

## TECHNICAL APPENDIX 3.3

**marinescotland**



Scottish Government  
Riaghaltas na h-Alba  
gov.scot

T: +44 (0)300 244 5046  
E: MS.MarineLicensing@gov.scot

## **Marine Scotland - Licensing Operations Team Scoping Opinion**

**Scoping Opinion adopted by the Scottish Ministers  
under Part 4 of The Marine Works (Environmental Impact  
Assessment) (Scotland) Regulations 2017**

**Orkney Islands Council Harbour Authority**

**Expansion of Hatston Pier and Harbour**

**October 2021**

## Contents

<b>1. Introduction</b>	<b>3</b>
1.1 Background	3
<b>2. The Proposed Works</b>	<b>4</b>
2.1 Introduction	4
2.2 Description of the Proposed Works	4
2.3 Onshore/Planning	6
2.4 The Scottish Ministers' Comments	6
<b>3. Contents of the EIA Report</b>	<b>10</b>
3.1 Introduction	10
3.2 EIA Scope	10
3.3 Mitigation and Monitoring	10
3.4 Risks of Major Accidents and/or Disasters	11
3.5 Climate and Greenhouse Gases	11
<b>4. Consultation</b>	<b>13</b>
4.1 The Consultation Process	13
4.2 Responses received	13
<b>5. Interests to be considered within the EIA Report</b>	<b>15</b>
5.1 Introduction	15
5.2 Air Quality	15
5.3 Population and Human Health	15
5.4 Socio-Economics	15
5.5 Water Environment and Coastal Processes	16
5.6 Ecology	17
5.7 Designated Sites	18
5.8 Ornithology	19
5.9 Benthic Ecology and Priority Marine Features ("PMF")	19
5.10 Otters	20
5.11 Marine Mammals	20
5.12 Basking Sharks	22
5.13 Diadromous Fish	22
5.14 Marine Fish Ecology	23
5.15 Commercial Fisheries	23
5.16 Marine Invasive Non-Native Species ("mINNS")	23
5.17 Archaeology and Cultural Heritage	24

5.18	Landscape and Visual .....	25
5.19	Airborne Noise.....	26
5.20	Shipping and Navigation.....	26
5.21	Cumulative Assessment.....	27
<b>6.</b>	<b>Application and EIA Report.....</b>	<b>28</b>
6.1	General .....	28
<b>7.</b>	<b>Multi-Stage Regulatory Approval .....</b>	<b>29</b>
7.1	Background .....	29
	<b>Appendix I: Consultation Responses &amp; Advice.....</b>	<b>30</b>
	<b>Appendix II: Gap Analysis.....</b>	<b>31</b>

## **1. Introduction**

### **1.1 Background**

- 1.1.1 On 31 March 2021, the Scottish Ministers received a scoping report (“the Scoping Report”) from Orkney Islands Council Harbour Authority (“the Applicant”) as part of its request for a scoping opinion relating to the Expansion of Hatston Pier and Harbour (“the Proposed Works”). In accordance with regulation 14 of The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the 2017 MW Regulations”) the Scottish Ministers considered the content of the Scoping Report to be sufficient.
- 1.1.2 This scoping opinion is adopted by the Scottish Ministers under the 2017 MW Regulations (“the Scoping Opinion”) in response to the Applicant’s request and should be read in conjunction with the Scoping Report. The matters contained in the Scoping Report have been carefully considered by the Scottish Ministers and use has been made of professional judgment, based on expert advice from stakeholders and Marine Scotland in-house expertise and experience. This Scoping Opinion identifies the scope of impacts to be addressed and the method of assessment to be used in the Environmental Impact Assessment Report (“EIA Report”) for the Proposed Works. The Scottish Ministers, in adopting this Scoping Opinion, have, in accordance with the 2017 MW Regulations, taken into account the information provided by the Applicant, in particular, information in respect of the specific characteristics of the Proposed Works, including its location and technical capacity and its likely impact on the environment. In addition, the Scottish Ministers have taken into account the representations made to them in response to the scoping consultation they have undertaken. In examining the EIA Report, and any other environmental information, the Scottish Ministers will seek to reach an up to date reasoned conclusion on the significant effects on the environment from the Proposed Works. This reasoned conclusion will be considered as up to date if the Scottish Ministers are satisfied that current knowledge and methods of assessment have been taken account of. For the avoidance of doubt, this Scoping Opinion does not preclude the Scottish Ministers from requiring the Applicant to submit additional information in connection with any EIA Report submitted with applications for marine licences under the Marine (Scotland) Act 2010 (“the 2010 Act”). In the event that the Applicant does not submit applications for marine licences under the 2010 Act for the Proposed Works within 12 months of the date of this Scoping Opinion, the Scottish Ministers strongly recommend that the Applicant seeks further advice from them regarding the validity of the Scoping Opinion.

## **2. The Proposed Works**

### **2.1 Introduction**

2.1.1 This section provides a summary of the description of the Proposed Works provided by the Applicant in the Scoping Report together with the Scottish Ministers' general comments in response. The details of the Proposed Works in the Scoping Report have not been verified by the Scottish Ministers and are assumed to be accurate.

### **2.2 Description of the Proposed Works**

2.2.1 The Proposed Works involve the expansion of the harbour facilities at Hatston including land reclamation, an extension to the existing pier and capital dredging. The site is located to the northwest of Kirkwall on Orkney mainland and is currently Orkney's primary commercial terminal. This multi-purpose infrastructure accommodates a range of operational activities including cruise ships, renewable energy, ferries, oil and gas and cargo / livestock.

2.2.2 The Proposed Works will include a total of 7.77 hectares ("ha") of land reclamation requiring a total of 1.46 million tonnes of rock material. The existing 385 m long quay will be extended by 300 m to the west which will also create a new 125m inner berth. Capital dredging will be required alongside the new berths and in the approach channel.

2.2.3 The Proposed Works are to be conducted in three phases, as summarised below:

#### **Phase 1**

- 2.96 ha of land reclamation on the south-eastern side of the current causeway to be used for marshalling, parking and storage; and
- Place rock armour along the eastern edge of the infill area.

#### **Phase 2**

- Extend the current quay to the west by circa 300 m and form a deck slab to provide an additional 1.73 ha of concrete deck area;
- Dredging of new berths and approach channel.
- 1.73 ha of land reclamation on the south-western side of the current causeway to be used as a multi-use laydown/work area as well as establish a separate access road to the new quay extension; and
- Place rock armour along the western edge of the infill area.

#### **Phase 3**

- 1.47 ha of land reclamation to the south-western side of the land reclamation undertaken in phase 2 to be used as a multi-use laydown/work area as well as create a travel lift dock; and
- Place rock armour along the western edge of the infill area.

2.2.4 In Section 2.2.5 of the Scoping Report, the Applicant has provided an outline construction methodology however has stated that until a preferred contractor is identified, the methodologies cannot be confirmed.

#### Land Reclamation

2.2.5 Prior to the work commencing a silt boom will be moored out from the foreshore. A bund will be formed from suitable infill material extending from the shoreline outwards. As the bund progresses, geotextile will be placed on the external slope to mitigate the migration of fine sediment. Secondary armour and primary armour stone will then be placed on top of the geotextile and suitable reclamation fill will be deposited in the area between the newly formed bund and the existing shoreline.

2.2.6 The Applicant has detailed three options to source the rock infill material: Crusiter Quarry (7 kilometres ("km") from the site); Heddle Quarry (9.5 km from the site) or a quarry located on the Scottish Mainland. Details of the quantities of material required for the land reclamation, the estimated duration of the reclamation works and the associated HGV movements are listed in Table 2-1 of the Scoping Report.

#### Quay Extension

2.2.7 The existing outer quay will be extended by 300 m and a deck slab added to provide an additional 1.73 ha of concrete deck area. The pier extension will be formed of sheet piles which will be installed from either temporary piling platforms on the existing pier, or from a jack up barge. The sheet piles will be installed by vibro-hammer to the required depth. Tie rods will then be installed and secured between the front face and rear sheet pile wall and a concrete cope will be formed. Quay infill will be vibro-treated to compact it and reduce future consolidation and settlement. The concrete deck will be placed immediately behind the quay face, no less than six months after the fill is completed.

#### Dredging

2.2.8 Capital dredging down to -10 m Chart Datum ("CD") will be required at the new berths and in the approach channel. The estimated dredge area for the approach channel is 9,016 m<sup>2</sup> (volume 6,000 m<sup>3</sup>) and for the pier berth is 1,307 m<sup>2</sup> (volume 650 m<sup>3</sup>). Characterisation of the material to be dredged has not yet been carried out so it has not been determined if the dredge material will

be suitable for use as infill for the land reclamation, or if the material will be deposited at a designated sea deposit site.

## **2.3 Onshore/Planning**

- 2.3.1 The Scottish Ministers are aware that the Applicant has sought a separate scoping opinion from Orkney Islands Council for the associated onshore construction works. It is essential that the EIA Report concerning the onshore works will be available at the time that the EIA Report for the Proposed Works is being considered so that all the information relating to the project as a 'whole' is presented. The EIA Report for the Proposed Works must consider the cumulative impacts with the onshore works.
- 2.3.2 The Scottish Ministers advise that the EIA Report must be explicitly clear about what licensable marine activities are proposed to be carried out below MHWS during the Proposed Works and must also detail which activities could overlap with the Local Authority's remit.

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

### Description of the Proposed Works

- 2.4.1 The Scottish Ministers note that a Strategic Environmental Assessment ("SEA") and Habitat Regulations Appraisal ("HRA") were undertaken for the Orkney Harbours Masterplan which included the Proposed Works. A detailed review of environmental baselines was undertaken covering a number of receptors and taking into account responses from consultees. An assessment of the impact of the Proposed Works on these receptors was also completed as part of the SEA. This information has not been considered or presented in the Scoping Report sufficiently. Advice was also provided by consultees on survey methodologies to address areas of potential concern. The Scottish Ministers advise that these surveys should have been undertaken to evidence the scoping and justify which receptors are scoped in or out of the EIA Report. The Scottish Ministers also note that mitigation and monitoring was proposed as part of the SEA, which took into consideration the consultation responses received at that time. This information has also not been incorporated in the Scoping Report or justification provided as to why these measures are no longer appropriate. The Scottish Ministers would expect inclusion of baseline assessments, surveys and results, ongoing monitoring and proposed mitigation to be included in the Scoping Report. Without satisfactory evidence being provided to justify scoping a receptor out, the precautionary principle has been applied and receptors have been scoped in. Furthermore, without this information, the Scottish Ministers are unable to provide targeted advice on the content of the EIA Report. This might increase the risk of additional information being required under the 2017 MW Regulations to ensure



completeness and quality of the EIA Report. The Scottish Ministers advise that the assessments from the SEA and plan level HRA should be used to inform the EIA Report and that all previously identified mitigation and monitoring should be included or a justification provided as to why they are no longer appropriate.

- 2.4.2 The Proposed Works will include dredging and potentially sea deposit of the dredged material. The Applicant has indicated that if found to be suitable, the dredged material could be used as infill in the land reclamation. The Scottish Ministers note that site investigation and material characterisation have not yet been undertaken however this must be done in advance of the preparation of the EIA Report so that the results can be presented and an assessment made of the environmental impacts of the final design decision. The Scottish Ministers advise that if there is any doubt as to the suitability of the dredge material for use in the land reclamation, the worst case scenario must be assessed whereby all of the dredged material requires to be deposited at sea (subject to no contamination issues being found and a suitable deposit site being identified) and all of the infill material requires to be sourced from an alternative location and transported to site. The Applicant must set out the best practicable environmental option for the dredge material which must clearly detail all options that have been considered.
- 2.4.3 The Scottish Ministers note that it is not yet known where the material for the infill material for the land reclamation will be sourced, if the dredged material is not found to be suitable and/or if additional infill is required. The Scoping Report identifies three possible quarries that could be used, two on Orkney and one on the Scottish mainland. The Scottish Ministers advise that the environmental impacts of whichever source is selected must be assessed in the EIA Report including but not limited to the transport of materials to site. If road transport of materials is required, the Applicant should refer to the advice from Transport Scotland regarding assessments that may be required. If, at the time of writing the EIA Report, there is still any uncertainty, the Scottish Ministers advise that the worst case scenario must be defined and assessed.
- 2.4.4 The duration of each phase of the reclamation works are detailed in Table 2-1 of the Scoping Report. However the Applicant has not given an estimation of the duration of the entirety of the Proposed Works. The Applicant has indicated that the Proposed Works are a part of the 20 year masterplan however has not provided any further details. The Scottish Ministers advise that an estimation of the duration of the entirety of the Proposed Works must be provided along with an indication of the timing of the individual phases and how these will relate to each other.

2.4.5 The Applicant has identified potentially significant effects from blasting construction activities in Section 5.3 of the Scoping Report. The Applicant has assumed that no blasting is required for the dredging, within drawing 202043/FS-21. However the Applicant states in Section 1.4 of the Scoping Report that a marine licence may be required for the deposit or use of explosives. It is thus unclear to the Scottish Minister's under what circumstances marine blasting could be a requirement. Section 5.3 of the Scoping Report considers the increased noise through construction activities, including blasting. The Scottish Ministers advise that the EIA Report should make clear whether or not blasting is required and in what circumstances. In addition, the worst case scenario for underwater noise should be assessed for all potential construction activities, including any marine blasting. An accurate timeframe must be detailed.

#### Design Envelope

2.4.6 The Scottish Ministers note the Applicant's intention to apply a "design and build" approach whereby the construction methodology will not be confirmed until a contractor is appointed. Where the details of the Proposed Works cannot be defined precisely, the Applicant must apply a worst case scenario. The Scoping Report sets out an anticipated outline construction methodology however does not set out a worst case scenario.

2.4.7 The Scottish Ministers advise that the Applicant must make every attempt to narrow the range of options. Where flexibility in the design envelope is required, this must be defined within the EIA Report and the reasons for requiring such flexibility clearly stated. At the time of application, the parameters of the Proposed Works should not be so wide-ranging as to represent effectively different projects. To address any uncertainty, the EIA Report must consider the potential impacts associated with each of the different scenarios. The criteria for selecting the worst case and the most likely scenario, together with the potential impacts arising from these, must also be described. The parameters of the Proposed Works must be clearly and consistently defined in the applications for the marine licences and the accompanying EIA Report.

2.4.8 The Scottish Ministers will determine the applications based on the worst case scenario. The EIA will reduce the degree of design flexibility required and the detail may be further refined in a Construction Method Statement ("CMS") to be submitted to the Scottish Ministers, for their approval, before works commence. Please note however, the information provided in Section 7 below regarding multi-stage regulatory approval. The CMS will 'freeze' the design of the project and will be reviewed by the Scottish Ministers to ensure that the worst case scenario described in the EIA Report is not exceeded.

- 2.4.9 It is a matter for the Applicant, in preparing the EIA Report, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. If the Proposed Works or any associated activities materially change prior to the submission of the EIA Report, the Applicant may wish to consider requesting a new Scoping Opinion.

#### Alternatives

- 2.4.10 The EIA Regulations require that the EIA Report include 'a description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the Applicant, which are relevant to the Proposed Works and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects'. The Scottish Ministers note that the Applicant's Scoping Report did not indicate any consideration of alternatives.
- 2.4.11 For the avoidance of doubt, the Scottish Ministers advise that the EIA Report must include an updated consideration of the reasonable alternatives studied as the parameters of the Proposed Works have been refined. The Scottish Ministers expect this to comprise a discrete section in the EIA Report that provides details of the reasonable alternatives studied across all aspects of the Proposed Works and the reasoning for the selection of the chosen options, including a comparison of the environmental effects.

### **3. Contents of the EIA Report**

#### **3.1 Introduction**

3.1.1 This section provides the Scottish Ministers' general comments on the approach and content of information to be provided in the Applicant's EIA Report, separate to the comments on the specific receptor topics discussed in Section 5 of this Scoping Opinion.

#### **3.2 EIA Scope**

3.2.1 Matters are not scoped out unless specifically addressed and justified by the Applicant and confirmed as being scoped out by the Scottish Ministers. The matters scoped out should be documented and an appropriate justification provided in the EIA report.

#### **3.3 Mitigation and Monitoring**

3.3.1 Any embedded mitigation relied upon for the purposes of the assessment should be clearly and accurately explained in detail within the EIA Report. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The EIA Report must identify and describe any proposed monitoring of significant adverse effects and how the results of such monitoring would be utilised to inform any necessary remedial actions.

3.3.2 The EIA Report should clearly demonstrate how the Applicant has had regard to the mitigation hierarchy, including giving consideration to the avoidance of key receptors. The Scottish Ministers advise that where the mitigation is envisaged to form part of a management or mitigation plan, the EIA Report must set out these plans or the reliance on these in sufficient detail so the significance of the residual effect can be assessed and evaluated. This should also include identification of any monitoring and remedial actions (if relevant) in the event that predicted residual effects differ to actual monitored outcomes. Commitment to develop plans without sufficient detail is not considered to be suitable mitigation in itself.

3.3.3 The EIA Report must include a table of mitigation which corresponds with the mitigation identified and discussed within the various chapters of the EIA Report and accounts for the representations and advice attached in Appendix I.

3.3.4 Where potential impacts on the environment have been fully investigated but found to be of little or no significance, it is sufficient to validate that part of the assessment by detailing in the EIA Report, the work that has been undertaken, the results, what impact, if any, has been identified and why it is not significant.

### **3.4 Risks of Major Accidents and/or Disasters**

- 3.4.1 The EIA Report must include a description and assessment of the likely significant effects deriving from the vulnerability of the Proposed Works to major accidents and disasters. The Applicant should make use of appropriate guidance, including the recent Institute of Environmental Management and Assessment (“IEMA”) ‘Major Accidents and Disasters in EIA: A Primer’, to better understand the likelihood of an occurrence and the Proposed Works susceptibility to potential major accidents and hazards. The description and assessment should consider the vulnerability of the Proposed Works to a potential accident or disaster and also the Proposed Works potential to cause an accident or disaster.
- 3.4.2 The Scottish Ministers advise that existing sources of risk assessment or other relevant studies should be used to establish the baseline rather than collecting survey data and note the IEMA Primer provides further advice on this. This should include the review of the identified hazards from a baseline assessment, the level of risk attributed to the identified hazards and the relevant receptors to be considered.
- 3.4.3 The assessment must detail how significance has been defined and detail the inclusions and exclusions within the assessment. Any mitigation measures that will be employed to prevent, reduce or control significant effects should be included in the EIA Report.

### **3.5 Climate and Greenhouse Gases**

- 3.5.1 The Scoping Report proposes that the impact of the Proposed Works on climate change will not be significant and there will be no standalone topic or chapter on climate. The Scottish Ministers are however mindful that Greenhouse Gas (“GHG”) emissions from all projects contribute to climate change. In this regard, the Scottish Ministers highlight the IEMA Environmental Impact Assessment Guide “Assessing Greenhouse Gas Emissions And Evaluating Their Significance” (“IEMA GHG Guidance”), which states that “GHG emissions have a combined environmental effect that is approaching a scientifically defined environmental limit, as such any GHG emissions or reductions from a project might be considered significant.” The Scottish Ministers have considered this together with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the requirement of the EIA Regulations to assess significant effects from the Proposed Works on climate. The Scottish Ministers therefore advise that the EIA Report must include a GHG Assessment which should be based on a Life Cycle Assessment (“LCA”) approach and note that the IEMA GHG Guidance provides further insight on this matter. The Scottish Ministers highlight however that this should include

the pre-construction, construction, operation and decommissioning phases, including consideration of the supply chain as well as benefits beyond the life cycle of the Proposed Works.

- 3.5.2 This view is supported by NatureScot and the Royal Society for the Protection of Birds (“RSPB”), who also highlighted that the Proposed Works will facilitate oil and gas supply operations which should be considered in the assessment.

## 4. Consultation

### 4.1 The Consultation Process

4.1.1 Following receipt of the Scoping Report, the Scottish Ministers, in accordance with the 2017 MW Regulations, initiated a 30 day consultation process, which commenced on 21 April 2021. The following bodies were consulted, those marked in bold provided a response and those marked in italics sent nil returns or stated they had no comments:

- UK Chamber of Shipping
- Crown Estate Scotland
- **Defence Infrastructure Organisation (Ministry of Defence)**
- Fisheries Management Scotland (“FMS”)
- Health and Safety Executive
- **Historic Environment Scotland (“HES”)**
- Kirkwall and St Ola Community Council
- Kirkwall Fisheries Office
- Marine Safety Forum
- **Maritime and Coastguard Agency (“MCA”)**
- **NatureScot (operating name of Scottish Natural Heritage)**
- **Northern Lighthouse Board (“NLB”)**
- Orkney Harbour Authority
- **Orkney Islands Council (“OIC”)**
- Orkney Marine Planning Partnership
- Orkney Sustainable Fisheries
- **Royal Society for the Protection of Birds (“RSPB”)**
- **Royal Yachting Association**
- **Scottish Environment Protection Agency (“SEPA”)**
- Scottish Fishermen’s Federation
- Scottish Fishermen’s Organisation
- Scottish Water
- Scottish Wildlife Trust
- Visit Scotland
- Whale and Dolphin Conservation

4.1.2 Specific advice was sought from Marine Scotland Science (“MSS”), the Marine Scotland – Marine Analytical Unit (“MAU”), Marine Scotland Planning and Policy and Transport Scotland (“TS”) including ports and harbours.

### 4.2 Responses received

- 4.2.1 From the list of consultation bodies above, a total of 9 responses were received. Advice was also provided by MSS, MAU and TS. The purpose of the consultation was to seek representations to aid the Scottish Ministers' consideration of which potential effects should be scoped in or out of the EIA Report.
- 4.2.2 The Scottish Ministers are satisfied that the requirements for consultation have been met in accordance with the 2017 MW Regulations. The sections below highlight issues which are of particular importance with regards to the EIA Report and any marine licence applications. The representations and advice received are attached in Appendix I and each must be read in full for detailed requirements from individual consultees.



## **5. Interests to be considered within the EIA Report**

### **5.1 Introduction**

5.1.1 This section contains the Scottish Ministers' opinion on whether the impacts identified in the Scoping Report are scoped in or out of the EIA Report. The Scottish Ministers advise that the representations from consultees and advice from MAU, MSS and TS must be considered in conjunction with the Scoping Opinion and with the expectation that recommendations and advice as directed through this Scoping Opinion are implemented.

### **5.2 Air Quality**

5.2.1 The Applicant's considerations of the potential impacts on air quality during the different phases of the Proposed Works are detailed in Section 3.3.2 of the Scoping Report. The Applicant states that the development design will include energy efficiency and sustainable transport options where possible and therefore there should be a negligible increase in pollutant emissions. The Applicant also noted that the construction works are temporary, and proposed that a site-specific dust-management plan is produced as part of the Construction Environmental Management Plan ("CEMP") to control this impact.

5.2.2 The Scottish Ministers agree with the Applicant, that the temporary impacts can be controlled through developing a site-specific dust management plan as part of the CEMP.

5.2.3 The Scottish Ministers advise that air quality is scoped out of the EIA Report.

### **5.3 Population and Human Health**

5.3.1 The Scottish Ministers agree that the assessment of population and human health can be scoped out of the EIA Report. The Scottish Ministers however advise that air quality, socio-economic impact and airborne noise will be addressed individually in Sections 5.2, 5.4 and 5.19 of this Scoping Opinion.

### **5.4 Socio-Economics**

5.4.1 The Applicant's consideration of the potential impacts on population and human health during the different phases of the Proposed Works are detailed in Section 3.3.4 of the Scoping Report. As the Proposed Works are an extension to an existing operational site which has a Safety Management System and Standard Operating Procedures to promote safe and efficient harbour operations, the Applicant concludes there will be no significant direct or indirect impacts on either population or human health. The Applicant

proposes to scope out all of the identified impacts from the assessment within the EIA Report.

- 5.4.2 However, the Scottish Ministers direct the Applicant to the representation from OIC and advice provided by the MAU, which advise that social and economic impacts are likely to arise from the Proposed Works and that these should be fully assessed in the EIA Report.
- 5.4.3 The Scottish Ministers agree that a full Socio-Economic Impact Assessment ("SEIA") must be included within the EIA Report and direct you to the principles outlined in the MAU advice to inform the assessment. Furthermore, in line with the representation from OIC, the Scottish Ministers advise the Applicant to engage with any other marine users and sectors in the vicinity of the Proposed Works, including marine farm operators, who may be impacted by the Proposed Works.
- 5.4.4 The Scottish Ministers advise that socio-economic impacts are scoped in, and an SEIA considering both the construction and operation phases must be included within the EIA Report.

## **5.5 Water Environment and Coastal Processes**

- 5.5.1 The Applicant's consideration of the potential impacts on the water environment and coastal processes are detailed in Section 4 of the Scoping Report.
- 5.5.2 The Applicant highlights that construction activities including dredging, pier extension and land reclamation all have the potential to impact coastal processes within Kirkwall Bay. However, the Applicant concludes that due to the existing infrastructure which has already significantly modified the site, coastal processes, including wave action, tidal current and sediment transport, should be scoped out of further assessment. The Applicant has also proposed to scope out the further assessment of the dredging impact, due to the limited extent of the dredge, the low energy nature of the coastal environment, absence of fine sediment and absence of sediment transport.
- 5.5.3 The Scottish Ministers agree with NatureScot and MSS, who advised that due to the scale of the Proposed Works and the lack of detailed information with regards to confirmed methodologies, impacts and mitigation measures, potential impacts on coastal processes should be assessed within the EIA Report. OIC also advised that further assessment on coastal processes is required, particularly in relation to sediment transport and the impact of this on potentially sensitive benthic habitat features. The Scottish Ministers also agree with OIC that further information is required regarding the nature of the

sediment to be dredged and the proposed method of deposit of the dredged material. This and the associated effects must be included in the EIA Report.

- 5.5.4 The Applicant considered that the proposed land reclamation works would have a negligible impact on local sea levels and the development design will take account of extreme sea levels and future sea level rise predictions. The Applicant proposes to scope out further assessment of coastal flood risk. SEPA advised that it is satisfied with the proposal to scope out flood risk however the Applicant is directed to the recommendations in the representation from SEPA regarding sea levels to be used in the design of the Proposed Works. The Scottish Ministers agree that no further assessment of flood risk is required.
- 5.5.5 The Applicant identified, in the Scoping Report, that the construction of the proposal has the potential to impact the water quality of the nearby water environment and proposed that a section on the prevention of pollution during construction and operation will be included within the EIA Report, although a full impact assessment will not be undertaken. The Scottish Ministers agree with the Applicant that the effects of pollution on water quality need to be included in the EIA Report, however advise that a full assessment of all impacts on water quality should be undertaken and appropriate prevention and mitigation measures identified. The Scottish Ministers also agree with the representation from OIC which identifies the need to carefully consider the impact of any planned onsite storage of excavated soils as these may pose a risk to the nearby Burn of Hatston as well as the marine environment.
- 5.5.6 The Scottish Ministers advise that water environment and coastal processes is scoped in to the EIA Report and a full assessment of the impact of the Proposed Works on coastal processes and water quality during the construction and operation phases must be carried out.

## **5.6 Ecology**

- 5.6.1 The Applicant has assessed impacts on ecology in Section 5 of the Scoping Report. The assessment has been split into sub-sections on terrestrial habitats and species, birds and, marine habitats, fish and mammals. The Applicant has reviewed these receptors individually and has proposed to scope out all ecological receptors except marine mammals and their prey. The Scottish Ministers have also divided their advice on ecology, presented in Sections 5.7 to 5.16 of this Scoping Opinion, and would recommend that the ecological receptors are assessed individually in the EIA Report.
- 5.6.2 For the avoidance of doubt, the Scottish Ministers advise all of the following ecological receptors are scoped in for full assessment in the EIA Report for construction and operation phases, except for otters which may be scoped out

if NatureScot's advice is followed. In addition the Scottish Ministers highlight NatureScot's representation regarding monitoring and advise the Applicant to consider the possible requirement of ongoing surveys to monitor impacts of the Proposed Works

## **5.7 Designated Sites**

- 5.7.1 In Section 5.2.1 of the Scoping Report, the Applicant assessed baseline conditions, which included an assessment of the designated sites in proximity to the Proposed Works. The Scoping Report identified the Orkney Mainland Moors Special Protection Area ("SPA"), the North Orkney proposed SPA ("pSPA") and the Scapa Flow pSPA as being within 5km of the Proposed Works at Hatston. In addition, impacts on the Faray and Holm of Faray Special Area of Conservation ("SAC"), designated for grey seals, were considered. The Scoping Report concludes that there will be no likely significant effects on the Orkney Mainland Moors SPA as the Hatston site does not constitute optimal habitat for its qualifying species. The Applicant notes previous advice from NatureScot in relation to the North Orkney pSPA and Scapa Flow pSPA and proposes to undertake a HRA in relation to these sites. The Applicant proposes to scope in impacts on the Faray and Holm of Faray SAC for full assessment in the EIA Report.
- 5.7.2 The Scottish Ministers agree with the representations from NatureScot, OIC and RSPB and advice from MSS that the Proposed Works are likely to have a significant effect on the qualifying interests of the North Orkney pSPA, Orkney Mainland Moors SPA, Faray and Holm of Faray SAC and Sanday SAC. The Scottish Ministers advise that effects on the qualifying interests of these sites must be assessed in the EIA Report for both the construction and operation phases of the Proposed Works. In addition, a HRA must be completed for these sites. Further details of the assessments required are provided in sections 5.8 and 5.11 below on ornithology and marine mammals. The Scottish Ministers direct the Applicant to the representation from NatureScot which details the reasoning for scoping these sites in for further assessment. The Scottish Ministers also note the NatureScot advice regarding the Scapa Flow pSPA and advise the Applicant to engage with NatureScot once details of vessel movements are known to confirm whether or not this site should be included in further assessments.
- 5.7.3 The Applicant has not given consideration to Sites of Special Scientific Interest ("SSSI") in the Scoping Report. The Scottish Ministers direct the Applicant to the representation from NatureScot and advise that consideration of SSSI's should be included as part of the assessment of European Sites for sites covering both designations. In addition, NatureScot also identified the Eynhallow SSSI and the Muckle and Little Green Holm SSSI which may be

affected by the Proposed Works and are not covered by another designation. The Scottish Ministers agree with the representation from NatureScot, that the effects on the harbour seal and grey seal features of the Eynhallow SSSI and Muckle and Little Green Holm SSSI respectively should be scoped in for further assessment in the EIA Report. Details of what should be included in the assessment are provided in Section 5.11 of this Scoping Opinion relating to marine mammals.

- 5.7.4 The Scottish Ministers advise that the above listed designated sites are scoped in to the EIA Report for a full assessment during both the construction and operation phases. The Scottish Ministers also advise that this does not negate the need for a HRA, covering the European sites, to be submitted alongside the EIA Report.

## **5.8 Ornithology**

- 5.8.1 In Section 5.5.2 of the Scoping Report, the Applicant states that the site of the Proposed Works contains limited foraging opportunities for a low range of bird species however proposes to complete a calendar year of low tide count bird surveys to better understand the usage of the site by birds and to help ensure any disturbance or displacement to foraging or roosting birds is minimised.
- 5.8.2 The Scottish Ministers agree with the representation from NatureScot and advice from MSS, which advised that low tide counts are not appropriate for characterising use by waterbirds of marine areas, which includes the qualifying interests of the North Orkney pSPA and Orkney Mainland Moors SPA. The Scottish Ministers direct the Applicant to the representation from NatureScot which advises that the Applicant should plan to conduct two years of bird surveys to inform the impacts to marine birds. The Scottish Ministers agree with NatureScot and advise the Applicant to engage with NatureScot and MSS through MS-LOT regarding the details of the bird survey requirements.
- 5.8.3 The Scottish Ministers advise that ornithology is scoped in for assessment in the EIA Report and this assessment must include impacts on the qualifying features of the Orkney Mainland Moors SPA and North Orkney pSPA.

## **5.9 Benthic Ecology and Priority Marine Features (“PMF”)**

- 5.9.1 In Section 5.2.2 of the Scoping Report, the Applicant identifies that the PMF maerl beds are present around Shapinsay, which is approximately 5 km north-east of Hatston. The Applicant has referenced intertidal habitats and noted the UK Biodiversity Action Plan / Local Biodiversity Action Plan habitat coastal vegetated shingle but has not included any other benthic or intertidal habitats. A number of potentially significant effects on benthic ecology are also listed in Sections 5.3 and 5.4 of the Scoping Report however no further assessment of

these is given. The Applicant proposes to include an assessment of the impact on maerl beds within the EIA Report.

- 5.9.2 The Scottish Ministers agree with the representations from NatureScot and OIC, that in view of the scale of the proposal and the limited data available, further surveys are required to understand the benthic habitats and species present in the area of the Proposed Works, including identifying the presence of any PMFs. These surveys are required to inform an assessment of the impact of the Proposed Works. The Applicant is directed to the representation from NatureScot for information on survey methodologies and the advice from MSS regarding possible impact pathways which must be addressed in the EIA Report. Furthermore, the Scottish Ministers advise that the impact of coastal processes on benthic ecology, as detailed in Section 5.5 of this Scoping Opinion, is scoped in for assessment in the EIA Report.
- 5.9.3 In Section 5.3 of the Scoping Report, the Applicant mentions the potential for negative impacts and direct habitat loss on intertidal habitats but provides no further assessment. The Scottish Ministers are in agreement with NatureScot that an assessment of the potential impacts on intertidal habitats is required and must be included in the EIA Report.
- 5.9.4 The Scottish Ministers advise that benthic ecology and PMFs are scoped in to the EIA Report, and surveys of the intertidal and subtidal habitats in the area of the Proposed Works must be undertaken in order to inform the assessment.

## **5.10 Otters**

- 5.10.1 The Scottish Ministers note the Applicant's proposal in Section 5.5.1 of the Scoping Report to carry out a pre-construction otter survey. The Scottish Ministers support this proposal and advise the Applicant to review and adhere to NatureScot's comments on otters and to refer to NatureScot's website for further information on requirements.

## **5.11 Marine Mammals**

- 5.11.1 In Section 5.5.3 of the Scoping Report, the Applicant proposes to conduct underwater noise modelling for construction activities to identify the impacts of the Proposed Works on marine mammals and other species and allow appropriate mitigation to be identified. The Applicant proposes that marine mammals and their prey during the construction phase will be scoped in to the EIA and this will include an assessment of impacts on Faray and Holm of Faray SAC and Damsay, Holm of Grimbister, Helliars Holm North and Elwick seal haul-outs.

- 5.11.2 The Scottish Ministers agree with the assessment in the Scoping Report that impacts on marine mammals and their prey during the construction phase should be included in the EIA Report. However, the Scottish Ministers also agree with the representations from OIC, NatureScot and MSS which advised that an assessment of the impact of the Proposed Works on marine mammals should be undertaken for all phases of the Proposed Works, including operations, and this should be used to identify mitigation measures to minimise the risk of disturbance. This assessment must include but not be limited to the impact of underwater noise. The Scottish Ministers direct the Applicant to the representation from NatureScot for a complete list of cetacean species which must be included within the assessment. The Scottish Ministers also refer the Applicant to the advice from MSS regarding sources of data to be used to inform the assessment.
- 5.11.3 In relation to seals, the Scottish Ministers advise that impacts on harbour seals and grey seals must be assessed for the European sites and SSSI's listed in Section 5.7 of this Scoping Opinion and in addition, the impact on nearby seal haul-outs must be assessed. In particular, the Scottish Ministers wish to highlight the advice from MSS and representation from OIC which discuss the recent serious decline in harbour seal populations on the east coast of Scotland which is reflected in the small potential biological removal limit for the seal management area. This must be considered in the EIA Report and also the HRA in relation to the Sanday SAC.
- 5.11.4 During the construction phase, underwater noise is likely to be generated from piling, blasting works, dredging and deposit activities and increased vessel traffic at the site. The Scottish Ministers direct the Applicant to the MSS advice for guidance on the underwater noise modelling which should be undertaken and presented in the EIA Report. For the avoidance of doubt, if there is any uncertainty regarding construction methodologies, the worst case scenario must be used for the noise modelling. In addition to underwater noise, the Scottish Ministers advise that disturbance from vessels, impacts to prey species and physical injury from dredging and deposit of dredged material must also be assessed for the construction phase in line with the advice from MSS.
- 5.11.5 The Scottish Ministers agree with NatureScot and MSS that impacts to marine mammals during the operation phase of the Proposed Works must also be assessed in the EIA Report. This must consider impacts from increased vessel traffic as well as other maintenance activities.
- 5.11.6 The Scottish Ministers note the Applicant is aware that a licence to disturb European Protected Species ("EPS") may be required for the Proposed Works and agree with this assessment. Although a separate licence application will

be required, the Scottish Ministers advise that consideration should be given to the assessments included in the EIA Report to ensure that they can be used to support the EPS process.

- 5.11.7 The Scottish Ministers advise that marine mammals are scoped in to the EIA Report for all phases of the Proposed Works.

## **5.12 Basking Sharks**

- 5.12.1 The Applicant has not considered basking sharks within the Scoping Report. The Scottish Ministers note the representation from NatureScot that basking sharks, a PMF and protected species, are regularly sighted in Orkney waters and agree with NatureScot and OIC that an assessment of potential impacts on basking sharks is required in the EIA Report. This will inform mitigation and determine the need or otherwise for a licence to disturb basking sharks.
- 5.12.2 The Scottish Ministers advise that basking sharks are scoped in for assessment in the EIA Report.

## **5.13 Diadromous Fish**

- 5.13.1 In Section 5.2.4 of the Scoping Report, the Applicant states that several commercial sea fish species are caught in the area, including sea trout. The Applicant states that there are no rivers designated for fish on mainland Orkney, but that the Proposed Works may be close to a fish migratory path. The Scottish Ministers agree with the Applicant's proposal to collate baseline data on fish for the EIA Report and to include '*marine mammals and their prey*' in the EIA Report. It is unclear what species of fish would be included in the EIA Report under this receptor however the Scottish Ministers do not consider this sufficient and provide further advice below regarding the assessments which must be undertaken for diadromous fish and also in Section 5.14 and 5.15, for marine fish ecology and commercial fisheries.
- 5.13.2 The Scottish Ministers refer the Applicant to the representation from OIC which indicates that the nearby Burn of Hatston may support spawning habitat for sea trout and is identified in the Orkney Local Biodiversity Action Plan as a locally important habitat. The Scottish Ministers also note the advice from MSS which states that in addition to sea trout, adult salmon and eel are also present in Orkney coastal waters and are of high conservation value. The Scottish Ministers advise the Applicant to engage with the Orkney Trout Fishing Association and Fisheries Management Scotland regarding any available data. In addition, once further information regarding construction methodologies and mitigation are identified, the Applicant should engage with MSS through MS-LOT to discuss if further surveys for diadromous fish are required.



- 5.13.3 The Scottish Ministers advise that diadromous fish, including sea trout, salmon and eel, are scoped in for further assessment in the EIA Report.

#### **5.14 Marine Fish Ecology**

- 5.14.1 The Scottish Ministers note that the Scoping Report is very limited with regards to assessment of impacts on marine fish ecology, as only sea trout are considered. The Scottish Ministers agree with the advice provided by MSS that the impacts to marine fish should be assessed in the EIA Report, as there is insufficient evidence presented in the Scoping Report to conclude why this receptor should be scoped out.
- 5.14.2 The Scottish Ministers advise that the Applicant should highlight any fish species that are designated as a PMF and consider whether there are any essential fish habitats, including fish spawning and nursery habitats present in the area of the Proposed Works. Consideration must also be given in the EIA Report to fish spawning and nursery time periods. The Scottish Ministers agree with the MSS advice that the Applicant should consider the impact pathways identified in Sections 5.3 and 5.4 of the Scoping Report in relation to all marine fish species.
- 5.14.3 The Scottish Ministers advise that marine fish ecology is scoped in to the EIA Report.

#### **5.15 Commercial Fisheries**

- 5.15.1 Although commercial fisheries are not explicitly addressed in the Scoping Report, in Section 5.2.4, the Applicant notes that there are many commercial sea fish caught in the area and further baseline data on fish will be gathered for the EIA Report. It is not clear if this baseline data relates to diadromous fish or commercial fish.
- 5.15.2 OIC is of the view that significant effects on commercial fisheries should be considered within the EIA Report taking into account seasonality, the year-round operation of the affected fishery and any displacement effects. The Scottish Ministers agree with OIC and the advice provided by MSS that insufficient evidence has been provided to justify scoping assessment of commercial fisheries out of the EIA Report.
- 5.15.3 The Scottish Ministers advise that commercial fisheries is scoped in to the EIA Report.

#### **5.16 Marine Invasive Non-Native Species (“mINNS”)**

- 5.16.1 The Applicant did not address mINNS or biosecurity within the Scoping Report.
- 5.16.2 The Scottish Ministers agree with NatureScot, RSPB and MSS, who all advised that the potential impact of mINNS should be assessed in the EIA Report as there is the potential for introduction and spread of mINNS during both the construction and operation phases. In particular, the Scottish Ministers wish to highlight the advice from NatureScot that a number of mINNS are already present in Orkney waters and the Proposed Works could facilitate further spread. The Scottish Ministers advise that site-based biosecurity plans for the Proposed Works for both the construction and operation phases must be produced. The Scottish Ministers direct the Applicant to the representation from NatureScot which indicates that NatureScot is happy to provide further advice on biosecurity plans if required.
- 5.16.3 The Scottish Ministers advise that mINNS are scoped in for assessment during both the construction and operation phases and site-based biosecurity plans must be included in the EIA Report.

## **5.17 Archaeology and Cultural Heritage**

- 5.17.1 The Applicant's considerations of the potential impacts on archaeology and cultural heritage during the different phases of the Proposed Works are detailed in Section 6 of the Scoping Report. The Applicant assessed baseline conditions by completing a desk based survey of a 600 m radius from the centre of the Proposed Works. The Applicant found that there are no marine cultural heritage statutory designations, however there are two plane wrecks and two UKHO chartered wrecks within the study area. Table 6-1 of the Scoping Report details the proximity of the known marine wrecks in the area.
- 5.17.2 In Section 6.3.1 of the Scoping Report, the Applicant details that there are no marine heritage sites within the footprint of the Proposed Works. The Applicant also highlights that as the dredged areas are regularly surveyed (to ensure the approach channel to the current pier is kept clear), no impacts are predicted on any heritage assets on the seabed. The Applicant has detailed in Table 6-3 potential impacts and mitigation for marine historic environment receptors. The Applicant proposes to scope out all of the identified impacts except seabed disturbance from construction vessel anchoring. In Table 6-5, the Applicant has detailed the potential impacts during the operation phase and has concluded that none are significant and so can all be scoped out.
- 5.17.3 The Applicant has identified that the project design is still evolving and if there are any significant changes, the assessment of archaeology and cultural heritage will need to be reassessed. The Scoping Report also states that the one potentially significant impact may require further assessment in the EIA if mitigation has not been agreed, however this will be done based on analysis

of existing desk based assessments. The Applicant also proposes to prepare a written scheme of investigation and protocols for archaeological discoveries as part of the EIA Report or CEMP.

- 5.17.4 The Scottish Ministers refer to the representation from HES which confirms that there are no scheduled marine monuments within the area of the Proposed Works however advises that there is the potential for the Proposed Works to significantly impact other marine historic environment assets including paleoenvironmental remains and aircraft wrecks. The Scottish Ministers agree with HES that construction effects on marine historic environment assets should be scoped in to the EIA Report and direct the Applicant to the representation from HES which contains details of the information to be included in the assessment. The Scottish Ministers also encourage the Applicant to engage in further discussions with HES regarding the methodology for these surveys. The Scottish Ministers also note the comments from HES regarding the Applicant's proposal to prepare a protocol for archaeological discoveries and advise the Applicant to discuss this further with HES.
- 5.17.5 The Scottish Ministers agree with HES, that terrestrial assets and operational effects on marine historic environment assets can be scoped out.
- 5.17.6 The Scottish Ministers advise that archaeology and cultural heritage is scoped in to the EIA Report for the construction phase of the Proposed Works.

## **5.18 Landscape and Visual**

- 5.18.1 The Applicant's consideration of the potential landscape and visual impacts of the Proposed Works are detailed in Section 7 of the Scoping Report. The Applicant undertook an initial landscape and visual appraisal to help determine the need for and ascertain the potential scope of a Landscape and Visual Impact Assessment as part of an EIA. The Applicant confirmed that any construction activity would be noticeable in the local area and would primarily be associated with piling and the construction of laydown areas. The Applicant also considered that as the Proposed Works are taking place within the context of an existing operational port facility and an industrialised landscape/seascape setting, the extent of any adverse landscape and visual effects of the Proposed Works are likely to be relatively localised. On this basis, the Applicant has concluded that landscape and visual interests does not need to be fully assessed in the EIA Report.
- 5.18.2 The Scottish Ministers agree with the comments raised by OIC, that in the absence of an identified zone of theoretical visibility, seascape, landscape and visual receptors cannot be identified and thus it is premature to conclude that no significant effects would be experienced. A seascape, landscape and visual

impact assessment ("SLVIA") must therefore be included within the EIA Report. The Scottish Ministers direct the Applicant to the representation from OIC which recommends that the Applicant contacts OIC to identify viewpoints and key receptors to be included in the SLVIA.

- 5.18.3 The Scottish Ministers advise that landscape and visual is scoped in to the EIA Report and a SLVIA must be carried out.

## **5.19 Airborne Noise**

- 5.19.1 The Applicant's consideration of the potential impact of airborne noise is detailed in Section 8 of the Scoping Report. The Applicant identifies that dredging, piling, infilling of material, material delivery and vehicle movements are likely causes of potential effects, especially during sensitive time periods when background noise levels are low. The Applicant concludes that because noise levels will rise less than 2 decibels, accounting for a 28% increase in traffic during the operational phase, this can be scoped out of the EIA Report. With regards to the construction phase, the Applicant proposes that a construction noise assessment will be deferred until a contractor is appointed and more details about the construction methodologies are confirmed.

- 5.19.2 The Scottish Ministers do not agree with the Applicants proposal to defer a construction noise assessment until a contractor is appointed. If a final construction methodology has not been decided then the Scottish Ministers require a construction noise assessment be scoped in and assessed within the EIA Report considering the worst case scenario. The Scottish Ministers note that this view is supported by OIC who advised that construction and operational impacts from noise should be assessed through the EIA process.

- 5.19.3 The Scottish Ministers advise that airborne noise is scoped in for both construction and operation phases and a construction noise impact assessment must be included in the EIA Report. If construction methodologies have not been confirmed then the worst case scenario must be assessed.

## **5.20 Shipping and Navigation**

- 5.20.1 Shipping and navigation is not specifically discussed in the Scoping Report however, in Section 3.3.3, the Applicant states that they operate a Marine Safety Management System and Standard Operating Procedures which are compliant with the Port Marine Safety Code. The Applicant, which is also the harbour authority, has a Marine Services division which also ensures that all operations are done in such a manner so as to keep safe its users, the public, the harbour area and the environment.

- 5.20.2 However, the Scottish Ministers note the representation from the MCA which advised that a Navigation Risk Assessment (“NRA”), relative to the scale of the Proposed Works should be included in the EIA Report to assess the impact of the Proposed Works on navigation. The NRA must include sections on shipping and navigation and the impact on marine users. The Scottish Ministers advise that the assessment determining how the Proposed Works will co-exist with other marine users must take into account the marine users identified by the OIC in its representation. The Scottish Ministers also direct the Applicant to the representation from the MCA to assist in the preparation of the NRA, noting that the Applicant is the Statutory Harbour Authority.
- 5.20.3 The Scottish Ministers advise that shipping and navigation is scoped in, and a NRA must be included within the EIA Report.

## **5.21 Cumulative Assessment**

- 5.21.1 The Applicants consideration of cumulative assessment is detailed in Section 3.4 of the Scoping Report. The Applicant proposes to include a consideration of cumulative impacts in each chapter within the EIA Report rather than include a standalone section on cumulative assessment. The Scottish Ministers agree with this proposal. Further, the Scottish Ministers highlight the representations from OIC, NatureScot and RSPB regarding cumulative assessment and advise that the Applicant must consider all of these comments when carrying out the cumulative assessments, including which other projects should be considered. The Applicant is also advised to engage with the planning authority in this regard. In addition, the Scottish Ministers highlight NatureScot’s representation regarding the requirement to include cumulative assessment as part of the HRA.
- 5.21.2 The Scottish Ministers advise that other projects forming part of the Orkney Harbours Masterplan including but not limited to the Scapa deep water quay development must be considered in the cumulative assessment.
- 5.21.3 The Scottish Ministers advise that cumulative impacts must be considered in each chapter within the EIA report.

## **6. Application and EIA Report**

### **6.1 General**

- 6.1.1 The EIA Report must be in accordance with the 2017 MW Regulations and the Scottish Ministers draw your attention in particular to, regulation 6. In accordance with the 2017 MW EIA Regulations, the Scottish Ministers advise that the EIA Report must be based on this Scoping Opinion.
- 6.1.2 The Scottish Ministers note the need to carry out an assessment under the The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). This assessment must be coordinated with the EIA in accordance with the 2017 MW Regulations.
- 6.1.3 A gap analysis template is attached at Appendix II to record the environmental concerns identified during the scoping process. This template should be completed and used to inform the preparation of the EIA Report. As part of the submission of the EIA Report the Scottish Ministers advise that Applicant must provide confirmation of how this Scoping Opinion is reflected in the EIA Report.

## 7. Multi-Stage Regulatory Approval

### 7.1 Background

- 7.1.1 The 2017 MW Regulations contain provisions regulating the assessment of environmental impacts. A multi-stage approval process arises where an approval procedure comprises more than one stage; one stage involving a principal decision and one or more other stages involving implementing decision(s) within the parameters set by the principal decision. While the effects which works may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision, if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage.
- 7.1.2 The definition in the 2017 MW Regulations is as follows: “application for multi-stage regulatory approval” means an application for approval, consent or agreement required by a condition included in a regulatory approval where (in terms of the condition) that approval, consent or agreement must be obtained from the Scottish Ministers before all or part of the works permitted by the regulatory approval may be begun”.
- 7.1.3 Marine licences, if granted, by the Scottish Ministers for the Proposed Works, may have several conditions attached requiring approvals etc. which fall under this definition, for example the approval of a CMS. When making an application for multi-stage approval the Applicant must satisfy the Scottish Ministers that no significant effects have been identified in addition to those already assessed in the EIA Report.
- 7.1.4 If during the consideration of information provided in support of an application for multi-stage regulatory approval the Scottish Ministers consider that the works may have significant environmental effects which have not previously been identified in the EIA Report (perhaps due to revised construction methods or updated survey information), then information on such effects and their impacts will be required. This information will fall to be dealt with as additional information under the 2017 MW Regulations, and procedures for consultation, public participation, public notice and decision notice of additional information will apply.

Signed

Anni Mäkelä

22 October 2021

Authorised by the Scottish Ministers to sign in that behalf.

**Appendix I: Consultation Responses & Advice**



# **Historic Environment Scotland**

## MacFarlane M (Marc)

---

**From:** Laura Denholm <laura.denholm@hes.scot>  
**Sent:** 17 May 2021 10:02  
**To:** MS Marine Licensing  
**Subject:** Orkney Islands Council - Harbour Authority - Expansion of Hatson Pier and Harbour - Hatson, Orkney Islands  
**Attachments:** 20210517HatstonPierExtensionScoping(MS)-HESresponse.pdf

Kind regards

Laura  
Laura Denholm |Business Support Officer – Casework Technician | Heritage Directorate Historic Environment Scotland | Àrainneachd Eachdraidheil Alba Longmore House, Salisbury Place, Edinburgh, EH9 1SH  
T: 0131 668 8898  
E: laura.denholm@hes.scot

[www.historicenvironment.scot](http://www.historicenvironment.scot)

Heritage For All - read our new Corporate Plan and help to share our vision

Your message is ready to be sent with the following file or link attachments:

20210517HatstonPierExtensionScoping(MS)-HESresponse

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Historic Environment Scotland - Scottish Charity No. SC045925 Registered office: Longmore House, Salisbury Place, Edinburgh, EH9 1SH Historic Environment Scotland Enterprises Ltd – Company No. SC510997 Registered office: Longmore House, Salisbury Place, Edinburgh, EH9 1SH Scran Ltd – Company No. SC163518 Registered office: John Sinclair House, 16 Bernard Terrace, Edinburgh, EH8 9NX \_\_\_\_\_

This e-mail does not form part of any contract unless specifically stated and is solely for the intended recipient.

Please inform the sender if received in error.

---



HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

**By email to:**

[MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot)

Jack Versiani Holt  
Marine Scotland  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Enquiry Line: 0131-668-8716  
[HMConsultations@hes.scot](mailto:HMConsultations@hes.scot)

Our case ID: 300045540

17 May 2021

Dear Jack Versiani Holt

[The Marine Works \(Environmental Impact Assessment\) \(Scotland\) Regulations 2017](#)  
[Orkney Islands Council - Harbour Authority - Expansion of Hatson Pier and Harbour - Hatson, Orkney Islands](#)  
[Scoping Consultation](#)

Thank you for your consultation which we received on 21 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.

The relevant local authority 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. In this case you should contact the Orkney Islands Council Archaeologist, who can be contacted at [Julie.Gibson@uhi.ac.uk](mailto:Julie.Gibson@uhi.ac.uk).

### **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



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 in to 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](http://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](mailto:Victoria.Clements@hes.scot).

Yours sincerely

**Historic Environment Scotland**

# **Maritime and Coastguard Agency**



## MacFarlane M (Marc)

---

**From:** navigation safety <navigationsafety@mcga.gov.uk>  
**Sent:** 21 May 2021 20:38  
**To:** MS Marine Licensing  
**Cc:** James Hannon; Calvin Baugh; Matthew Macintosh  
**Subject:** RE: Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021

Dear Jack,

Thank you for the opportunity to comment on the Scoping Consultation for the expansion of the Hatson Pier and Harbour in the Orkney Islands.

The Scoping Report has been considered by representatives of UK Technical Services Navigation. We note that works include (but not limited to) land reclamation, pier extension and dredging activities. The MCA has an interest in the works associated with the marine environment, and the potential impact on the safety of navigation, access to ports, harbours and marinas and any impact on our search and rescue obligations. We would therefore like to comment as follows on the Scoping Report:

It is our understanding that EnviroCentre Ltd has been appointed by Orkney Island Council Harbour Authority (OICHA) to undertake an Environmental Impact Assessment (EIA) in relation to the proposed expansion of Hatston Pier and Harbour, and that OICHA are the Statutory Harbour Authority at this location. They are therefore responsible for the safety of navigation before, during and after the works.

We note that there is no consideration in the Scoping Report of the navigation impact as result of the works during construction, nor the ongoing safe operation of the pier and harbour. We would usually expect to see consideration of a Navigation Risk Assessment, relative to the scale of the works, with a section on 'shipping and navigation', or the 'impact on marine users'. The report does not explain why this has been scoped out.

However, I note in section 3.3.3 Accidents and Natural Disasters :

*Similar to other ports, there is potential for accidents to occur, however OICHA operate a Marine Safety Management System / Standard Operating Procedures to promote safe and efficient harbour operations and is compliant with the Port Marine Safety Code. The OIC Marine Services division of OICHA ensures that all operations under their jurisdiction are done in such a manner so as to keep safe its users, the public, the harbour area and the environment. The proposed development is not located within an area of significant seismic activity, nor is climatic factors prone to creating disasters such as tsunamis, hurricanes or catastrophic flooding. Accordingly consideration of accidents and natural disasters is scoped out of the EIA.*

We would not necessarily consider 'Accidents and Natural Disasters' as an appropriate chapter to address shipping and navigation aspects. We would be interested in the views of OICHA here. Usually, a NRA is used to support the EIA, which is informed through consultation with the Statutory Harbour Authority and other key stakeholders as considered necessary. The MCA would expect no effects to be scoped out of the assessment with regards to shipping and navigation, pending the outcome of the Navigation Risk Assessment and further stakeholder consultation. Following the identification of impacts and likely effects to the environment their significance will be assessed within the EIA. This will determine whether the project's residual effects will be reduced ALARP. It is not clear why this has not being undertaken on this occasion.

We would also expect the SHA to consider whether any amendments need to be made to their existing byelaws as a result of these works.

Finally, to address the ongoing safe operation of the marine interface for this project, we would like to point the developers in the direction of the Port Marine Safety Code (PMSC) and its Guide to Good Practice. They will need to liaise and consult with the Statutory Harbour Authority and develop a robust Safety Management System (SMS) for the project under this code.

The sections that we feel cover navigational safety under the PMSC and its Guide to Good Practice are as follows:

From the Guide to Good Practice, section 7 Conservancy, a Harbour Authority has a duty to conserve the harbour so that it is fit for use as a port. The harbour authority also has a duty of reasonable care to see that the harbour is in a fit condition for a vessel to be able to use it safely. Section 7.8 Regulating harbour works covers this in more detail and have copied the extract below from the Guide to Good Practice.

#### 7.8 Regulating harbour works

7.8.1 Some harbour authorities have the powers to license works where they extend below the high watermark, and are thus liable to have an effect on navigation. Such powers do not, however, usually extend to developments on the foreshore.

7.8.2 Some harbour authorities are statutory consultees for planning applications, as a function of owning the seabed, and thus being the adjacent landowner. Where this is not the case, harbour authorities should be alert to developments on shore that could adversely affect the safety of navigation. In any case harbour authorities should ensure that the MMO or appropriate licensing authority consults them with regard to any applications for works or developments in or adjacent to the harbour area. Where necessary, consideration should be given to requiring the planning applicants to conduct a risk assessment in order to establish that the safety of navigation is not about to be put at risk. Examples of where navigation could be so affected include:

- high constructions, which inhibit line of sight of microwave transmissions, or the performance of port radar, or interfere with the line of sight of aids to navigation;
- high constructions, which potentially affect wind patterns; and
- lighting of a shore development in such a manner that the night vision of mariners is impeded, or that navigation lights, either ashore and onboard vessels are masked, or made less conspicuous.

7.8.3 There is a British Standards Institution publication on Road Lighting, BS5489. Part 8 relates to a code of practice for lighting which may affect the safe use of aerodromes, railways, harbours and navigable Inland waterways.

We hope you find this useful at this stage.

Kind regards

Helen

**Helen Croxson** +44 (0) 203 8172426  
 Space Launch Lead [Redacted]  
 Marine Licensing and Consenting  
**UK Technical Services Navigation** Helen.Croxson@mca.gov.uk



**Maritime & Coastguard Agency**  
 Bay 2/25, Spring Place  
 105 Commercial Road,  
 Southampton SO15 1EG



**Safer Lives, Safer Ships, Cleaner Seas**  
[www.gov.uk/mca](http://www.gov.uk/mca)

Please note my working days are Tuesday, Wednesday and Thursdays.

**From:** MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>  
**Sent:** 21 April 2021 15:59  
**To:** north@nature.scot; planning.north@sepa.org.uk; hmconsultations@hes.scot; planning@orkney.gov.uk; navigation safety <navigationsafety@mca.gov.uk>; navigation@nlb.org.uk; brian@fms.scot; alan@fms.scot; Robert Merrylees <rmerrylees@ukchamberofshipping.com>; marine@crownestatescotland.com; DIO-safeguarding-offshore@mod.gov.uk; Inshore@gov.scot; secretary@marinesafetyforum.org; pauline@ryascotland.org.uk; planning.scotland@rspb.org.uk; m.morrison@sff.co.uk; info@scottishfishermen.co.uk; scollin@scottishwildlifetrust.org.uk; Chris.Wilcock@transport.gov.scot; sarah.dolman@wdcs.org; fiona.read@whales.org; kirkwallandstolacc@gmail.com; FOKirkwall2@gov.scot; Douglas.Keith@visitscotland.com; planningconsultations@scottishwater.co.uk; harbours@orkney.gov.uk; info@northlinkferries.co.uk; orkneyfisheries@btconnect.com; katew@orkneysustainablefisheries.co.uk; renewables@sff.co.uk; development\_management@transport.gov.scot; Dario.dallaCosta@transport.gov.scot; David.Pratt@gov.scot; reception@scottishwildlifetrust.org.uk  
**Cc:** Helen Croxson <Helen.Croxson@mca.gov.uk>; Nick Salter <Nick.Salter@mca.gov.uk>; aziou@ukchamberofshipping.com; Katrina Ross (UK Chamber of Shipping) (External) <kross@ukchamberofshipping.com>; migoe@ukchamberofshipping.com  
**Subject:** Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021

**CAUTION:** This email originated from outside the UK Government. Do not click links or open attachments unless you recognise the sender and know the content is safe. Please use the Report Message function to report suspicious messages.

Dear Sir/Madam,

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the EIA Regulations”)**

**Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands**

In respect of the proposed marine licence applications for the above works under the Marine (Scotland) Act 2010, Orkney Island Council Harbour Authority has requested the Scottish Ministers adopt a scoping opinion in relation to the above proposed works under regulation 14(1) of the EIA Regulations.

The scoping report submitted by the applicant can be found at:  
<https://marine.gov.scot/ml/scoping-hatston-pier-and-terminal-expansion-hatston-orkney>

To assist the Scottish Ministers in adopting a comprehensive scoping opinion, which will outline the scope and level of detail of information to be provided in the Environmental Impact Assessment (EIA) Report to be submitted by the applicant with their proposed marine licence applications, please review the scoping report and advise on **what you consider should be included within or excluded from the scope of the EIA for the proposed works**. In doing so you may wish to consider any comments you may have regarding data sources, proposed methodologies or the requirement for specific studies.

Please submit your response electronically to [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot) by 21 May 2021. If you are unable to meet this deadline, please contact us as soon as possible to discuss the possibility of an extension to the consultation period. If you have no comments to make please submit a “nil return” response.

Yours faithfully,

Jack Versiani Holt  
Marine Licensing Casework Officer  
**Marine Scotland** - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB

***COVID-19: Marine Scotland - Licensing Operations Team( MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond to phone enquiries, please communicate with MS- LOT via email. Email addresses are [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot) for marine renewables correspondence or [MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot) for all licensing queries.***

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return. Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.

\*\*\*\*\*

---

This email has been scanned by the BT Assure MessageScan service  
The service is delivered in partnership with Symantec.cloud

For more information please visit <http://www.globalservices.bt.com>

=====

# **Ministry of Defence**

## MacFarlane M (Marc)

---

**From:** DIO-Safeguarding-Offshore (MULTIUSER) <DIO-Safeguarding-Offshore@mod.gov.uk>  
**Sent:** 22 April 2021 12:29  
**To:** MS Marine Licensing  
**Subject:** RE: 20210422-Scoping Opinion-Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – DIO 10051315-O

Good Afternoon,

FAO Jack Versiani Holt

Further to your e-mail below regarding a Scoping Opinion for the expansion of Hatson Pier and Harbour, I can confirm a Nil Response. I hope this is sufficient for your purposes.

Regards

Michael Billings

Assistant Safeguarding Manager  
Estates – Safeguarding

Defence  
Infrastructure  
Organisation

---

Building 49, DIO Sutton Coldfield, Kingston Road, B75 7RL

Due to COVID-19 I am working from home until further notice.

In line with the latest guidance, I am working offline where possible to ease the pressure on the IT network. Therefore I will only check emails and Skype periodically which will mean that I might not respond as promptly as usual.

Mob: [Redacted] | Email: michael.billings950@mod.gov.uk

Website: [www.gov.uk/dio/](http://www.gov.uk/dio/) | Twitter: @mod\_dio

Read DIO's blog: <https://insidedio.blog.gov.uk/>

---

**From:** MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>  
**Sent:** 21 April 2021 15:59  
**To:** north@nature.scot; planning.north@sepa.org.uk; hmconsultations@hes.scot; planning@orkney.gov.uk; navigationsafety@mcga.gov.uk; navigation@nlb.org.uk; brian@fms.scot; alan@fms.scot; rmerrylees@ukchamberofshipping.com; marine@crownestatescotland.com; DIO-Safeguarding-Offshore (MULTIUSER) <DIO-Safeguarding-Offshore@mod.gov.uk>; Inshore@gov.scot; secretary@marinesafetyforum.org; pauline@ryascotland.org.uk; planning.scotland@rspb.org.uk; m.morrison@sff.co.uk; info@scottishfishermen.co.uk; scollin@scottishwildlifetrust.org.uk; Chris.Wilcock@transport.gov.scot; sarah.dolman@wdcs.org; fiona.read@whales.org; kirkwallandstolacc@gmail.com; FOKirkwall2@gov.scot; Douglas.Keith@visitscotland.com; planningconsultations@scottishwater.co.uk; harbours@orkney.gov.uk; info@northlinkferries.co.uk; orkneyfisheries@btconnect.com; katew@orkneysustainablefisheries.co.uk; renewables@sff.co.uk; development\_management@transport.gov.scot; Dario.dallaCosta@transport.gov.scot; David.Pratt@gov.scot;

reception@scottishwildlifetrust.org.uk

Cc: helen.croxson@mcga.gov.uk; nick.salter@mcga.gov.uk; aziou@ukchamberofshipping.com;  
kross@ukchamberofshipping.com; migoe@ukchamberofshipping.com

**Subject:** Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands  
– Scoping Consultation – By 21 May 2021

Dear Sir/Madam,

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the EIA Regulations”)**

**Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands**

In respect of the proposed marine licence applications for the above works under the Marine (Scotland) Act 2010, Orkney Island Council Harbour Authority has requested the Scottish Ministers adopt a scoping opinion in relation to the above proposed works under regulation 14(1) of the EIA Regulations.

The scoping report submitted by the applicant can be found at:

<https://marine.gov.scot/ml/scoping-hatson-pier-and-terminal-expansion-hatson-orkney>

To assist the Scottish Ministers in adopting a comprehensive scoping opinion, which will outline the scope and level of detail of information to be provided in the Environmental Impact Assessment (EIA) Report to be submitted by the applicant with their proposed marine licence applications, please review the scoping report and advise on **what you consider should be included within or excluded from the scope of the EIA for the proposed works**. In doing so you may wish to consider any comments you may have regarding data sources, proposed methodologies or the requirement for specific studies.

Please submit your response electronically to [ms.marinelicencing@gov.scot](mailto:ms.marinelicencing@gov.scot) by 21 May 2021. If you are unable to meet this deadline, please contact us as soon as possible to discuss the possibility of an extension to the consultation period. If you have no comments to make please submit a “nil return” response.

Yours faithfully,

Jack Versiani Holt  
Marine Licensing Casework Officer  
**Marine Scotland** - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB

**COVID-19: Marine Scotland - Licensing Operations Team( MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond to phone enquiries, please communicate with MS- LOT via email. Email addresses are [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot) for marine renewables correspondence or [MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot) for all licensing queries.**

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return. Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.



\*\*\*\*\*

**NatureScot**

**MacFarlane M (Marc)**

---

**From:** Kim McEwen <Kim.McEwen@nature.scot>  
**Sent:** 21 May 2021 11:54  
**To:** MS Marine Licensing  
**Subject:** Scoping opinion request - Orkney Islands Council Harbour Authority - Expansion of Hatston Pier and Harbour - NatureScot response - 21 May 2021  
**Attachments:** Scoping opinion request - Orkney Islands Council Harbour Authority - Expansion of Hatston Pier and Harbour - Hatston, Orkney Islands - NatureScot response - 21 May 2021.pdf

Good Morning,

Thank you for consulting us on the above proposal, please find our response attached.

If you need any further information please do not hesitate to get in touch.

Kind regards,  
Kim

**Kim McEwen | Operations Officer, Northern Isles and North Highland**  
**NatureScot** | Eastbank, East Road, Kirkwall, Orkney, KW15 1LX | T: 01463 701 671 M: [Redacted]  
nature.scot | @nature\_Scot | *Scotland's Nature Agency* | *Buidheann Nàdair na h-Alba*

NatureScot is the operating name of Scottish Natural Heritage.

--

\*\*\*\*\*  
This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager or the sender.

Please note that for business purposes, outgoing and incoming emails from and to NatureScot may be monitored.

Tha am post-dealain seo agus fiosrachadh sam bith na chois dìomhair agus airson an neach no buidheann ainmichte a-mhàin. Mas e gun d' fhuair sibh am post-dealain seo le mearachd, cuiribh fios dhan manaidsear-siostaim no neach-sgrìobhaidh.

Thoiribh an aire airson adhbharan gnothaich, 's dòcha gun tèid sùil a chumail air puist-dealain a' tighinn a-steach agus a' dol a-mach bho NatureScot.

\*\*\*\*\*

Jack Versiani Holt  
Marine Scotland – Marine Planning and Policy

Sent by email to: [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot)

Our ref: CDM162821

21 May 2021

Dear Mr Versiani Holt,

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017  
Orkney Islands Council Harbour Authority – Extension of Hatston Pier and Harbour – Hatston, Orkney  
Islands**

Thank you for your email of 21 April 2021, requesting our scoping advice for the above proposal.

**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 will not 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 note<sup>i</sup>.

### **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 website<sup>ii</sup>.

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](mailto: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 website<sup>iii</sup>.

### **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 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 website<sup>iii</sup>.

### **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<sup>iv</sup>. 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<sup>v</sup>. 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.

---

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

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

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

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

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

# **Northern Lighthouse Board**

## MacFarlane M (Marc)

---

**From:** Gillian Burns <Gillian.Burns@nlb.org.uk>  
**Sent:** 05 May 2021 10:29  
**To:** MS Marine Licensing  
**Subject:** RE: Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021  
**Attachments:** O2\_01\_123.docx

Dear Jack,

Please see the attached response from the Northern Lighthouse Board Ref : Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands.

If any further information is required please get in touch.

Best wishes,

Gillian

### Official - Northern Lighthouse Board Email

**Gillian Burns**

**Navigation Officer**

NLB Navigation, 84 George Street, Edinburgh, EH2 3DA  
0131 473 2431 / [Redacted]

[Gillian.Burns@nlb.org.uk](mailto:Gillian.Burns@nlb.org.uk)

[www.nlb.org.uk](http://www.nlb.org.uk)



**Our mission:** To deliver in the most sustainable way practicable, a reliable, efficient and cost-effective Aids to Navigation service for the benefit and safety of all Mariners.

**Our values:** Safety, Pride, Integrity, Teamwork, Fairness, Innovation, Respect, Environment

Follow NLB on:



---

**From:** MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>

**Sent:** 21 April 2021 15:59

**To:** north@nature.scot; planning.north@sepa.org.uk; hmconsultations@hes.scot; planning@orkney.gov.uk; navigationsafety@mcga.gov.uk; navigation <navigation@nlb.org.uk>; brian@fms.scot; alan@fms.scot; rmerrylees@ukchamberofshipping.com; marine@crownestatescotland.com; DIO-safeguarding-offshore@mod.gov.uk; Inshore@gov.scot; secretary@marinesafetyforum.org; pauline@ryascotland.org.uk; planning.scotland@rspb.org.uk; m.morrison@sff.co.uk; info@scottishfishermen.co.uk; scollin@scottishwildlifetrust.org.uk; Chris.Wilcock@transport.gov.scot; sarah.dolman@wdcs.org; fiona.read@whales.org; kirkwallandstolacc@gmail.com; FOKirkwall2@gov.scot; Douglas.Keith@visitscotland.com;

planningconsultations@scottishwater.co.uk; orkney island council <harbours@orkney.gov.uk>; info@northlinkferries.co.uk; orkneyfisheries@btconnect.com; katew@orkneysustainablefisheries.co.uk; renewables@sff.co.uk; development\_management@transport.gov.scot; Dario.dallaCosta@transport.gov.scot; David.Pratt@gov.scot; reception@scottishwildlifetrust.org.uk  
**Cc:** helen.croxson@mcga.gov.uk; nick.salter@mcga.gov.uk; aziou@ukchamberofshipping.com; kross@ukchamberofshipping.com; migoe@ukchamberofshipping.com  
**Subject:** Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021

Dear Sir/Madam,

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the EIA Regulations”)**

**Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands**

In respect of the proposed marine licence applications for the above works under the Marine (Scotland) Act 2010, Orkney Island Council Harbour Authority has requested the Scottish Ministers adopt a scoping opinion in relation to the above proposed works under regulation 14(1) of the EIA Regulations.

The scoping report submitted by the applicant can be found at:  
<https://marine.gov.scot/ml/scoping-hatson-pier-and-terminal-expansion-hatson-orkney>

To assist the Scottish Ministers in adopting a comprehensive scoping opinion, which will outline the scope and level of detail of information to be provided in the Environmental Impact Assessment (EIA) Report to be submitted by the applicant with their proposed marine licence applications, please review the scoping report and advise on **what you consider should be included within or excluded from the scope of the EIA for the proposed works**. In doing so you may wish to consider any comments you may have regarding data sources, proposed methodologies or the requirement for specific studies.

Please submit your response electronically to [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot) by 21 May 2021. If you are unable to meet this deadline, please contact us as soon as possible to discuss the possibility of an extension to the consultation period. If you have no comments to make please submit a “nil return” response.

Yours faithfully,

Jack Versiani Holt  
Marine Licensing Casework Officer  
**Marine Scotland** - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB

**COVID-19: Marine Scotland - Licensing Operations Team( MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond to phone enquiries, please communicate with MS- LOT via email. Email addresses are [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot) for marine renewables correspondence or [MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot) for all licensing queries.**

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return.

Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.  
\*\*\*\*\*

Click [here](#) to report this email as spam.

This email has been virus scanned by MailControl - [www.mailcontrol.com](http://www.mailcontrol.com)



# Northern Lighthouse Board

84 George Street  
Edinburgh EH2 3DA

Tel: 0131 473 3100  
Fax: 0131 220 2093

Website: [www.nlb.org.uk](http://www.nlb.org.uk)  
Email: [enquiries@nlb.org.uk](mailto:enquiries@nlb.org.uk)

Your Ref: EIA Scoping email dated 21/04/21  
Our Ref: GB/ML/O2\_01\_123

Mr. Jack Versiani Holt  
Marine Licensing Casework Officer  
Marine Scotland – Marine Planning and Policy  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

04 May 2021

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017 (AS AMENDED) ("THE EIA REGULATIONS")**

**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 21<sup>st</sup> April 2021 relating to the EIA Scoping opinion submitted by **Orkney Islands Council Harbour Authority** 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 Marine Licence 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-notice/](http://www.nlb.org.uk/legal-notice/)

# **Orkney Islands Council**



## MacFarlane M (Marc)

---

**From:** Shona Turnbull <Shona.Turnbull@orkney.gov.uk>  
**Sent:** 20 May 2021 12:42  
**To:** MS Marine Licensing  
**Subject:** OIC Expansion of Hatston Pier and Harbour - Scoping consultation  
**Attachments:** 21\_185\_MLSCO - Hatston Terminal and Pier Expansion - OIC Delegate Response.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Classification: OFFICIAL**

Response attached.

Regards,  
Shona

Dr Shona Turnbull  
Marine Planner  
Orkney Islands Council

Working from home, so email is the best contact

### **Customer Survey**

Your feedback is important to us. Please take a few moments to complete our online survey (see link below) in respect of your recent contact with the Planning Service.

Many thanks for your time.

[Planning Service Survey](#)

## 21/185/MLSCO – Hatston Terminal and Pier Expansion

### 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 sea trout, a Priority Marine Species. Although sea trout 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/](http://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 EIA should include an assessment of the alternatives considered to this development including factors to minimise environmental impacts.

## **Local communities – Amenity and noise**

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 EIA. 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.

**Royal Society for the Protection of  
Birds**

## MacFarlane M (Marc)

---

**From:** Josephine Wells <Josephine.Wells@rspb.org.uk>  
**Sent:** 20 May 2021 10:19  
**To:** planningconsultation@orkney.gov.uk  
**Cc:** MS Marine Licensing  
**Subject:** RE: Scoping Application Consultation 21/159/SCO and 21/160/SCO  
**Attachments:** 21\_159\_SCO\_RSPB.pdf; 21\_160\_SCO\_RSPB.pdf

Good morning,

Unfortunately I had noted the consultation deadline for this application down as the 21st (tomorrow) but have just realised this was in fact the 17th. I have copied our responses to MS Marine Licensing as I note from the report they have also been requested to adopt a scoping consultation based on the same available information. I would be very appreciative if our comments could still be considered and apologise for the late submission.

Many thanks,

Jo

Josephine Wells  
Conservation Officer

Orkney Office 12-14 North End Road, Stromness, KW16 3AG Mobile [Redacted]

[rspb.org.uk](http://rspb.org.uk)

RSPB Scotland is part of the RSPB, the UK's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

-----Original Message-----

**From:** planningconsultation@orkney.gov.uk <planningconsultation@orkney.gov.uk>  
**Sent:** 26 April 2021 12:03  
**To:** Orkney <Orkney@rspb.org.uk>; Josephine Wells <Josephine.Wells@RSPB.ORG.UK>  
**Subject:** Scoping Application Consultation 21/159/SCO

See attached documents

This email and any attachments may contain material that is confidential, subject to copyright and intended for the addressee only. If you are not the named recipient you must not use, disclose, reproduce, copy or distribute the contents of this communication. If you have received this in error, please contact the sender and then delete this email from your system. The Royal Society for the



Protection of Birds (RSPB) is a registered charity in England and Wales no. 207076 and in Scotland no. SC037654.

The RSPB is committed to maintaining your data privacy. We promise to keep your details safe and will never sell them on to third parties. To find out more about how we use your information please read our online Privacy Policy: <https://www.rspb.org.uk/privacy-policy/>.

Orkney Islands Council Planning Department  
By email: [planningconsultation@orkney.gov.uk](mailto:planningconsultation@orkney.gov.uk)

cc. Marine Scotland Licensing Operations Team  
By email: [MS.MarineLicensing@gov.scot](mailto: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

**Facebook:** RSPB Scotland  
**Twitter:** @RSPB Scotland  
[rspb.org.uk](http://rspb.org.uk)



## 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,<sup>1</sup> 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*”<sup>2</sup> 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.

---

<sup>1</sup> 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

<sup>2</sup> [Wildlife and Natural Environment \(Scotland\) Act 2011 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2011/6/section/17)

# **Royal Yachting Association**

## MacFarlane M (Marc)

---

**From:** Pauline McGrow <Pauline.McGrow@ryascotland.org.uk>  
**Sent:** 14 May 2021 16:16  
**To:** MS Marine Licensing  
**Subject:** RE: Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021

Dear Jack,

Thank you for your email. I write to confirm that as there is unlikely to be a negative impact on recreational boating it can be scoped out.

Kind Regards

Pauline

**Pauline McGrow**  
**Senior Administrator**  
**Mob:** [Redacted]

**Royal Yachting Association Scotland**  
**T: 0131 317 7388**  
**E: [pauline.mcgrow@ryascotland.org.uk](mailto:pauline.mcgrow@ryascotland.org.uk)**



RYA Scotland, Caledonia House, 1 Redheughs Rigg, South Gyle, Edinburgh, EH12 9DQ  
T: 0131 317 7388, Fax: 0844 556 9549

Protecting your personal information is important to us, view our full Privacy Statement [here](#)



---

**From:** MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>

**Sent:** 21 April 2021 15:59

**To:** north@nature.scot; planning.north@sepa.org.uk; hmconsultations@hes.scot; planning@orkney.gov.uk; navigationsafety@mcga.gov.uk; navigation@nlb.org.uk; brian@fms.scot; alan@fms.scot; rmerrylees@ukchamberofshipping.com; marine@crownestatescotland.com; DIO-safeguarding-offshore@mod.gov.uk; Inshore@gov.scot; secretary@marinesafetyforum.org; Pauline McGrow <Pauline.McGrow@ryascotland.org.uk>; planning.scotland@rspb.org.uk; m.morrison@sff.co.uk;

info@scottishfishermen.co.uk; scollin@scottishwildlifetrust.org.uk; Chris.Wilcock@transport.gov.scot; sarah.dolman@wdcs.org; fiona.read@whales.org; kirkwallandstolacc@gmail.com; FOKirkwall2@gov.scot; Douglas.Keith@visitscotland.com; planningconsultations@scottishwater.co.uk; harbours@orkney.gov.uk; info@northlinkferries.co.uk; orkneyfisheries@btconnect.com; katew@orkneysustainablefisheries.co.uk; renewables@sff.co.uk; development\_management@transport.gov.scot; Dario.dallaCosta@transport.gov.scot; David.Pratt@gov.scot; reception@scottishwildlifetrust.org.uk  
**Cc:** helen.croxson@mcga.gov.uk; nick.salter@mcga.gov.uk; aziou@ukchamberofshipping.com; kross@ukchamberofshipping.com; migoe@ukchamberofshipping.com  
**Subject:** Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021

Dear Sir/Madam,

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the EIA Regulations”)**

**Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands**

In respect of the proposed marine licence applications for the above works under the Marine (Scotland) Act 2010, Orkney Island Council Harbour Authority has requested the Scottish Ministers adopt a scoping opinion in relation to the above proposed works under regulation 14(1) of the EIA Regulations.

The scoping report submitted by the applicant can be found at:  
<https://marine.gov.scot/ml/scoping-hatson-pier-and-terminal-expansion-hatson-orkney>

To assist the Scottish Ministers in adopting a comprehensive scoping opinion, which will outline the scope and level of detail of information to be provided in the Environmental Impact Assessment (EIA) Report to be submitted by the applicant with their proposed marine licence applications, please review the scoping report and advise on **what you consider should be included within or excluded from the scope of the EIA for the proposed works**. In doing so you may wish to consider any comments you may have regarding data sources, proposed methodologies or the requirement for specific studies.

Please submit your response electronically to [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot) by 21 May 2021. If you are unable to meet this deadline, please contact us as soon as possible to discuss the possibility of an extension to the consultation period. If you have no comments to make please submit a “nil return” response.

Yours faithfully,

Jack Versiani Holt  
Marine Licensing Casework Officer  
**Marine Scotland** - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB

**COVID-19: Marine Scotland - Licensing Operations Team( MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond to phone enquiries, please communicate with MS- LOT via email. Email addresses are [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot) for marine renewables correspondence or [MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot) for all licensing queries.**

\*\*\*\*\*  
This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of

any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return. Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.

\*\*\*\*\*

---

This email has been scanned for spam & viruses. If you believe this email should have been stopped by our filters, [click here](#) to report it.

Royal Yachting Association Scotland is a company limited by guarantee and is registered in Scotland. Registered business number SC219439. Registered business address is Caledonia House, 1 Redheughs Rigg, South Gyle, Edinburgh, EH12 9DQ. VAT Registration number 345 0456 69.

Email Disclaimer

<http://www.rya.org.uk/legal-info/Pages/email-disclaimer.aspx>

**Scottish Environmental Protection  
Agency**



## MacFarlane M (Marc)

---

**From:** Planning.North <Planning.North@sepa.org.uk>  
**Sent:** 18 May 2021 09:58  
**To:** MS Marine Licensing  
**Subject:** Re: Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021 SEPA response 1087  
**Attachments:** SEPA response 1087\_2021-05-18\_8-52.pdf

OFFICIAL – BUSINESS

Thank you for consulting SEPA on the above proposal. Please find our response attached.

### Disclaimer

*The information contained in this email and any attachments may be confidential and is intended solely for the use of the intended recipients. Access, copying or re-use of the information in it by any other is not authorised. If you are not the intended recipient please notify us immediately by return email to [postmaster@sepa.org.uk](mailto:postmaster@sepa.org.uk). Registered office: Strathallan House, Castle Business Park, Stirling FK9 4TZ. Under the Regulation of Investigatory Powers Act 2000, the email system at SEPA may be subject to monitoring from time to time.*

---

**From:** MS.MarineLicensing@gov.scot <MS.MarineLicensing@gov.scot>  
**Sent:** 21 April 2021 15:59  
**To:** north@nature.scot <north@nature.scot>; Planning.North <Planning.North@sepa.org.uk>; hmconsultations@hes.scot <hmconsultations@hes.scot>; planning@orkney.gov.uk <planning@orkney.gov.uk>; navigationsafety@mcga.gov.uk <navigationsafety@mcga.gov.uk>; navigation@nlb.org.uk <navigation@nlb.org.uk>; brian@fms.scot <brian@fms.scot>; alan@fms.scot <alan@fms.scot>; rmerrylees@ukchamberofshipping.com <rmerrylees@ukchamberofshipping.com>; marine@crownestatescotland.com <marine@crownestatescotland.com>; DIO-safeguarding-offshore@mod.gov.uk <DIO-safeguarding-offshore@mod.gov.uk>; Inshore@gov.scot <Inshore@gov.scot>; secretary@marinesafetyforum.org <secretary@marinesafetyforum.org>; pauline@ryascotland.org.uk <pauline@ryascotland.org.uk>; planning.scotland@rspb.org.uk <planning.scotland@rspb.org.uk>; m.morrison@sff.co.uk <m.morrison@sff.co.uk>; info@scottishfishermen.co.uk <info@scottishfishermen.co.uk>; scollin@scottishwildlifetrust.org.uk <scollin@scottishwildlifetrust.org.uk>; Chris.Wilcock@transport.gov.scot <Chris.Wilcock@transport.gov.scot>; sarah.dolman@wdcs.org <sarah.dolman@wdcs.org>; fiona.read@whales.org <fiona.read@whales.org>; kirkwallandstolacc@gmail.com <kirkwallandstolacc@gmail.com>; FOKirkwall2@gov.scot <FOKirkwall2@gov.scot>; Douglas.Keith@visitscotland.com <Douglas.Keith@visitscotland.com>; planningconsultations@scottishwater.co.uk <planningconsultations@scottishwater.co.uk>; harbours@orkney.gov.uk <harbours@orkney.gov.uk>; info@northlinkferries.co.uk <info@northlinkferries.co.uk>; orkneyfisheries@btconnect.com <orkneyfisheries@btconnect.com>; katew@orkneysustainablefisheries.co.uk <katew@orkneysustainablefisheries.co.uk>; renewables@sff.co.uk <renewables@sff.co.uk>; development\_management@transport.gov.scot <development\_management@transport.gov.scot>; Dario.dallaCosta@transport.gov.scot <Dario.dallaCosta@transport.gov.scot>; David.Pratt@gov.scot <David.Pratt@gov.scot>; reception@scottishwildlifetrust.org.uk <reception@scottishwildlifetrust.org.uk>  
**Cc:** helen.croxson@mcga.gov.uk <helen.croxson@mcga.gov.uk>; nick.salter@mcga.gov.uk <nick.salter@mcga.gov.uk>; aziou@ukchamberofshipping.com <aziou@ukchamberofshipping.com>; kross@ukchamberofshipping.com <kross@ukchamberofshipping.com>; migoe@ukchamberofshipping.com <migoe@ukchamberofshipping.com>  
**Subject:** Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands – Scoping Consultation – By 21 May 2021

CAUTION: This email originated from outside the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) (“the EIA Regulations”)**

**Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour – Hatson, Orkney Islands**

In respect of the proposed marine licence applications for the above works under the Marine (Scotland) Act 2010, Orkney Island Council Harbour Authority has requested the Scottish Ministers adopt a scoping opinion in relation to the above proposed works under regulation 14(1) of the EIA Regulations.

The scoping report submitted by the applicant can be found at:

<https://marine.gov.scot/ml/scoping-hatston-pier-and-terminal-expansion-hatston-orkney>

To assist the Scottish Ministers in adopting a comprehensive scoping opinion, which will outline the scope and level of detail of information to be provided in the Environmental Impact Assessment (EIA) Report to be submitted by the applicant with their proposed marine licence applications, please review the scoping report and advise on **what you consider should be included within or excluded from the scope of the EIA for the proposed works**. In doing so you may wish to consider any comments you may have regarding data sources, proposed methodologies or the requirement for specific studies.

Please submit your response electronically to [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot) by 21 May 2021. If you are unable to meet this deadline, please contact us as soon as possible to discuss the possibility of an extension to the consultation period. If you have no comments to make please submit a “nil return” response.

Yours faithfully,

Jack Versiani Holt  
Marine Licensing Casework Officer  
**Marine Scotland** - Marine Planning & Policy

Scottish Government | Marine Laboratory | 375 Victoria Road | Aberdeen | AB11 9DB

***COVID-19: Marine Scotland - Licensing Operations Team( MS-LOT) is working from home and as a result determination of applications may take longer than our stated timelines. In addition MS-LOT is unable to respond to phone enquiries, please communicate with MS- LOT via email. Email addresses are [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot) for marine renewables correspondence or [MS.MarineLicensing@gov.scot](mailto:MS.MarineLicensing@gov.scot) for all licensing queries.***

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return. Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.

\*\*\*\*\*





Scottish Environment  
Protection Agency

Buidheann Dion  
Àrainneachd na h-Alba

Our ref: 1087

Your ref:

Contact by email:  
Alison Wilson

18 May 2021

Jack Versiani Holt  
Marine Licensing Casework Officer  
Marine Scotland - Marine Planning & Policy  
Scottish Government  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

By email only to: [ms.marinelicensing@gov.scot](mailto:ms.marinelicensing@gov.scot)

Dear Mr Holt

**The Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017  
(as amended) (“the EIA Regulations”)  
Orkney Islands Council Harbour Authority – Expansion of Hatson Pier and Harbour –  
Hatson, Orkney Islands**

Thank you for consulting SEPA on the scoping opinion for the above development proposal by way of your email received on 21 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.

In regard to impacts on the marine environment, it would seem that all of the proposed activities, with the exception of flood risk, will be covered by our [SEPA standing advice for The Department of Energy and Climate Change and Marine Scotland on marine consultation](#), which should be referred to for further information.

In regard to flood risk, 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



Chairman  
Bob Downes

Chief Executive  
Terry A'Hearn

**SEPA Aberdeen Office**

Inverdee House, Baxter Street  
Torry, Aberdeen AB11 9QA  
tel 01224 266600 fax 01224 896657

[www.sepa.org.uk](http://www.sepa.org.uk) • customer enquiries 03000 99 66 99

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 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.

If you have any queries relating to this letter, please contact me by email at [planning.north@sepa.org.uk](mailto:planning.north@sepa.org.uk).

Yours sincerely

Alison Wilson  
Senior Planning Officer  
Planning Service

*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](#).*

# **Transport Scotland**

**MacFarlane M (Marc)**

---

**From:** Logan B (Lesley)  
**Sent:** 17 May 2021 13:13  
**To:** MS Marine Licensing  
**Subject:** FW: Hatson Pier Expansion TS Scoping Response May 2021  
**Attachments:** Hatson Pier Expansion TS Scoping Response May 2021 (003).pdf

---

**From:** [Andrew.Erskine@transport.gov.scot](mailto:Andrew.Erskine@transport.gov.scot) <[Andrew.Erskine@transport.gov.scot](mailto:Andrew.Erskine@transport.gov.scot)>  
**Sent:** 17 May 2021 11:17  
**To:** [MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot)  
**Cc:** [Gerard.McPhillips@transport.gov.scot](mailto:Gerard.McPhillips@transport.gov.scot); LOGAN Lesley <[llogan@systra.com](mailto:llogan@systra.com)>  
**Subject:** Hatson Pier Expansion TS Scoping Response May 2021 (003) [Filed 17 May 2021 11:17]

Dear Sir/Madam,

Please find attached the Transport Scotland response to the Hatson Pier Expansion application.

Regards,

Andrew Erskine

\*\*\*\*\*

This e-mail (and any files or other attachments transmitted with it) is intended solely for the attention of the addressee(s). Unauthorised use, disclosure, storage, copying or distribution of any part of this e-mail is not permitted. If you are not the intended recipient please destroy the email, remove any copies from your system and inform the sender immediately by return. Communications with the Scottish Government may be monitored or recorded in order to secure the effective operation of the system and for other lawful purposes. The views or opinions contained within this e-mail may not necessarily reflect those of the Scottish Government.

\*\*\*\*\*

This message has been verified and checked by company's antispam system. Click [here](#) to report this message as a spam.

This message has been scanned for malware. This message and any attachments (the "message") are confidential, intended solely for the addressees, and may contain legally privileged information. Any unauthorised use or dissemination of the message or its contents is prohibited. The confidential or legally privileged nature of the information contained in the message is not waived, lost or destroyed if it is sent other than to the addressee. Use or dissemination of the information contained in the message, by a recipient other than the addressee, may cause commercial damage to either or both of the sender and the addressee. If you are not the addressee of this message, please contact the sender immediately and delete this message. All email communications to and from SYSTRA Limited are filtered and stored for risk management purposes in accordance with SYSTRA Limited's policies and legal obligations. E-mails are susceptible to alteration. Neither our company or any of its subsidiaries or affiliates shall be liable for the message if altered, changed or falsified. SYSTRA Limited is a company registered in England and Wales, (number

03383212). Registered office: 3rd Floor 5 Old Bailey, London, England, EC4M 7BA. Registered VAT number: GB1823826/95



Jack Versiani Holt  
Marine Scotland  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

Your ref:

Our ref:  
GB01T19K05

Date:  
17/05/2021

[MS.MarineRenewables@gov.scot](mailto:MS.MarineRenewables@gov.scot)

Dear Sirs,

**THE MARINE WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)  
REGULATIONS 2017 (AS AMENDED)**

**ORKNEY ISLANDS COUNCIL HARBOUR AUTHORITY – EXPANSION OF HATSON PIER  
AND HARBOUR – HATSON, ORKNEY ISLANDS**

With reference to your recent correspondence on the above development, we acknowledge receipt of the Scoping Report prepared by EnviroCentre in support of the above development.

This information has been passed to SYSTRA Limited for review in their capacity as Term Consultants to Transport Scotland – Roads Directorate. Based on the review undertaken, we would provide the following comments.

**Proposed Development**

The development comprises the proposed expansion of Hatston Pier and Harbour, which is located approximately 1km north-west of Kirkwall, Orkney. It is proposed to extend the existing outer quay by 300m. In addition, approximately 7.7 hectares of additional land extending from the current shoreline outwards would be made available for harbour-related operations through reclamation.

The SR states that the infill requirements will involve an estimated total of 1.46M tonnes of rock material, with 3 options to source the rock infill. Two of these options are located locally on Orkney, while the third option is a quarry (Glensanda Quarry, near Oban) on the Scottish mainland where material would be brought from to the development site by sea. It is also stated that the contract for construction of the facility will be awarded as a design and build, therefore, until the preferred contractor is identified the exact construction methodologies cannot be confirmed.

**Assessment of Environmental Impacts**

Given there are no trunk roads on Orkney, Transport Scotland has no comment to make on the potential environmental impact of construction related vehicles in the vicinity of the site. We would, however, state that in the event of a Mainland quarry being involved in the supply of rock infill, the applicant will require to determine whether there are likely to be any significant environmental issues associated with increased traffic on the trunk road network, and any requirement for further trunk road assessment. We would request that the thresholds as indicated within the Institute of Environmental Management and Assessment (IEMA) Guidelines for the Environmental Assessment of Road Traffic be used as a screening process for the assessment.

### **Abnormal Loads Assessment**

In the event any abnormal loads are required to be transported on the trunk road network, Transport Scotland will require to be satisfied that the size of loads proposed can negotiate the selected route and that their transportation will not have any detrimental effect on structures within the trunk road route path.

If the trunk road is to be used for the movement of such vehicles then a full Abnormal Loads Assessment report should be provided with the Environmental Impact Assessment Report (EIAR) that identifies key pinch points on the trunk road network. Swept path analysis should be undertaken and details provided with regard to any required changes to street furniture or structures along the route.

I trust that the above is satisfactory and should you wish to discuss any issues raised in greater detail, please do not hesitate to contact Alan DeVenny at SYSTRA's Glasgow Office on 0141 343 9636.

Yours faithfully

[Redacted]

**Gerard McPhillips**

**Transport Scotland  
Roads Directorate**

cc Alan DeVenny – SYSTRA Ltd.

# **Marine Scotland Science**

T: +44 (0)131 244 2500  
E: [MSS\\_Advice@gov.scot](mailto:MSS_Advice@gov.scot)

Jack Versiani Holt  
Marine Scotland Licensing Operations Team  
Marine Laboratory  
375 Victoria Road  
Aberdeen  
AB11 9DB

**28 May 2021**

## **OICHA (PER ENVIROCENTRE) - HATSTON PIER & TERMINAL EXPANSION - ORKNEY - SCOPING OPINION CONSULTATION**

Marine Scotland Science (MSS) have reviewed the relevant documentation and has provided the following comments.

### **Marine Ornithology**

MSS have considered the Scoping Report from the applicant for the Environmental Impact Assessment (EIA) for the Hatston Pier & Terminal Expansion, in preparing this advice we also considered the consultation response of NatureScot (NS, dated 21 May 2021) and of the Royal Society for the Protection of Birds (RSPB, dated 20 May 2021). Note we only consider marine ornithology aspects in this advice.

The Scoping Report is focussed on the EIA for the Development, however Habitats Regulations Appraisal (HRA) issues are also partially considered. NS note that there appears to be some confusion over the HRA process; MSS agree with this view and advise that clarification is sought on this, e.g. will the applicant provide a separate HRA screening report that will identify which features of SPA sites have potential for likely significant effect (LSE), thus requiring HRA to assess potential for adverse effect on site integrity (AESI)? The developer states that there is no likely significant effect on integrity of Orkney Mainland Moors SPA (section 5.6.2). However, as NS note, the development area is within foraging range of red-throated divers that are a designated feature of the SPA, and there is potential for the species to be foraging in this area. MSS agree with NS that this SPA should be scoped in for assessment.

The Scoping Report concludes that all ecological receptors (other than marine mammals during construction) can be scoped out from the EIA report (EIAR). MSS are in agreement with NS and RSPB that ornithology receptors should be scoped in for assessment in the EIAR, with effects possible during both construction and operation. As noted by NS, the greatest impacts may occur during operation, from associated increased levels of vessel traffic that would presumably be a consequence of the development. MSS suggest that the report of Jarrett et al. (2018) is considered here, which looked at the short-term behaviour responses of winter waterbirds to marine activities (such as vessel movements) in Orkney waters.

The Scoping Report briefly outlines plans for bird surveys (section 5.5.2), however little detail is given so it is not possible to advise on whether the planned surveys will be sufficient to inform the EIA and HRA. It is noted that low-tide bird counts will be conducted, however as NS note in their consultation response, while these types of surveys are useful to inform on use of this habitat by wading/roosting birds, they may not be appropriate for characterising the use of the marine area by waterbirds. MSS

recommend that the developer provides a draft survey methodology for NS to consider which MSS would welcome the opportunity to also advise on. MSS support the recommendation by NS that the applicant provides a summary report of the findings from the first year's surveys, so that further advice on ongoing survey requirements can be provided at this point.

## **Marine Mammals**

### Species of marine mammal

MSS agree with the list of potential marine mammal species occurring in the waters around Orkney provided by the applicant. We acknowledge the list of additional cetacean species outlined by NatureScot that have previously been recorded in Orkney waters, however MSS consider that due to the extremely low likelihood of occurrence of these additional species in the waters proximal to the development, and the atypical nature of any such occurrences, they can be scoped out of further assessment. However we advise that a full assessment of any potential impacts on the cetacean species listed in the scoping report, along with both seal species, is undertaken as part of the EIA. If impacts are identified then mitigation measures should be identified and outlined.

No details have been provided to indicate where information on presence/absence, abundance and other relevant ecological data may be available. MSS recommend using robust baseline density estimates for the EIA, such as the most recent SCANS block estimates (currently Hammond et al. 2017) for cetaceans and the Marine Scotland seal usage maps (Russel et al. 2017) for seals. A recent comprehensive review of density estimates for all commonly occurring marine mammal species in Scottish waters is also available (Hague et al. 2020).

MSS agree that an assessment of the impacts on the Faray and Holm of Faray SAC, designated for grey seals, should be included in the EIA. However it is noted, in agreement with advice from NatureScot, that the proposed development is also in proximity to the Sanday SAC, designated for harbour seals, and that this site is not mentioned in the scoping report. Impacts on both of these species are possible, as acknowledged in the scoping report, therefore these species should be assessed for all phases of the development as part of the EIA, and sufficient information should be provided to assess impacts to these species as qualifying features of Sanday SAC and Faray and Holm of Faray SAC as part of the Habitats Regulations Appraisal.

When considering potential impacts on seals, the serious decline in harbour seal populations on the east coast of Scotland will need to be taken into account, which is reflected in the small Potential Biological Removal (PBR) limit calculated for harbour seals in the management area. This may also have implications for the Habitats Regulations Appraisal.

### Construction phase

During the construction phase, underwater noise is likely to be generated during piling, blasting works, dredging and disposal activities and due to increased vessel traffic at the site. These impact pathways have the potential to disturb or injure marine mammals in the area and MSS therefore agree that these impacts should be scoped into the EIA process. Underwater noise modelling of any activities likely to cause acoustic injury or disturbance should be used to predict corresponding impact zones, which can be used to estimate of the numbers of marine mammals expected to be impacted. MSS are happy to provide further advice on appropriate noise modelling techniques, and the EIAR should provide sufficient detail of the modelling undertaken to allow assessment of whether it is appropriate. The applicant states that vibropiling will be used to install both sheet and tubular piles to the required depth during the Reclamation and Quay Works in all phases of construction, and MSS welcome the use of this technique to reduce sound emission (relative to percussive piling) to the marine environment. However we note that vibropiling still produces increased levels of underwater noise (Graham *et al.* 2017) that will require quantitative assessment. The results of this assessment should be used to develop appropriate mitigation plans, which are likely to require the use of Marine Mammal Observers and/or Passive Acoustic Monitoring. The JNCC piling guidance (JNCC 2010) should be used to inform the development of such plans, including details of how observations will be carried out and how communication will be maintained with the construction

team to avoid injury to marine mammals. It is possible that noise abatement techniques may be appropriate and they should be considered as part of the mitigation.

MSS agree that disturbance from the physical presence of vessels should be scoped in for the construction phase. MSS recommends that the applicant minimises vessel presence onsite to reduce disturbance to marine mammals. It may be useful to adopt a vessel management plan.

MSS agree that impacts to prey species of marine mammals should be scoped in for the construction phase.

MSS advise that dredging and disposal also has the potential to cause non-acoustic physical injury to marine mammals, and this pathway should therefore be scoped into the EIA report, along with any appropriate mitigation.

### Operation phase

MSS share the view of NatureScot, regarding the applicant's intention to scope out all ecological impacts other than '*the risk to marine mammals associated with piling during the construction phase*', that it is not possible to scope out all other impact pathways from full assessment. The scoping report identifies numerous activities other than those associated with piling that may have potentially significant effects to marine mammals (e.g. vessel traffic, dredging and disposal, impacts to prey species), and these activities should not be scoped out from full assessment.

This is also the case for the operation phase. Disturbance to marine mammals through underwater noise or physical presence may also have an impact through the operation phase, both from increased vessel traffic and from dredging and other maintenance activities. As such, MSS recommend that this impact pathway is scoped in for the operation phase.

### European protected species licensing

MSS consider that some of the activities proposed may require EPS licensing because of the potential to disturb cetaceans. Although a separate application will need to be made for this licensing, we recommend that the assessments undertaken for the EIA are done so in a way that the information can also be used for the EPS process. Guidance on EPS licensing is available on the Marine Scotland website ([Marine European protected species: protection from injury and disturbance - gov.scot \(www.gov.scot\)](http://www.gov.scot))

## **Marine fish ecology**

The consideration of marine fish within this Scoping Opinion is very limited as only sea trout are mentioned specifically. We have made the assumption that the phrase '*Marine mammals and their prey will be included in the EIA*' relates to other marine fish species as well as sea trout as the prey, however we request clarification from the applicant that other marine fish species will be considered. MSS note that fish species will be included in the EIA for information only and that impacts to marine fish will not be fully assessed in the EIA. MSS advise that impacts to marine fish should be considered in the EIA as there is insufficient evidence presented in this scoping report to support this conclusion.

MSS recommend that marine fish are considered under their own section of the EIA, and not just those fish species which are prey for marine mammals. MSS advise that the developer considers individual marine fish species which are present in the development area and that may be impacted by the development. MSS recommend highlighting any fish species which are designated as Priority Marine Features and also consider whether there are any Essential Fish Habitats such as fish spawning and nursery habitats present in the development area. In addition to this, MSS recommends providing information on fish spawning and nursery periods such as those listed in Coull *et al.* 1998 and Ellis *et al.* 2012 which are key sensitive periods for fish species and considering this in line with the construction programme timeline.

With regard to potentially negative impacts on marine fish species, MSS note the list of impact pathways identified under section 5.3 for the construction phase and 5.4 for the operational phase. However, MSS recommends that these impacts are considered specifically for marine fish species before deciding which may be scoped in or out of a future EIA.

MSS note that the developer will undertake underwater noise modelling for construction activities and that it will focus on marine mammal and fish species. MSS also note that JNCC may be consulted to help design a site specific mitigation protocol for marine mammals in relation to piling activities; we recommend that the applicant also considers any mitigation measures which may be beneficial to fish species.

## **Commercial fisheries**

Commercial Fisheries have not been considered in the scoping opinion yet Section 5.2.4 Fish, states that there are many commercial sea fish caught in the area. MSS recommends that commercial fisheries are considered within the scoping opinion and any potential impacts should be assessed.

## **Diadromous Fish**

As noted in the scoping report, the Orkney coastline is well known for its sea trout angling, although few, if any of the fish caught are reported through Marine Scotland's annual questionnaire survey of salmon and sea trout catches. It is likely that many of the sea trout will originate from, and spawn in Orkney streams, but it is also possible that sea trout from Scottish mainland rivers may also be present. Adult salmon, probably mainly *en route* to rivers of the Scottish mainland also occur in Orkney coastal waters. Eel are also present. All three species are of high conservation value, both nationally and internationally.

Ordinarily, the local District Salmon Fishery Board and Fisheries Trust would be consulted for information and comment, but there are neither in Orkney. In their absence, MSS suggest that the Orkney Trout Fishing Association and Fisheries Management Scotland should be consulted. MSS would also be able to provide any relevant information they currently hold. However, it is likely that there will be a lack of information on the distribution and local abundance of sea trout, salmon and eel in Orkney coastal waters, and in view of the potential for the construction work and operation to impact on diadromous fish species, MSS advise that the developer should discuss with MSS and MS-LOT what survey work they may need to carry out to provide local information.

Insofar as they apply to diadromous fish, MSS agree with the comments in NatureScot's response, including that it is not possible, due to the location and scale of the development and the lack of detail on proposed construction methodology and mitigation, to scope out the majority of ecological receptors, including diadromous fish, from full assessment in the EIA at this stage.

MSS also endorse RSPB's comments that there is a need for consideration of biosecurity.

## **Physical environment / coastal processes**

MSS have reviewed the relevant information, which state that the development proposals for construction, and associated dredging, have the potential to cause changes to the baseline hydro(geo)logical conditions and the ongoing coastal processes at the site, and in the wider area. The construction activities associated with the proposed development including dredging, pier extension and land reclamation all have the potential to impact the coastal processes within Kirkwall Bay.

Due to the extent of the proposed development, the lack of details on construction methodology, dredging, disposal, etc. MSS advise that impacts on the physical environment/coastal processes should be scoped in and assessed within the EIA.

## Benthic Ecology

As this is a large extension to the existing pier, MSS would expect that the EIAR includes a section on benthic and intertidal ecology. The EIAR should include a description of the benthic and intertidal environment and consider inclusion of habitat maps / biotopes of the local area, with the greatest level of detail on those that are expected to undergo permanent loss. MSS agrees with NatureScot, that survey work is required to inform the EIA. The scoping report has identified that maerl beds may be present at Shapinsay, but this is some distance away. MSS expect that other Priority Marine Features or Annex I (Habitats Directive) protected habitats are present closer to Hatston pier which have not been identified. These may include species such as *Modiolus modiolus*, *Mytilus edulis*, maerl (although these may not be in the form of a bed) and possibly bedrock reef.

Two of the main impacts that should be scoped in have already been identified, but should be expanded to assess the impact on the benthic habitats themselves in addition to their role in the wider ecosystem as prey or habitat for species at higher trophic levels. The impacts that should be scoped in include:

- Direct loss of intertidal and subtidal habitat during construction and operation over the footprint of the development but with a focus on the loss of these habitats themselves, in addition to their role in the wider ecosystem.

- Temporary increase in suspended sediment and/or deposition from dredging (construction and operation) leading to physical disturbance in the marine environment, and the effects of increased turbidity / smothering on the surrounding marine habitats.

- Introduction of non-native species. MSS agrees with the comments from NatureScot and RSPB on mINNS and biosecurity. The new ecological niche formed by the harbour wall will provide an opportunity for colonisation from species that favour hard-substrate, and these species may not be indigenous to the local ecosystem. Studies such as McCollin and Brown (2014) and Ashton et al. (2006) have found non-natives on commercial vessels and harbours. The impact of non-natives should be scoped in along with risk of colonising the surrounding habitats.

- MSS also recommend consideration of release of contaminated sediment during dredging and impact on surrounding species and habitats.

## References

Ashton G., K. Boos K, R. Shucksmith, E.J. Cook. (2006). Rapid assessment of the distribution of marine non natives species in marinas in Scotland. Aquatic Invasions 1: 209–213, <http://dx.doi.org/10.3391/ai.2006.1.4.3>

Coull, K.A., R. Johnstone, and S.I. Rogers. (1998) Fisheries Sensitivity Maps in British Waters. Published and distributed by UKOOA Ltd.

Ellis, J.R., S.P. Milligan, L. Readdy, N. Taylor, and M.J. Brown. (2012) Spawning and nursery grounds of selected fish species in UK waters. Science series Technical Report., Cefas Lowestoft, no. 147: 56 pp.

Graham, I.M., E. Pirotta, N.D. Merchant, A. Farcas, T.R. Barton, B. Cheney, G.D. Hastie, P.M. Thompson. (2017) Responses of bottlenose dolphins and harbour porpoises to impact and vibration piling noise during harbour construction. Ecosphere 8(5):e01793. <https://esajournals.onlinelibrary.wiley.com/doi/pdf/10.1002/ecs2.1793>

Hague, E. L., R.R. Sinclair, and C.E. Sparling. (2020). Regional baselines for marine mammal knowledge across the North Sea and Atlantic areas of Scottish waters. Scottish Marine and Freshwater Science Vol 11 No 12, <https://data.marine.gov.scot/dataset/regional-baselines-marine-mammal-knowledge-across-north-sea-and-atlantic-areas-scottish>



Hammond, P. S., C. Lacey, A. Gilles, S. Viquerat, P. Börjesson, H. Herr, ... & N. Øien. (2017). Estimates of cetacean abundance in European Atlantic waters in summer 2016 from the SCANS-III aerial and shipboard surveys. Wageningen Marine Research.  
<https://synergy.st-andrews.ac.uk/scans3/files/2017/05/SCANS-III-design-based-estimates-2017-05-12-final-revised.pdf>

Jarrett, D., A.S.C.P. Cook, I. Woodward, K. Ross, C. Horswill, D. Dadam and E.M. Humphreys. (2018) . Short-Term Behavioural Responses of Wintering Waterbirds to Marine Activity: Quantifying the Sensitivity of Waterbird Species during the Non-Breeding Season to Marine Activities in Orkney and the Western Isles. Scottish Marine and Freshwater Science Vol 7 No 9, 88pp. DOI:  
<http://doi.org/10.7489/12096-1>

JNCC (2010). Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise.  
<https://data.jncc.gov.uk/data/31662b6a-19ed-4918-9fab-8fbcff752046/JNCC-CNCB-Piling-protocol-August2010-Web.pdf>

McCollin T., L. Brown. (2014). Native and non-native marine biofouling species present on commercial vessels using Scottish dry docks and harbours. Management of Biological Invasions. 5. 85-96. 10.3391/mbi.2014.5.2.02.

Russell, D.J.F., E.L. Jones and C.D. Morris. (2017) Updated Seal Usage Maps: The Estimated at-sea Distribution of Grey and Harbour Seals. Scottish Marine and Freshwater Science Vol 8 No 25, 25pp.  
<https://marine.gov.scot/information/seal-usage-maps>

Hopefully these comments are helpful to you. If you wish to discuss any matters further then please contact the REEA Advice inbox at [MSS\\_Advice@gov.scot](mailto:MSS_Advice@gov.scot)

Yours sincerely,

**Renewable Energy Environmental Advice group**  
Marine Scotland Science

# **Marine Analytical Unit**

## Scoping response: Hatston Pier and Harbour Expansion and Scapa Deep Water Quay Development

### Marine Analytical Unit Response

In the scoping reports for both the 'Hatston Pier and Harbour Expansion' and 'Scapa Deep Water Quay Development' an assessment of impacts on the 'Population and Human Health' receptor has been judged to be out of scope. There is, therefore, no information contained within either scoping report regarding socio-economic impacts and how they will be assessed.

We expect there are likely to be social and economic impacts arising from each of the proposed developments and so we recommend that a Socio-economic Impact Assessment be scoped in. The following paragraphs will provide a summary of what should be included in the socio-economic impact assessment and how it should be carried out.

### Skills required to carry out SEIA

Specialist skills are required to carry out each part of a socio-economic impact assessment appropriately. We, therefore, recommend that a social researcher be contracted to carry out the social impact assessment, and an economist be contracted to carry out the economic impact assessment. They should then work together to produce the SEIA.

### Methods and data to be used

We recommend using a combination of desk-based assessments of literature and existing data sets, as well as primary data as required. Primary data collection may involve survey, interviews, workshops, focus groups.

### Stakeholder engagement

Stakeholder engagement is an important part of the SEIA process. Efforts should be made to ensure that stakeholders understand the project and its implications. It is important to involve communities and stakeholder in any discussions of potential impacts, especially regarding which impacts to include and how to assign significance.

### Range of social and economic impacts considered

We would expect to see a comprehensive assessment of the potential social and economic impacts that might occur as a result of a development. An example of potential impacts can be seen in Figure 1. In particular, for these developments the following impacts could be explored:

- Potential positive impacts arising from the expanded ports e.g. greater capacity for certain industries
- Employment during construction – who is carrying out the work? Will workers be employed locally or will they come from elsewhere? If from elsewhere, where would they come from, how long would they stay and where would they stay?
- Are there employment benefits from construction for the local area? Or for the nation?
- What might the social impacts be of a temporary increase in population, if workers move into the community from outside?
- Will the construction and associated disruption affect industries currently using the ports?
- Will the construction and associated disruption affect the community e.g. through increased traffic, noise etc?

*Figure 1. Types of socio-economic impact (taken from Glasson 2017<sup>1</sup>)*

- 1. Direct economic:**
  - employment, including employment cohort and safeguarding of existing employment;
  - unemployment and underemployment
  - characteristics of employment (e.g. skill group);
  - labour supply and training; and
  - other labour market effects, including wage levels and commuting patterns
- 2. Indirect/induced/wider economic/expenditure:**
  - employees' retail expenditure (induced);
  - linked supply chain to main development (indirect);
  - labour market pressures;
  - wider multiplier effects;
  - effects on existing commercial activities (eg tourism; fisheries);
  - effects on development potential of area; and
  - GVA and GNP.
- 3. Demographic:**
  - changes in population size; temporary and permanent;
  - changes in other population characteristics (e.g. family size, income levels, socio-economic groups); and
  - settlement patterns
- 4. Housing:**
  - various housing tenure types;
  - public and private;
  - house prices and rent / accommodation costs;
  - homelessness and other housing problems; and
  - personal and property rights, displacement and resettlement
- 5. Other local services:**
  - public and private sector;
  - educational services;
  - health services; social support;
  - others (e.g. police, fire, recreation, transport); and
  - local authority finances
- 6. Socio-cultural:**
  - lifestyles/quality of life;
  - gender issues; family structure;
  - social problems (e.g. crime, ill-health, deprivation);
  - human rights;
  - community stress and conflict; integration, cohesion and alienation; and
  - community character or image
- 7. Distributional effects:**
  - effects on specific groups in society (eg: by virtue of gender, age, religion, language, ethnicity and location); environmental justice

<sup>1</sup> Glasson J (2017a) "Socio-economic impacts 2: Overview and economic impacts" in Therivel R and Wood G (eds.), *Methods of Environmental and Social Impact Assessment*, Abingdon: Routledge

The impacts described here and in Figure 1 are not exhaustive or prescriptive. The impacts relevant to this project should be decided upon through the collaborative efforts of skilled contractors and relevant stakeholders.

## **Key components of a Social Impact Assessment**

### Baseline

Gain a good understanding of the communities and stakeholders likely to be affected by the project (i.e. profiling) including their needs and aspirations and any key social issues that may arise as a result of the project.

- Develop social and economic profile of the area including history, culture and context
- Engage with community to learn of any other important features/indicators to include in baseline. There may be useful local datasets
- Analysis may draw on a combination of existing datasets and primary data

We would recommend the collection of primary data through fieldwork using methods such as workshops, surveys or interviews. These methods will allow for a more accurate assessment of the potential social and economic impacts, and their magnitude/local importance.

### Prediction

Forecasting the social changes that may result from the project and the impacts these are likely to have on different groups of people. A list of potential socio-economic impacts can be seen in Figure 1. Many of these impacts can be considered from a social and economic perspective.

- Identify potential/anticipated social impacts
- Identify suitable method for predicting impacts
- Collect necessary evidence to conduct analysis
- Engage with community to check predictions and assign significance to predicted impacts
- Impact prediction should include
  - Assessment of different phases of the project e.g. construction and operation

### Mitigation and enhancement

Identifying ways of mitigating potential negative impacts and maximising positive opportunities. We recommend that stakeholders and impacted communities are involved in the process of identifying impacts and agreeing upon mitigation measures.

## Monitoring

Developing a monitoring plan to track implementation, variations from mitigation actions, and unanticipated social changes, especially negative impacts.

- Develop management plan and monitoring strategy
- Engage with community – especially with regard to both
  - Community may have concerns that they particularly want to be monitored
  - There may be local considerations regarding timing of monitoring and methods used e.g. access to internet for particular groups

## Key components of an economic impact assessment

### 1. Establishing the life and stages of the Project

### 2. Establishing and developing the baseline

- It is the starting point for the economic assessment and the benchmark against which to measure impacts
- Start with a study of the local and regional area:
  - Industrial structure
  - Socio-economic conditions
  - Related industries
  - Local planning policies, where relevant
- Select a range of indicators, eg:
  - Employment and unemployment levels
  - Structure of working age population/skills/qualifications
  - GVA

### 3. Identifying and scoping the economic factors

- Economic impacts ideally clearly stated in:
  - Life and stages of project
  - Local, Scottish, UK, International
  - Direct, indirect, induced
- Economic Factors
  - Impacts related to GVA
  - Impacts related to employment, skills and training
  - Impact on related industries – tourism, fishing, etc.
  - Impacts related to the use of natural resources (depletion risks, resource use considerations)

### 4. Other economic considerations

- Displacement - an assessment of the effect of the intervention on the structure of local factor and final goods markets

- Substitution - where the intervention causes an employed factor to be replaced by a currently unemployed factor
- Deadweight - This is the net impact, after taking into account what would have happened in the absence of the intervention
- Cumulative effects - effects from multiple pressures and/or activities

#### 5. Assessing uncertainty

- Optimism Bias - demonstrated systematic tendency for appraisers to be over-optimistic about key project parameters
- Risk Bias – manage risks by identifying and estimating when designing an intervention - Port location, supply chain and changes in technology
- Scenario and sensitivity Analysis
- Scenarios (low, medium, high) might be chosen for local, regional and UK employment and supply chain content for example
- Sensitivity analysis explores sensitive of impacts to potential variation in key variables such as wages, multipliers, etc

#### 6. Distributional Impacts

- Distribution of impacts across different individuals, groups or businesses.
- Screening – identification of likely impacts
- Assessment – confirmation of area impacted and analysing the characteristics of the groups in the area which will be impacted
- Appraisal – Core analysis of the impacts

The following datasets/reports can be considered to inform the socio-economic impact assessment:

1. Scotland's Marine Economic Statistics 2018 - <https://www.gov.scot/publications/scotlands-marine-economic-statistics-2018/>
2. Scottish Marine Recreation & Tourism Survey 2015- <http://marine.gov.scot/information/scottish-marine-recreation-tourism-survey-2015>
3. Annual Business Survey, ONS; <http://www.ons.gov.uk/ons/rel/abs/annual-business-survey/index.html>
4. *Additionality Guide Fourth Edition 2013*, HCA; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/378177/additionality\\_guide\\_2014\\_full.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/378177/additionality_guide_2014_full.pdf)
5. The Green Book [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/685903/The\\_Green\\_Book.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf)

**Appendix II: Gap Analysis**



Applicant to complete:

<b>Consultee</b>	<b>No.</b>	<b>Point for Inclusion</b>	<b>EIA Report Section</b>	<b>Justification</b>
	1			
	2			
	3			
	4			
	5			
	6			
	7			
	8			
	9			
	10			
	11			
	12			
	13			
	14			
	15			
	16			
	17			
	18			
	19			
	20			
	21			
	22			
	23			
	24			