

TECHNICAL APPENDIX 3.2



The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

Scoping Opinion.

Application reference:	21/159/SCO.
Complete application received:	16 April 2021.
Consultation expiry:	17 May 2021.
Expiry date:	21 May 2021.
Development description:	Extend the existing outer quay by 300 metres, reclaim approximately 7.7 hectares of land to create a mixed-use laydown/work area and harbour operational area and create an access road.
Location of development:	Hatson Pier, Kirkwall, Orkney.
Applicant:	Orkney Islands Council (Marine Services).
Agent:	Envirocentre Limited.

1. Introduction

Under the provisions of Regulation 17 of The Town and Country Planning (Environmental Impacts Assessment) (Scotland) Regulations 2017 ('The Regulations'), this Scoping Opinion has been adopted by Orkney Islands Council, as planning authority.

2. The Scoping Opinion

Orkney Island Council adopts this Scoping Opinion having taken into account the information provided by the Applicant in the request dated 16th April 2021 in respect of the specific characteristics of the proposed development and representations received in response to the consultation undertaken.

Orkney Island Council considers that sufficient information has been submitted in order for a scoping opinion to be issued to meet the requirements of Regulation 17(2) of the EIA Regulations. That is, a request must include:

- (a) a description of the location of the development, including a plan sufficient to identify the land;

- (b) a brief description of the nature and purpose of the development and of its likely significant effects on the environment; and
- (c) such other information or representations as the developer may wish to provide or make.

The proposed development is considered to be Schedule 1 development under the Regulations.

This Scoping Opinion sets out the information that Orkney Islands Council considers should be included in the EIA and EIA Report for the proposed development. In formulating this Scoping Opinion, Orkney Islands Council has taken account of the requirements of the EIA Regulations 2017, the nature and scale of the proposed development, the nature of the receiving environment, current best practice in the preparation of EIA Reports, and the views expressed by the organisations and bodies that responded to the consultation.

This Scoping Opinion is based on information contained in the Applicant's written request for a Scoping Opinion and information available at today's date. The adoption of this Scoping Opinion by Orkney Islands Council does not preclude Orkney Islands Council from requiring of the Applicant information in connection with any Environmental Impact Assessment (EIA) Report submitted in connection with its application for planning permission for the development. This Scoping Opinion will not prevent Orkney Islands Council from seeking additional information at application stage.

3. Consultation on proposed scope of the EIA

Orkney Islands Council has a duty under Regulation 17(4) of the EIA Regulations 2017 to consult before adopting a Scoping Opinion. The below listed bodies were all consulted, as either statutory consultation bodies or other bodies which Orkney Islands Council considers likely to have an interest in the proposed development by reason of their specific environmental responsibilities or local and regional competencies.

- Orkney Islands Council County Archaeologist.
- Orkney Islands Council Development and Marine Planning (DaMP).
- Orkney Islands Council Environmental Health.
- Orkney Islands Council Roads Services.
- Orkney Islands Council Engineering Services.
- Historic Environment Scotland (HES).
- Royal Society for the Protection of Birds (RSPB).
- Scottish Natural Heritage (SNH) (NatureScot).
- Scottish Environment Protection Agency (SEPA).
- Scottish Water.
- Royal Society for the Protection of Birds Scotland (RSPB).

- Northern Lighthouse Board.
- Marine Scotland.
- Marine Services
- Orkney Fisheries Association.
- Orkney Trout Fishing Association.
- Royal Yachting Association Scotland (RYA Scotland).

The full list of consultation responses received is attached to this Scoping Opinion as Appendix 1. Each should be read in full for detailed requirements from individual consultees and for comprehensive guidance, advice and, where appropriate, templates for preparation of the EIA Report.

Unless stated to the contrary in this Scoping Opinion, Orkney Islands Council expects the EIA Report to include all matters raised by the consultees.

4. Procedure

4.1. Consideration of alternatives

Schedule 4, paragraph 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 requires that all EIAs should include information on the main alternatives studied and an indication of the main reasons for choosing the selected option, with reference to the environmental effects. The EIA Report should therefore contain details of considered alternative approaches and why the proposed development was selected, focussing on the specific extent, direction and phasing proposed, reasons for discounting other sites. This will be particularly important to help address cumulative impact.

4.2. Schedule 4 – Information for inclusion in an EIA Report

As stated in Schedule 4 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 and confirmed in Planning Circular 1/2017: Environmental Impact Assessment regulations, the EIA report must include the following information.

1.

A description of the development, including in particular:

(a) Description of the location of the development.

(b) Description of the physical characteristics of the whole development, including, where relevant, requisite demolition works, and the land-use requirements during the construction and operational phases.

(c) Description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used.

(d) An estimate, by type and quantity, of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases.

2.

A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

3.

A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4.

A description of the factors specified in Regulation 4(3) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

5.

A description of the likely significant effects of the development on the environment resulting from, inter alia:

(a) the construction and existence of the development, including, where relevant, demolition works;

(b) the use of natural resources, in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;

(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances, and the disposal and recovery of waste;

(d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);

(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;

- (f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;
- (g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in Regulation 4(3) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established at Union or Member State level which are relevant to the project [including in particular those established under Council Directive 92/43/EEC and Directive 2009/147/EC].

6.

A description of the forecasting methods or evidence, used to identify and assess the significant effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7.

A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8.

A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

9.

A non-technical summary of the information provided under paragraphs 1 to 8.

10.

A reference list detailing the sources used for the descriptions and assessments included in the EIA report.

5. Matters Proposed to be Considered within the Scoping Opinion Request

5.1.

The Applicant proposes to scope in the following matters:

- Marine Ecology - the risk to marine mammals associated with piling activities during the construction phase.

5.2.

The Applicant proposes to scope out the following matters whilst proposing to provide information for each topic within the introductory chapters of the EIA Report:

- Water Environment and Coastal Processes.
- Ecology.
- Archaeology and Cultural Heritage (providing mitigation is agreed ahead of submission).
- Landscape and Visual.
- Airborne Noise.
- Climate Change.
- Air Quality.
- Accidents and Natural Disasters.
- Population and Human Health.

6. Site-Specific Issues

6.1.

In order to make the scope of the EIA Report acceptable, in conjunction with consideration of the above general information requirements, it is considered that the following topics should be addressed in accordance with the details set out in the remainder of this Scoping Opinion:

- Seascape, Landscape and Visual Impact.
- Construction impacts on Marine and Terrestrial Cultural Heritage.
- Marine and Terrestrial Archaeology.
- Coastal Processes and Erosion and water quality (although latter could be scoped out provided sufficient soil management mitigation is clearly outlined).
- Natural Heritage (additional matters).
- Greenhouse gas emissions, during construction and operation.

Noise and Air Quality during operation effects can be scoped out. Construction effects can also be scoped out, provided that mitigation to address worst case scenario (see below) is clearly defined in introductory sections of the EIA Report.

6.2. Details

6.2.1.

As set out in the Scoping Report, the EIA Report should include a description of the application site and surrounding area, phases of the development, a description of the proposed development and how it will operate. Details of traffic movements for all vehicular traffic and plant required for the construction phase and eventual operation of the proposed development should be estimated and set out in the introductory chapters of the EIA Report.

6.2.2.

Paragraphs 2.2.3 to 2.2.5 of the Scoping Report explains the construction phases, infill requirements and anticipated construction activities for the proposed development, the EIA Report should assess the construction effects of the proposed development in accordance with these details.

6.2.3.

Paragraph 2.2.2 explains the need for the development, outlining the new activities that could be undertaken at the site following implementation of the proposed development. The EIA Report should clarify the proposed activities and assess effects of all possible activities, including expected residues and emissions from them.

6.2.4.

The assessment years that the construction and operation effects are based upon should be clarified. It is assumed that a decommissioning phase is not to be considered on the basis that the development is sought in perpetuity, but this should be clarified in the EIA Report.

6.2.5.

The EIA Report should clarify the overall methodological approach including how significance will be determined.

6.2.6.

The EIA Report should be clearly structured and should include the main technical assessment, Non Technical Summary and relevant appendices.

6.3. Landscape and Visual Impacts

6.3.1.

The applicant has proposed to scope out LVIA from the EIA due to the proposed development taking place within the context of an existing operational port facility and a wider partly industrialised landscape/seascape setting.

6.3.2.

Orkney Islands Council Development and Marine Planning (DaMP) advise that in the absence of an identified zone of theoretical visibility it is not possible to

comment at this stage on the identification of seascape, landscape and visual receptors, however historic environment assets are considered likely receptors to include. However, it is thought that effects on landscape, seascape and coastal character are likely to be significant as a result of the scale of the proposed development and a full SLVIA should be required as part of the EIAR. This should include an assessment of cumulative effects.

6.3.3.

A Seascape, Landscape and Visual Impact Assessment (SLVIA) will be required. The assessment should be undertaken in accordance with the recommendations of the DaMP in its response of 18 May 2021.

6.3.4.

The applicant should identify the zone of theoretical visibility and consult with the planning authority to identify viewpoints and key receptors, including historic assets where relevant.

6.4. Historic Environment

6.4.1.

The applicant has proposed to scope out marine and onshore historic environment from the EIA dependent on the development of the project design and agreeing mitigation ahead of submission.

6.4.2.

Historic Environment Scotland (HES) advice, set out at Appendix 1, confirms that there are no scheduled monuments, category A listed buildings, Inventory battlefields, gardens and designed landscapes or World Heritage Sites located within the proposed development boundary and therefore they are comfortable no significant effects on the site and settings of any terrestrial assets within their remit is likely.

6.4.3.

HES has stated that the proposed development has the potential to significantly impact on other marine historic environment assets during the construction phase of the development. HES state that, based on the information received to date within the scoping request report, construction effects on marine historic environment assets are requested to be scoped into the EIA. However, they clarify that operational effects on the marine environment can be scoped out of further assessment

6.4.4.

The HES advice confirms the study area is acceptable. It sets out those areas where it considers the scoping report does not provide sufficient information or details with respect to nationally important historic environment assets, possible marine historic environment effects or a methodology for the assessment of marine historic environment assets.

6.4.5.

Orkney Island Council Archaeologist advises that the EIA Report includes an archaeological evaluation in view of the potential for destruction or adverse alteration of significant archaeological assets. This should consider the following direct and indirect impacts:

- Potential for significant underwater deposits present – including old land surfaces and wrecks, military materials, intertidal features.
- Damage to land-based archaeology in respect of road layout.
- Where materials for reclaiming land are being sought and ensuring that any related borrow pits/dredged areas are evaluated for archaeology.
- Settings of Scheduled Ancient Monuments/Listed Buildings, including but not limited to St Magnus Cathedral/Quanterness Chambered Tomb/Earth Houses/Balfour Castle.

6.4.6.

Having regard to the consultation responses above, marine and land based cultural heritage and archaeology should be scoped into the EIA Report. The EIA Report should give full consideration to impacts on the marine historic environment during the construction phase, in accordance with the advice set out by HES.

6.4.7.

The EIA Report should also include a full archaeological evaluation in accordance with the recommendations made by the County Archaeologist. In addition, HES recommend that a Protocol for Archaeological Discoveries should be included as additional mitigation for impacts on unknown historic environment assets unless evidence is presented that would make such an imposition unnecessary, for example, information to show that an area has no archaeological potential.

6.5. Natural Heritage

6.5.1.

The applicant proposes to assess impacts on marine mammals and their prey, the PMF Maerl Beds, and impacts on Faray and Holm of Faray SAC, Damsay and Holm of Grimbister Seal Haul-out, and Helliars Holm North and Elwick Seal Haul-out. It will also assess all direct and indirect, lethal and non-lethal impacts on ecology as a result of piling activities during construction. All other ecological receptors are proposed to be scoped out of the EIA.

6.5.2.

Guidance on the scope of the ecology/natural heritage chapter of the EIAR has been provided by **NatureScot**, the **Royal Society for the Protection of Birds (RSPB) Scotland** and **Orkney Islands Council Development and Marine Planning (DaMP)**. These consultation responses are provided at Appendix 1 and should be taken into account in the preparation of the ecology/natural heritage chapter of the EIAR. Key points arising from the consultation responses are provided below.

6.5.3.

From the information provided in the Scoping Report, **NatureScot** has concerns that potentially significant impacts to the natural heritage from this proposed development have not been recognised. Furthermore, they state given the location and scale of development and with the current lack of certainty regarding the proposed construction methodology and mitigation, it is not possible to scope out the majority of ecological receptors from full assessment. In particular, the most significant natural heritage interests likely to be affected are the features of the North Orkney proposed Special Protection Area (pSPA) and potentially the red-throated diver interest of the Orkney Mainland Moors SPA. SNH is keen to continue to support the applicant in progressing the EIA and in the development of mitigation where possible.

6.5.4.

NatureScot note it is unclear how impacts from certain construction activities such as dredge spoil disposal and marine transport of materials for infill or rock armouring will be assessed as these options won't be determined until later in the process. Therefore, at this stage it is not possible to judge likely impacts unless a clear worst case scenario (Rochdale envelope approach) be defined with respect to these and other relevant aspects of the proposal against which potential impacts can be assessed. This should be covered in the EIA Report.

6.5.5.

The applicant should refer to the Orkney Local Biodiversity Action Plan and the Pilot Pentland Firth and Orkney Waters Marine Spatial Plan in preparation of the EIA Report.

6.5.6. Designated Sites

The EIA Report should give full consideration to:

- European protected areas for all phases of the development - North Orkney pSPA, Orkney Mainland Moors SPA, Faray and Holm of Faray Special Area of Conservation Area (SAC) and Sanday SAC, including potential for impacts on qualifying interests including red-throated divers. These sites are also designated as SSSIs and therefore impacts to SSSIs should be covered by assessment of SPAs and SACs.
- Provide sufficient information for the Competent Authority to be able to undertake appropriate assessments in view of these site's conservation objectives for their qualifying interests.
- Impacts on species with high levels of behavioural sensitivity to vessel movements from wider operational impacts from the expected changes to the nature, routing and frequency/volume of vessel traffic through the North Orkney pSPA.
- Scapa Flow pSPA (only if there are associated vessel movements during the construction phase).

- The applicant has noted that the EIA will include an assessment of impacts on Faray and Holm of Faray SAC, this should specifically relate to connectivity for grey seals.
- Impacts on Sanday SAC (and specifically harbour seal) as it is well within the 50km connectivity buffer of the harbour seal feature.
- Impacts on Eynhallow SSSI and Muckle and Little Green Holm SSSI designated for harbour and grey seals respectively,

6.5.7. Birds

Advice from the **Royal Society for the Protection of Birds (RSPB) Scotland** and **DaMP** notes that Hatston pier is located adjacent to the North Orkney proposed Special Protection Area (pSPA), designated for the areas' international importance for large numbers of wintering and passage species including common eider, European shag, great northern diver, long-tailed duck, red-breasted merganser, Slavonian grebe, velvet scoter and breeding red-throated diver. These species are attracted to the sheltered sounds and bays of the coastline in order to forage and rest and are also utilised by breeding species such as common eider during the spring and summer. As noted in the Scoping Report, there is potential for these species to be directly and indirectly affected both during construction and operation of the proposed development.

6.5.8.

The advice also highlights the scheme's need for Habitats Regulations Appraisal.

6.5.9.

DaMP advice (see Appendix 1) explains that due to the location of the site within the North Orkney pSPA, and within 8km of the Orkney Mainland Moors SPA, bird surveys should be undertaken at the appropriate times of year, in line with the guidance provided by NatureScot, to obtain updated information about the numbers and distribution of species which could be affected by the development proposal including potential disturbance by vessel movements associated with the development.

6.5.10.

The findings of these surveys should inform an assessment of the likely effects of all stages of the development on both pSPA/SPAs and their qualifying features. Consideration should also be given to the capacity for species to move to alternative areas within the North Orkney pSPA to avoid disturbance. The conclusions of the assessment should be used to help shape the final development proposal and inform mitigation plans.

6.5.11.

Effects on SPA/pSPA bird features should be considered in the EIA Report, as well as in the HRA.

6.5.12.

In addition to the above, the EIA Report should give full consideration to:

- Impacts to marine bird features from the permanent displacement of birds from the development footprint.
- Disturbance of birds in the vicinity of the proposal during site investigation, construction and/or operational phases and the temporary or permanent loss of or damage to prey-supporting habitats in the development vicinity or at dredge spoil disposal sites.
- Advice from **NatureScot** requiring, in addition to the calendar year of low-tide bird surveys proposed by the applicant at paragraph 5.5.2, that wintering waterbird surveys for North Orkney pSPA features are undertaken Sept/Oct to April, and breeding seabird and diver surveys undertaken April to August. Surveys for breeding red-throated divers, should be undertaken during the main chick-rearing period (late June to mid August). Ideally two years of bird surveys should be undertaken, but one year may be sufficient depending on findings of the first year.

6.5.13. Marine Mammals, habitats and fish

The Scoping Report proposes to assess the risk to marine mammals associated with piling activities during the construction phase. Consultation responses received from **NatureScot, and Orkney Islands Council DaMP** has recommended that the following should be given consideration within the EIA Report:

- Impacts on otters (as confirmed in scoping report).
- Impacts to grey and harbour seals for all phases of the development.
- Impacts on cetaceans (European Protected Species) should be scoped in for all phases of the development in relation to potential noise disturbance and exclusion from feeding areas. In addition to those identified in the scoping report, the list of species to be scoped in for assessment should also include humpback, fin, sperm, long finned pilot and sei, curvier's beaked whale along with striped dolphin.
- Benthic survey work to establish the benthic habitats and species present at the development location, particularly Priority Marine Features (PMF). Guidance on the form of this survey work is set out in the SNH response at Appendix 1.
- Potential impacts to Basking Sharks.
- Potential impacts to intertidal habitats.

6.5.14.

As per the scoping report, the EIA Report should include baseline data on fish. There are currently several aquaculture sites registered with **Marine Scotland Science (MMS)** in the vicinity of the site. The nearest is shown on the **MMS** consultation response (Appendix 1).

6.5.15.

The habitat 'Burns and Canalised Burns' is identified in the Orkney Local Biodiversity Action Plan as a locally important habitat and should be added to the list in Section 5.2.2. The Burn of Hatston may support spawning habitat for seatrout, a Priority Marine Species. Although seatrout spend much of their time at sea, they return to freshwater to spawn. The developer is advised to contact the **Orkney Trout Fishing Association** for further information.

6.5.16. Biosecurity

NatureScot recommend that site-based biosecurity plans for the proposal, at the construction and operational phases, to assist with managing the spread and introduction of Marine Invasive Non-Native Species (mINNS) are produced, as there is a risk of introduction and spread through the implementation of the proposed development.

6.5.17.

The EIA Report should consider potential for significant adverse effects relating to mINNS, as proposed by **NatureScot** and the **RSPB** and should include measures to avoid and prevent this possible significant adverse effect on the environment, along with any proposed monitoring arrangements, in accordance with the **RSPB's** advice.

6.5.18.

As required by the Planning (Scotland) Act 2019, National Planning Framework 4 will establish outcomes for how development will contribute to securing 'positive effects for biodiversity'. The Draft NPF4 is expected in Autumn 2021 and as the Hatston Pier extension is a Candidate National Development, it is recommended that the developer should consider potential options for delivering such positive effects for biodiversity at the earliest opportunity. The process for identifying options should be documented in the introductory section of the EIA Report and where relevant in the mitigation section of the Ecology/Natural Heritage Chapter.

6.6. Water Environment

6.6.1.

The applicant proposes to scope out impacts from coastal processes, dredging, flood risk (fluvial and coastal) and pollutants/contaminants, though it is proposed to have a section on water environment and coastal processes, presumably in the introductory chapters of the EIA Report.

6.6.2.

Marine Scotland in its response at Appendix 1 notes that there are currently several aquaculture sites registered with Marine Scotland Science located in the vicinity of the Hatston pier development in Kirkwall proposed by Orkney Islands Council (see map). The nearest aquaculture site is situated ~1.25km north west of the proposed development; it is an active marine cage Atlantic salmon site, operated by Cooke Aquaculture Scotland Ltd.

6.6.3.

Orkney Islands Council DaMP response is set out at Appendix 1. The response advises that the potential effects of all stages of the proposed development on the water environment should be assessed, although it isn't clarified if this should be within an EIA Chapter. Assessment of effects on coastal processes should be informed by advice from NatureScot regarding sediment transport in the vicinity of the proposed development and benthic habitat surveys to determine proximity to

and interactions with potentially sensitive habitat features, particularly PMFs. Further information is also required to determine the nature of the sediment proposed to be dredged and the proposed method of disposal of dredged materials and associated effects. The storage of excavated soils has the potential to have an impact on the Burn of Hatston as well as the Marine Environment, in terms of increased sediment and water quality. This needs to be considered in any assessment.

6.6.4.

Orkney Islands Council Engineering Services in its response at Appendix 1 agree that fluvial flood risk should be scoped out. However, state that coastal flood risk and erosion should be included in the scope of assessment.

6.6.5.

The **Scottish Environment Protection Agency (SEPA)** in its response at Appendix 1 note *“The development design will take account of extreme sea levels and future sea level rise predictions, as appropriate. Therefore, it is proposed to scope out the further assessment of coastal flood risk”. We are satisfied with this approach but advise, Section 4.3.2 Tidal Water Levels references the extreme sea levels and “The SEPA derived extreme sea levels, predicted at a point within Kirkwall, are 2.83m Above Ordnance Datum (AOD) for the 1 in 200 year return period event.”* SEPA highlight that, whilst the Coastal Flood Boundary (CFB) dataset has been revised, it is a national dataset which has not taken sufficient account of local data from tide gauges or past floods, and which SEPA do not consider an improvement for the area. As such, we would recommend that the previous level of 3.1m AOD is used as this is most likely more representative of the 200-year level.

6.6.6.

In regard to other matters within its remit, **SEPA** is satisfied with the proposed topics to be covered within supporting statements and that the *“CEMD and associated CEMPs would be finalised on receipt of Planning / Marine Consent and would aid discharge of planning/marine license conditions. It would also form part of the tender documents during the contracting phase of the development.”*

6.6.7.

Having regard to the consultation responses, the EIA Report should therefore include consideration of impact on water quality (Marine and Hatson Burn), coastal flood risk and erosion, addressing the following key issues, as recommended by Orkney Islands Council’s Engineering Services:

- The proposed quay edge level of 5.00m Above Ordnance Datum is higher than both the predicted 1:200 and 1:000 year event extreme sea levels plus climate change allowance by what appears to be a reasonable margin. However, with up to 20km of fetch from the NNE, the joint probability of 1:200 and 1:1000 year extreme sea levels coincident with significant wave action to exposed faces within the anticipated lifespan of the development should be considered.

- Possible impacts on vulnerable shoreline to the south of the proposed development, including at Crow Ness, and to the west of northern part of the development – due to significant and ongoing erosion of the sea bank, requiring remediation, is present approximately 400m SSE of the proposed development site at Crow Ness.

6.6.8.

It is agreed that fluvial flood risk can be scoped out of the Water Environment chapter of the EIA Report.

6.7. Traffic and Transport

6.7.1.

Orkney Islands Council Roads Services in its response at Appendix 1 note that information on vehicle movements during the construction and operational phases of the proposed development is limited; the Scoping Report makes no mention of vehicle or plant movements apart from potential HGV movements for the importation of stone.

6.7.2.

The EIA Report should include information on the expected traffic movements for all vehicular traffic and plant that will be required for the construction phases and eventual operation of the extended harbour area in the introductory chapters. Traffic and Transport as a stand alone chapter of the EIA Report is not required.

6.8. Climate Change

6.8.1.

The applicant proposes to scope out climate change based on the focus of the masterplan being on decarbonisation of ships, and that any negative greenhouse gas emissions impacts during construction or operational phases would be negligible and insignificant. No separate chapter on climate change resilience is required and the scoping report cross refers to the Water Environment text.

6.8.2.

However, as identified in **NatureScot's** consultation response, it is noted that paragraph 2.2.2 of the Scoping Report suggests oil and gas supply operations could be introduced at the site as a result of the proposal. Clarification on this is requested prior to the submission of the EIA Report.

6.8.3.

RSPB in its advice considers that further analysis of the carbon-cost of the development and the indirect climate impacts should be included in the EIA Report.

6.8.4.

It is considered that the matter of Climate Change Resilience will be successfully covered in relevant technical chapters of the EIA Report and there is no

requirement for a stand alone chapter. The introductory sections of the EIA Report should include a section on climate change, including analysis of the carbon cost of the development and signposting where climate change matters are considered within the technical EIA chapters and information explaining how the development will ensure it operates as a decarbonised shipping port which would produce only negligible increases in emissions, as stated in the Scoping Report (section 3.3.1).

6.8.5.

The Scoping Report doesn't provide any information on the likely greenhouse gas emissions associated with the construction phase of the proposed development, nor does it reference IEMA's guidance suggesting that all greenhouse gas emissions are significant in the current climate change emergency. In this context, whilst it may be possible to scope out greenhouse gas emissions during the construction phase, the applicant will need to provide more evidence to justify this approach.

6.8.6.

In terms of operational greenhouse gas effects, at this stage the proposed development is not catering for specific uses, rather Section 2.2.2 of the Scoping Report clarifies the types of activities that could be introduced as a result of the proposed development. These uses include both renewable energy related uses and fossil fuel. Consideration should be given to likely operational effects as currently known. As noted above, whilst it may be possible to scope out greenhouse gas emissions during the operational phase, the applicant will need to provide more evidence to justify this approach.

6.8.7.

The Council should be consulted on any future plans to include the supply of fossil fuels or storage of alternative fuels in the operational development, to establish the need for EIA at this stage.

6.9. Airborne Noise and Air Quality

6.9.1.

The Scoping Report identifies the potential for temporary air quality/ dust related impacts during the construction phase of the proposed development, which are to be addressed by a site specific Dust Management Plan and CEMP.

6.9.2.

It highlights that there are three options to source the rock infill material to form the reclamation areas. The preferred option is unlikely to be confirmed until post tender stage at which point the detailed design will be finalised and the construction contract awarded. At this point in time, should it be confirmed that the rock infill source will be from a quarry on Orkney mainland then consideration will be given to undertaking a Construction Dust and Construction Noise Assessments to inform appropriate mitigation measures to reduce the potential for impacts on the environment along the haul route.

6.9.3.

Construction noise impacts on marine life are to be considered in the Ecology Chapter of the EIA.

6.9.4.

The Scoping Report proposes to scope out operational noise and air quality on the grounds that:

- There is not anticipated to be a significant increase in HGV movements associated with operation, with the majority of supplies arriving to / from the harbour via vessels. Any increase in road traffic flows, including HGV movements, attributed to the development is considered unlikely to be of sufficient magnitude to significantly increase noise at residential receptors in the surrounding area.
- The types of noise generating activities as a result of the operational phase are also currently carried out as part of existing operations at Hatson. The increase in noise generated by additional operations within the harbour is therefore considered unlikely to be of sufficient magnitude to significantly increase noise at residential receptors in the surrounding area.
- The development design will include energy efficiency and sustainable transport options, where possible. As such there should be a negligible increase in pollutant emissions after the development is operational.
- Although future operations may include alternative fuel storage etc, the full details of this are currently unknown. Air Quality will be a consideration when contemplating any future operational proposals.

6.9.5.

Orkney Islands Council DaMP in its advice recommends that the EIA should assess construction and operational impacts on the amenity of local residents and businesses (including fish farms, commercial fishing opportunities, coastal/marine recreational users) due to noise, vibration, dust or other impacts. The consultation response notes that the Scoping Report proposes that the construction noise assessment will be deferred until the point that the details on construction activities and source of infill material have been finalised.

6.9.6.

The EIA should define the source of infill material and if this is not known at the time of submission, should outline the potential options ensuring assessment of the potential impacts associated with the worst case scenario through providing information of likely HGV movements associated with that option and appropriate mitigation, including a Framework CEMP/Dust Mitigation Strategy. With appropriate mitigation of the worst case scenario outlined in the introductory sections of the EIA, noise and air quality during the construction phase of the proposed development can be scoped out of the EIA.

6.9.7.

It is agreed that operational air quality and noise can be scoped out of the assessment for the reasons set out in the Scoping Report.

6.9.8.

The Council should be consulted on any future plans to include the supply of fossil fuels or storage of alternative fuels in the operational development, to establish the need for EIA.

6.10. Human Health, Accidents and Natural Disasters

6.10.1.

The applicant proposes to scope out Human Health, Accidents and Natural Disasters based on the port being an existing operational site which already operates (and will continue to operate) under Safety Management System / Standard Operating Procedures to promote safe and efficient harbour operations.

6.10.2

It is agreed that these topics can be scoped out of the EIA Report on this basis.

6.11. Socio-Economic Effects

6.11.1.

The scoping response does not consider the potential socio-economic effects of the proposed development in any detail.

6.11.2.

Orkney Islands Council DaMP in its advice states that the EIA will need to demonstrate that significant adverse social, economic and operational effects on existing activities and/or infrastructure have been avoided or, where avoidance is not possible, adverse effects have been appropriately mitigated. The assessment should consider the significant direct economic impacts, indirect/wider economic impacts, demographic impacts, impacts local infrastructure and services.

6.11.3.

It is possible that there could be some significant beneficial socio-economic effects, during the construction and operational phases of the proposed development. The EIA should therefore include an assessment of socio-economic effects following the advice of Orkney Islands Council DaMP.

6.12. Cumulative Effects

6.12.1.

The EIA Report should include details of the cumulative impacts of the development. Notwithstanding the information included within the submitted Scoping report, the applicant should undertake a thorough assessment of all consented and forthcoming proposals, noting that the 2017 Regulations require the

information contained within the EIA Report to be up to date at the point of determination (previously it was taken to be submission). Cumulative impacts should be considered in terms of both operational cumulative effects as well as the cumulative effects during the construction phase. The methodology for determining cumulative impacts should be set out in the EIA Report.

6.12.2.

The following types of projects should be included in such an assessment, (subject to available information):

- a. Existing completed projects.
- b. Approved but uncompleted projects.
- c. Ongoing activities.
- d. Plans or projects for which an application has been made and which are under consideration by the consenting authorities.
- e. Plans and projects which are reasonably foreseeable, i.e. projects for which an application has not yet been submitted, but which are likely to progress before completion of the development and for which sufficient information is available to assess the likelihood of cumulative and in-combination effects.

6.12.3.

A list of developments for inclusion in Cumulative Effects Assessment is attached to this Scoping Opinion as Appendix 2.

6.12.4.

The Applicant proposes not to incorporate a separate Chapter within the EIA report dedicated to cumulative assessment. Instead, the chapter for each environmental discipline will consider the potential for cumulative impacts within their individual impact assessments. The assessment of Cumulative Effects within each chapter must contain consideration of intra-project and synergistic effects as well as inter-project effects. The applicant has not included any proposed schemes to assess.

6.12.5.

The methodology for assessing cumulative impacts in relation to each technical chapter should be explained in that chapter.

6.12.6.

NatureScot in its advice, recommends that the cumulative assessment take into consideration other sectors including aquaculture, renewable energy developments and cable installations. The RSPB request that the Kirkwall Pier and Harbour development, which was subject of an EIA screening request (20/240/SCR), should be considered in the cumulative assessment.

7. Mitigation

Orkney Islands Council is required to make a reasoned conclusion on the significant effects of the proposed development on the environment as identified in the EIA. The mitigation measures suggested for any significant environmental impacts identified should be presented as a conclusion to each chapter or in another clearly identified section of the chapter. Each chapter should seek to clearly identify relevant embedded (primary/tertiary) mitigation and monitoring measures and additional/secondary mitigation. Applicants are also asked to provide a consolidated schedule of all mitigation measures proposed in the environmental assessment, provided in tabular form, where that mitigation is relied upon in relation to reported conclusions of likelihood or significance of impacts, and how any mitigation would be secured and who is responsible for implementing the mitigation.

8. Next Steps

8.1.

It is acknowledged that the EIA process is iterative and should inform the final layout and design of proposed developments. Elements of the proposed development may change and evolve as the planning application progresses. It is a matter for the Applicant, in preparing an EIA Report, to ensure these changes are captured effectively.

8.2.

Orkney Islands Council notes that further engagement between relevant parties in relation to the refinement of the design of this proposed development will be required and would request that the Council is kept informed of on-going discussions in relation to this.

8.3.

Orkney Islands Council encourages the use of digital EIA techniques to present the information in the EIA Report in ways that make understanding of the impacts and mitigation accessible to all readers. The Applicant may wish to refer to the digital EIA primer document published by IEMA (Digital Impact Assessment – Primer for embracing innovation and digital working, 2020). To facilitate uploading to the planning portal, the EIA Report and its associated documentation, when submitted, should be accompanied with a CD containing the EIA Report and its associated documentation divided into appropriately named separate files of sizes no more than 5 MB. This will also assist consultees.

8.4.

Applicants are reminded that there will be limited opportunity to materially vary the form and content of the proposed development post submission.

8.5.

Orkney Islands Council recommends that the EIA Report be produced in line with best practice:

- The EIA Report should be a standalone and self-contained document - not be a collection of disparate reports. It should be clearly and coherently structured with a narrative of assessment drawn through the document.
- The EIA Report should have clear and consistent chapter, section and paragraph naming and numbering for ease of understanding. Technical appendices should be clearly referenced throughout the EIA Report and numbered and presented in a way that affords ready access to the supporting information for specialist and non-specialist readers alike.
- The EIA Report should be as concise as possible, in line with the principle of proportionate EIA, with supporting technical information placed in logically ordered and clearly labelled appendices. The Applicant should provide sufficient figures, drawings photographs or other visual representations required to clearly illustrate the proposed development and any other information needed to understand the potential effects associated with its construction. These should also be logically ordered and labelled clearly.
- A common approach to the use of terminology should be adopted throughout the EIA Report, to ensure consistency and ease of understanding for all users of the document. A glossary of technical terms and a list of abbreviations and acronyms should be included in the EIA Report, covering all of the technical chapters and appendices.
- The EIA Report should provide an objective and realistic description of the likely significant impacts of the proposed development, both beneficial and adverse. The information presented should be comprehensible to both technical specialists and non-specialists alike.
- The Non-Technical Summary (NTS) should comprise a summary of the assessment in plain language, and should be supported by appropriate plans graphics, photographs, photomontages and other visual representations as necessary. This should be a standalone document and not a chapter within, or an appendix to, the EIA Report.
- When finalising the EIA Report, applicants are asked to provide a summary in tabular form of where within the EIA Report each of the specific matters raised in this scoping opinion has been addressed.

Notes

The EIA Report must be prepared by competent experts and contributors, outlining relevant expertise or qualifications of such experts. The detail of which should be included within or accompany the EIA Report, along with a statement from the developer.

Please note Scottish Planning Policy:

<https://www.gov.scot/Publications/2014/06/5823>

This Opinion is hereby adopted under the provisions of Regulation 17(10) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 and shall be placed on the register in accordance with Regulation 28.

It will be important to ensure that, in taking the EIA process through to the completion of the EIA Report, the information contained within the Scoping Report is accurately reflected within the main text of the EIA Report. For example, the information provided in response to the items to be scoped out, should be taken through to the main EIA Report. Under the 2017 EIA Regulations the Scoping Opinion issued by the Council is binding to the Applicant.

Date

13 October 2021

Signed

Jamie Macvie MRTPI, Planning Manager, Development Management

Scoping Opinion sent to:

Orkney Islands Council (Marine Services).

Appendix 1

Consultation Responses.

Appendix 2

Cumulative Schemes.

Appendix 1

Consultation Responses

Friday, 23 April 2021



Local Planner
Development Management, Development and Infrastructure
Orkney Islands Council
Kirkwall
KW15 1NY

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

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

Dear Sir/Madam

SITE: Hatston Pier and Harbour, Near Kirkwall, KW15 1GG
PLANNING REF: Expansion of Hatston Pier and Harbour
OUR REF: DSCAS-0038397-NRP
PROPOSAL: Expansion of Hatston Pier and Harbour

Please quote our reference in all future correspondence

[Audit of Proposal](#)

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

[Drinking Water Protected Areas](#)

A review of our records indicates that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed activity.

[Surface Water](#)

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection



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request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- ▶ Scottish Water asset plans can be obtained from our appointed asset plan providers:
 - ▶ Site Investigation Services (UK) Ltd
 - ▶ Tel: 0333 123 1223
 - ▶ Email: sw@sisplan.co.uk
 - ▶ www.sisplan.co.uk
- ▶ Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area, then they should write to the Customer Connections department at the above address.
- ▶ If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.
- ▶ Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.
- ▶ The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.
- ▶ Please find information on how to submit application to Scottish Water at [our Customer Portal](#).

Next Steps:

▶ All Proposed Developments

All proposed developments require to submit a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water via [our Customer Portal](#) prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

▶ Non Domestic/Commercial Property:



Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

▶ **Trade Effluent Discharge from Non Dom Property:**

- ▶ Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.
- ▶ If you are in any doubt as to whether the discharge from your premises is likely to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found [here](#).
- ▶ Trade effluent must never be discharged into surface water drainage systems as these are solely for draining rainfall run off.
- ▶ For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas, so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
- ▶ The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

I trust the above is acceptable however if you require any further information regarding this matter please contact me on **0800 389 0379** or via the e-mail address below or at planningconsultations@scottishwater.co.uk.

Yours sincerely,

Pamela Strachan

Development Operations Analyst

Tel: 0800 389 0379

developmentoperations@scottishwater.co.uk



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Scottish Water Disclaimer:

“It is important to note that the information on any such plan provided on Scottish Water’s infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation.”



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Scoping Application Consultation

Planning Authority Name	Orkney Islands Council
Date of Consultation	26th April 2021
Response required by	17th May 2021
Planning Authority Reference	21/159/SCO
Nature of Proposal (Description)	Scoping opinion request to extend a pier, and reclaim land to create a mixed use laydown and operational area with access road
Site	Hatston Pier, Kirkwall, Orkney
Site Postcode	N/A
Site Gazetteer UPRN	
Proposal Location Easting	
Proposal Location Northing	
Area of application site (Metres)	
Clarification of Specific Reasons for Consultation	
Development Hierarchy Level	N/A
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 21/159/SCO
List of Available Supporting Documentation	As above URL
Offline Documents available?	N/A
Date of Validation by Planning Authority	16th April 2021
Governing Legislation	THE TOWN AND COUNTRY PLANNING ENVIRONMENTALIMPACT ASSESSMENT (SCOTLAND) REGULATIONS 2017
Consultation Type	Scoping
Consultation Stage	N/A
Is this a re-consultation of an existing application?	No
EIA Required	Yes
EIA Regulations	Yes
Use Class (Current)	
Use Class (Proposed)	
Does the application conform with the Structure Plan / Local	

Plan Land Use	
Additional Comments relating to Structure Plan / Local Plan Use	N/A
Transport Assessment or Travel Plan	N/A
Applicant Name	Orkney Islands Council
Applicant Organisation Name	
Applicant Address	
Agent Name	EnviroCentre Ltd
Agent Organisation Name	
Agent Address	
Agent Phone Number	N/A
Agent Email Address	N/A
PA Office	Development Management
Case Officer	Mr Jamie Macvie
Case Officer Phone number	01856 873535 EXT 2529
Case Officer email address	jamie.macvie@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

In response to the above Scoping Consultation:

Cultural Heritage:

There is potential for destruction or adverse alteration of significant archaeological assets:

1. Direct impact:
 - A) Identified sensitivity includes potential for significant underwater deposits present – these could include old land surfaces and wrecks, military materials, intertidal features.
 - B) Damage to land-based archaeology in respect of road layout.
 - C) Consideration should be given to where materials for reclaiming land are being sought and ensuring any related borrow pits/dredged areas are evaluated for archaeology.

2. Indirect impact: Settings of scheduled Ancient Monuments/Listed Buildings including for example, but not limited to: St Magnus Cathedral/Quanterness Chambered Tomb/Earth Houses/Balfour Castle, may be adversely affected by the pier extension in respect of views.

I would advise therefore that an EIA include an archaeological evaluation.

Julie Gibson. Orkney Islands Council Archaeologist: contact Julie.gibson@uhi.ac.uk

From: harbours <harbour@orkney.gov.uk>

Sent: 05 May 2021 15:35

To: planningconsultation <planningconsultation@orkney.gov.uk>

Subject: RE: Scoping Application Consultation 21/159/SCO

Classification: OFFICIAL

Good Afternoon,

Marine Services have no comments at this time.

Kind Regards

Terri

Development & Infrastructure

Marine Services

T: +44 (0)131 244 4013 F: +44 (0)131 244 0944
Email: MS.FFPPlanning@gov.scot

Our ref: FFP-21-026
Your ref: 21/159/SCO

14/05/2021

Dear Mr Macvie,

Development at Hatston Pier, Kirkwall by Orkney Islands Council

We have reviewed the application submitted and offer the following comment:

Aquaculture Animal Health

There are currently several aquaculture sites registered with Marine Scotland Science located in the vicinity of the Hatston pier development in Kirkwall proposed by Orkney Islands Council (see map). The nearest aquaculture site is situated ~1.25km north west of the proposed development; it is an active marine cage Atlantic salmon site, operated by Cooke Aquaculture Scotland Ltd..

Yours sincerely

Marine Scotland Science

Appended:

Map: Aquaculture sites in the vicinity of proposed development at Hatston Pier, Kirkwall

Aquaculture sites in the vicinity of proposed development at Hatston Pier, Kirkwall



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HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

By email to:

planningconsultation@orkney.gov.uk

Jamie McVie
Orkney Islands Council (Planning)
Development Management
Council Offices
School Place
Kirkwall
Orkney
KW15 1NY

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

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

Our case ID: 300045540
Your ref: 21/159/SCO
17 May 2021

Dear Jamie McVie

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017

Hatston Pier, Kirkwall - Scoping opinion request to extend a pier, and reclaim land to create a mixed use laydown and operational area with access road
Scoping Report

Thank you for your consultation which we received on 26 April 2021 about the above scoping report. We have reviewed the details in terms of our historic environment interests. This covers World Heritage Sites, scheduled monuments and their settings, category A-listed buildings and their settings, inventory gardens and designed landscapes, inventory battlefields and historic marine protected areas (HMPAs). In this case, our advice also includes matters relating to marine archaeology outwith the scope of the terrestrial planning system.

Your own archaeological and cultural heritage advisors will also be able to offer advice on the scope of the cultural heritage assessment. This may include heritage assets not covered by our interests, such as unscheduled archaeology, and category B- and C-listed buildings.

Proposed Development

We understand that the proposed development comprises the extension of the existing outer quay at Hatston by 300m (with water depth of -10m CD) which would also form a 125m inner berth, creating substantially more quayside for current and future operations. In addition, approximately 7.7ha of additional land from the current shoreline outwards would be made available for harbour-related operations through reclamation.

Scope of assessment

Marine assets

In relation to the submitted plans for the proposed quay extension and associated works, we can confirm that there are no scheduled monuments located within these areas. However, we consider that there is the potential for the proposed works to significantly

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

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VAT No. **GB 221 8680 15**



impact on other marine historic environment assets during the construction phase of the development.

- Palaeoenvironmental remains: Section 6.2.1. of the Report states that “There are no known submerged palaeoenvironmental remains in the shallow margins of this part of Kirkwall Bay (Timpany et al, 2017) and it is unlikely that there is any potential for such remains at the proposed development”. The source quoted is a paper which appears to be about work undertaken in the Bay of Ireland on the SW of Mainland published in a journal to which we do not have access (Journal of Island and Coastal Archaeology). The Scoping Report needs to provide considerably more information from this paper and from any other available sources to support the assertion that the development area has no palaeoenvironmental potential.
- Aircraft wrecks: the Report notes that the wreck of a Supermarine Spitfire which crashed “500 yards north of Hatston” has never been found. It also correctly notes that any remains relating to this aircraft are protected under the Protection of Military Remains Act 1986 and assigns it “High” importance in Table 6-1. Section 6.3.1 of the Report states that “due to regular side scan sonar surveys conducted around the pier and the approach to it, it can be stated that the Spitfire is not present here and will not be affected by the development”. In order to assess the validity of this statement the following needs to be provided: detail on the nature of the sonar surveys carried out, the nature of the seabed in the area and whether there is any additional supporting survey evidence to confirm this assessment of impact, for example magnetometry surveys, diver inspection, video etc.
- Dredging: the extent of the dredging necessary to facilitate the works is comparatively small but could have an impact on either of the two categories of heritage asset discussed above. Assertions that the dredge areas are believed to contain no archaeological potential because they are surveyed regularly need to be supported with information on the nature and location of those surveys. Table 6-3 also states that dredged material will be used as infill within the development site. This appears to contradict or pre-empt section 2.2.5 of the Report which states that site investigations will be required to determine the Best Practicable Environmental Option (BPEO) for the dredging spoil. If these investigations show that reuse as infill is not feasible, we need to understand what the disposal mechanism will be and how potential impacts on cultural heritage assets will be avoided or mitigated.

We therefore request that construction effects on marine historic environment assets are scoped into the EIA.

We are content that operational effects on marine historic environment assets can be scoped out of further assessment. We consider that any impacts on marine historic



environment assets are likely to occur and be addressed during the construction rather than the operational phase.

If the further information discussed above can be provided then it may be possible to scope out impacts on marine historic environment assets from the EIA process, however, this would depend on the nature and detail of any information provided.

Terrestrial assets

We can confirm that there are no scheduled monuments, category A listed buildings, Inventory battlefields, gardens and designed landscapes or World Heritage Sites within the proposed development boundary.

We are content that the proposed development will not have significant effects on the site or setting of any terrestrial assets within our statutory remit and we therefore have no further comments on the potential effects of the development for our statutory terrestrial interests.

Scoping report

We are content with the study area identified in the scoping report for marine historic environment assets. We are content that the baseline assessment provided identifies the known marine historic environment assets within the development area and in the surrounding study area.

The Scoping Report does not provide sufficient information or detail to be sure that there is no risk to nationally important historic environment assets, specifically military aircraft wrecks. Additional information is required before a definitive response regarding these assets can be provided. We are therefore not content that marine cultural heritage can be scoped out from further assessment in the EIA.

The Scoping Report lacks sufficient detail to support assertions made about possible marine historic environment effects. Without the evidence to support these assertions, it is not possible to make an informed assessment of the proposals and we therefore cannot accept that marine historic environment interests can be scoped out at this stage.

We note that the scoping report does not identify a methodology for the assessment of marine historic environment assets as it is proposed to scope these impacts out of further assessment. Given our view that these effects cannot yet be scoped out of the assessment we would welcome further information on the methodology to be used to assess effects.

We note that the scoping report refers to the use of a Protocol for Archaeological Discoveries (PAD). We would normally expect a PAD to be included in any scheme as additional mitigation for impacts on unknown historic environment assets unless evidence



is presented that would make such an imposition unnecessary, for example, information to show that an area has no archaeological potential. As the nature of the archaeological resource in the development area is unclear, it is not yet possible to say whether a PAD would be appropriate in this case.

As indicated above, if the further information required can be provided then it may be possible to scope out impacts on marine historic environment assets from the EIA process, however, this would depend on the nature and detail of any information provided.

Further information

The Historic Environment Policy for Scotland (HEPS 2019) was adopted on the 01 May 2019 and replaced the Historic Environment Scotland Policy Statement (HESPS 2016). The Historic Environment Policy for Scotland is a strategic policy document for the whole of the historic environment and is underpinned by detailed policy and guidance. This includes our Managing Change in the Historic Environment Guidance Notes. All of these documents are available online at www.historicenvironment.scot/heps.

Practical guidance and information about the EIA process can also be found in the [EIA Handbook \(2018\)](#). Technical advice is available on our Technical Conservation website at <http://conservation.historic-scotland.gov.uk/>.

We hope this is helpful. Please contact us if you have any questions about this response. The officer managing this case is Victoria Clements who can be contacted by phone on 0131 668 8730 or by email on Victoria.Clements@hes.scot.

Yours sincerely

Historic Environment Scotland

INTERNAL MEMORANDUM TO: Development & Marine Planning

Date of Consultation	26th April 2021
Response required by	17th May 2021
Planning Authority Reference	21/159/SCO
Nature of Proposal (Description)	Scoping opinion request to extend a pier, and reclaim land to create a mixed use laydown and operational area with access road
Site	Hatston Pier, Kirkwall, Orkney
Proposal Location Easting	
Proposal Location Northing	
Area of application site (Metres)	
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 21/159/SCO
PA Office	Development Management
Case Officer	Mr Jamie Macvie
Case Officer Phone number	01856 873535 EXT 2529
Case Officer email address	jamie.macvie@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

Policy Context

Scotland's National Marine Plan should inform the preparation of the EIAR for this proposed development and any subsequent consent applications.

The Orkney Local Development Plan policies should be considered in relation to this proposed development. Policy 12 Coastal Development is of particular relevance. The environmental effects of the proposed development should be assessed and addressed in line with the requirements of Orkney Local Development Plan Policy 9: Natural Heritage and Landscape, and Supplementary Guidance: Natural Environment. These documents are available on the Council's website at <http://www.orkney.gov.uk/Service-Directory/O/Orkney-Local-Development-Plan.htm> and <http://www.orkney.gov.uk/Service-Directory/D/natural-environment.htm>

The developer is also advised to refer to the Orkney Local Biodiversity Action Plan which is available at <https://www.orkney.gov.uk/Service-Directory/L/Local-Biodiversity-Plan.htm>. Please note that, although the current version of the LBAP covers the period 2018-2022, the Audit and Habitat Action Plans from the 2002 Plan provide much of the context to the current Plan and continue to be relevant to the protection and enrichment of biodiversity in the Orkney Isles.

The Pilot Pentland Firth and Orkney Waters Marine Spatial Plan should be considered in relation to the proposed development. The Plan has been approved by Scottish Ministers for use by the Marine Scotland Licensing Operations Team (MS-LOT) as a material consideration in the determination of marine licence and section 36 consent applications within the Pentland Firth and Orkney Waters area. The Plan's Sectoral and General Policies should be considered alongside the relevant legislation, policies and plans set

out in Section 3 and Annex 2 of the Plan. As a non-statutory Plan, it complements and supports existing ambitions and responsibilities rather than replace them.

The Highland Council and Orkney Islands Council have adopted the pilot Plan as non-statutory planning guidance, acknowledging the status of the Plan as a material consideration in the determination of relevant planning applications. Orkney Islands Council has also adopted the Plan as a material consideration in the determination of works licence applications in the Orkney Harbour Area.

To implement the Plan's overall vision, aims and objectives, the Plan's policy framework consists of a suite of General Policies and Sectoral Policies. All the policies in the Plan are afforded equal weight in decision-making and should be read in conjunction with each other.

The pilot Plan's General Policies, in principle, apply to all development(s) and activities and should be considered in relation to port and harbour development. The relevance of the General Policies to any given development and/or activity varies depending on the particular circumstances including type, scale, location and any potential impacts. All the General Policies, Sectoral Policy 6 and Sectoral Policy 7 are considered relevant to the proposal to extend the pier, and reclaim land to create a mixed use laydown and operational area with access road at Hatston.

The conclusions reached in the scoping report should not determine what should or should not be scoped in until such time as the feedback from the statutory consultees has been received and considered.

North Orkney pSPA and Orkney Mainland Moors SPA

The site of the proposed quay development is located within the North Orkney proposed Special Protection Area (pSPA) where the qualifying features are breeding red-throated diver, and non-breeding (wintering) common eider, European shag, great northern diver, long-tailed duck, red-breasted merganser, Slavonian grebe and velvet scoter.

It is also within 8 km of the Orkney Mainland Moors SPA where the qualifying features include breeding red-throated diver. This species nests on the banks of the SPA's upland lochans but feeds in the marine environment.

Bird surveys should therefore be undertaken at the appropriate times of year, in line with guidance provided by NatureScot, to obtain updated information about the numbers and distribution of species which could be affected by the development proposal including potential disturbance by vessel movements associated with the development.

The findings of these surveys should inform an assessment of the likely effects of all stages of the development on both pSPAs and their qualifying features. Consideration should also be given to the capacity for species to move to alternative areas within the North Orkney pSPA to avoid disturbance. The conclusions of the assessment should be used to help shape the final development proposal and inform mitigation plans.

Effects on SPA/pSPA bird features should be considered in the EIAR, as well as in the HRA.

Benthic habitats and Priority Marine Features

Benthic surveys should identify the range of benthic habitats and species within the area that could be affected by the proposal, focusing particularly on the potential presence of Priority Marine Features (PMFs). Further information on those habitats and species that are identified as PMFs is available on the NatureScot website at

<https://www.nature.scot/naturescot-commissioned-report-406-descriptions-scottish-priority-marine-features-pmfs>

The findings of these surveys should inform mitigation plans to avoid or minimise disturbance and/or damage to benthic habitats and species, in particular those identified as PMFs.

European Protected Species – cetaceans

Cetaceans are regularly sighted within Kirkwall Bay and beyond, in the coastal waters surrounding Orkney's North Isles. During May 2019 two pods of pilot whales spent time close to the islands of Stronsay and Sanday before a flotilla of small boats successfully moved them to deeper water. Days later a similar pod appeared in Kirkwall Bay where they spent time alongside Hatston Pier before finally heading back out to sea.

Noise disturbance could lead to panic, confusion and temporary disorientation, with potential for cetacean strandings to occur. It could also cause exclusion from feeding areas.

All cetacean species (whales, dolphins and porpoise) are classed as European Protected Species. If any activity is likely to cause disturbance or injury to a European Protected Species, a license is required to undertake the activity legally.

Additionally, if any activity associated with the development proposal is likely to cause to disturbance or injury to basking shark, a license would also be required to undertake activity legally.

Assessment should therefore be undertaken to determine the potential effects on cetaceans and basking sharks at all stages of the development proposal and identify mitigation measures that would avoid or minimise the risk of disturbance.

Any EPS licensing requirement should be agreed with the Marine Scotland Licensing Operations Team (MS-LOT). Information on licensing is available on the Scottish Government website at <https://www.gov.scot/policies/marine-and-fisheries-licensing/european-protected-species/>

Seals

Both grey and harbour seals are found throughout Orkney's coastal waters and the following sites are designated for seals:

- Sanday Special Area of Conservation (SAC) - harbour seal
- Faray and Holm of Faray (SAC) – grey seal
- Eynhallow Site of Special Scientific Interest (SSSI) – harbour seal
- Muckle and Little Green Holm SSSI – grey seal

There are also several designated seal haulout sites on the shores of Kirkwall Bay, Wide Firth and the North Isles. The locations of these sites are displayed on the National Marine Plan interactive map at

<https://marinescotland.atkinsgeospatial.com/nmpi/default.aspx?layers=446>

Both grey and harbour seals are susceptible to disturbance, including underwater noise and are particularly vulnerable during their pupping seasons. Grey seal pups remain on land for the first three weeks of their life and are reliant on their mothers returning onshore to feed them. Harbour seal numbers in Orkney waters have decreased significantly in recent years and it is important that they are not subjected to additional pressures. Assessment should therefore be undertaken of the likely effects of all stages of the development on both grey and harbour seals and the findings used to identify mitigations measures that would effectively avoid or minimise disturbance.

The water environment

The habitat 'Burns and Canalised Burns' is identified in the Orkney Local Biodiversity Action Plan as a locally important habitat and should be added to the list in Section 5.2.2. The Burn of Hatston may support spawning habitat for seatrout, a Priority Marine Species. Although seatrout spend much of their time at sea, they return to freshwater to

spawn. The developer is advised to contact the Orkney Trout Fishing Association for further information.

The potential effects of all stages of the development on the water environment should be assessed and addressed. Careful consideration should be given to any planned onsite storage of excavated soils, as stockpiles of bare soil are vulnerable to erosion, particularly during wet weather. Poorly sited stockpiles may pose a risk to the Burn of Hatston, as well as the marine environment. These assessments should be undertaken in line with guidance which is available from the SEPA website at www.SEPA.org.uk/.

Coastal processes

The assessment of effects on coastal processes should be informed by advice from NatureScot regarding sediment transport in the vicinity of the proposed development and benthic habitat surveys to determine proximity to and interactions with potentially sensitive habitat features, particularly PMFs. Further information is also required to determine the nature of the sediment proposed to be dredged and the proposed method of disposal of dredged materials and associated effects.

Assessment of alternatives

The EIAR should include an assessment of the alternatives considered to this development including factors to minimise environmental impacts.

Archaeology and cultural heritage

Scoping comments on archaeology and cultural heritage have been provided by the OIC County Archaeologist.

Local communities - Amenity, noise and roads

It is recommended that OIC Roads be consulted to establish any potential requirement for a traffic impact assessment.

The EIA process should assess construction and operational impacts on the amenity of local residents and businesses due to noise, vibration, dust or other impacts. The scoping report states that an assessment of construction noise should be deferred until later in the development process.

Seascape/landscape and visual

The effects on landscape, seascape and coastal character are likely to be significant as a result of the scale of the proposed development and a full SLVIA should be required as part of the EIAR. This should include an assessment of cumulative effects.

In the absence of an identified zone of theoretical visibility it is not possible to comment at this stage on the identification of seascape, landscape and visual receptors. Due to the proposed nature and scale of the development it is likely that landscape and visual impacts will be experienced across the local area. It is therefore considered premature to conclude in the scoping report at para. 7.4.3 that *'it is very unlikely that any significant effects would be experienced'*, as this will depend on the outcome of the SLVIA and potential mitigation. It is recommended that the developer should identify the zone of theoretical visibility and consult the planning authority to identify viewpoints and key receptors. This is likely to include historic environment assets.

Socio-economic impact assessment

The EIA will need to demonstrate that significant adverse social, economic and

operational effects on existing activities and/or infrastructure have been avoided or, where avoidance is not possible, adverse effects have been appropriately mitigated. The assessment should consider the significant direct economic impacts, indirect/wider economic impacts, demographic impacts, impacts local infrastructure and services.

Other users of the coastal and marine environment

An assessment of how the development proposal will comply with National Marine Plan policy GEN 4 *Co-existence* should be undertaken as part of the EIA process. This should include any significant effects on:

- Fish farms and operations due to noise, water quality (silt, smothering etc) during construction phase, and noise and disturbance during operational phase.
- Commercial fishing opportunities taking into account seasonality and the year-round operation of the affected fishery and any displacement effects.
- Coastal and/or marine recreational activities.

Cumulative impact assessment

National Marine Plan policy Gen 21 *Cumulative impacts* states the requirement for public authorities to address cumulative impacts on ecosystems in decision making. The scoping report explains that cumulative impacts will be assessed for each relevant EIA topic.

The assessment of cumulative effects should consider whether other projects would make potential effects more likely to occur, would make potential effects more likely to occur at a significant level or would generate any new or different effects.

The cumulative impact assessments should consider likely significant cumulative effects from:

- Other harbour developments, including the proposed development/activities at the Bay of Deepdale, Scapa Flow.
- Offshore wind and marine renewable energy development/activities.
- Aquaculture development/activities.
- General shipping activities.

It is recommended that the developer should consult the planning authority to determine which new developments are currently live within the planning system prior to undertaking the cumulative impacts assessments.

It is likely that appropriate planning and timing of works will help to minimise the potential for negative cumulative and in-combination effects.

Positive effects for biodiversity

As required by the Planning (Scotland) Act 2019, National Planning Framework 4 will establish outcomes for how development will contribute to securing 'positive effects for biodiversity'. As the Hatston Pier extension is a Candidate National Development, it is recommended that the developer should consider potential options for delivering such positive effects for biodiversity at the earliest opportunity.



Jamie Macvie
Orkney Islands Council
Department of Development Services
Council Offices
School Place
Kirkwall
KW15 1NY

Contact by email:
Alison Wilson

18 May 2021

By email only to: planningconsultation@orkney.gov.uk

Dear Mr Macvie

The Town and Country Planning Environmental Impact Assessment (Scotland) Regulations 2017
Planning application: 21/159/SCO
Scoping opinion request to extend a pier, and reclaim land to create a mixed use laydown and operational area with access road
Hatston Pier, Kirkwall, Orkney

Thank you for consulting SEPA on the scoping opinion for the above development proposal by way of your email received on 26 April 2021.

Further to our advice on the Orkney Harbours Masterplan Phase 1, which this is part of, and our site-specific comments on this proposal at the screening stage, refer our letter of 5 August 2020 (our reference PCS/172180), we have the following limited comments on the scoping report.

We note “The development design will take account of extreme sea levels and future sea level rise predictions, as appropriate. Therefore it is proposed to scope out the further assessment of coastal flood risk”. We are satisfied with this approach but advise, Section 4.3.2 *Tidal Water Levels* references the extreme sea levels and “The SEPA derived extreme sea levels, predicted at a point within Kirkwall, are 2.83m Above Ordnance Datum (AOD) for the 1 in 200 year return period event.” We highlight that, whilst the Coastal Flood Boundary (CFB) dataset has been revised, it is a national dataset which has not taken sufficient account of local data from tide gauges or past



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Chief Executive
Terry A'Hearn

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floods, and which SEPA do not consider an improvement for the area. As such, we would **recommend** that the previous level of 3.1m AOD is used as this is most likely more representative of the 200-year level.

In regard to other matters within our remit, we are satisfied with the proposed topics to be covered within supporting statements and that the “CEMD and associated CEMPs would be finalised on receipt of Planning / Marine Consent and would aid discharge of planning/marine license conditions. It would also form part of the tender documents during the contracting phase of the development.”

If you have any queries relating to this letter, please contact me by email at planning.north@sepa.org.uk.

Yours sincerely

Alison Wilson
Senior Planning Officer
Planning Service

ECopy to: Emma Cormack, EnviroCentre Ltd, ecormack@envirocentre.co.uk; Jamie Macvie, Orkney Islands Council, jamie.macvie@orkney.gov.uk

Disclaimer

This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#).



Northern Lighthouse Board

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Website: www.nlb.org.uk
Email: enquiries@nlb.org.uk

Your Ref: EIA Scoping 21/159/SCO and 21/160/SCO
Our Ref: GB/ML/O2_01_124

Ms Margaret Gillon
Case Officer
Orkney Islands Council
School Place
Kirkwall
Orkney
KW15 1NY

14 May 2021

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

**Orkney Islands Council Harbour Authority – Expansion of Hatston Pier and Harbour – Hatston and
Construction of Scapa Deep Water Quay – Scapa Flow – Orkney Islands**

Thank you for your e-mail correspondence dated 4th May 2021 relating to the EIA Scoping opinion submitted by **Orkney Islands Council** for their proposals to extend Hatston Pier/ Harbour and construct a new Scapa Deep Water Quay, Scapa Flow, Orkney Islands.

Northern Lighthouse Board are content with the proposed EIA study and will respond in full to the Planning Permission application.

Yours sincerely

[Redacted]

Peter Douglas
Navigation Manager

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

From: Pauline McGrow <Pauline.McGrow@ryascotland.org.uk>
Sent: 19 May 2021 13:47
To: planningconsultation <planningconsultation@orkney.gov.uk>
Subject: RE: Scoping Application Consultation 21/159/SCO

Dear Sir/Madam,

I write to inform you that we are supportive of this application and have no further comments that we wish to make at this stage.

Kind Regards

Pauline

Pauline McGrow
Senior Administrator

INTERNAL MEMORANDUM TO: Engineering Services

Date of Consultation	26th April 2021
Response required by	17th May 2021
Planning Authority Reference	21/159/SCO
Nature of Proposal (Description)	Scoping opinion request to extend a pier, and reclaim land to create a mixed use laydown and operational area with access road
Site	Hatston Pier, Kirkwall, Orkney
Proposal Location Easting	
Proposal Location Northing	
Area of application site (Metres)	
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 21/159/SCO
PA Office	Development Management
Case Officer	Mr Jamie Macvie
Case Officer Phone number	01856 873535 EXT 2529
Case Officer email address	jamie.macvie@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

Comments:

Flood RiskFluvial Flood Risk

There is no indication of significant flood risk associated with watercourses within the development area. It is therefore accepted that fluvial flood risk should be scoped out.

Coastal Flood Risk

The proposed quay edge level of 5.00m Above Ordnance Datum is higher than both the predicted 1:200 and 1:000 year event extreme sea levels plus climate change allowance by what appears to be a reasonable margin. However, with up to 20km of fetch from the NNE, the joint probability of 1:200 and 1:1000 year extreme sea levels coincident with significant wave action to exposed faces within the anticipated lifespan of the development should be considered.

Erosion

Significant and ongoing erosion of the sea bank, requiring remediation, is present approximately 400m SSE of the proposed development site at Crow Ness. It is therefore considered that possible impacts on vulnerable shoreline to the south of the proposed development, including at Crow Ness, and to the west of northern part of the development should be included in the scope.

PW

Orkney Islands Council Planning Department
By email: planningconsultation@orkney.gov.uk

cc. Marine Scotland Licensing Operations Team
By email: MS.MarineLicensing@gov.scot

20 May 2021

Dear Jamie,

Scoping - Hatston Pier and Terminal Expansion - Hatston, Orkney (Orkney Island Council Reference: 21/159/SCO)

Thank you for consulting RSPB Scotland on the above scoping report.

We believe Marine Scotland has received a separate request for the adoption of a scoping opinion under The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017. The same report (EnviroCentre Report No 9434, Project No 673702, Status: final, dated 31 March 2021) has been supplied to accompany both requests. Our comments are therefore relevant to both organisations.

RSPB Scotland advises that this proposal has potential to impact on a number of bird species of conservation importance. Having reviewed the Scoping Report, we wish to highlight the following comments.

Location

Hatston pier is located adjacent to the North Orkney proposed Special Protection Area (pSPA), designated for the areas' international importance for large numbers of wintering and passage species including common eider, European shag, great northern diver, long-tailed duck, red-breasted merganser, Slavonian grebe, velvet scoter and breeding red-throated diver. These species are attracted to the sheltered sounds and bays of the coastline in order to forage and rest and are also utilised by breeding species such as common eider during the spring and summer. As in the Scoping Report, there is potential for these species to be directly and indirectly both during construction and operation of the proposed development

Appropriate Assessment

Given the nature of the development and the proximity to the pSPA, we wish to highlight that that the OIC/ Marine Scotland, as the competent authority, must consider the Habitat Regulations and will need to undertake an Appropriate Assessment on the basis of the potential for adverse impacts to the qualifying pSPA species.

**RSPB Scotland
Orkney Office**
12 – 14 North End Road
Stromness
KW16 3AG

Tel 01856 850176
Fax 01856 851311

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Twitter: @RSPB Scotland
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Climate

We are surprised that the development's impact on climate change has been scoped out of further analysis based on the rationale that there will be a negligible impact from the development, which includes the construction of a 1.73Ha concrete deck area plus an additional 3.2Ha of land reclamation along the adjacent shoreline. Whilst the development includes the provision of suitable handling facilities for renewable energy components and the storage of alternative fuels, it would also facilitate future oil and gas supply operations. Given the Scottish Government's ambitious targets for net-zero emissions by 2045 we consider further analysis of the carbon-cost of this development and the indirect climate impacts should be included in the Environmental Impact Assessment Report (EIAR).

Biosecurity

The scoping report makes no mention of Biosecurity. This is an important matter – invasive non-native species can spread quickly, damage human health and overwhelm native ecosystems. It can also result in substantial economic expenditure on control and eradication under the Environmental Liability (Scotland) Regulations, the “polluter pays” principle. As highlighted in NatureScot's Marine Biosecurity planning report,¹ there is now a legal requirement to take all reasonable steps and all due diligence to avoid “*causing an animal to be in a place outwith its native range*”, and “*planting or causing any plant species to grow in the wild outwith its native range*”² which includes through the accidental transfer and spread on non-native species. We recommend Biosecurity is fully considered and advise that the measures to avoid and prevent this possible significant adverse effect on the environment, along with any proposed monitoring arrangements, are included within the scope of the Ecology chapter within the EIAR.

Cumulative Impacts

A screening consultation was carried out during July 2020 for a further development in Kirkwall Harbour (planning reference 20/240/SCR). Although this was at an early stage, an assessment of what cumulative impacts may occur should both developments be granted permission should be included in the EIAR, in addition to any other developments which may impact the North Orkney pSPA.

We hope you find these comments helpful. Should you wish to discuss any of the above please do not hesitate to contact me.

Yours sincerely,

[Redacted]

Josephine Wells
Conservation Officer
josephine.wells@rspb.org.uk.

¹ Payne, R.D., Cook, E.J. and Macleod, A. (2014). Marine Biosecurity Planning – Guidance for producing site and operation-based plans for preventing the introduction of non-native species. Report by SRSL Ltd. in conjunction with Robin Payne to the Firth of Clyde Forum and Scottish Natural Heritage

² [Wildlife and Natural Environment \(Scotland\) Act 2011 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2011/6/section/1)

Mr Jamie Macvie
Orkney Islands Council

Sent by email to: planningconsultation@orkney.gov.uk

Your ref: 21/159/SCO

Our ref: CEA162865

21 May 2021

Dear Mr Macvie,

**The Town & Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017
Scoping opinion to extend a pier, and reclaim land to create a mixed use laydown and operational area
with access road - Hatston Pier, Orkney**

Thank you for your email of 26 April 2021, requesting our scoping advice for the above proposal and for granting an extension to the consultation deadline.

Summary

We advise that this proposal could have significant impacts on natural heritage due to its location in relation to sites of International importance.

Background

We were previously consulted on the Strategic Environment Assessment (SEA) and Habitats Regulations Appraisal (HRA) of the Orkney Harbour Masterplan, of which this proposal is a component. Considerable advice was given on the potential impacts from this proposed development on the natural heritage and we encourage the applicant to review the Post Adoption Statement and HRA, as well as the advice provided, to help inform the Environmental Impact Assessment (EIA).

Scoping Advice

Based on the information provided in the Scoping Report, we have concerns that potentially significant impacts to the natural heritage from this proposed development have not been recognised. In particular, the most significant natural heritage interests likely to be affected are the features of the North Orkney proposed Special Protection Area (pSPA) and potentially the red-throated diver interest of the Orkney Mainland Moors SPA. We are keen to continue to support the applicant in progressing the EIA and in the development of mitigation where possible.

It is noted in the Scoping Report that the applicant wishes to scope out all ecological receptors from full assessment within the EIA apart from 'marine ecology – the risk to marine mammals associated with piling

activities during the construction phase'. At this stage, due to the location and scale of the development, and with no details on proposed construction methodology and mitigation, it is not possible in our opinion to scope out the majority of ecological receptors from full assessment.

Furthermore, it is unclear how impacts from certain construction activities such as dredge spoil disposal and marine transport of materials for infill or rock armouring will be assessed as these options won't be determined until later in the process. Therefore, at this stage it is not possible to judge likely impacts unless a clear worst case scenario (Rochdale envelope approach) be defined with respect to these and other relevant aspects of the proposal against which potential impacts can be assessed.

Details on the key natural heritage issues and specific comments on the scope of work required in relation to these is provided in the annex to this letter. Our advice is proportionate to the information presented in the Scoping Report. With respect to the scope of the EIA more generally, please refer to our advice noteⁱ.

Habitats Regulation Appraisal (HRA)

There appears to be some confusion in the Scoping Report over the HRA process. As detailed above considerable advice was given to the applicant on the HRA of the Orkney Harbour Masterplan and we advise the applicant to review this advice. Further information on the HRA process is available on our websiteⁱⁱ.

Our advice is given without prejudice to a full and detailed consideration of the impacts of the proposal if it is submitted as a formal application.

The advice in this letter is provided by NatureScot, the operating name of Scottish Natural Heritage.

I hope you find these comments helpful. Should you wish to discuss this response then please don't hesitate to contact me.

Yours sincerely,

Kim McEwen
Operations Officer – Northern Isles and North Highland
Kim.mcewen@nature.scot
01463 701671

Annex 1. We advise that the proposed development raises the following key issues in relation to natural heritage.

European Protected Areas

The proposed development is likely to have a significant effect on qualifying interests of the North Orkney pSPA, Orkney Mainland Moors SPA, Faray and Holm of Faray Special Area of Conservation Area (SAC) and Sanday SAC. Therefore, effects on these sites features should be assessed for all phases of the development in the EIAR, as well as HRA. The EIA must provide sufficient information for the Competent Authority to be able to undertake appropriate assessments in view of these site's conservation objectives for their qualifying interests. Details of qualifying interests and conservation objectives can be found on our websiteⁱⁱⁱ.

North Orkney pSPA

The proposal is located partially within the North Orkney pSPA designated for its breeding red-throated diver and non-breeding eider, velvet scoter, great northern diver, long-tailed duck, red-breasted merganser, shag and Slavonian grebe. Potential impacts to marine bird features may arise from the permanent displacement of birds from the development footprint; disturbance of birds in the vicinity of the proposal during site investigation, construction and/or operational phases and the temporary or permanent loss of or damage to prey-supporting habitats in the development vicinity or at dredge spoil disposal sites. Of potentially greater importance than direct impacts is the associated increased levels of vessel traffic that are the intended consequence of the proposal. Many of the features of this site exhibit high or very high levels of behavioural sensitivity to vessel movements and the potential for impact on site integrity is highest for those species with relatively high levels of habitat specialisation and/or relatively small populations within this site. It remains unclear how the nature, routing and frequency/volume of vessel traffic through the North Orkney pSPA are anticipated to change as a consequence of this development. Therefore, it is important that the EIA and HRA also includes an assessment of these wider operational phase impacts.

Orkney Mainland Moors SPA

The proposal is located within 5km of the SPA and is well within the 10km foraging distance for breeding red-throated diver. Therefore, there is the potential for red-throated divers foraging in the vicinity of the proposed development to be those associated with the Orkney Mainland Moors SPA breeding population. Potential impacts to red-throated diver are the same as for those of the North Orkney pSPA above.

Scapa Flow pSPA

We would not consider there to be any connectivity for assessment purposes with the Scapa Flow pSPA, unless there are associated vessel movements during the construction phase (e.g. to deliver equipment or materials or to remove dredge spoil). If this is the case then information on the features of this site can be found on our websiteⁱⁱⁱ.

Faray and Holm of Faray SAC

The proposal is located just outside the normal buffer we would use to assess connectivity for grey seals (20km). Although the harbour is not within this buffer the activities may have a pressure overlap and taking a precautionary approach we recommend this site is included for assessment.

Sanday SAC

The proposed development is well within the 50km connectivity buffer of the harbour seal feature of the Sanday SAC. Therefore, potential impacts to the harbour seal feature in all phases should be assessed.

In order to comply with the Habitats Regulations, **Habitats Regulations Appraisals will have to demonstrate that the proposed development will not adversely affect the integrity of European Sites** listed above.

Sites of Special Scientific Interest (SSSI)

A number of the European sites detailed above are also designated as SSSIs. The designated features of these SSSIs that may be affected by the proposal are the same features covered by the European site designations and thus impacts to these features should be covered. The exceptions to this are Eynhallow SSSI designated for harbour seal and Muckle and Little Green Holm designated for grey seal. Impacts to these sites in all phases will need to be considered further in the assessment.

Ornithology

As detailed above the proposal has the potential to impact upon two SPAs with designated marine bird features. In section 5.5.2 it is noted that the applicant intends to undertake a calendar year of low-tide bird surveys. Low tide counts of the intertidal area are useful for characterising use of this habitat by wading/roosting birds to inform EIA assessment of impacts associated with the proposed land reclamation. However, such surveys are not appropriate for characterising use by waterbirds of marine areas (including the qualifying interests of the North Orkney pSPA and Orkney Mainland Moors SPA) that may be impacted in all phases of the development.

Autumn through spring (September/October to April) surveys will be required for wintering waterbird features of the North Orkney pSPA and April to August for breeding seabirds and divers. For breeding red-throated divers, the most important period is the main chick-rearing period (late June to mid-August).

For a development of this scale and location we would recommend two years of bird survey to inform impacts to marine birds. However, one year may be sufficient depending on the results of the first year's survey. We recommend that the applicant provides details of the findings of the first relevant year's surveys, including full analyses and consideration of any relevant additional contextual or supporting information, in sufficient time to enable us to advise on the requirement for a second years survey.

We have previously advised the applicant on survey work requirements and would be keen to review methodology prior to survey work commencing to ensure that it is sufficient to inform the development.

European Protected Species (EPS)

Otter

It is noted and welcomed that an otter survey will be undertaken. We have advice on survey requirements, mitigation and licensing on our website^{iv}. If any impacts on otters are identified then mitigation measures should be provided in a Species Protection Plan.

Cetaceans

As detailed in Section 5.2.3 of the Scoping Report all species of dolphin, porpoise and whale are EPS. However, the list of species to be scoped in for assessment should also include humpback, fin, sperm, long-

finned pilot and sei, curvier's beaked whale along with striped dolphin. Marine mammals, including cetaceans should be scoped in for all phases of the development. We previously provided advice on underwater noise modelling as part of the consultation on the Orkney Harbour Masterplan, and can provide further advice to the applicant if required. Mitigation should be proposed relating to the findings of this modelling and the applicant should be made aware that they may require a licence.

Benthic ecology and Priority Marine Features (PMF)

There is limited existing information available regarding benthic species and habitats present in the vicinity of the proposal. Given the limited data and scale of the proposal we recommend benthic survey work is undertaken to inform the EIA. The purpose of surveys would be to establish the benthic habitats and species present at the development location with particular focus on identifying presence of any PMFs. Where PMFs are identified, the extent and quality (e.g. condition, density etc.) of the features should be confirmed to help inform assessment. A combination of video/photo methods and grab sampling would be appropriate, but of these two methods collection of video/photo data would be the priority. We can provide further advice to the applicant on video survey methodology if required.

Seals

We agree that there is the potential for impacts to both grey and harbour seals from the proposed development, and at this stage we recommend impacts to seals are assessed for all phases of the development. As well as potential connectivity to the European Sites and SSSIs detailed above there are a number of designated seal haul-outs close to the proposal. Information on designated seal haul-outs can be found on the NMPi website^v. As above we previously provided advice to the applicant on underwater noise modelling and can provide further advice if needed. Mitigation should be proposed relating to the findings of this modelling.

Basking shark

There is no mention of basking shark within the Scoping Report. Basking sharks are a protected fish species and PMF, and regularly sighted in Orkney waters. Therefore, an assessment on potential impacts on this species should be undertaken as part of the EIA and any mitigation should be detailed in the EIAR. The applicant should be made aware that they may require a basking shark licence.

Intertidal habitat

Section 5.3 of the Report identifies the potential for negative impacts on intertidal and subtidal habitats during construction through direct loss but there is no further mention of assessment within the Report. Our advice regarding subtidal habitats is covered above but impacts to the intertidal habitat should be included within the EIAR.

Marine Invasive Non-Native Species (mINNS)

There is no mention of mINNS or biosecurity within the Scoping Report and we recommend that the potential impacts of mINNS be considered in the EIAR. There is the potential for introduction and spread of mINNS as a result of the proposed development during construction and operation. Furthermore, a number of mINNS are already present in Orkney waters and activities during construction and operation could facilitate spread. We recommend that site-based biosecurity plans for the proposal at the construction and operational phases to assist with managing the spread and introduction of mINNS are produced. There are a wide range of additional potential biosecurity measures that could be developed and we would be happy to advise further and on biosecurity plans if required.

Landscape and visual

We are not able to comment on the landscape and visual impacts of this proposal. We are currently providing detailed landscape and visual advice in only the highest priority circumstances, where the effects of proposals approach or surpass levels that raise issues of national interest. Our advice is that from the information provided this proposal does not raise landscape issues of national interest.

Climate change

It is noted in Section 3.3.1 of the Report that it is proposed to exclude climate change impacts on the grounds that any negative impacts would be insignificant, as the facility may be used to support decarbonisation of marine fuels. However, it states in Section 2.2.2 potential use of the facility to accommodate oil and gas supply operations. Due to the scale of the development we would expect there to potentially be impacts from construction. If there are potentially significant positive or negative climate change benefits, including from the construction phase, these should be considered within the EIA.

Coastal processes

It states in section 4.6 of the Scoping Report that it is not anticipated for the development to lead to any significant changes to coastal processes and thus a qualitative assessment is all that's required. At present due to the scale of the development and without any detailed information regarding construction methodology, dredging and disposal of dredged material, impacts from reclamation or mitigation measures, it is recommended that potential impacts on coastal processes and subsequent impacts on benthic habitat and foraging marine birds are assessed within the EIA.

Site investigation phase

Section 3.2 states that appraisals will consider the potential environmental impacts related to both the construction and operational phases, where applicable. Just to note that there is mention of a site-investigation phase within the Report and thus potential impacts relating to site investigation works should be included in the assessment where appropriate, in particular with respect to marine birds.

Cumulative Assessment

We note the intention of undertaking a cumulative assessment as part of the EIA, cumulative impacts will also need to be assessed as part of the HRA. Section 3.4 of the Scoping Report focusses on cumulative assessment with regards to other proposed harbour developments. However, the cumulative assessment needs to take into consideration other sectors including aquaculture, renewable energy developments, cable installations etc... further information on cumulative assessment was provided to the applicant as part of the consultation on the Orkney Harbour Masterplan. We consider that the Orkney Islands Council are best placed to advise the applicants on which proposals to include in the cumulative assessment.

Monitoring

Depending on the results of the ecological survey work to inform the development and on mitigation proposed it may be worth highlighting at this stage that ongoing surveys may be required to monitor construction and operational impacts.

Assessment of alternatives

The EIAR should also include an assessment of alternative locations or layouts to the proposed development.

Biodiversity enhancements

As part of the SEA process it was hoped that consideration could be given to the inclusion of opportunities for environmental enhancement as well as economic and social benefits. Potential examples of this was provided as part of the SEA consultation and we would be happy to discuss this further with the applicant.

ⁱ <https://www.nature.scot/handbook-environmental-impact-assessment-guidance-competent-authorities-consultees-and-others>

ⁱⁱ <https://www.nature.scot/professional-advice/planning-and-development/environmental-assessment/habitats-regulations-appraisal-hra>

ⁱⁱⁱ <https://sitelink.nature.scot/home>

^{iv} <https://www.nature.scot/professional-advice/planning-and-development/planning-and-development-advice/planning-and-development-protected-species>

^v <https://marinescotland.atkinsgeospatial.com/nmpi/default.aspx?layers=446>

Scoping Application Consultation

Planning Authority Name	Orkney Islands Council
Date of Consultation	26th April 2021
Response required by	17th May 2021
Planning Authority Reference	21/159/SCO
Nature of Proposal (Description)	Scoping opinion request to extend a pier, and reclaim land to create a mixed use laydown and operational area with access road
Site	Hatston Pier, Kirkwall, Orkney
Site Postcode	N/A
Site Gazetteer UPRN	
Proposal Location Easting	
Proposal Location Northing	
Area of application site (Metres)	
Clarification of Specific Reasons for Consultation	
Development Hierarchy Level	N/A
Supporting Documentation URL	http://planningandwarrant.orkney.gov.uk/online-applications/ Please enter - 21/159/SCO
List of Available Supporting Documentation	As above URL
Offline Documents available?	N/A
Date of Validation by Planning Authority	16th April 2021
Governing Legislation	THE TOWN AND COUNTRY PLANNING ENVIRONMENTAL IMPACT ASSESSMENT (SCOTLAND) REGULATIONS 2017
Consultation Type	Scoping
Consultation Stage	N/A
Is this a re-consultation of an existing application?	No
EIA Required	Yes
EIA Regulations	Yes
Use Class (Current)	
Use Class (Proposed)	
Does the application conform with the Structure Plan / Local	

Plan Land Use	
Additional Comments relating to Structure Plan / Local Plan Use	N/A
Transport Assessment or Travel Plan	N/A
Applicant Name	Orkney Islands Council
Applicant Organisation Name	
Applicant Address	
Agent Name	EnviroCentre Ltd
Agent Organisation Name	
Agent Address	
Agent Phone Number	N/A
Agent Email Address	N/A
PA Office	Development Management
Case Officer	Mr Jamie Macvie
Case Officer Phone number	01856 873535 EXT 2529
Case Officer email address	jamie.macvie@orkney.gov.uk
PA Response To	planningconsultation@orkney.gov.uk

The information provided in the scoping report does mention the potential HGV movements for the importation of stone infill for the site, however it makes no mention of any other vehicle or plant movements. The document also mentions the expected vehicle movements during the operational use of the proposal upon completion again this information is extremely limited.

It would therefore be expected that the EIA will expand on the expected traffic movements for all vehicular traffic and plant that will be required for the construction phases and eventual operation of the extended harbour area.

D.W.

Appendix 2

Cumulative Schemes for consideration in the EIA Report

Planning reference	Address	Description of Development	Status
21/015/SCR	Hatson HWRC/Former Abattoir, Sparrowhawk Road/Grainshore Road, Hatson Industrial Estate, KW15 1FL.	Screening opinion request to demolish household waste and recycling centre and former abattoir and create an integrated waste facility.	Screening opinion issued 19.03.21. EIA not required.
20/037/TPPMAJ	Quanterness (Land Near), St Ola, Orkney	Erect 6 wind turbines (maximum height 149.9 metres, maximum wind farm capacity 50MW), erect a meteorological mast (maximum height 90 metres) and a substation, create an access and construct access tracks, and associated infrastructure.	Awaiting decision – called in by Scottish Government.
20/240/SCR	Kirkwall Pier, Kirkwall	Screening opinion request to extend a pier to provide additional quay infrastructure, reclaim land to create a mixed use development area, and reconfigure and expand marina	Submitted 02.07.2020.