - Ardersier Port - Screening Request**

Thank you for consulting us on this screening request for modification to an existing licence (MS-09479/06860), as per your letter below.

### **Summary**

**We advise that there is potential for significant effects on Protected Areas. However, we believe many of these issues can be addressed during the consultation for the revised EIA proposal (as per previous applications), without the need for a new one.**

### **Background**

The supporting information provided (as attached) with this consultation further explains offshore disposal options in addition to more detail for spit reinstatement. The Screening Report ‘bundle’ includes a helpful explanatory letter summarising the proposal, complete with BPEO and Marine Mammal Risk Assessment/Protection Plan. However, we requested clarity from Haventus (as attached, email dated 28 May) on location of disposal compartment zones (CR021 & CR023), in addition to requesting clarity on proposed ‘working windows’ should the temporal extension to Sept 2016 be agreed.

### **Appraisal of impacts and our advice**

The dredge disposal zones (Sutors & Burghead) fall within the Moray Firth Special Area of Conservation (SAC) protected for its bottlenose dolphin and subtidal sandbanks, and the Moray Firth Special Protection Area (SPA) protected for its marine waterbirds (mostly non-breeding). The sediment reinstatement areas are either within or lie in proximity to the Inner Moray Firth SPA, protected for coastal birds. The boundary of Whiteness Head Site of Special Scientific Interest (SSSI) lies within, or is in very close proximity, protected for its coastal geomorphology & coastal habitats.

#### **a) Moray Firth Special Area of Conservation (SAC)**

These works will result in Likely Significant Effects to bottlenose dolphins, but we believe that based on work timings previously discussed and agreed, that impacts will be relatively short-term in nature. The dredge works within this SAC will occur from late March to the end of April (also including night dredging). If required, dredging the outer channel can progress into mid-May, but during daytime only, thus reducing noise disturbance effects as the frequency of bottlenose dolphins using the offshore waters is likely to increase into the summer period. Hence the preference for dredging works to begin within the outer channel first, then back-in towards the confines of the Port, which is reflected within the working methodology of the works. The Marine Mammal Protection Plan (MMPP, April 2024) provides additional mitigation measures, including use of a Marine Mammal Observer (MMO) for dredging (and disposal).

We note that Port of Ardersier is proposing to conduct a research-oriented monitoring exercise to run in conjunction with dredging and disposal activities, possibly involving submerged Passive Acoustic Monitoring (PAMs). We welcome this proactive approach by Haventus, including the involvement of the Cromarty Lighthouse Field Station staff (University of Aberdeen) which could be so very helpful to inform future proposals at this location, or for other related Green Free Port proposals coming forward. In discussions with University of Aberdeen, we are aware they have dolphin baseline data from a PAM previously deployed off Ardersier, forming a student Research Project Report. This positive partnership approach follows the Green Free Port Environmental Workshop held at Cromarty in April 2024, which Haventus fully engaged with in a constructive manner.



This possible PAM related work also fits in nicely with recently published JNCC Guidance (December 2023) promoting advice on the use of PAMs to minimise impacts to marine mammals from offshore operations. This guidance document could usefully provide an initial framework for this work, with perhaps any results helping to enhance this JNCC Guidance, see: <https://hub.jncc.gov.uk/assets/fb7d345b-ec24-4c60-aba2-894e50375e33>, if appropriate. This PAM guidance was informed by a workshop, see; <https://hub.jncc.gov.uk/assets/7090296c-7feb-48eb-824e-8c28176c7da1>.

We note a high number of barge trips through this SAC will be required to enable this work. The Conservation & Management Advice for this SAC recognises that use of 'existing vessel routes' for this work can notably reduce dolphin disturbance pressures, as these routes/locations are already regularly exposed to underwater noise, see: <https://apps.snh.gov.uk/sitelink-api/v1/sites/8327/documents/59>. We welcome that there is full recognition of using existing shipping lanes for this work, as outlined within the MMPP. The MMPP may require to be updated again, as we note there still seems to be inclusion of 'no night-time dredging' (Section 4.5), which may cause confusion to any 'new' audience.

The use of these recognised licenced disposal sites is unlikely to result in adverse impacts upon subtidal sandbank habitat.

#### b) Dornoch Firth & Morrich More SAC

The dredge disposal site(s) off Whiteness Sands, was included within the original application (approved 2019) but has subsequently not been proposed for active use until now. This disposal site overlaps with a recognised seal haul-out zone, which is used by harbour seals linked to this SAC. The Screening Report highlights that disposal activities will be undertaken at high tide, thus reducing disturbance effects to animals that would be otherwise hauled out during low tide periods. However, we recommend that additional measures could help reduce disturbance effects (even during high tides), especially to very young seal pups during the most sensitive periods:

- Disposal at/over Whiteness Sands should avoid the early harbour seal pupping period (even at high tide), thus disposal at this location would be best to occur before 1 June (see advice on timings of disposal for other Protected Areas, as below). We would welcome the MMPP being updated to reflect this extra mitigation if these measures can be implemented in a practical context.

The most recent spatial data that we have indicates the main seal haul-out site is >500m away from ongoing dredge operations, thus disturbance effects to seals are unlikely to occur. This concurs with the applicant's additional *Seal Note* as part of Screening. We welcome intentions by Port of Ardersier to keep their seal haul-out data up to date (temporal and spatial), thus assisting future works and aiding seal management.

#### c) Inner Moray Firth Special Protection Area (IMF SPA)

#### d) Moray Firth SPA

Almost all the deep-dredge works are to occur over the summer period, from March to August 2025 and/or 2026. However, the working window identified specifically for the **outer part** of the deep-dredge channel will be from the last week of March to mid-May. Our previous response to this current deep-dredge licence (dated 26 Feb 2024; 010583 & CLC 173628), has already assessed potential impacts from the dredger operating at this location for both SPAs, therefore we do not repeat this.

We note that two licenced offshore disposal sites are identified, with Burghead being the preferred option to the Sutors. It is possible that some Moray Firth SPA waterbirds may still be present in good numbers between Port of Ardersier and Burghead/Sutors. We know that both disposal areas can be favoured by seabirds, potentially into April. Therefore, if it was possible for early disposal of material from the outer dredge channel to be redirected to Whiteness Sands and Spit Reinstatement Zones, perhaps during April, then that could help to reduce any disturbance and/or displacement effects to non-breeding SPA waterbirds that may be frequenting within the vicinity of disposal locations.

We note that sediment disposal at Whiteness Sands is likely to be during high-tide periods involving bottom-opening barges. Utilizing high-tide periods, combined with this approach for disposal, is likely to reduce disturbance effects to any SPA waterfowl using this location during low tidal periods. Therefore, at this present time, we recommend this approach to be favoured in helping reduce potential disturbance effects to the Inner Moray Firth SPA at the back-end of the non-breeding season.

We have previously provided advice on breeding common terns, including an updated non-disturbance buffer zone of 400m, see; <https://www.nature.scot/doc/disturbance-distances-selected-scottish-bird-species-naturescot-guidance>. This advice still stands. However, see suggested timings of this work (as above).

e) **Whiteness Head Site of Special Scientific Interest (SSSI)**

There is potential for additional adverse impacts to this Protected Area, and we would welcome further discussion/clarification as to how these effects can be avoided. We provide more detail on this below:

- In context to the Spit Reinstatement West Zone, we note that the main drawing provided (ARDPhase1-HAV-WP3-ZZ-DR-C-0006: pdf, page 8) seems to show that parts of the spit **above** MHWS will receive reinstatement measures. However, text supporting this application informs us that spit reinstatement measures will occur **below** MHWS. Clarification of this is required within final documentation. Perhaps linked to this, the proposal also includes for the provision of vehicles to be deployed onto the spit, operating **below** MHWS, to help move deposited material into desired positions. It does not seem totally clear how heavy industrial vehicles would access the spit, and whether there will be impacts on shingle, dune and saltmarsh habitats of this SSSI. For example, Hventus will soon be undertaking restoration works following damage to these coastal habitats. Therefore, this issue has high sensitivity in terms of additional potential impacts, which we hope can easily be avoided (see below).
- To initiate 'rainbowing' of sediment disposal, if done well, may have potential to negate the need for vehicle access, allowing for tidal/weather induced processes (below MHWS). However, we also recognise there is potential for rainbowing to inadvertently 'splash' material over landforms/habitats obscuring/smothering coastal features. Therefore, we recommend that a method statement for this is provided to avoid adverse impacts. For example, we imagine that this method may require disposal from the seaward margin of the area, perhaps guided by a 'banks-person' on the spit within radio contact, ensuring accurate deposition. We are not aware of seeing previous principles agreed for this work (BPEO, p.436), so our apologies in advance if we missed this within previous/revise consultations.

We would welcome a detailed method statement for spit reinstatement of both the western and eastern scallops, encompassing mapping, cross-sections, and methodology (this may match the CEMP proposed in Appendix F of the BPEO (p.436).

Concluding remarks

The applicant has confirmed that preferred 'working windows' should also shape future works if this application should be delayed through to September 2026. We recognise that existing and/or future mitigation (e.g. conditions) will continue through into the proposed extension period, ensuring that environmental controls are to be in place until works are completed.

With best regards,

David.

**David Patterson | Operations Officer – North**

**NatureScot** | The Links, Golspie Business Park, Golspie, Sutherland KW10 6UB |

[nature.scot](http://nature.scot) | [@nature\\_scot](https://twitter.com/nature_scot) | *Scotland's Nature Agency* | *Buidheann Nàdair na h-Alba*



Our case ID: 300019620  
Your ref: SCR-0081  
07 June 2024

[The Marine Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017  
Ardersier Port Ltd \(per Envirocentre\) - Capital Dredging and Sea Deposit - Ardersier Port  
Request for Screening Opinion](#)

Thank you for your consultation which we received on 17 May 2024 seeking our comments on an Environmental Impact Assessment (EIA) screening opinion for the above proposed development. This letter contains our comments for our historic environment interests. That is world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, gardens and designed landscapes and battlefields on their respective Inventories. Your archaeological and conservation advisors will also be able to offer advice for their interests. This may include unscheduled archaeology, category B- and C-listed buildings and conservation areas.

**Our Screening opinion**

From the information provided we are content that the proposals are unlikely to result in a significant impact on our interests. However we recommend that impacts on marine heritage are considered in support of the proposals, particularly in relation to the new deposit sites at Cromarty and Burghead.

**Our advice**

We hope this is helpful. Please contact us if you have any questions about this response.

Yours faithfully

**Historic Environment Scotland**

