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Direct dial: [Redacted]
Our Ref: 18/01411/SCOP
Your Ref:
Date: 08 June 2018

Response sent by e-mail only to:
[Redacted]

Dear [Red]

**THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
(SCOTLAND) REGULATIONS 2017**

REQUEST FOR SCOPING OPINION

PROJECT: Renewal of planning permission for formation of Port

PROJECT ADDRESS: Former Fabrication Yard, Ardersier, Nairn

I refer to your letter of 23 March 2018 requesting a scoping opinion in respect of the above proposal. Thank you for agreeing to an extension of time for the Council to respond.

To assist with this scoping response the Planning Authority has consulted with the following bodies:

- THC Transport Planning;
- THC Flood Team;
- THC Environmental Health;
- THC Contaminated Land Team
- SEPA;
- SNH;
- Transport Scotland;
- Marine Scotland;
- Scottish Water

All available detailed consultation responses can be viewed on the e-planning portal using the reference given above. Please take the more detailed comments into account in the preparation of your final Environmental Impact Assessment Report (EIA Report). Any further detailed responses that are received will be passed on as soon as practicably possible.

In applying to THC moving forward, it would be beneficial for all information to be submitted electronically either on-line or in electronic form on DVD. Please ensure that files are presented in manageable sizes >10MB and in widely used formats such as JPEG files or pdf files. You should be aware that EIA Reports can be placed on the Council website therefore submissions in a user-friendly PDF format are strongly recommended.

You should be aware that authorities highlighted in this letter have obligations to make available any information in their possession relevant to the preparation of your environmental statement, other than information that is capable of being treated as confidential. The bodies may make a reasonable charge to cover the cost of making any requested information available to you.

The EIA Report will be expected to address the impact consequences of the proposal in full. This can only be achieved through the provision of a complete description of the development at the outset with a thorough assessment undertaken on all elements of the proposal. Should the EIA Report be void of essential information this may delay the consideration of the development.

You will be aware that the submission of an EIA Report requires the preparation of a non-technical summary of the information provided. Such documents help provide an easy to read summary of the key elements of the project and its expected environmental impact. Such submissions should not be used to promote or advertise the development. The Council encourages the development of the full EIA Report in a concise, easy to read and understandable style, technical (with explanations) but free of jargon. A description of the methodology used in assessing all impacts should be included.

The Council and other statutory consultees also welcome from applicant's an indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant or appellant in compiling the required information. Such honest approaches help authorities understand that all best practical steps may have been undertaken to examine a particular issue, rather than it being regard as an oversight by the applicant.

Finally it is now a requirement for the EIA Report to contain a statement on the qualifications and experience of all those involved in collating, assessing or presenting technical information.

The Council's scoping opinion is given below.

Yours faithfully

[Redacted]
Team Leader – Development Management
Development & Infrastructure Service

By E-mail

**THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL
IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017**

SCOPING OPINION

Applicant:	Ardersier Port Ltd
Agent (contact details):	Graham and Sibbald
Project:	Port of Ardersier
Project Address:	Former Fabrication Yard, Whiteness Head, Ardersier

This response is given without prejudice to the Planning Authority's right to request information in connection with any statement, whether Environmental Impact Assessment Report (EIA Report) or not, submitted in support of any future application. These views are also given without prejudice to the future consideration of and decision on any planning application received by the Council.

The Highland Council request that any EIA Report submitted in support of an application for the above development take the comments highlighted below into account. In particular the elements of this report as highlighted in parts 3, 4 and 5 should be presented as three distinct elements.

1.0 Description of the Development.

The description of development for an EIA Report is often much more than would be set out in any planning application. An EIA Report must include: -

- a description of the physical characteristics of the whole development and the full land-use requirements during the operational, construction and decommissioning phases. These might include requirements for borrow pits, local road improvements, infrastructural connections (ie connections to the grid), off site conservation measures, etc. A plan with eight figure OS Grid co-ordinates for all main elements of the proposal should be supplied.
- a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;
- the risk of accidents, having regard in particular to substances or technologies used;
- an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light / flicker, heat, radiation, etc.) resulting from the operation of the development.
- The estimated cumulative impact of the project with other consented or operation development with similar impact(s).

2.0 Alternatives.

A Report is required which outlines the main development alternatives studied by the applicant and an indication of the main reasons for the final project choice. This is expected to highlight some or all of the following: -

- locational criteria and economic parameters used in the initial site selection.
- the environmental effects of the different options examined

Such assessment may also highlight sustainable development attributes including for example assessment of carbon emissions / carbon savings. It is not expected that this need be lengthy; simply a summary of the options study that has been undertaken. It is recognised that in some

cases, such as this, alternatives may be limited.

3.0 Environmental Elements Affected

- 3.1 The Report must provide a description of the aspects of the environment likely to be significantly affected by the development. The following paragraphs highlight some principal considerations that should be considered - i.e. 'scoped in.'
- 3.2 **Land Use:** - The EIA Report should recognise the existing land uses affected by the development having particular regard for Highland Council's Development Plan and other supplementary planning policies. This is not instead of but in addition to the expectation of receiving a Planning Statement in support of the application itself which in addition to exploring compliance with the Development Plan. It is not considered necessary or helpful to cover planning policy within each Chapter of the EIA Report.
- 3.3 **Nature Conservation Sites:** - The EIA Report should address the likely impacts on the nature conservation interests of all the designated sites in the vicinity of the proposed development. It should provide proposals for any mitigation that is required to avoid these impacts or to reduce them to a level where they are not significant (see below).
- 3.4 While the development and design parameters of the proposed development have not changed, SNH is keen to point out that there have been changes to the baseline that may need to be revisited; particularly the sedimentation of the spit head and tidal channel. This is likely to impact on dredge volumes, depth or areas. Any change to these aspects could affect the designated interests and therefore SNH advise that these need to be properly assessed.
- 3.5 SNH highlight that the baseline may also have changed with regard to cumulative impacts. This is most likely to be of relevance to the understanding of the effects on the Moray Firth SAC from vessel movement and underwater noise.
- 3.6 The mitigation offered within the previous permission by way of Construction Environmental Management Document (CEMD) has been updated and it is intended that this will be included within the EIA Report. This is welcomed. SEPA provides detail in its response on how this can be successfully achieved. SNH request that the Operational Environmental Management Document (OEMD) that was a condition of the planning permission be clearly set out and included within the EIA Report as part of the package of mitigation.
- 3.7 SNH highlight that the baseline/effects on the Moray Firth proposed Special Protection Area (pSPA) needs to be considered within the EIA Report. In addition, the EIA Report should consider the effects on the Dornoch Firth and Morrich More SAC.
- 3.8 **Terrestrial Ecology/Ornithology:** - The inclusion of an assessment on terrestrial ecology and ornithology within the EIA Report is welcomed by SNH. SNH highlights that the data set previously used for the Environmental Statement in 2013 is out of date and therefore advise the need for new counts. SNH contends that the Wetland Bird Survey (WeBS) data is not suitable as it is out of date and not reliable data for some qualifying interests of the Moray Firth pSPA.
- 3.9 SEPA indicates the potential effect on groundwater dependent terrestrial ecosystems and welcomes commitment to undertake Phase 1 habitat survey work. SEPA would support development of a natural heritage management scheme as mitigation.
- 3.10 **Marine Ecology:** - SNH indicates that there is a requirement to test the assumptions made previously on vessel movements to see if these are still applicable. If not it advises that the

model would need to be re-run.

- 3.11 The inclusion in an Appendix of the EIA Report of the Marine Mammal Protection Plan, that considers effects, and mitigation, not only on bottlenose dolphin but also common seal, as assessed within the EIA Report is also welcomed.
- 3.12 **Underwater Noise:** - SNH highlights the need to consider whether the 2013 EIA assessment of underwater noise remain up to date in light of more recent studies.
- 3.13 **Water Environment:** - SNH sets out the need to consider more recent information in relation to coastal process change and also the effects on designated interests arising from changes to the arrangements for dredging and disposal. Further detail can be gained from its full response.
- 3.14 SEPA suggests that information on the final location/use of dredged material should be provided in the EIA Report. Should a beneficial reuse be identified it may be that it will not require to be regulated as waste. It advises that consideration should be given to the potential risk of contaminants in dredged material.
- 3.15 **Surface Water:** - SEPA is seeking further information on the ability of the site to accommodate a SuDS surface water system. Refer to its response for more detail.
- 3.16 **Noise:** - It is expected that the EIA Report will consider both construction and operational noise. Assessment of these aspects will be required although the baseline monitoring need not be redone. Please refer to the response from Environmental Health for more information.

4.0 Significant Effects on the Environment

- 4.1 Leading from the assessment of the environmental elements the EIA Report needs to describe the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from: -
- the existence of the development;
 - the use of natural resources;
 - the emission of pollutants, the creation of nuisances and the elimination of waste,
- 4.2 The potential significant effects of development must have regard to: -
- the extent of the impact (geographical area and size of the affected population);
 - the trans-frontier nature of the impact;
 - the magnitude and complexity of the impact;
 - the probability of the impact;
 - the duration, frequency and reversibility of the impact.
- 4.3 The effects of development upon baseline data should be provided in clear summary points.
- 4.4 The Council requests that when measuring the positive and negative effects of the development a four point scale is used advising any effect to be either strong positive, positive, negative or strong negative.
- 4.5 The applicant should provide a description of the forecasting methods used to assess the effects on the environment.

5.0 Mitigation

- 5.1 Consideration of the significance of any adverse impacts of a development will of course be balanced against the projected benefits of the proposal. Valid concerns can be overcome or minimised by mitigation by design, approach or the offer of additional features, both on and off site. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment must be set out within the EIA Report and be followed through within the application for development.
- 5.2 The mitigation being tabled in respect of a single development proposal can be manifold. Consequently the EIA Report should present a clear summary table of all mitigation measures associated with the development proposal. This table should be entitled draft Schedule of Mitigation. As the development progresses to procurement and then implementation this carries forward to a requirement for a Construction Environmental Management Document (CEMD) and then Plan (CEMP) which in turn will set the framework for individual Construction Method Statements (CMS). Further guidance can be obtained at http://www.highland.gov.uk/NR/rdonlyres/485C70FB-98A7-4F77-8D6B-ED5ACC7409C0/0/construction_environmental_management_22122010.pdf
- 5.3 The implementation of mitigation can often involve a number of parties other than the developer. In particular local liaison groups involving the local community are often deployed to assist with phasing of construction works – abnormal load deliveries, construction works to the road network, borrow pit blasting. It should be made clear within the EIA Report or supporting information accompanying a planning application exactly which groups are being involved in such liaison, the remit of the group and the management and resourcing of the required effort.

6.0 Summary

- 6.1 For the most part, the Scoping Report sets out the key issues to be considered. It is agreed that the following topics can be ‘scoped out:’
- Contaminated Land
 - Flood Risk
 - LVIA
 - Socio-economics
- 6.2 However, in light of the comments made by consultees, it is not possible to scope out airborne noise, ground borne vibration or underwater noise assessments.
- 6.3 To reiterate the Council has long advocated the principle that an EIA Report submitted in support of any application should be submitted with three distinct elements including:
1. Environmental Elements Affected
 2. Significant Effects on the Environment and
 3. Mitigation (a clear summary table of all mitigation measures associated with the development proposal. This table should be entitled **draft Scheme of Mitigation** and would be an important element in progressing a consented development through the construction phase.)

It is anticipated that the Report will follow this general approach and that a draft Construction Environmental Management Document will be prepared along with other parallel mechanisms to control residual effects on the environment; including an Operational Environmental Management Document and Marine Mammal Protection Plan. While it is understandably

difficult to describe at this stage the full extent of the development, only with a complete description of the development at the outset and a thorough assessment undertaken on all elements of the proposal will the impact consequences of the proposal be fully understood.